

# Scorecard Program Advisory Group (PAG)

## Terms of Participation

### Introduction

The Victorian Residential Efficiency Scorecard (Scorecard) has been designed by the Victorian Government (Department of Environment, Land, Water and Planning) to help householders understand the factors influencing the energy consumption and energy cost of their homes, and to provide guidance on how to save money on energy bills and improve comfort levels for the occupants. A key feature of the Scorecard is to measure and communicate the energy efficiency performance of fixed features in existing and new homes, thereby providing an indication of the inherent energy efficiency of their dwelling independent of occupant behaviour.

The Scorecard was made available for full commercial use across Victoria in April 2018, and accredited assessors and related service providers are now able to use the Scorecard to develop and deliver commercial offerings.

The Scorecard team has consulted extensively with all stakeholders, who indicated their preference for an Advisory Group that can provide industry-wide and diverse opinions on the program's governance system, risks associated with the quality of delivery of the program, and marketing and promotional opportunities necessary for the growth of the program.

This Program Advisory Group (PAG) formalises the delivery of these outcomes, with stakeholder representatives from across the spectrum of disciplines to ensure:

- a range of views are considered in the further development and growth of the program
- insights are gained into developing the market for Scorecard assessments, helping to identify potential commercialisation opportunities and helping ensure that there is a sufficient pool of assessors to meet demand for assessments
- opportunities are found to cut down unnecessary or ineffective controls, streamlining the program's monitoring and evaluation process
- requirements are considered for additional or increased controls to enhance quality assurance where necessary.

### Definitions

1. In these Terms of Participation

**Chairperson** means a member of the Scorecard team as nominated by the Manger Scorecard.

**Code of Conduct** means the *Directors' Code of Conduct and Guidance Notes* issued by the Victorian Public Sector Commission<sup>1</sup>;

**Department or DELWP** means the Department of Environment, Water, Land and Planning or its successor.

**Member** means a member of the Advisory Group.

**PAA** means the *Public Administration Act 2004*.

**Program** means Scorecard program.

**PAG** means the **Program Advisory Group**, established by the Scorecard team (within DELWP) by these Terms of Participation.

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<sup>1</sup> published at: <http://vpsc.vic.gov.au/resources/directors-code-of-conduct-and-guidance-notes/>

# Scorecard Program Advisory Group (PAG) Terms of Participation

## Establishment of PAG

2. DELWP establishes the PAG as a non-statutory program advisory group from the date of these Terms of Participation (1 April 2019).

## Functions

3. The functions of the PAG are to provide non-binding strategic advice regarding the Scorecard program on matters raised by the Department including but not limited to:
  - possible outreach strategies and channels
  - periodic review of potential risks to the program and of mitigating actions
  - strategic priorities and clear directions to ensure growth and sustainability of the program.

The PAG is limited to advising and/or reviewing/reporting to the Scorecard team. The Group does not have any powers to enter into agreements, contracts, make decisions, employ staff, expend funds or money.

## Membership

4. The PAG will comprise up to 10 members, appointed by the Scorecard Manager. Members will be selected on the basis of their understanding of the program, capacity to represent relevant community values and perspectives, capability to contribute important, new or underrepresented perspectives, ability to work collaboratively, availability to contribute, and agreement with rules of engagement.
5. To ensure a diversity of views, members shall also be appointed on the basis of their experience in one of the following areas:
  - local councils
  - energy efficiency industry
  - accredited persons, having Scorecard and/or Victorian Energy Upgrades accreditation(s)
  - community organisations
  - peak bodies
  - associated government agencies
  - relevant complementary organisations eg building sector, real estate, marketing, communications, risk management
6. Members will represent themselves or represent an organisation. Members who represent an organisation will be required to act on that organisation's behalf and represent the said organisation's views only.
7. The office of a member becomes vacant if a member:
  - resigns in writing addressed to the Scorecard Manager
  - is removed from the group
  - becomes incapable of performing his/her duties
  - representing an organisation, resigns from said organisation.
8. Upon a vacancy occurring, the vacancy may be filled by the Scorecard team in accordance with these Terms of Participation.
9. The Scorecard Manager may appoint members at any time for the remainder of the PAG's term.
10. All members will be required to sign the Deed of Confidentiality and declare any conflicts of interest.
11. Each member of the PAG must at all times act:
  - in accordance with the Code of Conduct issued by the Victorian Public Sector Commission ; and
  - in a manner that is consistent with the public sector values in section 7(1) of the PAA.

## Responsibility of members

12. The PAG is subject to the general direction of the Scorecard team in the performance of its functions.



# Scorecard Program Advisory Group (PAG) Terms of Participation

13. The PAG must provide its recommendations or advice as required by these Terms of Participation to the Scorecard team by agreed dates.
14. Each member of the PAG is required to comply with these Terms of Participation, and each member's ongoing participation in the PAG implies acceptance of these Terms of Participation.
15. Members are expected to be available for between two to four hours per quarter to undertake work on behalf of the PAG, either through attending meetings in person and/or responding to submission requests.
16. Members are expected to make the necessary commitment of time to ensure they have understood sufficient information to participate in matters for consideration by the PAG.
17. Members are expected to participate in and equitably share the workload of the PAG.
18. It is the role of individual members to respect confidentiality of information, views and opinions voiced within a PAG setting; and to adhere to codes of conduct governing public comment, confidentiality of PAG proceedings and conflicts of interest.
19. During meetings, although it is accepted that individual members may not agree with every opinion of PAG members, it is the requirement of a viable PAG that members adhere to basic rules of governance and conduct that require them to abstain from negative public comment and behaviour that may bring the work of the PAG, an individual PAG member, or participating organisation into question or disrepute. If a member cannot adhere to such rules, they must resign from the PAG.

## Termination of appointment

20. A member may resign by providing notice in writing to the Scorecard Manager.
21. The Scorecard Manager may terminate a member's appointment at any time and for any reason, by providing notice in writing.
22. The Scorecard Manager may terminate the appointment of the PAG members as a whole at any time and for any reason.
23. Subject to early termination of the PAG as a whole under clause 17, the PAG will operate for a period of twenty four months, beginning from 1 April 2019.
24. Extensions of appointments after 1 April 2021, will be at the Scorecard Manager's discretion.

## Meeting procedure

25. The location of meetings will be in the Melbourne CBD, at a location to be advised, and the meetings of the PAG may be conducted in a manner determined by the Scorecard Manager.
26. The PAG will be asked to provide advice on relevant matters. This advice will generally be provided in writing or through a meeting or workshop. The department will identify how the advice will be used and whether the advice will be published. Until otherwise stated, all materials and discussions are deemed confidential.
27. The PAG must aim for consensus in its advice and recommendations. In the absence of agreement, recommendations of the interim board will be made by a majority of the members present and able to vote at that meeting. Dissenting views may be recorded in the minutes.
28. The Chairperson, or presiding member, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.

# Scorecard Program Advisory Group (PAG) Terms of Participation

29. At the commencement of each meeting, the Chairperson must enquire of all members whether there is any potential for a conflict of interest to arise in respect to any item on the meeting agenda or any matter to be discussed and an interest held by a member.
30. The PAG membership is exclusive and therefore the meeting invitations cannot be delegated.

## Dispute resolution

31. The PAG's responsibility is to consider a variety of views and range of opinions during the meetings, so options can be explored. The members do not necessarily need to come to an agreement.
32. For the purposes of this dispute resolution procedure, a '**dispute**' exists if:
- two or more PAG members have difficulty working together (e.g. due to a conflict of personalities or ideological differences) and
  - the situation is unduly affecting the ability of a member, or the PAG collectively, to perform their duties in an effective and efficient manner.<sup>2</sup>
33. All PAG members will avoid disputes, where possible. If a dispute arises:
- the PAG members in dispute (the **parties**) will, **acting in good faith, make a reasonable, thorough and conscientious effort** to resolve the dispute on an **informal** basis, as soon as possible, and in the public interest (the **best interests of the PAG**) and
  - the Chairperson will actively guide the parties towards resolution of the dispute.
34. It is preferable for disputes to be resolved on an **informal** basis. If a dispute cannot be resolved on an informal basis, then the Chairperson will place the matter on the agenda of the next PAG meeting.
35. At that meeting, if the PAG is satisfied that: (i) a dispute exists which cannot be resolved on an informal basis; and (ii) it is in the public interest to do so, then the PAG will notify the Scorecard Manager in writing of the dispute, the parties and steps taken to resolve the dispute informally.
36. The Scorecard Manager will notify the Chairperson within 21 business days of the options available to resolve the dispute.

## Conflicts of interest<sup>3</sup>

37. In these Terms of Participation:
- (a) a '**conflict of interest**' is a conflict between a member's public duty to act in the best interests of the PAG and their private interests. It includes a **conflict of duty**, which is a conflict between a member's public duty to act in the best interests of the PAG and their duty to another organisation (e.g. due to their role as a board member or employee of that organisation)
- (b) a private interest:
- may be **direct** or **indirect** and
  - can be **pecuniary** (financial) or **non-pecuniary** (non-financial), or a mixture of both. A non-pecuniary interest may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc.

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<sup>2</sup> A difference of opinion between PAG members in relation to a proposed decision (e.g. strategic, business, policy, etc.) is not a 'dispute'. It is the normal difference of views that the PAG talks through together in a considered, courteous and constructive manner before voting to make its recommendation, in accordance with the PAG's meetings and decisions procedures.

<sup>3</sup> Refer to the [Guidance on these terms of reference for alternative Conflict of Interest clauses](#).

# Scorecard Program Advisory Group (PAG) Terms of Participation

(c) a conflict of interest exists whether it is:

- **real** (ie. it currently exists)
- **potential** (ie. it may arise, given the circumstances) or
- **perceived** (ie. members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the member's performance of his/her duty to the PAG, now or in the future).

38. A member who has a conflict of interest in a matter being discussed at a meeting of the PAG must declare the nature of the interest:

- at the commencement of a meeting or
- if they become aware of an interest during discussions, as soon as possible after becoming aware of the interest.

A declaration must be made even if the interest is already recorded in the PAG's Register of Interests.

39. The Chairperson or member presiding at a meeting at which a declaration of an interest is made must cause the declaration and how the conflict of interest will be managed to be recorded in the minutes of the meeting. Discussions during the meeting must take into consideration any declared conflict of interest.

40. The Chairperson must keep a record of declared interests (the Register of Interests). Any member may request and be granted access to this Register of Interests.

41. If a PAG member has breached their conflict of interest obligations in these Terms of Participation, the Chairperson must notify the Scorecard Manager in writing as soon as practicable after becoming aware of such a breach, including whether the breach is material.

## Gifts, benefits & hospitality

42. A member must never accept or offer a gift in their role as a PAG member.

43. As part of this requirement, members:

- must never solicit gifts for themselves or anyone else
- must refuse and report any attempt to bribe them
- must refuse gifts prohibited under the Department's policy on *Gifts, benefits and hospitality* (e.g. money or similar, gifts that are a conflict of interest, inconsistent with community expectations, bring integrity into disrepute, etc.) and
- must declare gift offers in accordance with the Department's policy on *Gifts, benefits and hospitality*.

## Observers

44. Nominees of government departments, statutory authorities or other relevant stakeholders ('Observers') may

- be able to review member's submissions
- attend and participate in a particular PAG meeting (or part of that meeting).

## Confidentiality

45. Members are expected to not use or divulge any information related to the PAG's work on the basis that the information discussed as part of the PAG is not yet open for public consideration or release.

46. Members are not permitted to use, or give to a third party, any of the Department's engagement or communication approaches or products without the express approval of the Scorecard Manager.

47. Members should be aware that all material relating to the PAG (for example meeting papers, correspondence) will be placed on file by the Department and is subject to the Freedom of Information Act 1982.

48. On the termination or expiry of a member's appointment, the member must return all documents relating to the PAG to the Chairperson.

# Scorecard Program Advisory Group (PAG) Terms of Participation

49. Members must sign the Deed of Confidentiality, as required by the Department.

## Privacy

50. The PAG must ensure that its members, in the course of their duties on the PAG, comply with the requirements imposed by or under the *Privacy and Data Protection Act 2014*.<sup>4</sup>

## Intellectual property

51. The rights to intellectual property created by the members of the PAG in the course of their duties on the PAG, including any reports required under these Terms of Participation, are the property of the Department. However, the Scorecard Manager on behalf of the State grants the PAG a licence to use this property as authorised under these Terms of Participation. In this clause, Intellectual property includes legal rights that protect the results of creative efforts including copyright, proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know-how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include moral rights.

## Administrative support to the PAG

52. The Department, through the Scorecard team, shall provide all administrative support services to the PAG for all meetings. The Department will:

- organise the receipt of submissions from members of the PAG
- organise meetings and prepare meeting agendas and records of decisions/ minutes
- determine whether any additional participants should attend and participate in meetings
- prepare and circulate any background, discussion or information papers
- maintain files and records of submissions and meetings where appropriate.

## Participation benefits

54. Members of the PAG will be able to directly affect improvements to the Scorecard program.

55. Members of the PAG will not receive financial reimbursement for their participation.

## Entity review, sunset date & amendments

56. The PAG membership operates for two years after the commencement date, when a review of its effectiveness and contribution will take place. Yearly extensions will be made as per direction of the Scorecard Manager and members notified in writing.

57. The Scorecard Manager may amend these Terms of Participation in writing at any time.

58. The Scorecard Manager may revoke these Terms of Participation in writing at any time and upon revocation of these Terms of Participation the PAG ceases to exist.

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<sup>4</sup> Note that this Act applies to the PAG as it is a public entity as defined in the PAA and is therefore a public sector agency for the purposes of the *Privacy and Data Protection Act 2014*.