



**MINUTES OF COUNCIL ASSESSMENT PANEL MEETING HELD IN THE
COUNCIL CHAMBER, SALISBURY COMMUNITY HUB, 34 CHURCH STREET,
SALISBURY ON**

27 APRIL 2022

MEMBERS PRESENT

Mr T Mosel (Presiding Member)
Mr R Bateup
Ms C Gill (via phone)
Mr B Brug
Mr M Atkinson

STAFF

Assessment Manager, Mr C Zafiropoulos
General Manager City Development, Ms M English (via MS Teams)
Team Leader Planning, Mr C Carrey
Team Leader Business Services, Ms H Crossley

The meeting commenced at 6.30pm.

The Presiding Member welcomed the members and staff to the meeting.

APOLOGIES

Nil

ADOPTED MINUTES FROM PREVIOUS MEETING

The Minutes of the Council Assessment Panel Meeting held on 29 March 2022, be taken as read and confirmed.

DECLARATIONS OF CONFLICTS OF INTEREST

Mr B Brug declared a conflict of interest in relation to Item 8.3.2 on the Public and Confidential Agenda the Applicant Appeal to Environment Resources and Development Court by 48 Commercial Road, Salisbury Pty Ltd (ERD-22-000046) development application 21034988 at 89-97 Kings Road, Salisbury Downs, and the original application at the previous CAP meeting when Council resolved to make a representation on this development application, and subsequent appeal.

Mr Brug is a Councillor on the City of Salisbury, and is the nominated Elected Member on the Council Assessment Panel.

Mr Brug made the following statement to the effect of he did not believe that he had a conflict of interest as a member of the Council Assessment Panel, especially as when the matter was discussed at Council he appropriately declared a conflict, and did not participate or vote; and left the room which is reflected in the minutes of the Council meeting.

That said, given that the Council had resolved to lodge a representation on this development application and passed a formal resolution to oppose the Application, even without the Councillor in the room as noted above, it was suggested by the Applicant for this item that there was the potential for an apprehension of bias due to Mr Brug being an Elected Member of the Council.

In response, Mr Brug decided that he would acknowledge the potential for an apprehension of bias on his part due to his membership of the Council & decided that therefore he would not participate in the consideration, assessment & determination of the development application, and that of the subsequent appeal.

Following his acknowledgement Mr Brug left the meeting when it was first at CAP, and subsequently left this meeting at which the appeal was discussed at 7.16 pm prior to any consideration of the appeal & did not return until the application had been determined by the remaining members of CAP.

REPORTS

Nil

OTHER BUSINESS

8.2.1 Assessment Manager Quarterly Report - January to March 2022

Mr B Brug moved, and the Council Assessment Panel resolved that the information be received and noted.

8.2.2 Delegations

Mr M Atkinson moved, and the Council Assessment Panel resolved

1. Revokes, in accordance with Section 100(2)(d) of the *Planning, Development and Infrastructure Act 2016* its previous delegations to the Assessment Manager and General Manager City Development of those powers and functions under the *Planning Development and Infrastructure Act 2016* as included in Attachment 1 (CAP meeting 24 August 2021, Item no. 8.2.3).
2. Delegates in exercise of the power contained in Section 100 of the *Planning, Development and Infrastructure Act 2016* the powers and functions under the *Planning, Development and Infrastructure Act 2016* and statutory instruments made thereunder contained in the proposed Instrument of Delegation as Attachment 1 to this report (CAP, 27 April 2022, Item 8.2.2) to the positions identified in the third column of the proposed Instrument of Delegation subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.
3. Notes the delegated powers and functions may be exercised individually by each delegate in respect of any particular matter where the delegate is required or proposing to act in the course of their duties.
4. Notes that such powers and functions may be further delegated by the Assessment Manager in accordance with Section 100(2)(c) of the *Planning, Development and Infrastructure Act 2016* as the Assessment Manager sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation as included in Attachment 1 (CAP meeting 27 April 2022, Item 8.2.2).
5. Notes the power in Sections 119(9) and (14) of the *Planning, Development and Infrastructure Act 2016* and Regulation 7 of the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019* may be further delegated by the General Manager City Development in accordance with Section 100(2)(c) of the *Planning, Development and Infrastructure Act 2016* as the General Manager City Development sees fit, unless otherwise indicated in the Schedule of Conditions contained in the proposed Instrument of Delegation as included in Attachment 1 (CAP meeting 27 April 2022, Item 8.2.2).
6. Notes that the delegations be reviewed in April 2023.

OTHER BUSINESS

8.2.1 Status of Current Appeal Matters and Deferred Items

Refer to Items 8.3.1 and 8.3.2.

8.2.2 Policy Issues Arising from Consideration of Development Applications

Nil

8.2.3 Future Meetings & Agenda Items

The Panel discussed training opportunities for accredited professionals and the Assessment Manager agreed to coordinate two sessions over this calendar year.

Next meeting scheduled for Tuesday 24 May 2022.

ORDER TO EXCLUDE THE PUBLIC

Mr M Atkinson moved, and the Council Assessment Panel resolved to:

Exclude the public from the CAP proceedings for consideration of item 8.3.1 on the Agenda of the CAP meeting 27 April 2022 on the basis of regulation 13(2)(vi) of the *Planning, Development and Infrastructure (General) Regulations 2017*.

8.3.1 Applicant Appeal to Environment, Resources and Development Court, Tony Maiello (N27 Pty Ltd) v City of Salisbury (ERD-22-000014) - Development Application 361/1618/2020/2A

Mr M Atkinson moved, and the Council Assessment Panel resolved:

1. Pursuant to regulation 13(2)(vi) of the Planning, Development and Infrastructure (General) Regulations 2017, the Council Assessment Panel determines, this matter be considered in confidence on grounds that it relates to information to an appeal against the decision of the Council Assessment Panel to the Environment, Resources and Development Court that may prejudice the Court hearing.
2. To decline the settlement offer by Tony Maiello (N27 Pty Ltd) at the conciliation conference before the ERD Court (Action No.22-000014).
3. Approves that the report, attachments and discussion for this item will remain confidential and not available for public inspection until the finalisation of the court action and potential subsequent appeals.

Mr B Brug left the meeting at 7.16 pm and did not return to the meeting.

Mr R Bateup moved, and the Council Assessment Panel resolved to:

Exclude the public from the CAP proceedings for consideration of item 8.3.2 on the Agenda of the CAP meeting 27 April 2022 on the basis of regulation 13(2)(vi) & (viii) of the *Planning, Development and Infrastructure (General) Regulations 2017*.

Pursuant to regulation 13(2)(vi) & (viii) of the Planning, Development and Infrastructure (General) Regulations 2017, the Council Assessment Panel determines, this matter be considered in confidence on grounds that it relates to legal advice and information to an appeal against the decision of the Council Assessment Panel to the Environment, Resources and Development Court that may prejudice the Court hearing.

8.3.2 Applicant Appeal to Environment, Resources and Development Court, 48 Commercial Road, Salisbury Pty. Ltd. v Salisbury Council Assessment Panel (ERD-22-000046) - Development Application 21034988

Mr M Atkinson moved, and Presiding Member seconded the following motion:

1. To decline the settlement offer by 48 Commercial Road, Salisbury Pty Ltd to be presented at the conciliation conference before the ERD Court (Action No.22-000046).
2. Approves that the report, attachments and discussion for this item will remain confidential and not available for public inspection until the finalisation of the court action and potential subsequent appeals.

The motion was put and the vote was tied 2 for and 2 against.

The Presiding Member cast a second vote and the motion was passed.

The meeting moved out of confidence at 7:40 pm.

ADOPTION OF MINUTES

Mr R Bateup moved, and the Council Assessment Panel resolved that the Minutes of the Council Assessment Panel Meeting be taken and read as confirmed.

The meeting closed at 7.46 pm.

PRESIDING MEMBER: Mr T Mosel

DATE: 27 April 2022
(refer to email approving minutes registered in Dataworks
Document Number 7265305)