



## **AGENDA**

**FOR COUNCIL ASSESSMENT PANEL MEETING TO BE HELD ON**

**19 DECEMBER 2023 AT 6.30 PM**

**IN LITTLE PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB, 34  
CHURCH STREET, SALISBURY**

### **MEMBERS**

Mr T Mosel (Presiding Member)  
Mr R Bateup  
Ms C Gill  
Mr B Brug  
Mr J Botten

### **REQUIRED STAFF**

Assessment Manager, Mr C Zafiropoulos  
General Manager City Development, Ms M English  
Team Leader Planning, Mr C Carrey

### **APOLOGIES**

### **LEAVE OF ABSENCE**

### **PRESENTATIONS**

PRES1     Salisbury Strategic Planning Presentation

### **ADOPTED MINUTES FROM PREVIOUS MEETING**

Presentation of the Minutes of the Council Assessment Panel Meeting held on 24 October 2023.

### **DECLARATIONS OF CONFLICTS OF INTEREST**

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## REPORTS

Nil

## OTHER BUSINESS

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## CLOSE

### **Please note:**

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**MINUTES OF COUNCIL ASSESSMENT PANEL MEETING HELD IN LITTLE PARA  
CONFERENCE ROOMS, SALISBURY COMMUNITY HUB, 34 CHURCH STREET,  
SALISBURY ON**

**24 OCTOBER 2023**

**MEMBERS PRESENT**

Mr T Mosel (Presiding Member)  
Mr R Bateup  
Ms C Gill  
Mr B Brug  
Mr J Botten

**STAFF**

Assessment Manager, Mr C Zafiropoulos  
General Manager City Development, Ms M English  
Senior Development Officer – Planning, Ms K Thrussell  
Development Officer – Planning, Mr S Ondeyo  
Development Officer – Planning, Ms K Brown  
Team Leader Business Services, Ms H Crossley

The meeting commenced at 6.31pm.

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

**APOLOGIES**

Nil.

**LEAVE OF ABSENCE**

Nil

**ADOPTED MINUTES FROM PREVIOUS MEETING**

The Minutes of the Council Assessment Panel Meeting held on 26 September 2023, be taken as read and confirmed.

**DECLARATIONS OF CONFLICTS OF INTEREST**

Mr B Brug declared a perceived conflict of interest, being an Elected Member on Council for the Ward in which the development application is proposed in relation to Item 8.1.2 and advised that he would leave the meeting when the Item is being considered by the Panel. Mr B Brug did not debate or vote on the item.

Mr B Brug declared a conflict of interest, being an Elected Member on Council in relation to Item 8.1.3 and advised that he would leave the meeting when the Item is being considered by the Panel. Mr B Brug did not debate or vote on the item.

Ms M English, General Manager City Development, declared a conflict of interest in relation to Item 8.1.3 and advised that she would leave the meeting when the Item is being considered by the Panel.

## REPORTS

### *Development Applications*

#### **8.1.1 23025281**

Construction of a Two-Storey Childcare Centre with Associated Car Parking, Landscaping and Boundary Acoustic Fencing at 12, 14 & 16 Shepherdson Rd, Parafield Gardens SA 5107 for Development Holdings Pty Ltd

## REPRESENTORS

Mr John Fulbrook, MP, spoke on behalf of community members from a street corner meeting held on 25 September 2023.

## APPLICANT

Mr Rob Gagetti, Ekistics, and Mr Ben Wilson, CIRQA, spoke on behalf of the application.

Mr R Bateup moved, Ms C Gill seconded, and the Council Assessment Panel resolved that:

- A. The proposed development is not considered to be seriously at variance with the Planning and Design Code.
- B. Pursuant to 107 of the *Planning, Development and Infrastructure Act 2016*, Planning Consent is **GRANTED** to application number 23025281 for Construction of a Two-Storey Childcare Centre with Associated Car Parking, Landscaping and Boundary Acoustic Fencing in accordance with the plans and details submitted with the application and subject to the following Reserved Matters and Conditions:

Reserved Matters:

The following matter/s shall be submitted for further assessment and approval by the Assessment Manager, as delegate of the Council Assessment Panel, as Reserved Matters under Section 102(5) of the *Planning, Development and Infrastructure Act 2016*:

1. Civil and Siteworks Plan, prepared by a qualified and experienced stormwater engineer, for all civil and stormwater works, which shall address all of the following:
  - (a) Finished floor levels for all buildings, hardstand surfaces, pavement design details and gradients; and
  - (b) Cut/fill details; and
  - (c) Retaining walls, kerbing or ramps, their design and grades; and
  - (d) To provide additional protection from stormwater within the road, the level of the driveway at the boundary is to maintain a minimum 150mm boundary rise be raised from the adjacent top of kerb in accordance with Council's standard detail SD-13; and
  - (e) Car parking dimensions, aisle widths, circulation movements and associated pavement markings and signage; and
  - (f) Pumped stormwater systems are to be designed and constructed in accordance with AS3500.3 – Section 8. This includes the provision of duplicate, alternate duty pumps, alarms and emergency storage; and
  - (g) Plans prepared are to be consistent and reflective of the advice received by third party consultants (Environmental Noise Assessment, Traffic and Parking Report, Landscape Plans and Waste Management Advice)
2. Stormwater management arrangements, including accompanying design calculations, which consider the 10% AEP minor storm and 1% AEP major storm events.
3. Final landscaping plan, prepared by a qualified and experienced landscape architect or horticulturalist, which shall include all of the following:
  - a) Final locations for all landscaped areas, including designated areas for trees, shrubs and groundcovers; and
  - b) Designated appropriate species to be used, noting should comprise species contained in the City of Salisbury Landscape Plan; and
  - c) Shade trees within the car parking areas; and
  - d) Pot sizes, confirming the tree planting shall comprise advanced growth species at time of planting; and
  - e) Maintenance methods including irrigation, barriers and protection from vehicles and pedestrians.

*When responding to Reserved Matters 1 and 2, your attention is drawn to engineering comments provided via email on 11 October 2023.*

Planning Consent Conditions

1. The development shall be carried out in accordance with the details submitted with the application and the following stamped approved plans and documents, except where otherwise varied by the conditions herein:

| Drawing No.                         | Plan Type  | Date           | Prepared By    |
|-------------------------------------|--|----------------|----------------|
| 3577 DA04 Rev 1                     | Site Plan  | 11/08/23       | Brown Falconer |
| 3577 DA05 Rev 1                     | Floor Plan   | 11/08/23       | Brown Falconer |
| 3577 DA06 Rev 1                     | Elevation Plan                                       | 11/08/23       | Brown Falconer |
| 3577 DA08 Rev 1                     | Elevation Plan                                       | 11/08/23       | Brown Falconer |
| 23335 Parafield Gardens CCC Issue 2 | Parafield Gardens Child Care Centre Landscape Design | 14 August 2023 | DAS Studio     |
| 230237                              | Stormwater Management Plan                           | 8 October 2023 | CPR Engineers  |
| S7142.1C2                           | Environmental Noise Assessment                       | August 2023    | SONUS          |
| 23286                               | Traffic and Parking Report                           | 21 Aug 23      | CIRQA          |

2. The external surfaces of the building shall:
  - a. be of new non-reflective materials; and
  - b. be finished in natural tones; and
  - c. be maintained in good condition at all times.
3. The invert, crossover and driveway shall be constructed, prior to commencement of use, in accordance with Council's Vehicle Crossover Standard Detail, Drawing SD-12, SD-13 and SD-14.
4. The car parking layout including car park spaces, aisle widths and manoeuvring area shall be designed and constructed to comply with AS 2890.1-2009 – Off-Street Car Parking, Part 1, Austroads "Guide to Traffic Engineering Practice Part 11 – Parking", AS 2890.2 – Facilities for Commercial Vehicles and AS 2890.6 – 2009 – Parking Facilities – Part 6: Off-street parking for people with disabilities.
5. All driveways, car parking and manoeuvring areas as designated on the Civil Plan, requested under Reserved Matter 1 shall be constructed with brick paving, concrete or bitumen to a standard appropriate for the intended traffic volumes and vehicle types. Individual car parking bays shall be clearly line marked. Driveways and car parking areas shall be established prior to commencement of use and shall be maintained at all times thereafter to the reasonable satisfaction of Council.
6. All existing crossovers made redundant by this development shall be reinstated to kerb, prior to commencement of use, in accordance with Council's kerb design standard, to the satisfaction of Council.

7. The designated landscaping areas shall be planted with shade trees, shrubs and ground covers in accordance with the approved landscaping plan approved under reserve matter 3. All landscaping shall be completed, prior to commencement of use and shall be maintained at all times thereafter to the reasonable satisfaction of Council (including the replacement of diseased or dying plants and the removal of weeds and pest plants).
8. The approved use operating times shall be limited Monday to Friday 6:30am to 6.30pm with no activity on Saturdays, Sundays and Public Holidays.
9. Noise measured at the nearest residential property boundary shall comply with the *Environment Protection (Noise) Policy 2007* at all times.
10. Except where otherwise approved, no materials, goods or containers shall be stored in the designated car parking area or driveways at any time.
11. All waste and rubbish from the activity shall be contained and stored pending removal in covered containers which shall be kept in an area screened from public view.
12. Except where otherwise approved, outside lighting shall be restricted to that necessary for security purposes only and shall be directed and shaded to prevent light overspill and/or nuisance to adjacent occupiers or distraction to drivers on adjacent public roads. All lighting shall be in accordance with Australian Standard 4282 – 1997 ‘Control of the obtrusive effects of outdoor lighting’.
13. Waste collection shall only occur as follows:
  - a. On Sundays and public holidays, between the hours of 9am and 7pm;
  - b. On any other day, between the hours of 7am and 7pm.

Advice Notes

1. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.

In addition, the applicant is responsible for ensuring the development (including demolition, civil works and construction activities) do not cause a ‘local nuisance’ under the Local Nuisance and Litter Control Act 2016

Accordingly, your site planning activities should consider:

- i. *providing a stabilised entry/exit point to the site for all construction and trade vehicles, including contained wash down area for vehicles and equipment*
- ii. *appropriately located stockpiles and storage materials*

- iii. *a suitable and designated area for brick cutting and concrete works*
- iv. *a contained area for paint and plastering waste and wash waters*
- v. *appropriate location of noisy equipment so as to avoid unreasonable impacts to neighbours*
- vi. *dust control measures such as use of a water cart and/or covering stockpiles*

Note: EPA information sheets, guidelines documents, codes of practice, technical bulletins etc. can be accessed on the following web site:

<http://www.epa.sa.gov.au>.

2. Building Consent and Development Approval must be obtained within 24 months from the date of this Notification, unless this period has been extended by the Council. Work cannot commence until a Development Approval is obtained.
3. The development shall be lawfully commenced by substantial work on the site of the development within 2 years from the date of Development Approval. If substantial work on the site has occurred within 2 years, the development shall be substantially or fully completed within 3 years from the date of Development Approval.
4. This Development Approval does not constitute land owners approval. The following applies to any works on Council land:
  - i. Any person making alteration to Council land including erecting or installing a structure (pipes, wires, cables, fixtures, fittings), storing building materials, erecting temporary fencing, altering the kerb, gutter, footpath or crossover etc. in, on, under or over Council land, is subject to a permit from Council pursuant to Section 221 of the Local Government Act 1999.
  - ii. Service infrastructure should be located as far as practicable away from street trees, in order to protect the root zone and to prevent future damage to the infrastructure from root expansion.
  - iii. Residents and businesses are encouraged to develop and maintain the verge area between their property boundary and the kerb. However, some types of development such as irrigation, tree planting and landscaping may be restricted in some areas and therefore permission should be first sought from Council before commencing any works;
  - iv. It is the developers/owners responsibility to ensure that damage does not occur to verge infrastructure during construction. Council regularly inspects the condition of verge infrastructure during construction and where damage is observed, Council may recover the costs from the owner for reinstatement of any damage to the footpath, kerb or gutter and may also impose a substantial penalty for any willful damage.
5. The Council approved plans should be available on site at all times while performing the building work.



6. It is your responsibility to ensure that any building work is correctly sited with respect to the property boundaries of the site and it is strongly recommended that a boundary survey be undertaken before any work commences to ensure the building work is accommodated within the designated footprint and achieves the designated boundary setbacks.
7. You will need to obtain your permission from your neighbour should you wish to access their property to carry out construction work adjacent the boundary or if you wish to erect common boundary fencing or boundary retaining walls, pursuant to the Fences Act 1975. To find out more, please visit:  
<https://lsc.sa.gov.au/resources/fencesandthelawbooklet.pdf>
8. The applicant is reminded that demolition and construction is required to be carried out so that it complies with the mandatory construction noise provisions of Part 6, Division 1 of the Environment Protection (Noise) Policy 2007 and the provisions of the Local Nuisance and Litter Control Act 2016. Under the Local Nuisance and Litter Control Act 2016, construction noise is declared to constitute a local nuisance as follows:

The noise has travelled from the location of the construction activity to neighbouring premises –

- i. On any Sunday or public holiday;
- ii. After 7pm or before 7am on any other day.

Mr B Brug left the meeting at 7.55pm and did not return to the meeting.

#### **8.1.2 23009326**

Telecommunications Facility Comprising 25 Metre High Monopole (Overall Height 27.5 Metres) With Cluster Mount Headframe Supporting Nine (9) Antennas With Associated Equipment Cabinet And 2.4 Metre High Compound Fencing at 4 Dan Street, Mawson Lakes SA 5095 for Indara Infrastructure

#### **REPRESENTORS**

Mr Md Rajibul Karim, spoke on behalf of his representation.

Mr S Tehan, spoke on behalf of his representation.

#### **APPLICANT**

Mr Mel Tuangthong, CPS Technology and Infrastructure, spoke on behalf of the application via MS Teams.

Ms C Gill moved, Mr R Bateup seconded, and the Council Assessment Panel resolved that:

- A. The proposed development is not considered to be seriously at variance with the Planning and Design Code.
- B. Pursuant to Section 102 of the *Planning, Development and Infrastructure Act 2016*, Planning Consent is **GRANTED** to Development Application 23009326 for Telecommunications Facility Comprising 25 Metre High Monopole (Overall Height 27.5 Metres) With Cluster Mount Headframe Supporting Nine (9) Antennas With Associated Equipment Cabinet And 2.4 Metre High Compound Fencing in accordance with the plans and details submitted with the application and subject to the following conditions:

*Planning Consent Conditions*

1. The development shall be carried out in accordance with the details submitted with the application and the following stamped approved plans and documents, except where otherwise varied by the conditions herein:

| Drawing No.             | Plan Type  | Date                 | Prepared By                          |
|-------------------------|--|----------------------|--------------------------------------|
| A0618-P1<br>Revision 01 | Draft Site Layout<br>Sheet 1 of 2                        | 13 July 2023         | CPS Technology<br>& Infrastructure   |
| A0618-P2<br>Revision 01 | Draft Site Layout<br>Sheet 2 of 2                        | 13 July 2023         | CPS Technology<br>& Infrastructure   |
| A0618-P3<br>Revision 01 | Draft Site Elevation                                     | 13 July 2023         | CPS Technology<br>& Infrastructure   |
| L1 B                    | Landscape Plan   | 11 August 2023       | Species<br>Landscape<br>Architecture |
|                         | Planning Permit<br>Application Report                    | 30 March 2023        | CPS Technology<br>& Infrastructure   |
|                         | Response to Request<br>for Further<br>Information        | 2 August 2023        | CPS Technology<br>& Infrastructure   |
|                         | Response to Second<br>Request for Further<br>Information | 11 August 2023       | CPS Technology<br>& Infrastructure   |
|                         | Response to<br>Submissions                               | 29 September<br>2023 | CPS Technology<br>& Infrastructure   |

2. Except where otherwise approved, the external finishes of the facility shall:
  - (a) Be of new non-reflective materials; and
  - (b) Be finished in materials and colours/tones as shown on the Approved Plans; and
  - (c) Be maintained in good condition at all times.

3. The designated landscaping areas shall be planted with shade trees, shrubs and ground covers in accordance with the Approved Landscaping Plan, prepared by Species Landscape Architecture, dated 11 August 2023. All landscaping shall be completed, prior to commencement of use and shall be maintained at all times thereafter to the reasonable satisfaction of Council (including the replacement of diseased or dying plants and the removal of weeds and pest plants).
4. Except where otherwise approved, outside lighting shall be restricted to that necessary for security purposes only and shall be directed and shaded to prevent light overspill and/or nuisance to adjacent occupiers or distraction to drivers on adjacent public roads.

Advice Notes

- The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).
- Building Consent and Development Approval must be obtained within 24 months from the date of this Notification, unless this period has been extended by the Council. Work cannot commence until a Development Approval is obtained.
- The development shall be lawfully commenced by substantial work on the site of the development within 2 years from the date of Development Approval. If substantial work on the site has occurred within 2 years, the development shall be substantially or fully completed within 3 years from the date of Development Approval.
- This Development Approval does not constitute land owner's approval. The following applies to any works on Council land:
  - Any person making alteration to Council land including erecting or installing a structure (pipes, wires, cables, fixtures, fittings), storing building materials, erecting temporary fencing, altering the kerb, gutter, footpath or crossover etc. in, on, under or over Council land, is subject to a permit from Council pursuant to Section 221 of the Local Government Act 1999.
  - Service infrastructure should be located as far as practicable away from street trees, in order to protect the root zone and to prevent future damage to the infrastructure from roof expansion.
  - Residents and businesses are encouraged to develop and maintain the verge area between their property boundary and the kerb. However,

- some types of development such as irrigation, tree planting and landscaping may be restricted in some areas and therefore permission should be first sought from Council before commencing any works;
- It is the developers/owner's responsibility to ensure that damage does not occur to verge infrastructure during construction. Council regularly inspects the condition of verge infrastructure during construction and where damage is observed, Council may recover the costs from the owner for reinstatement of any damage to the footpath, kerb or gutter and may also impose a substantial penalty for any wilful damage.
- It is your responsibility to ensure that any building work is correctly sited with respect to the property boundaries of the site and it is strongly recommended that a boundary survey be undertaken before any work commences to ensure the building work is accommodated within the designated footprint and achieves the designated boundary setbacks.
  - The Council approved plans should be available on site at all times while performing the building work.
  - You will need to obtain your permission from your neighbour should you wish to access their property to carry out construction work adjacent the boundary or if you wish to erect common boundary fencing or boundary retaining walls, pursuant to the Fences Act 1975. To find out more, please visit: <https://lsc.sa.gov.au/resources/fencesandthelawbooklet.pdf>
  - The applicant is reminded that demolition and construction is required to be carried out so that it complies with the mandatory construction noise provisions of Part 6, Division 1 of the *Environment Protection (Noise) Policy 2007* and the provisions of the *Local Nuisance and Litter Control Act 2016*. Under the *Local Nuisance and Litter Control Act 2016*, construction noise is declared to constitute a local nuisance as follows:

*The noise has travelled from the location of the construction activity to neighbouring premises –*

- *On any Sunday or public holiday;*
  - *After 7pm or before 7am on any other day.*
- The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.

In addition, the applicant is responsible for ensuring the development (including demolition, civil works and construction activities) do not cause a 'local nuisance' under the *Local Nuisance and Litter Control Act 2016*.

Accordingly, your site planning activities should consider:

- providing a stabilised entry/exit point to the site for all construction and trade vehicles, including contained wash down area for vehicles and equipment
- appropriately located stockpiles and storage materials
- a suitable and designated area for brick cutting and concrete works
- a contained area for paint and plastering waste and wash waters
- appropriate location of noisy equipment so as to avoid unreasonable impacts to neighbours
- dust control measures such as use of a water cart and/or covering stockpiles

Note: EPA information sheets, guidelines documents, codes of practice, technical bulletins etc. can be accessed on the following web site:

<http://www.epa.sa.gov.au>

#### *Parafield Airport*

- The development as described at an approximate height of RL 40.70m Australian Height Datum (AHD) does not penetrate the Parafield Airport Obstacle Limitation Surface (OLS) airspace protected for aircraft operations. Any further proposed addition to the structure, including aerials or masts, must be subject to a separate assessment.
- Crane operations associated with construction shall be the subject of separate application. Cranes may require approval in accordance with the *Airports Act 1996* and the *Airports (Protection of Airspace) Regulations 1996*.
- Restrictions may apply to lighting illumination. Any lighting proposed shall conform to airport lighting restrictions and shall be shielded from aircraft flight paths.

Presiding Member called for a 5 minute break at 8.49pm.

Meeting resumed at 8.54pm.

Ms M English left the meeting at 8.55 pm.

### 8.1.3 23010242

Construction of a community housing development comprising 10 single-storey dwellings, a two-storey supported accommodation building with 16 units, 4 single story dwellings for high needs care, a community hall and associated internal roads, car parking, landscaping and fencing at 11-17 Orange Avenue, 15-21 and 23 Brown Terrace Salisbury SA 5108 for Rosssdale Homes.

#### APPLICANT

Mr Giles French, representative for Rosssdale Homes, was present at meeting to answer questions of the Panel.

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

- A. The proposed development is not considered to be seriously at variance with the Planning and Design Code; and
- B. Pursuant to Section 102 of the *Planning, Development and Infrastructure Act 2016*, Planning Consent is **GRANTED** to Development Application 23010242 for Construction of a community housing development comprising 10 single-storey dwellings, a two-storey supported accommodation building with 16 units, 4 single story dwellings for high needs care, a community hall and associated internal roads, car parking, landscaping and fencing in accordance with the plans and details submitted with the application and subject to the following Reserved Matters and Conditions:

#### Reserved Matters:

The following matters shall be submitted for further assessment and approval by the Assessment Manager, as delegate of the Council Assessment Panel, as Reserved Matters under Section 102(5) of the *Planning, Development and Infrastructure Act 2016*:

1. A revised civil stormwater design that includes appropriate water quality treatments and management of runoff from the community hall and is supported DRAINS modelling.
2. Additional site/soil investigations demonstrating that site contamination is unlikely to exist (as demonstrated in a site contamination declaration form) or a site contamination audit report prepared under Part 10A of the Environment Protection Act 1993.

### Planning Consent Conditions

1. *The development shall be carried out in accordance with the plans and supporting documents, except where otherwise varied by the conditions herein.*
2. *All driveways, parking and maneuvering areas will be formed, surfaced with concrete, bitumen or paving, and be properly drained prior to occupation and shall be maintained in reasonable condition at all times to the satisfaction of Council.*
3. *All car parking areas shall be marked in a distinctive fashion to delineate the parking spaces, prior to the occupation of the development.*
4. *The proposed car parking layout and access areas and vehicle head clearances shall conform to Australian Standard AS 2890.1:2004- Off-street Car parking and Australian Standard 2890.6:2009 - Off-Street Parking for People with Disabilities.*
5. *Driveway, car parking spaces, maneuvering areas and landscaping areas shall not be used for storage or display of materials or goods.*
6. *All landscaping shall be planted in accordance with the Landscape Plan prepared by GSD dated 29 March 2023 prior to the occupation of the development. Any person(s) who have the benefit of this approval will cultivate, tend and nurture the landscaping and shall replace any plants which may become diseased or die.*
7. *External lighting shall be restricted to that necessary for security purposes only and be designed, directed and shielded in accordance with AS 4282-1997 Control of the obtrusive effects of outdoor lighting so as to cause no adverse light overspill nuisance to nearby properties.*

### Advice Notes

#### **Rights of Appeal**

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

#### **Building Rules Consent and Approval Still Required**

Building Consent and Development Approval must be obtained within 24 months from the date of this Notification, unless this period has been extended by the Council. Work cannot commence until a Development Approval is obtained.



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### **Commencement**

The development shall be lawfully commenced by substantial work on the site of the development within 2 years from the date of Development Approval. If substantial work on the site has occurred within 2 years, the development shall be substantially or fully completed within 3 years from the date of Development Approval.

### **Advice regarding Council land**

This Development Approval does not constitute land owner's approval. The following applies to any works on Council land:

1. Any person making alteration to Council land including erecting or installing a structure (pipes, wires, cables, fixtures, fittings), storing building materials, erecting temporary fencing, altering the kerb, gutter, footpath or crossover etc. in, on, under or over Council land, is subject to a permit from Council pursuant to Section 221 of the *Local Government Act 1999*.
2. Service infrastructure should be located as far as practicable away from street trees, in order to protect the root zone and to prevent future damage to the infrastructure from root expansion.
3. Residents and businesses are encouraged to develop and maintain the verge area between their property boundary and the kerb. However, some types of development such as irrigation, tree planting and landscaping may be restricted in some areas and therefore permission should be first sought from Council before commencing any works;
4. It is the developers'/owners' responsibility to ensure that damage does not occur to verge infrastructure during construction. Council regularly inspects the condition of verge infrastructure during construction and where damage is observed, Council may recover the costs from the owner for reinstatement of any damage to the footpath, kerb or gutter and may also impose a substantial penalty for any wilful damage.

### **Siting of Building Work**

It is your responsibility to ensure that any building work is correctly sited with respect to the property boundaries of the site and it is strongly recommended that a boundary survey be undertaken before any work commences to ensure the building work is accommodated within the designated footprint and achieves the designated boundary setbacks.

### **Plans Available Onsite**

The Council approved plans should be available on site at all times while performing the building work.

### **Fences Act**

You will need to obtain your permission from your neighbour should you wish to access their property to carry out construction work adjacent the boundary or if you wish to erect common boundary fencing or boundary retaining walls, pursuant to the *Fences Act 1975*. To find out more, please visit:

<https://lsc.sa.gov.au/resources/fencesandthelawbooklet.pdf>



### **Building Work Affecting Other Land**

Pursuant to Section 139 of the *Planning, Development and Infrastructure Act 2016*, a person undertaking activity that affects stability of land or premises must serve notice in the prescribed form to the owner of the affected site. For the purposes of Section 139, work of the following nature is prescribed as building work which is to be treated for the purposes of that section as building work that affects the stability of other land or premises, namely:

- An excavation which intersects a notational plane extending downwards at a slope of 1 vertical to 21 horizontal from a point 600mm below natural ground level at a boundary with an adjoining site;
- An excavation which intersects any notional plane extending downwards at a slope of 1 vertical to 2 horizontal from a point at natural ground level at any boundary between 2 sites (not being a boundary with the site of the excavation), where the boundary is within a distance equal to twice the depth of the excavation;
- Any fill which is within 600mm of an adjoining site, other than where the fill is not greater than 200mm in depth (or height) and is for landscaping, gardening or other similar purposes.

To find out more, please visit:

<https://lawhandbook.sa.gov.au/ch28s02s06s03.php>

### **Construction Noise**

The applicant is reminded that demolition and construction is required to be carried out so that it complies with the mandatory construction noise provisions of Part 6, Division 1 of the *Environment Protection (Noise) Policy 2007* and the provisions of the *Local Nuisance and Litter Control Act 2016*. Under the *Local Nuisance and Litter Control Act 2016*, construction noise is declared to constitute a local nuisance as follows:

*The noise has travelled from the location of the construction activity to neighbouring premises –*

- *On any Sunday or public holiday;*
- *After 7pm or before 7am on any other day.*

### **EPA and Local Nuisance Matters**

The applicant is reminded of its general environmental duty, as required by Section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.

In addition, the applicant is responsible for ensuring the development (including demolition, civil works and construction activities) do not cause a 'local nuisance' under the *Local Nuisance and Litter Control Act 2016*

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Accordingly, your site planning activities should consider:

- providing a stabilised entry/exit point to the site for all construction and trade vehicles, including contained wash down area for vehicles and equipment
- appropriately located stockpiles and storage materials
- a suitable and designated area for brick cutting and concrete works
- a contained area for paint and plastering waste and wash waters
- appropriate location of noisy equipment so as to avoid unreasonable impacts to neighbours
- dust control measures such as use of a water cart and/or covering stockpiles

Note: EPA information sheets, guidelines documents, codes of practice, technical bulletins etc. can be accessed on the following web site: <http://www.epa.sa.gov.au>.

### **Amendments**

Except where otherwise varied by this Consent, the conditions imposed are in addition to conditions that apply to the site from previous approvals that remain active.

Ms M English returned to the meeting at 9.02 pm.

## **OTHER BUSINESS**

### **8.2.1 Assessment Manager Quarterly Report - July to September 2023**

Mr R Bateup moved, and the Council Assessment Panel resolved that the information be received and noted.

### **8.2.2 Status of Current Appeal Matters and Deferred Items**

Ms C Gill moved, and the Council Assessment Panel resolved that the information was received.

### **8.2.3 Policy Issues Arising from Consideration of Development Applications**

Nil

### **8.2.4 Future Meetings & Agenda Items**

Next meeting scheduled for Tuesday 28 November 2023.

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**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 9.10 pm.

**PRESIDING MEMBER:** Mr T Mosel

**DATE:** 24 October 2023  
(refer to email approving minutes registered in the City of Salisbury's Record Management System - Document Number 7988744)



**ITEM** 8.2.1**COUNCIL ASSESSMENT PANEL****DATE** 19 December 2023**HEADING** CAP Meeting Procedures**AUTHOR** Chris Zafiropoulos, Assessment Manager, City Development

**SUMMARY** This report seeks the Panel's consideration and adoption of updated Meeting Procedures, having regard to a request from Council to consider flexible participation options. It is recommended that the Panel adopt the Local Government Association model meeting procedures template, with additions.

**RECOMMENDATION**

That the Council Assessment Panel:

Adopts the Salisbury Council Assessment Panel Meeting Procedures, forming Attachment 1 to the agenda report. Appoints \_\_\_\_\_ as the Acting Presiding Member for the remainder of the CAP term.

**ATTACHMENTS**

This document should be read in conjunction with the following attachments:

1. Proposed Salisbury CAP Meeting Procedures for Adoption
2. LGA Model Meeting Procedures Template
3. Salisbury CAP Current General Operating Procedures
4. Existing Salisbury Clauses (of substance) not in LGA Template
5. Council Report - CAP Increasing Female Candidates

**1. BACKGROUND**

- 1.1 The *Planning Development and Infrastructure Act 2016* (the Act) provides that a Panel determine its procedures, in so far as they are not prescribed by the Act and associated regulations.
- 1.2 The Panel's general operating procedures were last reviewed by the Panel in November 2021. The Panel updated clauses 3.6 and 3.7 to reflect an update to the Council's Terms of Reference for the appointment of the Acting Presiding Member.
- 1.3 Council recently requested that the Administration provide a report with a proposed marketing strategy and other options to attract more women candidates to the Panel. A report was provided on 23 October 2023 (copy is provided in Attachment 5 for information). Council resolved the following from that report:

That Council:

1. *Approves to commence a new Expression of Interest for the independent members on the Council Assessment Panel (the Panel) in May 2024, and consider candidates at the Council Meeting July 2024, with the following Initiatives*
  - a. *Targeted Outreach and Marketing campaign that will include:*
    - i. *Direct contact to all accredited and eligible candidates on the Accreditation Scheme when the Expression of Interest is released.*
    - ii. *Explicit / stronger messaging in the public notice that Council wishes to increase female participation on the Panel and promote equal opportunities.*
    - iii. *Promote flexible participation options, subject to consideration by the Council Assessment Panel.*
  - b. *Write to the Accreditation Authority to highlight the relatively small pool of eligible women in the scheme and support the Authority's initiatives to increase participation of women in the Accreditation Scheme from a range of professions.*
- 1.4 This report provides information for the Panel's consideration in relation to part 1(a)(iii) of the Council resolution.
- 1.5 As part of this consideration, this report proposes the adoption of the Local Government Association (LGA) *model meeting procedures template*, with variations to replace the existing operating procedures. This will serve the purpose of satisfying the Council resolution and will also assist in the future review and update of the procedures as the LGA provides sector wide updates.

**2. EXTERNAL CONSULTATION / COMMUNICATION**

- 2.1 Planning and Land Use Services (PLUS), Department for Trade and Investment

**3. DISCUSSION**

- 3.1 Initiatives to increase the number of women candidates are matters that Council and the Accreditation Authority (via PLUS) are exploring. The Panel is able to support this initiative with the consideration of matters such as flexible participation options. Flexible meeting options include electronic meeting using technologies such as MS Teams and meeting schedules.
- 3.2 Electronic meetings, before the Covid Pandemic, were limited by legislation. The Covid pandemic lead to temporary legislative changes that supported flexible meeting options. More recent changes to the Interpretation Act, now allows electronic meeting as part of ordinary business. The LGA released an updated *model meeting procedures template* that incorporates electronic meetings as part of ordinary business. Furthermore, the provision of laptops/iPads to members and the electronic meeting format (including agenda distribution & MS Teams) support the holding of electronic meetings.

- 3.3 Meeting times of the Panel balance the availability all members, applicants, representors & the general community. As a consequence, most CAP meetings are held in the evenings. The Tee Tree Gully Council Panel and State Commission Assessment Panel are known to hold meetings during normal business hours. The Panel may wish to consider if meeting times during normal business hours is workable.
- 3.4 A copy of the LGA *model meeting procedures template* is provided in Attachment 2. The template was updated to reflect the legislative changes that now allow electronic meetings as ordinary business. A copy of the current Salisbury CAP Operating procedures is included in Attachment 3.
- 3.5 As the LGA regularly reviews and updates this template, it is proposed that the Panel adopt the LGA template as its base meeting procedures, and include additional clauses from the existing procedures that are considered to be appropriate. This is recommended to support the Council resolution, but it will also more readily facilitate the review and updated of the procedures in line with the LGA sector wide updates.
- 3.6 The more substantial clauses in the current procedures that the Panel may wish to retain are captured in Attachment 4. They have also been included (as green text) in the proposed meeting procedures in Attachment 1 for the Panel's adoption. The clauses for consideration include:
- 3.6.1 **Role of the Panel** – This introductory text is not essential but it does reinforce the role of the Panel for Members, and for members of the community who may not be familiar with the role of Panels.
- 3.6.2 **Acting Presiding Member** (clause 5.4) – Council's adopted in its Terms of Reference a process for the appointment of the Acting Presiding Member. The Panel adopted this process in its procedures in November 2021. Given this Council resolution, it is proposed that the current clauses be used. There is also a need for the Panel to appoint the Acting Presiding Member for this term, in accordance with this procedure.
- 3.6.3 **Meeting Behaviour / Decision Making** (clauses 7.1 & 7.3) – these existing clauses in the Salisbury CAP procedures are considered to contribute to the smooth running and successful meetings of the Panel. They are considered worthy of retaining.
- 3.6.4 **Appeals** (clause 10) / **Annual Report** (clause 11) / **Reporting to the Panel** (clause 11) are specific clauses in the Salisbury CAP procedures that support functions of the Panel. These are considered worthy of retaining.
- 3.7 Other matters for the Panel's consideration in relation to the Meeting Procedures provided in Attachment 1, include:
- 3.7.1 Clause 1.9 – provides that the Panel will take a break after a period of time. It is proposed that the Panel take a 10 minute break once every 2 hours.
- 3.7.2 Clause 2.2 – the Presiding Member may be inserted in place of the Assessment Manager. The Assessment Manager has been inserted as this reflects the current approach.

3.7.3 Clauses 6.1 to 6.3 – the Assessment Manager may be inserted in place of the Presiding Member. The Presiding Member has been inserted as this reflects the current approach.

3.8 A letter from the Chair, State Planning Commission (dated 5 October 2023) to the Mayor was distributed to members by email previously. This letter highlighted complaints made to the Commission regarding the conduct of members on Panels and provides information for the consideration of Councils and members on Panels. There have been no complaints made against any members of the Salisbury Panel. The manner in which members contribute to the Panel, that is informed by the meeting procedures, is considered to have significantly contributed to successful conduct of the Panel.

#### **4. CONCLUSION**

4.1 The Council Assessment Panel Meeting Procedures with suggested amendments are presented in Attachment 1 for the Panel's consideration and for formal adoption.

4.2 The Panel is also invited to appoint an Acting Presiding Member.



## Salisbury Council Assessment Panel

### Meeting Procedures

Adopted by the CAP on [insert date]

#### Role of Panel

The purpose of the Council Assessment Panel (CAP) is to determine development applications that are assigned to the CAP under the *Planning Development and Infrastructure Act 2016*. The Panel may also provide advice to Council on trends, issues and other matters relating to planning or development matters.

The Panel acknowledges that in performing its statutory function, it is bound by the:

- Code of conduct adopted by the Minister for Planning.
- Objects, Planning Principles and General Responsibilities under the Planning, Development and Infrastructure Act 2016.
- Meeting Procedures established by the Panel. These Meeting Procedures are to be read in conjunction with:
  - the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)*; and
  - the CAP's Policy for Assessment Panel Review of Decision of Assessment Manager (**Assessment Manager Review Policy**).

#### 1. CAP MEETINGS

##### Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the Salisbury Council Assessment Panel (**CAP**) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than three (3) clear days prior to the holding of the meeting in accordance with clause 1.4
- 1.4 Notice of a meeting of the CAP must:

- 1.4.1 be in writing;
  - 1.4.2 set out the date, time and place of the meeting;
  - 1.4.3 be signed by the Assessment Manager;
  - 1.4.4 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable);
  - 1.4.5 be given to a CAP Member personally, by post to a place authorised in writing by the Member or by other means authorised by the Member as being an available means of giving notice;
  - 1.4.6 where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and
  - 1.4.7 where the meeting is to be live streamed for viewing by members of the public, include details of how to access and/or connect to the live stream.
- 1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manger considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Member.
- 1.6 A copy of the agenda for all meetings of the CAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to CAP Members.
- 1.7 The Assessment Manger may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manger shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.
- 1.8 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.9 A meeting will break for 10 minutes once every 2 hours, or more or less often as determined by the Presiding Member.

### **Special Meetings**

- 1.10 The Presiding Member, or two or more CAP Members, may by delivering a written request to the Assessment Manager require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.
- 1.11 On receipt of a request pursuant to clause 1.10, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP Members at least 4 hours before the commencement of the special meeting.

## **2. DEPUTY MEMBERS**

- 2.1 If a CAP Member is unable or unwilling to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Presiding Member or Assessment Manager at his or her earliest opportunity.
- 2.2 If notification pursuant to clause 2.1 is given, the **Assessment Manager** may request a Deputy Member attend the meeting in place of the CAP Member for the meeting or part of the meeting.
- 2.3 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Member.

## **3. ADDITIONAL MEMBERS**

- 3.1 The CAP may appoint up to two Additional Members in accordance with Section 85 of the *Planning, Development and Infrastructure Act 2016 (Act)*.
- 3.2 Where the CAP has appointed Additional Member(s), the Presiding Member, in consultation with the Assessment Manager, may invite one or both Additional Members to attend any meeting (or part thereof) where he or she considers the Additional Member(s) will, by virtue of their qualifications, expertise or experience, assist the CAP in dealing with a matter that it must assess under the Act (or, during the transition to the Act, the *Development Act 1993 (D Act)*).
- 3.3 A request that an Additional Member attend a meeting must be made in writing and be accompanied by the notice for the meeting in accordance with clause 1.4, highlighting the item(s) the Additional Member is required to consider.
- 3.4 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes an Additional Member, save that an Additional Member is not able to vote on any matter arising for determination by the CAP.

**4. ELECTRONIC MEETINGS**

- 4.1 One or more CAP Members may attend a meeting via electronic means.
- 4.2 A CAP Member attending a meeting via electronic means is taken to be present at the meeting provided that the CAP Member:
  - 4.2.1 can hear and, where possible, see all other CAP Members who are present at the meeting;
  - 4.2.2 can hear and, where possible, see all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;
  - 4.2.3 can be heard and, where possible, seen by all other CAP Members present at the meeting; and
  - 4.2.4 can be heard and, where possible, seen by the person recording the minutes of the meeting.
- 4.3 Where a meeting occurs via electronic means, it will (to the extent that the public is not able to physically attend the meeting) be live streamed.
- 4.4 Where a meeting is being live streamed, the live stream must be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations.
- 4.5 Where the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager must ensure that all parties except for the CAP Members disconnect from or are disconnected from the meeting.

**5. COMMENCEMENT OF MEETINGS**

- 5.1 Subject to a quorum being present, a meeting of the CAP will commence as soon as possible after the time specified in the notice of a meeting.
- 5.2 If the number of apologies received by the Assessment Manager or Presiding Member indicates that a quorum will not be present at a meeting, the Presiding Member may adjourn the meeting to a specified day and time.
- 5.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 5.4 ~~In the event that the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the~~



~~meeting appoints an Acting Presiding Member. That the CAP appoint an Acting Presiding Member for the remainder of the CAP term.~~

~~If both the Presiding Member and Acting Presiding Member are absent from a CAP meeting (or part thereof), a CAP Member will be appointed from those CAP Members present by means of resolution, and will preside over the meeting. (Council's Terms of Reference 25/10/20201)~~

## 6. ASSESSMENT OF DEVELOPMENT APPLICATIONS

The procedures in Part 6 of these Meeting Procedures relate only to the CAP's assessment of development applications under Part 7 of the Act and Part 4 of the D Act. **NB:** The procedures for determining an application for review of an Assessment Manager's decision are contained in the Assessment Manager Review Policy.

6.1 The **Presiding Member** may in his or her discretion exclude:

- 6.1.1 a representation or response to representation(s) which is received out of time;
- 6.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or
- 6.1.3 a representation or response to representation(s) which is otherwise invalid.

6.2 The **Presiding Member** may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The CAP may defer consideration of the application to enable full and proper assessment of the further information.

6.3 Any material to be considered by the CAP pursuant to clause 6.2 must be provided to the applicant and/or representor(s) (as the case may be) in a manner directed by the **Presiding Member** and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the **Presiding Member**.

6.4 In relation to each application it considers, the CAP must:

- 6.4.1 determine whether the proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant) and provide reasons for its determination; and
- 6.4.2 provide reasons for granting or refusing development authorisation and for the imposition of any conditions.

6.5 If the CAP determines that a proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant), it must refuse development authorisation to the application.

6.6 In relation to each application to be considered and determined by the CAP:

- 6.6.1 a person who has lodged a representation in relation to a Category 2 or 3 application under the D Act or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 6.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent;
- 6.6.2 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any relevant matter raised by a representor, in person or by an agent;
- 6.6.3 where no representors appear at the meeting, the Presiding Member may, in his or her discretion, allow an applicant to be heard in support of his or her application, in person or by an agent;
- 6.6.4 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;
- 6.6.5 CAP members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and
- 6.6.6 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.
- 6.6.7 Clauses 6.6.1 to 6.6.3 are satisfied if a representor or applicant (as the case may be) appears via electronic means. The Presiding Member may require that any such appearance be via electronic means.

**7. DECISION MAKING**

- 7.1 Subject to the PDI Act and these Operating Procedures, the Presiding Member will facilitate the meeting in a manner which promotes relevant, orderly, constructive, respectful and expeditious discussion, but not repetitious discussion, with the intent of ensuring well-informed decisions and debate leading to a determination of any matters before the Panel.
- 7.2 Each Member present at a meeting of the CAP, including a Deputy Member who has been requested to attend the meeting or part of the meeting in place of a Member who is unable or unwilling to attend the meeting, is entitled to one vote on any matter arising for decision. If the votes are equal, the Presiding Member is entitled to a second or casting

vote. Additional Members appointed to the CAP to provide expert advice and assistance are not entitled to vote.

- 7.3 ~~Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.~~ Decisions of the Panel will be, where possible, by consensus determined through debate and discussion of the agenda item, and where a consensus is reached the Presiding Member shall then call for a mover and confirm the consensus by a show of hands.

Where it is evident through debate and discussion that a consensus will not be reached by the Panel, the Presiding Member shall call for a mover and put the matter to a formal vote to determine.

All decisions of the CAP shall be made on the basis of a majority decision of the Members present and the Minutes shall record that decision only (Votes for/against will not be recorded, and are not relevant once the majority is determined).

- 7.4 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a CAP Member, applicant, representor or other member of the public) to a specified date and time.
- 7.5 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or disconnect from a meeting where he or she is, in the opinion of the Presiding Member:
- 7.5.1 behaving in a disorderly manner; or
  - 7.5.2 causing an interruption or disruption to the meeting.
- 7.6 Where a person is entitled to appear before the CAP in relation to an application for review of an Assessment Manager's decision (including the Assessment Manager or delegate), the person may elect to appear via electronic means. The Presiding Member may require that any such appearance be via electronic means.

## 8. MINUTES AND REPORTING

- 8.1 The CAP must ensure that accurate minutes are kept of all meetings.
- 8.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 8.3 The minutes will record:
- 8.3.1 the names of all Members present;
  - 8.3.2 the names of all Members from whom apologies have been received;

- 8.3.3 the name and time that a Member enters or leaves the meeting;
- 8.3.4 the name of every person who makes or responds to a representation in relation to a development application;
- 8.3.5 methods of attendance by all Members present and by every person who makes or responds to a representation;
- 8.3.6 the name of every person who appears in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate);
- 8.3.7 in relation to each development application:
  - 8.3.7.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
  - 8.3.7.2 the reasons for granting or refusing development authorisation and for the imposition of any conditions; and
- 8.3.8 in relation to each application for review of an Assessment Manager decision:
  - 8.3.8.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
  - 8.3.8.2 the reasons for the CAP's decision under Section 203(4) of the Act, including the reasons for the imposition of any new or varied conditions; and
- 8.3.9 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;
- 8.3.10 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
- 8.3.11 a decision to exclude the public from attendance pursuant to the Regulations;
- 8.3.12 any disclosure of a direct or indirect pecuniary interest in any aspect of a development or anybody associated with any aspect of a development made by a Member in accordance with Section 83(1)(g) of the Act, and the nature of the interest;
- 8.3.13 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (**Code of Conduct**), and the nature of the interest; and



8.3.14 if a meeting is adjourned by the Presiding Member, the reason for the adjournment and the date and time to which the meeting is adjourned.

8.4 All minutes must be confirmed by the Assessment Manager in conjunction with the Presiding Member as being accurate prior to, or at the commencement of, the following CAP meeting.

**9. ADDITIONAL PROCEDURES**

9.1 Insofar as any procedure to be followed by the CAP is not prescribed by the Act and Regulations (and, during the transition to the Act and Regulations, the D Act and *Development Regulations 2008*), the CAP's Terms of Reference, the Code of Conduct, the Assessment Manager Review Policy, or these Meeting Procedures, the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.

9.2 The CAP may call for and consider such professional assistance from the Assessment Manager and, in consultation with the Assessment Manager, other professional advisors as it deems necessary and appropriate from time to time.

**10. APPEALS**

10.1 The Assessment Manager is authorised to make decisions as to the conduct of appeals that do not change the nature of the decision of the Panel including preparing documentation required by the Court, engaging and instructing legal representation or expert witnesses, attending preliminary conferences, conciliation hearings or direction hearings, subject to consulting with the Presiding Member.

10.2 Where the Assessment Manager has acted on a matter under appeal, a report will be provided to the Panel at the next meeting.

10.3 Any compromise proposal arising from an appeal shall be presented to the Panel for decision.

10.4 In the event of an urgent matter, that the Presiding Member may convene a special meeting of the Panel in accordance with these Meeting Procedures.

**11. ANNUAL REPORT**

11.1 The Panel shall prepare and consider an Annual Report for presentation to the Council via the appropriate Standing Committee. The Annual Report may be presented by the Presiding Member and may contain (but not be limited to) statistical information in relation to the number of items considered, the outcomes of decisions on those items, and matters identified by the Panel in the course of its assessment of development applications that warrant referral to Council for consideration of Planning Rules policy, legislative, or procedural change.

11.2 The Annual Report shall be prepared at the end of the financial year.

**12. REPORTING TO THE PANEL**

12.1 The Assessment Manager will prepare:

12.1.1 A quarterly report of the development applications with representations determined under delegated authority for the previous period.

12.1.2 A report at the next meeting of the Panel for any development application delegated by the Panel where a deemed consent notice has been received.

**13. DEFINITIONS**

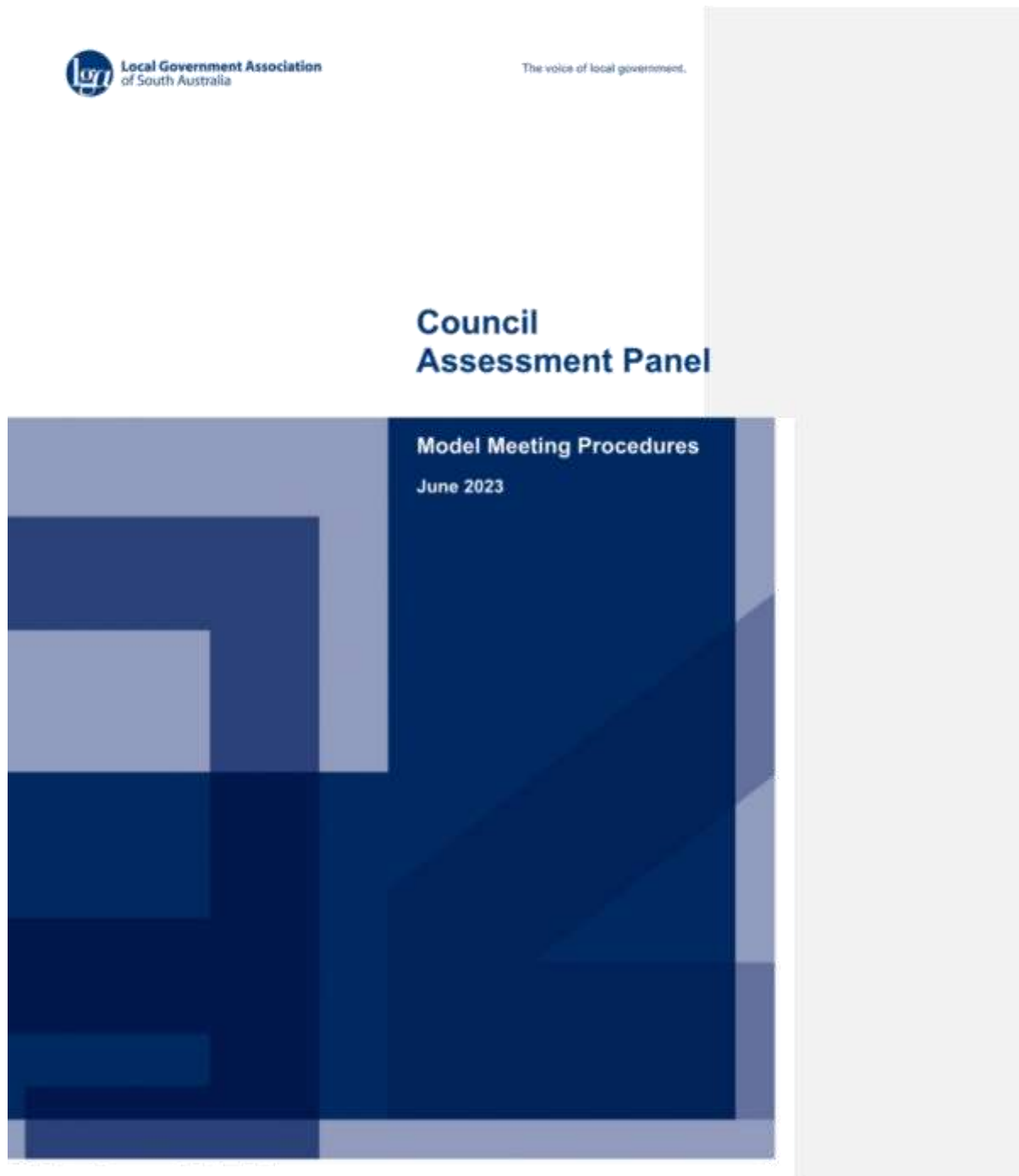
The following definitions apply in relation to these Meeting Procedures:

13.1 *connect* means able to hear and/or see the meeting by electronic means, including via a live stream;

13.2 *disconnect* means to remove the connection so as to be unable to hear and see the meeting;

13.3 *electronic* means includes a telephone, computer or other electronic device used for communication;

13.4 *live stream* means the transmission of audio and/or video from a meeting at the time the meeting is occurring.



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**[COUNCIL] Council Assessment Panel****Meeting Procedures**

Adopted by the CAP on [insert date]

These Meeting Procedures are to be read in conjunction with:

- the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)*; and
- the CAP's Policy for Assessment Panel Review of Decision of Assessment Manager (**Assessment Manager Review Policy**).

**1. CAP MEETINGS****Ordinary Meetings**

- 1.1 Subject to clause 1.2, ordinary meetings of the [COUNCIL] Council Assessment Panel (**CAP**) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than [insert] clear days prior to the holding of the meeting in accordance with clause 1.4
- 1.4 Notice of a meeting of the CAP must:
  - 1.4.1 be in writing;
  - 1.4.2 set out the date, time and place of the meeting;
  - 1.4.3 be signed by the Assessment Manager;
  - 1.4.4 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable);
  - 1.4.5 be given to a CAP Member personally, by post to a place authorised in writing by the Member or by other means authorised by the Member as being an available means of giving notice;
  - 1.4.6 where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and

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1.4.7 where the meeting is to be live streamed for viewing by members of the public, include details of how to access and/or connect to the live stream.

- 1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manager considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Member.
- 1.6 A copy of the agenda for all meetings of the CAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to CAP Members.
- 1.7 The Assessment Manager may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manager shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.
- 1.8 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.9 A meeting will break for [insert time period] once every [insert time period], or more or less often as determined by the Presiding Member.

#### Special Meetings

- 1.10 The Presiding Member, or two or more CAP Members, may by delivering a written request to the Assessment Manager require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.
- 1.11 On receipt of a request pursuant to clause 1.10, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP Members at least 4 hours before the commencement of the special meeting.

## 2. DEPUTY MEMBERS

- 2.1 If a CAP Member is unable or unwilling to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Presiding Member or Assessment Manager at his or her earliest opportunity.
- 2.2 If notification pursuant to clause 2.1 is given, the Assessment Manager may request a Deputy Member attend the meeting in place of the CAP Member for the meeting or part of the meeting.

Commented [p1]: May be replaced with the Presiding Member

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- 2.3 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Member.

### 3. **ADDITIONAL MEMBERS**

**Commented [p2]:** Clause 3 may be deleted if Additional Members are not appointed to the CAP.

- 3.1 The CAP may appoint up to two Additional Members in accordance with Section 85 of the *Planning, Development and Infrastructure Act 2016 (Act)*.

- 3.2 Where the CAP has appointed Additional Member(s), the Presiding Member, in consultation with the Assessment Manager, may invite one or both Additional Members to attend any meeting (or part thereof) where he or she considers the Additional Member(s) will, by virtue of their qualifications, expertise or experience, assist the CAP in dealing with a matter that it must assess under the Act (or, during the transition to the Act, the *Development Act 1993 (D Act)*).

- 3.3 A request that an Additional Member attend a meeting must be made in writing and be accompanied by the notice for the meeting in accordance with clause 1.4, highlighting the item(s) the Additional Member is required to consider.

- 3.4 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes an Additional Member, save that an Additional Member is not able to vote on any matter arising for determination by the CAP.

### 4. **ELECTRONIC MEETINGS**

- 4.1 One or more CAP Members may attend a meeting via electronic means.

- 4.2 A CAP Member attending a meeting via electronic means is taken to be present at the meeting provided that the CAP Member:

- 4.2.1 can hear and, where possible, see all other CAP Members who are present at the meeting;

**Commented [NM3]:** Section 38 of the Legislation Interpretation Act 2021 allows electronic meetings to occur via audio connection only. Panels may wish to encourage audio and visual connections, where possible. Where a Panel is satisfied with audio connection only, the text "where possible" may be deleted.

- 4.2.2 can hear and, where possible, see all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;

**Commented [NM4]:** As above.

- 4.2.3 can be heard and, where possible, seen by all other CAP Members present at the meeting; and

**Commented [NM5]:** As above.

- 4.2.4 can be heard and, where possible, seen by the person recording the minutes of the meeting.

**Commented [NM6]:** As above.

- 4.3 Where a meeting occurs via electronic means, it will (to the extent that the public is not able to physically attend the meeting) be live streamed.

- 4.4 Where a meeting is being live streamed, the live stream must be disconnected only during those parts of the meeting during which the

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public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations.

- 4.5 Where the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager must ensure that all parties except for the CAP Members disconnect from or are disconnected from the meeting.

## 5. COMMENCEMENT OF MEETINGS

- 5.1 Subject to a quorum being present, a meeting of the CAP will commence as soon as possible after the time specified in the notice of a meeting.
- 5.2 If the number of apologies received by the Assessment Manager or Presiding Member indicates that a quorum will not be present at a meeting, the Presiding Member may adjourn the meeting to a specified day and time.
- 5.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 5.4 In the event that the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the meeting appoints an Acting Presiding Member.

## 6. ASSESSMENT OF DEVELOPMENT APPLICATIONS

The procedures in Part 6 of these Meeting Procedures relate only to the CAP's assessment of development applications under Part 7 of the Act and Part 4 of the D Act. **NB:** The procedures for determining an application for review of an Assessment Manager's decision are contained in the Assessment Manager Review Policy.

- 6.1 The Assessment Manager may in his or her discretion exclude:

- 6.1.1 a representation or response to representation(s) which is received out of time;
- 6.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or
- 6.1.3 a representation or response to representation(s) which is otherwise invalid.

- 6.2 The Assessment Manager may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The CAP may defer consideration of the

**Commented [p7]:** May be replaced with the Presiding Member

**Commented [p8]:** May be replaced with the Presiding Member

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application to enable full and proper assessment of the further information.

- 6.3 Any material to be considered by the CAP pursuant to clause 6.2 must be provided to the applicant and/or representor(s) (as the case may be) in a manner directed by the **Assessment Manager** and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the **Assessment Manager**.

**Commented [jfc9]:** May be replaced with the Presiding Member

**Commented [p10]:** May be replaced with the Presiding Member

- 6.4 In relation to each application it considers, the CAP must:

6.4.1 determine whether the proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant) and provide reasons for its determination; and

6.4.2 provide reasons for granting or refusing development authorisation and for the imposition of any conditions.

- 6.5 If the CAP determines that a proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant), it must refuse development authorisation to the application.

- 6.6 In relation to each application to be considered and determined by the CAP:

6.6.1 a person who has lodged a representation in relation to a Category 2 or 3 application under the D Act or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 6.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent;

**Commented [jfc11]:** Delete "2 or" if the CAP does not to automatically permit Category 2 representors who wish to be heard to speak

**Commented [jfc12]:** Delete "or an application for which notice must be given under the Act" if the CAP does not to automatically permit D Act representors who wish to be heard to speak

6.6.2 a person who has lodged a representation in relation to either a Category 2 application under the D Act or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 6.1 and who has indicated that they wish to be heard on their representation may, at the discretion of the Presiding Member, appear before the CAP and be heard in support of their representation, in person or by an agent;

**Commented [jfc13]:** This paragraph can be deleted entirely where a CAP permits all representors who wish to be heard to be heard

6.6.3 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any relevant matter raised by a representor, in person or by an agent;

6.6.4 where no representors appear at the meeting, the Presiding Member may, in his or her discretion, allow an applicant to be heard in support of his or her application, in person or by an agent;

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- 6.6.5 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;
- 6.6.6 CAP members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and
- 6.6.7 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.
- 6.6.8 Clauses 6.6.1 to 6.6.4 are satisfied if a representor or applicant (as the case may be) appears via electronic means. The Presiding Member may require that any such appearance be via electronic means.

## 7. DECISION MAKING

- 7.1 Each Member present at a meeting of the CAP, including a Deputy Member who has been requested to attend the meeting or part of the meeting in place of a Member who is unable or unwilling to attend the meeting, is entitled to one vote on any matter arising for decision. If the votes are equal, the Presiding Member is entitled to a second or casting vote. Additional Members appointed to the CAP to provide expert advice and assistance are not entitled to vote.
- 7.2 Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.
- 7.3 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a CAP Member, applicant, representor or other member of the public) to a specified date and time.
- 7.4 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or disconnect from a meeting where he or she is, in the opinion of the Presiding Member:
  - 7.4.1 behaving in a disorderly manner; or
  - 7.4.2 causing an interruption or disruption to the meeting.
- 7.5 Where a person is entitled to appear before the CAP in relation to an application for review of an Assessment Manager's decision (including the Assessment Manager or delegate), the person may elect to appear

**Commented [nzm14]:** Pursuant to the amendment to regulation 116, it is now obligatory that, if the Panel determines to hold a hearing in relation to the review of an Assessment Manager's decision, the person requesting the review must be given an opportunity to be heard 'in person' (whether or not they take it up).

Contextually we understand 'in person' to be in contrast to 'the papers'; and a person could be directed to appear via electronic means if the entire hearing itself is conducted electronically (in accordance with section 39 of the Legislation Interpretation Act).

A more restrictive reading could be that a person is entitled to appear (physically) in person as of right and can only waive that right by their own choice, and cannot be directed to appear electronically by the Panel (it could also be argued that a 'review hearing' pursuant to sections 202 and 203 of the Act is of a different 'genus' to the meetings contemplated by section 39 of the Legislation Interpretation Act, and that it therefore does not apply).

We favour the view that an electronic appearance is sufficient to satisfy an 'in person' appearance, provided the applicant is given a genuine opportunity to be heard.

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via electronic means. The Presiding Member may require that any such appearance be via electronic means.

**8. MINUTES AND REPORTING**

- 8.1 The CAP must ensure that accurate minutes are kept of all meetings.
- 8.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 8.3 The minutes will record:
  - 8.3.1 the names of all Members present;
  - 8.3.2 the names of all Members from whom apologies have been received;
  - 8.3.3 the name and time that a Member enters or leaves the meeting;
  - 8.3.4 the name of every person who makes or responds to a representation in relation to a development application;
  - 8.3.5 methods of attendance by all Members present and by every person who makes or responds to a representation;
  - 8.3.6 the name of every person who appears in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate);
  - 8.3.7 in relation to each development application:
    - 8.3.7.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
    - 8.3.7.2 the reasons for granting or refusing development authorisation and for the imposition of any conditions; and
  - 8.3.8 in relation to each application for review of an Assessment Manager decision:
    - 8.3.8.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
    - 8.3.8.2 the reasons for the CAP's decision under Section 203(4) of the Act, including the reasons for the imposition of any new or varied conditions; and
  - 8.3.9 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;

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- 8.3.10 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
- 8.3.11 a decision to exclude the public from attendance pursuant to the Regulations;
- 8.3.12 any disclosure of a direct or indirect pecuniary interest in any aspect of a development or anybody associated with any aspect of a development made by a Member in accordance with Section 83(1)(g) of the Act, and the nature of the interest;
- 8.3.13 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (**Code of Conduct**), and the nature of the interest; and
- 8.3.14 if a meeting is adjourned by the Presiding Member, the reason for the adjournment and the date and time to which the meeting is adjourned.

- 8.4 All minutes must be confirmed by the Assessment Manager in conjunction with the Presiding Member as being accurate prior to, or at the commencement of, the following CAP meeting.

#### 9. ADDITIONAL PROCEDURES

- 9.1 Insofar as any procedure to be followed by the CAP is not prescribed by the Act and Regulations (and, during the transition to the Act and Regulations, the D Act and *Development Regulations 2008*), the CAP's Terms of Reference, the Code of Conduct, the Assessment Manager Review Policy, or these Meeting Procedures, the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.
- 9.2 The CAP may call for and consider such professional assistance from the Assessment Manager and, in consultation with the Assessment Manager, other professional advisors as it deems necessary and appropriate from time to time.

#### 10. DEFINITIONS

The following definitions apply in relation to these Meeting Procedures:

- 10.1 *connect* means able to hear and/or see the meeting by electronic means, including via a live stream;
- 10.2 *disconnect* means to remove the connection so as to be unable to hear and see the meeting;
- 10.3 *electronic* means includes a telephone, computer or other electronic device used for communication;

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- 10.4 *live stream* means the transmission of audio and/or video from a meeting at the time the meeting is occurring.

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## **COUNCIL ASSESSMENT PANEL**

### **General Operating Procedures**

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November 2021

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These Meeting Procedures are to be read in conjunction with the meeting procedures contained within the Planning, Development and Infrastructure (General) Regulations 2017. (Refer Appendix A).



## 1 Purpose

- 1.1. The purpose of the Council Assessment Panel (CAP) is to determine development applications that are assigned to the CAP under the Planning Development and Infrastructure Act 2016 or, during the transition to the PDI Act, the Development Act 1993 that are delegated from Council. The Panel may also provide advice to Council on trends, issues and other matters relating to planning or development matters.
- 1.2. The Panel acknowledges that in performing its statutory function, it is bound by the:
  - 1.2.1 Code of conduct adopted by the Minister for Planning.
  - 1.2.2 Objects, Planning Principles and General Responsibilities under the Planning, Development and Infrastructure Act 2016.
  - 1.2.3 Operating Procedures established by the Panel.

## 2 Timing & Notice of Meetings

### *Meeting time and place*

- 2.1. CAP meetings will be scheduled by the CAP on the fourth Tuesday of the month, commencing at 6.30pm or another date as determined by the Presiding Member, subject to there being business to consider.
- 2.2. The CAP will meet in the Council Civic Centre at 34 Church Street Salisbury or at such other place, including audio visual media, as the Presiding Member may determine.

### *Notice of meeting*

- 2.3. The Assessment Manager pursuant to the Planning Development and Infrastructure Act 2016 must provide written notice detailing the date, time and place of a meeting to all CAP members at least three working days before the meeting. The notice shall include the Agenda for the meeting.
- 2.4. Where attendance at the meeting is able to occur by electronic means (in whole or in part), the notice of the meeting will include details of how to access and/or connect to the meeting.
- 2.5. Notice of CAP meetings may be given to CAP members by email, to an email address nominated by a CAP Member, or by personal delivery or post to the usual residence of a CAP Member, or via such other means as authorised by a CAP Member.

- 2.6. A notice that is not given in accordance with clause 2.3 is taken to have been validly given if the Assessment Manager considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Member.

*Viewing agenda*

- 2.7. A copy of the Agenda for every ordinary meeting of the CAP shall be available for viewing by the public at the Council's offices and on the Council's web site at least three working days before the meeting of the CAP. The three working days notice shall not apply to a special meeting of the CAP under clause 2.8, or to an item included by the Assessment Manager under clause 2.10, in which cases the agenda will be made available for viewing by the public as soon as practicable.

*Special meeting*

- 2.8. A special meeting of the CAP may be convened by the Presiding Member, at any time, to consider urgent business by giving not less than two working days written notice to all CAP Members.
- 2.9. Notice of a special meeting of the CAP must be accompanied by an Agenda stating the item(s) of business for which the meeting has been convened. A special meeting must only deal with the business for which the meeting has been convened.

*Late items*

- 2.10. The Assessment Manager may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manager shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public in accordance with clause 2.7.

### **3 Commencement of Meetings & Quorum**

- 3.1. CAP Meetings will be conducted in accordance with the requirements of the Planning, Development and Infrastructure Act 2016 ('the PDI Act'), Development Act 1993 ('the Act') and these Operating Procedures.
- 3.2. Meetings will commence on time, or as soon as a quorum is present. If a quorum is not present within thirty minutes of the time for commencement, the Presiding Member may adjourn the meeting to the next scheduled meeting

time and date, or to another time and date.

- 3.3. A quorum for a meeting of the CAP is three (3) CAP Members.
- 3.4. If the number of apologies received by the Assessment Manager in advance of a meeting indicate that a quorum will not be present at a meeting, the Presiding Member may, by notice from the Assessment Manager, provide to all CAP Members in advance of the meeting, a notice adjourning the meeting to a future time and date as specified in the notice (a copy of this notice will be displayed at the Council Offices and on the Council's website).
- 3.5. If a meeting is required to be adjourned by the Presiding Member, the reason for the adjournment, and the date and time to which the meeting is adjourned will be recorded in the Minutes.

*Acting Presiding Member*

- 3.6. That the CAP appoint an Acting Presiding Member for the remainder of the CAP term.
- 3.7. If both the Presiding Member and Acting Presiding Member are absent from a CAP meeting (or part thereof), a CAP Member will be appointed from those CAP Members present by means of resolution, and will preside over the meeting.

*Meeting behaviour*

- 3.8. Subject to the PDI Act and these Operating Procedures, the Presiding Member will facilitate the meeting in a manner which promotes relevant, orderly, constructive, respectful and expeditious discussion, but not repetitious discussion, with the intent of ensuring well-informed decisions and debate leading to a determination of any matters before the Panel.
- 3.9. The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by a CAP Member, an applicant, a representor, or any other person present at the CAP meeting, until such time as the disruption or disturbance ceases.
- 3.10. The Presiding Member may ask a member of the public who is present at a meeting of a CAP to leave the meeting if this person is:
  - 3.10.1 behaving in a disorderly manner; or
  - 3.10.2 causing an interruption.

#### **4 Deputy Members**

- 4.1. If a CAP Member is unable or unwilling to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Presiding Member or Assessment Manager at his or her earliest opportunity.
- 4.2. If notification pursuant to clause 4.1 is given, the Assessment Manager may request a Deputy Member attend the meeting in place of the CAP Member for the meeting or part of the meeting.
- 4.3. Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Member.

#### **5 Appointment of Additional Members**

- 5.1. The CAP may appoint up to two Additional Members in accordance with Section 85 of the PDI Act and *Practice Direction 5 – Appointment of additional members to an Assessment Panel*.
- 5.2. Where the CAP has appointed Additional Member(s), the Presiding Member, in consultation with the Assessment Manager, may invite one or both Additional Members to attend any meeting (or part thereof) where he or she considers the Additional Member(s) will, by virtue of their qualifications, expertise or experience, assist the CAP in dealing with a matter that it must assess under the PDI Act (or, during the transition to the PDI Act, the Development Act 1993).
- 5.3. A request that an Additional Member attend a meeting must be made in writing and be accompanied by the notice for the meeting in accordance with clause 2.3, highlighting the item(s) the Additional Member is required to consider.
- 5.4. Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes an Additional Member, save that an Additional Member is not able to vote on any matter arising for determination by the CAP.

#### **6 Decision Making**

- 6.1. The CAP will conduct its meetings, and undertake all considerations, in accordance with the PDI Act (or, during the transition to the PDI Act, the Development Act).

##### *Public meetings*

- 6.2. Subject to circumstances where it excludes the public from attendance at a meeting or part thereof pursuant to Part 13 of the Development, Infrastructure (General) Regulations 2017 or the review of the Assessment Manager Decision, the Panel will generally discuss and determine applications in public.

*Member participation*

- 6.3. The Presiding Member will invite all Panel members to speak on any matter before the Panel prior to calling for a motion.
- 6.4. Subject to a CAP Member not having a direct or indirect personal or pecuniary interest in a matter before the CAP (other than an indirect interest that exists in common with a substantial class of persons), each CAP Member present at a meeting of the CAP must vote on a question arising for decision.

*Decisions by consensus*

- 6.5. Decisions of the Panel will be where possible by consensus determined through debate and discussion of the agenda item, and where a consensus is reached the Presiding Member shall then call for a mover and confirm the consensus by a show of hands.

*Decisions by vote*

- 6.6. Where it is evident through debate and discussion that a consensus will not be reached by the Panel, the Presiding Member shall call for a mover and put the matter to a formal vote to determine.
- 6.7. Each CAP Member present at a meeting is entitled to one vote on any matter arising for decision and, if the votes are equal, the Member Presiding at the meeting is entitled to a second or casting vote.
- 6.8. All decisions of the CAP shall be made on the basis of a majority decision of the Members present and the Minutes shall record that decision only (Votes for/against will not be recorded, and are not relevant once the majority is determined).

*CAP considerations*

- 6.9. The CAP must use the Development Plan or Planning and Design Code (as may be relevant to the particular application under consideration), referred to hereafter as the Planning Rules, as the basis for its decisions, having had regard to any relevant written and verbal representations made in accordance with the provisions of the Act, or any other relevant legislation.

*Seriously at variance*

- 6.10. The CAP will, for each and every application, determine whether the proposal is seriously at variance with the Planning Rules, and expressly record its determination on this matter in the Minutes. If the CAP determines that the proposal is seriously at variance with the Planning Rules, the CAP must provide reasons for its determination, and must expressly record those reasons in the Minutes.



- 6.11. A development application that is assessed by the CAP as being seriously at variance with the Planning Rules will be refused.

*Reasons for decision*

- 6.12. The CAP must, for each and every application, provide reasons for granting or refusing Planning Rules Consent, and for the imposition of any conditions, and express or record those reasons in the Minutes.

*Representations*

- 6.13. Subject to the relevant Act, a person who has lodged a valid representation in relation to a Category 2 or 3 development application under the *Development Act 1993* or an application for which notice must be given under the *Planning, Development and Infrastructure Act 2016*, and has indicated their desire to be heard on their representation, is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent.

- 6.14. The Presiding Member may in his or her discretion exclude:

- 6.14.1 a representation or response to representation(s) which is received out of time; or
- 6.14.2 a representation or response to representation(s) which is otherwise invalid.

*Speaking time*

- 6.15. Applicants and Representors will be allowed five minutes to address the CAP, unless a longer time is allowed by the Presiding Member. Where a person is nominated in a representation or by notice of the representors as representing three or more representors (including themselves) the Presiding Member may allow a longer time to address the Panel. Where an applicant is responding to a significant number of representations or a significant number of issues raised in representations, the Presiding Member may allow a longer time to address the Panel.

*Hearing applicants*

- 6.16. Should there be no Representor wishing to be heard for a non-complying development application, Category 2 or Category 3 development application, and the recommendation is for a refusal, the Applicant will be entitled to appear before the CAP and be heard in support of the application. Applicants will be allowed five minutes to address the CAP, unless a longer time is allowed by the Presiding Member.
- 6.17. Should there be no Representor wishing to be heard for a non-complying

development application, Category 2 or Category 3 development application, and the recommendation is for approval, the Presiding Member may allow the Applicant to address the Panel to seek clarification and/or further information that may be required by the Panel in order to determine the application.

*Additional material*

- 6.18. At the discretion of the Presiding Member, any new or additional material to be submitted to the CAP by a person who has made a development application or a valid representation in relation to a matter may be accepted and considered by the CAP. A copy of any additional material accepted shall be provided to the applicant or representors by the party presenting the additional material.

*Member's participation*

- 6.19. A CAP Member may ask questions of any person appearing before the CAP. Subject to the Presiding Member's determination, all questions shall be relevant to the subject of the development application before the panel.

*Appeals*

- 6.20. The Assessment Manager is authorised to make decisions as to the conduct of appeals that do not change the nature of the decision of the Panel including preparing documentation required by the Court, engaging and instructing legal representation or expert witnesses, attending preliminary conferences, conciliation hearings or direction hearings, subject to consulting with the Presiding Member.
- 6.21. Where the Assessment Manager has acted on a matter under appeal, a report will be provided to the Panel at the next meeting.
- 6.22. Any compromise proposal arising from an appeal shall be presented to the Panel for decision.
- 6.23. In the event of an urgent matter, that the Presiding Member may convene a special meeting of the Panel in accordance with these General Operating Procedures.

## **7 Minutes and Reporting**

- 7.1. The Assessment Manager is responsible for ensuring that accurate Minutes are kept of Panel meetings and that they are confirmed by the Panel and signed by the Presiding Member.
- 7.2. The Minutes of the proceedings of a CAP meeting will record:

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- 7.2.1 the names of the CAP Members present;
  - 7.2.2 the names of all CAP Members from whom apologies have been received;
  - 7.2.3 the name and time that a CAP Member enters or leaves the meeting;
  - 7.2.4 the name of a person who has made a representation to the CAP at the meeting;
  - 7.2.5 the decision of the CAP, including the express opinion of the CAP on whether the proposed development is seriously at variance with the Planning Rules (including reasons as appropriate);
  - 7.2.6 reasons for granting or refusing Planning Rules Consent, and for the imposition of any conditions on a Planning Rules Consent;
  - 7.2.7 in the absence of a decision, the deferral of the application including the reasons for the deferral;
  - 7.2.8 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (Code of Conduct), and the nature of the Interest;
  - 7.2.9 a decision to exclude public attendance; and
  - 7.2.10 a notation, describing the confidential nature of the information and matter, in the event a matter has been excluded from the Minutes.
- 7.3. Minutes shall be read and adopted by the CAP at the end of the meeting.
- 7.4. On the adoption of the Minutes, the Assessment Manager will forward the Minutes to the Presiding Member who will confirm the Minutes by electronic communication.
- 7.5. The Minutes of a CAP meeting must be forwarded to the Council and must be publicly available within two business days after their confirmation by the CAP.

*Annual Report*

- 7.6. The Panel shall prepare and consider an Annual Report for presentation to the Council via the appropriate Standing Committee. The Annual Report may be presented by the Presiding Member and may contain (but not be limited to) statistical information in relation to the number of items considered, the outcomes of decisions on those items, and matters identified by the Panel in

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the course of its assessment of development applications that warrant referral to Council for consideration of Planning Rules policy, legislative, or procedural change.

- 7.7. The Annual Report shall be prepared at the end of the financial year.

*Reporting to the Panel*

- 7.8. The Assessment Manager will prepare:

- 7.8.1 A quarterly report of the development applications with representations determined under delegated authority for the previous period.
- 7.8.2 A report at the next meeting of the Panel for any development application delegated by the Panel where a deemed consent notice has been received.

## **8 CAP Procedures & Support**

*Additional procedures*

- 8.1. Insofar as the Act and these Operating Procedures do not prescribe the procedure to be followed at a CAP meeting, the CAP may determine the procedure at the time. Any such determination may be added to these Operating Procedures.

*Staff Participation*

- 8.2. The CAP will permit and encourage the active participation of Council staff in attendance at a meeting in providing advice to the CAP.

*Assistance*

- 8.3. The CAP may call for and consider such professional assistance from Council staff and other professional advisors as it deems necessary and appropriate.

*Electronic Meetings*

- 8.4. One or more Panel members may attend a meeting via electronic means.
- 8.5. A Member attending a meeting by electronic means is taken to be present at the meeting provided that the Member:
- 8.5.1 can hear and, where possible, see all other Members who are present at the meeting;
- 8.5.2 can hear and, where possible, see, all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;

- 8.5.3 can be heard and, where possible, seen by all other Members present at the meeting; and
- 8.5.4 can be heard and, where possible, seen by the person recording the minutes of the meeting.
- 8.6. The notice of the meeting shall include details of how to access and/or connect to the meeting by audio visual media.
- 8.7. Should audio visual media devices be utilised for the conduct of a CAP meeting, all voting shall be conducted on the voices, with the Presiding Member verbally acknowledging each individual vote before declaring the outcome of the vote, and noted in the minutes of the meeting, consistent with *Part 6: Decision Making* of the Operating Procedures.
- 8.8. Where the meeting occurs by audio visual media, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.
- 8.9. Where a meeting is being live streamed, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to clause 13(2) of the Regulations.
- 8.10. Where the public has been excluded from attendance pursuant to clause 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for CAP members disconnect from or are disconnected from the meeting.

## Appendix A – Assessment Panel General Regulation Procedures

South Australia

### Planning, Development and Infrastructure (General) Regulations 2017

under the *Planning, Development and Infrastructure Act 2016*

#### Part 3—Assessment panels—procedures

##### 12—Application

This Part applies to and in relation to the procedures of an assessment panel established under section 83 of the Act or clause 12 or 13 of Schedule 8 of the Act.

##### 13—Public access to meetings

- (1) In connection with the conduct of the proceedings of an assessment panel, members of the public are entitled to attend a meeting of the panel other than as set out in subregulation (2).
- (2) An assessment panel may exclude the public from attendance at a meeting—
  - (a) during so much of the meeting as is necessary to receive, discuss or consider in confidence any of the following matters:
    - (i) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
    - (ii) information the disclosure of which—
      - (A) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
      - (B) would, on balance, be contrary to the public interest;
    - (iii) information the disclosure of which would reveal a trade secret;
    - (iv) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
      - (A) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
      - (B) would, on balance, be contrary to the public interest;
    - (v) matters affecting the safety or security of any person or property;

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- (vi) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (vii) matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (viii) legal advice;
- (ix) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;
- (x) information the disclosure of which—
  - (A) would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and
  - (B) would, on balance, be contrary to the public interest; and
- (b) during so much of the meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the assessment panel.

#### **14—Minutes and other documents**

- (1) An assessment panel must ensure that accurate minutes are kept of its proceedings.
- (2) A disclosure by a member of an assessment panel of a direct or indirect pecuniary interest in any aspect of a development or any body associated with any aspect of a development required under the Act must be recorded in the minutes of the assessment panel.
- (3) Members of the public are entitled to reasonable access to—
  - (a) the agendas for meetings of an assessment panel; and
  - (b) the minutes of meetings of an assessment panel.
- (4) However, an assessment panel may, before it releases a copy of any minutes under subregulation (3), exclude from the minutes information about any matter dealt with on a confidential basis by the assessment panel.
- (5) Minutes must be available under subregulation (3) within 5 business days after their adoption by the members of the assessment panel.

#### **15—Quorum**

A quorum at a meeting of an assessment panel is a number obtained by dividing the total number of members of the assessment panel for the time being in office by 2, ignoring any fraction resulting from the division, and adding 1.

#### **16—Voting**

- (1) Each member of an assessment panel present at a meeting of the assessment panel is entitled to 1 vote on a matter arising for decision and, if the votes are equal, the member presiding at the meeting is entitled to a second or casting vote.
- (2) Subregulation (1) does not apply to a person who is taken to be a member of an assessment panel under section 85 of the Act.

#### **17—Validity of proceedings**

A proceeding of an assessment panel (and any decision made by an assessment panel) is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

#### **18—Other matters**

Except insofar as a procedure is not prescribed by the Act or these regulations, the procedures of an assessment panel in relation to the conduct of its business will be as determined by the assessment panel (and an assessment panel is accordingly a specified body for the purposes of section 246(6)(d) of the Act).

## **Appendix B - Policy for the Assessment Panel Review of the Assessment Manager Decision**



# **COUNCIL ASSESSMENT PANEL**

Policy for the review of a decision of the Assessment Manager

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28 April 2021



**LEGISLATIVE FRAMEWORK**

1. This Policy applies in addition to the statutory requirements for the review by the Council Assessment Panel/Regional Assessment Panel (Panel) of A decision of an Assessment Manager as set out in Part 16, Division 1 of the Planning, Development and Infrastructure Act 2016 (Act).

**COMMENCING A REVIEW**

2. An application for review must relate to a prescribed matter, as defined in Section 201 of the Act, for which an Assessment Manager was the relevant authority.
3. An application for review must be:
  - a. made using the Application to Assessment Panel for Assessment Manager's Decision Review (the Form);
  - b. lodged in a manner identified on the Form;
  - c. lodged within one month of the applicant receiving notice of the Prescribed Matter, unless the Presiding Member in his or her discretion grants an extension of time; and
  - d. an applicant may provide a written submission in support of his or her application for review.
4. In determining whether to grant an extension of time, the Presiding Member may consider:
  - a. the reason for the delay;
  - b. the length of the delay;
  - c. whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
  - d. the interests of justice;
  - e. whether the applicant has, or is within time to, appeal the prescribed matter to the ERD Court; and
  - f. any other matters the Presiding Member considers relevant.

**MATERIALS FOR REVIEW HEARING**

5. The Assessment Manager shall collate for the Panel:
  - a. all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:
    - i. application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
    - ii. internal and/or external referral responses; and
  - b. any report from Council staff or an external planning consultant written for the Assessment Manager;
  - c. any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
  - d. any other information requested by the Presiding Member.
6. The Assessment Manager (or delegate) must prepare a report to the Panel setting out the details of the relevant development application, the prescribed matter the subject of the review and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter.

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**REVIEW HEARING**

7. The Assessment Manager must advise the applicant of the time and date of the Panel meeting at which the review application will be heard.
8. On review, the Panel will consider the Prescribed Matter afresh.
9. Information, materials and submissions which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the Panel.
10. Except where provided in clause 3(d), the Panel will not receive submissions or addresses from any party.
11. The Presiding Member may permit Panel members to ask questions or seek clarification from the applicant and/or the Assessment Manager, in his or her discretion.
12. The Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
13. Where the decision on the Prescribed Matter was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
14. The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
15. The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.
16. Pursuant to regulation 13(2)(b) of the *Planning, Development and Infrastructure (General) Regulations 2017* the Panel will exclude the public and staff involved in the prescribed matter from attendance during the deliberation of the matter under this policy.

**OUTCOME ON REVIEW HEARING**

17. The Panel may, on a review:
  - a. affirm the Assessment Manager's decision on the Prescribed Matter;
  - b. vary the Assessment Manager's decision on the Prescribed Matter; or
  - c. set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.
18. An applicant should be advised in writing of the Panel's decision by the Assessment Manager.

## **Appendix C – Standing Referral of Building Rules Assessment to Council**

- At its meeting held 24 November 2020, the Salisbury Council Assessment Panel resolved to act under Section 99(1)(b) of the Planning, Development and Infrastructure Act 2016 (the Act) in relation to all development applications received by it that involve the performance of building work; and
- Pursuant to Section 99(1)(c) of the Act, where the Panel has determined to act under Section 99(1)(b) of the Act, the Salisbury Council Assessment Panel refers the assessment of the development in respect of the Building Rules to the City of Salisbury.



| Existing Salisbury Clauses (of substance) not in LGA Template |  |
|---|--|
| <b>1 Purpose</b>  |  |
| 1.1.  | The purpose of the Council Assessment Panel (CAP) is to determine development applications that are assigned to the CAP under the Planning Development and Infrastructure Act 2016 or, during the transition to the PDI Act, the Development Act 1993 that are delegated from Council. The Panel may also provide advice to Council on trends, issues and other matters relating to planning or development matters. |
| 1.2.  | The Panel acknowledges that in performing its statutory function, it is bound by the:  |
| 1.2.1   | Code of conduct adopted by the Minister for Planning.  |
| 1.2.2   | Objects, Planning Principles and General Responsibilities under the Planning, Development and Infrastructure Act 2016.   |
| 1.2.3   | Operating Procedures established by the Panel.   |
| <b>2 Timing &amp; Notice of Meetings</b>                      |  |
|   | <i>Meeting time and place</i>  |
| 2.1.  | CAP meetings will be scheduled by the CAP on the fourth Tuesday of the month, commencing at 6.30pm or another date as determined by the Presiding Member, subject to there being business to consider.   |
| 2.2.  | The CAP will meet in the Council Civic Centre at 34 Church Street Salisbury or at such other place, including audio visual media, as the Presiding Member may determine.   |

|  |
|--|
| <p style="text-align: right;"><i>Acting Presiding Member</i></p> <p>3.6 That the CAP appoint an Acting Presiding Member for the remainder of the CAP term.</p> <p>3.7 If both the Presiding Member and Acting Presiding Member are absent from a CAP meeting (or part thereof), a CAP Member will be appointed from those CAP Members present by means of resolution, and will preside over the meeting.</p> <p><b>(Refer to Council resolution 1126/2021 on 25 October 2021)</b></p>  |
| <p style="text-align: right;"><i>Meeting behaviour</i></p> <p>3.8 Subject to the PDI Act and these Operating Procedures, the Presiding Member will facilitate the meeting in a manner which promotes relevant, orderly, constructive, respectful and expeditious discussion, but not repetitious discussion, with the intent of ensuring well-informed decisions and debate leading to a determination of any matters before the Panel.</p>  |
| <p style="text-align: right;"><i>Decisions by consensus / vote</i></p> <p>6.5 Decisions of the Panel will be where possible by consensus determined through debate and discussion of the agenda item, and where a consensus is reached the Presiding Member shall then call for a mover and confirm the consensus by a show of hands.</p> <p>6.6 Where it is evident through debate and discussion that a consensus will not be reached by the Panel, the Presiding Member shall call for a mover and put the matter to a formal vote to determine.</p> <p>6.8 All decisions of the CAP shall be made on the basis of a majority decision of the Members present and the Minutes shall record that decision only (Votes for/against will not be recorded, and are not relevant once the majority is determined).</p> |



|  |
|--|
| <p style="text-align: right;"><i>CAP considerations</i></p> <p>6.9 The CAP must use the Development Plan or Planning and Design Code (as may be relevant to the particular application under consideration), referred to hereafter as the Planning Rules, as the basis for its decisions, having had regard to any relevant written and verbal representations made in accordance with the provisions of the Act, or any other relevant legislation.</p>   |
| <p style="text-align: right;"><i>Appeals</i></p> <p>6.20 The Assessment Manager is authorised to make decisions as to the conduct of appeals that do not change the nature of the decision of the Panel including preparing documentation required by the Court, engaging and instructing legal representation or expert witnesses, attending preliminary conferences, conciliation hearings or direction hearings, subject to consulting with the Presiding Member.</p> <p>6.21 Where the Assessment Manager has acted on a matter under appeal, a report will be provided to the Panel at the next meeting.</p> <p>6.22 Any compromise proposal arising from an appeal shall be presented to the Panel for decision.</p> <p>6.23 In the event of an urgent matter, that the Presiding Member may convene a special meeting of the Panel in accordance with these General Operating Procedures.</p> |
| <p style="text-align: right;"><i>Annual Report</i></p> <p>7.6 The Panel shall prepare and consider an Annual Report for presentation to the Council via the appropriate Standing Committee. The Annual Report may be presented by the Presiding Member and may contain (but not be limited to) statistical information in relation to the number of items considered, the outcomes of decisions on those items, and matters identified by the Panel in the course of its assessment of development applications that warrant referral to Council for consideration of Planning Rules policy, legislative, or procedural change.</p>  |

7.7 The Annual Report shall be prepared at the end of the financial year.

*Reporting to the Panel*

7.8 The Assessment Manager will prepare:

- 7.8.1 A quarterly report of the development applications with representations determined under delegated authority for the previous period.
- 7.8.2 A report at the next meeting of the Panel for any development application delegated by the Panel where a deemed consent notice has been received.

## ITEM 3.1.3

|                        |   |
|------------------------|---|
| <b>ITEM</b>            | 3.1.3   |
|                        | <b>GOVERNANCE AND COMPLIANCE COMMITTEE</b>  |
| <b>DATE</b>            | 16 October 2023   |
| <b>HEADING</b>         | Council Assessment Panel - Increasing Female Candidates   |
| <b>AUTHOR</b>          | Chris Zafiropoulos, Assessment Manager, City Development  |
| <b>CITY PLAN LINKS</b> | 4.3 The City of Salisbury is recognised as a great place to work  |
| <b>SUMMARY</b>         | This report provides Council information on a marketing strategy and other options to attract more female applications on the Council Assessment Panel. |

**RECOMMENDATION**That Council:

1. Approves to commence a new Expression of Interest for the independent members on the Council Assessment Panel (the Panel) in May 2024, and consider candidates at the Council Meeting July 2024, with the following Initiatives (*Options to be selected by Council*):
  - a. Increased remuneration for the independent member sitting fee to \$..... per session (*to be determined by Council*).
  - b. Targeted Outreach and Marketing campaign that will include:
    - i. Direct contact to all accredited and eligible candidates on the Accreditation Scheme when the Expression of Interest is released.
    - ii. Explicit / stronger messaging in the public notice that Council wishes to increase female participation on the Panel and promote equal opportunities.
    - iii. Promote flexible participation options (following the adoption of recommendation part c)
  - c. Request the Council Assessment Panel consider adopting flexible meeting participation options for its members.
  - d. Write to the Accreditation Authority to highlight the relatively small pool of eligible women in the scheme and support the Authority's initiatives to increase participation of women in the Accreditation Scheme from a range of professions.
  - e. Consider appointing a female Elected Member on the Panel in the next term of appointment of the Panel.

**ATTACHMENTS**

There are no attachments to this report.

**1. BACKGROUND**

- 1.1 Council appointed independent members to the Council Assessment Panel at its meeting held in July 2023. The resolution also included the following:

## ITEM 3.1.3

*Requests that Administration bring back a further report within 3 months with a proposed marketing strategy and other options to attract more female applications.*

- 1.2 This report provides Council information on a marketing strategy and other options to attract more female applications on the Council Assessment Panel for Council's consideration.

## 2. CONSULTATION / COMMUNICATION

### 2.1 Internal

#### 2.1.1 Community Experience and Relations

### 2.2 External

#### 2.2.1 Accreditation Authority, Accredited Professionals Scheme

#### 2.2.2 Planning Institute of Australia, SA Division

## 3. REPORT

### Expression of Interest – Recent Outcome

- 3.1 The recent Expressions of Interest (EOI) for the Independent Members on the Salisbury Council Assessment Panel were sought in June 2023. The EOI was advertised on seek.com, Council's website and social media, and by direct messaging to forty-six (46) eligible candidates on the accredited professional register that have published email contact details, including 19 female eligible candidates.
- 3.2 The EOI elicited thirteen (13) eligible applications. Three (3) female applicants were received of which one (1) was currently on the Panel.
- 3.3 The independent members are required to hold an Accreditation Class of Planning Level 2 under the Act. The qualifications and experience considered most appropriate for the Panel and number of candidates by these candidates in the last EOI was:
- |       |                             |                            |
|-------|-----------------------------|----------------------------|
| 3.3.1 | Planning                    | (13 candidates – 3 female) |
| 3.3.2 | Architecture / Urban design | (2 candidates)             |
| 3.3.3 | Planning Law                | (1 candidate)              |
| 3.3.4 | Economics / Construction    | (1 candidate)              |
| 3.3.5 | Environmental Planning.     | (2 candidates – 1 female)  |

### Accredited Professionals Register

- 3.4 A review of the Accredited Professionals Register of Planning Level 2 professionals that are eligible has revealed a relatively small pool of female candidates.
- 3.4.1 There are 27 female and 95 male (122 total) candidates have indicated that they are available for panels.

## ITEM 3.1.3

- 3.4.2 Across the State, there are approximately 184 panel positions for accredited professionals (39 CAPs and 7 RAPs that have 4 accredited professionals).
- 3.4.3 To have 50% female representation across all panels, each female eligible candidate who is currently registered would have to join 3.4 panels.
- 3.5 The relatively small pool of eligible female candidates on the Accredited Professionals Register is a significant factor affecting participation. The register also appears to have fewer planning allied professionals, which is reflected in the pool of candidates that were elicited in Council's EOI.
- 3.6 This issue has been raised with the Accreditation Authority and the Planning Institute of Australia (SA Division), who are understood to be looking at initiatives to increase participation.

**Council Initiatives**

- 3.1 Noting that candidates need to be accredited before Council can consider their appointment on the Panel, additional initiatives that Council could consider include:
- 3.1.1 Increase remuneration. Council increased the remuneration of the Panel from September 2023 but could consider a further increase to be comparatively more competitive with other Panels. Noting that Council also provides the CAP members \$300 per annum towards training.

The comparative sitting fees for the recently sampled Panels is provided below.

|                  | Presiding Member (\$) | Independent Member (\$) | Elected Member (\$) | Meeting Total (\$) |
|------------------|-----------------------|-------------------------|---------------------|--------------------|
| Gawler           | 425                   | 325                     | 300                 | 1,700              |
| Adelaide Plains  | 450                   | 400                     | 0                   | 1,650              |
| Barossa          | 500                   | 300                     | 300                 | 1,700              |
| Adelaide Hills   | 500                   | 380                     | 190                 | 1,830              |
| Charles Sturt    | 500                   | 350                     | 350                 | 1,900              |
| Playford         | 563                   | 450                     | 0                   | 1,913              |
| Prospect         | 550                   | 475                     | 0                   | 1,975              |
| Marion           | 550                   | 450                     | 200                 | 2,100              |
| Light            | 550                   | 400                     | 400                 | 2,150              |
| Burnside         | 625                   | 425                     | 250                 | 2,150              |
| Tea Tree Gully   | 550                   | 450                     | 250                 | 2,150              |
| Mt Barker        | 498                   | 419                     | 419                 | 2,174              |
| Unley            | 530                   | 430                     | 400                 | 2,220              |
| <b>Salisbury</b> | <b>550</b>            | <b>450</b>              | <b>370</b>          | <b>2,270</b>       |
| Holdfast         | 568                   | 437                     | 437                 | 2,316              |
| NPSP             | 550                   | 450                     | 450                 | 2,350              |
| Onkaparinga      | 650                   | 450                     | 400                 | 2,400              |
| Mitcham          | 650                   | 500                     | 350                 | 2,500              |
| Adelaide         | 650                   | 550                     | 550                 | 2,850              |



## ITEM 3.1.3

|                       |            |            |            |              |
|-----------------------|------------|------------|------------|--------------|
| Port Adelaide Enfield | 690        | 580        | 580        | 3,010        |
| West Torrens          | 1000       | 550        | 570        | 3,220        |
| <b>Average</b>        | <b>576</b> | <b>439</b> | <b>322</b> | <b>2,216</b> |

- 3.1.2 Targeted Outreach and Marketing campaign that specifically focuses on engaging female candidates. This could include:
- Direct contact to all accredited and eligible candidates on the Accreditation Scheme when the Expression of Interest is released.
  - Explicit / stronger messaging in the public notice that Council wishes to increase female participation on the Panel and promote equal opportunities.
- 3.1.3 Encourage the accreditation authority to promote the accreditation scheme to allied professions to encourage membership. Noting that this has been provided as feedback, Council could formally request the authority take a more active role.
- 3.1.4 Appoint a female Council Member on the Panel. The current (female) Deputy Elected Member on the Panel could be appointed in place of the (male) Elected Member. The current Elected Member appointments expire 30 November 2024.
- 3.1.5 Promote flexible participation options that recognise that some potential candidates, particularly female candidates who may have other commitments, might be hesitant due to time constraints. Flexible meeting participation options could include remote participation through video conferencing or adjusted meeting schedules. Noting that the operations of the Panel are not matters that the Council can direct, but Council could encourage the Panel to consider such initiatives.

#### 4. CONCLUSION / PROPOSAL

- 4.1 The strategies Council may consider for the new EOI include:
- 4.1.1 Increased remuneration
  - 4.1.2 Targeted Outreach and Marketing campaign
  - 4.1.3 Encourage the Panel to adopted flexible participation options
  - 4.1.4 Write to the Accreditation Authority to have initiatives to increase participation from a range of professions.
  - 4.1.5 Consider appointing a women Elected Member on the Panel.
- 4.2 The term of the independent members will expire on 24 August 2023. Should Council wish to commence a new EOI, it would want to ideally have a greater pool of candidates on the Accreditation Register. The EOI could therefore be released in May 2024, potentially after the Accreditation Authority has promoted the scheme with allied professions, providing Council July 2024 to make appointments.

|                        |   |
|------------------------|---|
| <b>ITEM</b>            | 8.2.2   |
|                        | <b>COUNCIL ASSESSMENT PANEL</b>   |
| <b>DATE</b>            | 19 December 2023  |
| <b>HEADING</b>         | Council Assessment Panel 2024 Meeting Schedule  |
| <b>AUTHOR</b>          | Heidi Crossley, Team Leader Business Services, City Development                       |
| <b>CITY PLAN LINKS</b> | 4.4 We plan effectively to address community needs and identify new opportunities     |
| <b>SUMMARY</b>         | This report seeks the Panel's review and decision to adopt the 2023 meeting schedule. |

**RECOMMENDATION**

1. That the Council Assessment Panel 2024 meeting schedule forming Attachment 1 to the agenda report, be adopted.

**ATTACHMENTS**

This document should be read in conjunction with the following attachments:

1. Salisbury Council Assessment Panel 2024 proposed meeting schedule

**1. BACKGROUND**

- 1.1 The Council Assessment Panel is able to determine its meeting schedule. Clause 2.1 of the general operating procedures states the following:

*CAP meetings will be scheduled by the CAP on the fourth Tuesday of the month, commencing at 6.30pm or another date as determined by the Presiding Member, subject to there being business to consider.*

- 1.2 The proposed 2024 meeting schedule is provided in Attachment 1 for the Panel's adoption. The proposed meeting schedule is in accordance with the above procedure, except where there is conflict with a formal Council meeting or a public holiday and alternative meeting dates are provided for the Panel's consideration for these days. It is also proposed that the first meeting in January be held in the 5<sup>th</sup> week, to account for business closures over the Christmas/New Year.
- 1.3 The Panel's operating procedures provide that the agenda should be distributed at least three working days before the meeting. As a matter of practice, the Agenda for the meetings is distributed to Panel members earlier, generally so that there are two weekends before the meeting, to provide additional time for members to read the agenda items. In light of the deemed consent provisions under the *Planning, Development and Infrastructure Act 2016*, there may be a need to distribute the agenda closer to the minimum three-day period as provided in the operating procedures. If this shorter timeframe is required, the Assessment Manager will communicate this with members. At this stage, this advice is provided for information only.



**2. CONCLUSION / PROPOSAL**

- 2.1 That the Panel reviews and adopts the proposed 2024 meeting schedule provided in Attachment 1.



## Council Assessment Panel Proposed 2024 Meeting Schedule

| Month     | Date         | Time   | Comments  |
|-----------|--------------|--------|---|
| January   | Tuesday 30   | 6.30pm | <i>5<sup>th</sup> week</i>  |
| February  | Tuesday 27   | 6.30pm |   |
| March     | Tuesday 26   | 6.30pm |   |
| April     | Wednesday 23 | 6.30pm |   |
| May       | Tuesday 28   | 6.30pm |   |
| June      | Tuesday 25   | 6.30pm |   |
| July      | Tuesday 23   | 6.30pm |   |
| August    | Tuesday 27   | 6.30pm |   |
| September | Tuesday 24   | 6.30pm |   |
| October   | Tuesday 30   | 6.30pm | <i>5<sup>th</sup> week due to Committee Meeting held on 22 Oct or can consider Wed 23 Oct</i> |
| November  | Tuesday 26   | 6.30pm |   |
| December  | Tuesday 17   | 6.30pm | <i>3rd Tues due to Christmas</i>  |



**INFORMATION  
ONLY  
ITEM**

8.2.3

**COUNCIL ASSESSMENT PANEL****DATE**

19 December 2023

**HEADING**

Status of Current Appeal Matters and Deferred Items

**AUTHOR**

Chris Zafiropoulos, Assessment Manager, City Development

**SUMMARY**

The report provides an update on current appeal matters and deferred items.

**RECOMMENDATION**That the Panel:

1. Receives the information.

**ATTACHMENTS**

There are no attachments to this report.

**1. REPORT**

*Applicant Appeal to Environment, Resources and Development Court, Development Holdings Pty Ltd v City of Salisbury Assessment Panel (ERD-23-000053) - Development Application 23002678*

**This ERD Court hearing was held 20-22 September 2023. The judgement has been reserved.**

Background

The Applicant appealed against the decision of the Panel on 28 May 2023 to refuse the development application for the *Childcare Centre ('pre-school') with associated car parking, landscaping, signage, retaining walls and fencing* at 61 Stanford Road, Salisbury Heights. The grounds for the appeal are that ...*Having regard to the circumstances and all of the provisions of the Planning and Design Code, the proposed development warranted planning consent.* Norman Waterhouse Lawyers have been engaged to represent the Panel at the ERD Court.

In addition, an application by Ms B Jenzen to be joinder to these proceedings was approved by the Court.

*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*

**This appeal has been adjourned at the request of the appellant and is currently relisted before the Court for 7 February 2024.**

Background

The Applicant appealed against the decision of the Panel to refuse the development application. The applicant presented two alternative proposals in response to the decision of the Panel but the amendments have not addressed the concerns of the Panel. Kelledy Jones Lawyers have been engaged to act on behalf of the Panel before the ERD Court.

The applicant has requested an adjournment of the current proceedings in order to lodge a new application and for a decision to be made on this application. The new application has been made under the Planning and Design Code and is proposing two dwellings. This application has been refused planning consent by the Assessment Manager and an appeal has also been lodged against this decision.

The applicant has requested a further adjournment to await the outcome of a development application lodged over another site within the Council area before determining whether to proceed to trial in this appeal.

*Applicant Appeal to Environment, Resources and Development Court, Tony Maiello (N43 Pty Ltd) v City of Salisbury (ERD-23-000022) - Development Application 22031953*

**This appeal has been adjourned at the request of the appellant to lodge an alternative proposal and is currently relisted before the Court for 7 February 2024.**

Background

The Applicant has appealed against the decision of the Panel to affirm the decision of the Assessment Manager to refuse the development application for the *Construction of Two (2) Single Storey Group Dwellings in Association with Four (4) Existing Single Storey Group Dwellings, Shared Driveway, Visitor Car Parking and Landscaping* at Unit 1-2, 30 Shepherdson Road, Parafield Gardens, SA 5107. The applicant requested that this matter be adjourned to enable the submission of a revised proposal.

The revised proposal has been submitted for two ancillary accommodation buildings. Having sought a legal opinion, the applicant was advised that the nature of development has been determined to be ...*‘Two (2) single storey group dwellings in association with four (4) existing single storey group dwellings’*. The applicant has been requested to advise if they wish for Council to verify the application as two additional group dwellings. At this time, no response has been provided to Council.

It is understood that the applicant has submitted another application with another accredited authority and that application will be lodged to Council for development approval soon. At that time, Council staff will be in a position to review this development application.