

# Council Assessment Panel

## Terms of Reference



### 1. Background

- 1.1 The City of Adelaide has appointed the Council Assessment Panel ('CAP') as a relevant authority under Section 82 and 83 of the *Planning, Development and Infrastructure Act 2016* ('PDI Act').
- 1.2 The CAP is a relevant authority under the PDI Act and during transition to the PDI Act, the CAP will act as a delegate of the Council for the purposes of the *Development Act 1993*.

### 2. Role of the Council Assessment Panel

- 2.1 To exercise, perform and discharge the following responsibilities on behalf of the Council:
  - 2.1.1 the assessment and determination of all applications for planning consent which are the subject of a delegation from the Council to the Panel;
  - 2.1.2 the provision of comment or advice to the State Planning Commission on major matters submitted to the Council by the Commission.
  - 2.1.3 the consideration of proposals for settlement on matters subject to appeal to the Environment, Resources and Development Court.
  - 2.1.4 the consideration of such other assessment matters as may be referred to the Panel by the administration or as may be initiated by the Panel on its own volition.
- 2.2 At its discretion, the Panel will call for and hear specialist technical/professional advice related to assessment matters.

### 3. Meeting Schedule

- 3.1 The determination of an ordinary meeting schedule.

### 4. Membership and Appointment to Council Assessment Panel

#### Members of CAP

- 4.1 The CAP will be constituted of five [5] Members ('CAP Members'), to be appointed by the Council, comprising:
  - 4.1.1 One (1) Member of the City of Adelaide Council ('Council Member'); and
  - 4.1.2 Four (4) Independent Members ('Independent Members'), not being Members of the Council or State Parliament.
- 4.2 When appointing the Independent Members, the Council may have regard to the following:
  - 4.2.1 The candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the *Development Act 1993*.
  - 4.2.2 The candidate's qualifications or experience in one or more of the following disciplines:
    - 4.2.2.1 Urban Planning;
    - 4.2.2.2 Architecture, Urban Design and/or Landscape Architect;
    - 4.2.2.3 Environment and/or Heritage Management
    - 4.2.2.4 Property management and/or Development;
    - 4.2.2.5 Planning/Environmental Law and/or Corporate Governance;
    - 4.2.2.6 Transport, Infrastructure and/or Social planning.
  - 4.2.3 That a balance of qualifications and experience among CAP Members is desirable;
  - 4.2.4 That gender diversity among CAP Members is desirable; and
  - 4.2.5 Such other matters as the Council considers relevant.

### **Deputy Members**

- 4.3 The Council may appoint Deputy Members (Council or Independent) to the CAP for the purpose of filling in for a CAP Member who is unable to attend a CAP Meeting should they desire.
- 4.4 The appointment of any Deputy Member shall be in accordance with clause 4.1 and 4.2.

### **Presiding Member**

- 4.5 The Council will appoint an Independent Member to be the Presiding Member of the CAP for such term and on such conditions as determined by the Council.
- 4.6 The Presiding Member will preside at any CAP meeting at which he or she is present.

### **Appointment of Members**

- 4.7 The Council will call for expressions of interest for appointment of CAP Members when required.
- 4.8 Subject to clause 5, Members of the CAP will be appointed for a term of two (2) years and on such other conditions as determined by the Council.
- 4.9 Members may be reappointed by the Council at the expiration of their initial term of appointment.
- 4.10 A CAP Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled by the Council or for a period of six (6) months from the expiry of the Member's term of office, whichever occurs first.

## **5. Conditions of Appointment/Membership**

- 5.1 At all times, CAP Members must act honestly, lawfully, in good faith and in accordance with any code of conduct applicable to CAP Members.
- 5.2 CAP Members may be remunerated as determined by the Council for the reasonable time and costs incurred by CAP Members in attending CAP Meetings and/or workshops/training.
- 5.3 Upon the commencement of Section 83(1)(c) and 83(2) of the Act:
- 5.3.1 Independent CAP Members must be accredited professionals pursuant to the Act; and
- 5.3.2 The Council CAP Member must be appropriately qualified to act as a member of the assessment panel on account of the person's experience in local government.
- 5.4 All CAP Members must comply with section 83(1)(e) of the Act which requires a Member to disclose his or her financial interests in accordance with Schedule 1.
- 5.5 In accordance with section 83(1)(f), all CAP Members must comply with any requirements by the *Regulations*.
- 5.6 A CAP Member must not act in relation to a development if he or she has a direct or indirect pecuniary interest in any aspect of the development or anybody associated with any aspect of the development, as required by section 83(1)(g) and 83(3) of the Act.

## **6. Removal from Office**

- 6.1 A CAP Member will automatically lose office where:
- 6.1.1 The CAP Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
- 6.1.2 The CAP Member has been convicted of an indictable offence punishable by imprisonment;
- 6.1.3 In the case of a Council Member, the Member ceases to be a member of the Council.
- 6.1.4 The CAP Member dies;

- 6.1.5 The CAP Member completes a term of office and is not reappointed;
- 6.1.6 The CAP Member resigns by written notice to the Council.
- 6.2 Subject to clause 6.4, the Council may by resolution remove a CAP Member from office where, in the opinion of the Council, the behaviour of the CAP Member amounts to:
  - 6.2.1 A breach of a condition of his or her appointment as a CAP Member;
  - 6.2.2 Misconduct;
  - 6.2.3 Neglect of duty in attending to the role and responsibilities as a CAP Member;
  - 6.2.4 A failure or inability to carry out satisfactorily the duties of his or her office;
  - 6.2.5 A breach of fiduciary duty that arises by virtue of his or her appointment as a CAP Member;
  - 6.2.6 A breach of any code of conduct applicable to CAP Members;
  - 6.2.7 Failure to comply with the requirements set out in section 83(1)(c) - (g) of the Act.
  - 6.2.8 Except in relation to Deputy Members, a failure without reasonable excuse to attend three (3) consecutive CAP meetings without the CAP previously having resolved to grant a leave of absence to the CAP Member;
  - 6.2.9 In relation to a Deputy Member, a failure without reasonable excuse on three (3) consecutive occasions to attend a meeting of the CAP when requested to do so;
  - 6.2.10 For any other reason the Council considers appropriate.
- 6.3 The removal of the CAP Member pursuant to clause 6.2 will take effect upon the Council passing a resolution to remove the CAP Member from office and such resolution is confirmed in writing to the CAP Member within 7 days of being passed.
- 6.4 Prior to resolving to remove a CAP Member from Office pursuant to clause 6.2, the Council must:
  - 6.4.1 Give written notice to the CAP Member of:
    - 6.4.1.1 Its intention to remove the CAP Member from office pursuant to clause 6.2; and
    - 6.4.1.2 The alleged behaviour(s) of the CAP Member which falls within clause 6.2 for which the Council considers it appropriate to remove the CAP Member,  
Not less than 7 days before the meeting of the Council at which the matter is to be considered.
  - 6.4.2 Give the CAP Member an opportunity to make submissions to the Council on its intention to remove the CAP Member from office either orally at the Council meeting at which the matter is to be considered, or in writing by such date as the Council reasonably determines.
  - 6.4.3 Have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

## 7. Vacancy in CAP

- 7.1 In the event of a vacancy arising in the office of a CAP, the Council may appoint a person to be a CAP Member for the balance of the original CAP Member's term of office as soon as reasonable practicable.
- 7.2 A replacement CAP Member may be:
  - 7.2.1 An existing Deputy Member, and in which case they would cease to be a Deputy Member;
  - 7.2.2 A new Member, considered in accordance with clause 4.2.

- 7.3 A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meetings.