

COUNCIL ASSESSMENT PANEL TERMS OF REFERENCE

1. Background

- 1.1 The City of Playford Council Assessment Panel (CAP) was appointed as a relevant authority under Section 82 and 83 of the *Planning, Development and Infrastructure Act 2016* by resolution of the City of Playford Council on 22 August 2017.

2. Approval and Change History

| Version | Approval Date | Approved By | Review By | Change |
|---------|------------------|------------------|---------------------------------------|--|
| 1 | 22 August 2017 | Ordinary Council | Senior Manager – Development Services | New Legislation |
| 2 | 28 November 2017 | Ordinary Council | Senior Manager – Development Services | Updates Required |
| 2.1 | 25 May 2021 | Ordinary Council | CAP Assessment Manager | Insurance and Remuneration Clauses added |
| 3 | 29 November 2022 | Ordinary Council | CAP Assessment Manager | Terms of Reference updated to reflect the Local Government of South Australia's modelling for Panel terms of reference |
| 4 | 28 November 2023 | Ordinary Council | CAP Assessment Manager | Annual Review |

3. Definitions

The following definitions apply:

CAP means the City of Playford Council Assessment Panel

The Act means the *Planning, Development and Infrastructure Act (2016)*

The Regulations means the *Planning, Development and Infrastructure (General) Regulations (2017)*

Development Plan means the City of Playford Development Plan

Staff includes Council staff, contractors, volunteers and all others who perform work on behalf of Council

4. The Role of the CAP

- 4.1 The role of the CAP is:

- 4.1.1 to act as delegate of the Council in accordance with the requirements of the Act;

- 4.1.2 as it thinks fit, to provide advice and reports to the Council on trends, issues and other matters relating to planning or development that have become apparent or arisen through its assessment of applications under the Act; and
- 4.1.3 to perform other functions (other than functions involving the formulation of policy) assigned to it by Council.

5. The Role of Council Administration

- 5.1** The Council will provide an Assessment Manager for the CAP. The role of the Assessment Manager is to:
 - 5.1.1 act as a relevant authority as provided under the Act;
 - 5.1.2 be responsible for managing the staff and operations of the CAP; and
 - 5.1.3 provide advice to the CAP as appropriate
- 5.2** Council administration may provide advice and further clarification of issues during the meeting upon request of a CAP Member through the Presiding Member.
- 5.3** Council staff are not Members of the CAP and do not have voting rights. Their role is to provide professional advice to assist the CAP to make decisions based on the provisions of the City of Playford's Development Plan.
- 5.4** The Council is responsible for any costs, expenses or liabilities arising in relation to the activities of the CAP:
 - 5.4.1 Whilst acting in their capacity as an Independent Member, for any honest act or omission, Members will be provided indemnity for civil liability claims under the Local Government Association Mutual Liability Scheme.
 - 5.4.2 Whilst acting in their capacity as an Independent Member, personal accident coverage will be provided to Independent Members. Note that under the *Private Health Act 2007* and the rules attached to that Act, the personal accident policy may not cover medical expenses and Independent Members are responsible for their own medical expenses.

6. Membership of CAP

Appointment of Members

- 6.1** The CAP will consist of 5 members to be appointed by the Council, comprising:
 - 6.1.1 one Member of the Council (Council Member)
 - 6.1.2 four Independent Members, not being Members of the Council or State Parliament
- 6.2** The Council may determine that the CAP will be constituted by a different number of members for different classes of development, in which case the relevant details will be specified by the Council.

- 6.3** When appointing CAP Members, the Council must have regard to the following:
- 6.3.1 the candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the *Development Act 1993*;
 - 6.3.2 in relation to Independent Members, the candidate's qualifications or experience in a field that is relevant to the activities of the CAP;
 - 6.3.3 in relation to the Council Member, the candidate's experience in local government;
 - 6.3.4 that a balance of qualifications and experience among CAP Members is desirable
 - 6.3.5 that gender diversity among CAP Members is desirable; and
 - 6.3.6 such other matters as the Council considers relevant.

Appointment of Deputy Members

- 6.4** The Council may appoint at least one Deputy Member to the CAP for the purpose of filling in for a CAP Member who is unable to attend a CAP meeting or part of a CAP meeting.
- 6.5** Subject to clause 6.6, a Deputy Member must not be a Member of the Council or State Parliament.
- 6.6** Where a Deputy Member appointed for the Council Member is also a member of the Council, that person may not act as a deputy for any other CAP Member (whereas a Deputy Member who is not a member of the Council may act as a deputy for any CAP Member).
- 6.7** Where more than one Deputy Member is appointed, the Council must specify the circumstances in which each Deputy Member (any one or more of them) will be invited to attend a CAP meeting.
- 6.8** In appointing a Deputy Member, the Council must have regard to the matters in clause 6.3, as well as to the qualifications and experience of the CAP Member or CAP Members to whom the candidate will be a deputy.
- 6.9** Unless the context otherwise requests, a reference to a CAP Member in this document includes a Deputy Member.

Expression of Interest

- 6.10** Subject to clause 6.11, the Council will call for expressions of interest for appointment of CAP Members.
- 6.11** At the expiration of a term of appointment, an existing member is eligible for reappointment.

Presiding Member and Acting Presiding Member

- 6.12** 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.

- 6.13** The Presiding Member will preside at any CAP meeting at which he or she is present.
- 6.14** In the event that the Presiding Member is not present at a meeting (or part thereof), an Acting Presiding Member will be appointed by those CAP Members who are present at the meeting.
- 6.15** A Presiding Member is eligible to be reappointed as the Presiding Member at the expiry of his or her term of office as Presiding Member.
- 6.16** In the event that the Presiding Member resigns or is removed from office, the Council will appoint an Independent Member to be the Presiding Member for such term and on such conditions as determined by the Council.

Term of Appointment

- 6.17** Subject to clause 9, Independent Members will be appointed for a term of up to 2 years and on any such other conditions as determined by the Council.
- 6.18** Subject to clause 9, the Council Member will be appointed for a term of up to 2 years and on any such other conditions as determined by the Council.
- 6.19** Deputy Members will be appointed for a term of up to 2 years and on any such other conditions as determined by the Council.
- 6.20** A CAP Member is eligible for reappointment for a further term, or further terms, upon the expiry of his or her current term.
- 6.21** A CAP Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled or for a period of six months from the expiry of the Member's term of office, whichever occurs first.

7. Vacancy in Membership

- 7.1** In the event of a vacancy arising in the office of a CAP Member, 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 is reasonably practicable.
- 7.2** The CAP Member appointed to fill a vacancy may be a Deputy Member in which case that person will automatically cease to be a Deputy Member.
- 7.3** In appointing a CAP Member pursuant to clause 7.1, the Council may have regard to the matters in clause 6.3 and 6.8 as the case requires.
- 7.4** A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meetings.
 - 7.4.1** A quorum at a meeting of the CAP is a number ascertained by dividing the total number of Members of the CAP by 2, ignoring any fraction resulting from the division, and adding 1.

8. Conditions of Appointment

- 8.1** Independent Members will receive a sitting fee for each meeting, the fee (exclusive of GST) is prescribed by Council.

8.2 Independent Members who are required to attend an Ordinary Council meeting, other Committee meetings or mandatory training are entitled to 50% of the sitting fee.

8.3 The Presiding Member is entitled to 125% of the sitting fee.

| Sitting fee | 50 % | 125 % |
|-------------|--------|--------|
| \$ 450 | \$ 225 | \$ 563 |

8.4 Under Section 83(1)(c) of the Act:

8.4.1 CAP Members, excluding a Member who is a Member or former Member of the Council, must be accredited professionals – planning level 2 under the Act; and

8.4.2 CAP Members who are Members or former Members of the Council must have sufficient experience in local government to satisfy the Council that they are appropriately qualified to act as a Member of the CAP.

8.5 Independent Members may be offered to undertake training relevant to their role on the Committee. This may include mandatory training required of Council Members and Council and Committee Meeting Procedure training.

9. Removal from Office

9.1 A CAP Member will automatically lose office where:

9.1.1 the CAP Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;

9.1.2 the CAP Member has been convicted of an indictable offence punishable by imprisonment;

9.1.3 in the case of a Council Member, the Member ceases to be a member of the Council.

9.2 Subject to Clause 9.4, 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:

9.2.1 a breach of a condition of his or her appointment as a CAP Member;

9.2.2 misconduct;

9.2.3 a breach of any legislative obligation or duty of a CAP Member;

9.2.4 neglect of duty in attending to role and responsibilities as a CAP Member;

9.2.5 a failure to carry out satisfactorily the duties of his or her office;

9.2.6 a breach of fiduciary duty that arises by virtue of his or her office;

9.2.7 inability to carry out satisfactorily the duties of his or her officer.

- 9.2.8 except in relation to Deputy Members, a failure without reasonable excuse to attend three consecutive CAP meetings without the CAP previously having resolved to grant a leave of absence to the CAP Member;
 - 9.2.9 in relation to a Deputy Member, a failure without reasonable excuse on three consecutive occasions to attend a meeting of the CAP when requested to do so; or
 - 9.2.10 for any other reason the Council considers appropriate.
- 9.3** The removal of the CAP Member pursuant to clause 9.2 will take effect upon the Council passing a resolution to remove the CAP Member from office (unless the Council resolves otherwise), and such resolution will be confirmed in writing to the CAP Member within 7 days of being passed.
- 9.4** Prior to resolving to remove a CAP Member from office pursuant to clause 9.2, the Council must:
- 9.4.1 give written notice to the CAP Member of:
 - 9.4.1.1 its intention to remove the CAP Member from office pursuant to clause 9.2; and
 - 9.4.1.2 the alleged behaviour of the CAP Member falling within clause 9.2.2 or reason 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;
 - 9.4.2 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; and
 - 9.4.3 have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

10. Disclosure of Interests

- 10.1** A Member of the CAP who has 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 or persons):
- 10.1.1 must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the CAP;
 - 10.1.2 must not take part in any hearings conducted by the CAP, or in any deliberations or decision of the CAP, on the matter and must be absent from the meeting when any deliberations are taking place or a decision is being made.
- 10.2** A Member of the CAP will be taken to have an interest in a matter if an associate of the Member has an interest in the matter.

10.3 Independent Members must provide a return in accordance with Schedule 1 of the *Planning, Development and Infrastructure Act 1996*.

11. Meetings, Agendas and Minutes

11.1 Meetings of the City of Playford Council Assessment Panel are determined by the CAP inline with the Council Assessment Panel Operating Procedure. Changes to the scheduling of CAP meetings will be determined by the Assessment Manager in consultation with the Presiding Member.

11.2 Members of the public are able to access agendas and minutes of meetings of the CAP on Council's website at www.playford.sa.gov.au.

11.3 The CAP may, before it releases a copy of any minutes, exclude from the minutes information about any matter dealt with on a confidential basis.

12. Review of CAP Decisions

12.1 CAP Decisions are final and shall not be referred to Council for further consideration.

12.2 In circumstances prescribed by the Act, an applicant or third party who is dissatisfied with the CAP's decision may appeal to the judicial system of the State.

13. Review of Terms of Reference

13.1 A review of the Terms of Reference for CAP will be undertaken every four years in line with the Local Government General Elections with any amendments to be presented to Council for endorsement.

14. Supporting Documentation

14.1 The following documents support this Terms of Reference:

- Schedule 3 (Codes of conduct and professional standards) of the *Planning, Development and Infrastructure Act 2016*

15. Document Control

15.1 Approved by Ordinary Council Resolution 5667 on 28 November 2023.

15.2 Before using a printed copy, please verify it is the current document.