



## The Corporation of the Town Of Walkerville Council Development Assessment Panel

### Terms of Reference

#### 1 Establishment

- 1.1 Pursuant to Section 56A of the Development Act 1993 the Town of Walkerville Council Development Assessment Panel (CDAP) was first established on 01 July 2001 for the purpose of acting as the “relevant authority” in respect of development assessment as delegated to it by the Council.
- 1.2 These Terms of Reference shall be effective from 7 April 2015.

#### 2 Terms of Reference

- 2.1 The primary role and objective of the CDAP is to ensure that decisions are consistent with the law and the policy intent of the Development Plan. Members should always seek to ensure that their comments are made and voting rights exercised in such a way as to ensure that an application is assessed against the provisions of the Development Plan.
- 2.2 In carrying out their duties as CDAP Members, Members must conduct themselves in accordance with a Code of Conduct adopted by the Minister for Planning pursuant to Section 21A of the Development Act (1993) (‘the Act’).
- 2.3 The CDAP is responsible for all matters delegated to it by the Council including but not limited to determination of applications for Development Plan Consent and Development Approval pursuant to Section 33 of the Act (and the matters that are delegated to it are set out in Council’s Development Act Delegations Policy).
- 2.4 The CDAP must act in accordance with the Development Act 1993 and the Development Regulations 1993 and with delegations, policies, and operating procedures which are relevant to the CDAP. Notwithstanding, and subject to the Act, the operating procedures to be observed in relation to the conduct of the business of the CDAP will be as determined by the CDAP. These operating procedures must, however, be recorded and available for public inspection in the interest of transparency.
- 2.5 The CDAP will meet on the **second Monday** of every month at **5.30pm** or the **second Tuesday** where the Monday is a public holiday, subject to there being business to consider.

2.6 A special meeting of the CDAP may be called by the Chief Executive Officer at his or her discretion after consultation with the Presiding Member. Examples of circumstances where a special meeting may be required are as follows:

- To consider legal advice prior to the next scheduled meeting of the CDAP; or
- Where the timing of a scheduled meeting is affected by Local Government elections or a public holiday period; or
- To consider other information in relation to an appeal or court judgement prior to the next scheduled meeting of the Panel.

The Chief Executive Officer must provide the Panel members with an agenda for the meeting. The Chief Executive Officer must deal with a request for a special meeting of the Panel in the same manner as a request for a special meeting of the Council in accordance with Section 83 of the Local Government Act (1993).

2.7 The CDAP will meet in the Council Civic and Community Centre at 66 Walkerville Terrace, Gilberton.

### 3 **Membership**

3.1 Membership of the CDAP comprises seven Members being three Elected Members of Council, and four Independent Members, all of which are appointed to the CDAP by resolution of the Council. The Council must appoint one of the Independent Members as the Presiding Member.

3.2 In respect of the Independent Members:

- Each must be a fit and proper person to be a member of a CDAP; and
- Each must have a reasonable knowledge of the operation and requirements of the Development Act (1993), and appropriate qualifications or experience in a field that is relevant to the activities of the CDAP; and
- The qualifications and experience of these members, when considered in conjunction with the qualifications and experience of the Presiding Member, provide a reasonable balance across the fields that are relevant to the activities of the CDAP.

3.3 In the absence of the Presiding Member, an Independent Member chosen from those present will preside at the meeting as the Deputy Presiding Member and that person will have all of the powers and duties of the Presiding Member.

3.4 As part of the constitution of the CDAP, the Council will ensure that at least 1 member of the panel is a woman and at least 1 member is a man, and will, insofar as is reasonably practicable, ensure that the panel consists of equal numbers of men and women.

3.5 Should a vacancy in membership of the CDAP occur at any time then the Council shall fill that vacancy at the earliest opportunity.

3.6 The vacancy of office of a single member of the CDAP will not invalidate the decision making of the remaining members of the CDAP.

- 3.7 The office of a member of the CDAP will become vacant if the member:
- Dies; or
  - Completes a term of office and is not reappointed; or
  - Resigns by written notice to the council; or
  - Becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
  - Is convicted of an indictable offence punishable by imprisonment; or
  - Is removed from office by the council.
- 3.8 Council may reappoint all or any members of the Panel for a further term of office at their expiry of their term.
- 3.9 A member of the Panel whose term of office expires may nevertheless (at the discretion of Council) continue to act as a member, for a period of up to 6 months, until he or she is reappointed or a successor is appointed (as the case may be).
- 3.10 CDAP shall have a Public Officer of Council, and that person shall be the Chief Executive Officer (or delegate)
- 3.11 A Member may resign from the CDAP by giving to the Public Officer notice in writing to that effect.
- 4 Removal of a Member**
- 4.1 The Council may remove a Member of the CDAP for:
- Breach of, or failure to comply with, the conditions of appointment; or
  - Misconduct; or
  - Neglect of duty; or
  - Incapacity to carry out satisfactorily the duties of his or her office; or
  - Failure to carry out satisfactorily the duties of his or her office; or
  - Failure to comply with a requirement under subsection (6) or (7) or a breach of, or failure to comply with, a code of conduct under section 21A of the Development Act (1993).
- 4.2 Particulars of a charge of misconduct must be communicated in writing to the Member at least seven days before the meeting of the Council at which the matter will be determined.
- 4.3 The determination of the Council will have immediate effect and must be communicated to the Member in writing.



## **The Corporation of the Town Of Walkerville Development Assessment Panel**

**Established on 7 April 2015**

### **Operating Procedures**

Further to The Corporation of the Town of Walkerville Council Development Assessment Panel (CDAP) Terms of Reference, the purpose of this document is to outline the manner in which the CDAP will conduct its business.

- 1 Written notice detailing the date, time and place of a meeting must be given to each Member at least three (3) clear days before the date of the meeting. The notice shall include the agenda for the meeting. Late items may not be included in the agenda.
- 2 The notice may be given by hard copy or by electronic means to the usual residence of each Member or by post to that address or such other place as authorised in writing by a Member.
- 3 Advertising of meetings shall be as follows:
  - Meeting times and days of the month shall be included on Council's website and any other notices of meetings published by the Council with the qualification that such meetings will only be held where there is business for the CDAP to transact; and
  - Direct notice shall be given to applicants and representors in accordance with the provisions of the Development Act.
- 4 Meetings will commence on time and as soon as a quorum is present. If a quorum is not present within fifteen minutes of the time for commencement the Presiding Member may either adjourn the meeting for up to thirty minutes to allow a quorum to attend or may adjourn to the next scheduled meeting time and date, or to a special meeting.
- 5 A quorum for a meeting of the CDAP shall be one half of the total number of members of the CDAP in office divided by two (2) (ignoring any fraction) and adding one (1).
- 6 Meetings will be conducted upon the following basis:
  - The Presiding Member shall advise those in attendance the structure of the agenda of the meeting;
  - Applicants and representors for each application are then called and heard and questions asked;
  - Following question time the CDAP will discuss the application and make its decision in open session, unless the matter is of a confidential nature pursuant to Section 56A(12)(a) of the Development Act 1993 to; and
  - All Members of the CDAP except for the Presiding Member shall be referred to by name without differentiation between Elected Members and Independent Members.

- 7 All decisions will be made on the basis of a simple majority decision of all of the Members present and entitled to vote. There is no power for the calling of a division.
- 8 Each Member of the CDAP present at a meeting of the CDAP is entitled to 1 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.
- 9 Subject to clause 8, every Member present at a meeting and entitled to vote must vote on a question arising for decision. There is no requirement to record how Members voted.
- 10 There will be no requirement for moving and seconding of motions.
- 11 Any Member having a direct or indirect personal or pecuniary interest in accordance with Sections 56A(7) and (8) of the Development Act (1993) is disqualified from being present in the room during consideration of a matter and from participating in and voting upon a matter, and must not be included in the quorum for that matter.
- 12 The Chief Executive Officer (or delegate) is responsible for ensuring that accurate minutes are kept and that they are confirmed by the CDAP and signed by the Presiding Member.
- 13 Minutes shall be available to the public within five days of the meeting of the CDAP.
- 14 The minutes must include the detail of every resolution and any disclosure of an interest pursuant of Sections 56A (7) and (8) of the Development Act 1993.
- 15 The CDAP may call for and consider such professional assistance from Council staff and other professional advisors as it deems necessary and appropriate.
- 16 The CDAP will allow participation of Council staff in providing advice to the CDAP at a meeting as required.
- 17 A person who is entitled to and who has made an application or a representation in relation to a matter is entitled to appear before the CDAP and be heard in support of the application or representation, in person or by an agent.
- 18 Persons who are not entitled to appear before the CDAP may be heard at the discretion of the CDAP.
- 19 A Member may ask relevant questions of any person appearing before the CDAP.
- 20 No Member or any other person present shall behave in an improper or disorderly manner, cause an interruption or disrupt a person who is speaking.
- 21 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by a Member, an applicant, a representor or any person present at the meeting of the CDAP until such time as the disruption or disturbance ceases, or failing that, order a person or persons to leave.
- 22 The CDAP has no legislative obligation to report on its decisions to the Council; however, the CDAP will, on an annual basis, provide a report 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 Development Act (1993).