



The Corporation of the Town Of Walkerville Council Council Assessment Panel

Terms of Reference

1 Establishment

- 1.1 Pursuant to Section 83 of the Planning, Development and Infrastructure Act 2016 (“the PDI Act”), the Council has established a Council Assessment Panel to be known as the Walkerville Council Assessment Panel (“the CAP”) for the purpose of performing the functions assigned to it under Part 4 of the Development Act 1993 (“the Development Act”) and Part 7 of the Planning, Development and Infrastructure Act 2016.
- 1.2 The CAP is a relevant authority under the PDI Act and during transition to the PDI Act, the CAP will also act as a delegate of the Council for the purposes of the Development Act 1993 (repealed).

2 Role of the Council Assessment Panel

- 2.1 To exercise, perform and discharge the following responsibilities on behalf of the Council:
 - the assessment and determination of all applications for planning consent which are the subject of a delegation from the Council to the Panel;
 - the provision of comment or advice to the State Planning Commission on major matters submitted to the Council by the Commission.
 - the consideration of proposals for settlement on matters subject to appeal to the Environment, Resources and Development Court.
 - 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.

3 Terms of Reference

- 3.1 The primary role and objective of the CAP is to ensure that decisions are consistent with the law and the policy intent of the Development Plan and the Planning and Design Code, where relevant. 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 and Planning and Design Code, where relevant.
- 3.2 In carrying out their duties as CAP Members, Members must conduct themselves in accordance with a Code of Conduct adopted by the Minister for Planning pursuant to Section 15 of the Planning, Development and Infrastructure Act (‘the Act’).
- 3.3 The CAP is responsible for all matters delegated to it by the Council (under the repealed Development Act 1993) including but not limited to determination of applications for Development Plan Consent and Development Approval pursuant to Section 33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).
- 3.4 The CAP is also responsible for considering all matters delegated to it by the Council under Planning, Development and Infrastructure Act (‘the Act’), including but not limited to, the assessment of publicly notified applications against the Planning and

Design Code, where not delegated to the Assessment Manager.

- 3.5 The CAP must act in accordance with the Development Act 1993 and the Planning, Development and Infrastructure Act 2016 and with delegations, policies, and operating procedures which are relevant to the CAP. Notwithstanding, and subject to the Act, the operating procedures to be observed in relation to the conduct of the business of the CAP will be as determined by the CAP. These operating procedures must, however, be recorded and available for public inspection in the interest of transparency.

4 Meeting Schedule

- 4.1 The determination of an ordinary meeting schedule will be made by the CAP.
- 4.2 A special meeting of the CAP may be called by the Chief Executive Officer (CEO) 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 CAP; 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).

- 4.3 The CAP will meet in the Council Civic and Community Centre at 66 Walkerville Terrace, Gilberton.

5 Membership

- 5.1 Membership of the CAP comprises five members being one Elected Member of Council, and four Independent Members, all of which are appointed to the CAP by resolution of the Council.
- 5.2 In respect of the Independent Members:
- Each must be a fit and proper person to be a member of a CAP; and
 - Each must have a reasonable knowledge of the operation and requirements of the Development Act (1993), Planning, Development and Infrastructure Act 2016 and appropriate qualifications or experience in a field that is relevant to the activities of the CAP; 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 CAP.
- 5.3 The Council, or Chief Executive Officer as delegated, 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.
- 5.4 The Council, or CEO where delegated, 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.
- 5.5 The Presiding Member will preside at any CAP meeting at which he or she is present.

6 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.

6.1 The office of a member of the CAP 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 or CEO, where delegated.

6.2 Members of the CAP will be appointed for a term of two (2) years and on such other conditions as determined by the Council.

6.3 Council may reappoint all or any members of the Panel for a further term of office at their expiry of their term.

6.4 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).

6.5 CAP shall have an Assessment Officer of Council, and that person shall be the Chief Executive Officer (or delegate)

6.6 A Member may resign from the CAP by giving to the Assessment Officer notice in writing to that effect.

7 Conditions of Appointment

7.1 At all times, CAP Members must act honestly, lawfully, in good faith and in accordance with any code of conduct applicable to CAP Members.

7.2 Upon the commencement of Section 83(1)(c) and 83(2) of the Act:

- Independent CAP Members must be accredited professionals pursuant to the Act; and
- 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.

7.3 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.

7.4 In accordance with section 83(1)(f), all CAP Members must comply with any requirements by the Regulations.

7.5 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.

8 Removal of a Member

8.1 The CEO, as delegated, may remove a CAP Member from office where, in their opinion, the behaviour of the CAP Member amounts to:

- A breach of a condition of his or her appointment as a CAP Member;
- Misconduct;
- Neglect of duty in attending to the role and responsibilities as a CAP Member;
- A failure or inability to carry out satisfactorily the duties of his or her office;
- A breach of fiduciary duty that arises by virtue of his or her appointment as a CAP Member;
- A breach of any code of conduct applicable to CAP Members;

- Failure to comply with the requirements set out in section 83(1)(c) - (g) of the Act.
- 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;
- 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;
- For any other reason the Council or CEO considers appropriate.

8.2 The removal of the CAP Member will take effect upon the CEO writing to the CAP Member and advising of their removal.

8.3 Prior to removing a CAP Member from Office, the CEO must:

- Give written notice to the CAP Member of:
 - Its intention to remove the CAP Member from office pursuant to clause 6.2; and
 - The alleged behaviour(s) of the CAP Member which falls within clause 6.2 for which the CEO considers it appropriate to remove the CAP Member, Not less than 7 days before written confirmation of their removal.
- Give the CAP Member an opportunity to make a submission to the CEO on their intention to remove the CAP Member from office in writing by such date as the CEO reasonably determines.
- Have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

9 Vacancy in CAP

9.1 In the event of a vacancy arising in the office of a CAP, the CEO 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.

9.2 A replacement CAP Member may be:

- An existing Deputy Member, and in which case they would cease to be a Deputy Member;
- A new Member.

9.3 A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meeting