

**City of Charles Sturt**  
**Meeting Procedures**  
**Council Assessment Panel**  
**("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**).

**1. GENERAL PRINCIPLES**

- 1.1 Procedures will be fair and open and facilitate transparent and informed decision making.
- 1.2 Procedures will be responsive to the level of formality appropriate to the nature and scope of matters to be discussed at the meeting of the Panel.
- 1.3 Procedures will be conducive to public and member confidence in the deliberations and operations of the Panel.

**2. ROLE OF PANEL**

- 2.1 The assessment of developments by the Panel requires members to act impartially and to limit themselves to assessing an application strictly in accordance with *Planning, Development and Infrastructure Act 2016* and/or parts of the *Development Act 1993* that are relevant ("the Acts"). Panel members must determine whether or not to grant consent by assessing the development against the provisions of the Development Plan without reference to extraneous matters but with due regard to relevant matters such as representations made in accordance with the Acts.
- 2.2 In its decision-making the Panel will have regard to the relevant provisions of the Acts, the Development Plan of the Council and to information and advice provided to it insofar as they are relevant to that role.
- 2.3 The Panel may not formulate policy but may 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 Acts.
- 2.4 The Panel operates as a decision maker for development applications before it, not as an arbitrator or mediator in relation to differences between applicants and representors, other members of the public and elected members either inside or outside of Panel meetings.
- 2.5 The Panel will deal with applications as expeditiously as possible and in any event within the time prescribed by the *Planning, Development and Infrastructure Regulations 2017* or the relevant parts of the *Development Regulations 1993* ("the Regulations").

### 3. CAP MEETINGS

#### Ordinary Meetings

- 3.1 The business and meetings of the Panel will be coordinated by the Assessment Manager, in consultation with the Presiding Member.
- 3.2 Unless otherwise determined by the Panel, subject to there being business to consider and determine, meetings of the Panel will be scheduled for the first and third Wednesday of each month commencing at 6.30 pm at the Council offices or at a venue or through a medium determined by the Panel.
- 3.3 Notice of a meeting of the CAP must:
  - 3.3.1 be in writing;
  - 3.3.2 set out the date, time and place of the meeting including links to any on line meeting as relevant;
  - 3.3.3 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); and
  - 3.3.4 be given to a CAP Member in a manner authorised in writing by the Member.
- 3.4 A notice that is not given in accordance with clause 3.3 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.
- 3.5 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.
- 3.6 An agenda listing the applications to be considered by the Panel and officer recommendations for applications will be circulated electronically to all elected members of the Council at least three (3) clear days before each Panel meeting.
- 3.7 Copies of officer recommendations and reports will be made available to applicants for a development application and any representors after the agenda and reports for the meeting have been circulated to members of the Panel. Applicants and Representors will be advised they can access this information from Councils website or by contacting Council's administrative staff.
- 3.8 Where specifically requested, elected members of the Council will be provided with hard copies of the relevant reports and recommendations for information.

- 3.9 If a scheduled meeting date is changed public notice of the change will be provided at the Council offices and on the Council's website as soon as practicable after the change of meeting date.
- 3.10 Applicants and representors will be advised as soon as practical when a development application in respect of which they are the applicant or have made a representation (as relevant) is to be considered by the Panel, which will be no less than the minimum 5 days' notice of the meeting or as otherwise prescribed by the Regulations.
- 3.11 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.
- 3.12 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 3.13 If a scheduled meeting date is changed the most appropriate method of contacting each member will be used in accordance with any prior directions and/or preferences of individual members advised to the Council's administrative staff.

#### **Special Meetings**

- 3.14 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 or the request will be of no effect.
- 3.15 On receipt of a request pursuant to clause 3.14, 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.

### **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. ADDITIONAL MEMBERS**

- 5.1 The CAP may appoint up to two Additional Members in accordance with Section 85 of the Planning, Development and Infrastructure Act 2016 and Practice Direction 5 issued by the State Planning Commission.

- 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 Act (or, during the transition to the 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 3.3, 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. ASSISTANCE FROM STAFF OR EXPERTS**

- 6.1 Wherever possible, in the event that a Panel member seeks clarification or information from staff the relevant member shall email the request to the Assessment Manager or relevant Council officer.
- 6.2 At its discretion, the Panel can call for and hear specialist technical/professional advice, including from Council staff, related to the assessment of any application.
- 6.3 In calling for specialist assistance, the Panel should be mindful of allowing the applicant and representors a reasonable opportunity to consider the information that may be provided before making a determination on the development application.
- 6.4 Where Panel members disagree with a recommendation put forward by staff, they may seek the assistance of staff in the wording of, but not the substance of, an alternate resolution.

## **7. COMMENCEMENT OF MEETINGS**

- 7.1 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. **A quorum for the Panel is three (3) members for a Panel of five (5) members.**
- 7.2 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.
- 7.3 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.
- 7.4 In the event that the Presiding Member is absent from a meeting, the Acting Presiding Member, will preside at the meeting.
- 7.5 At the opening of meeting the Presiding Member will provide a short statement explaining the role of the Panel and how applicants and representors will be invited to speak at the meeting.

7.6 All items on the agenda are to be discussed in the order in which they appear in the agenda. Unless the Presiding Member agrees to an alternative order. Panel members to declare any conflict(s) of interest in relation to a particular item prior to that item being discussed. Panel members must notify the Presiding member in writing of any conflicts of interest(s) (email is sufficient) in line with the Minister's Code of Conduct.

7.7 The Panel will open discussions on an item by providing relevant staff the opportunity to introduce their reports and provide a concise verbal summary of the principal issues in their assessment.

## 8. SITE VISITS

8.1 Panel members may visit a site for the purposes of informing themselves on an application but will not discuss the application with the applicant or any representors prior to the matter coming before the Panel and then only in accordance with the Act and these Procedures.

8.2 Subject to compliance with the Minister's Code of Conduct, all members are expected to undertake a site inspection in relation to any development assessment matter presented to the Panel for determination.

8.3 If Panel members believe entry to the subject land would be a useful component of the assessment process and would assist their understanding of the proposal, the Panel should request that the Assessment Manager make suitable arrangements for such an inspection. The Panel shall then undertake the inspection on the date determined by the Assessment Manager and the applicant. Notes of the Panel's visits of this nature should be recorded by the Assessment Manager or person delegated by the Assessment Manager (being a person independent of the Panel) and tabled at the next Panel meeting for the purpose of the Panel's adoption of them as a true and correct record of the Panel's observations.

## 9. DECISION MAKING

9.1 The Assessment Manager may in his or her discretion exclude:

9.1.1 a representation or response to representation(s) which is received out of time;

9.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or

9.1.3 a representation or response to representation(s) which is otherwise invalid.

9.2 As a general rule, the Panel will not consider additional information provided by applicants or representors at the meeting at which the application is considered by the Panel. Any additional information sought to be added after the close of agendas should be referred in the first instance to the Team Leader Major Planning Assessment of the Council or other relevant Council officer. Council staff shall then make an assessment as to whether the information is to be considered by the Panel, whether the application is required to be renotified in light of the additional information or whether consideration of the application should be deferred.

- 9.3 In relation to each application it considers, the CAP must:
- 9.3.1 determine whether the proposal is seriously at variance with the Development Plan and provide reasons for its determination; and
  - 9.3.2 provide reasons for granting or refusing Development Plan consent and for the imposition of any conditions.
- 9.4 If the CAP determines that a proposal is seriously at variance with the Development Plan, it must refuse Development Plan consent to the application.
- 9.5 In relation to each application to be considered and determined by the CAP:
- 9.5.1 a person who has lodged a representation in relation to a Category 2 or 3 application which has not been excluded pursuant to clause 9.1 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, personally or by a representative. Where a meeting is to be held using an online meeting format, links to join the meeting will be provided to the representor;
  - 9.5.2 The Presiding Member may invite a representor who has made a written representation and is present at the meeting, who has not been scheduled to be heard but that wishes to be heard, to make a submission to the Panel.
  - 9.5.3 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, personally or by a representative. . Where a meeting is to be held using an online meeting format, links to join the meeting will be provided to the applicant or their representative;
  - 9.5.4 Representors will speak first, followed by the applicant who will be invited to respond to the issues raised by the representors. Representors and applicants may speak on their own behalf or seek assistance from other persons such as lawyers, planning consultants or other advisors or supporters. In the event that there is more than one signatory or name on a representation, only one representative of the names or signatories will be entitled to speak to the representation.
  - 9.5.5 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, personally or by an agent;
  - 9.5.6 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 for up to a total time of ten (10) minutes;
  - 9.5.7 CAP members may address questions through the Presiding Member and seek clarification from a representor or applicant or their representatives who has addressed the CAP in relation to any matter relevant to the determination of the application at the conclusion of their address. The time taken to address those questions shall be in addition to the time allocated to

representors and applicants in the Clauses above; and

- 9.5.8 The Panel will not hear representation(s) where the persons listed in the representation does not have a right to be heard in relation to an application pursuant to the Acts.
- 9.5.9 The hearing of representors and applicants shall be confined to the summary of relevant issues and to response to those issues. The Presiding Member may restrict submissions not related to the planning issues of a particular matter.
- 9.5.10 Elected members who are not the Panel member are not entitled to be heard on an application unless they have made a representation in relation to an application and would be entitled under the Acts to be heard in relation to that representation or appear as advocates or spokespersons nominated by a representor, in which case they are governed by the requirements of the clauses above in relation to restriction to relevant issues before the Panel.
- 9.5.11 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.
- 9.5.12 For the sake of clarity, appearing or being heard at a CAP meeting includes appearances by way of online participation in an online meeting format., where online meetings are held.

9.6 The public may be excluded from attendance during so much of a meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the Panel in accordance with the Acts.

- 9.6.1 In relation to matters that may be considered in confidence pursuant to regulation 13(2) of the Regulations, the Assessment Manager may, after consultation with the Presiding Member of the Panel indicate on a document or report to Panel Members that the Panel may consider the matter in confidence provided that the Assessment Manager must also specify the basis on which a decision could be made by the Panel in accordance with said sub-section.
- 9.6.2 At the meeting of the Panel, the Panel Members will consider if it is necessary and appropriate to exclude the public in accordance with regulation 13(2) of the Regulations.
- 9.6.3 Before excluding the public from a meeting of the Panel, the Panel must formally determine, whilst in public session, whether the exclusion is necessary and, if so, pass an appropriate resolution to exclude the public during discussion of the item.
- 9.6.4 At the conclusion of the discussion in relation to a confidential item, the Panel will consider whether it is necessary to determine whether any document associated with the confidential item is to remain confidential.

9.7 Where a meeting is held via online meeting format, members of the public will be

excluded from the meeting via livestream being paused or otherwise audio and video feeds being disabled for the duration of the confidential item.

- 9.8 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.
- 9.9 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.
- 9.10 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.
- 9.11 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave a meeting where he or she is, in the opinion of the Presiding Member:
  - 9.11.1 behaving in a disorderly manner; or
  - 9.11.2 causing an interruption or disruption to the meeting.
- 9.12 Where a meeting is being held via online meeting format, the Presiding Member may mute or disconnect a person from the meeting link in the event that the person is, in the opinion of the Presiding Member, behaving in accordance with clauses 9.11.1 or 9.11.2 above.

## **10. DEBATE AND MOTIONS**

- 10.1 Comment/discussion in the first instance on a matter presented to the Panel for determination may be sought by a Panel member or the Presiding Member. These discussions are not minuted.
- 10.2 Prior to the moving of a motion for determination, the Presiding Member in facilitating comment/discussion will utilise his/her discretion to determine when to call for a motion enabling the Panel to determine the matter.
- 10.3 Prior to calling for a motion, the Presiding Member will utilise his/her discretion to conclude the opportunity for discussion/comment only after each Panel member present at the meeting has been provided the opportunity to speak.
- 10.4 An outcome to comment/discussion must be given effect by, and shall only be valid when presented as, a motion by a mover. Motions or amendments need not be seconded.
- 10.5 The Presiding Member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the Panel with reasons being provided to the Panel and recorded in the minutes.
- 10.6 The Presiding Member, in the absence of comment/discussion in relation to the

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**Green Highlight** – Required under the Planning, Development and Infrastructure Act 2016 and Planning Development and Infrastructure (General)(Assessment Panels) Variation Regulations 2017 – CM 20/92105

**Yellow highlight** – former requirements under the Development Act 1993 and Development Regulations



business requiring determination, will request a motion to be moved and may also move a motion.

## **11. DEFERRALS**

- 11.1 Decisions will normally be made at the meeting at which the application is considered by the Panel, however the Panel may defer consideration of an application to a future meeting to enable further information to be obtained or considered to assist in the determination of the application.
- 11.2 Where notice is given to representors in accordance with the requirements of the Act and the representor is not present at the time for the hearing of the representation the Panel will not defer consideration of the application.
- 11.3 If the applicant seeks the deferral of an application, the request for such deferral will not be granted as a matter of course, but will be considered and determined by the Panel on a case by case basis.
- 11.4 The Panel should only defer a decision if it considers that the additional time allowed will create benefits in allowing a thorough decision to be made and provided that the reasons for the deferral are clear to the applicant and any representors that may be involved. Panel members, however should be aware of the time frames within which certain decision are required to be made under the Act.

## **12. MINUTES AND REPORTING**

- 12.1 **The CAP must ensure that accurate minutes are kept of all meetings.**
- 12.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 12.3 The minutes will record:
  - 12.3.1 the names of all Members present;
  - 12.3.2 the names of all Members from whom apologies have been received;
  - 12.3.3 the name and time that a Member enters or leaves the meeting;
  - 12.3.4 the names of applicants and representors addressing the meeting;
  - 12.3.5 in relation to each application determined by the CAP:
    - 12.3.5.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan;
    - 12.3.5.2 the reasons for granting or refusing Development Plan consent and for the imposition of any conditions; and
    - 12.3.5.3 The decision of the Panel in relation to every matter discussed;
    - 12.3.5.4 In the event of a vote the minutes will record the outcome by noting that the vote is “carried or lost”.

- 12.3.6 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
  - 12.3.7 a decision to exclude the public from attendance pursuant to the Regulations and the grounds for excluding the public;
  - 12.3.8 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;
  - 12.3.9 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
  - 12.3.10 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.
- 12.4 All minutes must be confirmed as being accurate at the commencement of, the following CAP meeting. On confirmation of the minutes the Presiding Member will initial each page at the foot and sign and date the last page of the minutes.
- 12.5 The Panel may, before releasing copy of minutes, exclude any information dealt with on a confidential basis by the Panel.
- 12.6 Minutes of the meeting must be available within five (5) business days after their adoption by the members of the Panel. Reasonable access to the minutes must be provided to members of the public.

### 13. ADDITIONAL PROCEDURES

- 13.1 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 Development Act and *Development Regulations 2008*), the CAP's Terms of Reference, the Code of Conduct or these Meeting Procedures - the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.
- 13.2 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.
- 13.3 If the Presiding Member considers that the circumstances warrant a departure from these Procedures, the Presiding Member may, with the approval of a majority of the members present, suspend the application of, or alter, the relevant Procedure.

The period of suspension or alteration will be as determined by the Presiding Member.

The period of suspension will come to an end:

- 13.3.1 at the conclusion of the period determined by the Presiding Member; or

- 13.3.2 if the Presiding Member determines that the period should be brought to an end; or
- 13.3.3 if a majority of the members present request that the period be brought to an end.