TERMS OF REFERENCE
Council Assessment Panel

Terms of Reference Number	CL.TOR. 01
Responsible Section	Development Assessment
Responsible Department	Community Development
Date Last Adopted	6 December 2022
Date of Next Review	December 2026
Applicable Legislation	Development Act 1993 / Planning, Development & Infrastructure Act 2016
Related Governance Documents	Meeting Procedures – Council Assessment Panel Code of Conduct – Council Assessment Panel
City Vision	Thriving Community Clean and Green City

1. ESTABLISHMENT OF THE COUNCIL ASSESSMENT PANEL

1.1 The Port Adelaide Enfield Council Assessment Panel **("CAP")** was appointed as a relevant authority under Section 82 and 83 of the *Planning, Development and Infrastructure Act 2016* **("Act")** by resolution of the Port Adelaide Enfield Council **("the Council")** on 12 September 2017.

1.2 The CAP is a relevant authority under the Act and, during transition to the Act, will act as a delegate of the Council for the purpose of the *Development Act 1993*.

2. FUNCTIONS

2.1 The functions of the CAP are:
- 2.1.1 to act as an independent body from the Council in accordance with the requirements of the Act; and
- 2.1.2 to provide advice and reports to the Council as it thinks fit 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
- 2.1.3 to perform other functions (other than functions involving the formulation of policy) assigned to the CAP by the Council.

3. MEMBERSHIP

3.1 Membership of the CAP shall consist of five (5) members appointed by the Council taking into account the requirements of Section 83 of the Act, comprising:
- 3.1.1 one (1) independent Presiding Member;
- 3.1.2 one (1) member of the Council; and
- 3.1.3 three (3) independent members.

3.2 When appointing CAP Members, the Council may have regard to the following:
- 3.2.1 the candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the Development Act;
- 3.2.2 in relation to Independent Members, the candidate's qualifications or experience in a field that is relevant to the activities of the CAP;
- 3.2.3 in relation to the Council Member, the candidate's experience in local government;
- 3.2.4 that a balance of qualifications and experience among CAP Members is desirable; and
- 3.2.5 such other matters as the Council considers relevant.

3.3 Independent members will be appointed following a process calling on expressions of interest, an interview process and an invitation of the Council to join the CAP on the basis that the Council considers the person has the requisite skill to contribute to the CAP.

3.4 As far as practicable, the CAP will achieve gender balance.

3.5 The Council will appoint the presiding member of the CAP from the independent members of the panel at the time of appointing the membership of the panel.

3.6 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.

3.7 The Council may appoint up to two deputy members of the CAP on the following terms:
- 3.7.1 One deputy member will be an elected member appointed only to perform as a deputy for the regular elected member of the CAP when the regular elected member cannot attend or participate in an item/s for any given CAP agenda (for example, due to a conflict of interest)
- 3.7.2 Only one elected member of council will be present as a member of the CAP at any one time.
- 3.7.3 Another deputy member may be appointed to perform as a deputy for the regular independent members of the CAP when a regular independent member cannot attend or participate in an item/s for any given CAP agenda (for example, due to a conflict of interest)
- 3.7.4 They will be remunerated for their actual attendance at a CAP meeting in accordance with the level of remuneration established by Council for a regular member of the CAP.
- 3.7.5 They are bound by the same terms of office as a regular member of the CAP.

4. TERM OF APPOINTMENT

4.1 A member of the CAP shall hold office for a maximum period of two (2) years, unless the member is first removed from office by resolution of the Council.

4.2 Council may reappoint existing CAP members to a new term on the CAP if:
- 4.2.1 Consultation occurs with current members of the panel to establish that they are prepared to continue in the role; and
- 4.2.2 A report is submitted to Council recommending the appointments.

4.3 A member of the CAP whose term of office expires may nevertheless continue to act in that office for a period of up to 6 months until they are reappointed or a successor is appointed (as the case may be).

5. REMOVAL OF A MEMBER

5.1 Subject to giving a member of the CAP an opportunity to make a written submission, the Council may resolve to remove a member for:

5.1.1 breach of, or failure to comply with, one or more of the conditions of appointment; or

5.1.2 misconduct; or

5.1.3 neglect of duty; or

5.1.4 incapacity to carry out satisfactorily the duties of their office; or

5.1.5 failure to carry out satisfactorily the duties of their office; or

5.1.6 for members of the CAP who are not members of the Council, failure to disclose their financial, and direct or indirect personal and pecuniary, interests in accordance Clause 7 of these Terms of Reference; or

5.1.7 failure to comply with the code of conduct.

5.1.8 in the case of an elected member, the member ceases to be a member of the Council.

5.1.9 failure by a member of the CAP to attend three (3) consecutive CAP meetings without first obtaining leave of absence from the CAP may result in the removal of the member from office.

5.2 Where the Council proposes to remove a member of the CAP from office, particulars of the grounds for removal shall be communicated to the member at least seven (7) days before the meeting of the Council at which the matter will be determined.

5.3 The CAP Member shall be granted 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. Council shall have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

5.4 The determination of the Council shall be communicated to the member, and in the event the Council resolves to remove the member from office, the resolution takes effect immediately upon the Council having communicated its decision to the member.

5.5 The determination shall be communicated to the member:

5.5.1 personally; or

5.5.2 by delivering written notice (whether by post or otherwise) to the usual place of residence of the member or to another place authorised in writing by the member for the purpose of receiving notices of CAP or Council meetings, as the case may be; or

5.5.3 by leaving written notice for the member at an appropriate place at the principal office of the Council, if authorised in writing by the member to do so for the purpose of receiving notices of CAP or Council meetings, as the case may be; or

5.5.4 by a means authorised in writing by the member as being an available means of giving notice (eg. email) for the purpose of receiving notices of CAP or Council meetings, as the case may be; or

5.5.5 by any other means that the Director of Community Development considers are reasonably practicable in the circumstances to bring the Council's determination to the attention of the member.

5.6 A CAP member who has been removed from the CAP pursuant to Clause 5 of these Terms of Reference may apply to the Council for reappointment to the CAP. The decision whether to allow a person to re-join the CAP is at the Council's absolute discretion. The decision of the Council is final.

6. VACANCY OF OFFICE

6.1 The office of a member of the CAP will become vacant if the member:
- 6.1.1 dies; or
- 6.1.2 completes a term of office and is not reappointed; or
- 6.1.3 resigns by written notice to the council; or
- 6.1.4 is no longer an Accredited Professional and is required to be an Accredited Professional; or
- 6.1.5 becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
- 6.1.6 is convicted of an indictable offence punishable by imprisonment; or
- 6.1.7 is removed from office under Clause 5 of these Terms of Reference.

6.2 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 in the same manner as the original CAP Member was appointed.

6.3 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.

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

7. TERMS OF REFERENCE

7.1 The Terms of Reference for the CAP are as follows:
- 7.1.1 in accordance with the delegations conferred by the Council, the CAP is charged with responsibility for all matters arising under Part 7 of the Act and any relevant associated regulations;
- 7.1.2 the CAP shall act at all times in strict accordance with relevant legislation (being the Act and relevant regulations)and including the code of conduct;
- 7.1.3 a member of the CAP incurs no liability for an honest act done in the exercise or performance, or purported exercise or performance, of the powers or functions under Part 7 of the Act. A liability that would, but for this indemnity, attach to a member of the CAP attaches instead to the Council.
- 7.1.4 Meetings of the CAP shall be conducted in accordance with the Act and the procedures set out in the document entitled "Meeting Procedures for the City of Port Adelaide Enfield Council Assessment Panel" **("the Meeting Procedures")** as adopted by the CAP.

8. DISCLOSURE OF INTERESTS

8.1 Members of the CAP who are not members of the Council shall disclose their financial interests in accordance with Schedule 1 as per Section 83(1)(e) of the Act. Failure to do so may result in the removal of the member from office pursuant to Clause 5 of these Terms of Reference.

8.2 Members of the CAP must disclose any 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 of persons) in accordance with Section 83 (1)(g) of the Act. Failure to do so may result in removal of the member from office pursuant to Clause 5 of these Terms of Reference.

9. REPORTS TO COUNCIL

9.1 The CAP shall report to Council on an annual basis, detailing issues for consideration by Council's City Development Section. The report shall include advice on trends, issues and other matters relating to planning or development that have become apparent or arisen through the CAP's assessment of applications under the Act.