MEETING PROCEDURES
Council Assessment Panel

Document Number	CD.PRO.01
Responsible Section	Development Assessment
Responsible Department	Community Development
Date Last Adopted	22 February 2023
Date of Next Review	February 2026
Applicable Legislation	Development Act 1993 / Planning, Development & Infrastructure Act 2016
Related Governance Documents	Terms of Reference - Council Assessment Panel Code of Conduct - Council Assessment Panel
City Plan Theme	A city that supports community wellbeing A city which cares for its natural environment and heritage

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. CAP MEETINGS

Ordinary Meetings

1.1 Subject to clause 1.2, ordinary meetings of the Port Adelaide Enfield Council Assessment Panel (**CAP**) will be held at such times and places as determined by the CAP.

1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.

1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than three (3) clear business days prior to the holding of the meeting in accordance with clause 1.4.

1.4 Notice of a meeting of the CAP must:
- 1.4.1 be in writing;
- 1.4.2 set out the date, time and place of the meeting;
- 1.4.3 be signed by the Assessment Manager;
- 1.4.4 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);
- 1.4.5 be given to a CAP Member personally, by post to a place authorised in writing by the CAP Member or by other means authorised by the CAP Member as being an available means of giving notice;
- 1.4.6 where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and
- 1.4.7 where the meeting is to be live streamed for viewing by members of the public, include details of how to access and/or connect to the live stream.

1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manager 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 CAP Member.

1.6 The following 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 CAP meeting has been given to CAP Members:
- 1.6.1 a copy of the agenda for all CAP meetings; and
- 1.6.2 where the CAP meeting is to be live streamed for viewing by members of the public, details of how to access and/or connect to the live stream.

1.7 If a representor or applicant is entitled, or the Presiding Member has exercised their discretion to permit the representor or applicant, to appear before the CAP and be heard pursuant to clauses 6.8.1 - 6.8.4 (inclusive) of these Meeting Procedures, the Assessment Manager must provide written notice of the following to such persons as soon as practicable after the time that notice of the CAP meeting has been given to CAP Members:
- 1.7.1 an invitation to appear and be heard at the meeting;
- 1.7.2 the date, time and place of the meeting; and
- 1.7.3 where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting.

1.8 The Assessment Manager may, with leave or at the request of the Presiding Member:
- 1.8.1 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 CAP Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public as soon as practicable; or
- 1.8.2 at the written request of the applicant to the Assessment Manager, remove from the agenda the applicant's item which was to be considered at the meeting to which the agenda relates (including after notice of the agenda has been given to CAP Members). In such an instance, the Assessment Manager shall provide an updated agenda to CAP Members and written notice of the removal of the item from the agenda to the applicant and any representors who had indicated a wish to appear before the CAP in relation to that agenda item. The Assessment Manager will also make an updated agenda available to the public as soon as practicable.

1.9 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.

1.10 A meeting may break for a period of time as determined by the Presiding Member.

Special Meetings

1.11 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.

1.12 On receipt of a request pursuant to clause 1.11, 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.

1.13 The Assessment Manager can (of their accord) require a special meeting of the CAP to be held where there exists (in their opinion) a justifiable reason for holding a special meeting.

1.14 On forming the relevant opinion in clause 1.13, 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.

2. DEPUTY MEMBERS

2.1 If a CAP Member is unable or unwilling to attend a meeting or part of a meeting, they must use their best endeavours to notify the Presiding Member or Assessment Manager at their earliest opportunity.

2.2 If notification pursuant to clause 2.1 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.

2.3 Unless the context otherwise requires, a reference to a CAP Member in these Meeting Procedures includes a Deputy Member.

3. ADDITIONAL MEMBERS

3.1 The CAP may appoint up to two Additional Members in accordance with Section 85 of the *Planning, Development and Infrastructure Act 2016* (**Act**).

3.2 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*).

3.3 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 1.4, highlighting the item(s) the Additional Member is required to consider.

3.4 Unless the context otherwise requires, a reference to a CAP 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.

4. ELECTRONIC MEETINGS

4.1 One or more CAP Members may attend a meeting via electronic means.

4.2 A CAP Member attending a meeting via electronic means is taken to be present at the meeting provided that the CAP Member:

- 4.2.1 can hear and, where possible, see all other CAP Members who are present at the meeting;
- 4.2.2 can hear and, where possible, see all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;
- 4.2.3 can be heard and, where possible, seen by all other CAP Members present at the meeting; and
- 4.2.4 can be heard and, where possible, seen by the person recording the minutes of the meeting.

4.3 Where a meeting occurs via electronic means, it will (to the extent that the public is not able to physically attend the meeting) be live streamed.

4.4 Where a meeting is being live streamed, the live stream must be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations.

4.5 Where the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations, the Assessment Manager (or a person nominated by the Assessment Manager) must ensure that all parties (except for the Assessment Manager and CAP Members) disconnect from or are disconnected from the meeting.

5. COMMENCEMENT OF MEETINGS

5.1 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.

5.2 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.

5.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.

5.4 In the event that the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the meeting appoints an Acting Presiding Member.

6. ASSESSMENT OF DEVELOPMENT APPLICATIONS

6.1 The following procedures outlined in this clause 6 do not apply to the review of decisions of the Assessment Manager pursuant to Section 203 of the Act.

6.2 The Presiding Member may in their discretion exclude:
- 6.2.1 a representation or response to representation(s) which is received out of time;
- 6.2.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or
- 6.2.3 a representation or response to representation(s) which is otherwise invalid.

6.3 The Presiding Member may in their discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant.

6.4 The CAP may defer consideration of the application to enable full and proper assessment of the further information.

6.5 Any material to be considered by the CAP pursuant to clause 6.3 must be provided to the applicant and/or representor(s) (as the case may be) and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Presiding Member.

6.6 In relation to each application it considers, the CAP must:

6.6.1 determine whether the proposal is seriously at variance with the Development Plan or Planning Rules (as applicable) and provide reasons for its determination; and

6.6.2 provide reasons for granting or refusing Development Plan consent or planning consent (as applicable) and for the imposition of any conditions.

6.7 If the CAP determines that a proposal is seriously at variance with the Development Plan or Planning Rules (as applicable), it must refuse Development Plan consent or planning consent (as applicable) to the application.

6.8 In relation to each application to be considered and determined by the CAP:

6.8.1 a person who has lodged a representation in relation to a Category 3 application under the *Development Act 1993* which has not been excluded pursuant to clause 6.2 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, in person or by a representative;

6.8.2 a person who has lodged a representation in relation to a Category 2 application under the *Development Act 1993* or an application under the Act which has not been excluded pursuant to clause 6.2 and who has indicated that they wish to be heard on their representation may, at the discretion of the Presiding Member, appear before the CAP and be heard in support of their representation, in person or by a representative;

6.8.3 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, in person or by an agent;

6.8.4 where no representors appear at the meeting, the Presiding Member may, in their discretion, allow an applicant to be heard to provide information sought by the CAP or respond to questions;

6.8.5 representors and applicants will be allowed five minutes each to address the CAP. A representative of multiple representors will be allowed five minutes in total to address the CAP. The Presiding Member may allow a party additional time at their discretion;

6.8.6 the Presiding Member may, at their discretion, allow a representative of multiple representors more than five minutes in total to address the CAP if the representative has first made a written request to the Assessment Manager requesting additional time at least one clear business day prior to the commencement of the CAP meeting. In exercising their discretion, the Presiding Member will have regard to the need for efficiency in the operation of the CAP meeting and the extent of duplication of planning considerations in the written representations made by those representors represented by the same representative. The Assessment Manager will advise the representative of the decision of the Presiding Member as soon as reasonably practicable;

6.8.7 CAP Members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address;

6.8.8 following addresses from representors and the applicant, the Presiding Member will invite all CAP Members to speak on any matter relevant to the application; and

6.8.9 clauses 6.8.1 to 6.8.4 are satisfied if a representor or applicant (as the case may be) appears via electronic means. The Presiding Member may require that any such appearance be by electronic means.

7. REVIEW OF DECISION OF ASSESSMENT MANAGER

7.1 The following procedures outlined in this clause 7 only apply to the review of decisions of the Assessment Manager pursuant to Section 203 of the Act.

7.2 An application for review of a prescribed matter pursuant to Section 203 of the Act (**Prescribed Matter**) must be:
- 7.2.1 made using the Application to Assessment Panel for Assessment Manager's Decision Review (**Form**)
- 7.2.2 lodged in a manner identified on the Form; and
- 7.2.3 lodged within one month of the applicant receiving notice of the Prescribed Matter, unless the CAP in its discretion grants an extension of time.

7.3 The Presiding Member may, in their discretion, determine that an application for review shall not be considered by the CAP on the basis that it is frivolous or vexatious, or is otherwise an abuse of process.

7.4 The Assessment Manager shall:
- 7.4.1 collate for the CAP all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter including the delegated officer's assessment report;
- 7.4.2 provide a further report on any aspect of the subject matter of the review, or any other relevant material if requested by the Presiding Member or a CAP Member; and

- 7.4.3 give the applicant written notice of the following:
  - 7.4.3.1 the time, date and place of the meeting at which the review application will be heard;
  - 7.4.3.2 the opportunity for the applicant to:
    - 7.4.3.2.1 provide written submissions for consideration of the CAP in its review of the application; and
    - 7.4.3.2.2 appear personally (or by a representative) at the review hearing and make submissions to the CAP in relation to the application for review; and
  - 7.4.3.3 where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting.

7.5 The review hearing will be conducted within the following parameters:
- 7.5.1 The CAP will consider the matter afresh;
- 7.5.2 Information, materials and submissions which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the CAP, except for:
  - 7.5.2.1 information provided to the CAP in response to a request from the Presiding Member or a CAP Member;
  - 7.5.2.2 any additional written submission provided by an applicant pursuant to clause 7.4.3.2.1 and any response to that submission by the Assessment Manager (or delegate) as deemed necessary by the Assessment Manager;
- 7.5.3 The CAP will receive a submission from the applicant personally (or by a representative) at the review hearing which submission is limited to an address of five minutes. The Presiding Member may allow an applicant additional time at their discretion;
- 7.5.4 The Assessment Manager (or delegate) must be present at the CAP meeting to respond to any submissions of the applicant, or questions or requests for clarification from the CAP;

7.5.5 The Presiding Member will permit CAP Members to ask questions or seek clarification from the applicant and/or Assessment Manager (or delegate) in their discretion.

7.5.6 Where a person is entitled or has been requested to appear before the CAP in relation to an application for review of an Assessment Manager's decision (including the Assessment Manager or delegate), the person may appear via electronic means. The Presiding Member may require any such appearance to be via electronic means.

7.6 The CAP may, on a review:

7.6.1 affirm the Assessment Manager's decision on the Prescribed Matter;

7.6.2 vary the Assessment Manager's decision on the Prescribed Matter;

7.6.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision;

7.6.4 defer its decision with the agreement of the applicant or at the discretion of the CAP.

7.7 An applicant should be advised in writing of the CAP's decision by the Assessment Manager.

8. DECISION MAKING

8.1 Each CAP 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 CAP 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.

8.2 Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by CAP Members present at the meeting and entitled to vote.

8.3 All CAP Members in attendance at a meeting who are entitled to vote must vote on each item present unless they have declared a conflict of interest in relation to a particular item.

8.4 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.

8.5 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or disconnect from a meeting where he or she is, in the opinion of the Presiding Member:

8.5.1 behaving in a disorderly manner; or

8.5.2 causing an interruption or disruption to the meeting.

9. MINUTES AND REPORTING

9.1 The CAP must ensure that accurate minutes are kept of all meetings.

9.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.

9.3 The minutes will record:
- 9.3.1 the names of all CAP Members present;
- 9.3.2 the names of all CAP Members from whom apologies have been received;
- 9.3.3 the name and time that a CAP Member enters or leaves the meeting;
- 9.3.4 the name of every person who makes or responds to a representation or submission;
- 9.3.5 the method of attendance by all CAP Members present and by every person who makes or responds to a representation or submission;
- 9.3.6 in relation to each application determined by the CAP:
  - 9.3.6.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as applicable);
  - 9.3.6.2 the reasons for granting or refusing Development Plan consent or planning consent (as applicable) and for the imposition of any conditions; and
  - 9.3.6.3 the decision, but not each CAP Member's vote;
- 9.3.7 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
- 9.3.8 a decision to exclude the public from attendance pursuant to the Regulations;
- 9.3.9 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 CAP Member in accordance with Section 83(1)(g) of the Act, and the nature of the interest;
- 9.3.10 any disclosure of a conflict of interest made by a CAP 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
- 9.3.11 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.

9.4 All minutes must be confirmed by the Assessment Manager in conjunction with the Presiding Member as being accurate prior to, or at the commencement of, the following CAP meeting.

10. NOMINATION BY ASSESSMENT MANAGER

10.1 Subject to clause 10.4, the Assessment Manager may nominate another person (**Nominee**) to undertake the powers and functions of the Assessment Manager contained in these Meeting Procedures for a period of time not exceeding three (3) months. This is primarily to ensure that the CAP can continue to function efficiently in the absence of the Assessment Manager from time to time, for periods of annual or personal leave of the Assessment Manager.

10.2 Any nomination under clause 10.1 must be made by notice in writing from the Assessment Manager to the Presiding Member and the Nominee, and may relate to all or only some of the powers and functions of the Assessment Manager in these Meeting Procedures.

10.3 Where a nomination has been made pursuant to clauses 10.1 and 10.2, a reference to the Assessment Manager in these Meeting Procedures will be taken to include (for the duration of the nomination) a reference to the Nominee (as applicable).

10.4 The Nominee is not themselves permitted to nominate another person to undertake the powers and functions of the Assessment Manager under this clause 10.

11. ADDITIONAL PROCEDURES

11.1 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.

11.2 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.

12. DEFINITIONS

The following definitions apply in relation to these Meeting Procedures:

12.1 **connect** means able to hear and/or see the meeting by electronic means, including via live stream;
12.2 **disconnect** means to remove the connection so as to be unable to hear and see the meeting;
12.3 **electronic** means includes a telephone, computer or other electronic device used for communication; and
12.4 **live stream** means the transmission of audio and/or video from a meeting at the time the meeting is occurring.