



Coorong Assessment Panel

Terms of Reference

For Operation from 19 July 2022

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Adopted July 2022

1. BACKGROUND

- 1.1 The Coorong Assessment Panel (**CAP**) was appointed as a relevant authority under Sections 82 and 83 of the *Planning, Development and Infrastructure Act 2016* (**PDI Act**) by resolution of the Coorong District Council (**the Council**) on 19 September 2017.
- 1.2 The CAP is a relevant authority under the PDI Act and, during transition to the PDI Act, will act as a delegate of the Council for the purpose of the *Development Act 1993* (**Development Act**).

2. MEMBERSHIP OF CAP

Appointment of Members

- 2.1 The CAP will be constituted of five (5) Members (**CAP Members**), to be appointed by the Council, comprising:
 - 2.1.1 one (1) Member of the Council (**Council CAP Member**); and
 - 2.1.2 four (4) Independent Members (**Independent Members**) inclusive of the Presiding Member, not being Members of the Council or State Parliament and who must be accredited under the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019* as Accredited professional – planning level 2.
- 2.2 The Council may determine that the CAP will be constituted by a different number of members for different classes of development, in which case the relevant details will be specified by the Council.
- 2.3 When appointing CAP Members, the Council may have regard to the following:
 - 2.3.1 the candidate's knowledge of the operation and requirements of the PDI Act and, during transition to the PDI Act, the Development Act;
 - 2.3.2 the candidate's qualifications or experience in a field that is relevant to the activities of the CAP;
 - 2.3.3 that a balance of qualifications and experience among CAP Members is desirable;

- 2.3.4 that gender diversity among CAP Members is desirable; and
- 2.3.5 such other matters as the Council considers relevant.
- 2.4 When appointing the Council CAP Member to the CAP, the Council must also be satisfied that the person is appropriately qualified to act as a member of the CAP on account of the person's experience in local government pursuant to section 83(2) of the PDI Act. The Council Member is not required to be an accredited professional under the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*.

Appointment of Deputy Members

- 2.5 The Council must appoint at least one Deputy Member to the CAP for the purpose of filling in for a CAP Member who is unable to attend a CAP meeting or part of a CAP meeting.
- 2.6 Subject to clause 2.7, a Deputy Member for an Independent Member must not be a Member of the Council.
- 2.7 Where a Deputy Member appointed for the Council Member is also a member of the Council, that person may not act as a deputy for any other CAP Member (whereas a Deputy Member who is not a member of the Council may act as a deputy for any CAP Member).
- 2.8 Where more than one Deputy Member is appointed, the Council must specify the circumstances in which each Deputy Members (or any one or more of them) will be invited to attend a CAP meeting.
- 2.9 In appointing a Deputy Member, the Council may have regard to the matters in clauses 2.3 and 2.4, as well as to the qualifications and experience of the CAP Member or CAP Members to whom the candidate will be a deputy.
- 2.10 Deputy Members who are not a Council Member must be an accredited professional under the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*.
- 2.11 Unless the context otherwise requires, a reference to a CAP Member in this document includes a Deputy Member.

Expression of Interest

- 2.12 The Council will call for expressions of interest for appointment of CAP Members when required.

- 2.13 The Council may, in its discretion, appoint one or more existing CAP Members for one or more additional terms without calling for expressions of interest.

Presiding Member and Acting Presiding Member

- 2.14 The Council 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.
- 2.15 The Presiding Member will preside at any CAP meeting at which he or she is present.
- 2.16 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.
- 2.17 A Presiding Member is eligible to be reappointed as the Presiding Member at the expiry of his or her term of office as Presiding Member.
- 2.18 In the event that the Presiding Member resigns or is removed from office, the Council will appoint an Independent Member to be the Presiding Member for such term and on such conditions as determined by the Council.

Term of Appointment

- 2.19 Subject to clause 5, Independent Members will be appointed for a term of up to two (2) years and on such other conditions as determined by the Council.
- 2.20 Subject to clause 5, the Council Member will be appointed for a term of up to two (2) years and on such other conditions as determined by the Council.
- 2.21 Deputy Members will be appointed for a term of up to two (2) years and on such other conditions as determined by the Council.
- 2.22 A CAP Member is eligible for reappointment for a further term, or further terms, upon the expiry of their current term.
- 2.23 A CAP Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled or for a period of six (6) months from the expiry of the Member's term of office, whichever occurs first.

3. VACANCY IN MEMBERSHIP

- 3.1 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.
- 3.2 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.
- 3.3 In appointing a CAP Member pursuant to clause 3.1, the Council may have regard to the matters in clause 2.2 or 2.9 as the case requires.
- 3.4 A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meetings.

4. CONDITIONS OF APPOINTMENT

- 4.1 At all times, CAP Members must act honestly, lawfully, in good faith, and in accordance with the Assessment Panel Members – Code of Conduct and the requirements of any code of conduct relevant to CAP Members pursuant to Schedule 3 of the PDI Act and Part 3 of the *Planning, Development and Infrastructure (General) Regulations 2017*.
- 4.2 CAP Members will be remunerated as determined by the Council for the reasonable time and costs incurred by CAP Members in attending CAP meetings.
 - 4.2.1 Where an Independent Member is acting Presiding Member they will be remunerated at the Presiding Member's sitting fee and travel allowance.
 - 4.2.2 Where a Deputy Member is requested to attend a meeting they will be remunerated at the Other Independent Members sitting fee and travel allowance.

5. REMOVAL FROM OFFICE

- 5.1 A CAP Member will automatically lose office and a position will become vacant where:
 - 5.1.1 the CAP Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
 - 5.1.2 the CAP Member has been convicted of an indictable offence punishable by imprisonment;
 - 5.1.3 the CAP Member dies;

- 5.1.4 the CAP Member completes a term of office and is not reappointed;
 - 5.1.5 the CAP Member resigns by written notice to the Council; or
 - 5.1.6 in the case of a Council CAP Member, the Member ceases to be a member of the Council.
- 5.2 Subject to Clause 5.4, the Council may, by resolution, remove a CAP Member from office where, in the opinion of the Council, the behaviour of the CAP Member amounts to:
- 5.2.1 a breach of a condition of his or her appointment as a CAP Member;
 - 5.2.2 maladministration or misconduct;
 - 5.2.3 a breach of any legislative obligation or duty of a CAP Member;
 - 5.2.4 neglect of duty in attending to the role and responsibilities as a CAP Member;
 - 5.2.5 a failure to carry out satisfactorily the duties of his or her office;
 - 5.2.6 a breach of fiduciary duty that arises by virtue of his or her office;
 - 5.2.7 inability to carry out satisfactorily the duties of his or her office;
 - 5.2.8 failure to disclose his or her financial interests in accordance with Schedule 1 of the PDI Act (please note this requirement is only applicable to Independent Members);
 - 5.2.9 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; or
 - 5.2.10 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; or
 - 5.2.11 for any other reason the Council considers appropriate.
- 5.3 The removal of the CAP Member pursuant to clause 5.2 will take effect upon the Council passing a resolution to remove the CAP Member from office, and such resolution will be confirmed in writing to the CAP Member within seven (7) days of being passed.

- 5.4 Prior to resolving to remove a CAP Member from office pursuant to clause 5.2, the Council must:
 - 5.4.1 give written notice to the CAP Member of:
 - 5.4.1.1 its intention to remove the CAP Member from office pursuant to clause 5.2; and
 - 5.4.1.2 the alleged behaviour of the CAP Member falling within clause 5.2 or reason the Council considers it appropriate to remove the CAP Member,

not less than 7 days before the meeting of the Council at which the matter is to be considered;
 - 5.4.2 give the CAP Member 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; and
 - 5.4.3 have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.