

COORONG ASSESSMENT PANEL

Operating and Meeting Procedures

As adopted by the Panel 12th December 2024

1. Purpose

- (1) These Operating and Meeting Procedures have been determined by the Coorong Assessment Panel (**CAP**) pursuant to the section 83 of the *Planning, Development and Infrastructure Act 2016* (**Act**), and having regard to the Terms of Reference for the CAP as adopted by the Coorong District Council (**Council**).
- (2) The procedures are intended to:
 - a) Outline the ordinary procedures by which the CAP will conduct its business at meetings; and
 - b) Facilitate the conduct of the CAP's business in a transparent, timely, efficient and appropriate manner to ensure compliance with the requirements of the Act.
- (3) Except insofar as a procedure for the CAP is not prescribed by the Act or the *Planning, Development and Infrastructure (General) Regulations 2017* (**Regulations**), the procedures of the CAP in relation to the conduct of its business will be as determined by the CAP.
- (4) In circumstances where events occur which are not covered by these Operating and Meeting Procedures, the CAP are able to determine specific procedures to respond to such events.

2. Meeting Notice, Times and Venue

- (1) Ordinary meetings of the CAP will be held as required on dates and at times and in a manner determined by the Assessment Manager (**CAP Meeting**). Physical meetings will be conducted at the Coorong Civic Centre, 95-101 Railway Terrace Taillem Bend. Meetings may also be convened by online platform, teleconference or other similar means as determined by the Assessment Manager.
- (2) Where a CAP Meeting is to be held via online platform or teleconference, the CAP Meeting will be livestreamed or made accessible in a manner deemed appropriate by the Assessment Manager, such that members of the public can hear and (if relevant) see the CAP Meeting as they would in the public gallery of a physical CAP Meeting subject to Clause 22 below (**Electronic Meetings**).

- (3) The Presiding Member in consultation with the Assessment Manager has the discretion to nominate an alternative meeting venue and/or time prior to the issue of the agenda, should circumstances warrant.
- (4) If a physical CAP Meeting is convened, individual CAP Members who cannot attend the physical CAP Meeting may attend that CAP Meeting via online platform or teleconference, provided that at least one (1) clear business days' notice is provided to the Assessment Manager.
- (5) A minimum of five (5) clear business days' notice of a scheduled CAP Meeting shall be given to CAP Members by the Assessment Manager in writing:
 - a) personally; or
 - b) by delivering the notice (whether by post or otherwise) to the usual place of residence of the CAP Member or to another place authorised in writing by the Member; or
 - c) by leaving the notice for the CAP Member at an appropriate place at the principal office of the Council, if authorised in writing by the CAP Member to do so; or
 - d) be given to a CAP Member by electronic means to the email address nominated by the CAP Member.
- (6) A notice that is not given in accordance with Clause 2(4) and Clause 2(5) above is taken to have been validly given if the Assessment Manager considers it impracticable to give the notice in accordance with those Clauses and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the CAP Members.
- (7) Public notice of a scheduled CAP Meeting will be provided at the Council offices and on the Council's website and advised on other related social media. If a CAP Meeting is to be held by means other than a physical CAP Meeting, the notice must contain the online link or teleconference, etc details by which public access to the CAP Meeting may occur.
- (8) A copy of the full Agenda and reports from the Administration for every CAP Meeting of the CAP shall be available for viewing on the Council's website (excluding the attachments to the reports from the Administration) and Council's offices at least three (3) business days before the CAP Meeting.
- (9) 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 CAP Meeting to which the agenda relates after notice of the CAP Meeting has been given to the 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 CAP Meeting to CAP Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.

- (10) CAP Meetings shall be conducted in public except where the CAP may exclude the public pursuant to regulation 13(2) of the Regulations.
- (11) The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the CAP Meeting.
- (12) A meeting may, at the request of a CAP Member or the Assessment Manager, break for a specified time period as determined by the CAP.
- (13) If a CAP Meeting is adjourned to another day, the Assessment Manager must:
 - a) give notice of the adjourned CAP Meeting to each CAP Member setting out the date, time and place of the CAP Meeting; and
 - b) give notice of the adjourned CAP Meeting to the public by causing a notice setting out the date, time and place of the CAP Meeting to be placed on display at the principal office of the Council.

3. Special Meetings

- (1) The Presiding Member 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.
- (2) On receipt of a request pursuant to Clause 3(1), the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP Members at least two days before the commencement of the special meeting.
- (3) An Assessment Manager may require a special meeting of the CAP to be held. CAP Members must be advised of the special meeting in accordance with the procedures set out in Clauses 2(4) and 2(5).

4. Deputy Members

- (1) If a CAP Member is unable or unwilling to attend a CAP Meeting or part of a CAP 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.
- (2) If notification pursuant to Clause 4(1) is given, the Assessment Manager may request a Deputy Member to attend the CAP Meeting in place of the CAP Member for the CAP Meeting.
- (3) For clarity, if the Council Member appointed to the CAP is unavailable to attend a CAP Meeting, the Deputy Member who will be notified to attend the CAP Meeting will be Deputy Member (Council Member). If an independent Member of the CAP is unavailable to attend a CAP Meeting, the Deputy Member who will be notified to attend the CAP Meeting will be the Deputy Member (Independent Member), who is not an elected Member of Council.

- (4) Unless the context otherwise requires, a reference to a CAP Member in these Meeting Procedures includes a Deputy Member.

5. Additional Members

- (1) The CAP may appoint up to two Additional Members in accordance with Section 85 of the Act.
- (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.
- (4) 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 Clauses 2(4) and 2(5), highlighting the item(s) the Additional Member is required to consider.
- (3) 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.

6. Public Access to CAP Meetings

- (1) In connection with the conduct of the proceedings of the CAP, members of the public are entitled to attend a CAP Meeting other than as set out in Clause 6(2) below.
- (2) The CAP may exclude the public from attendance at a CAP Meeting:
- (a) during so much of the CAP Meeting as is necessary to receive, discuss or consider in confidence any of the following matters:
- i. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- ii. information the disclosure of which:
- (A) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
- (B) would on balance, be contrary to the public interest;
- iii. information the disclosure of which would reveal a trade secret;
- iv. commercial information of a confidential nature (not being a trade secret) the disclosure of which:

- (A) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (B) would on balance, be contrary to the public interest;
- v. matters affecting the safety or security of any person or property;
- vi. information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- vii. matters that should be considered in confidence in order to ensure that the CAP, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- viii. legal advice;
- ix. information relating to actual litigation, or litigation that the CAP believes on reasonable grounds will take place; and
- x. information the disclosure of which:
 - (A) would divulge information provided on a confidential basis by or to a Minister of the Crown, the State Planning Commission, or another public authority or official; and
 - (B) would on balance, be contrary to the public interest;
- (b) during so much of the CAP Meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the CAP.

7. Applicants to Address the CAP

- (1) An applicant has the right to address the CAP at a Hearing of Representations in accordance with the provisions of section 107(3)(b) of the Act and corresponding Regulations
- (2) Except as provided in the Act, Regulations or otherwise provided in these Operating and Meeting Procedures:
 - a) an applicant for an application before the CAP (or their representative) may not address the CAP but the Presiding Member may allow CAP Members to address questions to the applicant or their representatives;
 - b) the applicant or their representative must limit their response to the questions raised;
 - c) where a CAP Meeting is to be convened through means other than a physical CAP Meeting (i.e. through online platform or otherwise), the Assessment Manager will, in providing notice of the CAP Meeting to them, ensure that the applicant will be provided with a reasonable opportunity to appear and be heard at the CAP Meeting by providing

them with online or teleconference access details such that they can be heard by and interact with CAP Members.

- (3) For the sake of clarity, appearing or being heard at a CAP Meeting includes appearances by way of online participation in an online CAP Meeting format, where online CAP Meetings are held.
- (4) Where a physical CAP Meeting is convened, applicants or their nominated representative may request that they attend the CAP Meeting via online platform, teleconference etc. Requests must be made to the Assessment Manager no less than one (1) business day before the CAP Meeting. Whether or not a request is granted is at the discretion of the Assessment Manager.

8. Hearing of Representations

- (1) The CAP shall conduct a Hearing of Representations in accordance with section 107(3)(b) of the Act and Regulations for all representations received and which comply with the Regulations, for all performance assessed developments which are publicly notified. Where required, the Hearing of Representations will take place at the commencement of the consideration of the relevant agenda item.
- (2) The Hearing of Representations commences by hearing representors in support of their representations first, and then hearing the applicant's response to the representations. At a Hearing of Representations, the persons making representations will be allocated five (5) minutes to address the CAP, unless otherwise determined by the Presiding Member. The applicant is allocated ten (10) minutes to respond to the representations made to the CAP, unless otherwise determined by the Presiding Member.
- (3) Where a CAP Meeting is to be convened through means other than a physical CAP Meeting (i.e. through online platform or otherwise), the Assessment Manager will, in providing notice of the CAP Meeting to them, ensure that representors are provided with a reasonable opportunity to appear and be heard at the CAP Meeting by providing them with online or teleconference access details such that they can be heard by and interact with CAP Members.
- (4) For the sake of clarity, appearing or being heard at a CAP Meeting includes appearances by way of online participation in an online CAP Meeting format, where online CAP Meetings are held. Where a physical CAP Meeting is convened, representors or their nominated spokesperson may request that they attend the CAP Meeting via online platform, teleconference etc. Requests must be made to the Assessment Manager no less than one (1) business day before the CAP Meeting. Whether or not a request is granted is at the discretion of the Assessment Manager.
- (5) Where two or more persons have nominated a spokesperson to support their representations at the Hearing of Representations the Presiding Member will determine the allocated time that the spokesperson will address the CAP.

- (6) Where representors are addressing the CAP on a common issue or issues, the Presiding Member may request such representors to address the CAP in a group, rather than individually.
- (7) Only representors (or their nominated representative) who have lodged a valid representation pursuant to section 107(3)(b) of the Act and corresponding Regulations and are entitled to be heard by the CAP in accordance with the Act, the Regulations and the CAP's Operating and Meeting Procedures.
- (8) CAP Members may question and seek clarification from representors and the applicant at the conclusion of their address to the CAP.
- (9) Representors will not be allowed a further opportunity to address the CAP once applicants have concluded their response.
- (10) Representors or the applicant will not be allowed a further opportunity to address the CAP at any subsequent meeting of the CAP to consider the matter, except at the discretion of the Presiding Member.
- (11) Where no representors appear at the Hearing of Representations an applicant may only be heard (at the discretion of the Presiding Member) where their written response to representations requires explanation or where the CAP will otherwise benefit from hearing them.
- (12) Individual elected members of the Council do not have a right to be heard by the CAP unless they have made a representation as a private citizen and are a representor pursuant to section 107(3)(b) of the Act and corresponding Regulations or have been appointed by a representor to speak on their behalf.
- (13) Should a CAP Member receive by direct post, fax, email or any other means, information in relation to a development application current being assessed (or a proposal likely to be assessed) by the CAP, the CAP Member must immediately forward the information to the Assessment Manager. The CAP Member should not acknowledge receipt of the information and must not enter into discussion with the sender in relation to any matters contained within the information received. If a CAP Member receives such information, he or she must disclose this fact to the meeting of the CAP at which the application is being considered

9. Site Inspections and Locality Visits

- (1) Formal site visits of the CAP Members may be arranged on request from any CAP Member. The CAP may request attendance of a Council Officer to provide relevant information.
- (2) The Assessment Manager shall be present at all site inspections undertaken by the CAP.
- (3) The CAP will not hear deputations submissions or representations at a formal site visit.
- (4) The Assessment Manager may also request that CAP Members attend a site where they consider that this will assist the CAP in its deliberations.

- (5) Locality visits by one or more CAP Members will be undertaken in accordance with the Code of Conduct adopted by the Minister pursuant to Schedule 3 of the Act, applicable to CAP Members (**Code of Conduct**).

10. Information provided following preparation of the CAP Meeting Agenda

- (1) Representors and applicants must, to the best of their abilities, avoid raising new material that has not been raised in their written submissions when they appear before the CAP.
- (2) Where it is absolutely necessary, any new additional information that must be presented should be forwarded to the Assessment Manager at least five (5) business days prior to the CAP Meeting so that the Assessment Manager can confirm necessity and effect distribution to the applicant and to the CAP Members for consideration.
- (3) Full disclosure of all relevant information prior to the CAP Meeting is necessary for adequate assessment and appropriate decision making. In circumstances where new information is discovered as a result of the Hearing of Representations the CAP may, in its discretion, agree to defer the application, conduct a further hearing, or undertake other investigations to determine the relevance of new information if it believes it will assist reaching a decision.
- (4) After hearing an applicant and /or representor, the CAP may discuss an application and any new information to determine its relevance and may seek clarification from the Assessment Manager or their delegate.
- (5) At the discretion of the Presiding Member (in consultation with the CAP Members), any new information presented by any person appearing before the CAP, may not be considered. The Presiding Member's determination in this regard is final.

11. Form of Debate

- (1) In order to ensure informed decision making and to facilitate comprehensive consideration of issues, debate and discussion by the CAP of matters before it shall be, as far as practicable, informal within the bounds of professional meeting procedures whilst still adhering to the correct procedures for the assessment of development applications as set out in the Act, as well as applicable principles of procedural fairness.
- (2) In the interests of informality, during hearings of representations the Presiding Member will be referred to as 'Presiding Member', and CAP Members will be referred to by their first name (not by title or position). In subsequent discussion of items in the CAP Meeting of the CAP Members (including the Presiding Member) may refer to each other by their first names and address Council staff by their first names.

12. Quorum and Voting

- (1) A quorum at a CAP Meeting of the CAP is a number ascertained by dividing the total number of members of the CAP for the time being in office by two (2), ignoring any fraction resulting from the division, and adding one (1). The CAP comprises five (5) members and therefore a quorum at a CAP Meeting is three (3) members.
- (2) If the number of apologies received by the Presiding Member or the Assessment Manager, indicate that a quorum will not be present at a CAP Meeting, the Presiding Member, may adjourn the CAP Meeting to a specified day and time.
- (3) Should a quorum not be reached within thirty (30) minutes of the scheduled commencement time of the CAP Meeting and there is no apparent prospect of achieving a quorum within a reasonable time thereafter, the CAP Meeting will be cancelled and the business on the agenda will be considered at the next CAP Meeting of the CAP.
- (4) In the absence of the Presiding Member, the CAP will appoint an Acting Presiding Member to preside over the CAP Meeting. Each CAP Member present at a CAP Meeting of the CAP is entitled to one (1) vote on a matter arising for decision and, if the votes are equal, the CAP Member presiding at the CAP Meeting is entitled to a second or casting vote.
- (5) Clause 12(1) (above) does not apply to a person who is appointed as an Additional Member of the CAP under section 85 of the Act.
- (6) All CAP Members (other than additional members) of the CAP will participate in the decision of the CAP by a vote.
- (7) All decisions of the CAP shall be made on the basis of a majority consensus decision of the CAP Members present.
- (8) Minutes shall record the decision of the CAP on each development application and record a mover and seconder for items decided by vote.
- (9) A majority vote of the CAP shall be recorded as the decision of the CAP and the vote or views of individual CAP Members shall not be recorded in the minutes.
- (10) CAP Members cannot submit any notice of motion to revoke or amend previous decisions of the CAP.

13. Minutes

- (1) The CAP must ensure that accurate minutes are kept of its proceedings. The decisions of the CAP will be recorded in the Minutes of the CAP Meeting.
- (2) The Minutes of the proceedings of a CAP Meeting will record:
 - (a) the names of the CAP Members present;
 - (b) the names of all CAP Members from whom apologies have been received;

- (c) the name and time of a CAP Member entering or leaving the CAP Meeting;
 - (d) the name of a person who has made a verbal representation to the CAP at the CAP Meeting;
 - (e) the decision of the CAP including the information under Clause 14(2) below;
 - (f) any disclosure of interest made by a CAP Member and the nature of the interest; and
 - (g) the decision of the CAP to exclude public attendance including reasons.
- (3) The CAP may, before it releases a copy of any minutes to the public, exclude from the minutes information about any matter dealt with on a confidential basis by Members of the CAP.
 - (4) Minutes shall not be formal Minutes until adopted by the CAP at the next CAP Meeting of the CAP. However, this does not preclude the issue of Decision Notification under the Act advising of the determination of the CAP immediately after a CAP Meeting at which the CAP made its determination.
 - (5) Upon adoption of the Minutes, the Presiding Member shall authorise the Minutes by signature and date of adoption on the last page of the Minutes.
 - (6) Copies of the draft Minutes will be available to the public at the Council office at least five (5) working days after the date of the CAP Meeting.

14. Decision-Making and Deferrals

- (1) The CAP must have regard to the Planning and Design Code as the basis for its decisions, and also have regard to any written and verbal representations made in accordance with the provisions of the Act.
- (2) In making a decision, the CAP:
 - (a) must state whether the proposal is seriously at variance with the provisions of the relevant Planning and Design Code, in doing so must refuse to grant planning consent and provide reasons for the decision.
 - (b) If the proposal is not seriously at variance with the provisions of the Planning and Design Code, must state whether planning consent is granted or refused.
 - (c) Alternatively, where planning consent is refused, the reasons for refusal must be provided.
- (3) The CAP may defer a decision on an application where:
 - (a) the assessment timeframe for the application prescribed by regulation 53 of the Regulations has not expired; and
 - (b) the applicant has requested the deferral to allow variations to be made to the application; and

- (c) there is sufficient time available for the variations to be made and submitted to the CAP's delegate prior to the expiry of the relevant assessment timeframe for the application.
- (4) Where a decision on an application is deferred by the CAP pursuant to clause 12(3) above, the CAP must resolve to authorise the Assessment Manager to determine the application on any conditions specified by it, should the variations not be received prior to the expiration of the relevant assessment timeframe.
- (5) Where the CAP has permitted an applicant to vary their application:
 - (a) it must be noted that it is a privilege of the applicant to request that they be permitted to vary an application, and that the CAP is not empowered to request or compel an applicant to vary an application;
 - (b) a variation of an application may be permitted, providing that the essential nature of the development does not change. The test for determining whether the essential nature of a development has changed is to ask whether the amended proposal is essentially the same as the original proposal.
- (6) When the application is next brought before the CAP for consideration after a deferral, the applicant and representor will not again be heard by the CAP unless the application has been readvertised and a new Hearing of Representations is to be held. The Presiding Member may however allow CAP Members to address questions to the applicant or the representor who must limit their responses to the questions raised.

15. Conflict of Interest

- (1) If a CAP Member is of the view that they have a conflict of interest in relation to a matter before the CAP they are required to make a disclosure clearly stating the nature of that interest to the CAP, in accordance with: Clause 7(a) of the Code of Conduct adopted by the Minister pursuant to Schedule 3 of the Act, and then in the CAP Meeting when the relevant agenda item is reached, must remove themselves from the CAP Meeting in accordance with clause 7(b) of the Code of Conduct.
- (2) If a CAP Member does declare a conflict of interest, then the attached form in Appendix 1 shall be completed and submitted to the Presiding Member, which will then be attached to the minutes.

16. Conduct

- (1) CAP Members must act at all times in accordance with Section 15(2) of the Act and the Code of Conduct and professional standards adopted pursuant to Schedule 3 of the Act.
- (2) The Presiding Member may adjourn a CAP Meeting in the event of a disruption or disturbance by a CAP Member, an applicant, a representor or any person or person's presence at the CAP Meeting of the CAP until such time as the disruption or disturbance ceases, or failing that, order a persons or persons to leave the CAP Meeting.
- (3) The CAP whenever possible will conduct its CAP Meetings in public, however should the discussion determination of a development application be inhibited by the presents of the public at the CAP Meeting the CAP may exclude the public from attendance pursuant to regulation 13 of the Regulations.
- (4) Where a CAP Meeting is convened online, via teleconference or other means other than a physical CAP Meeting, the Presiding Member may mute or disconnect a person from the CAP Meeting link in the event that the person is, in the opinion of the Presiding Member, behaving in accordance with clauses 14(2) or 14(3) above.
- (5) Where a CAP Meeting is convened online, via teleconference or other means other than a physical CAP Meeting, and the CAP resolves to exclude the public from the CAP Meeting pursuant to the Regulations, members of the public will, as relevant, be excluded from the CAP Meeting via livestream being paused or otherwise audio and video feeds being disabled for the duration of the confidential item.
- (6) CAP Members must not initiate individual discussions with applicants, representors or government agencies regarding a matter that is or is likely to be before the CAP for determination, and, if placed in a situation where such discussion is unavoidable, should not express an opinion that could be constructed as having made a decision in relation to the proposal before the CAP has collectively assessed and determined the development application.

17. Compliance with Code of Conduct

- (1) A person may make a complaint to the State Planning Commission (the Commission) if the person believes that a CAP Member has acted in contravention of the Code of Conduct.
- (2) A complaint must:
 - (a) be in writing; and
 - (b) contain particulars of the allegation on the complaint is based: and
 - (c) be verified by statutory declaration.
- (3) Except with the approval of the State Planning Commission, a complaint must not be lodged with the Commission more than six (6) months after

the day on which the complainant first had notice of the matters alleged in the complaint.

18. Planning Policy

- (1) The CAP may, from time to time, consider trends, issues and other matters relating to planning or development that have become apparent or arisen through the assessment of development applications, and report to Council accordingly. However, the Act does not empower the CAP to act as a policy formulating body.
- (2) The CAP may, upon request from the Council, comment on draft planning policy.
- (3) Elected Members on the CAP are able to participate as Elected Members in the ordinary business of Council planning policy formulation (i.e. They may sit on planning policy committees and undertake other activities associated with the formation of planning policy) providing they are not acting in their capacity as a CAP Member.
- (4) Independent Members of the CAP may continue to exercise their rights as private citizens with respect to any activity related to the development of planning policy under the Act, providing they are not acting in their capacity as a or do not have a conflict of interest with any business before the CAP.

19. Review of Assessment Manager Decisions

Should an applicant commence a review against a decision of the Assessment Manager pursuant to section 203 of the Act, the review will be conducted in accordance with the "Policy for Assessment CAP Review of Decision of Assessment Manager" adopted by the CAP and which forms Appendix 2 to these procedures.

20. Planning Appeals

Should an appeal be lodged with the Environment, Resources and Development Court (**ERD Court**) in the relation to a decision of the CAP, the CAP will determine whether any 'compromise proposal' is acceptable or the matter will proceed to a Hearing of the ERD Court.

21. Other Matters

- (1) Should a CAP Member receive by direct post, fax, e-mail or other means, information in relation to a development application being assessed by Council development assessment officers which may be referred for decision by the CAP at a future time, then the CAP Member should immediately forward the information received to the Assessment Manager. The CAP Members should not acknowledge receipt of the information nor enter into discussion with the sender in relation to any matters contained within the information received. If a CAP Member receives such information, he or she must disclose this fact to the CAP

Meeting, and confirm that the information will not be taken into account for the purposes of making a decision on the relevant application.

- (2) Should a request be made for public comment on the operations or decisions made by the CAP then the matter should be referred to the Presiding Member. Comment may be made at the discretion of the Presiding Member.
- (3) The CAP at a CAP Meeting may appoint an additional CAP Member for the purpose of providing independent expert advice on any relevant matter before the CAP. The person will be appointed under section 86 of the Act and will be a Member of the CAP in all respects but will not have a vote on any matter arising for determination by the CAP.
- (4) The CAP at a CAP Meeting may request independent expert advice on any relevant matter before the CAP. The request being referred to the Assessment Manager. If the Assessment Manager decides not to engage such advice, then the CAP must be advised of the decision and the reason as soon as reasonably possible.
- (5) The role of the CAP is not one of mediator or arbitrator for parties expressing divergent views but is a decision maker charged with the responsibility of assessing each proposal against the Planning and Design Code. It is a role that is inquisitorial rather than adversarial. The CAP does not therefore have a role as a mediator or arbitrator at its CAP Meetings or otherwise between an applicant and representors.
- (6) A proceeding of the CAP (i.e. any decision made by the CAP) is not invalid by reason of a vacancy in its membership or a defect in the appointment of a CAP Member.
- (7) Except insofar as a procedure is not prescribed by the Act or the Regulations, the procedures of the CAP in relation to the conduct of its business will be determined by the CAP.

22. Electronic Matters

- (1) One or more CAP Members may attend a meeting via electronic means with prior approval of the Presiding Member and Assessment Manager.
- (2) A CAP Member attending a meeting via electronic means is taken to be present at the meeting provided that the CAP Member:
 - (a) can hear and, where possible, see all other CAP Members who are present at the meeting;
 - (b) can hear and, where possible, see all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;
 - (c) can be heard and, where possible, seen by all other CAP Members present at the meeting; and

- (d) can be heard and, where possible, seen by the person recording the minutes of the meeting.
- (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) 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.
- (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 CAP Members disconnect from or are disconnected from the meeting.

APPENDIX 1

Declarations of Interest Form – Direct or Indirect or Personal or Pecuniary Interest

This declaration shall be completed by a Council Assessment Panel (**CAP**) Member in accordance with the Assessment Panel Code of Conduct and *Planning, Development and Infrastructure (General Regulation) 2017 (Regulations)*. A disclosure by a CAP Member of an assessment panel of a direct or indirect personal or pecuniary interest in any aspect of a development or anybody associated with any aspect of a development required under the Planning Development and Infrastructure Act (**Act**) must be recorded in the minutes of the assessment panel. The information contained within this declaration will be included in the CAP Meeting minutes.

A CAP Member of a CAP will be taken to have an interest in a matter, if an associate of the CAP Member (within the meaning of section 3 (7) of the Act) has an interest in the matter. (See reverse).

Council Assessment Panel Member Name:

Date of Panel Meeting: _____

Agenda item number: _____

Tick the relevant box of relevant conflict of interest provision:

☐ Direct ☐ Indirect ☐ Personal ☐ Pecuniary

Nature and details of the Conflict of Interest:

Signature of Panel Member

Date of Declaration

This conflict of interest has been identified using Section 3 (7) of the Act.

For the purposes of this Act, a person is an associate of another person if—

- (a) the other person is a relative of the person or of the person's spouse or domestic partner; or (b) the other person—*
 - (i) is a body corporate; and*
 - (ii) the person or a relative of the person or of the person's spouse or domestic partner has, or 2 or more such persons together have, a relevant interest or relevant interests in shares of the body corporate the nominal value of which is not less than 10% of the nominal value of the issued share capital of the body corporate; or*
- (c) the other person is a trustee of a trust of which the person, a relative of the person or of the person's spouse or domestic partner or a body corporate referred to in paragraph (b) is a beneficiary; or*
- (d) the person is an associate of the other person within the meaning of the regulations.*

Staff Use Only	
Panel Member left the Panel Meeting at:	
Panel Member returned to the Panel Meeting at:	
Recording staff members name:	
Date:	