Council Assessment Panel Terms of Reference - Operating Procedures

Record number	D26/49095
Committee Members	Independent Member(s): Mr Mark Adcock (Presiding Member) Ms Nitsan Taylor Mr Grant Hewitt Mr Adam Squires Mr Scott McLuskey (Deputy Member) Elected Member(s): Cr Kristianne Foreman Cr Donna Proleta (Deputy Elected Member)
Last reviewed	27 May 2026
Adoption reference	
Resolution number	3
Previous review dates	19 December 2023 16 December 2022

Interpretation

- **Act** – Planning Development and Infrastructure Act 2016 (SA)
- **CAP** - Council Assessment Panel
- **Council** – the City of Tea Tree Gully, the organisation.
- **Deputy Member** – persons who can be appointed or authorised to act as a backup or substitute of other members.
- **Elected Member** – the Mayor or Councillor (as defined in the Act) of the Council.
- **Panel** – Council Assessment Panel (also known as CAP)
- **The Council** – the Elected Member body.
- **ToR** – Terms of Reference
- Any reference to the Act or law includes any Act or law replacing it. These Terms of Reference will be interpreted subject to the provisions of the Act.

1. Purpose

1.1 The purpose of the CAP is to act as an independent body from the Council in accordance with the requirements of the Act; and

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

Councils are required to establish a CAP under Section 83 of the Planning Development and Infrastructure Act 2016.

2. Roles and Functions

1. To act as a delegate of the Council in accordance with the requirements of the Act; and

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

3. To perform other functions (other than functions involving the formulation of policy) assigned to the Panel by the Council.

3. Meetings

Ordinary Meetings

3.1 Subject to clause 1.2, ordinary meetings of the City of Tea Tree Gully CAP will be held at such times and places as determined by the CAP.

3.2 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than five clear days prior to the holding of the meeting in accordance with clause 1.4

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;

3.3.3 be signed by the Assessment Manager;

3.3.4 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); and

3.3.5 be given to a CAP Member personally, by post to a place authorised in writing by the Member or by other means authorised by the Member as being an available means of giving notice.

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 Members.

3.5 A copy of the agenda and all available attachments for all meetings of the CAP will be available for viewing by the public on the Council's website as soon as practicable after the time that notice of the meeting has been given to CAP Members until the conclusion of the CAP meeting.

3.6 The Assessment Manager may cancel or reschedule the scheduled CAP meeting where circumstances dictate, where there are no matters of business are listed on the agenda.

In rescheduling a meeting, the Assessment Manager will work with the CAP Members to ensure the availability and convenience of members of the Committee.

3.7 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.

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

Special Meetings

3.9 The Assessment Manager, may by delivering a written request to the Presiding Member, or two or more CAP Members require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.

3.10 On receipt of a request pursuant to clause 3.9, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP members at least 4 days before the commencement of the special meeting.

Commencement of Meetings

3.11 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.

3.12 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.

3.13 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.

4. Membership

4.1 Appointment of members

4.1.1 Membership of the Panel will consist of five (5) members appointed by the Council taking into account the requirements of the Act, comprising:

4.1.1.1 Four (4) Independent Members, not being Members of the Council or State Parliament

4.1.1.2 One (1) Elected Member

4.1.2 The Council will appoint one of the Independent Members as the Presiding Member of the Panel taking into account the requirements of the Act.

4.1.3 The Council may appoint at least one Deputy Presiding Member of the Panel, subject to clause 4.1.1.1 not being Members of the Council or State Parliament.

4.1.4 When appointing CAP Members, the Council may have regard to the following:

4.1.4.1 The candidate's knowledge of the operation and requirements of the Act

4.1.4.2 In relation to Independent Members, the candidate's qualifications or experience in a field that is relevant to the activities of the CAP, and

4.1.4.3 In relation to the Elected Member, the candidate's experience in local government

4.2 Appointment of Deputy Members

4.2.1 The Council may 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.

4.2.2 Subject to clause 4.2.5, a Deputy Member must not be a Member of the Council or State Parliament.

4.2.3 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.

4.2.4 In appointing a Deputy Member, the Council may have regard to the matters in clause 4.2.2, as well as to the qualifications and experience of the CAP Member or CAP Members to whom the candidate will be a deputy.

4.2.5 The Council may appoint at least one Deputy Elected Member to the CAP for the purpose of filling in for the Elected Member who is unable to attend a CAP meeting or part of a CAP meeting.

4.2.6 In appointing a Deputy Elected Member, the Council may have regard to the matters in clause 4.1.4.3.

4.3 Expression of interest

4.3.1 The Council will call for expressions of interest for appointment of CAP Members.

4.4 Presiding Member and Acting Presiding Member

4.4.1 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.

4.4.2 The Presiding Member will preside at any CAP meeting at which he or she is present.

4.4.3 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.

4.4.4 In the event that the Presiding Member resigns or is removed from office, the Council will appoint an Independent Member to be the Presiding Members for such term and on such conditions as determined by the Council.

4.5 Term of Appointment

4.5.1 Subject to clause 4.8, Independent Members will be appointed for a term as determined by Council.

4.5.2 Subject to clause 4.8, the Council Member will be appointed for a term of up to 4 years and on such other conditions as determined by the Council.

4.5.3 Deputy Members will be appointed for a term as determined by Council.

4.6 Vacancy in Membership

4.6.1 In the event of a vacancy arising in the office of a CAP Member (e.g. death, resignation), 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.

4.6.2 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.

4.6.3 In appointing a CAP Member pursuant to clause 4.6.1, the Council may have regard to the matters in clause 4.1.4 or 4.2.5 as the case requires.

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

4.7 Conditions of appointment

4.7.1 At all times, CAP Members must act honestly, lawfully, in good faith, and in accordance with any code of conduct applicable to CAP Members.

4.7.2 CAP Members may be remunerated as determined by the Council for the reasonable time and costs incurred by CAP Members in attending CAP meetings.

4.7.3 Different levels of remuneration have been determined by the Council for Independent Members, the Council Member and the Presiding Member

4.8 Removal of a Member

4.8.1 Notice of the determination not given in accordance with Clause 4.9.2 is taken to have been validly given if the CEO or nominee considers it impracticable to give the notice in accordance with that Clause and takes action the CEO or nominee considers reasonably practicable in the circumstances to bring the notice to the attention of the member.

4.9 Removal from Office

4.9.1 Subject to Clause 4.9.4, 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:

4.9.1.1 A breach of a condition of their appointment (or against the code of conduct) as a CAP Member;

4.9.1.2 Misconduct;

4.9.1.3 A breach of any legislative obligation or duty of a CAP Member;

4.9.1.4 Neglect of duty in attending to role and responsibilities as a CAP Member;

4.9.1.5 A failure to carry out satisfactorily the duties of their office;

4.9.1.6 A breach of fiduciary duty that arises by virtue of their office;

4.9.1.7 Except in relation to Deputy Members, a failure without reasonable excuse to attend three consecutive CAP meetings without the CAP previously having resolved to grant a leave of absence to the CAP Member; or

4.9.1.8 In relation to a Deputy Member, a failure without reasonable excuse on three consecutive occasions to attend a meeting of the CAP when requested to do so; or

4.9.1.9 For any other reason the Council considers appropriate. Particulars of the grounds for removal will be communicated to the member at least one (1) calendar month before the meeting of the Council at which the matter will be determined.

4.9.2 The removal of the CAP Member pursuant to clause 4.9.2 will take effect upon the Council passing a resolution to remove the CAP Member from office (unless the Council resolves otherwise), and such resolution will be confirmed in writing to the CAP Member within seven (7) days of being passed.

4.9.3 Prior to resolving to remove a CAP Member from office pursuant to clause 4.9.2, the Council must:

4.9.4 Give written notice to the CAP Member of:

4.9.4.1 Its intention to remove the CAP Member from office pursuant to clause 4.9.2; and

4.9.4.2 The alleged behaviour of the CAP Member falling within clause 4.9.2.1 or reason the Council considers it appropriate to remove the CAP Member,

not less than 14 days before the meeting of the Council at which the matter is to be considered;

4.9.4.3 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

4.9.4.4 Have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

4.9.5 Communication with the member will be in one of the following ways:

4.9.5.1 Personally; or

4.9.5.2 By delivering the 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 Panel or Council meetings, as the case may be; or

4.9.5.3 By leaving it 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 Panel or Council meetings, as the case may be; or

4.9.5.4 By a means authorised in writing by the member as being an available means of giving notice (eg electronically) for the purpose of receiving notices of Panel or Council meetings, as the case may be.

4.9.5.5 Notice of the determination not given in accordance with Clause 4.9.6 is taken to have been validly given if the CEO or nominee considers it impracticable to give the notice in accordance with that Clause and takes action the CEO or nominee considers reasonably practicable in the circumstances to bring the notice to the attention of the member.

5. Quorum

5.1 A quorum for the CAP is three (3) members.

6. Meeting Procedures

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

6.1.1 determine whether the proposal is seriously at variance with the The Code and provide reasons for its determination; and

6.1.2 provide reasons for granting or refusing Planning Consent and for the imposition of any conditions.

If the CAP determines that a proposal is seriously at variance with the Planning and Design Code (the Code), it must refuse Planning Consent to the application and provide specific reasons for refusal.

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

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; or

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

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

6.3.1 a person who has lodged a representation in relation to a publicly notified application 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 an agent;

6.3.2 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;

6.3.3 where no representors appear at the meeting, the Presiding Member may, in their discretion, allow an applicant to be heard in support of their application, in person or by an agent;

6.3.4 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at their discretion;

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

6.3.6 following addresses from representors and the applicant, the Presiding Member will invite all Panel Members to speak on any matter relevant to the application.

6.4 The Presiding Member may in their discretion accept and allow any additional material submitted by a representor or applicant.

6.5 Such additional material to be considered by the CAP pursuant to clause 6.4 must be provided to the applicant and/or representor(s) (as the case may be) and those parties are to be provided with an opportunity to respond, at the discretion of the Presiding Member.

6.6 Each Member present at a meeting of the CAP 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.

6.7 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.

6.8 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.

6.9 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 the person/people are, in the opinion of the Presiding Member:

6.9.1 behaving in a disorderly manner; or

6.9.2 causing an interruption or disruption to the meeting.

Additional procedures

6.10 Insofar as any procedure to be followed by the CAP is not prescribed by the Act and Regulations, the CAP's Terms of Reference, the code of conduct or the Meeting Procedures - the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.

6.11 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.

Review of decision of Assessment Manager

6.12 An application for review must be:

6.12.1 made using the Application to Assessment Panel for Assessment Manager's Decision Review (the form)

6.12.2 lodged in a manner identified on the form; and

6.12.3 lodged within one month of the applicant receiving notice of the Prescribed Matter, unless the Assessment Panel in its discretion grants an extension of time.

6.13 The Presiding Member may, in his or her discretion, determine that an application for review shall not be considered by the Assessment Panel on the basis that it is frivolous or vexatious, or is otherwise an abuse of process.

6.14 The Assessment Manager shall:

6.14.1 collate for the Panel all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter including the delegated officers assessment report;

6.14.2 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 member of the Assessment Panel.

6.15 The review hearing will be conducted within the following parameters:

6.15.1 The Panel will consider the matter afresh;

6.15.2 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 Assessment Panel, except for information provided to the Assessment Panel in response to a request from the Presiding Member or a Member of the Assessment Panel;

6.15.3 The Panel may receive submissions or additional information from the applicant as part of the review process at the discretion of the Presiding Member;

6.15.4 The Presiding Member will permit Panel members to ask questions or seek clarification from the applicant and/or Assessment Manager (or delegate) in his/her discretion.

6.16 The Panel may, on a review:

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

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

6.16.3 set aside the Assessment Managers decision on the Prescribed Matter and substitute its own decision;

6.16.4 defer with the agreement of the applicant.

7. Reporting

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

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

The minutes will record:

7.2.1 the names of all Members present;

7.2.2 the names of all Members from whom apologies have been received;

7.2.3 the name and time that a Member enters or leaves the meeting;

7.2.4 the name of every person who makes a representation;

7.2.5 in relation to each application determined by the CAP:

7.2.5.1 the determination of the CAP as to whether the proposal is seriously at variance with the Code;

7.2.5.2 the reasons for granting or refusing Planning Consent and for the imposition of any conditions; and

7.2.5.3 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;

7.2.6 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;

7.2.7 a decision to exclude the public from attendance pursuant to the Regulations;

7.2.8 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;

7.2.9 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

7.2.10 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.

7.3 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.

8. Delegations

The delegation of the power to the Assessment Manager to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which one or more of the following apply:

1. No valid representations are received against the proposed development;

2. All valid representations against the proposed development are withdrawn;

3. No representor who has lodged a valid representation against the proposed development wishes to be heard;

4. A deemed consent notice has been served on the Panel under Section 125(2) of the Act

5. Any development application by the City of Tea Tree Gully (excluding significant tree applications) where the development costs are less than $50,000, unless it is related to a government grant and there are time constraints which do not allow sufficient time for CAP to consider the application; or the application involves a variation to a previously approved application and the variations are unlikely, in the opinion of the delegate, to unreasonably impact on the owner or occupier of local residents within the locality

6. Any Regulated or Significant Tree application submitted by the City of Tea Tree Gully, where removal of the Regulated or Significant Tree can be justified on amenity grounds, as determined by an appropriately qualified person.