



REPORT FOR

**CONFIDENTIAL MEETING OF COUNCIL**

MEETING DATE

**14 NOVEMBER 2023**

RECORD NO:

**D23/89268**

REPORT OF:

**COMMUNITY SERVICES**

TITLE:

**COUNCIL ASSESSMENT PANEL - EXPRESSIONS OF INTEREST**

1. *That pursuant to Section 90(2) of the Local Government Act 1999, the Council orders that the public (except staff on duty) be excluded from the meeting to enable discussion on the Council Assessment Panel - Expressions of Interest.*
2. *That the Council is satisfied that pursuant to section 90(3)(a) of the Local Government Act 1999, the information be received, discussed or considered in relation to this item is:*
  - *information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead) on the basis that it:*
    - *would involve the unreasonable disclosure of information concerning the applicants for the Independent Member positions on the Council Assessment Panel and their personal details, skills and attributes*
    - *is inappropriate to disclose the successful applicants before they have been notified*
3. *That the Council is satisfied that the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter by the need to keep the discussion of this matter confidential as the details of the successful candidates should not be prematurely made public until they have been notified of their appointment on the Panel.*

## **PURPOSE**

**To consider the appointment of Independent Members, Presiding Member and Deputy Independent Member for the Council Assessment Panel in accordance with the requirements of the *Planning, Development and Infrastructure Act 2016*.**

## **RECOMMENDATION**

*It is recommended that each of the following motions be dealt with separately.*

### **1. Appointment of Independent Members**

#### **a. That Council appoints:**

- Mr Mark Adcock
- Mr Alex Mackenzie
- Ms Nitsan Taylor
- Mr Grant Hewitt

**as the Independent Members to the Council Assessment Panel from 2 December 2023 until 1 November 2025.**

### **2. Appointment of Deputy Independent Member**

**That Council appoint Mr Adam Squires as Deputy Independent Member to the Council Assessment Panel from 2 December 2023 until 1 November 2025.**

### **3. Appointment of Presiding Member**

**That Council appoint Mr Mark Adcock as the Presiding Member to the Council Assessment Panel from 2 December 2023 until 1 November 2025.**

## **RETENTION OF CONFIDENTIAL DOCUMENTS**

1. That having considered the agenda item titled “ Council Assessment Panel - Expressions of Interest” and dated 14 November 2023 in confidence under section 90(2) & (3) a and Section 91(7) of the Local Government Act 1999:
  - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

**the Council pursuant to section 91(7) of the Act orders that the report, attachments and minutes relevant to this item be retained in confidence until all applicants have been advised of the outcomes of their appointments or until the Council resolves otherwise, whichever occurs first.**

2. That Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91 (7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Mayor and reporting to the Elected Members of the revocation.

## 1. BACKGROUND

Councils are required to establish a CAP under the *Planning, Development and Infrastructure Act 2016* ('PDI Act'). The PDI Act allows the Designated Authority (Council) to appoint Independent members as long as they are capable of meeting the requirements outlined in section 83 of the Act.

The Council Assessment Panel (CAP) consists of four (4) Independent Members and one (1) Elected Member. CAP is responsible for assessing a wide range of development applications, as delegated under the PDI Act.

### 1.1 Current Membership of CAP

The current members of CAP include:

- Mr Mark Adcock (Presiding Member)
- Mr Alex Mackenzie (Independent Member)
- Mr Julian Rutt (Independent Member)
- Mrs Beth Merrigan (Independent Member)
- Mrs Nitsan Taylor (Deputy Independent Member)
- Councillor Damian Wyld (Elected Member) as the Council representative.

All of the Independent Members have indicated their desire to continue as Independent Members of the CAP for another two-year term.

### 1.2 Previous Council resolutions

Council at its meeting on 13 December 2022 considered a report to extend the appointment of the Independent Members and Deputy Independent Member for the Council Assessment Panel (CAP) in accordance with the requirements of the PDI Act.

Council resolved to reappoint the existing assessment panel members until 1 December 2023, at which point an expression of interest process would occur for the four independent member positions. This would provide the opportunity to the newly elected Council to determine the membership for the CAP.

At its meeting on 10 October 2023, Council requested that the CEO, in implementing Council's [Recruitment for Council Committees Policy](#), consider appointing Cr Wyld and Cr Unger as members of the selection panel (with Cr Foreman as a proxy member). The Selection Panel is responsible for:

- a) Developing the selection criteria
- b) Assessment of individual applications and short listing of candidates who meet the relevant Selection Criteria
- c) Interviewing and the selection of preferred candidate(s)
- d) Drafting a report to Council with recommendations to Council for approval

e) Providing feedback to applicants regarding the outcomes.

The CEO determined the membership of the Council Assessment selection panel to include Cr Unger, Cr Foreman, Nathan Grainger Manager of City Development and Ryan McMahon Chief Executive Officer, based on availability.

### 1.3 CAP meeting times

Meetings of CAP are typically held at 10.00am on the third Tuesday of every month, subject to availability of matters requiring a decision of CAP. The timing of meetings will be considered by CAP once the new membership is appointed.

## 2. DISCUSSION

The purpose of the report is to consider the appointment the Independent Members, including a Deputy Independent Member, and Presiding Member for the CAP in accordance with the requirements of the PDI Act.

Applications were received for 14 candidates. To proceed to interview, the candidates were required to meet the accreditation requirements and have proven experience on a Council Assessment Panel and or similar committee. The selection panel determined that seven (7) candidates would proceed to the interview stage.

The Panel agreed that Mark Adcock would be recommended for the position of Presiding Member without interview given his experience and his contribution to CAP as a Presiding Member.

<b>Applicant</b>	<b>Accreditation</b>	<b>Experience</b>	<b>Position</b>
Mark Adcock	Yes	Yes	Presiding Member
Nitsan Taylor	Yes	Yes	Independent Member
Beth Merrigan	Yes	Yes	Independent Member
Julian Rutt	Yes	Yes	Independent Member
Alex McKenzie	Yes	Yes	Independent Member
Adam Squires	Yes	Yes	Independent Member
Fiona Barr	Yes	Yes	Independent Member
Grant Hewitt	Yes	Yes	Independent Member
Ryan Moyle	Yes	No	Independent Member
Hannah Connell	No	No	Independent Member
Ben Schnell	Yes	No	Independent Member
Charith De Silva	No	No	Independent Member
Leo Tam	No	No	Independent Member
Hazel May	No	No	Independent Member

**Figure 1: List of candidates / applicants**

## 2.1 CAP Membership Selection requirements

### ***Independent Members and Deputy Independent Member***

Independent CAP members are required to possess a sound knowledge of the PDI Act (and its regulations), and must have practical knowledge in related fields that will achieve accreditation under the PDI Act.

In particular, they must demonstrate applied experience in either town planning, building, architecture, urban design, environmental planning, environment or planning law, or any other field that is relevant to the activities of CAP. Knowledge of the City of Tea Tree Gully area, Planning and Design Code, and the development assessment process, were also listed as desirables for each role.

### ***Accredited Professionals Scheme***

The Accredited Professionals Scheme enhances the decision-making in the planning system and gives applicants greater confidence in the way that their development applications are assessed. All independent members are required to hold a Level 2 accreditation as prescribed in the PDI Act.

To be accredited for Planning level 2 you must:

- (a) Hold a relevant planning qualification as determined by the Accreditation Authority under regulation 5 of the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*; and
- (b) Have a minimum of 2 years full time or equivalent experience considered appropriate by the Accreditation Authority and covering at least 6 months experience in at least three of the technical skills applying to a Level 1: Assessment Manager

or

- (a) Hold a qualification in a planning related field - e.g. architecture, engineering, environmental management, law, construction management, land surveyor; and
- (b) Hold membership with an allied industry body to the satisfaction of the Accreditation Authority together with 2 years full time or equivalent experience considered appropriate by the Accreditation Authority and covering at least 6 months experience in at least three of the following technical skills:
  - Planning or planning related policy development, review and/or policy interpretation and advice.
  - Communication, negotiation and/or mediation for planning or planning related outcomes with stakeholders. Designing and/or delivering community engagement of planning or planning related matters.
  - Administration and/or leadership of urban and regional governance.
  - Project management of planning or planning related matters.

or

- (a) Be an elected member or former elected member with over 6 years' experience on a Council Assessment Panel and can demonstrate detailed experience in the assessment process.

To obtain your level two accreditation, CAP members must complete 10 CPD units of training in each 12-month accreditation period of which 4 CPD units must be completed in the following professional competencies:

- 1 Unit in performance-based planning
- 2 units in decision making in development assessment
- 2 units in governance
- 1 unit in ethics in planning.

The costs associated with an application to the accreditation authority for accreditation under the Regulations is \$582 plus around \$100 per unit of training to meet the requirements of the accreditation scheme. The total estimated cost for a panel member to work on a Council Assessment Panel is \$1,582.

This process needs to be repeated each year to retain their accreditation. The costs associated with this accreditation is borne by the panel member and not Council.

All of the current Independent Members are Level Two accredited with significant Planning or Architectural experience and also have experience on other Council Assessment Panels. All of the independent Members have demonstrated they have a solid understanding of the operating and meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017* ('PDI Regulations').

## **2.2 Selection Panel recommendation**

The panel has recommended the retention of three (3) of its current independent members:

- Mr Mark Adcock
- Mr Alex Mackenzie
- Ms Nitsan Taylor

The panel has also recommended to appoint two (2) new independent members to replace Mr Julian Rutt and Mrs Beth Merrigan:

- Mr Grant Hewitt
- Mr Adam Squires (as Deputy independent member)

A summary of the experience and qualifications of the recommended applicants is provided as follows:

***Mr Mark Adcock – (Independent Member, Presiding Member) - Current***

Mr Adcock is an experienced level one and two accredited Town Planner who has served in private practice and State and Local Government since 1977.

Mr Adcock's experience in serving on Panels and Committees includes:

- *City of Tea Tree Gully Council Assessment Panel (Presiding Member) - September 2020- Current*
- *City of Adelaide Council Assessment Panel (Presiding Member) - present*
- *State Commission Assessment Panel (Member) - Nov 2018 – May 2020*
- *Native Vegetation Council (Member) - 2015 – 2018*
- *City of Marion Development Assessment Panel (Presiding Member) - 2005 to 2011; (Member) - 2003-2005*
- *City of Norwood, Payneham and St Peters Development Assessment Panel (Member) - 2006- 2011*
- *City of Charles Sturt Development Assessment Panel (Member) - 2006-2008*

***Mr Alex Mackenzie - (Independent Member) – Current***

Mr Mackenzie is an experienced level two accredited Town Planner who has served in private practice and State and Local Government since 2007. Mr Mackenzie is the City Development Manager for the City of Mitcham.

Mr Mackenzie's experience in serving on Panels and Committees includes:

- *City of Tea Tree Gully Council Assessment Panel (Member) - September 2020- Current*
- *Independent Member Eyre Peninsula Regional Assessment Panel (RAP)*
- *State Committee Member of the Planning Institute of Australia (SA)*
- *Member of the UDIA Retirement Living Committee Former Executive Officer*
- *Ministerial Advisory Committees on Planning Reform*
  - *Development Industry Committee*
  - *Local Government Committee*
  - *Community Participation and Sustainability Committee*

***Ms Nitsan Taylor - (Independent Member) - Current***

Ms Taylor is an experienced level one and two accredited Town Planner who has served in the public sector for 18 years before joining the private practice as a principal planner.

Ms. Taylor's experience in serving on Panels and Committees includes:

- *City of Tea Tree Gully Council Assessment Panel (Deputy Member) - November 2021- Current*



### **Mr Grant Hewitt – (Independent Member) - New**

Mr Hewitt is an experienced level one and level two Building Surveyor with experience in access consulting and disability accommodation who is currently working for the Mid Murray Council. Mr Hewitt also used to be an employee at the City of Tea Tree Gully and therefore is familiar with local requirements for the City.

Mr Hewitt's experience in serving on Panels and Committees includes:

- *The Barossa Council - Council Assessment Panel (Member)*
- *Barunga West Council – Council Assessment Panel (Member)*
- *Light Regional Council – Council Assessment Panel (Member)*
- *Riverland Regional Assessment Panel – (Deputy Member)*

### **Mr Adam Squires – (Deputy Independent Member) - New**

Mr Squires is an experienced level one and level two accredited Town Planner who has served in Local Government since 2011. Mr Squires is the Manager Planning Services and the Assessment Manager at the City of Playford Council.

Mr Squires experience in serving on Panels and Committees includes:

- *Light Regional Council Assessment Panel (Member)*
- *Mid North Regional Assessment Panel (Member)*

Copies of the existing Council Assessment Panel Members CVs have been provided on the Elected Member Hub for reference.

The CAP will be considering a request from Council to have having the meeting outside of working hours, however this will be undertaken via separate report once the newly appointed CAP members have considered the matter.

## **3. FINANCIAL**

In September 2020 Council endorsed the sitting fees for CAP members which incur an increase equivalent to CPI each October.

The current fees are set at:

- Presiding Member (\$641.24 per meeting)
- Independent Member (\$524.67 per meeting)
- Elected member (\$291.46 per meeting)

All sitting fees are covered within the existing budget.

#### 4. STRATEGIC OBJECTIVES

##### Strategic Plan

CAP assists Council to deliver its Strategic Plan, Annual Business Plan objectives, legislative compliance and its policy implementation in a timely and professional manner.

The *Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017* commenced on 1 October 2017. These Regulations outline the general administrative and operational procedures and associated matters relevant to the operation of panels, similar to those currently existing. Panels are also be able to adopt additional procedures providing they are consistent with the procedures prescribed by the Regulations.

The following strategic objectives in Council’s Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
<b>Leadership</b>	
<i>Leadership and advocacy is focused on the long term interests of the community</i>	CAP is responsible for making sound planning decisions that have positive outcomes for the City of Tea Tree Gully.
<i>Customer service provides a positive experience for people and is Independent based on honesty and transparency</i>	
<i>Planning considers current and future community needs</i>	
<i>Delivery of services is sustainable and adaptable</i>	
<i>Decision making is informed, based on evidence and is consistent</i>	
<i>Major strategic decisions are made after considering the views of the community</i>	

##### Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on four key themes of organisational excellence. The themes most relevant to this report are: Customer Care, Future Capability and Sustainable Operations due to the implications on development assessment decision making, service models, staffing, CAP governance and potential ongoing training and development costs.

## **Policies / Strategies**

### The Planning and Design Code

The Planning and Design Code (the Code) implements the requirements of the PDI Act and sets out a comprehensive set of policies, rules and classifications which, when combined with mapping, apply in the various parts of the state for the purposes of development assessment.

### Assessment pathways

All development is classified into an assessment pathway (also known as category or classification) by reference to its zone and any applicable subzones or overlays. Tables in each zone classify different development types as either Accepted, Deemed-to-Satisfy or Restricted. If development does not fall within these three classifications, it will be Performance Assessed.

The exceptions to this are:

- Exempt acts/activities that are not development as set out in the Regulations, and don't require a development application
- Impact Assessed development (requiring an Environmental Impact Statement (EIS), which is classified in the Regulations or declared by the Minister.

If an application is required, development falls into one of four categories:

- Accepted Development - only building consent is required, no planning consent is needed.
- Deemed-to-Satisfy Development is assessed by an accredited professional or assessment manager, and must be granted if it complies with the relevant criteria.
- Performance Assessed Development is assessed on its merits by an Assessment Manager or CAP.
- Restricted Development is assessed by the State Planning Commission, while Impact Assessed (EIS) Development is assessed by the Minister for Planning and Local Government.

## **5. LEGAL**

Councils are required to establish a CAP under the PDI Act. The PDI Act allows the Designated Authority (Council) to appoint Independent members as long as they are capable of meeting the requirements outlined in section 83 of the Act.

### ***“83 – Panels established by joint planning boards or councils***

- (1) *The following provisions will apply in relation to an assessment panel appointed by a joint planning board or a council (a **designated authority**) under Division 1:*

- (a) *a designated authority may appoint more than 1 assessment panel but, if it does so, the designated authority must clearly specify which class of development each assessment panel is to assess;*
- (b) *a designated authority must determine—*
- (i) *the membership of the assessment panel, being no more than 5 members, only 1 of which may be a member of a council, and, if the designated authority thinks fit, on the basis that the assessment panel will be constituted by a different number of members depending on the particular class of development that is being assessed by the assessment panel; and*
  - (ii) *the procedures to be followed with respect to the appointment of members; and*
  - (iii) *the terms of office of members; and*
  - (iv) *conditions of appointment of members, or the method by which those conditions will be determined, (including as to their remuneration) and the grounds on which, and the procedures by which, a member may be removed from office; and*
  - (v) *the appointment of deputy members; and*
  - (vi) *who will act as the presiding member of the panel and the process for appointing an acting presiding member;*
- (c) *A person appointed as a member of an assessment panel must be an accredited professional;*
- (d) *A person who is a member of the Parliament of the State is not eligible to be appointed as a member of the assessment panel;*
- (e) *A person appointed as a member of an assessment panel must disclose his or her financial interests in accordance with Schedule 1;*
- (f) *The procedures of an assessment panel must comply with any requirements prescribed by the regulations;*
- (g) *A member of an assessment panel must not act in relation to a development if he or she has a direct or indirect pecuniary interest in any aspect of the development or anybody associated with any aspect of the development;*
- (4) *A person who contravenes subsection (1)(g) is guilty of an offence. Maximum penalty: \$20 000.*

In the event that CAP is unable to fulfil its obligations under Section 83 of the PDI Act, and/or if the Minister has reason to believe that the CAP has failed to comply with a

requirement under Section 83 of the PDI Act, the Minister may request the Commission to conduct an inquiry under Section 86 of the PDI Act. In such situations the Minister has the power to appoint a Local Assessment Panel to replace the CAP under Section 84 (and appoint the members), and could appoint the Planning Commission under Section 94(1)(h) to be the relevant authority of applications within the Council area in the interim.

The fundamental purpose behind this report is to ensure compliance with the requirements of the Act.

## **6. RISK – IDENTIFICATION AND MITIGATION**

Section 83 of the Act requires that a council establish a CAP and appointment members to the Panel. The fundamental purpose behind this report is to ensure compliance with the requirements of the Act.

In the event that CAP is unable to fulfil its obligations under Section 83 of the PDI Act, and/or if the Minister has reason to believe that the CAP has failed to comply with a requirement under Section 83 of the PDI Act, the Minister may request the Commission to conduct an inquiry under section 86.

In such situations the Minister has the power to appoint a Local Assessment Panel to replace the CAP under Section 84 (and appoint the members), and could appoint the Planning Commission under Section 94(1)(h) to be the relevant authority of applications within the Council area in the interim.

Under Schedule 3 of the PDI Act, the Minister may adopt a code of conduct to be observed by members of an assessment panel established under the PDI Act. This code of conduct sets out standards of conduct and professionalism that are to be observed by all members of assessment panels under the PDI Act. This code of conduct must be read in conjunction with the Act. For the purposes of the PDI Act, a key requirement is that all members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of development assessment under the Act.

Members who wish to nominate for appointment to CAP have to declare any conflict of interest or perceived interest that may affect their responsibility to make decisions.

## **7. ACCESS AND INCLUSION**

CAP is responsible for making sound planning decisions that have positive outcomes for the City of Tea Tree Gully and one mechanism for this is via the Code.

## **8. SOCIAL AND COMMUNITY IMPACT**

The function of CAP is to provide an independent assessment mechanism that will achieve Council's vision of a thriving community with a quality lifestyle that values its people and natural environment.

In practice, from a community member's perspective, little will change. CAP will continue to function in accordance with the accreditation requirements under the PDI Act.

Whilst ensuring that the function of CAP is conducted within the requirements of relevant legislation, the focus is on providing a high level of professional service to the community, through creative and analytical thinking which result in the City achieving its vision for the future.

## **9. ENVIRONMENTAL**

Planning decisions made by CAP will shape the City's urban environment. The recommendations contained within this report are (in part) designed to ensure that the Panel members have the necessary skills and experience to make high quality planning decisions on behalf of the community.

## **10. ASSETS**

There is no impact on Assets with this decision.

## **11. PEOPLE AND WORK PLANS**

No change to existing staffing arrangements in relation to the administration of CAP.

## **12. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

There is no obligation to engage with or consult the community in relation to the content of this report.

## **13. COMMUNICATIONS OF COUNCIL DECISION**

The decision of Council, will be communicated through the appropriate communications channels.

#### 14. INTERNAL REPORT CONSULTATION

The following staff have been included in the consultation process in the preparation of this Report.

<b>Name</b>	<b>Position</b>	<b>Consulted about</b>
Chelsea Tully	Team Leader Planning	Planning requirements
Deana Taglierini	Coordinator Governance	Local Government Act

#### Attachments

N/A

#### Report Authorisers

Nathan Grainger Manager City Development	8397 7200
Justin Robbins General Manager Strategy & Finance	8397 7444