

## DISTRICT COUNCIL OF ROBE

### Council Assessment Panel

#### 'Terms of Reference'

#### **General**

##### Establishment

The Council Assessment Panel ("the CAP") is established in accordance with these Terms of Reference pursuant to section 83 of the *Planning, Development and Infrastructure Act 2016* ("the PDI Act") for the purposes of performing functions assigned to it under Part 4 of the *Development Act 1993* ("the Development Act") and under the PDI Act.

##### Objective

The main objective of the CAP is to effectively and efficiently assess and determine as the delegate of the Council applications for Development Approval where Council is the 'Relevant Authority' in under the Development Act.

##### The Mission

To assess applications against the relevant provisions of the Development Plan to ensure consistent assessment and the encouragement of orderly and proper development in an expeditious manner.

##### Quorum

In accordance with regulation 15 of the *Planning, Development and Infrastructure (General) Regulations 2017* ("the PDI Regulations"), a quorum at a 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 2, ignoring any fraction resulting from the division, and adding 1.

##### Meetings

Meetings are to be held monthly at a minimum, and more frequently if required, at the discretion of the CAP.

##### The Functions

The functions of the CAP, as prescribed in the PDI Act and the Development Act are: are:

(a) to act as a delegate of the Council in accordance with the requirements of the PDI Act, the Development Act and any relevant instrument of delegation; and

(b) 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 Development Act; and

(c) to perform other functions (other than functions involving the formulation of policy) assigned to the CAP by the Council, the PDI Act or the the PDI Regulations from time to time.

## Structure

1. The CAP shall consist of five (5) members comprising up to one (1) person who is an elected Council member, with the balance being independent persons (i.e persons who are neither an elected member nor officer of the Council) one of whom shall be appointed by the Council as the Presiding Member.
2. The CAP shall appoint an Acting Presiding Member pursuant to section 83(1)(b)(vi) whenever the Presiding Member is not present at a meeting.
3. Members of the District Council of Robe CAP may not be officers of the Council.
4. The CAP will have delegated responsibility from the Council to determine applications as described in the section under Delegations.

## Membership of the Panel

1. Members of the Panel shall be appointed by Council and shall remain in place for a two (2) year period unless a member is removed from the Panel in accordance with these Terms of Reference or unless the office of the member becomes vacant.
2. A Member whose term of office expires may nevertheless continue to act as a member of the CAP for a period of up to 6 months until he or she is reappointed or a successor is appointed (as the case may be).
3. A member of the CAP may resign from the CAP by giving written notice to that effect to the Chief Executive Officer of the Council.
4. At the expiration of a term of appointment, a member is eligible for reappointment. The Council may reappoint or decide to call for nominations for positions at its sole discretion.
5. The CAP, as far as practicable, will consist of equal numbers of men and women.
6. Members of the CAP will be required to comply with any Code of Conduct adopted by the Minister in accordance with Schedule 3 of the PDI Act.
7. The Chief Executive Officer of the Council will appoint an Assessment Manager in accordance with Section 87 of the PDI Act. The Assessment Manager is not a member of the CAP.
8. The functions of the Assessment Manager are prescribed in section 87 of the PDI Act.

## Delegation

1. Detailed delegations to the CAP pursuant to section 20 of the Development Act are explained in the Council's Delegations Policy/Register.
2. Delegations shall be reviewed annually.
3. The CAP shall assess and determine development applications in accordance with the delegations from the Council as explained in the Council's Delegations Policy. The CAP shall not determine applications for Provisional Building Rules Consent under the Development Act.

### Appointment of Members

1. Council retains at its full discretion the power to appoint and remove members of the CAP in accordance with section 83 of the PDI Act.
2. Council will cause a notice to be published in a paper widely circulating in the area the appointments made to the CAP within 14 days of doing so.
3. Council, at its full discretion, may set sitting fees and traveling allowances for members of the CAP.

### Conduct of Members

1. All members of the CAP must disclose his or her financial interests in accordance with Schedule 1 of the PDI Act.
2. A member of the Panel who has a direct or indirect personal or pecuniary interest in a matter before the Panel (other than an indirect interest that exists in common with a substantial class of persons):
  - (a) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the Panel; and
  - (b) must not take part in any hearings conducted by the Panel, or in any deliberations or decision of the Panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.
3. A member of the Panel will be taken to have an interest in a matter if an associate of the member (within the meaning of section 3(7) of the PDI Act) has an interest in the matter.
4. Pursuant to Regulation 11 of the PDI Regulations, any person may make a complaint to the State Planning Commission ("SPC") if the person believes that a member of the Panel has acted in contravention of the Code of Conduct prescribed by the Minister under Schedule 3 of the PDI Act. The SPC may conduct an investigation regarding the complaint at its sole discretion.

### Vacancy of Office

1. The office of a member of the CAP will become vacant if the member:
  - (a) dies;
  - (b) completes a term of office and is not reappointed;
  - (c) resigns by written notice to the Council;
  - (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
  - (e) is convicted of an indictable offence punishable by imprisonment;
  - (f) is removed from office in accordance with these Terms of Reference.

2. Upon the office of a Member becoming vacant or upon the removal of the Member from office, the Council will make every endeavor to appoint a new member at the next ordinary meeting (or in the circumstance that the CAP cannot enact a quorum, a special meeting) of the Council.

3. The vacancy of office of a single member of the CAP will not invalidate the decision making of the remaining members of the CAP.

#### Removal from Office

1. Subject to the procedural requirements under this Clause, the Council may resolve to remove a member from the CAP on the following grounds:

(a) breach of, or failure to comply with, the conditions of appointment; or

(b) maladministration or misconduct; or

(c) neglect of duty; or

(d) incapacity to carry out satisfactorily the duties of his or her office; or

(e) failure to carry out satisfactorily the duties of his or her office; or

(f) failure to disclose his or her financial interests in accordance with Schedule 1 of the PDI Act; or

(g) upon receipt of a recommendation or direction from the SPC that the member be removed from office pursuant to regulation 11 of the PDI Regulations.

2. Particulars of the grounds for removal shall be communicated to the member at least one (1) calendar month before the meeting of the Council at which the matter will be determined.

3. The member shall provide any written representation in response to the particulars at least fourteen (14) days before the meeting of the Council at which the matter will be determined, which response must be taken into account in any determination by the Council

4. The determination of the Council shall be communicated to the CAP member, and in the event of an adverse determination the member shall cease to be a member immediately after the Council has communicated its determination to him/her.

#### Amendments to Terms of Reference

1. The Council may change the Terms of Reference of the CAP in part or in whole at any time as it sees fit by successful resolution at an ordinary or special meeting of Council (subject to any such changes being consistent with the PDI Act).

2. Council will review the Terms of Reference at least once during the term of Council.

#### Adoption of Terms of Reference

The Terms of Reference were adopted at the meeting of Council / /2017, Resolution Number:

Adopted by the District Council of Robe, Council Meeting held 11.7.17  
resolution no. 13/2018