



City of
Mount Gambier



Wattle Range
COUNCIL



District Council of
Grant



Limestone Coast Southern Regional Assessment Panel

TERMS OF REFERENCE

Adopted 10 August 2022

1. ESTABLISHMENT

- 1.1 The name of the Panel shall be the Limestone Coast Southern Regional Assessment Panel.
- 1.2 The Panel is established by the Minister for Planning (“The Minister”) pursuant to Section 84(1) of the Planning, Development and Infrastructure Act 2016 (the “PDI Act”) and becomes operational from 1 July 2022.
- 1.3 The Panel is constituted for the areas of the following Councils:
 - (a) District Council of Grant
 - (b) District Council of Robe
 - (c) Wattle Range Council
 - (d) City of Mount Gambier

2. MEMBERSHIP OF RAP

Appointment of Members

- 2.1 The CAP will be constituted of five (5) Independent Members (**RAP Members**), to be appointed by the Councils not being Members of the Council or State Parliament or Council Officers.
- 2.2 Pursuant to section 84(1)(e) of the PDI Act, the Minister makes provision for the appointment of members of the Panel as follows:
 - (a) Only 1 Member of the panel may be a member of a Council.
 - (b) All members of the panel must be an accredited professional – Planning Level 2.
 - (c) Clause 2.4 does not apply if the person is a member of a council and the relevant councils are satisfied that the person is appropriately qualified to act as a member of the panel on account of the person's experience in local government.
 - (d) The process to be adopted for appointing a person as a member of the panel is set out in the Limestone Coast Southern Regional Assessment Panel Memorandum of Understanding entered into between the Councils.

Appointment of Deputy Members

- 2.3 The Councils are able to appoint at least one Deputy Member to the RAP for the purpose of filling in for a RAP Member who is unable to attend a RAP meeting or part of a RAP meeting.
- 2.4 A Deputy Member must not be a Member of the Council or State Parliament.

- 2.5 Where more than one Deputy Member is appointed, the Councils must specify the circumstances in which each Deputy Members (or any one or more of them) will be invited to attend a RAP meeting.
- 2.6 Unless the context otherwise requires, a reference to a RAP Member in this document includes a Deputy Member.

Expression of Interest

- 2.7 The Host Council will call for expressions of interest for appointment of RAP Members.

Presiding Member and Acting Presiding Member

- 2.8 The Councils will appoint an Independent Member to be the Presiding Member of the RAP for such term and on such conditions as determined by the Councils.
- 2.9 The Presiding Member will preside at any RAP meeting at which he or she is present.
- 2.10 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 RAP Members who are present at the meeting.
- 2.11 A Presiding Members is eligible to be reappointed as the Presiding Member at the expiry of his or her term of office as Presiding Member.
- 2.12 In the event that the Presiding Member resigns or is removed from office, the Councils will appoint an Independent Member to be the Presiding Members for such term and on such conditions as determined by the Councils.
- 2.13 The Presiding Member must be an accredited professional – Planning Level 2.

Term of Appointment

- 2.14 Subject to clause 5, Independent Members will be appointed for a term of up to two (2) years and on such other conditions as determined by the Councils.
- 2.15 Deputy Members will be appointed for a term of up to two (2) years and on such other conditions as determined by the Councils.
- 2.16 A RAP Member is eligible for reappointment for a further term, or further terms, upon the expiry of his or her current term.
- 2.17 A RAP Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled or for a period of six months from the expiry of the Member's term of office, whichever occurs first.

3. VACANCY IN MEMBERSHIP

- 3.1 In the event of a vacancy arising in the office of a RAP Member, the Councils may appoint a person to be a RAP Member for the balance of the original RAP Member's term of office as soon as is reasonably practicable in the same manner as the original RAP Member was appointed.

- 3.2 The RAP Member appointed to fill a vacancy may be a Deputy Member in which case that person will automatically cease to be a Deputy Member.
- 3.3 In appointing a RAP Member pursuant to clause 3.1, the Councils may have regard to the matters in clause 2.2 or 2.8 as the case requires.
- 3.4 A vacancy in the membership of the RAP will not invalidate any decisions of the RAP, provided a quorum is maintained during meetings.
- 3.5 When there is a vacancy in the membership of the panel, the relevant councils must take steps to fill the vacancy at the earliest opportunity.

4. **CONDITIONS OF APPOINTMENT**

- 4.1 It will be a condition of appointment of a member of the panel that the member continues to be an accredited professional while holding office (unless such accreditation was not required at the time of appointment).
- 4.2 An appointment will be subject to such other conditions (including as to their remuneration) as the relevant councils may specify at the time of appointment of the member.
- 4.3 The Minister may, on the recommendation of the relevant councils, remove a member of the panel from office –
 - (a) For breach of, or non-compliance with, a condition of appointment; or
 - (b) For misconduct or neglect of duty; or
 - (c) For failure or incapacity to carry out official duties satisfactorily; or
 - (d) For failing to comply with section 84(1)(f) or (g) of the Act; or
 - (e) On the recommendation of the Commission under Regulation 11 of the Planning, Development and Infrastructure (General) Regulations 2017; or
 - (f) For failure to comply with a condition of appointment set out in a notice of appointment under regulation 11A of the Planning, Development and Infrastructure (General) Regulations 2017.
- 4.4 The office of a member of the panel becomes vacant if the member –
 - (a) Dies; or
 - (b) Completes a term of office and is not reappointed (subject to the completion of any matter before the panel at the time of the expiration of the term).
 - (c) Resigns by written notice to the relevant councils; or
 - (d) Is convicted of an indictable offence or is sentenced to imprisonment for an offence; or
 - (e) Becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
 - (f) Is removed from office under clause 4.3

- 4.5 An act or proceeding of the panel is not invalid by reason only of a vacancy in the membership of the panel.
- 4.6 At all times, RAP Members must act honestly, lawfully, in good faith, and in accordance with any code of conduct applicable to RAP Members.
- 4.7 RAP Members will be remunerated as determined by the Councils for the reasonable time and costs incurred by RAP Members in attending RAP meetings as follows:

Presiding Member	\$550/meeting
Ordinary Independent Member	\$500/meeting
Deputy Member	\$250/meeting if required for a specific matter

Reimbursement for costs of accreditation and registration for attendance at relevant training and professional development to maintain accreditation.

- 4.8 Upon the commencement of Section 83(1)(c) of the Act:
 - 4.8.1 RAP Members, excluding a Member who is a former Member of the Council, must be accredited professionals under the Act; and
 - 4.8.2 RAP Members who are former Members of the Council must have sufficient experience in local government to satisfy the Council that they are appropriately qualified to act as a Member of the RAP.
- 4.9 The removal of the RAP Member pursuant to clause 4.3 will take effect upon the Councils passing a resolution to request the Minister to remove the RAP Member from office (unless the Councils resolves otherwise), and such resolution will be confirmed in writing to the RAP Member within 7 days of being passed.
- 4.10 Prior to resolving to remove a RAP Member from office pursuant to clause 4.3, the Host Council must:
 - 4.10.1 give written notice to the RAP Member of:
 - 4.10.1.1 the intention to remove the RAP Member from office pursuant to clause 4.3; and
 - 4.10.1.2 the alleged behaviour of the RAP Member falling within clause 4.3 or reason the Councils considers it appropriate to request the Minister remove the RAP Member,
 - not less than 7 days before the meeting of the Host Council at which the matter is to be considered;
 - 4.10.2 give the RAP Member an opportunity to make submissions to the Host Council on its intention to remove the RAP Member from office either orally at the Host Council meeting at which the matter is to be considered, or in writing by such date as the Host Council reasonably determines; and
 - 4.10.3 have due regard to the RAP Member's submission in determining whether to remove the RAP Member from office.

5. PROCEDURES OF THE PANEL

- 5.1 A quorum at a meeting of the panels consists of a number ascertained by dividing the total number of members by two, ignoring any fraction resulting from the division, and adding 1 (and no business may be transacted at a meeting of the panel unless a quorum is present).
- 5.2 A decision carried by a majority of the votes cast by members at a meeting is a decision of the panel.
- 5.3 Each member present at a meeting of the panel is entitled to 1 vote on any matter arising for decision and, if votes are equal, the member presiding at the meeting has a second or casting vote.
- 5.4 A meeting between members constituting a quorum by telephone or audio visual means is a valid meeting of the panel if
 - 5.4.1 *A notice of the meeting is given to all members of the panel in the manner determined by the panel for the purpose; and*
 - 5.4.2 *The system of communication allows a participating member to communicate with any other participating member during the meeting.*
- 5.5 A resolution of the panel –
 - 5.5.1 *Of which notice is given to members in accordance with procedures determined or agreed by members of the panel; and*
 - 5.5.2 *In which at least the majority of the members of the panel express their concurrence in writing or by electronic communication,*

Will be taken to be a decision of the panel.

6. PURPOSE

- 6.1 The panel is the relevant authority for development applications within the areas of the Councils as specified by section 93 of the PDI Act.

7. POWERS AND FUNCTIONS

- 7.1 The powers, functions and duties of the panel are to be exercised in accordance with the PDI Act, The Planning, Development and Infrastructure (General) Regulations 2017 (“the PDI Regulations) and these Terms of Reference.
- 7.2 The powers, functions and duties of the Panel are assigned by section 93 of the PDI Act and Part 5 of the PDI Regulations.
- 7.3 The Panel has the power to delegate its powers, functions and duties pursuant to section 100 of the PDI Act.

8. REGISTER OF FINANCIAL INTERESTS

- 8.1 The Host Council will maintain a register containing the disclosures of financial interest made by members of the Panel pursuant to their obligation under Schedule 1 of the PDI Act.

9. ASSESSMENT MANAGER

- 9.1 The Panel must have an Assessment Manger in accordance with Section 87 of the PDI Act.
- 9.2 The Assessment Manager be appointed by the Chief Executive Officer if the Attorney Generals Department having regard to the nomination provided by the Councils.
- 9.3 The cost associated with the Assessment Manager will be borne by the Councils.

10. MEETINGS OF THE PANEL

- 10.1 Meetings of the Panel must take place as determined by the panel from time to time.
- 10.2 A schedule of regular meetings is to be developed with a minimum of one meeting scheduled per calendar month, at regular intervals and time.
- 10.3 Meetings may be held by telephone, audio visual or other instantaneous means (telecommunications meeting) provided that at least a quorum is present.
- 10.4 The meeting procedures of the Panel are those prescribed by the PDI Regulations.
- 10.5 Notice of a Panel meeting (whether ordinary or special) and the accompanying agenda will be given by the Assessment Manager to each Panel member and provided to each of the councils not less than three clear working days prior to the meeting.

11. REPORTING

- 11.1 The Assessment Manager shall present an annual report detailing the Panel's activities to each of the Councils before 30 July in each year.

12. CIRCUMSTANCES NOT PROVIDED FOR

- 12.1 If a circumstance arises in respect of which these Terms of Reference are silent or are incapable of being implemented, the Panel is authorised to determine by way of a unanimous decision of the Panel how to proceed and to carry out any action that the Panel deems must be taken.
- 12.2 In the event that an issue remains unresolved the Panel shall refer the matter to the Assessment Manager for direction.