



# Council Assessment Panel

## Meeting Procedures

Adopted by CAP 12 December 2017

Amended by CAP 9 March 2021




## Introduction

These Meeting Procedures are to be read in conjunction with the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)*.

### 1. CAP meetings

#### Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the City of Victor Harbor Council Assessment Panel (**CAP**) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than three (3) clear days prior to the holding of the meeting in accordance with clause 1.4
- 1.4 Notice of a meeting of the CAP must:
  - 1.4.1 be in writing;
  - 1.4.2 set out the date, time and place of the meeting;
  - 1.4.3 be signed by the Assessment Manager;
  - 1.4.4 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (insofar as practicable); and
  - 1.4.5 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.
- 1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manager 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 Member.
- 1.6 A copy of the agenda for all meetings of the CAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to CAP Members.
- 1.7 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.

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

1.9 A meeting will break for 10 minutes once every 2 ½ hours, or less often as determined by the Presiding Member.

### **Special Meetings**

1.10 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.

1.11 In consultation with the Presiding Member or two or more CAP Members, , the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP members at least forty eight (48) hours before the commencement of the special meeting, accompanied by the Agenda for the meeting.

## **2 DEPUTY MEMBERS**

2.1 If a CAP Member is unable or unwilling to attend a meeting or part of a 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.

2.2 If notification pursuant to clause 0 is given, the Assessment Manager may request a Deputy Member attend the meeting in place of the CAP Member for the meeting or part of the meeting.


2.3 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Member.

## **3 ADDITIONAL MEMBERS**

3.1 The CAP may appoint up to two Additional Members in accordance with Section 85 of the *Planning, Development and Infrastructure Act 2016 (Act)*.

3.2 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 (or, during the transition to the Act, the *Development Act 1993*).

3.3 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



clause 1.4, highlighting the item(s) the Additional Member is required to consider.

- 3.4 Unless the context otherwise requires, a reference to a 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.

## **4 COMMENCEMENT OF MEETINGS**


- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 In the event that the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the meeting appoints an Acting Presiding Member.

### **Quorum**

- 4.5 A quorum at a meeting of an assessment panel is a number obtained by dividing the total number of members of the assessment panel for the time being in office by 2, ignoring any fraction resulting from the division, and adding 1.


## **5 DECISION MAKING**

- 5.1 The Presiding Member may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The CAP may defer consideration of the application to enable full and proper assessment of the further information.
- 5.2 Any material to be considered by the CAP pursuant to clause 5.1 must be provided to the applicant and/or representor(s) (as the case may be) and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Presiding Member.
- 5.3 Each Member present at a meeting of the CAP, including a Deputy Member who has been requested to attend the meeting or part of the meeting in place of a Member who is unable or unwilling to attend the meeting, 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. Additional Members appointed to the CAP to provide expert advice and assistance are not entitled to vote.

- 
- 5.4 The CAP decision shall be made wherever possible by consensus and in the event of consensus not being arrived at, a vote of all members present shall be taken and a decision made on the basis of a majority votes cast by Members present at the meeting and entitled to vote.
  - 5.5 All panel members present will participate in the decision of the panel by consensus or vote
  - 5.6 A motion will lapse if it is not seconded at the appropriate time.
  - 5.7 Any decision by the Panel shall be recorded as a decision of the Panel as a whole and the vote of individual members shall not be recorded (ie no division).
  - 5.8 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.
  - 5.9 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 he or she is, in the opinion of the Presiding Member:
    - 5.9.1 behaving in a disorderly manner; or
    - 5.9.2 causing an interruption or disruption to the meeting.

***Development Applications lodged under the Development Act 1993***


- 5.10 In relation to each application it considers, the CAP must:
  - 5.10.1 determine whether the proposal is seriously at variance with the Development Plan and provide reasons for its determination; and
  - 5.10.2 provide reasons for refusing Development Plan consent or for the imposition of any conditions.
- 5.11 If the CAP determines that a proposal, which is assessed under the *Development Act 1993*, is seriously at variance with the Development Plan, it must refuse Development Plan consent to the application.
- 5.12 In relation to each application to be considered and determined by the CAP:
  - 5.12.1 The Presiding Member may at his or her discretion exclude:
    - 5.12.1.1 a representation or response to representation(s) which is received out of time;
    - 5.12.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or
    - 5.12.1.3 a representation or response to representation(s) which is otherwise invalid.

- 
- 5.12.2 a person who has lodged a representation in relation to a Category 2 or 3 application which has not been excluded pursuant to clause 5.12 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;
  - 5.12.3 Where a Category 2 or 3 representor who hasn't formally indicated on their submission that they wish to be heard and at the meeting they wish to be heard, the Presiding Member at his or her discretion may allow the representor to address the Panel in support of their valid representation; subject to the applicant being present at the CAP meeting.
  - 5.12.4 Representors and applicant will be allowed five minutes each to address the panel at the public hearing. The Presiding Member may allow additional time at his or her discretion.
  - 5.12.5 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;
  - 5.12.6 where no representors appear at the meeting, the Presiding Member may, in his or her discretion, allow an applicant to be heard in support of his or her application, in person or by an agent;
  - 5.12.7 CAP members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and
  - 5.12.8 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.

***Development Applications lodged under the Planning, Development and Infrastructure Act 2016***


- 5.13 in relation to each application it considers under the Planning, Development and Infrastructure Act 2016, the CAP must:
  - 5.13.1 determine whether the proposal is seriously at variance with the Planning and Design Code and provide reasons for its determination; and
  - 5.13.2 provide reasons for granting or refusing planning consent and for the imposition of any conditions.
- 5.14 If the CAP determines that a development application is seriously at variance with the Planning and Design Code, it must refuse planning consent to the application.
- 5.15 The CAP may not defer its decision on an application for planning consent provided to it. The CAP must either:



- 
- 5.15.1 Grant planning consent with or with conditions;
  - 5.15.2 Refuse to grant planning consent; or
  - 5.15.3 Delegate the authority to grant planning consent to the CAP Assessment Manager. This delegation should only be used when the CAP has determined 'in-principle' support for the proposal and further clarification is required regarding clearly defined matters and/or determine relevant conditions of consent.
- 5.16 In relation to each application to be considered and determined by the CAP:
- 5.16.1 A person who has lodged a representation and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and will be heard in support of their representation, in person or by a representative;
  - 5.16.2 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 a representative;
  - 5.16.3 Representors and applicants will be allowed five (5) minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion, such as where a person is speaking on behalf of more than one representor, or where an application raises complex matters for consideration;
  - 5.16.4 CAP members may question and seek clarification from a representor or applicant, at the discretion of the Presiding Member; and
  - 5.16.5 Following addresses from representors and the applicant, the Presiding Member will invite all members to speak on any matter relevant to the application.
- 5.17 The procedures in Clause 5 of these meeting procedures relate only to the CAP's assessment of development applications under Part 7 of the *Planning, Development and Infrastructure Act 2016* and Part 4 of the *Development Act 1993*. Note the procedures for determining an application for review of an Assessment Management's decision are outlined in the Assessment Panel Review of Decision of Assessment Manager Policy.

## **6 PUBLIC ACCESS TO MEETINGS**


- 6.1 An CAP may exclude the public from attendance at a meeting, during so much of the meeting as is necessary to receive, discuss or consider in confidence any of the following matters:


- 
- 6.1.1 information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
  - 6.1.2 information the disclosure of which—
    - 6.1.2.1 could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
    - 6.1.2.2 would, on balance, be contrary to the public interest;
  - 6.1.3 information the disclosure of which would reveal a trade secret;
  - 6.1.4 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;
  - 6.1.5 matters affecting the safety or security of any person or property;
  - 6.1.6 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;
  - 6.1.7 matters that should be considered in confidence in order to ensure that the assessment panel, 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;
  - 6.1.8 legal advice;
  - 6.1.9 information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;
  - 6.1.10 information the disclosure of which—
    - a. would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and
    - b. would, on balance, be contrary to the public interest; and
  - 6.1.11 A review of an Assessment Manager decision.

## **7. MINUTES AND 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.
  - 7.3 The minutes will record:
    - 7.3.1 the names of all Members present;
    - 7.3.2 the names of all Members from whom apologies have been received;
    - 7.3.3 the name and time that a Member enters or leaves the meeting;
    - 7.3.4 the name of every person who makes a representation in relation to a development application;
    - 7.3.5 the name of every person who appears in relation to an application for review of an Assessment Manager decision (Including the Assessment Manager or delegate)
    - 7.3.6 In relation to each development application determined by the CAP:
      - 7.3.6.1 the determination of the CAP as to whether the proposal is seriously at variance with the Planning and Design Code or Development Plan; and
      - 7.3.6.2 the reasons for refusing planning consent and for the imposition of any conditions;
    - 7.3.7 In relation to each application for review of an Assessment Manager decision:
      - 7.3.7.1 The determination of CAP as to whether the proposal is seriously at variance with the Planning and Design Code or Development Plan; and
      - 7.3.7.2 The reasons for CAP's decision under section 203(4) of the PDI Act, including the reasons for the imposition of any new or varied conditions; and
    - 7.3.8 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
    - 7.3.9 a decision to exclude the public from attendance pursuant to the Regulations;
    - 7.3.10 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;
    - 7.3.11 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



7.3.12 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.

7.4 Minutes of the previous CAP meeting will be formally adopted by the CAP at the commencement of the meeting, and will be made publically available within 5 business days thereafter.

## **8. ADDITIONAL PROCEDURES**

8.1 Insofar as any procedure to be followed by the CAP is not prescribed by the Act and Regulations (and, during the transition to the Act and Regulations, the Development Act and *Development Regulations 2008*), the CAP's Terms of Reference, the Code of Conduct, the Assessment Panel Review of Decision of Assessment Manager Policy or these Meeting Procedures - the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.

8.2 The role of the Council staff is to assist the CAP to undertake its tasks under the relevant legislation and to perform the administrative duties including preparation of agendas and minutes, the arrangement of meetings and facilitating attendance of all Category 2 and 3 representors (or nominees) who requested to be heard at a meeting.

8.3 Council staff will provide planning reports on items that are scheduled for consideration by the CAP. The reports shall:

8.3.1 Inform the members of the background of the development application;

8.3.2 Summarise the details and documents associated with development applications;

8.3.3 Provide copies of documentation to assist the CAP in it's deliberations;

8.3.4 Provide the officers assessment of the proposed development against the relevant provision of the Development Plan or the Planning and Design Code; and

8.3.5 Provide an officer recommendation to the CAP to consider.

8.4 CAP members will attend any site required in the conduct of its business with the Assessment Manager, by a delegated staff member and/or the presiding member.

8.5 Site inspections shall occur on the day of the meeting at 4pm prior to the commencement of the CAP meeting or at another time to enable the adequate review of site matters as deemed appropriate by the Assessment Manager

8.6 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.