



District Council of Elliston

Council Assessment Panel

Terms of Reference

Adopted 19 September 2017

1. BACKGROUND

- 1.1 The District Council of Elliston Council Assessment Panel (**CAP**) was appointed as a relevant authority under Section 82 and 83 of the *Planning, Development and Infrastructure Act 2016 (Act)* by resolution of the District Council of Elliston (**the Council**) on 19 September, 2017.
- 1.2 The CAP is a relevant authority under the Act and, during transition to the Act, will act as a delegate of the Council for the purpose of the *Development Act 1993*.

2. MEMBERSHIP OF CAP

Appointment of Members

- 2.1 The CAP will be constituted of 5 Independent Members (**CAP Members**), not being Members of the Council or State Parliament.
- 2.2 The Council may determine that the CAP will be constituted by a different number of members for different classes of development, in which case the relevant details will be specified by the Council.
- 2.3 When appointing CAP Members, the Council may have regard to the following:
 - 2.3.1 the candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the Development Act;
 - 2.3.2 the candidate's qualifications or experience in a field that is relevant to the activities of the CAP;
 - 2.3.3 that a balance of qualifications and experience among CAP Members is desirable;
 - 2.3.4 that gender diversity among CAP Members is desirable; and
 - 2.3.5 such other matters as the Council considers relevant.

Expression of Interest

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

Presiding Member and Acting Presiding Member

- 2.5 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.
- 2.6 The Presiding Member will preside at any CAP meeting at which he or she is present.
- 2.7 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.
- 2.8 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.
- 2.9 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.

Term of Appointment

- 2.10 Subject to clause 5, Independent Members will be appointed for a term of up to two years and on such other conditions as determined by the Council.
- 2.11 A CAP Member is eligible for reappointment for a further term, or further terms, upon the expiry of his or her current term.
- 2.12 A CAP 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 CAP Member, 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.
- 3.2 In appointing a CAP Member pursuant to clause 3.1, the Council may have regard to the matters in clause 2.2 or **Error! Reference source not found.** as the case requires.
- 3.3 A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meetings.

4. CONDITIONS OF APPOINTMENT

- 4.1 At all times, CAP Members must act honestly, lawfully, in good faith, and in accordance with any code of conduct applicable to CAP Members.
- 4.2 CAP Members may be remunerated as determined by the Council for the reasonable time and costs incurred by CAP Members in attending CAP meetings.
- 4.3 Different levels of remuneration may be fixed by the Council for Independent Members, and the Presiding Member .
- 4.4 Upon the commencement of Section 83(1)(c) of the Act:
 - 4.4.1 CAP Members, must be accredited professionals under the Act; and
 - 4.4.2 .

5. REMOVAL FROM OFFICE

- 5.1 A CAP Member will automatically lose office where:
 - 5.1.1 the CAP Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
 - 5.1.2 the CAP Member has been convicted of an indictable offence punishable by imprisonment;
- 5.2 Subject to Clause 5.4, 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:
 - 5.2.1 a breach of a condition of his or her appointment as a CAP Member;
 - 5.2.2 misconduct;
 - 5.2.3 a breach of any legislative obligation or duty of a CAP Member;
 - 5.2.4 neglect of duty in attending to role and responsibilities as a CAP Member;
 - 5.2.5 a failure to carry out satisfactorily the duties of his or her office;
 - 5.2.6 a breach of fiduciary duty that arises by virtue of his or her office;
 - 5.2.7 inability to carry out satisfactorily the duties of his or her office.
 - 5.2.8 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
 - 5.2.9 for any other reason the Council considers appropriate.

- 5.3 The removal of the CAP Member pursuant to clause 5.2 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 7 days of being passed.
- 5.4 Prior to resolving to remove a CAP Member from office pursuant to clause 5.2, the Council must:
- 5.4.1 give written notice to the CAP Member of:
- 5.4.1.1 its intention to remove the CAP Member from office pursuant to clause 5.2; and
- 5.4.1.2 the alleged behaviour of the CAP Member falling within clause 5.2.1 or reason the Council considers it appropriate to remove the CAP Member,
- not less than 7 days before the meeting of the Council at which the matter is to be considered;
- 5.4.2 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
- 5.4.3 have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

Date Reviewed	Version	Reason for Amendment
October 2017	Version 1	New mandatory CAP Terms of Reference