



COUNCIL ASSESSMENT PANEL

TERMS OF REFERENCE

1. Establishment and Role of the Council Assessment Panel

1.1 Establishment

Pursuant to Section 83 of the *Planning, Development and Infrastructure Act 2016* (“the PDI Act”), the Council has established a Council Assessment Panel to be known as the City of Unley Council Assessment Panel (“the CAP”) for the purpose of performing the functions assigned to it under Part 4 of the *Development Act 1993* (“the Development Act”).

1.2 Role and functions

The functions of the CAP are:

- 1.2.1 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;
- 1.2.2 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
- 1.2.3 to perform other functions (other than functions involving the formulation of policy) assigned to the DAP by the PDI Act or the *Planning, Development and Infrastructure (General) Regulations 2017* (“the PDI Regulations”) from time to time.

2. Membership

2.1 The CAP shall consist of five members appointed by the Council as follows:

- 2.1.1 up to one person who is an elected Council member;
- 2.1.2 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;

2.1.3 at least 1 member shall be a male and at least 1 member shall be female.

2.2 Members of the CAP shall hold their positions for a term determined by the Council.

2.3 At the expiration of a term of appointment, a member may be eligible for reappointment.

2.4 The Council shall appoint one person who is an elected Council member to act in the capacity of Deputy CAP member. The Deputy CAP member:

2.4.1 shall hold their position for a term determined by the Council; and

2.4.2 will only be entitled to sit as a member of the CAP when the member appointed under clause 2.1.1 of this Terms of Reference is not present at a meeting.

2.5 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. Removal of a Member from the CAP

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

3.1.1 breach of, or failure to comply with, conditions of appointment; or

3.1.2 maladministration or misconduct; or

3.1.3 neglect of duty; or

3.1.4 incapacity to carry out satisfactorily the duties of his or her office; or

3.1.5 failure to carry out satisfactorily the duties of his or her office; or

3.1.6 failure to disclose his or her financial interests in accordance with Schedule 1 of the PDI Act (reproduced in full as an attachment to these Terms of Reference); or

3.1.7 upon receipt of a recommendation or direction from the State Planning Commission that the member be removed from office pursuant to regulation 11 of the PDI Regulations.

3.2 The Council must:

3.2.1 give written notice to a member of its intention to consider removing the member from office under this Clause, together with particulars at least one (1) calendar month before the meeting of the Council at which the matter will be determined;

3.2.2 give the member an opportunity to respond.

3.3 The member must provide any written representation in response 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.

3.4 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.

4. Vacancy of Office

4.1 The office of a member of the CAP will become vacant if the member:

4.1.1 dies;

4.1.2 completes a term of office and is not reappointed;

4.1.3 resigns by written notice to the Council;

4.1.4 becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or

4.1.5 is convicted of an indictable offence punishable by imprisonment;

4.1.6 is removed from office under Clause 3 of these Terms of Reference.

5. Standards of conduct

5.1 The CAP shall act at all times in strict accordance with relevant legislation (being the PDI Act, the PDI Regulations, the Development Act and the *Development Regulations 2008* ("the Development Regulations")) including any relevant code of

conduct under Schedule 3 of the PDI Act which is relevant to the CAP in the performance of its functions.

- 5.2 The CAP is separate from and operates wholly independently of the elected body of the Council.

6. Assessment Manager

- 6.1 The CAP shall also have an Assessment Manager appointed by the Chief Executive Officer of the Council.
- 6.2 The functions of the Assessment Manager include those functions determined by Section 87 of the PDI Act.

7. Reports to Council

- 7.1 The CAP shall report to the Council in August of each year in respect of the following matters:
- 7.1.1 the use of the provisions of Regulation 13(2) of the PDI Regulations;
 - 7.1.2 disclosure by CAP Members of interests pursuant to clause 7 of the Minister's Code of Conduct issued under Schedule 3 of the PDI Act;
 - 7.1.3 resignation of a CAP Member;
 - 7.1.4 the incidence of items deferred by the CAP;
 - 7.1.5 the adjournment of consideration of development applications;
 - 7.1.6 any matter that would improve the effectiveness of, or expedite the decisions of the CAP; and
 - 7.1.7 any other matters upon which the CAP is required to report to the Council or thinks fit to report.

SCHEDULE 1

DISCLOSURE OF FINANCIAL INTERESTS

1. Interpretation

1) In this Schedule

designated entity means-

- (a) the Commission; or
- (b) a joint planning board; or
- (c) an assessment panel;

family, in relation to a prescribed member, means-

- (a) a spouse or domestic partner of the member; or
- (b) a child of the member who is under the age of 18 years and normally resides with the member;

family company of a prescribed member means a proprietary company-

- (a) in which the member or a member of the member's family is a shareholder; and
- (b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the company;

family trust of a prescribed member means a trust (other than a testamentary trust)-

- (a) of which the member or a member of the member's family is a beneficiary; and
- (b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together;

person related to a prescribed member means-

- (a) a member of the prescribed member's family; or
- (b) a family company of the prescribed member; or
- (c) a trustee of a family trust of the prescribed member;

prescribed member means a member of a designated entity who is required to disclose his or her financial interests under the Act;

relevant official means-

- (a) in relation to a member of the Commission, a joint planning board or a regional assessment panel – the Minister;
- (b) in relation to a member of an assessment panel – a person prescribed by the regulations.

- (2) For the purposes of this Schedule, a person who is the object of a discretionary trust is to be taken to be a beneficiary of that trust.

2. Disclosure of interests

- (1) A prescribed member of a designated entity must-
 - (a) on appointment, submit to the relevant official a return in the prescribed form relating to his or her pecuniary interests in accordance with the regulations; and
 - (b) on an annual basis in accordance with the requirements of the regulations, submit to the relevant official an annual return in the prescribed form relating to his or her pecuniary interests in accordance with the regulations.
- (2) Without limiting the effect of subclause (1), a prescribed member of a designated entity will be taken to have a pecuniary interest for the purposes of this clause if a person related to the member has that interest.
- (3) A prescribed member who has submitted a return under this Schedule may at any time notify the relevant official of a change or variation in the information appearing on the register in respect of the member.

3. Register

- (1) A relevant official must maintain a register of interests and cause to be entered in the register all information furnished under the Schedule.
- (2) .
- (3) A person is entitled to inspect (without charge) the register at the place where it is kept during ordinary office hours.
- (4) A person is entitled, on payment of a fee (specified by the relevant official as a standard fee to cover the relevant official's administrative and copying costs), to a copy of the register.

4. Compliance with Schedule

- (1) A prescribed member of a designated entity who fails to comply with a requirement under this Schedule is guilty of an offence

Maximum penalty: \$10 000.

- (2) A prescribed member of a designated entity who submits a return under this Schedule that is to the knowledge of the member false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum penalty: \$10 000.

5. Restrictions on publication

- (1) A person must not –
 - a. Publish information derived from a register under this Schedule unless the information constitutes a fair and accurate summary of the information contained in the register and is published in the public interest; or
 - b. Comment on the facts set forth in a register under this Schedule unless the comment is fair and published in the public interest and without malice.
- (2) If information or comment is published by a person in contravention of subclause (1), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum penalty: \$10 000.