
 Adelaide Plains Council	21.2 Confidential Item
27 June 2022	

21.2 Council Assessment Panel – Independent Membership

RECOMMENDATION

“That:

- 1. Pursuant to section 90(2) of the *Local Government Act 1999*, Council orders that all members of the public, except Chief Executive Officer, General Manager – Governance and Executive Office, General Manager – Infrastructure and Environment, General Manager – Development Community, General Manager – Finance and Business, Manager Governance and Administration, Administration and Executive Support Officer/Minute Taker and Information Technology Officer be excluded from attendance for Agenda Item 21.2 – *Council Assessment Panel – Independent Membership*;**
- 2. Council is satisfied that pursuant to section 90(3)(a) of the *Local Government Act 1999*, Item 21.2 – *Council Assessment Panel – Independent Membership* concerns information of a confidential nature the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person, constituting information relevant to the applicants’ potential appointment and suitability for a position on the Council Assessment Panel and it would be unreasonable to disclose this information as part of the confidential recruitment process; and**
- 3. Council is satisfied that the principle that meetings should be conducted in a place open to the public has been outweighed by the need to keep the information, matter and discussion confidential.”**

	21.2	Council Assessment Panel – Independent Membership
	Department: Report Author:	Development and Community Manager Development Assessment
Date: 27 June 2022	Document Ref:	D22/24507

EXECUTIVE SUMMARY

- Independent and Council Members of the Council Assessment Panel (Panel) are appointed by Council under the *Planning, Development and Infrastructure Act 2016*.
- On 19 June 2017 Council established a Panel as required by the Planning, Development and Infrastructure Act 2016 (PDI Act). The new Panel replaced the former Council Development Assessment Panel (CDAP) although it is responsible for carrying out similar development assessment functions. The term of office for the membership of the Panel is 2 (two) years.
- The Panel is made up of 4 independent members and 1 Council Elected Member (Cr Panella).
- The term of office for current independent Panel Members expires on 30 June 2022. Council is therefore required to consider membership of the Panel until at least 30 June 2024.
- Sets the sitting fee for members of the Council Assessment Panel (excluding Council Members) is currently \$450 per meeting for Presiding Member and \$350 per meeting for Independent Member, it is proposed to review this sitting fee as part of the appointment of independent members for a two year term.

RECOMMENDATION

“that Council, having considered Item 21.2 – *Council Assessment Panel Independent Membership*, dated 27 June 2022, receives and notes the report and in doing so:

- 1. Appoints Nathan Cunningham as Presiding Independent Member of the Council Assessment Panel pursuant to Section 83(1)(b) of the *Planning, Development and Infrastructure Act 2016* for a term concluding on 30 June 2024, and subject to any accreditation requirements under Section 83(1)(c) of the Act;**
- 2. Appoints Aaron Curtis as an Independent Member of the Council Assessment Panel pursuant to Section 83(1)(b) of the *Planning, Development and Infrastructure Act 2016* for a term concluding on 30 June 2024, and subject to any accreditation requirements under Section 83(1)(c) of the Act;**
- 3. Appoints Paul Mickan as an Independent Member of the Council Assessment Panel pursuant to Section 83(1)(b) of the *Planning, Development and Infrastructure Act 2016* for**

a term concluding on 30 June 2024, and subject to any accreditation requirements under Section 83(1)(c) of the Act;

4. Appoints Susan Giles as an Independent Member of the Council Assessment Panel pursuant to Section 83(1)(b) of the *Planning, Development and Infrastructure Act 2016* for a term concluding on 30 June 2024, and subject to any accreditation requirements under Section 83(1)(c) of the Act;
5. Offers the position of Deputy Independent Member of the Council Assessment Panel to Ian O'Loan and if accepted Appoints Ian O'Loan as Deputy Independent Member of the Council Assessment Panel pursuant to Section 83(1) (b) of the *Planning, Development and Infrastructure Act 2016* for a term concluding on 30 June 2024, and subject to any accreditation requirements under Section 83(1) (c) of the Act;
6. Determines in accordance with Section 83(1) (b) of the *Planning, Development and Infrastructure Act 2016* that the appointment of Presiding Independent Member Independent Members and Deputy Members to the Council Assessment Panel is subject to their compliance with and acceptance of the Terms of Reference for the Council Assessment Panel;
7. Authorises the Chief Executive Officer (In the event that the position of deputy independent member remains vacant) to advertise, at the appropriate time, for Expressions of Interest for a deputy independent member of the Adelaide Plains Council Assessment Panel pursuant to the *Planning, Development and Infrastructure Act 2016* for the term commencing 1 July 2022, (or other such time as determined by the Chief Executive Officer) having regard to the need for accreditation pursuant to this legislation; and
8. Sets the sitting fee for members of the Council Assessment Panel (excluding Council Members) at \$500 per meeting for Presiding Member and \$400 per meeting for Independent Members."

BUDGET IMPACT

Estimated Cost:	\$50 sitting fee increase per meeting – Presiding Independent Members
	\$50 sitting fee increase per meeting – Independent Members
Future ongoing operating costs:	\$500 sitting fee – Presiding Independent Members
	\$400 sitting fee – Independent Members
Is this Budgeted?	Expect accommodation of fee increase within operational budget due to occasional requirement not to hold a meeting. For the current financial year the Budget included 12 monthly meetings of CAP, however only six meeting were conducted.

RISK ASSESSMENT

In order to fulfil legislative requirements, Council is required to establish a Council Assessment Panel to carry out relevant development assessment functions.

By adopting the recommendations Council will not be exposed to any risk. If the recommendations are not adopted and Council Assessment Panel membership is not maintained then the Minister has the power to establish a Local Assessment Panel at the recommendation of, and following an inquiry by, the State Planning Commission.

Attachments

1. Expressions of Interest Summary
2. Interview Summary

DETAILED REPORT

Purpose

The purpose of this report is for Council to appoint an Independent Presiding Member, Independent Members (3) and deputy independent member to the membership of the Council Assessment Panel 'Panel' under the *Planning, Development and Infrastructure Act 2016* for a term of office concluding on 30 June 2024.

Background/History

On 19 June 2017 Council established a Panel as required by the *Planning, Development and Infrastructure Act 2016* (PDI Act). The new Panel replaced the former Council Development Assessment Panel (CDAP) although it is responsible for carrying out similar development assessment functions. The term of office for the membership of the Panel is 2(two) years. The Council's Assessment Panel is advised by Council's Administration, and its key roles include:

- The assessment and determination of development applications using the Planning and Design Code, whether or not to grant Consent to various kinds of development
- The consideration of proposals subject to appeal against the decision of Council's Assessment Manager
- The consideration of proposals subject to appeal to the Environment Resources and Development Court
- Hearing representations from the public concerning applications that have been publicly notified.

The purpose of the Panel is to determine, using the Planning and Design Code, whether or not to grant Consent to various kinds of development. Meetings are held as required at 5.30pm on the first Wednesday of each month.

Current Independent members appointed to the Panel, to 30 June 2022, are as follows:

- Presiding Member - Nathan Cunningham
- Independent Member - Ian O'Loan
- Independent Member – Aaron Curtis
- Independent Member - Paul Mickan
- Deputy Independent Member – Susan Giles

At its Ordinary Meeting held Monday, 28 March 2022, Council resolved as follows:-

14.4 Council Assessment Panel Membership

Moved Councillor Strudwicke Seconded Councillor Daniele **2022/ 074**

“that Council, having considered Item 14.4 – Council Assessment Panel Membership, dated 28 March 2022, receives and notes the report and in doing so:

- 1. Extends the term of the current Council Member (Councillor Margherita Panella) and Deputy Council Member (Councillor Brian Parker) on the Council Assessment Panel to the end of the current Council term.***
- 2. Instructs staff to undertake an Expression of Interest process for an Independent Presiding Member, three (3) Independent Members and a Deputy Independent Member of the Council Assessment Panel for a term commencing 1 July 2022 and concluding 30 June 2024 (inclusive).***
- 3. Authorises the Chief Executive Officer to advertise, at the appropriate time, for Expressions of Interest for independent members and a deputy independent member of the Adelaide Plains Council Assessment Panel pursuant to the Planning, Development and Infrastructure Act 2016 for the term commencing 1 July 2022, having regard to the need for accreditation pursuant to this legislation.***
- 4. Notes that Council staff will prepare a report to Council that summarises the Expression of Interest process with recommendations for appointment of Independent Presiding Member, three (3) Independent Members and a Deputy Independent Member.”***

CARRIED

Discussion

The term of office for current Panel Members expires on 30 June 2022. Council is therefore required to consider membership of the Panel until at least 30 June 2024.

Following an Expressions of Interest process for a Presiding Independent Member, independent members and deputy independent member of the Adelaide Plains Council Assessment Panel pursuant to the Planning, Development and Infrastructure Act 2016, six (6) expressions of interest were received, two for presiding member and 4 four for independent member there were no applicants for deputy member.

These 6 expressions of interest were reviewed for relevant experience and qualifications to the operation of the Council Assessment Panel as well as whether candidates were ‘Accredited Professionals’ by the General Manager Development & Community and Manager Development Assessment.

The following persons applied for the following membership role

Presiding Membership

- Nathan Cunningham* and
- Carol Muzyk

Independent Membership

- Paul Mickan*
- Aaron Curtis*
- Ian O'Loan* and
- Susan Giles**

*Denotes existing Panel Member

**Denotes existing Deputy Member

Following this process all six (6) candidates were selected for an interview. Each interviewee was asked a series of questions around their experience relevant to decision making on the Council Assessment Panel, the strengths they would bring to the Adelaide Plains CAP, understanding of the Council Assessment Panel Code of Conduct and the opportunities and challenges with the assessment of development in Adelaide Plains Council.

Following the interview process, one (1) candidate for independent presiding member is now recommended to Council together with four (4) candidates being recommended to Council for appointment as Independent Members of CAP and Deputy Independent Member of CAP for a term concluding on 30 June 2024

Existing Independent Panel Member Ian O'Loan is not recommended for appointment as an Independent Member, however as the Deputy Independent Member position is vacant and given Ian's past involvement in the Panel it is recommended that Ian O'Loan be offered this role.

In the event that Ian O'Loan does not accept this offer the CAP can still function until a Deputy Member can be appointed to that end it is recommended the CEO be authorized to seek an expression of interest for that vacancy

A summary of the expressions of interest received and a summary of the interview process along with recommended Independent Member and Independent Members are contained in confidential Attachments A & B.

Sitting fees

From May 2013 onwards Independent members had been paid a \$300 sitting fee, and the Presiding Member \$350, to prepare for and attend Panel meetings. At its meeting of the 24 June 2019 Council considered an item 14.3 to increase the sitting for Independent members to \$350 and for the Presiding Member \$500. The latter increase as the Presiding Member is often contacted by Council staff to discuss meeting arrangements, including a review of the agenda running sheet. The Presiding Member role also comes with the additional responsibility of chairing and providing leadership to meetings, which are sometimes difficult to manage due to the nature of issues at hand. Current sitting fees for other neighbouring and regional councils (at that time) were shown in the following table **below**:-

Council	Independent Member	Presiding Member
Light Regional Council	\$350	\$450
The Barossa Council	\$300	\$500
Town of Gawler	\$300	\$400
Wakefield Regional Council	\$300	\$400
Mid-Murray Council	\$350	\$450

However at that meeting resolved to:-

Set(s) the sitting fee for members of the Council Assessment Panel (excluding Council Members) at \$450 per meeting for Presiding Member and \$350 per meeting for Independent Member;

As a consequence the Sitting fees for Presiding Independent Member and Independent Member has increased only \$100 and \$50 respectively over the intervening 9 years with no adjustment for CPI or inflation together with cost of accreditation being borne by the independent members.

The following table shows the increase in sitting fees from June 2019 to June 2022 for those councils used as a bench mark:-

	June 2019		June 2022	
Council	Independent Member	Presiding Member	Independent Member	Presiding Member
Light Regional Council	\$350	\$450	\$400 +\$50	\$550 +\$100
The Barossa Council	\$300	\$500	\$300 \$-	\$550 +\$50
Town of Gawler	\$300	\$400	\$325 +\$25	\$425 +\$25
Wakefield Regional Council*	\$300	\$400	\$500 +\$200	\$600 +\$200
APC	300	350	350	450

* Wakefield Regional Council is now included in The Mid North Regional Assessment Panel which also includes, Clare & Gilbert Valleys Council, Regional Council of Goyder and Northern Areas Council

As Council is considering new membership of CAP rather than rolling over the existing CAP membership, as has happened in the past, based on the above it is suggested that the Independent Member sitting fee be increased from to \$350 to \$400 and the Presiding Member from \$450 to \$500

This should continue to provide adequate remuneration for time and travel requirements together with the prerequisite Professional Accreditation which comes at an annual cost.

Conclusion

Council is required to appoint members of the Council Assessment Panel under the *Planning, Development and Infrastructure Act 2016* for a term concluding on 30 June 2024. Following a call for expressions of interest and interview process, Council staff recommend appointment of the nominated Accredited Professionals as independent members of the Council Assessment Panel.

References

Legislation

Development Act 1993

Planning, Development and Infrastructure Act 2016

Extract

Division 2—Assessment panels

83—Panels established by joint planning boards or councils

- (1) The following provisions will apply in relation to an assessment panel appointed by a joint planning board or a council (a *designated authority*) under Division 1:
 - (a) a designated authority may appoint more than 1 assessment panel but, if it does so, the designated authority must clearly specify which class of development each assessment panel is to assess;
 - (b) a designated authority must determine—
 - (i) the membership of the assessment panel, being no more than 5 members, only 1 of which may be a member of a council, and, if the designated authority thinks fit, on the basis that the assessment panel will be constituted by a different number of members depending on the particular class of development that is being assessed by the assessment panel; and

- (ii) the procedures to be followed with respect to the appointment of members; and
 - (iii) the terms of office of members; and
 - (iv) conditions of appointment of members, or the method by which those conditions will be determined, (including as to their remuneration) and the grounds on which, and the procedures by which, a member may be removed from office; and
 - (v) the appointment of deputy members; and
 - (vi) who will act as the presiding member of the panel and the process for appointing an acting presiding member;
- (c) a person appointed as a member of an assessment panel must be an accredited professional;

RECOMMENDATION

“that Council, having considered the matter of Agenda Item 21.2 – *Council Assessment Panel – Independent Membership* in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999*, resolves:

- 1. That the staff report and the minutes pertaining to Agenda Item 21.2 – *Council Assessment Panel – Independent Membership* remain confidential and not available for public inspection until the applicants for positions on the Council Assessment Panel have been advised of the outcome of their application;**
- 2. That Attachment 1 and Attachment 2 pertaining to Agenda Item 21.2 – *Council Assessment Panel – Independent Membership* remain confidential and not available for public inspection until further order of Council;**
- 3. Pursuant to section 91(9)(a) of the *Local Government Act 1999*, the confidentiality of the matter will be reviewed every 12 months; and**
- 4. Pursuant to section 91(9) (c) of the *Local Government Act 1999*, Council delegates the power to revoke this confidentiality order to the Chief Executive Officer.”**