



City of
Mount Gambier

**City of Mount Gambier Council
Assessment Panel**

MEETING PROCEDURES

Valid from 20th February 2020.

**City of Mount Gambier Council Assessment Panel
Meeting Procedure
Applicable from 20th February 2020**

CONTENTS

1	Council Assessment Panel Meetings	1
	➤ Ordinary Meetings	1
	➤ Special Meetings	2
2	Deputy Members	2
3	Additional Members	2
4	Commencement of Meetings	3
5	Deferral of Items	3
6	Hearing of Representations	3
7	Site Inspections	5
8	Information Provided Following Preparation of the Meeting Agenda	5
9	Decision Making	6
10	Minutes and Reporting	7
11	Planning Appeals	8
12	Conduct	8
13	Planning Policy	8

City of Mount Gambier Council Assessment Panel

Meeting Procedures

Adopted for the CAP for application from 20th February 2020

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 Ordinary meetings of the City of Mount Gambier Council Assessment Panel (**CAP**) will be held on the third Thursday of each month, unless there are no items to be considered, in which case no meeting will be held.
- 1.2 Meetings will commence at 5:45pm, unless earlier or later commencement times are arranged to facilitate inspections of land the subject of current, past or future applications before the Panel.
- 1.3 Meetings will ordinarily be held at the Civic Centre, 10 Watson Terrace, Mount Gambier. However, the Assessment Manager, in consultation with the Presiding Member, may arrange an alternative venue should the circumstances warrant.
- 1.4 All Members must attend meetings in person. No Member shall attend a meeting by telephone or video link, or any other electronic means.
- 1.5 Notice of an ordinary meeting will be given to all CAP Members not less than 3 clear days prior to the holding of the meeting in accordance with clause 1.6.
- 1.6 Notice of a meeting of the CAP must:
 - 1.6.1 be in writing;
 - 1.6.2 set out the date, time and place of the meeting;
 - 1.6.3 be signed by the Assessment Manager;
 - 1.6.4 contain or be accompanied by the full agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable);
 - 1.6.5 be given to a CAP Member by electronic means to the email address nominated by the Member.
- 1.7 A notice that is not given in accordance with clause 1.6 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.

- 1.8 A copy of the full agenda for all meetings of the CAP (excluding the attachments to reports) 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.
- 1.9 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.
- 1.10 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.11 A meeting may, at the request of a CAP Member or the Assessment Manager, break for a specified time period as determined by the CAP.
- 1.12 Meetings of the CAP shall be conducted in public except where the Panel may exclude the public pursuant to Regulation 13(2) of the Regulations.

SPECIAL MEETINGS

- 1.13 The Presiding Member may, by delivering a written request to the Assessment Manager, require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.
- 1.14 On receipt of a request pursuant to clause 1.13, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP members at least two days before the commencement of the special meeting.
- 1.15 An Assessment Manager may require a special meeting of the CAP to be held. Members must be advised of the special meeting in accordance with the procedures set out in clauses 1.5 and 1.6.

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, Assessment Manager or a member of Council staff who has been nominated by the Assessment Manager at his or her earliest opportunity.
- 2.2 If notification pursuant to clause 2.1 is given, the Presiding Member 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 ten minutes from the commencement time specified in the notice of the meeting a 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.

5 DEFERRAL OF ITEMS

- 5.1 Any request from an applicant (or their representative) to defer an item listed on the CAP agenda after the agenda has been sent to CAP Members but before the meeting, must be in writing and sent to the Assessment Manager. The decision to permit a deferral will be made by the Presiding Member at his or her discretion in consultation with the Assessment Manager.

6 HEARING OF REPRESENTATIONS

- 6.1 The Assessment Manager may in his or her discretion exclude:
 - 6.1.1 a representation or response to representation(s) which is received out of time;
 - 6.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or
 - 6.1.3 a representation or response to representation(s) which is otherwise invalid.

- 6.2 In relation to each application to be considered and determined by the CAP:
- 6.2.1 a person who has lodged a representation in relation to a Category 2 or 3 application which has not been excluded pursuant to clause 6.1 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 spokesperson.
 - 6.2.2 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 spokesperson;
 - 6.2.3 Where no representors appear, an applicant (or their spokesperson) will only be entitled to appear before the CAP at the discretion of the Presiding Member.
- 6.3 CAP Members may question and seek clarification from representors and applicants at the conclusion of their address to the CAP.
- 6.4 Where representors and/or applicants are to be heard by the Panel, this will occur at the commencement of the consideration of each relevant agenda item and not *en bloc*.
- 6.5 Representors will be allocated 5 minutes to address the CAP and the applicant will be allocated 10 minutes to respond, unless otherwise determined by the Presiding Member.
- 6.6 Where two or more persons have nominated a spokesperson to support their representations the Presiding Member will determine the allocated time that the spokesperson will have to address the CAP.
- 6.7 Where representors are addressing the CAP on a common issue or issues, the CAP may request such representors to address the CAP in a group, rather than individually.
- 6.8 Representors will not be allowed a further opportunity to address the CAP once applicants have concluded their response.
- 6.9 Representors and applicants will not be allowed a further opportunity to address the CAP at any subsequent meeting of the CAP to consider the matter, unless the application has been re-notified, or otherwise at the discretion of the Presiding Member. However, the Presiding Member may allow CAP Members to address questions to the application or representors, who must limit their responses to the questions raised.
- 6.10 Representors and applicants shall not raise new material that has not been raised in their written submissions when they appear before the CAP, except at the discretion of the Presiding Member.
- 6.11 After hearing from an applicant and / or representors, the CAP will discuss the application, including discussing any new information which has been received. The CAP may seek clarification from the Assessment Manager and any Council Planning Staff in attendance on any matter.
- 6.12 Individual Elected Members of the City of Mount Gambier do not have a right to be heard by the CAP unless they have made a representation as a private citizen which has not been excluded by the Assessment Manager pursuant to clause 6.1, or have been appointed by a representor to speak on their behalf.

- 6.13 Should a CAP Member receive by direct post, fax, email or any other means, information in relation to a development application current being assessed (or a proposal likely to be assessed) by the CAP, the CAP Member must immediately forward the information to the Assessment Manager. The Panel Member should not acknowledge receipt of the information and must not enter into discussion with the sender in relation to any matters contained within the information received. If a CAP Member receives such information, he or she must disclose this fact to the meeting of the CAP at which the application is being considered.

7 SITE INSPECTIONS

- 7.1 Site inspections by the CAP to sites that are the subject of past, current or future applications before the CAP will be determined by the Assessment Manager upon request to the Assessment Manager from any member of the CAP,
- 7.2 The Assessment Manager shall be present at all site inspections undertaken by the CAP.
- 7.3 The CAP will not hear from any party during a site inspection.
- 7.4 Site inspections undertaken by members of the CAP must be undertaken in accordance with the Code of Conduct adopted by the Minister pursuant to Schedule 3 of the Act, applicable to CAP Members (**Code of Conduct**).

8 INFORMATION PROVIDED FOLLOWING PREPARATION OF THE MEETING AGENDA

- 8.1 Additional information submitted at the Panel meeting will be considered by the Panel only at the discretion of the Presiding Member. The Panel may defer consideration of the application to enable a full and proper assessment of any further information which the Presiding Member has decided the Panel will take into consideration to be made.
- 8.2 Should an applicant or representor wish to raise additional information, it should be sent to Council marked to the attention of the Assessment Manager at least 5 business days prior to the CAP meeting at which the matter will be considered
- 8.3 The Presiding Member shall determine whether additional information received pursuant to clause 8.2 above shall be considered by the CAP.
- 8.4 Any material to be considered by the CAP pursuant to clause 8.3 above must be provided to the applicant and/or representors (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
- 8.5 The CAP may defer consideration of the application to enable full and proper assessment of the additional information, or the completion of the requirements in clause 8.4 above.

9 DECISION MAKING

- 9.1 The CAP shall have regard to the relevant provisions in the correct consolidation of the City of Mount Gambier Development Plan, or when repealed and replaced by the the Planning and Design Code (**Code**), the relevant provisions of the correct consolidation of the Code, when making decisions on applications, and shall also have regard to relevant issues raised in any written and / or verbal representations.
- 9.2 In relation to each application it considers, the CAP must:
 - 9.2.1 determine whether the proposal is seriously at variance with the Development Plan and provide reasons for its determination; and
 - 9.2.2 provide reasons for granting or refusing Development Plan Consent and for the imposition of any conditions.
- 9.3 If the CAP determines that a proposal is seriously at variance with the Development Plan, it must refuse Development Plan Consent to the application.
- 9.4 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.
- 9.5 Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.
- 9.6 All CAP members must participate in the decision of the CAP on each matter before it by making one vote.
- 9.7 Members of the CAP are unable to call for a division, nor can they submit any notice of motion to revoke or amend a previous decision of the CAP.
- 9.8 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.
- 9.9 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:
 - 9.9.1 behaving in a disorderly manner; or
 - 9.9.2 causing an interruption or disruption to the meeting.
- 9.10 The CAP shall make a determination (which may include deferral) in relation to each application before it, on the application as presented to it. The CAP shall not 'redesign' a proposal from an applicant.

- 9.11 The CAP may, at its discretion, defer a decision in relation to an application, subject to providing the Assessment Manager with reasoning for the deferral, which will be recorded in the minutes and communicated to the applicant and any representors.

10 MINUTES AND REPORTING

- 10.1 The CAP must ensure that accurate minutes are kept of all meetings.
- 10.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 10.3 The minutes will record:
- 10.3.1 the names of all Members present;
 - 10.3.2 the names of all Members from whom apologies have been received;
 - 10.3.3 the name and time that a Member enters or leaves the meeting;
 - 10.3.4 the name of every person who makes a representation;
 - 10.3.5 in relation to each application determined by the CAP:
 - 10.3.5.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan;
 - 10.3.5.2 the reasons for granting or refusing Development Plan Consent and for the imposition of any conditions; and
 - 10.3.5.3 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;
 - 10.3.6 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
 - 10.3.7 a decision to exclude the public from attendance, including the reasons for such decision and the relevant provision(s) of Regulation 13(2) pursuant to which the decision was made;
 - 10.3.8 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;
 - 10.3.9 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
 - 10.3.10 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.
- 10.4 The minutes shall not be formal minutes until adopted by the CAP at the next meeting of the CAP.
- 10.5 Upon adoption of the Minutes, the Presiding Member shall authorise the Minutes by signature and date of adoption on the Minutes.

11 PLANNING APPEALS

- 11.1 Should an appeal be lodged in the Environmental, Resources and Development Court in relation to a decision of the CAP, the CAP will determine whether to resolve the appeal by agreeing to a compromise proposal, or whether the matter should proceed to a hearing.

12 CONDUCT

- 12.1 If a CAP Member is of the view that they have a direct or indirect personal or pecuniary interest in relation to a matter before the Panel they shall make a disclosure clearly stating the nature of that interest to the CAP, in accordance with the Act and the Code of Conduct, and shall thereafter act in accordance with the Code of Conduct.

13 PLANNING POLICY

- 13.1 The CAP may, from time to time, consider trends, issues and other matters relating to planning or development that have become apparent or arisen through the assessment of development applications, and report to Council accordingly.

20th February 2020
Ref: AF19/488