

City of Mitcham Council Assessment Panel

Meeting Procedures

Adopted by the CAP on 2 April 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 Mitcham** Council Assessment Panel (**CAP**) will, subject to there being sufficient business for the CAP to attend to, ordinarily be held on a monthly basis (excluding January) on dates and at times and in a manner determined by the CAP (and, if not determined by the CAP, determined by the Assessment Manager), whether by a physical meeting at a nominated location or by use of an online platform, teleconference or other means (including, where no person requests to be heard and no person is entitled to be heard, by circular resolution).
- 1.2 If a physical meeting of the CAP is convened, individual CAP members who cannot, or for good reason would prefer not to, attend the physical meeting may, if doing so is reasonably practicable, attend that meeting via online platform or teleconference, etc with the approval of the Presiding Member. Where practicable, such approval should be sought in writing no less than 24 hours prior to the meeting with copy sent to the Assessment Manager.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than 5 clear days prior to 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 whether the meeting is to occur at a physical place or is to be convened through online platform, teleconference or other means. If a physical meeting is to occur, the notice must designate the location 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 (in so far 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 Public notice of CAP meetings will be provided by publishing the dates, times and manner in which a meeting will be convened and such of the following details as may be relevant: the physical location of the meeting; an online link for the meeting; and teleconference details. Where a meeting is to be held via online platform or teleconference, the meeting will be livestreamed or made accessible in a manner deemed appropriate by the Presiding Member (and in the absence of such decision, by the Assessment Manager), such that members of the public can hear and (if relevant) see the meeting similarly to how they would if physically present in the public gallery of a physical meeting.
- 1.8 **(Late Items)** The Assessment Manager may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at an ordinary meeting, at any time after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manager shall provide an updated agenda, or supplement to the agenda, and any documents and/or reports relating to that item to be considered at the meeting to CAP Members as soon as practicable. The Assessment Manager will also make an updated agenda or supplemental agenda available to the public in the same way as the ordinary agenda.
- 1.9 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.10 A meeting will break for 15 minutes once every 2 hours or more or less often as determined by the Presiding Member.

Special Meetings

- 1.11 The Presiding Member, or 2 or more CAP Members, may by delivering a written request to the Assessment Manager require a special meeting of the CAP to be convened. The written request must be accompanied by the agenda for the special meeting.
- 1.12 On receipt of a request pursuant to clause 1.11, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP members at least 4 hours before the commencement of the special meeting.

2. DEPUTY MEMBERS

- 2.1 If a CAP Member is unable or for good reason 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 2.1 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)* and Practice Direction 5 adopted by the State Planning Commission.
- 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.
- 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 or the Assessment Manager may adjourn the meeting to a specified day and time.
- 4.3 If at the expiration of 30 minutes from the commencement time specified in the notice of the meeting a meeting a quorum is not present, the Presiding Member or the Assessment Manager 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. **DECISION MAKING**

- 5.1 The Assessment Manager and Presiding Member may, together in their discretion exclude:
- 5.1.1 a representation or response to representation(s) which is received out of time;
- 5.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application;

or

5.1.3 a representation or response to representation(s) which is otherwise invalid.

5.2 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.

Any material to be considered by the CAP pursuant to clause 5.2 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 In relation to each application it considers, the CAP must:

5.3.1 determine whether the proposal is seriously at variance with the Development Plan; and

5.3.2 provide reasons for refusing Development Plan consent or for the imposition of any conditions.

5.4 If the CAP determines that a proposal is seriously at variance with the Development Plan, it must refuse Development Plan consent to the application.

5.5 In relation to each application to be considered and determined by the CAP:

5.5.1 a person who has lodged a representation in relation to a Category 3 application which has not been excluded pursuant to clause 5.1 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. The person may represent themselves or be represented by some other person;

5.5.2 a person who has lodged a representation in relation to a Category 2 application which has not been excluded pursuant to clause 5.1 and who has indicated that they wish to be heard on their representation may, at the discretion of the Presiding Member, appear before the CAP and be heard in support of their representation, in person or by an agent;

5.5.3 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;

5.5.4 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;

5.5.5 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;

- 5.5.6 where a CAP meeting is to be convened through means other than a physical meeting (i.e. through online platform or otherwise), the Assessment Manager will, in providing notice of the CAP meeting to them, ensure that representors and the applicant will be provided with a reasonable opportunity to appear and be heard at the meeting by providing them with online or teleconference access details such that they can be heard by and interact with the CAP members;
- 5.5.7 A refer to 'appear' or being 'heard' in the foregoing clauses is a reference to appearing or participating in the forum utilised by the meeting, e.g. physically in the case of a physical meeting, and by online or telephone participation in the case of an online or telephonic meeting, except where the Presiding Member determines otherwise (for example, a person who is known to present a health or safety risk may be required to appear by online or telephone participation even where a physical meeting is convened);
- 5.5.8 CAP members may question and seek clarification from any person who has addressed the CAP at any time during or after their address; and
- 5.5.9 following addresses from representors, the applicant, and the Assessment Manager or their nominee (in each case, if any), the Presiding Member will invite Members to discuss their views of the application.
- 5.6 Each Member present at a meeting of the CAP, including a Deputy Member attending in place of a Member, is entitled to 1 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.
- 5.7 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.
- 5.8 Where there is an equal number of votes, the Presiding Member will have a casting vote.
- 5.9 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.
- 5.10 The Presiding Member may require a person (including an applicant, representor or any representative of such) to leave a meeting where he or she is, in the opinion of the Presiding Member:
 - 5.10.1 behaving in a disorderly manner; or
 - 5.10.2 causing an interruption or disruption to the meeting.
- 5.11 Where a meeting is convened online, via teleconference or other means other than a physical meeting, the Presiding Member may mute or disconnect a person from the meeting link in the event that the person is,

in the opinion of the Presiding Member, behaving in accordance with clauses 5.10.1 or 5.10.2 above.

- 5.12 Where a meeting is convened online, via teleconference or other means other than a physical meeting, and the CAP resolves to exclude the public from the meeting pursuant to the Regulations, members of the public will, as relevant, be excluded from the meeting by means of the livestream being paused and all audio and video feeds to persons excluded from the meeting being disabled for the duration of the confidential item.

6. MINUTES AND REPORTING

- 6.1 The CAP must ensure that accurate minutes are kept of all meetings.
- 6.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 6.3 The minutes will record:
- 6.3.1 the names of all Members present;
 - 6.3.2 the names of all Members from whom apologies have been received;
 - 6.3.3 the name and time that a Member enters or leaves the meeting;
 - 6.3.4 the name of every person who makes a representation;
 - 6.3.5 in relation to each application determined by the CAP:
 - 6.3.5.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan;
 - 6.3.5.2 the reasons for refusing Development Plan consent or for the imposition of any conditions; and
 - 6.3.5.3 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;
 - 6.3.6 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
 - 6.3.7 a decision to exclude the public from attendance pursuant to the Regulations;
 - 6.3.8 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;
 - 6.3.9 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
 - 6.3.10 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.

- 6.4 All minutes must be confirmed by the Assessment Manager in conjunction with the Presiding Member as being accurate prior to, or at the commencement of, the following CAP meeting.

7. ADDITIONAL PROCEDURES

- 7.1 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 or these Meeting Procedures - the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.
- 7.2 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.