



COUNCIL ASSESSMENT PANEL

Minutes

for the meeting
Monday, 28 August 2023
at 5.30 pm
in the Colonel Light Room, Adelaide Town Hall



Minutes of the Meeting of the Council Assessment Panel

Held on Monday, 28 August 2023, at 5.30 pm,
Colonel Light Room, Adelaide Town Hall

Present -

Presiding Member -	Nathan Cunningham
Panel Members -	Colleen Dunn, Emily Nankivell and Councillor Keiran Snape
Deputy Panel Member -	Prof Mads Gaardboe

Apology -

Panel Member -	Mark Adcock
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1 Confirmation of Minutes

Decision

That the Minutes of the meeting of the City of Adelaide Council Assessment Panel held on 24 July 2023, be taken as read and be confirmed as an accurate record of proceedings.

2 Declaration of Conflict of interest

Nil

3 Applications assessed under PDI Act 2016 (SA) with Representations

4 Item 3.1 - 87-90 Palmer Place, North Adelaide

Representations listed to be heard

Representor

- John Mason of Planning Chambers on behalf of Paul and Sally Patterson – 156 Kermod Street, North Adelaide

Applicant

- Jake Vaccarella of URPS and Lachlan Rose of Proske Architects on behalf of Jaqueline Murdoch

Decision

That the Council Assessment Panel resolves that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (SA), and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 23012731, by Jaqueline Murdoch is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any)**
 - Plans drafted by Proske Architects, project no. 22-043 drawing nos. SK01.A, SK04.A, SK05.A, SK06.A and SK07 all dated 14.8.2023 and SK02, SK03 all dated 03.05.2023

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2. **The privacy screening as depicted on the plans granted consent described as Drawing No. SK04.a and SK05.A shall be installed prior to the occupation or use of the Development and thereafter shall be maintained to the reasonable satisfaction of the Relevant Authority at all times.**

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3. **All stormwater run-off from the development including awnings shall be collected in a system of gutters, pits and pipelines and discharged by gravity to the kerb and gutter of a public road in accordance with the National Construction Code, AS3500.3 and Council's City Works Guide Works Impacting City of Adelaide Assets and Urban Elements Catalogue. All downpipes affixed to the Development which are required to discharge the storm water runoff shall be installed within the property boundaries of the Land and the development designed to prevent ingress of surface flows from adjacent public land.**

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4. **External materials, surface finishes and colours of the Development shall be consistent with the description and sample hereby granted consent and shall be to the reasonable satisfaction of the Relevant Authority.**
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ADVISORY NOTES

1. Expiration Time of Approval

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Notifications

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

3. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

4. Boundaries

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

5. Demolition

Demolition and construction at the site should be carried out so that it complies with the construction noise provisions of Part 6, Division 1 of the Environment Protection (Noise) Policy 2007. A copy of the Policy can be viewed at the following site: www.legislation.sa.gov.au.

6. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval. The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at www.cityofadelaide.com.au/business/permits-licences/city-works/

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

- A Traffic Management Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.); Description of equipment to be used;
- A copy of your Public Liability Insurance Certificate (minimum cover of \$20 Million required);
- Copies of consultation with any affected stakeholders including businesses or residents.

5 Item 3.2 - 112-114 Gilles Street, Adelaide

Representations listed to be heard

Representor

- Brian Graetz and Kim Webber of 33 Stephens Street, Adelaide (a tabled presentation is included for information at the conclusion of the Minutes of this meeting)
- Sue Halford of 31 Stephens Street, Adelaide

Applicant

- Marcus Rolfe of URPS and Enzo Caroscio of Enzo Caroscio Architecture & Design on behalf of the applicant

Decision

That the Council Assessment Panel resolves that:

3. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (SA), and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
4. Development Application Number 23009317, by Alexandra Stadtkus and Enzo Caroscio is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**

- **Plans and details prepared by Enzo Caroscio Architecture – Project No. 22009 – Drawing name/number:**
 - **Site Plan – Existing – A1.10 Rev A1, 29.03.2023**
 - **Site Plan – Demolition – A1.11 Rev A2, 14.06.2023**
 - **Site Plan – Subdivision – A1.12 Rev A2, 14.06.2023**
 - **Site Plan – Ground Floor – A1.20 Rev A2, 14.06.2023**
 - **Site Plan – Level 1 – Rev A3, 17.08.2023**
 - **Site Plan – Level 2 – Rev A4, 17.08.2023**
 - **Site Plan – Level 3 – Rev A2, 14.06.2023**
 - **Site Plan – Roof – A1.24, Rev A3**
 - **Floor Plans – Ground Floor 112a & 112b – A2.20 Rev A2, 14.06.2023**
 - **Floor Plans – Ground Floor 114 – A2.21 Rev A2, 14.06.2023**
 - **Floor Plans – Level 1 112a & 112b – A2.22 Rev A1, 29.03.2023**
 - **Floor Plans – Level 1 114 – A2.23 Rev A2, 14.06.2023**
 - **Floor Plans – Level 2 112a & 112b – A2.24 Rev A2, 14.06.2023**
 - **Floor Plans – Level 2 114 – A2.25 Rev A2, 14.06.2023**
 - **Floor Plans – Level 3 112a & 112b – A2.26 Rev A1, 29.03.2023**
 - **Floor Plans – Level 3 114 – A2.27 Rev A2, 14.06.2023**
 - **Floor Plans – Roof 112a & 112b – A2.28 Rev A3, 17.08.2023**
 - **Floor Plans – Roof 114 – A2.29 Rev A3, 17.08.2023**
 - **South Elevation – A3.00 Rev A3, 17.08.2023**
 - **East Elevation – A3.01 Rev A4, 17.08.2023**
 - **North Elevation – A3.02 Rev A4, 17.08.2023**
 - **West Elevation – A3.03, Rev A3, 17.08.2023**
 - **Streetscape Elevations – A3.04 Rev A4, 17.08.2023**
 - **Section – A3.10 Rev A4, 17.08.2023**
 - **Materials and Finishes – Page 42**

2. **The privacy screening as depicted on the plans granted consent described as North Elevation (A3.02) shall be installed prior to the occupation or use of the Development and thereafter shall be maintained to the reasonable satisfaction of the Relevant Authority at all times.**

3. **Windows on the first floor on the northern elevation shall be permanently obscured to a height of 1.6 metres above finished floor level and fixed or not capable of being opened more than 125mm.**

- 4. Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).**

- 5. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.**

- 6. All stormwater run-off from the development shall be collected in a system of gutters, pits and pipelines and discharged by gravity to the underground council drainage pipes within Gillies Street and/or Stephens Street in accordance with the National Construction Code, relevant Australian Standards including AS/NZS 3500.3:2021, and AS/NZS 3500.1:2021 for the on-site retention tank (including provision of safe tray) and water reuse system, and Council's City Works Guide Works Impacting City of Adelaide Assets and Urban Elements Catalogue. All downpipes affixed to the Development which are required to discharge the storm water runoff shall be installed within the property boundaries of the Land and the development designed to prevent ingress of surface flows from adjacent public land.**

- 7. External materials, surface finishes and colours of the Development shall be consistent with the description and sample hereby granted consent and shall be to the reasonable satisfaction of the relevant authority.**

- 8. The landscaping depicted on the plans shall be maintained in good health and condition at all times to the reasonable satisfaction of the Relevant Authority. Any dead or diseased plants or trees shall be replaced forthwith to the reasonable satisfaction of the Relevant Authority.**

- 9. The finished floor level at the boundary of the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. All transitions to internal levels must occur within site boundaries.**

10. **The design of the vehicular access and off-street parking facilities shall comply with Australian Standards AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking.**
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EPA CONDITIONS

11. **A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability is issued by a site contamination consultant certifying the land is suitable for the proposed use.**
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12. **If a certificate of occupancy is not required pursuant to regulation 103 of the Planning, Development and Infrastructure (General) Regulations 2017, a person must not occupy the building for the purpose authorised under the development approval until a statement of site suitability is issued by a site contamination consultant certifying the land is suitable for the proposed use.**
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ADVISORY NOTES

1. Expiration of Consent

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

3. Commencement and Completion

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

4. Building Consent for Approval

Development Approval will not be granted until Building Rules Consent has been obtained. A separate application must be submitted for such consent. No building work or change of classification is permitted until the Development Approval has been obtained.

5. Alterations to existing crossover

There is no objection to the proposed vehicle crossing place(s)/alterations to the existing vehicle crossing place(s), however the work will be undertaken by Council and the cost of the work will be charged to the applicant. Separate application for the crossing place(s) is required and the applicant can obtain a form at Driveway crossover application <https://customer.cityofadelaide.com.au/forms/vehicle-crossing-application/>. A quotation for the work will be provided by Council prior to the work being undertaken.

6. Redundant Assets

The vehicle crossing place(s) and drainage connections to the council drainage pipes in Gilles Street and Stephens Street made redundant will be undertaken in accordance with Council's requirements including City Works Guide Works Impacting City of Adelaide Assets and Urban Elements Catalogue. A quotation for the work will be provided by Council to the applicant prior to the work being undertaken.

7. Vehicle parking permits

No on-street residential parking permits will be issued for use by occupants of, or visitors to, the development herein approved (unless the subject site meets the relevant criteria).

Please visit <https://www.cityofadelaide.com.au/transport-parking/parking/residential-parking/> or contact the Customer Centre on 8203 7203 for further information.

8. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval.

The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at <https://www.cityofadelaide.com.au/business/permits-licences/city-works/>

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

A Traffic Management Plan (a map which details the location of the works, street)

6 Applications assessed under PDI Act 2016 (SA) without Representations

Nil

7 Appeal to CAP for Assessment Manager's Decision Review

Nil

8 Other Business

9 Item 6.1 - Council Assessment Panel - Adoption of Meeting Procedures

An updated version of Attachment B – Amended Meeting Procedures is attached for reference at the conclusion of the Minutes of this meeting.

Decision

That the CAP adopt amended Meeting Procedures (marked as Attachment B to Item 6.1 on the Agenda for the meeting of the Council Assessment Panel held on 28 August 2023).

10 Other Business raised at Panel Meeting

The Assessment Manager raised the option of live streaming future panel meetings (as per the Meeting Procedures). The option to live stream meetings was unanimously supported by the Panel and will be implemented in coming months.

Closure

The meeting closed at 6.54 pm

Nathan Cunningham
Presiding Member
City of Adelaide Council Assessment Panel

Documents Attached:

Minute 5 - Item 3.2 - 112-114 Gilles Street, Adelaide – Tabled Presentation

Minute 9 – Item 6.1 – Council Assessment Panel – Adoption of Meeting Procedures –
Updated version of Attachment B – Amended Meeting Procedures

Dear Panel

Re development application for 112-114 Gilles St

Please see enclosed photos of Stephens St to support consideration of the planning development application for 112-114 Gilles St which is land on the corner of Gilles Street and Stephens Street.

Photos 1 - 2 show the row of workers cottages immediately neighbouring the property on Stephens St. The building with roller door on the left of the photo is the proposed development site.



Photo 3 shows the master bedroom window of 33 Stephens St which faces south towards the development. The green wall is the boundary.



Photo 4 shows the south oriented front door, kitchen, living and bedroom windows of 33 Stephens St which face south towards the development. The green wall is the boundary.



These Meeting Procedures are to be read in conjunction with the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)* and Council's adopted CAP Terms of Reference.

1. CAP Meetings

Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the Council Assessment Panel (CAP) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than 3 clear days prior to the holding of 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 place of the meeting;
 - 1.4.3 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
 - 1.4.4 be given to a CAP Member:
 - 1.4.4.1 via email to an email address authorised in writing by the CAP Member; or
 - 1.4.4.2 by other means authorised by the CAP Member as being an available means of giving notice;
 - 1.4.5 pursuant to clause 8, where attendance at the meeting is to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and
 - 1.4.6 where the meeting is live streamed for viewing by members of the public pursuant to clause 8, include details of how to access and/or connect to the live stream.
- 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 CAP Member.
- 1.6 Subject to clause **Error! Reference source not found.**, the agenda, CAP report and associated attachments 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 If the CAP is receiving information and/or legal advice that in the opinion of the Assessment Manager relates to a matter under regulation 13(2)(a)(i) – (x) (inclusive) of the Regulations, then that information and/or legal advice will not be made publicly available pursuant to clause 1.6 until the CAP has considered the agenda item to which it relates. However, if in considering that agenda item, the CAP decides to retain the information and/or legal advice in confidence, then it will not be made publicly available until such time, event, or circumstance as is stipulated by the CAP in its absolute discretion.

- 1.8 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 CAP Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.
- 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 may break for a period of time as determined by the Presiding Member.

Special Meetings

- 1.11 The Assessment Manager may by delivering a written request to the Presiding Member, or two or more CAP Members, require a special meeting of the CAP to be held. 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 to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the 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 (subject to relevant clauses in relation to Deputy Members within the CAP Terms of Reference) attend the meeting in place of a CAP Member for the meeting or part of the meeting.
- 2.3 Unless the context otherwise requires, a reference to a CAP Member in these Meeting Procedures includes a Deputy Member.

3. Commencement of Meetings

- 3.1 Subject to a quorum (minimum of three (3) CAP Members) being present, a meeting of the CAP will commence as soon as possible after the time specified in the notice of a meeting.
- 3.2 If the number of apologies received by the Assessment Manager indicates that a quorum will not be present at a meeting, the Assessment Manager may adjourn the meeting to a specified day and time.
- 3.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 3.4 In the instance when 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.

4. Representations

- 4.1 The Assessment Manager and/or Presiding Member may in his or her discretion exclude a representation or response to representation(s) which is received out of time;
- 4.2 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.

- 4.3 Any material to be considered by the CAP pursuant to clause 4.2 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.
- 4.4 In relation to each application to be considered and determined by the CAP:
- 4.4.1 a person who has lodged a representation which has not been excluded pursuant to clause 4.1 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 an agent;
 - 4.4.2 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any matters raised by a representor, in person or by an agent;
 - 4.4.3 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;
 - 4.4.4 CAP Members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and
 - 4.4.5 following addresses from representors and the applicant, the Presiding Member will invite all CAP Members to speak on any matter relevant to the application.

5. Review of an Assessment Manager Decision

Commencing a Review

- 5.1 An application for review must relate to a prescribed matter, as defined in section 201 of the Act (**Prescribed Matter**), for which an Assessment Manager was the relevant authority.
- 5.2 An application for review must be:
- 5.2.1 made using the "Application to Assessment Panel for Assessment Manager's Decision Review" published on the SA Planning Portal (**Form**);
 - 5.2.2 lodged in a manner identified on the Form; and
 - 5.2.3 lodged within one (1) month of the applicant receiving notice of the Prescribed Matter unless the Presiding Member in his or her discretion grants an extension of time.
- 5.3 In determining whether to grant an extension of time, the Presiding Member may consider:
- 5.3.1 the reason for the delay;
 - 5.3.2 the length of the delay;
 - 5.3.3 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - 5.3.4 the interests of justice;
 - 5.3.5 whether the applicant has, or is within time to, appeal the Prescribed Matter to the Environment, Resources and Development Court; and
 - 5.3.6 any other matters the Presiding Member considers relevant.

Materials for Review Process

- 5.4 The Assessment Manager shall present to the CAP all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter including:
- 5.4.1 application documents, reports, submission, plans specifications or other documents submitted by the applicant; and
 - 5.4.2 internal and/or external referral responses and any checklist and/or report from Council staff or an external planning consultant written for the Assessment Manager.
- 5.5 The Assessment Manager (or delegate) must:
- 5.5.1 prepare a report to the CAP setting out details of the relevant development application, the Prescribed Matter the subject of the review, any additional written submissions (including additional information or materials) prepared by the applicant pursuant to paragraph 5.6.3, and the reasons for the Assessment Manager's (or delegate's) decision and response to such additional written submission of the applicant so provided; and
 - 5.5.2 not introduce new material (except to address any written submission of the applicant under paragraph 5.6.3.3 or referral response under paragraph 5.6.4) or review the decision previously made.

Review Process

- 5.6 The review hearing shall be undertaken in accordance with the following:
- 5.6.1 The Assessment Manager must advise the applicant in writing of the time and date of the CAP meeting at which the review application will be heard not less than five (5) business days before the CAP meeting.
 - 5.6.2 On review, the CAP will consider the decision afresh.
 - 5.6.3 An applicant for an application to the CAP for a review of a Prescribed Matter must be notified in writing by the Assessment Manager within five (5) business days of receipt of the application of the opportunity to:
 - 5.6.3.1 provide the CAP with their written submissions (which may include additional information and materials) in relation to the review; and
 - 5.6.3.2 appear and make submissions at the hearing in person, and the applicant must provide to the Assessment Manager:
 - 5.6.3.3 any such written submissions within ten (10) clear business days of the date of that notification (or such longer period as requested by the applicant and granted by the Presiding Member's discretion); and
 - 5.6.3.4 written confirmation of whether ~~it~~ the applicant will appear and make submissions at the hearing at least five (5) business days prior to the hearing.
 - 5.6.4 Within five (5) business days of the receipt of any written submissions under paragraph 5.6.3.3, the Presiding Member should determine in their discretion whether any referral agency who previously provided a response on the application should be given an opportunity to review and respond to the additional information and/or materials in a manner and timeframe determined by the Presiding Member. Any response received from such a referral agency should be provided to the applicant by the Assessment Manager within two (2) business days of receipt.
 - 5.6.5 The Presiding Member may defer the date for a hearing of the review application for a reasonable period, if it considers that the written submissions

received under paragraph 5.6.3.3 are substantial, in order to enable reasonable time for any response on the written submissions of a referral agency under paragraph 5.6.4 and/or response by the Assessment Manager. Written notice advising of any such deferral by the Presiding Member must be provided to the applicant by the Assessment Manager as soon as reasonably practicable and no less than 24 hours before the hearing at the CAP meeting.

- 5.6.6 The Presiding Member may however, ask or permit CAP Members to ask questions or seek clarification from the applicant and/or the Assessment Manager (or delegate), in his or her discretion.
- 5.6.7 The Assessment Manager must be present at the CAP meeting to respond to any questions or requests for clarification from the CAP.
- 5.6.8 Where the decision on the Prescribed Matter was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
- 5.6.9 The Presiding Member will invite all CAP Members to speak on any matter relevant to the review.
- 5.6.10 The CAP may resolve to defer its decision if it considers it requires additional time or information to make its decision.

Outcome of Review

- 5.7 The CAP may, on a review:
 - 5.7.1 affirm the Assessment Manager's decision;
 - 5.7.2 vary the Assessment Manager's decision; or
 - 5.7.3 set aside the Assessment Manager's decision and substitute its own decision.
- 5.8 An applicant should be advised in writing of the CAP's decision by the Assessment Manager within a reasonable time.

6. Decision Making

- 6.1 Subject to complying with these procedures, during debate and decision making, the CAP will act with a minimum of formality and without regard to formal procedures or protocols.
- 6.2 At all times, discussion will be managed by the Presiding Member in the Presiding Member's absolute discretion. The Presiding Member will ensure that each CAP Member has an opportunity for discussion, comments and questions about the matter for decision.
- 6.3 At the conclusion of discussion and debate on a matter, the Presiding Member will call for a motion to vote in relation to the recommendation as printed in the agenda report or for a motion on alternative terms to that recommendation (including, but not limited to, the addition, deletion or amendment of a condition or note proposed in that recommendation).
- 6.4 Each CAP 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 CAP Member who is unable to attend the meeting) is entitled to one vote on any matter arising for decision. Additional experts/advisors appointed by the CAP to provide expert advice and assistance are not entitled to vote.
- 6.5 Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by CAP Members present at the meeting and entitled to vote. If the votes are equal, the Presiding Member is entitled to a second or casting vote.
- 6.6 In relation to each application it considers, the CAP must:

- 6.6.1 determine whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
- 6.6.2 provide reasons for refusing Development Plan consent or planning consent (as relevant) (including reasons for any determination that the proposal is seriously at variance).
- 6.7 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.
- 6.8 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or be disconnected from a meeting where he or she is, in the opinion of the Presiding Member:
 - 6.8.1 behaving in a disorderly manner; or
 - 6.8.2 causing an interruption or disruption to the meeting.

7. Minutes and Reporting

- 7.1 The CAP must ensure that accurate minutes are kept of all meetings.
- 7.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 7.3 The minutes will record:
 - 7.3.1 the names of all CAP Members present;
 - 7.3.2 the names of all CAP Members from whom apologies have been received;
 - 7.3.3 the name and time that a CAP Member enters or leaves the meeting;
 - 7.3.4 the name of every person (and their representative) who makes or responds to a representation;
 - 7.3.5 the methods of attendance by all CAP Members present and by every person who makes or responds to a representation (and their representative);
 - 7.3.6 in relation to each application determined by the CAP:
 - 7.3.6.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant);
 - 7.3.6.2 the reasons for refusing Development Plan consent or planning consent (as relevant) (including reasons for any determination that the proposal is seriously at variance); and
 - 7.3.7 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
 - 7.3.8 a decision to exclude the public from attendance and retain the minutes of the item in confidence pursuant to the *Regulations*;
 - 7.3.9 in relation to each application for review of an Assessment Manager decision:
 - 7.3.9.1 the determination of the CAP as to whether the proposal is seriously at variance with the Planning Rules; and
 - 7.3.9.2 the reasons for the CAP's decision under section 203(4) of the PDI Act;
 - 7.3.10 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 CAP Member in accordance with Section 83(1)(g) of the PDI Act, and the nature of the interest;

- 7.3.11 any disclosure of a conflict of interest made by a CAP Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the PDI Act (Code of Conduct), and the nature of the interest; and
- 7.3.12 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.
- 7.4 All minutes must be confirmed by the CAP as being accurate, at the commencement of the following CAP meeting.

8. Electronic Meetings

- 8.1 Definitions:
 - 8.1.1 **connect** means able to hear and/or see the meeting by electronic means, including via live stream;
 - 8.1.2 **disconnect** means to remove the connection so as to be unable to hear and see the meeting;
 - 8.1.3 **electronic** means includes using 1 or both (including a combination) of the following means of communication:
 - 8.1.3.1 audio visual;
 - 8.1.3.2 audio,and includes a telephone, computer or other device used for communication;
 - 8.1.4 **live stream** means the transmission of audio and/or video from a meeting at the time the meeting is occurring.
- 8.2 Pursuant to section 39 of the *Legislation Interpretation Act 2021*, at the discretion of the Assessment Manager and/or Presiding Member:
 - 8.2.1 a CAP meeting may take place entirely by electronic means; and/or
 - 8.2.2 a CAP meeting may be livestreamed; and/or
 - 8.2.3 one or more CAP Members may attend a CAP meeting via electronic means; and/or
 - 8.2.4 a representor and/or applicant under clause 4 may attend a CAP meeting via electronic means; and/or
 - 8.2.5 an applicant for a review of a decision of an Assessment Manager under clause 5 may attend a CAP meeting via electronic means.
- 8.3 The discretion of the Assessment Manager and/or Presiding Member under clause 8.2 may be exercised to require attendance at the CAP meeting by electronic means regardless of whether a request for attendance by electronic means has been received or not by the Assessment Manager and/or Presiding Member.
- 8.4 A CAP Member who is attending a meeting by electronic means is taken to be present at the meeting provided that the Presiding Member can see and hear each CAP Member and a CAP Member:
 - 8.4.1 can hear and, where possible, see all CAP Members who are present at the meeting;
 - 8.4.2 can hear and, where possible, see all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;
 - 8.4.3 can be heard and, where possible, be seen by CAP Members present at the meeting; and
 - 8.4.4 can be heard and, where possible, be seen by the person recording the minutes of the meeting.
- 8.5 Where a meeting occurs solely via electronic means, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.

- 8.6 Where a meeting is being live streamed, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to regulation 13(2) of the Regulations.
- 8.7 Where the public has been excluded from attendance pursuant to regulation 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for CAP Members (and the Assessment Manager, Council Administration, the meeting minute taker and any other person identified by the CAP (such as professional advisors to the CAP)) disconnect from or are disconnected from the meeting.

9. Additional Procedures and Support

- 9.1 Insofar as any procedure to be followed by the CAP is not prescribed by the PDI Act and Regulations, 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.
- 9.2 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.
- 9.3 The CAP will permit and encourage active participation of Council staff in attendance at a meeting in providing advice to the CAP.
- 9.4 If a CAP Member requires additional information or clarification on a matter contained within an Agenda, an email shall be directed to the Assessment Manager as soon as practicable. The response will be provided to all CAP Members.
- 9.5 If a CAP Member has a conflict of interest on a matter contained with the Agenda, that CAP Member must advise the Assessment Manager in writing as soon as practicable after distribution of the Agenda.