

Council Assessment Panel Review of Decision of Assessment Manager Procedures



CAP (Council Assessment Panel) Procedures

Procedure Reference Number	6439224
Responsible Department	Urban Planning & Leisure Services
Related Policies	Accredited Professionals
Related Procedures	Council Assessment Panel Meeting Procedures
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1. Legislative Framework

This Council Assessment Panel – Review of Decision of Assessment Manager Procedures (Procedure) applies in addition to the statutory requirements for the review by the Council Assessment Panel (CAP) of a decision of an Assessment Manager as set out in, *Part 16, Division 1* of the (*Planning, Development and Infrastructure Act 2016 (Act)*).

Section 203(2) of the *Act* provides for the CAP to establish a Procedure for this purpose.

2. Commencing a Review

- 2.1 An application for review in relation to a Development Application or Development Authorisation may only be commenced by the Applicant for the Development Authorisation.
- 2.2 An application for review must relate to a Prescribed Matter in relation to which the Assessment Manager was the relevant authority.
- 2.3 A “Prescribed Matter” means:
 - 2.3.1 any assessment, request, decision, direction or act of the Assessment Manager under the *Act* that is relevant to any aspect of the determination of the Development Application.
 - 2.3.2 a decision to refuse to grant a Development Authorisation to the application.
 - 2.3.3 the imposition of conditions in relation to a grant of a Development Authorisation; or
 - 2.3.4 subject to any exclusion prescribed by the *Planning, Development and Infrastructure (General) Regulations 2017*, any other assessment, request, decision, direction or act of the Assessment Manager under the *Act* in relation to the grant of a Development Authorisation.
- 2.4 An application for review must be:
 - 2.4.1 made using the correct Form ([Application to Assessment Panel for Assessment Manager's Decision Review](#)) available from the PlanSA website.
 - 2.4.2 lodged in a manner identified on the Form; and

- 2.4.3 lodged within one (1) month of the Applicant receiving notice of the Prescribed Matter, unless the Presiding Member, at their discretion, grants an extension of time.
- 2.5 In determining whether to grant an extension of time, the Presiding Member may consider:
 - 2.5.1 the reason for the delay
 - 2.5.2 the length of the delay
 - 2.5.3 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time
 - 2.5.4 the interests of justice
 - 2.5.5 whether the Applicant has, or is within time to, appeal the Prescribed Matter to the ERD Court; and
 - 2.5.6 any other matters the Presiding Member considers relevant.
- 2.6 An application for review should, upon receipt by the Panel, be notified to the Assessment Manager (cc General Manager Infrastructure, Planning & Sustainability Services) within 5 business days.

3. Applicant(s) Documents

Written Submission

- 3.1 An Applicant may provide a written submission in support of their application for review.
- 3.2 Such a submission must be received by the Presiding Member within one (1) month of the lodgement of the application for review, or such longer period as is requested by the Applicant and granted by the Presiding Member at their discretion.
- 3.3 A written submission should be marked to the attention of the Presiding Member and lodged in a manner specified in Clause 9.
- 3.4 The Presiding Member should provide a copy of any written submission to the Assessment Manager within 3 business days of its receipt.

Additional Information

- 3.5 An Applicant may request the opportunity to place additional information and/or materials before the CAP by application to the Presiding Member lodged in a manner specified in Clause 9.
- 3.6 Any such application must be received by the Presiding Member within one (1) month of the lodgement of the application for review, or such longer period as is requested by the Applicant and granted by the Presiding Member at their discretion and either attach the additional information and/or materials or set out the nature of the information and/or materials and by whom it has been or will be prepared.
- 3.7 The Presiding Member will determine at their discretion, whether to permit the additional information and/or materials to be put before the CAP within 5 business days.
- 3.8 In making this decision, the Presiding Member may consider:
 - 3.8.1 the relevance of the information and/or materials to the review application

- 3.8.2 the amount of time the CAP would need to consider the additional information and/or materials
- 3.8.3 whether the information and/or materials relate to a matter which has been the subject of a referral to a referral agency
- 3.8.4 the reasons the additional information and/or materials were not put before the Assessment Manager
- 3.8.5 the interests of justice
- 3.8.6 whether the information and/or materials would cause prejudice to any party; and
- 3.8.7 any other matters the Presiding Member considers relevant.
- 3.9 The Presiding Member should advise the Applicant of their decision within 2 business days. If the decision is to allow the provision of additional information and/or materials, the Presiding Member should also advise the Applicant of the time within which the information and/or materials is to be provided.
- 3.10 Additional information provided in accordance with Clause 3.7 should be marked to the attention of the Presiding Member and lodged in a manner specified in Clause 9.
- 3.11 Upon receipt of additional information and/or materials, the Presiding Member should provide a copy to the Assessment Manager within 2 business days.
- 3.12 Within 5 business days of the receipt of additional information, the Presiding Member should determine at their discretion, whether to provide a referral agency which provided a response on the application with the opportunity to review and respond to the additional information and/or materials, in such manner and within such time as is determined by the Presiding Member.
- 3.13 Where a response is received from a referral agency, the Presiding Member should provide a copy to the Applicant and Assessment Manager within 2 business days.

4. Materials for Review Hearing

- 4.1 Within the time prescribed in Clause 4.5, the Assessment Manager should collate for the CAP:
 - 4.1.1 all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:
 - 4.1.1.1 application documents, reports, submissions, plans, specifications or other documents submitted by the Applicant
 - 4.1.1.2 internal and/or external referral responses; and
 - 4.1.1.3 any report from Council Staff or an external planning consultant written for the Assessment Manager;
 - 4.1.2 any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter
 - 4.1.3 a report prepared by the Assessment Manager (or delegate) setting out the details of the relevant Development Application; the Prescribed Matter; an assessment of any additional information and/or materials provided by the Applicant pursuant to Clause 3.7; and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter

- 4.1.4 any written submission prepared by the Applicant pursuant to Clause 3.1
- 4.1.5 such additional information or materials as the Presiding Member has permitted to be placed before the Panel pursuant to Clause 3.7; and
- 4.1.6 any further information requested by the Presiding Member.
- 4.2 After the completion of the requirements in Clause 3.7, the Assessment Manager should assign the review application to the next available CAP meeting.
- 4.3 The documents identified in Clause 4.1 will be included as Annexures to the Agenda item.
- 4.4 The Assessment Manager should 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 5 business days before the CAP meeting.
- 4.5 The Assessment Manager should comply with Clause 4.1 within the following period of time:
 - 4.5.1 one (1) month from the lodgement of the application for review; plus
 - 4.5.2 where the Applicant is granted an extension of time to provide a written submission pursuant to Clause 3.2, the period of time granted by the Presiding Members; plus
 - 4.5.3 where the Applicant requests the opportunity to put additional information and/or materials before the CAP, the time taken by the Presiding Member to determine that request and advise the Applicant; plus
 - 4.5.4 where the Presiding Member determines to allow an Applicant to put additional information and/or materials before the CAP:
 - 4.5.4.1 the time allowed by the Presiding Member for those materials to be provided; plus
 - 4.5.4.2 the time taken to determine whether to provide those materials to a referral agency; plus
 - 4.5.4.3 the time allowed for the referral agency to respond; plus
 - 4.5.5 any additional period of time granted by the Presiding Member at their discretion, upon the request of the Assessment Manager.

5. Review Hearing

- 5.1 On review, the CAP will consider the Prescribed Matter afresh.
- 5.2 The CAP will not hear from any party other than the Applicant and the Assessment Manager.
- 5.3 The CAP will hear from the Applicant (or their representative) where they request to be heard.
- 5.4 An Applicant will be allowed 5 minutes to address the CAP. The Presiding Member may allow additional time at their discretion.
- 5.5 Where an Applicant is heard by the CAP, the Assessment Manager will be allowed 5 minutes to respond to any issues raised by the Applicant. The Presiding Member may allow additional time at their discretion.

- 5.6 Cap Members may ask questions and seek clarification from the Applicant, the Assessment Manager or other qualified person at the conclusion of their addresses.
- 5.7 Whether or not the Applicant chooses to be heard by the CAP, the Assessment Manager should be present at the CAP meeting to respond to any questions or requests for clarification from the CAP.
- 5.8 Following any addresses from the Applicant and/or Assessment Manager, the Presiding Member will invite all CAP Members to speak on any matter relevant to the review.
- 5.9 The CAP may resolve to defer its decision if it considers it requires additional information from the Applicant, the Assessment Manager or other qualified person.
- 5.10 The deferral will be to the next Ordinary meeting of the CAP, or such longer period of time as is determined by the CAP to enable the information sought to be obtained and considered.
- 5.11 Where an Applicant is to provide further information to the CAP pursuant to Clause 5.9, the information must be provided within the time specified by the CAP and in a manner specified in Clause 9.
- 5.12 Where an Assessment Manager is to provide further information to the CAP pursuant to Clause 5.9, a copy of the information must also be provided to the Applicant not less than 5 business days before the meeting at which it will be considered by the CAP.

6. Process to Exclude the Public

Whilst every endeavour will be made by the CAP to hear review matters in an open meeting, *Regulation 13(2) of the Planning, Development and Infrastructure (General) Regulations 2017* provides capacity for the meeting to hear matters in confidence if required. The CAP will give careful consideration to the need for excluding the public from proceedings prior to utilising this provision.

7. Outcome on Review Hearing

- 7.1 The CAP may, on a review:
 - 7.1.1 affirm the Assessment Manager's decision on the Prescribed Matter
 - 7.1.2 vary the Assessment Manager's decision on the Prescribed Matter; or
 - 7.1.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.
- 7.2 An Applicant should be advised in writing of the CAP's decision by the Assessment Manager (or delegate) within 2 business days of the CAP's decision.

8. Minute Keeping

- 8.1 The CAP must ensure that accurate Minutes are kept of all meetings.
- 8.2 A person nominated by the Assessment Manager will take Minutes in relation to a review hearing.
- 8.3 The Minutes will record information of a similar nature to that recorded for other CAP proceedings in accordance with CAP Meeting Procedures.
- 8.4 Information recorded specific to a review hearing matter will include:

- 8.4.1 the name of every person who appears in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate)
- 8.4.2 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant)
- 8.4.3 the reasons for the CAPs decision under *Section 203(4)* of the *Act*, including the reasons for the imposition of any new or varied conditions
- 8.4.4 where a decision is by majority vote, the decision and its Mover and Seconder, but not each CAP Members' vote
- 8.4.5 where appropriate, a decision to exclude the public from attendance pursuant to the *Regulations*
- 8.4.6 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
- 8.4.7 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 *Act* (**Code of Conduct**), and the nature of the interest; and
- 8.4.8 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.

9. Lodging Written Materials & Documents with the CAP

- 9.1 All documents and written communications with the CAP must be lodged via:
 - 9.1.1 the SA Planning Portal (to the extent the Portal is able to receive such a submission)
 - 9.1.2 email to: mail@campbelltown.sa.gov.au (Attention CAP Presiding Member); or
 - 9.1.3 hand-delivery or post to CAP Presiding Member, Campbelltown City Council, 172 Montacute Road, Rostrevor SA 5073.

10. Review & Evaluation

These Procedures will be reviewed every 2 years in accordance with the requirements of Council's Policy and Procedure Framework. The Manager Planning Services will report to the Council Assessment Panel on the outcome of the review to seek adoption of changes as appropriate.

11. Availability of the Procedure

These Procedures will be available for inspection at Council's principal office during ordinary business hours and at Council's website www.campbelltown.sa.gov.au Copies will also be provided to interested members of the Community upon request, and upon payment of a fee in accordance with Council's Fees and Charges Schedule.