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TERMS OF REFERENCE AND PROCEDURES OF CAP		

COPPER COAST COUNCIL DEVELOPMENT ASSESSMENT PANEL GUIDING PRINCIPLES

Commencement

These Terms of Reference and Procedures (as attached in Appendix 1 to this document) came into operation on the day on which Council established its Council Assessment Panel (CAP) pursuant to the provisions of the Planning, Development and Infrastructure Act, 2016 (“the Act”) and should be applied with respect to the procedures to be observed at a meeting of the Panel.

CAP established on 17 January 2017.

Interpretation

In these Terms of Reference and Procedures:

1. “Act” means the Planning, Development and Infrastructure Act, 2016.
2. “Chief Executive Officer” means the Chief Executive Officer of the Council.
3. “Council” means the Copper Coast Council.
4. “Member” means a member of the Panel.
5. “Panel” means the Council Assessment Panel (CAP) established by the Council pursuant to the provisions of the Act.
6. “Presiding Member” means the Member of the Panel who is appointed by the Council as its Presiding Member.

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1. TERMS OF REFERENCE

The Copper Coast Council Assessment Panel (the Panel) has been established by the Copper Coast Council to meet the requirements of Section 83 of the Planning, Development and Infrastructure Act, 2016.

The Panel will consider and make recommendations to Council on matters relating to development applications pursuant to Parts 7, 8, 9 & 10 of the Act and Part 4 of the Development Act, 1993 until this part of the Development Act is repealed.

MISSION

To assist in the efficient and effective discharge of the development assessment functions of the Copper Coast Council in accordance with the Act and the Regulations thereunder as well as the Development Act 1993 and Regulations thereunder (up to the date when the relevant provisions of the Development Act are repealed), to ensure the achievement of the Objectives and Principles of Development Control contained in the relevant Development Plan or the Planning and Design Code when the Development Plan is replaced by the Code.

OBJECTIVES

1. At all times exercise and perform its powers and functions in accordance with the Act and the Regulations thereunder as well as the Development Act of 1993 (as amended) and the Regulations thereunder until the relevant provisions of the Development Act is repealed.
2. To keep Council informed of its decisions and activities.
3. Determine development applications in accordance with the powers outlined herein.
4. Carry out the proceedings of the Panel in accordance with the meeting procedures outlined herein.
5. Maintain confidentiality where necessary whilst ensuring transparent and accountable decision-making and a reasonable level of public accessibility.
6. Ensure accountability of individual Panel Members in relation to declarations of potential conflicts of interest.

2. CONDITIONS OF MEMBERSHIP

The following conditions of Membership apply:

1. Membership of the Panel is at the pleasure of the Council.
2. Each Member of the Panel will be appointed at the discretion of the Council in accordance with the provisions of the Planning, Development and Infrastructure Act, 2016.

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3. The panel will consist of a minimum of two (2) and a maximum of four (4) members and a Presiding Member.
4. Only one (1) member may be a member of Council.
5. All the remaining members will be independent and not an elected member of any council or involved in the operations of Council.
6. The Presiding Member and the Deputy Presiding Member will also be independent members.
7. The Council will appoint the Presiding Member and the Deputy Presiding Member of CAP.
8. The Chief Executive Officer of Council must appoint an Assessment Manager as required by the Act.
9. The Chief Executive Officer will be the designated Public Officer for the purposes of the CAP. In the absence of the Chief Executive Officer the Director Development Services will be the designated Public Officer for the purposes of CAP.
10. The Council representative will be the Deputy Mayor or any other Elected Member of Council.
11. The Term of Office for a CAP Member will be 2 years – (Members are eligible for reappointment).
12. Individual members must take reasonable steps to ensure regular attendance at meetings of the Panel.
13. A Member shall be considered present at a meeting where the Panel have made telephone contact or video conferencing arrangements for the Member to participate in the deliberations of the Panel.
14. No liability attaches to a member of the Panel for an honest act or omission by that member or the Panel in the performance or discharge, or purported performance or discharge, of the member's or the Panel's functions or duties.
15. Accountability of individual Panel Members shall be in accordance with Section 83 of the Planning, Development and Infrastructure Act 2016.

Removal of a Member

16. Council may remove any Member from membership of the Panel if that Member has been absent, without leave of the Council, from three or more consecutive meetings of the Panel.
17. Subject to giving a member of the Panel an opportunity to be heard or to make a written submission, the Council may resolve to remove a member upon a charge of misconduct detrimental to the interests of the Panel.

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18. Grounds for removal include failure to declare an interest in a matter before the Panel in accordance with Section 83(1)(g) of the Planning, Development and Infrastructure Act 2016(.
19. Particulars of the charge shall be communicated to the member at least 14 days before the meeting of the Council at which the matter will be determined.
20. The determination of the Council shall be communicated to the member, and in the event of an adverse determination the member shall cease to be a member 14 days after the Council has communicated its determination to him/her.

3. DELEGATIONS AND DUTIES OF THE PANEL

The Panel will exercise any authority delegated to it, by Council, from time to time.

In exercise of the powers contained in Section 20 of the Development Act 1993 ("the Act") the powers, and functions under the Act and the Development Regulations 1993 ("the Regulations") which were delegated by the Council on the 21st May 2003, and amendments resulting from annual reviews thereafter, are hereby revoked and the following powers and functions under the Act and the Regulations, are hereby delegated on the 6th day of December 2006 to the Council Development Assessment Panel and such powers and functions may be further delegated by the Council Development Assessment Panel to an officer or officers of the Council.

Until such date when the particulars of the Development Act 1993 listed below is repealed, the Panel has the power, as the relevant authority of the Development Act 1993, as follows:

Section 33 - Assessment of Development Proposal

1. The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters:
 - 1.1 the provisions of the appropriate Development Plan – Provisional Development Plan Consent;
 - 1.2 in relation to a proposed division of land (otherwise than by strata plan) on the satisfaction of the conditions specified in Section 33(1)(c) of the Act;
 - 1.3 in relation to a division of land by strata plan satisfaction of the conditions specified in Section 33(1)(d) of the Act;
 - 1.4 the requirement that any encroachment of a building over, under, across or on a public place has been dealt with in a satisfactory manner.
2. The power pursuant to Section 33(3) of the Act when granting a provisional development plan consent, to reserve a decision on a specified matter until further assessment of the development under the Act.

Section 35 - Special Provisions Relating to Development Plan Assessment

3. The duty pursuant to Section 35(1) of the Act to grant provisional development plan consent if the Development Regulations or the relevant Development Plan describes any proposed development as a complying development.

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4. The power pursuant to Section 35(2) of the Act to assess whether or not a development is seriously at variance with the relevant Development Plan.
5. The power pursuant to Section 35(3)(a) of the Act in appropriate cases, to concur in the granting of consent to a development described as non-complying development.

Section 37 - Consultation with other Authorities or Agencies

6. The duty pursuant to Section 37(1)(a) and (b) of the Act where an assessment is required of an application for the consent or approval of a proposed development of a prescribed class to:
 - 6.1 refer the application, together with a copy of any relevant information provided by the applicant to a body prescribed by the regulations and including the Development Assessment Commission, and
 - 6.2 not make a decision until a response has been received from the prescribed body in relation to the matter or matters for which the referral was made or the presumption is made that the body does not desire to make a response or concur (as the case requires).
7. The duty pursuant to Section 37(5)(a) of the Act where an application has been refused or conditions imposed in respect of a development authorisation by direction of a prescribed body, to notify the applicant that the application was refused, or the conditions imposed, by direction under Section 37 of the Act.

Section 38 - Public Notice and Consultation

8. The duty pursuant to Section 38(4) of the Act to give notice of a proposal for a Category 2 development.
9. The duty pursuant to Section 38(5) of the Act to give notice of a proposal for a Category 3 development.
10. The duty pursuant to Section 38(8) of the Act to forward to an applicant a copy of any representation made regarding the proposed development, and to allow the applicant to respond in writing to those representations.
11. The power pursuant to Section 38(10)(a) of the Act in respect of a Category 2 development, to allow a person who made a representation to appear personally or by representative before the Delegate.
12. The duty pursuant to Section 38(10)(b) of the Act in respect of a Category 3 development, to allow a person who made a representation and who as part of that representation indicated an interest in appearing before the Delegate or the Council, a reasonable opportunity to appear personally or by representative to be heard in support of the representation.
13. The duty pursuant to Section 38(11) of the Act to allow an applicant to appear personally or by representative before the Delegate or the Council in order to respond to any relevant matter.

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14. The duty pursuant to Section 38(12) of the Act where representations have been made under Section 38 of the Act, to give notice of the decision on the application to each person who made a representation and in respect of a Category 3 development of the person's appeal rights under the Act, and give notice to the Environment, Resources and Development Court.

Section 39 - Provision of Additional Information

15. The power pursuant to Section 39(2) of the Act to request an applicant to:
 - 15.1 provide such additional documents or information to enable assessment of the application;
 - 15.2 remedy any defect or deficiency in any application or accompanying document or information required by or under the Act;
 - 15.3 consult with an authority or body prescribed by the Regulations;
 - 15.4 (where required by the Regulations) prepare a statement of effect in relation to non-complying development; and
 - 15.5 comply with any other requirement prescribed by the Regulations.
16. Pursuant to Section 39(3)(b) of the Act where an applicant has been required to comply with one or more of the requirements specified in Section 39(2) of the Act and the requirement has not been complied with in the time specified by the Regulations, the power to refuse the application.

Section 39 - Variation of an Application

17. The power pursuant to Section 39(4)(a) and Section 39(5) of the Act to permit an applicant to vary an application or vary any plans, drawings, specifications or other documents that accompanied an application.
18. The power pursuant to Section 39(4)(b) and Section 39(5) of the Act to permit an applicant to lodge an application without the provision of any information or document required by the Development Regulations.
19. The power pursuant to Section 39(4)(c) and Section 39(5) of the Act to waive payment of whole or part of the application fee or refund an application fee (to the extent that such fees are payable to the Council).
20. The power pursuant to Section 39(7) of the Act to approve of an application for variation of the conditions of the development authorisation previously given under the Development Act 1993, or to extend the period for which such authorisation remains operative.
21. The power pursuant to Section 39(8) of the Act to issue a consent which provides for the undertaking of development in stages.
22. The power pursuant to Section 39(9) of the Act to determine that the applicant is entitled to a refund of the application fee in the event that an application is withdrawn.

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Section 39 - Refuse Non-Complying Development

23. The power pursuant to Section 39(4)(a) and Section 39(5) of the Act 1993 and Regulation 17(3)(a) of the Regulations to refuse an application that relates to a development of the kind that is described as non-complying development under the Development Plan without proceeding to make an assessment of the application.

Section 40 - Notice of the Decision

24. The duty pursuant to Section 40(1) of the Act to give notice of a decision.

Section 40 - Extension of Time of Development Authorisation

25. The power pursuant to Section 40(3) of the Act to extend the period of time within which a development authorisation remains operative.

Section 42 - Attaching of Conditions

26. The power pursuant to Section 42(1) and (3) of the Act to attach such conditions as the Delegate thinks fit or as may be prescribed by regulation to any decision under Division 1 of Part 4 of the Act.

Section 43- Cancellation of Development Authorisation

27. The power pursuant to Section 43 of the Act to cancel a development authorisation previously given by the Council or the Delegate.

Section 45 - Investigation of Development Assessment Performance

28. The power to prepare submissions to the Minister pursuant to Section 45A(2) and Section 45A(12) of the Act.
29. The duty to comply with a direction under Section 45A(11) or (13) in accordance with Section 45A(14) of the Act.

Section 49 - Crown Development

30. The power pursuant to Section 49(5) of the Act to report to the Development Assessment Commission on any matters contained in a notice from the Development Assessment Commission under Section 49(9a) of the Act.
31. The power pursuant to Section 49(9) of the Act to withdraw opposition to a State agency proposed development.

Section 50 - Open Space Contribution System

32. The power pursuant to Section 50(1) of the Act, with respect to applications for the division of land into more than 20 allotments (except by a strata plan) where one or more allotments is less than one hectare in area, to require:
 - 32.1 that up to 12.5% in area of the relevant area be vested in the Council to be held as open space; or
 - 32.2 that the applicant make a contribution as prescribed by Section 50(7) of the Act; or
 - 32.3 that the land be vested in a Council and that the applicant make a prescribed contribution.

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33. The power pursuant to Section 50(3) of the Act to enter into an agreement on behalf of the Council with the Development Assessment Commission and the applicant under which certain land described by the relevant plan of division will be vested in the Council.
34. The power pursuant to Section 50(10) of the Act to receive payment of monies from an applicant under Section 50(1) of the Act and to pay that money into a trust fund and to apply that money for the purpose of acquiring or developing land as open space.
35. The power pursuant to Section 50(11) of the Act to determine that the division of land is being undertaken in stages such that Section 50 of the Act does not apply to an application for development authorisation to the extent that an earlier application in respect of the same development has addressed the requirements of Section 50 of the Act in respect of the area of land as a whole.

Section 51 - Certificate in Respect of the Division of Land

36. The duty pursuant to Section 51(2) of the Act to provide appropriate information to the Development Assessment Commission (upon request by the Development Assessment Commission) before it issues a certificate in respect of the division of land.

Section 52 - Saving Provisions

37. The power pursuant to Section 52(4) of the Act to extend the limitation period referred to in Section 52(2) of the Act in order to avoid or reduce hardship.

Section 101 - Seeking of Professional Advice

38. The power pursuant to Section 101(1) of the Act in the exercise of a prescribed function, to rely on a certificate of a person with prescribed qualifications.
39. The duty pursuant to Section 101(2) of the Act to seek and consider the advice of a person with prescribed qualifications or approved by the Minister in relation to a matter prescribed by the Regulations.

General Delegations related to the Development Regulations 2008

Regulation 16 - Nature of Development

40. The duty pursuant to Regulation 16(1) of the Regulations where an application requires the assessment of a proposed development against the provisions of the Development Plan, to determine the nature of the development applied for.
41. The duty pursuant to Regulation 16(2) of the Regulations if the Delegate is of the opinion that an application relates to a kind of development that is non-complying and the applicant has not identified the development as such, to by notice in writing, inform the applicant of that fact.

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Regulation 17 - Non-Complying Development

42. The power pursuant to Regulation 17(3) of the Regulations, after receipt of an application which relates to a kind of development that is described as non-complying development to:
 - 42.1 refuse the application pursuant to Section 39(4)(d) of the Act and notify the applicant accordingly; or
 - 42.2 resolve to proceed with an assessment of the application.
43. The duty pursuant to Regulation 17(4) of the Regulations in situations where the Council or Delegate has resolved to proceed with the assessment of an application for non-complying development, the duty to require the applicant to provide a statement of effect.
44. The power pursuant to Regulation 17(6) of the Regulations to determine that a proposed development is of a minor nature for the purposes of exemption from the requirements to provide a statement of effect.

Regulation 18 - Notification of Tree-Damaging Activity to Owner

45. The duty pursuant to Regulation 18 of the Regulations:
 - 45.1 to give an owner of land notice of an application, which relates to a tree-damaging activity in relation to a significant tree, within five business days after the application is made; and
 - 45.2 to give due consideration, in the Delegate's assessment of the application referred to above, to any submission made by the owner within a reasonable time after the giving of notice of the application under item 45.1 above.

Regulation 20 - Amended Applications

46. The power pursuant to Regulation 20(3) of the Regulations to form the opinion that variations to an application are not substantial and that repeating of the referral process under Part 5 of the Regulations, or the giving of notice under Part 6 of the Regulations is not required.
47. The power to pursuant to Regulation 20(4) of the Regulations, where a variation to an application changes the essential nature of a proposed development to, (by agreement with the applicant), proceed with the variation on the basis that the application will be treated as a new application.

Regulation 22 - Withdrawal of an Application

48. The duty pursuant to Regulation 22 of the Regulations where an applicant withdraws an application, to notify any agency to which an application was referred under Part 5 of the Regulations and any person who made a representation in relation to the application under Part 6 of the Regulations of the withdrawal.

Regulation 23 Contravening Development

49. The power pursuant to Regulation 23(2) of the Regulations to, by notice in writing to the applicant, decline to proceed with an application until proceedings under the Act have been concluded.

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Regulation 24, 25, 27 - Referrals and Concurrence

50. The duty pursuant to Regulation 24(1) of the Regulations to refer an application of a prescribed kind together with a copy of any relevant information provided by the applicant to the relevant body prescribed by Schedule 8 to the Regulations and to not make a decision on the application until a response has been received from the referral body or the time period for receipt of a response has lapsed.
51. The duty pursuant to Regulation 25 of the Regulations where concurrence must be sought from another body prior to issuing a consent or approval to forward to the other body whose concurrence must be sought that information required by Regulation 25(b) of the Regulations.
52. The duty pursuant to Regulation 27(1) of the Regulations where an application has been referred to a prescribed body under Part 5 of the Regulations and additional information is received which is materially relevant to the referral, to repeat the referral process where the delegate is of the opinion that the additional information or amendment is significant and the power to repeat the referral process in all other instances.

Regulation 29 - Land Division Applications

53. The duty pursuant to Regulation 29(1) of the Regulations subject to the provisions in Regulation 29(2) of the Regulations, to withhold making a decision on an application which relates to a proposed development that involves the division of land until a report has been received from the Development Assessment Commission.
54. The power pursuant to Regulation 29(2) of the Regulations when a report from the Development Assessment Commission pursuant to Regulation 29(1) of the Regulations is not received by the Council within eight weeks or within such longer period as the Development Assessment Commission may require by notice in writing to the Council, to presume that the Development Assessment Commission does not desire to make a report.

Regulation 30 - Underground Mains Area

55. The power pursuant to Regulation 30(1) of the Regulations to seek a report from the relevant electricity authority where the Delegate considers that an area should be declared an underground mains area.
56. The power pursuant to Regulation 30(2) of the Regulations to declare an area as an underground mains area.
57. The power pursuant to Regulation 30(4) of the Regulations where a development includes the division of land within or partly within an underground mains area to require, as a condition of the decision, that any electricity mains be placed underground.

Regulation 36 - Response by Applicant

58. The power pursuant to Regulation 36 of the Regulations to extend the time within which an applicant may respond to any representation.

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Regulation 38 - Report to the Development Assessment Commission

59. Where the Development Assessment Commission is the relevant authority, the power to provide a report to the Development Assessment Commission on the matters under the Development Act and Regulations under Section 33(1) of the Development Act 1993 pursuant to Regulation 38(1)(2)(b).

Regulation 39 - Commission as Relevant Authority

60. The duty pursuant to Regulation 39 of the Regulations where the Development Assessment Commission is required to make a decision in respect of the assessment of a development against the provisions of the relevant Development Plan, not to give any decision in respect of the assessment against the Building Rules until the Development Assessment Commission has made its decision.

Regulation 42 - Notification of Decision

61. The duty pursuant to and in accordance with Regulation 42 of the Regulations to give notice of a decision on an application under Division 1 of Part 4 of the Act.
62. The duty pursuant to Regulation 43 of the Development Regulations, to send a copy of the notice of decision issued under Regulation 42 of the Regulations to any prescribed body to which the application had been referred.
63. The duty pursuant to Regulation 44 of the Regulations to send a copy of a development authorisation issued in relation to a proposed division of land to the Development Assessment Commission.
64. The duty pursuant to Regulation 45 of the Regulations to send a copy of any notice issued under Regulation 42 of the Regulations to the owner of land to which a decision on the application relates where the owner is not a party to the application.
65. The duty pursuant to Regulation 46(1) of the Regulations to issue a Notice of Approval in the circumstances prescribed by Regulation 46 of the Regulations.
66. The duty pursuant to Regulation 47 of the Regulations to return to a successful applicant, a copy of the plans, drawings, specifications and other documents and information lodged by the applicant duly endorsed with the provisional building rules consent.

Regulation 48 - Lapse of Consent or Approval

67. The power pursuant to Regulation 48(2) of the Regulations to extend the time when any consent or approval under Part IV of the Development Act will lapse.

Regulation 51 - Width of Roads and Thoroughfares

68. The power pursuant to Regulation 51(4) of the Regulations to dispense with the requirements of Regulation 51(1) and (3) dealing with the width of any proposed road or thoroughfare where of the opinion that the prescribed width is not necessary for the safe and convenient movement of vehicles or pedestrians or for underground services.

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69. The power pursuant to Regulation 51(6) of the Regulations to dispense with the requirements of Regulation 51(5) dealing with the width of a road at the head of every cul-de-sac where it appears that the cul-de-sac is likely to become a through road.

Regulation 52 - Road Widening

70. The power pursuant to Regulation 52(1) of the Regulations to require a road widening where land to be divided abuts an existing road.

Regulation 53 - Requirement as to Forming of Roads

71. The power pursuant to Regulation 53(1) and (2) of the Regulations to specify the width of roads.
72. The power pursuant to Regulation 53(4) of the Regulations to dispense with the requirements of Regulation 53(3) of the Regulations that adequate provision be made for the turning of vehicles at the head of a cul-de-sac where the delegate is of the opinion that the cul-de-sac is likely to become a through road.
73. The power pursuant to Regulation 53(6) of the Regulations to dispense with the requirements of Regulation 53(5) dealing with the forming of footpaths, water tables, kerbing, culverts and drains on proposed roads.

Regulation 54 - Construction of Roads, Bridges, Drains and Services

74. The power pursuant to Regulation 54(1) of the Regulations to require the paving and sealing of the roadway of proposed roads.

Regulation 55 - Supplementary Land Division Provisions

75. The duty pursuant to Regulation 55(1) of the Regulations to consider and if appropriate approve a road location and grading plan for the forming of any proposed road, including every footpath, watertable, kerbing, culvert and drain.
76. The duty pursuant to Regulation 55(2) of the Regulations to consider and if appropriate approve detailed construction plans and specifications signed by a professional engineer or licensed surveyor for all work referred to in Regulations 53 and 54 of the Regulations.
77. The duty pursuant to Regulation 55(4) of the Regulations to consider and if appropriate accept that all connections for water supply and sewerage services to any allotment delineated on a plan of division have been laid under the surface of a proposed road before the roadway is sealed.

Regulation 59 - Division of Land by Strata Title

78. The power pursuant to Regulation 59(1) of the Regulations to advise the Development Assessment Commission that an applicant has entered into a binding arrangement with the Council for the satisfaction of the requirements of Section 33(1)(d) of the Act and that the arrangement is supported by adequate security.

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Regulation 64 - Major Project Decisions

79. The duty pursuant to Regulation 64(2) of the Regulations where a Development Application which is subject to the operation of Section 48 of the Act is referred to the Council for assessment in respect of the Building Rules the duty to ensure that the assessment is consistent with any provisional development plan consent previously given under Section 48 of the Act.

Paragraph 3 of Schedule 8

Schedule 8 - Development Adjacent to Main Roads

80. The power for the purposes of the provisions of Item 3 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development is likely to alter an existing access or change the nature of movement through an existing access or create a new access or encroach within a road widening setback under the Metropolitan Adelaide Road Widening Plan Act 1972 in relation to an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road, or within 25 metres of a junction with an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road (as delineated in the relevant Development Plan).

Paragraph 5 of Schedule 8

Schedule 8 - State Heritage Places

81. The power pursuant to Paragraph 5(1) of Schedule 8 of the Regulations to form the opinion that a development materially affects the context within which a State Heritage place is situated.

Paragraph 10 of Schedule 8

Schedule 8 - Activity of Environmental Significance

82. The power, pursuant to Paragraph 10(b) of Clause 2 of Schedule 8 of the Regulations where development involves, or is for the purposes of, an activity specified in Schedule 21 of the Regulations (including, where an activity is only relevant when a threshold level of capacity is reached, development with the capacity or potential to operate above the threshold level, and an alteration or expansion of an existing development (or existing use) where the alteration or expansion will have the effect of producing a total capacity exceeding the relevant threshold level), other than development which comprises the alteration of, or addition to, an existing building, to form the opinion that the development does not change the use of the building, and is of a minor nature only, and does not have any adverse effect on the environment.

Schedule 9

Schedule 9 - Part One, Category One Development

83. The power pursuant to Paragraph 1 of Part 1 of Schedule 9 to the Regulations in circumstances where a development would be a complying development under the Regulations or the relevant Development Plan but for the fact that it fails to meet the conditions associated with the classification, to form the opinion that the failure to meet those conditions is of a minor nature only.

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84. The power pursuant to Paragraph 2(1)(f) of Part 1 of Schedule 9 to the Regulations to form the opinion that a development is of a kind which is of a minor nature only and is unlikely to be the subject of reasonable objection from the owners or occupiers of land in the locality of the site of the development.
85. The power pursuant to the following designated sub-paragraphs of Paragraph 3 of Part 1 of Schedule 9 to the Regulations where a development is classified as non complying under the relevant Development Plan, to form the opinion that:-
- 85.1 the alteration of, or addition to, a building is of a minor nature only, pursuant to sub paragraph (a);
- 85.2 the construction of a building to be used as ancillary to or in association with an existing building and which will facilitate the better enjoyment of the purpose for which the existing building is being used constitutes development of a minor nature only pursuant to subparagraph (b).
86. The power pursuant to Paragraph 5 of Part 1 of Schedule 9 to the Regulations to form the opinion:-
- 86.1 that the division of land (including for the construction of a road or thoroughfare) is for a proposed use which is consistent with the objective of the zone or area under the Development Plan; and
- 86.2 whether the division will change the nature or function of an existing road.
87. The power pursuant to Paragraph 11 of Part 1 of Schedule 9 to the Regulations, in circumstances where development comprises a special event and the special event will not be held over more than 3 consecutive days, to form the opinion that an event of a similar or greater size or of a similar or greater impact on surrounding areas, has not been held on the same site (or substantially the same site) within 6 months immediately preceding the day or days on which the special event is proposed to occur.
88. The power pursuant to Paragraph 17 of Part 2 of Schedule 9 to the Regulations, except where development is classified as non complying development under the relevant Development Plan, to form the opinion;
- 88.1 that in respect of a proposed division of land that the applicant's proposed use of the land, is for a proposed use which is consistent with the zone or area under the Development Plan; and
- 88.2 whether the proposed division will change the nature or function of an existing road.

Schedule 10

Schedule 10 - Decisions by Development Assessment Commission

89. In circumstances where the Council is undertaking development within the meaning of that term under Section 4 of the Development Act 1993; and :-
- 89.1 the development involves the construction (but not alteration of or change in use to a hotel or tavern, or tourist accommodation, or an entertainment complex, or a cinema, or a hospital) but where the Council's interest is limited to the ownership of rights associated with an easement, road or reserve, the power pursuant to Clause 2A(a) of Schedule 10 to the Regulations to form the opinion that the purpose of the easement, road or reserve will not be materially affected;

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89.2 in a situation where the development involves the construction of, or a change in use to, a shop or office or the construction of a building for the purposes of, or a change in use to, a form of industry and the interest of the Council is limited to the ownership of rights associated with an easement, road or reserve, the power pursuant to Clause 2A(b) of Schedule 10 to the Regulations to form the opinion that the purpose of the easement, road or reserve will not be materially affected.

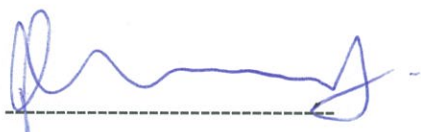
When the particulars of the Development Act 1993 listed above is repealed, the Panel has the power, as the relevant authority of the Planning, Development and Infrastructure Act 2016, as determined by the relevant provisions of the Act and the Regulations under the Act.

4. AVAILABILITY OF TOR

These Terms of Reference will be available for inspection without charge at the Council's Principal Office during normal business hours, and on Council's website.

A copy of this Policy may be obtained on payment of a nominated fee from Councils' principal office or may be down loaded from Councils' website.

Signed



Mayor

Date 20th May 2020

Signed



Chief Executive Officer

APPENDIX 1

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COUNCIL ASSESSMENT PANEL

OPERATING PROCEDURES

1. Objects of Procedures

- 1.1 procedures should be fair and contribute to open, transparent and informed decision-making;
- 1.2 procedures should encourage appropriate community participation in the affairs of the council;
- 1.3 procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- 1.4 procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

The following shall apply to the setting of meetings, matters to be considered, the procedures to be followed, and reporting of the Panel:

2. Meetings

- 2.1 The Panel will meet monthly unless otherwise determined by Council from time to time.
- 2.2 The Panel shall hold its meetings at a time and location accessible to representors wishing to be heard in relation to a development.
- 2.3 A special meeting of the Copper Coast Council Development Assessment Panel may be called by the Presiding Member or any three members of the Panel. The Chief Executive Officer must be provided with an agenda for the meeting at the time of the request or the request will be of no effect. The Chief Executive Officer must deal with a request for a special meeting of the Panel in the same manner as a request for a special meeting of the Council.
- 2.4 Written notice of a meeting of the Council Development Assessment Panel must be given to each member of the Panel at least five (5) clear days before the date of the meeting. The notice must set out the date, time and place of the meeting, be signed by the Chief Executive Officer of the Council and contain or be accompanied by the agenda for the meeting. The notice may be given to a member of the Council Development Assessment Panel -
 - (a) personally; or
 - (b) by delivering the notice (whether by post or otherwise) to the usual place of residence of the member or to another place authorised in writing by the member; or
 - (c) by leaving the notice for the member at an appropriate place at the principle office of the Council, if authorised in writing by the member to do so; or

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(d) by a means authorised in writing by the member as being an available means of giving notice (e.g. facsimile transmission)

- 2.5 A notice that is not given in accordance with sub-section (3) is taken to have been validly given if the Chief Executive Officer considers it impracticable to give the notice in accordance with that sub-section and takes action the Chief Executive Officer considers reasonably practicable in the circumstances to bring the notice to the attention of the member.
- 2.6 The Chief Executive Officer must maintain a record of all notices of meetings given to members of the Panel.
- 2.7 The Panel will meet monthly at a time and day determined by Council subject to there being business to consider.
- 2.8 The Panel will meet in the Council Chambers of the Town Hall, 51 Taylor Street, Kadina, Council Chambers of the Town Hall, Irwin Street, Wallaroo or the Council Chambers of the Town Hall, 71 George Street, Moonta, or at such other places as the Panel may determine.
- 2.9 All meetings of the Panel shall be conducted in a place open to the public except in circumstances in which the Panel may lawfully exclude the public from attendance pursuant to the relevant provisions of the Act.

3 Agendas

- 3.1 At each meeting, the order of business shall be as follows:
 - 1 Opening of Meeting
 - 2 Apologies
 - 3 Minutes of previous meeting to be confirmed
 4. Business arising from previous Minutes
 5. Declaration of Conflict of Interest
 - 6 Officer's Report
 - 6.1 Development Applications
 - 6.1.1 Public Notification Applications – Category 3
 - 6.1.2 Public Notification Applications – Category 2
 - 6.1.3 Merit Development Applications – Category 1
 - 7 Matters for the Panels Attention
 8. Closure.
- 3.2 The agendas for every meeting of the Panel shall be placed on public display in the principal office of the Council at least five business days before the relevant meeting.

4 Commencement of meetings and quorums

- 4.1 A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- 4.2 The Presiding Member shall if present preside at all meetings of the Panel.

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- 4.3 When the Presiding Member is absent from a meeting the Deputy Presiding Member will act as Presiding Member for the duration of the meeting.

5. Quorum for the Panel Meeting

- 5.1 The Prescribed number of Members of the Panel constituting a quorum of the Panel is a number ascertained by dividing the total number of Members of the Panel for the time being in office by 2, ignoring any fraction resulting from the division, and adding one and no business can be transacted at a meeting unless a quorum is present.
- 5.2 If the number of apologies received by the 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.
- 5.3 If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the Presiding Member will adjourn the meeting to a specified day and time.
- 5.4 If a meeting is adjourned for want of a quorum, the Presiding Member will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.
- 5.5 If a meeting is adjourned to another day, the Chief Executive Officer must-
- i) give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and
 - ii) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be placed on display at the principal office of the council.

6. Minutes

- 6.1 The Chief Executive Officer shall ensure that accurate minutes are kept of the proceedings at every meeting of the Panel.
- 6.1.1 The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.
- 6.1.2 No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- 6.1.3 On the confirmation of the minutes, the Presiding Member will-
- (a) initial each page of the minutes, which pages are to be consecutively numbered; and
 - (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.

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6.1.4 The minutes of the proceedings of a meeting must include-

- (a) the names of the members present at the meeting; and
- (b) in relation to each member present-
 - i. the time at which the person entered or left the meeting; and
 - ii. unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting; and
- (c) each motion or amendment, and the names of the mover and seconder; and
- (d) any amendment or withdrawal of a motion or amendment; and
- (e) whether a motion or amendment is carried or lost; and
- (f) any disclosure of interest made by a member; and
- (g) details of any adjournment of business; and
- (h) any other matter required to be included in the minutes by or under the Act or any regulation.

6.2. Minutes of every meeting of the Panel shall be placed on public display in the principal office of the Council within five days after the meeting.

6.3 The Panel may, before it releases a copy of any minutes to the public, exclude from the minutes information about any matter dealt with on a confidential basis by Members of the Panel.

7 Procedure for Voting

7.1 The Presiding Member will, in taking a vote, ask for the votes of those Members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.

7.2 A Member who is not in his or her seat is not permitted to vote.

7.3 Every decision of the Panel shall be decided by consensus or in the absence of consensus via a majority of votes of all members present and in the event of a tied vote the conferral upon the Presiding Member of a casting vote.

7.4 All members present must cast a vote. Subject to a member of the Council Development Assessment Panel having a direct or indirect personal or pecuniary interest in accordance with Section 56A(7) and (8) of the Development Act 1993, each member present at a meeting of the Council Development Assessment Panel must vote on a question arising for decision.

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7.5 The minutes must include any disclosure of an interest pursuant to Section 56A(7) of the Development Act 1993.

8 Divisions

8.1 A division will be taken at the request of a member.

8.2 If a division is called for, it must be taken immediately and the previous decision of the Presiding Member as to whether the motion was carried or lost is set aside.

8.3 The division will be taken as follows-

- (a) the Members voting in the affirmative will, until the vote is recorded, stand in their places; and
- (b) the Members voting in the negative will, until the vote is recorded, sit in their seats; and
- (c) the Presiding Member will count the number of votes and then declare the outcome.

8.4 The Presiding Member will record in the minutes the names of Members who voted in the affirmative and the names of the Members who voted in the negative (in addition to the result of the vote).

9 Questions

9.1 A member may ask a question without notice at a meeting.

9.2 The Presiding Member may allow the reply to a question without notice to be given at the next meeting.

9.3 A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.

9.4 The Presiding Member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.

10 Motions

10.1 The Presiding Member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the Panel.

10.2 A motion will lapse if it is not seconded at the appropriate time.

10.3 A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion.

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- 10.4 A member may only speak once to a motion except-
- (a) to provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or
 - (b) as the mover in reply.
- 10.5 A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion.
- 10.6 A member who has not spoken in the debate on a question may move a formal motion.
- 10.7 Formal motion are as follows-
- (a) that *the meeting proceed to the next business*, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or
 - (b) that *the question be put*, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the Presiding Member without further debate; or
 - (c) that *the question lie on the table*, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
 - (d) that *the question be adjourned*, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
 - (e) that *the meeting be adjourned*, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.
- 10.8 If seconded, a formal motion takes precedence and will be put by the Presiding Member without discussion.
- 10.9 A formal motion does not constitute an amendment to a substantive motion.
- 10.10 If a formal motion is lost -
- a. The meeting will be resumed at the point at which it was interrupted; and
 - b. If the formal motion was put during the debate (and not at the end of debate) on a question, then a similar formal motion (ie, a motion to the same effect) cannot be put until at least one member has spoken on the question.

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10.11 A formal motion for adjournment must include the reason for the adjournment and the details for resumption.

11 Amendments to motions

11.1 A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.

11.2 An amendment will lapse if it is not seconded at the appropriate time.

11.3 A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates.

11.4 If an amendment is lost, only one further amendment may be moved to the original motion.

11.5 If an amendment is carried, only one further amendment may be moved to the original motion.

12 Variations

12.1 The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.

12.2 The Presiding Member must immediately put the question for leave to be granted and no debate will be allowed on that question.

13 Addresses by members

13.1 A member must not speak for longer than five minutes at any one time unless leave of the meeting is granted for a further five minutes.

13.2 The contribution of a member must be relevant to the subject matter of the debate.

14 Adjourned business

14.1 If a formal motion for a substantive motion to be adjourned is carried-

- a. the adjournment may either be to a later hour of the same day, to another day, or to another place; and
- b. the debate will, on resumption, continue from the point at which it was adjourned.

14.2 If debate is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.

14.3 Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting.

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15 Short-term suspension of proceedings

15.1 If the Presiding Member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of these Procedures for a period of time in order to allow or facilitate informal discussions, the Presiding Member may, with the approval of at least two-thirds of the Members present at the meeting, suspend the operation of these Procedures for a period determined by the Presiding Member.

15.2 If a suspension occurs-

- (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and
- (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end; and
- (c) The period of suspension should be limited to achieving the purpose for which it was declared; and
- (d) The period of suspension will come to an end if -
 - i) the Presiding Member determines that the period should be brought to an end; or
 - ii) at least two-thirds of the Members present at the meeting resolve that the period should be brought to an end.

16 Reporting Requirements

16.1 For the purpose of Section 56A(2)(b) of the Development Act 1993 the Panel will provide advice and reports to the Council on trends, issues and matters relating to planning or development that have become apparent or arisen through its assessment of applications under the Development Act.

17 Representations and Site Inspections

17.1 No provision is made in these procedures for applicants or pending applicants to meet with Panel members outside of formal CDAP meetings, similarly no provision is made for informal inspections of requisite properties.

17.2 In the event that applicants or pending applicants seek to make representations to CDAP members, that person or persons shall be invited to appear as a representor before the CDAP and should make such a request to do so through the Chief Executive Officer.

17.3 Inspections of properties the subject of applications will be co-ordinated through the Chief Executive Officer.

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- 17.4 In the event of a site inspection CDAP members will be accompanied by the appropriate Council Officer/s following the making of necessary arrangements. Such arrangements will include advice of the site inspection being provided to all CDAP members and subsequent advice of the inspection being provided to the applicant/s.
- 17.5 The Chief Executive Officer will consult with the Presiding Member in respect to representations and site inspections.

18 Review and Adoption

- 18.1 The Panel shall be authorized to amend, substitute or revoke these Procedures at any time by resolution supported by at least two thirds of the members of the Panel.
- 18.2 The operation and content of the Procedures shall be reviewed by the Panel at least once every financial year.

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