

BAROSSA ASSESSMENT PANEL

TERMS OF REFERENCE



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1. ESTABLISHMENT

- 1.1 Pursuant to Section 83(1) of the *Planning, Development and Infrastructure Act 2016* (the "PDI Act") The Barossa Council ("the Council") establishes the panel to be known as the Barossa Assessment Panel ("the Panel").
- 1.2 The Panel is established to carry out its duties and functions as a relevant authority pursuant to section 93 of the PDI Act.
- 1.3 The Panel will, at all times, act in accordance with the PDI Act, the Code of Conduct adopted by the Minister under Schedule 3 of the PDI Act and these Terms of Reference.
- 1.4 The costs associated with establishment and activities of the Panel will be borne by the Council.

2. ASSESSMENT MANAGER

- 2.1 Pursuant to Section 87 of the PDI Act, the Chief Executive Officer of the Council has appointed an Assessment Manager for the purpose of:
 - 2.1.1 acting as a "relevant authority" as provided under the PDI Act;
 - 2.1.2 being responsible for managing the staff and operations of the Panel in relation to which the Assessment Manager has been appointed; and
 - 2.1.3 providing advice to the Panel (as appropriate).

3. MEMBERSHIP

- 3.1 The Panel will consist of five (5) Members, comprising
 - 3.1.1 one (1) Member of the Council (Council Member); and
 - 3.1.2 four (4) Independent Members (Independent Members), not being current Members of the Council or State Parliament. taking into account the requirements set in clause 6 of these Terms of Reference.

- 3.2 The Council may determine that the Panel will be constituted by a different number of Members for different classes of development, in which case the relevant details will be specified by the Council.
- 3.3 The Council appoints all Members of the Panel including the Presiding Member.
- 3.4 Pursuant to section 83 of the PDI Act, the Panel and not the Council, may appoint an acting Presiding Member whenever required due to the absence of the Presiding Member.
- 3.5 At least one (1) Member of the Panel must be a woman and at least one (1) Member a man, and should, insofar as is reasonably practicable, ensure that the Panel consists of equal numbers of men and women.
- 3.6 The term of office for all Members of the Panel is a maximum of two (2) years or a lesser term determined by Council. Upon expiry of the term of office all retiring Members of the Panel are eligible for re-appointment.
- 3.7 Members of the Panel hold their positions as provided in clause 3.5 of these Terms of Reference or until removed from membership of the Panel by resolution of the Council under clause 5.2 of these Terms of Reference.

Appointment of Deputy Members

- 3.8 Pursuant to Section 83(1)(b)(v) of the PDI Act, Council may appoint Deputy Members of the Panel. In the absence of a Member, a Deputy Member may act as a Member of the Panel.
- 3.9 The Council shall appoint one person who is an elected member of the Council to act in the capacity of Deputy Member (Council Member). The Deputy Member (Council Member):
 - 3.9.1 shall hold their position for a term determined by the Council; and
 - 3.9.2 will only be entitled to sit as a Member of the Panel when the member appointed under clause 3.1.1 of these Terms of Reference is not present at a meeting.
- 3.10 The Council may appoint independent person/s to act in the capacity of the Deputy Member (Independent Member). The Deputy Member (Independent Member):
 - 3.10.1 shall hold their position for a term determined by the Council; and
 - 3.10.2 will only be entitled to sit as a Member of the Panel if one of the Members appointed under clause 3.1.2 of these Terms of Reference is not present at a meeting.

- 3.11 The provisions relating to the qualification of a Member in clause 6 of these Terms of Reference extend to a Deputy Member

General

- 3.12 The Council will call for expressions of interest for appointment of Members of the Panel.
- 3.13 Members of the Panel (excluding the Council Member and Deputy Member (Council)) will be remunerated for their services. Remuneration rates will be set and regularly reviewed by Council.
- 3.14 Different levels of remuneration may be fixed by the Council for Independent Members, the Presiding Member and Deputy Members.

Appointment of Additional Members

- 3.15 Pursuant to section 85 of the PDI Act and [to Practice Direction 5](#) issued by the State Planning Commission under section 42 of the PDI Act, the Panel may appoint 1 or 2 members to act as additional Members of the Panel for the purposes of dealing with a particular matter that it must assess as a relevant authority under the PDI Act. The Council acknowledges that it cannot appoint, oversee the appointment of, or otherwise be involved in the appointment of additional Members.

4. ROLES AND RESPONSIBILITIES

General

- 4.1 Notwithstanding these Terms of Reference, all Members of the Panel will:
- 4.1.1 observe the requirements of the PDI Act and all relevant Regulations and statutory instruments;
 - 4.1.2 comply with the Assessment Panel Members - Code of Conduct ("the Code of Conduct") adopted by the Minister under Schedule 3 of the PDI Act;
 - 4.1.3 comply with the Operating and Meeting Procedures of the Panel;
 - 4.1.4 endeavour to ensure that development applications are determined in a manner which appropriately and in accordance with the PDI Act, balances the interests of applicants and representors and the community;
 - 4.1.5 comply with policies and processes which are relevant to the operations of the Panel.

- 4.2 Members of the Panel are required to register their interests and complete a disclosure of interests return pursuant to Schedule 1 – Disclosure of financial interests under the PDI Act.
- 4.3 Members of the Panel are expected to read, comply with and, where appropriate, to seek clarification with respect to policies and processes relevant to these Terms of Reference.

Presiding Member

- 4.4 The role and responsibilities of the Presiding Member are to:
 - 4.4.1 be responsible for the proper observance of these Terms of Reference, Operating and Meeting Procedures and Code of Conduct;
 - 4.4.2 oversee and facilitate the conduct of Panel meetings in accordance with the PDI Act and the Operating and Meeting Procedures;
 - 4.4.3 ensure all Members of the Panel have an opportunity to participate in discussions in an open, respectful and encouraging manner;
 - 4.4.4 call the meeting to order and ask for the debate to be finalised and the motion to be put;
 - 4.4.5 ensure that meetings occur in a manner which appropriately balances the interests of applicants, representors and the community.

5. **CONDITIONS OF APPOINTMENT AND GROUNDS FOR REMOVAL OF MEMBERS**

- 5.1 Members are appointed to the Panel subject to the following conditions:
 - 5.1.1 all Independent Members must maintain the accreditation required by clause 6 of these Terms of Reference above for the term of their appointment;
 - 5.1.2 the Council Member must remain as a member of the Council during the term of their appointment.
- 5.2 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 of the panel from office for:
 - 5.2.1 breach of, or failure to comply with, the Terms of Reference; or
 - 5.2.2 misconduct; or
 - 5.2.3 neglect of duty; or
 - 5.2.4 incapacity to carry out satisfactorily the duties of his or her office; or

- 5.2.5 failure to carry out satisfactorily the duties of his or her office; or
 - 5.2.6 failure to comply with a requirement under Schedule 1- Disclosure of Financial Interests in the PDI Act or a breach of, or failure to comply with the Code of Conduct, or
 - 5.2.7 if directed to do so by the Minister acting on recommendation of the State Planning Commission under Section 86 of the PDI Act or otherwise as a result of a recommendation by the State Planning Commission following a Code of Conduct complaint.
- 5.3 For the purposes of clause 5.2 above, particulars of the grounds for removal shall be communicated to the Member at least one calendar month before the meeting of the Council at which the matter will be determined.
- 5.4 A determination of the Council made under clause 5.1 above shall be communicated to the Member, and in the event of an adverse determination, the Member shall cease to be a Member fourteen (14) days after the Council has communicated its determination to him/her.

Vacancy

- 5.5 The office of a Member of the Panel will become vacant if the Member-
- 5.5.1 dies; or
 - 5.5.2 completes a term of office and is not reappointed; or
 - 5.5.3 resigns by written notice to the Council; or
 - 5.5.4 becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
 - 5.5.5 is convicted of an indictable offence punishable by imprisonment; or
 - 5.5.6 is removed from office by the council under clause 5.1 of these Terms of Reference.
- 5.6 A Member of the Panel whose term of office expires may nevertheless continue to act as a Member, for a period of up to six (6) months, until he or she is reappointed or a successor is appointed (as the case may be).
- 5.7 In the event of a vacancy arising, the Council may appoint a person to be a Member for the balance of the original Member's term of office as soon as is reasonably practicable in the same manner as the original Member was appointed.
- 5.8 The Member appointed to fill a vacancy may be a Deputy Member in which case that person will automatically cease to be a Deputy Member.

- 5.9 In appointing a Member pursuant to clause 5.6 of these Terms of Reference, the Council must have regard to the matters in clause 6 of these Terms of Reference as the circumstances require.
- 5.10 A vacancy in the membership of the Panel will not invalidate any decisions of the Panel, provided a quorum is maintained during meetings.

6. ACCREDITED PROFESSIONALS

- 6.1 In accordance with section 83(1)(c) of the PDI Act, all Independent Members of the Panel must be accredited as accredited professional – planning level 1 pursuant to the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*.
- 6.2 In accordance with section 83(2) of the PDI Act, the Council Member is not required to be an accredited professional. However, in appointing the Council Member, the Council must be satisfied that the Council Member is appropriately qualified to act as a Member of the Panel on account of the person's experience in local government.

7. POWERS AND FUNCTIONS

- 7.1 The powers, functions and duties of the Panel are to be exercised in accordance with the PDI Act, the *Planning, Development and Infrastructure (General) Regulations 2017* ("the PDI Regulations") and these Terms of Reference.
- 7.2 The powers, functions and duties of the Panel are assigned by section 93 of the PDI Act and Part 5 of the PDI Regulations.
- 7.3 The Panel has the power to delegate its powers, functions and duties pursuant to section 100 of the PDI Act.
- 7.4 The Panel is charged with the responsibility to undertake reviews pursuant to Section 202(1)(b) and Section 203 of the PDI Act in relation to a decision made by the Assessment Manager acting as a relevant authority. NOTE: this power cannot be delegated.

8. NOTICE OF MEETING

- 8.1 The Panel shall meet in accordance with the PDI Regulations and the Operating and Meeting Procedures adopted by it.
- 8.2 The Assessment Manager must maintain a record of all notices of meetings given under this clause to Members of the Panel

9. PROCEDURAL REQUIREMENTS

- 9.1 All meetings of the Panel will be conducted in accordance with these Terms of Reference, Operating and Meeting Procedures, and Code of Conduct

10. COMPLAINT PROCEDURE

- 10.1 A person may make a complaint against a Member of the Panel if the person believes that a Member of the Panel has acted in contravention of the Code of Conduct.
- 10.2 Complaints are to be made to the State Planning Commission in accordance with Regulation 11 of the PDI Regulation.
- 10.3 Complaints must be lodged with the State Planning Commission within six (6) months of the complainant first having notice of the matters alleged in the complaint.

Signed:.....


Mayor – Michael Lange

Dated:.....



