

 <small>DISTRICT COUNCIL OF TUMBY BAY</small>	POLICY# 7.01 Council Development Assessment Panel – Terms of Reference	Version No:	2
		Issued:	Nov 2011
	POLICY AREA Development	Next Review:	2018 After Next Election

1. **Establishment of the Council Development Assessment Panel**
Pursuant to Section 56A of the Development Act 1993 the District Council of Tumby Bay establishes the “Council Development Assessment Panel” (CDAP) for the purpose of acting as the “relevant authority” (as that term is defined in the Development Act 1993) in respect to determining whether or not to grant development plan consent under the Development Act 1993.

2. **Membership**
 - 2.1 Membership of the Council Development Assessment Panel shall consist of five (5) members as required by section 56A(3)(a) of the Development Act 1993 (hereafter “the Act”).
 - 2.1.1 The Presiding Member of the Council Development Assessment Panel, will be appointed by the council, but shall not be a member or officer of the council as per section 56(A)(3)(b) of the Act.
 - 2.1.2 Up to half of the remaining members (maximum 2 members) may comprise of council members or officers of the council, as per section 56A(3)(c) of the Act.
 - 2.1.3 At least half of the remaining members (minimum 2 members, not including the presiding member) shall also be independent, not being a member or officer of the council, as per section 56A(3)(c) of the Act.
 - 2.1.4 At least one member of the panel is a woman and at least one member of the panel is a man, and insofar as is reasonably practicable, ensure that the panel consists of equal numbers of men and women;
 - 2.2 The term of office of a member will be for a period, not exceeding two (2) years, and at the expiration of a term of appointment, a member is eligible for reappointment, as per section 56A(3)(e) of the Act.
 - 2.3 The members of the Council Development Assessment Panel will appoint the deputy presiding member of the Panel, as per section 56A(4b) of the Act.
 - 2.4 A member of the Council Development Assessment Panel who is not a member of the Council must disclose his or her financial interests in accordance with Schedule 2, as per section 56A(6) of the Act.
 - 2.5 Members are required to attend Council Development Assessment Panel Meetings. Failure to attend three (3) consecutive meetings of the Panel without first obtaining leave of absence from the Panel shall
 - 2.6

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automatically disqualify a member from continuing as a member of the Council Development Assessment Panel.

- 2.7 Where a member of the Development Assessment Panel is automatically disqualified from continuing as a member pursuant to clause 2.8, the Chief Executive Officer of the Council shall confirm that fact by written notice served personally on the said member or left at the members usual place of residence.

3. **Removal of a Member**

- 3.1 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 any of the grounds specified in Section 56A(3)(g) namely:

3.1.1 breach of or failure to comply with, conditions of appointment; or

3.1.2 misconduct; or

3.1.3 neglect of duty; or

3.1.4 incapacity to carry out satisfactorily the duties of his or her office; or

3.1.5 failure to carry out satisfactorily the duties of his or her office; or

3.1.6 failure to disclose his or her financial interest in accordance with section 56A of the Act; or

3.1.7 failure to declare an interest in a matter before the Panel in accordance with Section 56A (7) of the Act; or

3.1.8 breach of, or failure to comply with, a code of conduct under section 21A of the Act.

- 3.2 Particulars of the charge pursuant to Section 56A(7) of the Development Act 1993 shall be communicated to the member at least one calendar month before the meeting of the Council at which the matter will be determined.

- 3.3 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.

- 3.4 A Council Development Assessment Panel member who has been removed from the Panel pursuant to Clause 3.1 of these Terms of Reference or automatically pursuant to Clause 2.5 of these Terms of Reference may apply to the Council for reappointment to the Panel.

The decision whether to allow a person to rejoin the Panel is at the Council's absolute discretion.

4. **Terms of Reference**

The Terms of Reference for the Council Development Assessment Panel are as follows: –

- 4.1 in accordance with the delegations conferred by the Council, the Council Development Assessment Panel is charged with responsibility for all matters arising under Part 4 of the Development Act 1993 and the Development Regulations 1993, with respect to determining whether or not to grant development plan consent.

- 4.2 the Council Development Assessment Panel shall act at all times in strict accordance with relevant legislation (being the Development Act 1993 and the Development Regulations 1993) and with written policies,

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- guidelines and protocols of the Council which are relevant to the Council Development Assessment Panel in the performance of its functions;
- 4.3 the Council Development Assessment Panel may provide advice and reports on trends, issues and other matters relating to planning or development that have become apparent or arisen through the Panel's assessment of development applications as well as comment to the Council on any matters outside the provisions of Part 4 of the Development Act 1993 referred to it by the Council for the Panel's consideration and comment.
 - 4.4 the Council Development Assessment Panel shall generally, where necessary, meet once a month, on the same day and prior to the ordinary meeting of Council, as called by the Manager Environmental Services in accordance with Part 5 of these Terms and References.
 - 4.5 the Council Development Assessment Panel shall meet at the Council Chamber, Mortlock Street Tumby Bay or at such other places as the Council Development Assessment Panel may, from time to time, determine;
 - 4.6 a quorum at a meeting of the Council Development Assessment 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.
 - 4.7 for the purpose of Section 56A(2)(b) of the Act the Council requires that all members of the Council are provided with a copy of the minutes of meetings of the Council Development Assessment Panel and a monthly report; listing those development applications which have been approved for the month.
 - 4.8 A member of the Council Development Assessment Panel incurs no liability for an honest act in the exercise or performance, or purported exercise or performance of powers or functions conferred by the Council on the Development Assessment Panel in relation to any matter which does not fall with Part 4 of the Development Act 1993. A liability that would, but for this indemnity, attach to a member of the Council Development Assessment Panel attaches instead to the Council.

5. **Notice of Meeting**

- 5.1 Written notice of a meeting of the Council Development Assessment Panel must be given to each member of the Panel at least three (3) 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 Manager Environmental Services 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 principal 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 or email).
- 5.2 A notice that is not given in accordance with sub-section (6) is taken to have been validly given, if the Manager Environmental Services considers it impracticable to give the notice in accordance with that sub-section and takes whatever action to bring the notice to the attention of the member.
- 5.3 The Manager Environmental Services must maintain a record of all notices of meetings given under this clause to members of the Council.

6. Procedural Requirements

- 6.1 All meetings of the Council Development Assessment Panel will be conducted in accordance with the Development Act and these Terms of Reference.
- 6.2 Meetings of the Council Development Assessment Panel and deliberations upon matters by it will occur in public except where the Panel chooses to exclude the public in accordance with the provisions of Section 56A(12) of the Development Act 1993.
- 6.3 All decisions of the Council Development Assessment Panel shall be made on the basis of a majority decision of the members present.
- 6.4 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.
- 6.5 All members of the Council Development Assessment Panel shall have a deliberative vote and in the event of an equality of votes the Presiding Member shall also have a casting vote.
- 6.6 Prior to the Presiding Member of the Panel declaring a motion carried or lost the Presiding Member shall clearly indicate the numbers voting for and the numbers voting against the motion.
- 6.7 The Presiding Member of the Council Development Assessment Panel is responsible for ensuring that accurate minutes are kept of all proceedings of the Panel. The minutes must include any disclosure of an interest pursuant to Section 56A(7) of the Development Act 1993.
- 6.8 In all of its dealings and activities the Council Development Assessment Panel shall have regard to the Terms of Reference for the Council Development Assessment Panel as determined by the Council.
- 6.9 The procedures to be observed in relation to the conduct of the business of the Council Development Assessment Panel will be as prescribed by regulation; or insofar as a procedure is not prescribed by regulation, then as determined by the Panel.
- 6.10 As per provisions of Section 56A(12)(b), the Panel will exclude all members of the public during the parts of any meeting that consists of its discussion or determination of any application before it. This provision will be guided by:
 - 6.10.1 Public not to be excluded during preliminary debate and/or discussions;
 - 6.10.2 Public to be excluded prior to any formal motion on any application or matter before the Panel
 - 6.10.3 Public are to be re-admitted to the meeting once any formal motion has been dealt with. At this point, the public will be

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informed by the Presiding Member of any motion dealt with including the outcome and reasons for decision, with the reasons for the decision to also be recorded in the minutes of the meeting.

7. Member Allowances & Fees

14.1 As per motion 10c/112011; the below sitting fees will be paid to External Committee Members (excluding paid staff and elected members being able to claim travel reimbursement)

\$50 (fifty dollars)

Strategic Link:
Delegation:

Documentation: Nil

Authority: Adopted by Council: 14/11/2011 {Motion No 10c/112011}
 Reviewed by Council: 10/11/2015 {Motion No 7c/112015}

SIGNED:
Responsible Officer

Date: ____/____/____