

RELEASED 16 MAY 2019

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 23 April 2019
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 19.2

Originating Officer: Marc Salver, Director Development & Regulatory Services

Responsible Director: Marc Salver, Director Development & Regulatory Services

Subject: Appointment of Independent Members to the Council's Assessment Panel (CAP)

For: Decision

1. Appointment of Independent Members to the Council's Assessment Panel (CAP) – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Director Infrastructure & Operations, Peter Bice
- Director Development & Regulatory Services, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community Capacity, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 19.2: (Appointment of Independent Members to Council's Assessment Panel (CAP)) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(a) of the Local Government Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to the appointment of Independent Members to the Council's Assessment Panel (CAP), the disclosure of which –

- (a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

2. Appointment of Independent Members to the Council's Assessment Panel (CAP) – Confidential Item

SUMMARY

As the term of the current members of the Council's Assessment Panel expires on 31 May 2019, Council approval is sought to appoint Independent Members to the Panel. At the Special Council meeting held on 4 December 2018 (Item 5.1.), Council considered a report regarding a review of the Selection Criteria and call for Expressions of Interest for Independent Membership of the Council's Assessment Panel (CAP). The Council at that time also appointed the Mayor and Crs John Kemp and Kirsty Parkin, assisted by the CEO and Director of Development & Regulatory Services, to undertake the selection and interview process. Expressions of interest were sought from suitably qualified members of the public to fill the four independent member roles on the Panel. It is noted that due to unforeseen circumstances, Mayor Jan-Claire Wisdom was overseas at the time the first part of the recruitment process occurred (including the first series of interviews) and therefore delegated her role on the selection panel to Cr Nathan Daniell as Acting Mayor for the entire recruitment and selection process.

This process for recruitment and selection of Independent CAP Members commenced in January 2019 and was concluded earlier this month. The Selection Panel recommends that the four people mentioned in the resolution below be appointed for a two year term commencing on 1 June 2019 and ending on 31 May 2021. Note that at its special meeting of 4 December 2018 (Item 5.1.1), Council resolved to appoint Cr Linda Green as Member and Cr Leith Mudge as Deputy Member of the Panel for a seventeen month term which commenced on 4 December 2018 and will conclude on 30 May 2020 (inclusive).

The Selection Panel also recommends that Ms Karla Billington be appointed as an Additional Member, pursuant to section 85 of the *Planning, Development and Infrastructure (PDI) Act, 2016*, who can be called upon to provide specialist advice to the CAP on water quality, watershed protection and environmental management matters. Note that in accordance with section 85(3), Ms Billington will be taken to be a member of the CAP in all respects, however she will not be able to vote on any matter arising for determination by the Panel. Ms Billington will only attend CAP meetings as and when required by CAP and will be paid the same sitting fee as the other Ordinary Independent CAP Members.

Lastly, as of 1 April 2019, all Independent CAP Members have to be Accredited Professionals in accordance with the *Planning, Development and Infrastructure (Accredited Professionals) Regulations, 2019*. Once appointed, the Independent Members will be required to lodge applications for accreditation with the Accreditation Authority (being the Chief Executive of DPTI). It is understood that accreditation will need to be achieved by the designated date, which DPTI advises is anticipated to be sometime in November 2019. If an Independent Member(s) fails to achieve accreditation by the designated date, then their membership on CAP will automatically lapse and Council will need to undertake another recruitment and selection process at that time in order to backfill any vacancies. In order to expedite matters if such a situation were to occur, Administration is recommending that Council authorises the Mayor and Crs Kirsty Parking and John Kemp, assisted by the Director Development and Regulatory Services and the Chief Executive Officer to undertake the recruitment and selection process to backfill any vacancies as soon as possible. If required and following the conclusion of this process, a report will then be presented to Council for the appointment of any new CAP member(s).

RECOMMENDATION

Council resolves:

1. That the report be received and noted
 2. That Council appoints the following Independent Members to the Council’s Assessment Panel for a two year period commencing on 1 June 2019 and expiring on 31 May 2021:
 - i. Geoff Parsons (as Independent Presiding Member)
 - ii. David Brown
 - iii. Ross Bateup
 - iv. Piers Brissenden
 3. That Council appoints Karla Billington as an Additional Member pursuant to section 85 of the PDI Act with expertise in water quality, watershed protection and environmental management matters for a two year period commencing on 1 June 2019 and expiring on 31 May 2021.
 4. That in the event any independent member(s) of the Council Assessment Panel are unable to obtain accreditation as referred to in the report by the designated date, then the Mayor and Councillors Kirsty Parking and John Kemp be appointed to a selection panel, assisted by the CEO and Director Development & Regulatory Services, to undertake the short-listing and interviews of the candidate(s).
 5. That in the event the process referred to in the above recommendation occurs, then the selection panel shall report their recommendations to Council at the next available meeting following the completion of the recruitment and interview process.
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1. GOVERNANCE

➤ Strategic Management Plan/Council Policy

Goal People & Business Prosper
 Places for People & Nature

Having suitably qualified and experienced independent CAP members ensures there is rigour in the assessment process, and provides for a higher level of independent scrutiny of applications considered by the Panel. This will ultimately assist in achieving good quality planning outcomes and maintain the character and amenity for which the Adelaide Hills Council is renowned.

➤ Legal Implications

It is a statutory requirement pursuant to Sections 82 and 83 of the *Planning, Development and Infrastructure Act, 2016*, for Council to have an Assessment Panel comprised of five members, of which at least four must be independent members (including an independent Presiding Member) and no more than one Council Member. It is noted that Council can have a CAP comprised of five rather than four independent members. Administration considers that having the one permissible Council Member on the Panel adds value to the decision making process. In this regard, note that at its special meeting of 4 December 2018

(Item 5.1.1), Council appointed Cr Linda Green as Member of CAP and Cr Leith Mudge as Deputy Member for a seventeen month term which commenced on 4 December 2018 and will conclude on 30 May 2020 (inclusive).

➤ **Risk Management Implications**

The appointment of appropriately qualified and experienced independent members to the Council’s Assessment Panel (CAP) will assist in mitigating the risks of:

Poor governance practices occur which lead to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Medium (3D)	Medium (3D)

Inability to attract and recruit suitably qualified and experienced candidates for the CAP potentially leading to poor decision making and development outcomes

Inherent Risk	Residual Risk	Target Risk
High (4C)	Low (1D)	Low (1D)

Appointment of suitably qualified and experienced independent CAP members ensures compliance with the legislation in this instance and adds rigour to the assessment process, and provides for a higher level of independent scrutiny of applications considered by the Panel. This will reduce the risks in relation to decision making on complex applications and ensures Council complies with the legislation in this regard. Note that there are other controls that assist in mitigating this risk.

➤ **Financial and Resource Implications**

The independent CAP members are paid a per meeting sitting fee of \$500 ex GST (Independent Presiding Member) and \$380 ex GST (ordinary Independent Member). The Council Member on the Panel is currently paid a per meeting sitting fee of \$190. These sitting fees are budgeted for in the 2019/20 Budget. These sitting fees will be reviewed via a separate report to Council at its meeting on 23 April 2019.

➤ **Customer Service and Community/Cultural Implications**

All applications which have been publicly notified and representors have indicated that they wish to be heard by the Panel, are reported to the Panel for consideration. This ensures that such members of the community have an opportunity to present their views about a specific development. These independent experts ensure rigour in the assessment process and provides for a higher level of independent scrutiny of applications placed before the Panel, at times resulting in improved development outcomes.

➤ **Environmental Implications**

It is considered that having a Panel comprising independent members with the required skills set (including urban and regional planning, architecture and design, landscape architecture and environment management) provides for more rigour in the assessment process and in general ensures that any environmental implications are mitigated where possible and necessary.

➤ **Engagement/Consultation conducted with Council Committee, Regional Subsidiary, Advisory Group, the Administration and Community**

No public consultation is required in this regard. However, the following were consulted in the preparation of this report:

Consultation on the development of this report was as follows:

<i>Council Committees:</i>	Not Applicable
<i>Advisory Groups:</i>	Not Applicable
<i>Administration:</i>	Chief Executive Officer Executive Manager Governance and Performance Assessment Manager
<i>Community:</i>	Not Applicable

2. BACKGROUND

At the Special Council meeting held on 4 December 2018 (Item 5.1.2) Council considered a report regarding a review of the Selection Criteria and call for Expressions of Interest for Independent Membership of the Council’s Assessment Panel (CAP), and resolved as follows:

5.1.2 Appointment of Council Member to Council’s Assessment Panel (CAP) and Selection Panel for appointment of Independent Members to CAP – Expression of Interest for Independent Presiding Member

Moved Cr Kirsty Parkin
S/- Cr Chris Grant

316/18

That Council resolves:

1. To commence an Expression of Interest process for an Independent Presiding Member and three (3) Independent Ordinary Members of the Council Assessment Panel with the following desired skills and knowledge in accordance with the draft Accredited Professionals Scheme (i.e. a person with relevant qualifications and a minimum of 2 years full time experience) and with the ability to become Accredited Professionals in accord with the aforementioned Scheme:
 - a) In relation to the Independent Presiding Member, qualifications in urban and regional planning to accord with Level 2 accreditation of the Accredited Professionals Scheme, and knowledge of the Adelaide Hills Council area

- b) In relation to the other three Independent Members, persons with knowledge of the Adelaide Hills Council area and qualifications in one or more of the following areas:
- i) urban and regional planning
 - ii) architecture and design
 - iii) landscape architecture, and
 - iv) environmental management.

Carried Unanimously

Council then appointed the following Members to the recruitment and selection panel:

5.1.3 Appointment of Council Member to Council’s Assessment Panel (CAP) and Selection Panel for appointment of Independent Members to CAP – Appointment to Selection Panel for Independent Members

Moved Cr Chris Grant
S/- Cr Ian Bailey

317/18

That Council resolves:

1. That the Mayor and Councillors John Kemp and Kirsty Parkin be appointed to a Council Assessment Panel Independent Member Selection Panel, assisted by the CEO and Director Development & Regulatory Services, to undertake the short-listing and interviews of the candidates with a view to selecting an Independent Presiding Member and three (3) Independent Ordinary Members.
2. That the Council Assessment Panel Independent Member Selection Panel report their recommendations to Council for approval by no later than April 2019.

Carried Unanimously

With regard to the appointment of the Council Member on CAP, at the Special Council meeting held on 4 December 2018 (Item 5.1.1) Council resolved:

5.1.1 Appointment of Council Member to Council’s Assessment Panel (CAP) and Selection Panel for appointment of Independent Members to CAP – Appointment to Panel

Moved Cr Chris Grant

S/- Cr Ian Bailey

315/18

That Council resolves to appoint Cr Linda Green as Member and Cr Leith Mudge as Deputy Member of the Council Assessment Panel for a 24 month term to commence 4 December 2018 and conclude on 3 December 2020 (inclusive).

Cr Grant, with the consent of Cr Bailey, sought and was granted leave of the meeting to vary the motion as follows.

That Council resolves to appoint Cr Linda Green as Member and Cr Leith Mudge as Deputy Member of the Council Assessment Panel for a 17 month term to commence 4 December 2018 and conclude on 30 May 2020 (inclusive).

Carried Unanimously

This report outlines the results of the selection and interview process for the appointment of suitably qualified and experienced independent members to Council’s Assessment Panel.

3. ANALYSIS

In accordance with the above resolution of Council, advertisements were placed in the Advertiser, Weekender Herald and Mt Barker Courier on 18 January 2019 respectively, as well as on Council’s website. Twenty (20) Expressions of Interest were received in response and, of these, 8 were short-listed for interviewed by the Selection Panel for the four independent member positions on the CAP.

A comprehensive selection and interview process was conducted with the Selection Panel short listing and interviewing eight candidates and recommending that Geoff Parsons be appointed as the Independent Presiding Member and David Brown, Ross Bateup and Piers Brissenden be appointed as the other Independent Members on the Council’s Assessment Panel. Further, the Selection Panel is also recommending that Ms Karla Billington be appointed as an Additional Member, pursuant to section 85 of the Planning, Development and Infrastructure (PDI) Act, 2016. Karla may be called upon to provide specialist advice to the CAP on water quality, watershed protection and environmental management matters.

A summary of each of these members’ qualifications and experience is provided below:

Geoff Parsons is a qualified Urban and Regional Planner and has extensive planning and development experience, having worked in the local government sector for three rural/regional councils over the past 13 years. Geoff is an Independent Member of the City of Playford’s CAP and is Deputy Presiding Member of the Riverland CAP. Geoff also has a reasonable understanding of the Adelaide Hills Council area and our Development Plan. Geoff will be eligible for accreditation under the new Accredited Professionals Scheme.

David Brown is a qualified Urban & Regional Planner with over 39 years of Local Government experience and has been a resident of the Adelaide Hills for over 30 years. David has extensive knowledge and skills in the urban and regional planning as well as planning policy, having worked for four Council's in metropolitan Adelaide, including the former District Council of Stirling. He has extensive knowledge and experience in development assessment having processed development applications over many years, including commenting on major developments called in by the Coordinator Generals Office at the City of Unley. David also has a reasonable understanding of the Adelaide Hills Council area and our Development Plan. David will be eligible for accreditation under the new Accredited Professionals Scheme.

Ross Bateup is qualified Urban and Regional Planner, Urban Designer and Architect with over 40 years' experience in both the public and private sectors. Ross has lived in the Adelaide Hills Council area since the 1970's and currently runs his own planning, architecture and urban design consultancy. Ross is currently an Independent Member of the City of Adelaide (since 2013), City of Burnside (since 2013) and City of Salisbury (since 2014) CAPs and has previously been an Independent Member of the Town of Walkerville (2013 - 2017) and the District Council of Mount Barker (2011 – 2017) CAPs. Ross has also been a member of the Inner Metropolitan Development Assessment Committee and the Office of Design and Architecture SA for a number of years. Ross also has a reasonable understanding of the Adelaide Hills Council area and our Development Plan. Ross will be eligible for accreditation under the new Accredited Professionals Scheme.

Piers Brissenden is a current member of CAP and has extensive knowledge and skills in the area of Environmental Management. He has held a number of positions in this field of expertise over the years including being a member of Council's Rural Land Management Advisory Group (RLMAG) since 2016, Manager Adelaide and Central Hills District of the Natural Resources Adelaide Mount Lofty Ranges (2014 to date) with the Department of Environment and Water (DEW), Manager Native Vegetation Unit with DEW (2012 – 2014), Manager Operations and Public Lands with DEW (2010 – 2012), Assistant Director Coorong, Lower Lakes and Murray Mouth Projects with DEW, and a number of other roles with the Universities of South Australia and Adelaide from 1982 – 2002. Piers also has a reasonable understanding of the Adelaide Hills Council area and our Development Plan having been a Panel Member for the last 2 years. However, as Piers has no formal qualifications in environmental management or affiliation to a professional association, it is not certain if he will be eligible for accreditation under the new Accredited Professionals Scheme. He will need to lodge an application for accreditation to the Accreditation Authority in order to establish whether or not he will achieve accreditation.

Ms Karla Billington is a qualified environmental management professional with over 20 years' experience in this field. Karla is recognised as an authority in water resources and catchment management, both in South Australia and in national circles, through the delivery of projects, utilising sound evidence based and providing considered professional interpretation and opinion. Karla is an active member of the Australian Water Association (AWA) and the co-chair of the AWA's Catchment Management Network Committee. Karla has lived in the Adelaide Hills Council area for over 15 years and has extensive knowledge of the Mount Lofty Ranges Region and watershed. It is considered that Karla will be eligible for accreditation under the new Accredited Professionals Scheme.

Note that in accordance with section 85(3), Karla will be taken to be a member of the CAP in all respects, however she will not be able to vote on any matter arising for determination by the Panel. Further, note that Karla will only attend CAP meetings as and when required by CAP and will be paid the same sitting fee as other Ordinary Independent Members.

The term of appointment of the Independent CAP members shall be for two years commencing from 1 June 2019 and ending on 31 May 2021.

As of 1 April 2019, all Independent CAP Members have to be Accredited Professionals in accordance with the *Planning, Development and Infrastructure (Accredited Professionals) Regulations, 2019*. Once appointed, the Independent Members will be required to lodge applications for accreditation with the Accreditation Authority (being the Chief Executive of the Department of Planning, Transport and Infrastructure (DPTI)). It is understood that accreditation will need to be achieved by the designated date, which DPTI advised is anticipated to be sometime in November 2019. If an Independent Member(s) fails to achieve accreditation by the designated date, then their membership on CAP will automatically lapse and Council will need to undertake another recruitment and selection process at that time in order to backfill any vacancies. In order to expedite matters if such a situation were to occur, Administration is recommending that Council authorises the Mayor and Crs Kirsty Parking and John Kemp, assisted by the Director Development and Regulatory Services and the Chief Executive Officer, to undertake the recruitment and selection process to backfill any vacancies as soon as possible. If required, and following the conclusion of this process, a report will then be presented to Council for the appointment of any new CAP member(s).

4. OPTIONS

Council has the following options:

1. To accept the recommendations contained in this report regarding the appointment of the Independent Members (Recommended), or
2. To appoint other Independent Members as considered appropriate who were interviewed for the respective roles (Not Recommended), or
3. To not appoint one or more of the recommended Members and seek further Expressions of Interest from the public (Not Recommended).

5. APPENDICES

Nil

3. Appointment of Independent Members to the Council’s Assessment Panel (CAP) – Period of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council’s decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 19.2 in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999* and the provisions of the *Local Government (Access to Meeting and Documents) Amendment Act 2002*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until the Community Representatives referred to in the item are appointed, but not longer than 23 April 2020.

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, that Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.