

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 26 September 2017
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 19.3

Originating Officer: Marc Salver, Director Strategy & Development

Responsible Director: Marc Salver, Director Strategy & Development

Subject: Appointment of Independent Member with Natural Resource Management Skills to the Council's Assessment Panel (CAP)

For: Decision

1. Appointment of Independent Member with Natural Resource Management Skills 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 Engineering & Assets, Peter Bice
- Director Strategy & Development, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community & Customer Service, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 19.3: (Appointment of Independent Member with Natural Resource Management Skills to the 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 1999*, 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 Development Assessment Panel (CDAP), 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 Member with Natural Resource Management Skills to the Council's Assessment Panel (CAP) – Confidential Item

SUMMARY

In accordance with Section 56A of the *Development Act 1993*, Council is required to have a Council Development Assessment Panel (CDAP) comprised of a majority of independent members. Council currently has a 7 member CDAP comprised of an independent Presiding Member, 3 independent Ordinary Members and 3 Elected Members. This will be reduced to 5 members (of which only one can be a council member) from 1 October 2017 to comply with the requirements of with Section 83 of the *Planning, Development and Infrastructure (PDI) Act 2016* which becomes operational from this date. Note that this aspect is the subject of a separate report on the 26 September 2017 Council agenda to formalise the appointments of all Panel members in accordance with the PDI Act.

At its meeting of 26 April 2016 (Item 19.1), Council appointed the current four Independent Members of the Council's Assessment Panel (CAP) whose term of office ends on 31 May 2019. However, shortly thereafter, Ms Kathryn Bellette tendered her resignation on 31 July 2017 citing professional reasons and potential conflicts which may arise as a result of her new role at the Environment Protection Authority (EPA). Due to this vacancy, the matter was reported back to the Strategic Planning and Development Policy Committee (SPDPC) meeting held on 8 August 2017 (Item 12.4) where it was in essence resolved that in order to undertake the selection and interview process in a timely manner, the original Selection Panel be reappointed to complete this task and report back to Council at the 26 September 2017 meeting. The Selection Panel has now completed this task and recommends that Mr Piers Brissenden be appointed as an independent member of Council's Assessment Panel with Natural Resource Management Skills and Expertise for a period expiring on 31 May 2019.

RECOMMENDATION

That Council appoints Piers Brissenden as an Independent Member of the Council Assessment Panel (CAP) with Natural Resource Management Skills and Expertise for a period commencing 1 October 2017 and expiring on 31 May 2019 (inclusive), or a shorter period should Mr Brissenden not be able to achieve the required accreditation under the Planning Development and Infrastructure Act 2016 by the date prescribed.

1. GOVERNANCE

➤ Strategic Management Plan/Council Policy

Goal 1 People & Business Prosper

Goal 3 Places for People & Nature

The Council is required to have an Assessment Panel in place which is comprised of a majority of Independent Members. The Panel considers certain types of development applications which generally include major commercial, industrial and residential developments and land divisions. Such applications increase economic development opportunities and activities in the district and are rigorously assessed in order to minimise

negative impacts on the character, amenity and natural environment of the area in which they are situated.

➤ **Legal Implications**

It is a statutory requirement pursuant to Section 83 of *Planning, Development and Infrastructure (PDI) Act 2016* for Council to have an Assessment Panel in place, comprising 4 independent members (including an independent Presiding Member) and no more than 1 council member. This requirement becomes operational from 1 October 2017.

➤ **Risk Management Implications**

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

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)

➤ **Financial and Resource Implications**

The independent CAP members are paid a per meeting sitting fee of \$500 ex GST (Presiding Independent Member) and \$380 ex GST (ordinary Independent Member) which is budgeted for annually.

➤ **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 property development, natural resource management and landscape architecture) provides for more rigour in the assessment process and in general ensures that any environmental implications are mitigated where possible and necessary.

➤ **Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community**

No community consultation is required in this regard. A call for expressions of interest from appropriately qualified and experienced people was advertised in the local newspapers and on Council’s website.

2. BACKGROUND

At the Council meeting held on 26 April 2017 (Item 19.1), Council resolved:

19.1.1. Appointment of Independent Members to the Council's Development Assessment Panel (CDAP) – Confidential Item

Moved Cr Lynton Vonow 99/17
S/- Cr Linda Green

That Council appoints the following Independent Members to the Council's Development Assessment Panel for a two year period, expiring on 31 May 2019:

1. Professor Stephen Hamnett (as Independent Presiding Member)
2. Kathryn Bellette
3. Rob McBryde
4. Simon Bradley

Carried

However, shortly thereafter, Ms Kathryn Bellette tendered her resignation on 31 July 2017 citing professional reasons and potential conflicts which may arise as a result of her new role at the Environment Protection Authority (EPA). Due to this vacancy, the matter was reported back to the Strategic Planning and Development Policy Committee (SPDPC) meeting held on 8 August 2017 (Item 12.4) where it resolved:

12.4. Call for Expressions of Interest for Independent Member of the Council's Development Assessment Panel (CDAP)

Moved Mayor Bill Spragg SP41/17
S/- Cr Linda Green

1. That the Committee resolves to undertake an Expression of Interest process to backfill the vacancy for the independent member of the Development Assessment Panel with the following skills set:

A person with practical knowledge of and applied experience in natural resource management and the environment, and knowledge of the Adelaide Hills Council area.

2. That the Mayor and Councillors Loveday, Vonow and Kemp be appointed to a selection panel, assisted by the CEO and Director Strategy & Development, to undertake the short-listing and interviews of the candidates with a view to selecting an independent ordinary member to backfill the vacancy.
3. That the Selection Panel report their recommendations to Council for approval by no later than 26 September 2017.

Carried Unanimously

The role was subsequently readvertised in order to seek expressions of interest from suitably qualified members of the public. The Selection Panel then shortlisted a candidate and conducted an interview on 4 September 2017.

3. ANALYSIS

In accordance with the above resolution of SPDPC, advertisements were placed in the Advertiser, Weekender Herald and Mt Barker Courier in August 2017, as well as on Council's website. Six (6) Expressions of Interest were received in response (two of which were received late) and, of these, only one was short-listed for interview by the Selection Panel for the NRM independent member position on the CAP.

The interview took place on 4 September 2017 and the Selection Panel has decided to recommend that Mr Piers Brissenden be appointed as the Independent Member with NRM Skills and Expertise on the Council's Assessment Panel.

Piers Brissenden has extensive knowledge and skills in the area of *Natural Resources Management and the Environment*. He has held a number of positions in this field of expertise over the years including:

- 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 Water, Environment and Natural Resources (DEWNR)
- Manager, Native Vegetation Unit with DEWNR (2012 – 2014)
- Manager, Operations and Public Lands with DEWNR (2010 – 2012)
- Assistant Director, Coorong, Lower Lakes and Murray Mouth Projects with DEWNR, and
- A number of other roles with the Universities of South Australia and Adelaide from 1982 - 2002

In summary the Selection Panel considers that Mr Brissenden be appointed to this role on CAP as he is well regarded in the NRM arena, has worked and managed NRM matters within the Adelaide Hills Region for many years, is familiar with the Council's planning and development issues from an NRM perspective, and is an effective contributor on Council's RLMAG.

Note that the PDI Act and Regulations are silent on the appointment term of a CAP Member and the appointment term is at Council's discretion. In consideration that the Accredited Professional Scheme is estimated to be in place by mid to late 2018 it is considered appropriate that the current Independent and Council Members, and the new NRM Independent Member be appointed for a period commencing on 1 October 2017 and expiring on 31 May 2019 (inclusive), or a shorter period should the Panel Members not be able to achieve the required accreditation under the *PDI Act 2016* by the date prescribed.

Item 12.... of this agenda sets out additional information relevant to the appointment of an Independent Member to the CAP.

4. OPTIONS

As Council has a statutory obligation, pursuant to Section 83 of the PDI Act, to have a CAP comprised of Independent Members, Council has no option in this instance but to appoint Independent Members to its Panel. However, the Council has the following options in regard to this specific appointment as follows:

- To accept the recommendation contained in this report regarding the appointment of the said Independent Member; or
- To not appoint the recommended Member and seek further Expressions of Interest from the public.

Staff are recommending Option 1 be agreed to noting that an appropriate recruitment and selection process has been undertaken in this instance. The term of appointment is to be

for a period commencing on 1 October 2017 and expiring on 31 May 2019 (inclusive), or a shorter period should Mr Brissenden not be able to achieve the required accreditation under the PDI Act 2016 by the date prescribed. This term of appointment aligns with the term of the other Members of the Panel, which is being dealt with via a separate report on the 26 September 2017 Council agenda.

5. APPENDIX

Nil

3. Appointment of Independent Member with Natural Resource Management Skills 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 19.3 in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999*, 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 Independent Member referred to in the item is appointed, but not longer than 1 December 2017.

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.