

Fleurieu Regional Assessment Panel

Meeting Procedures

Adopted by the FRAP on 16 August 2022

These Meeting Procedures are to be read in conjunction with:

- The Gazette notice pursuant to which the Fleurieu Regional Assessment Panel (**FRAP**) was constituted; and
- The FRAP's Policy for Assessment Panel Review of Decision of Assessment Manager (**Assessment Manager Review Policy**)

1. FRAP MEETINGS

Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the FRAP will be held at such times and places as determined by the FRAP.
- 1.2 The time and place of the first meeting of the FRAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first FRAP meeting to the FRAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all FRAP Members by the Assessment Manager not less than five (5) clear business days prior to the holding of the meeting in accordance with clause 1.4.
- 1.4 Notice of a meeting of the FRAP must:
 - 1.4.1 be sent electronically by email to the FRAP Members nominated email address;
 - 1.4.2 set out the date, time and place of the meeting;
 - 1.4.3 contain or be accompanied by an electronic version of the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable);
 - 1.4.4 where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and
 - 1.4.5 where the meeting is to be live streamed for viewing by members of the public, include details of how to access and/or connect to the live stream

- 1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manager considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Member.
- 1.6 A copy of the agenda for all meetings of the FRAP will be available for viewing by the public on the constituent Councils' websites, five (5) business days prior to the scheduled meeting.
- 1.7 The Assessment Manager may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to FRAP Members. In such instance, the Assessment Manager shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.
- 1.8 The Presiding Member may adjourn a FRAP Meeting to a future date and time, unless the FRAP resolves to continue the meeting.

Special Meetings

- 1.9 The Assessment Manager may convene a special meeting of the FRAP. Alternatively, the Presiding Member, or two (2) or more FRAP Members, may by delivering a written request to the Assessment Manager, require a special meeting of the FRAP to be convened. The written request must be accompanied by the agenda for the special meeting.
- 1.10 On receipt of a request pursuant to clause 1.9, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all FRAP members at least forty-eight (48) hours before the commencement of the special meeting.

2. DEPUTY MEMBERS

- 2.1 If a FRAP Member is unable or unwilling to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Presiding Member and Assessment Manager at his or her earliest opportunity.
- 2.2 If notification pursuant to clause 2.1 is given, the Assessment Manager may request a Deputy Member attend the meeting in place of the FRAP Member for the meeting or part of the meeting. The Deputy Elected Member representative shall only attend a meeting in place of the sitting Elected Member representative.
- 2.3 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Member.

3. **ADDITIONAL MEMBERS**

- 3.1 The FRAP may appoint up to two (2) Additional Members in accordance with Section 85 of the *Planning, Development and Infrastructure Act 2016 (Act)*.
- 3.2 Where the FRAP has appointed Additional Member(s), the Presiding Member, in consultation with the Assessment Manager, may invite one or both Additional Members to attend any meeting (or part thereof) where he or she considers the Additional Member(s) will, by virtue of their qualifications, expertise or experience, assist the FRAP in dealing with a matter that it must assess under the Act.
- 3.3 A request that an Additional Member attend a meeting must be made in writing and be accompanied by the notice for the meeting in accordance with clause 1.4, highlighting the item(s) the Additional Member is required to consider.
- 3.4 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes an Additional Member, save that an Additional Member is not able to vote on any matter arising for determination by the FRAP.

4. **ELECTRONIC MEETINGS**

- 4.1 Subject to agreement from the Presiding Member and Assessment Manager, one or more FRAP Members may attend a meeting via electronic means.
- 4.2 A Member attending a meeting by electronic means is taken to be present at the meeting provided that the Member:
 - 4.2.1 can hear and, where possible, see all other Members who are present at the meeting;
 - 4.2.2 can hear and, where possible, see, all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;
 - 4.2.3 can be heard and, where possible, seen by all other Members present at the meeting; and
 - 4.2.4 can be heard and, where possible, seen by the person recording the minutes of the meeting.
- 4.3 Where a meeting occurs via electronic means, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.
- 4.4 Where a meeting is being live streamed for public viewing, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance.

- 4.5 Where the public has been excluded from attendance, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for FRAP members disconnect from or are disconnected from the meeting.
- 4.6 The FRAP will have regard to the matters set out in Regulation 13 of the Planning, Development and Infrastructure (General) Regulations 2017 when deciding whether to exclude the public from attendance, but is not bound by that Regulation.

5. COMMENCEMENT OF MEETINGS

- 5.1 Subject to a quorum of three (3) members being present, a meeting of the FRAP will commence as soon as possible after the time specified in the notice of a meeting.
- 5.2 If the number of apologies received by the Assessment Manager or 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 thirty (30) minutes from the commencement time specified in the notice of the meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 5.4 In the event that the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the FRAP appoints an Acting Presiding Member.

6. ASSESSMENT OF DEVELOPMENT APPLICATIONS

The procedures in Part 6 of these Meeting Procedures relate only to the FRAP's assessment of development applications under Part 7 of the Act and Part 4 of the Development Act. NB: The procedures for determining an application for review of an Assessment Manager's decision are contained in the Assessment Manager Review Policy

- 6.1 The Assessment Manager may in his or her discretion exclude:
 - 6.1.1 a representation or response to representation(s) which is received out of time;
 - 6.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application;
or
 - 6.1.3 a representation or response to representation(s) which is otherwise invalid.

- 6.2 The Assessment Manager may in his or her discretion accept and allow to be considered by the FRAP any new or additional material submitted by a representor or applicant. The FRAP may defer consideration of the application to enable full and proper assessment of the further information.
- 6.3 Any material to be considered by the FRAP pursuant to clause 6.2 must be provided to the applicant and/or representor(s) (as the case may be) in a manner directed by the Assessment Manager and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Assessment Manager.
- 6.4 In relation to each application it considers, the FRAP must:
- 6.4.1 determine whether the proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant) and provide reasons for its determination; and
 - 6.4.2 provide reasons for granting or refusing Development authorisation and for the imposition of any conditions.
- 6.5 If the FRAP determines that a proposal is seriously at variance with the Development Plan or Planning Rules (as relevant), it must refuse development authorisation to the application.
- 6.6 In relation to each application to be considered and determined by the FRAP:
- 6.6.1 a person who has lodged a representation in relation to a Category 2 or 3 application under the D Act or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 6.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the FRAP and be heard in support of their representation, in person or by an agent;
 - 6.6.2 a person who has lodged a representation in relation to which has not been excluded pursuant to clause 6.1 and who has indicated that they wish to be heard on their representation may, at the discretion of the Presiding Member, appear before the FRAP and be heard in support of their representation, in person or by an agent;
 - 6.6.3 where one or more representors are heard by the FRAP, the applicant is entitled to appear before the FRAP to respond to any relevant matter raised by a representor, in person or by an agent;
 - 6.6.4 where no representors appear at the meeting, the Presiding Member may, in his or her discretion, allow an applicant to be

heard in support of his or her application, in person or by an agent;

6.6.5 representors and applicants will be allowed five minutes each to address the FRAP. The Presiding Member may allow a party additional time at his or her discretion;

6.6.6 FRAP members may question and seek clarification from a representor or applicant who has addressed the FRAP at the conclusion of their address; and

6.6.7 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.

6.6.8 Clauses 6.6.1 to 6.6.4 are satisfied if a representor or applicant (as the case may be) appears via electronic means. The Presiding Member may require that any such appearance be via electronic means.

7. **DECISION MAKING**

7.1 The Presiding Member may in his or her discretion accept and allow to be considered by the FRAP any new or additional material submitted by a representor or applicant. The FRAP may defer consideration of the application to enable full and proper assessment of the further information.

7.2 Any material to be considered by the FRAP pursuant to clause 7.1 must be provided to the applicant and/or representor(s) (as the case may be) and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Presiding Member.

7.3 Matters cannot be withdrawn from the meeting agenda after the agenda has been finalised by the Assessment Manager (but the FRAP may, at its absolute discretion, resolve to defer its decision on any matter).

7.4 Each Member present at a meeting of the FRAP, including a Deputy Member who has been requested to attend the meeting or part of the meeting in place of a Member who is unable or unwilling to attend the meeting, is entitled to one vote on any matter arising for decision. If the votes are equal, the Presiding Member is entitled to a second or casting vote. Additional Members appointed to the FRAP to provide expert advice and assistance are not entitled to vote.

7.5 Matters arising for decision at a meeting of the FRAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.

- 7.6 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a FRAP Member, applicant, representor or other member of the public) to a specified date and time.
- 7.7 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave a meeting where he or she is, in the opinion of the Presiding Member:
 - 7.7.1 behaving in a disorderly manner; or
 - 7.7.2 causing an interruption or disruption to the meeting.
- 7.8 Where a person who has lodged a representation in relation to a development application and has requested to be heard by the FRAP, the person, or an agent acting on behalf of the person, at the agreement of the Presiding Member and Assessment Manager, may appear via electronic means. The Presiding Member and Assessment Manager may require that any such appearance be via electronic means.
- 7.9 Where an applicant who has requested to respond to relevant matters raised by a representor, or be heard in support of his or her application, the applicant, or an agent acting on behalf of the applicant, at the agreement of the Presiding Member and Assessment manager, may appear via electronic means. The Presiding Member and Assessment Manager may require that any such appearance be via electronic means.
- 7.10 Where a person is entitled or has been requested to appear before the FRAP in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate), the person, at the agreement of the Presiding Member and Assessment Manager, may appear via electronic means. The Presiding Member and Assessment Manager may require that any such appearance be via electronic means.

8. MINUTES AND REPORTING

- 8.1 The FRAP must ensure that accurate minutes are kept of all meetings.
- 8.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 8.3 The minutes will record:
 - 8.3.1 the names of all Members present;
 - 8.3.2 the names of all Members from whom apologies have been received;
 - 8.3.3 the name and time that a Member enters or leaves the meeting;

- 8.3.4 the name of every person who makes or responds to a representation in relation to a development application;
- 8.3.5 methods of attendance by all Members present and by every person who makes or responds to a representation;
- 8.3.6 The name of every person who appears in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate);
- 8.3.7 in relation to each application determined by the FRAP:
 - 8.3.7.1 the determination of the FRAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant);
 - 8.3.7.2 the reasons for granting or refusing development authorisation and for the imposition of any conditions;
- 8.3.8 in relation to each application for review of an Assessment Manager decision:
 - 8.3.8.1 the determination of the FRAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
 - 8.3.8.2 The reasons for granting or refusing development authorisation and for the imposition of any conditions;
- 8.3.9 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;
- 8.3.10 if an application is not determined by the FRAP, the deferral of the application and the reasons for the deferral;
- 8.3.11 a decision to exclude the public from attendance pursuant to the Regulations;
- 8.3.12 any disclosure of a direct or indirect pecuniary interest in any aspect of a development or anybody associated with any aspect of a development made by a Member in accordance with Section 83(1)(g) of the Act, and the nature of the interest;
- 8.3.13 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (**Code of Conduct**), and the nature of the interest; and
- 8.3.14 if a meeting is adjourned by the Presiding Member, the reason for the adjournment and the date and time to which the meeting is adjourned.

- 8.4 All minutes must be confirmed by the FRAP as being accurate at the commencement of the following FRAP meeting.
- 8.5 A copy of the draft minutes of all meetings of the FRAP will be available for viewing by the public on the constituent Councils' websites as soon as practicable after the meeting. A final version of the minutes will be available following confirmation pursuant to Clause 8.4.

9. ADDITIONAL PROCEDURES

- 9.1 Insofar as any procedure to be followed by the FRAP is not prescribed by the Act and Regulations (and, during the transition to the Act and Regulations, the *Development Act 1993* and *Development Regulations 2008*), the Minister for Planning's Gazette Notice (*Fleurieu Regional Assessment Panel Notice 2020*), which outlines the FRAP's Terms of Reference, the Code of Conduct or these Meeting Procedures - the FRAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.
- 9.2 The FRAP may call for and consider such professional assistance from the Assessment Manager and/or Council administration, and in consultation with the Assessment Manager, other professional advisors as it deems necessary and appropriate from time to time.
- 9.3 Site visits will generally be undertaken by FRAP Members individually prior to the commencement of a FRAP meeting. If access to a site or other private land is requested by a FRAP Member for assessment purposes, such a request must be made to the Assessment Manager as early as practicable, to enable the appropriate permissions to be sought from the relevant property owners and/or occupiers prior to inspection.
- 9.4 FRAP members must be accompanied to any inspections on private land by the Assessment Manager or other Council administration as required, at a time that is arranged following any request made pursuant to Clause 9.3.

10. DEFINITIONS

The following definitions apply in relation to these Meeting Procedures:

- 10.1 *connect* means able to hear and/or see the meeting by electronic means, including via a live stream;
- 10.2 *disconnect* means to remove the connection so as to be unable to hear and see the meeting;
- 10.3 *electronic* means includes a telephone, computer or other electronic device used for communication;
- 10.4 *live steam* means the transmission of audio and/or video from a meeting at the time the meeting is occurring.

