

What is the Marion Council Assessment Panel?

The Marion Council Assessment Panel (CAP) is a decision-making body established by the *Planning, Development and Infrastructure Act 2016* and a 'Relevant Authority' in their own right for the assessment of Planning Consents.

What does the Marion CAP do?

The Marion CAP is tasked with

- hearing persons (or their representatives) who have indicated a desire to be heard in respect of their representation;
- considering the relevant Planning and Design Code policies applicable to a wide range of development proposals.
- weighing up the 'pros' and 'cons' of each proposal against the policy and forming a collective position; and
- making decisions to either approve or refuse development applications, including the application of a range of conditions that should be applied.

The Marion CAP is also responsible for:

- 'Reviewing' a decision of the Council Assessment Manager, should an applicant seek this under the *Planning, Development and Infrastructure Act 2016*.
- Reviewing and endorsing any compromise proposal submitted as part of an appeal to the Environment, Resources and Development Court.

Who can be on the Marion CAP?

The Marion CAP comprises five (5) members made up as follows:

- 4 independent members with particular expertise in planning matters (with 1 proxy member also appointed); and
- 1 Elected Member (with 1 proxy member also appointed)

One of the independent members also acts as the Presiding Member and chairs the meetings.

Members are appointed by Council with the independent members typically pointed for a 2 year term.

Independent CAP Members must hold the required Planning Accreditation as outlined by the State Planning Commission. Further information on the required accreditation can be obtained via the [PlanSA](#) website.

All CAP Members are subject to a [Code of Conduct](#), meaning that they must remain impartial to the application process – this includes the Elected Member representative, who's role is different to that under the Local Government Act, 1999.

This means that both applicants and those who made representations, cannot approach or contact the Marion CAP members outside of the meeting process.

Members are required to declare any conflicts of interest and those members cannot participate in any part of the meetings involving any matters to which they have declared a conflict of interest.

Which development applications does the Marion CAP assess and decide?

Presently, the Marion CAP only considers an application that:

1. has undergone public notification; and
2. received a representation against the proposal; and
3. where the representor has indicated a desire to be heard.

All other applications are delegated to the Marion Council Assessment Manager for assessment.

How does the Marion CAP assess and make decisions on proposals?

The Marion CAP must weigh up the “pros and cons” of an application. This involves a judgement based on whether a development adequately satisfies or is at variance to the applicable assessment criteria within the Planning & Design Code.

It is unlikely that a proposal will satisfy all policies in the Planning and Design Code and the CAP must therefore determine, on balance, whether a development should be approved.

The Marion CAP is presented with a report prepared by planning staff on every application to be considered. Each report includes:

- a summary of the site characteristics and the surrounding locality to inform the context
- a summary of the proposal that forms part of the application (including any relevant historic applications and negotiations where applicable)

- a summary of any submissions received, and the applicant’s response to them
- an assessment of the proposal against the relevant policies of the Planning and Design Code
- a recommendation as to whether the Panel should
 - approve the application with suggested conditions; or
 - refuse the application with suggested reasons for refusal.

Documentation from the applicant (or their consultant) and copies of representations lodged in respect to the application being considered are included as attachments to all reports so CAP Members are fully briefed.

A copy of the report and attachments for a development application is included in the Agenda documents for public viewing on Council’s website prior to the meeting.

Due to copyright restrictions plans are available as part of the agenda from the Friday before the meeting until the night of the meeting. After this time, a reports only version of the agenda will be available online.

How does a Marion CAP meeting operate?

Meetings are typically held on the first and (if required) third Wednesday of each month except January. If no development application is required to be considered, then the meeting will not be held. [Council’s website](#) has information on when the next meeting is scheduled.

Meetings will commence at the nominated time, and when a quorum of 3 CAP members are present. If a quorum is not present within 30 minutes of the time for commencement, the Presiding Member may

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adjourn the meeting to the next scheduled meeting time and date, or to another time and date.

The Presiding Member will open the meeting and advise all representors and applicants of the meeting procedures.

The agenda item will be introduced by the Presiding Member. An aerial photograph of the subject land/locality and copies of certain proposal plans will be available for viewing on a large screen at the meeting.

Each agenda item within the meeting is broken into two parts:

1. Hearing of representations

- The Presiding Member invites those persons who have lodged representations stating that they wish to be heard by the CAP, to come forward and address the members.
- Representors are advised to utilise their time wisely by concentrating on the most salient points they wish to raise. Refer to our **Guide for Speakers Fact Sheet** for more details about how to get the best from your time in front of the Panel. Note that regardless of how many people a speaker is represented, they are only afforded 5 minutes.
- The Presiding Member will then invite CAP members to ask any questions to the representor.
- After hearing the representors, the applicant (and/or their representative) is invited by the Presiding Member to address the CAP (max 5 minutes). The Presiding Member will then invite CAP members to ask any questions to the applicant.

- Note that both representors and applicants should avoid providing or tabling any new or additional material at the meeting.
- Any new materials proposed must be provided to the Council's Assessment Manager prior to the meeting. The inclusion of this information at the meeting will be at the discretion of the Presiding Member and, only if accepted, will be provided to the Panel and other parties.

2. Panel Deliberation

- The CAP will then deliberate and resolve to either grant or refuse Planning Consent, taking into consideration the relevant provisions of the Planning & Design Code, and having regard to any written and verbal representations. In certain cases, the CAP may resolve to defer making a decision on an application to seek further information or amendments.
- The CAP may call for and consider such professional assistance from Council staff and other professional advisors as it deems necessary and appropriate.
- Each CAP member present at a meeting is entitled to one vote on any matter arising for decision and, if the votes are equal, the Member presiding at the meeting is entitled to a second or casting vote.

Formal notification of the decision of the CAP will be forwarded to the applicant and representors. Minutes of the meeting will also be available from [Council's website](#) the Friday after the meeting.

Gallery behaviour at meetings

When the Panel is in deliberation stage of the agenda item, questions or comments from the gallery, representors or the applicant are not permitted.

Council understands that matters before CAP are often emotional and there is a lot invested in the process. However, threatening, rude or disruptive behaviour to CAP members, staff or others in the gallery will not be tolerated.

The Presiding Member may ask a member of the public present at a meeting of a CAP who is behaving in a disorderly manner, causing an interruption or using audio and video recording devices without the prior agreement of the Presiding Member, to leave the meeting.

The CAP may exclude the public from attendance during so much of a meeting as is necessary to receive, discuss or consider in confidence certain confidential information or matters. This could include commercial information of a confidential nature, matters affecting the safety or security of any person or property, legal advice, or information relating to litigation (such as a matter under appeal).

Want to know more?

Please contact Development Services for further clarification or information about the Marion CAP on 8375 6600 or by email at devadmin@marion.sa.gov.au