



Council Assessment Panel

NOTICE OF MEETING

Notice is hereby given in accordance with
Section 83 of the *Planning, Development and Infrastructure Act 2016*,
that a meeting of the

Adelaide Plains Council Assessment Panel

will be held

by electronic means

Public access to the meeting will be via

<https://youtu.be/ZyrUoNoESiU>

on

Wednesday, 3 February 2021 at 5.30 pm

A handwritten signature in black ink, appearing to read "DRoberts", is written over a horizontal dotted line.

David Roberts
Assessment Manager

AGENDA

1. ATTENDANCE

- 1.1. Present
- 1.2. Apologies
- 1.3. Not Present / Leave of Absence

2. CONFIRMATION OF MINUTES

- 2.1. "that the minutes of the Council Assessment Panel meeting held on Wednesday 4 November 2020, be accepted as read and confirmed."

3. DECLARATION OF INTEREST

4. REPORTS FOR DECISION

- 4.1. PDI Act 2016 Delegations
- 4.2. Policy for Assessment Panel Review of Decision of Assessment Manager
- 4.3. Building Assessment Referral under the PDI Act 2016
- 4.4. Council Assessment Panel Terms of Reference and Meeting Procedures

5. REPORTS FOR INFORMATION

6. OTHER BUSINESS

7. CONFIDENTIAL ITEMS

8. NEXT MEETING

Wednesday 3 March 2021 (To be confirmed)

9. CLOSURE

MINUTES

Of

Council Assessment Panel Meeting



Pursuant to the provisions of section 83 of the
Planning, Development and Infrastructure Act 2016

HELD

By electronic means

On

Wednesday, 4 November 2020 at 5:30pm

The Presiding Member formally declared the meeting open at 5:30pm.

1. ATTENDANCE RECORD

1.1. Present

Nathan Cunningham (Presiding Member)
Ian O'Loan
Paul Mickan
Aaron Curtis
Frank Maiolo (Council Member)

Also in Attendance

David Roberts (Manager Development Assessment)
George Jacks (Planning Officer)
Carol Wildbore (Minute Secretary)
Sean Murphy (IT Administrator)

Acknowledgment of the Kurna People as the Traditional Custodians of the Land

1.2. Apologies

Nil

1.3. Not Present / Leave of Absence

Nil

2. CONFIRMATION OF MINUTES

2.1.

Moved I O'Loan **Seconded** F Maiolo

"that the minutes of the Council Assessment Panel meeting held on Wednesday 7 October 2020, be accepted as read and confirmed."

Carried

3. DECLARATION OF INTEREST

Nil

4. REPORTS FOR DECISION

4.1. 312/315/2020 - Category 3 Development – Adelaide Plains Council – Construction of 60 metre rock armour levee bank – Section 568 – George Street Parham – CT: 6199/998

Mr Greville Knight on behalf of the Adelaide Plains Residents & Ratepayers Association Inc. addressed the panel

Keith Earl on behalf of Adelaide Plains Council addressed the Panel and answered questions of the Panel

Staff answered questions of the Panel

Moved I O'Loan **Seconded** P Mickan

1. That the Council Development Assessment Panel resolves that the proposal by Adelaide Plains Council to construct a 60 metre rock armour levee bank at Section 568, George Street, Parham (312/315/2020) is not seriously at variance with the Adelaide Plains Council Development Plan consolidated 13 December 2018.
2. That the Council Development Assessment Panel resolves that the proposal by Adelaide Plains Council to construct a 60 metre rock armour levee bank at Section 568, George Street, Parham (312/315/2020) be GRANTED Development Plan Consent, pursuant to Section 33(1)(a) of the Development Act 1993, subject to the following conditions imposed:
 1. The development must be undertaken in accordance with the details, plans, specifications and correspondence submitted with and forming part of application 312/315/2020, except where varied by any conditions herein.
 2. Native vegetation clearance is to be confined to the area shown on the attached Regulation Advice Plan 2020/3078/312 and as stated within the Accredited Consultant report that accompanied the application.
 3. The clearance area being flagged during construction to ensure no unnecessary clearance occurs outside the permitted area, including avoiding mature *Callitris gracilis* (Southern Cypress Pine), where possible.
 4. The Levee Bank must be maintained in accordance with the engineered design standard as intended.

Notes:

The Applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction do not pollute the environment in a way which causes or may cause environmental harm.

Carried

4.2. 312/316/2020 – Category 3 Development – Adelaide Plains Council – Upgrade and reconstruct existing 120 metre clay levee bank - Section 569 – Lot 1 Webb Beach Road Parham – CT: 6202/431

Mr Greville Knight on behalf of the Adelaide Plains Residents & Ratepayers Association Inc. address the Panel

Keith Earl on behalf of Adelaide Plains Council addressed the Panel and answered questions of the Panel

Staff answered questions of the Panel

Moved A Curtis **Seconded** P Mickan

1. That the Council Development Assessment Panel resolves that the proposal by Adelaide Plains Council to upgrade and reconstruct existing 120 metre clay levee bank at Section 569, Lot 1 Webb Beach Road, Parham (312/316/2020) is not seriously at variance with the Adelaide Plains Council Development Plan consolidated 13 December 2018.
2. That the Council Development Assessment Panel resolves that the proposal by Adelaide Plains Council to upgrade and reconstruct existing 120 metre clay levee bank at Section 569, Lot 1 Webb Beach Road, Parham (312/316/2020) be GRANTED Development Plan Consent, pursuant to Section 33(1)(a) of the Development Act 1993, subject to the following conditions imposed:
 1. The development must be undertaken in accordance with the details, plans, specifications and correspondence submitted with and forming part of application 312/316/2020, except where varied by any conditions herein.
 2. Native vegetation clearance is to be confined to the area shown on the attached Regulation Advice Plan 2020/3078/312 and as stated within the Accredited Consultant report that accompanied the application.
 3. The clearance area being flagged during construction to ensure no unnecessary clearance occurs outside the permitted area, including avoiding mature *Callitris gracilis* (Southern Cypress Pine), where possible.
 4. The Levee Bank must be maintained in accordance with the engineered design standard as intended.

Notes:

The Applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction do not pollute the environment in a way which causes or may cause environmental harm.

Carried

5. REPORTS FOR INFORMATION

Nil

6. OTHER BUSINESS

It was discussed how representations not relevant to Planning can be dealt with.

ERD Court update – Agrisano – Assessment Manager provided an update for the Panel.

7. CONFIDENTIAL ITEMS

Nil

8. NEXT MEETING

Wednesday 2 December 2020 (To be confirmed)


9. CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 6.42pm.

Confirmed as a true record.

Presiding Member:

Date: ____/____/____

 Adelaide Plains Council	4.1	PDI Act 2016 Delegations
	Department: Report Author:	Development and Community General Manager Development & Community
Date: 3 February 2021	Document Ref:	D21/2708

EXECUTIVE SUMMARY

A key element of the Planning, Development and Infrastructure (PDI) Act 2016 is the establishment of the Planning and Design Code. The Planning and Design Code ("the Code") will replace the Mallala Development Plan (and all other Development Plans in the State). Phase 3 of the Planning and Design Code is anticipated to go live in the first quarter of 2021 (though a precise date is yet to be announced).

With the introduction of the Planning and Design Code within Adelaide Plains Council, CAP will become a relevant authority in its own right and as such will need to determine a series of delegations, policies and procedures as a relevant authority.

The purpose of this report is for the Panel to adopt delegations under the PDI Act 2016 on the commencement of the Planning and Design Code within Adelaide Plains Council.

The Council Assessment Panel (CAP) is the relevant authority for the assessment of development applications under the following circumstances:

- Planning Consent; where the development is classified as performance assessed development under Section 107 of the Planning, Development and Infrastructure Act 2016 (PDI Act) and where notice of the application must be given under Section 107(3),
- Building Consent; all development applications seeking building consent (unless the building rules assessment is referred to the Council),
- Land Division Consent; where the development is classified as performance assessed development under Section 107 of the PDI Act and where notice of the application must be given under Section 107(3).

This means that the Panel is responsible for administrative actions associated with the assessment of a development application that requires public notification including; the verification of the application, determining the classification of the application and relevant fees, any requests for additional information, undertaking public notification (including potentially the placement of a notice on the subject land), referral of the application to agencies, and a range of other administrative matters.

The intent of the delegations is to allow these administrative matters to be managed on a day to day basis by the Assessment Manager or their delegates (as is currently the case), such that the Panel's role in relation to these application remains the hearing of representations, deliberation and determination of development applications. The draft instrument of delegations attached (refer Attachments 1) which was prepared by Norman Waterhouse on behalf of the Local Government Association (LGA) sets out a delegation to the Assessment Manager, which can then be sub-delegated as appropriate.

RECOMMENDATION

1. In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016 the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed Instrument of Delegation (annexed to the Report dated 03 February 2021) and entitled INSTRUMENT C, INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING AND DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF AN ASSESSMENT PANEL are hereby delegated this 03 February 2021 to the Assessment Manager subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.
2. Such powers and functions may be further delegated by the Assessment Manager in accordance with Section 100(2)(c) of the Planning, Development and Infrastructure Act 2016 as the Assessment Manager sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.

Attachments

1. INSTRUMENT C, INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING AND DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF AN ASSESSMENT PANEL D21/2709

INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING AND DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF AN ASSESSMENT PANEL

NOTES

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Assessment Panel decision to identify when these delegations were made, reviewed and or amended.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

1. Environment and Food Production Areas – Greater Adelaide	
1.1	The power pursuant to Section 7(5)(a) of the Planning, Development and Infrastructure Act 2016 (the PDI Act), in relation to a proposed development in an environment and food production area that involves a division of land that would create 1 or more additional allotments to seek the concurrence of the Commission in the granting of the development authorisation to the development.
1.2	The power pursuant to Section 7(5)(d) of the PDI Act in relation to a proposed development in an environment and food production area that involves a division of land that would create one or more additional allotments, to, if the proposed development will create additional allotments to be used for residential development, refuse to grant development authorisation in relation to the proposed development.
2. Appointment of Additional Members	
2.1	The power pursuant to Section 85(1) of the PDI Act to appoint 1 or 2 members to act as additional members of the assessment panel for the purposes of dealing with a matter that the assessment panel must assess as a relevant authority under the PDI Act.
3. Relevant Authority – Commission	
3.1	The power pursuant to Section 94(3)(a) of the PDI Act, if the Minister acts under Section 94(1)(h) of the PDI Act to, at the request of the Commission, provide the Commission with a report relating to any application for development authorisation that has been under consideration by the relevant

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authority.	
4.	Relevant Provisions
4.1	The power pursuant to Section 99(1) of the PDI Act, if a proposed development involves the performance of building work to determine to act under Section 99(1) of the PDI Act to:
4.1.1	refer the assessment of the development in respect of the Building Rules to the council for the area in which the proposed development is to be undertaken; or
4.1.2	require that the assessment of the development in respect of the Building Rules be undertaken by a building certifier.
5.	Matters Against Which Development Must Be Assessed
5.1	The power pursuant to Section 102(1) of the PDI Act to assess a development against, and grant or refuse a consent in respect of, each of the following matters (insofar as they are relevant to the particular development):
5.1.1	-
5.1.1.1	the relevant provisions of the Planning Rules; and
5.1.1.2	to the extent provided by Part 7 Division 2 of the PDI Act – the impacts of the development, (planning consent);
5.1.2	the relevant provisions of the Building Rules (building consent);
5.1.3	in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988) - the requirement that the following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):
5.1.3.1	requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;
5.1.3.2	any relevant requirements set out in a design standard has been satisfied;
5.1.3.3	the requirements of a water industry entity under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are

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	satisfied;
5.1.3.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;
5.1.3.5	requirements set out in regulations made for the purposes of Section 102(1)(c) of the PDI Act are satisfied;
5.1.4	in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 - the requirement that the following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):
5.1.4.1	requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;
5.1.4.2	any relevant requirements set out in a design standard has been satisfied;
5.1.4.3	any encroachment of a lot or unit over other land is acceptable having regard to any provision made by the Planning and Design Code or a design standard;
5.1.4.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;
5.1.4.5	a building or item intended to establish a boundary (or part of a boundary) of a lot or lots or a unit or units is appropriate for that purpose;
5.1.4.6	the division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 is appropriate having regard to the nature and extent of the common property that would be established by the relevant scheme;
5.1.4.7	the requirements of a water industry entity under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are satisfied;
5.1.4.8	any building situated on the land complies with the Building Rules;
5.1.4.9	requirements set out in the regulations made for the purposes of Section 102(d) of the PDI Act are satisfied;
5.1.5	any encroachment of a building over, under, across or on a public

FXD\4.1 ATTACHMENT - COUNCIL ASSES~ DELEGATIONS INSTRUMENT-C 2021\00256275\F05924510.DOC1 January 2020

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	place (and not otherwise dealt with above) is acceptable having regard to any provision made by the Planning and Design Code or a design standard;
5.1.6	if relevant - requirements applying under Part 15 Division 2 of the PDI Act are satisfied;
5.1.7	such other matters as may be prescribed.
5.2	The power pursuant to Section 102(3) of the PDI Act to, in relation to granting a planning consent, on the delegate's own initiative or on application, reserve the delegate's decision on a specified matter or reserve the delegate's decision to grant a planning consent:
5.2.1	until further assessment of the relevant development under the PDI Act; or
5.2.2	until further assessment or consideration of the proposed development under another Act; or
5.2.3	until a licence, permission, consent, approval, authorisation, certificate or other authority is granted, or not granted (by the decision of another authority), under another Act.
5.3	The power pursuant to Section 102(4) of the PDI Act to allow any matter specified by the Planning and Design Code for the purposes of Section 102(4) of the PDI Act to be reserved on the application of the applicant.
6.	Performance Assessed Development
6.1	The power pursuant to Section 107(2)(c) of the PDI Act to form the opinion that the development is seriously at variance with the Planning and Design Code (disregarding minor variations).
6.2	The power pursuant to Section 107(3) of the PDI Act, if a proposed development is to be assessed under Section 107 of the PDI Act to make a decision in accordance with a practice direction.
6.3	The power pursuant to Section 107(4) of the PDI Act to limit the matters that the delegate will take into account to what should be the decision of the relevant authority as to planning consent in relation to the performance based elements of the development as assessed on its merits.
7.	Building Consent
7.1	The power pursuant to Section 118(1) of the PDI Act, if the Regulations provide that a form of building work complies with the Building Rules, to grant

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	any such building work a building consent (subject to such conditions or exceptions as may be prescribed by the regulations).
7.2	The power pursuant to Section 118(2)(a) of the PDI Act to seek the concurrence of the Commission to grant a building consent in respect of a development that is at variance with the performance requirements of the Building Code or a Ministerial building standard.
7.3	The power pursuant to Section 118(2) of the PDI Act, subject to Section 118(6) of the PDI Act, to grant a building consent to a development that is at variance with the Building Rules if:
7.3.1	the variance is with a part of the Building Rules other than the Building Code or a Ministerial building standard and the delegate determines that it is appropriate to grant the consent despite the variance on the basis that the delegate is satisfied:
7.3.1.1	that:
	(a) the provisions of the Building Rules are inappropriate to the particular building or building work, or the proposed building work fails to conform with the Building Rules only in minor respects; and
	(b) the variance is justifiable having regard to the objects of the Planning and Design Code or the performance requirements of the Building Code or a Ministerial building standard (as the case may be) and would achieve the objects of this Act as effectively, or more effectively, than if the variance were not to be allowed; or
7.3.1.2	in a case where the consent is being sought after the development has occurred - that the variance is justifiable in the circumstances of the particular case.
7.4	The power pursuant to Section 118(4) of the PDI Act, to at the request or with the agreement of the applicant, refer proposed building work to the Commission for an opinion on whether or not it complies with the performance requirements of the Building Code or a Ministerial building standard.
7.5	The power pursuant to Section 118(6) of the PDI Act if an inconsistency exists between the Building Rules and the Planning Rules in relation to a State heritage place or a local heritage place, to, in determining an application for building consent, ensure, so far as is reasonably practicable, that standards of building soundness, occupant safety and amenity are achieved

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	in respect of the development that are as good as can reasonably be achieved in the circumstances.
7.6	The power pursuant to Section 118(7) of the PDI Act to seek and consider the advice of the Commission before imposing or agreeing to a requirement under Section 18(6) of the PDI Act that would be at variance with the performance requirements of the Building Code or a Ministerial building standard.
7.7	The power pursuant to Section 118(8) of the PDI Act, to, subject to the PDI Act, accept that proposed building work complies with the Building Rules to the extent that:
7.7.1	such compliance is certified by the provision of technical details, particulars, plans, drawings or specifications prepared and certified in accordance with the regulations; or
7.7.2	such compliance is certified by a building certifier.
7.8	The power pursuant to Section 118(10) of the PDI Act to refuse to grant a consent in relation to any development if, as a result of that development, the type or standard of construction of a building of a particular classification would cease to conform with the requirements of the Building Rules for a building of that classification
7.9	The power pursuant to Section 118(11) of the PDI Act, if a relevant authority decides to grant building consent in relation to a development that is at variance with the Building Rules, to, subject to the regulations, in giving notice of the relevant authority's decision on the application for that consent, specify (in the notice or in an accompanying document):
7.9.1	the variance; and
7.9.2	the grounds on which the decision is being made.
8.	Application and Provision of Information
8.1	The power pursuant to Section 119(1)(b) of the PDI Act to require an application to the relevant authority for the purposes of Part 7 of the PDI Act, to include any information as the delegate may reasonably require.
8.2	The power pursuant to Section 119(3) of the PDI Act to request an applicant:
8.2.1	to provide such additional documents, assessments or information (including calculations and technical details) as the delegate may reasonably require to assess the application;

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8.2.2	to remedy any defect or deficiency in any application or accompanying document or information required by or under the PDI Act;
8.2.3	to consult with an authority or body prescribed by the regulations;
8.2.4	to comply with any other requirement prescribed by the regulations.
8.3	The power pursuant to Section 119(6) of the PDI Act if a request is made under Section 119(3) of the PDI Act, and the request is not complied with within the time specified by the regulations, to
8.3.1	subject to Section 119(6)(b)(ii) of the PDI Act, refuse the application; and
8.3.2	refuse the application in prescribed circumstances (including, if the regulations so provide, in a case involving development that is deemed-to-satisfy development).
8.4	The power pursuant to Section 119(7) of the PDI Act to, in dealing with an application that relates to a regulated tree, consider that special circumstances apply.
8.5	The power pursuant to Section 119(9) of the PDI Act to:
8.5.1	permit an applicant:
8.5.1.1	to vary an application;
8.5.1.2	to vary any plans, drawings, specifications or other documents that accompanied an application,
	(provided that the essential nature of the proposed development is not changed);
8.5.2	permit an applicant to lodge an application without the provision of any information or document required by the regulations;
8.5.3	to the extent that the fee is payable to the relevant authority waive payment of whole or part of the application fee, or refund an application fee (in whole or in part);
8.5.4	if there is an inconsistency between any documents lodged with the relevant authority for the purposes of Part 7 of the PDI Act (whether by an applicant or any other person), or between any such document and a development authorisation that has already been given that is relevant in the circumstances, return or forward any document to the

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	applicant or to any other person and determine not to finalise the matter until any specified matter is resolved, rectified or addressed.
8.6	The power pursuant to Section 119(10) of the PDI Act to grant a permission under Section 119(9) of the PDI Act unconditionally or subject to such conditions as the delegate thinks fit.
8.7	The power pursuant to Section 119(12) of the PDI Act to, in a consent, provide for, or envisage, the undertaking of development in stages, with separate consents or approvals for the various stages.
8.8	The power pursuant to Section 119(14) of the PDI Act to if an applicant withdraws an application to determine to refund the application fee.
9.	Outline Consent
9.1	The power pursuant to Section 120(1) of the PDI Act and subject to Section 120 of the PDI Act, to on application, grant a consent in the nature of an outline consent.
9.2	The power pursuant to Section 120(3) of the PDI Act if an outline consent is granted and a subsequent application is made with respect to the same development (subject to any variations allowed by a practice direction) to:
9.2.1	grant any consent contemplated by the outline consent; and
9.2.2	not impose a requirement that is inconsistent with the outline consent.
10.	Design Review
10.1	The power pursuant to Section 121(7) of the PDI Act, to in acting under the PDI Act, take into account any advice provided by a design panel (insofar as may be relevant to the assessment of proposed development by the delegate).
11.	Referrals to Other Authorities or Agencies
11.1	The power pursuant to Section 122(1) of the PDI Act, where an application for consent to, or approval of, a proposed development of a prescribed class is to be assessed by a relevant authority, to:
11.1.1	refer the application, together with a copy of any relevant information provided by the applicant, to a body prescribed by the regulations (including, if so prescribed, the Commission); and
11.1.2	not make a decision until the relevant authority has received a

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	response from that prescribed body in relation to the matter or matters for which the referral was made
	where the regulations so provide, subject to Section 122 of the PDI Act.
11.2	The power pursuant to Section 122(5)(b) of the PDI Act, acting by direction of a prescribed body:
11.2.1	to refuse the application; or
11.2.2	consent to or approve the development and impose such conditions as the prescribed body thinks fit, (subject to any specific limitation under another Act as to the conditions that may be imposed by the prescribed body)
	where the regulations so provide.
11.3	The power pursuant to Section 122(7) of the PDI Act, if the relevant authority is directed by a prescribed body to refuse an application and the refusal is the subject of an appeal under the PDI Act, to apply for the relevant authority to be joined as a party to the proceedings.
11.4	The power pursuant to Section 122(10) of the PDI Act to, if requested by an applicant, defer a referral under Section 122 of the PDI Act to a particular stage in the process of assessment.
12.	Preliminary Advice and Agreement
12.1	The power pursuant to Section 123(2) of the PDI Act, if:
12.1.1	a proposed development is referred to a prescribed body under Section 123(1) of the PDI Act; and
12.1.2	the prescribed body agrees to consider the matter under Section 123 of the PDI Act after taking into account any matter prescribed by the regulations; and
12.1.3	the prescribed body agrees, in the manner prescribed by the regulations, that the development meets the requirements (if any) of the prescribed body (including on the basis of the imposition of conditions),
	to, subject to Section 123(4) of the PDI Act if an application for planning consent with respect to the development is lodged with the relevant authority within the prescribed period after the prescribed body has indicated its agreement under Section 123(2)(c) of the PDI Act, form the opinion and be satisfied that the application accords with the agreement indicated by the

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	prescribed body (taking into account the terms or elements of that agreement and any relevant plans and other documentation).
12.2	The power pursuant to Section 123(4) of the PDI Act to determine an agreement under Section 123 of the PDI Act is no longer appropriate due to the operation of Section 132 of the PDI Act.
13. Proposed Development Involving Creation of Fortifications	
13.1	The power pursuant to Section 124(1) of the PDI Act, if the delegate has reason to believe that a proposed development may involve the creation of fortifications, to refer the application for consent to, or approval of, the proposed development to the Commissioner of Police (the Commissioner).
13.2	The power pursuant to Section 124(5) of the PDI Act, if the Commissioner determines that the proposed development involves the creation of fortification, to:
13.2.1	if the proposed development consists only of the creation fortifications - refuse the application; or
13.2.2	in any other case - impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications
13.3	The power pursuant to Section 124(6) of the PDI Act, if the relevant authority acting on the basis of a determination of the Commissioner under Section 124(2) of the PDI Act refuses an application or imposes conditions in respect of a development authorisation, to notify the applicant that the application was refused, or the conditions imposed, on the basis of a determination of the Commissioner under Section 124 of the PDI Act.
13.4	The power pursuant to Section 124(7) of the PDI Act, if a refusal or condition referred to in Section 124(5) of the PDI Act is the subject of an appeal under the PDI Act to apply to the Court to be joined as a party to the appeal.
14. Time Within Which Decision Must be Made	
14.1	The power pursuant to Section 125(6) of the PDI Act to form the opinion and consider that the relevant application for planning consent should have been refused and apply to the Court for an order quashing the consent.
14.2	The power pursuant to Section 125(7) of the Act to apply to the Court for an extension of time to make an application under Section 125(6) of the Act.
15. Determination of Application	

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15.1	The power pursuant to Section 126(1) of the PDI Act to, on making a decision on an application under Part 7 of the PDI Act, give notice of the decision in accordance with the regulations (and, in the case of a refusal, to include in the notice the reasons for the refusal and any appeal rights that exist under the PDI Act).
15.2	The power pursuant to Section 126(3) of the PDI Act to, on the delegate's own initiative or on the application of a person who has the benefit of any relevant development authorisation, extend a period prescribed under Section 126(2) of the PDI Act.
16. Conditions	
16.1	The power pursuant to Section 127(1) of the PDI Act to make a decision subject to such conditions (if any) as the delegate thinks fit to impose in relation to the development.
16.2	The power pursuant to Section 127(2)(c) of the PDI Act to vary or revoke a condition in accordance with an application under Part 7 of the PDI Act.
16.3	The power pursuant to Section 127(4) of the PDI Act, subject to Sections 127(6) and (8) of the PDI Act, if a development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, to apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the delegate) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).
16.4	The power pursuant to Section 127(6) of the PDI Act to, on the application of the applicant, determine that a payment of an amount calculated in accordance with the regulations be made into the relevant fund in lieu of planting 1 or more replacement trees under Section 127(4) of the PDI Act.
16.5	The power pursuant to Section 127(8)(b) of the PDI Act to:
16.5.1	determine that it is appropriate to grant an exemption under Section 127(8)(b) of the PDI Act in a particular case after taking into account any criteria prescribed by the regulations and provided the Minister concurs in the granting of the exemption;
16.5.2	to seek the Minister's concurrence to grant an exemption under Section 127(8)(b) of the PDI Act.
17. Variation of Authorisation	

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17.1	The power pursuant to Section 128(2)(d) of the PDI Act to approve an application for a variation to a development authorisation previously given under the PDI Act, which seeks to extend the period for which the relevant authorisation remains operative.
18. Requirement to Up-grade	
18.1	The power pursuant to Section 134(1) of the PDI Act to form the opinion that the building is unsafe, structurally unsound or in an unhealthy condition.
18.2	The power pursuant to Section 134(1) of the PDI Act, if:
18.2.1	an application for a building consent relates to:
18.2.1.1	building work in the nature of an alteration to a building constructed before the date prescribed by regulation for the purposes of Section 134(1) of the PDI Act; or
18.2.1.2	a change of classification of a building; and
18.2.2	the building is, in the opinion of the delegate, unsafe, structurally unsound or in an unhealthy condition,
	to require that building work that conforms with the requirements of the Building Rules be carried out to the extent reasonably necessary to ensure that the building is safe and conforms to proper structural and health standards.
18.3	The power pursuant to Section 134(2) of the PDI Act, when imposing a requirement under Section 134(1) of the PDI Act, to specify (in reasonable detail) the matters under Section 134(1)(b) of the PDI Act that must, in the opinion of the delegate, be addressed.
18.4	The power pursuant to Section 134(3) of the PDI Act to impose a requirement under Section 134(1) of the PDI Act:
18.4.1	subject to Section 134(3)(b) of the PDI Act - on the basis that the relevant matters must be addressed as part of the application before the relevant authority will grant building consent; and
18.4.2	in cases prescribed by the regulations - as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed
18.5	The power pursuant to Section 134(4) of the PDI Act if:

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18.5.1	an application is made for building consent for building work in the nature of an alteration of a class prescribed by the regulations; and
18.5.2	the delegate is of the opinion that the affected part of the building does not comply with the performance requirements of the Building Code or a Ministerial building standard in relation to access to buildings, and facilities and services within buildings, for people with disabilities,
	to require that building work or other measures be carried out to the extent necessary to ensure that the affected part of the building will comply with those performance requirements of the Building Code or the Ministerial building standard (as the case may be).
18.6	The power pursuant to Section 134(5) of the PDI Act to impose a requirement under Section 134(4) of the PDI Act:
18.6.1	subject to Section 134(5)(b) of the PDI Act - on the basis that the building work or other measures to achieve compliance with the relevant performance requirements must be addressed before the relevant authority will grant building consent; and
18.6.2	in cases prescribed by the regulations - as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed.
19. Cancellation of Development Authorisation	
19.1	The power pursuant to Section 143(1) of the PDI Act to, on the application of a person who has the benefit of the authorisation, cancel a development authorisation previously given by the relevant authority.
19.2	The power pursuant to Section 143(2) of the PDI Act to make a cancellation under Section 143(1) of the PDI Act subject to such conditions (if any) as the delegate thinks fit to impose.
20. Professional Advice to be Obtained in Relation to Certain Matters	
20.1	The power pursuant to Section 235(1) of the PDI Act, to, in the exercise of a prescribed function, rely on a certificate of a person with prescribed qualifications.
20.2	The power pursuant to Section 235(2) of the PDI Act to seek and consider the advice of a person with prescribed qualifications, or a person approved by the Minister for that purpose, in relation to a matter arising under the PDI Act that is declared by regulation to be a matter on which such advice should be

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sought.	
21. General Transitional Schemes for Panels	
21.1	The power pursuant to Clause 12(7) of Schedule 8 of the PDI Act, to
21.1.1	adopt any findings or determinations of a council development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and
21.1.2	adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and
21.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and
21.1.4	deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act; and
21.1.5	deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.
<u>(Only applicable to assessment panels appointed by a council or a joint planning board)</u>	
22. Regional Assessment Panels	
22.1	The power pursuant to Clause 13(5) of Schedule 8 of the PDI Act to:
22.1.1	adopt any findings or determinations of a council development assessment panel or a regional development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and
22.1.2	adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and
22.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and
22.1.4	deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant

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	day under the repealed Act; and
22.1.5	deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.
<u>(Relevant to regional assessment panels only)</u>	
23. Continuation of Processes	
23.1	The power pursuant to Clause 18(2) of Schedule 8 of the PDI Act, to:
23.1.1	adopt any findings or determinations of a relevant authority under the repealed Act that may be relevant to an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and
23.1.2	adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and
23.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and
23.1.4	deal with any requirement or grant any variation imposed or proposed in connection with an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and
23.1.5	take any other step or make any other determination authorised by the regulations, or that is reasonably necessary to promote or ensure a smooth transition on account of the transfer of functions, powers or duties under Clause 18 of Schedule 8 of the PDI Act.

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**PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL)
REGULATIONS 2017**

24. Accredited Professionals	
24.1	The power pursuant to Regulation 25(7)(c) of the Planning, Development and Infrastructure (General) Regulations 2017 (the General Regulations) to form the opinion and be satisfied, on the basis of advice received from the accreditation authority under the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019, a relevant professional association, or other relevant registration or accreditation authority, that a person has engineering or other qualifications that qualify the person to act as a technical expert under Regulation 25 of the General Regulations.
25. Verification of Application	
25.1	The power pursuant to Regulation 31(1) of the General Regulations, on the receipt of an application under Section 119 of the PDI Act, and in addition to any other requirement under the General Regulations, to, in order to ensure that an application has been correctly lodged and can be assessed in accordance with the PDI Act:
25.1.1	determine the nature of the development; and
25.1.2	if the application is for planning consent - determine:
25.1.2.1	whether the development involves 2 or more elements and, if so, identify each of those elements for the purposes of assessment against the provisions of the Planning and Design Code; and
25.1.2.2	the category or categories of development that apply for the purposes of development assessment; and
25.1.3	determine whether the relevant authority is the correct entity to assess the application under the PDI Act; and
25.1.4	if the relevant authority is the correct entity to assess the application (or any part of the application):
25.1.4.1	check that the appropriate documents and information have been lodged with the application; and
25.1.4.2	confirm the fees required to be paid at that point under the <i>Planning, Development and Infrastructure (Fees, Charges</i>

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<i>and Contributions) Regulations 2019; and</i>	
25.1.4.3	provide an appropriate notice via the SA planning portal; and
25.1.5	if the relevant authority is not the correct entity to assess the application (or any part of the application):
25.1.5.1	provide the application (or any relevant part of the application), and any relevant plans, drawings, specifications and other documents and information in its possession, to the entity that the delegate considers to be the correct relevant authority in accordance with any practice direction; and
25.1.5.2	provide an appropriate notice via the SA planning portal.
26. Application and Further Information	
26.1	The power pursuant to Regulation 33(4) of the General Regulations to seek clarification about any document or information that has been provided by the applicant.
27. Amended Applications	
27.1	The power pursuant to Regulation 35(3) of the General Regulations if an application is varied following referral under Division 2 or giving of notice under Division 3, to, if the variations are not substantial, consider the application without the need to repeat an action otherwise required under Division 2 or Division 3.
27.2	The power pursuant to Regulation 35(4) of the General Regulations if a variation would change the essential nature of a proposed development (as referred to in Section 119(9)(a) of the PDI Act), to agree with the applicant to proceed with the variation on the basis that the application (as so varied) will be treated as a new application under the General Regulations.
28. Withdrawing/Lapsing Applications	
28.1	The power pursuant to Regulation 38(1) of the General Regulations if an application is withdrawn by the applicant under Section 119(14) of the PDI Act, to notify:
28.1.1	any agency to which the application has been referred under Division 2 of the General Regulations; and
28.1.2	any person who has made a representation in relation to the

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	application under Division 3 of the General Regulations,
	of the withdrawal.
28.2	The power pursuant to Regulation 38(3) of the General Regulations before taking action to lapse an application under Regulation 38(2) of the General Regulations, to:
28.2.1	take reasonable steps to notify the applicant of the action under consideration; and
28.2.2	allow the applicant a reasonable opportunity to make submissions to the delegate (in a manner and form determined by the delegate) about the proposed course of action.
29.	Court Proceedings
29.1	The power pursuant to Regulation 40 of the General Regulations to, subject to Section 214(14) of the PDI Act, by notice in writing to the applicant, decline to deal with the application until any proceedings under the PDI Act have been concluded.
30.	Additional Information or Amended Plans
30.1	The power pursuant to Regulation 42(1) of the General Regulations if a delegate has referred an application to a prescribed body under Division 1 of the General Regulations and the relevant authority subsequently receives additional information, or an amended plan, drawing or specification, which is materially relevant to the referral, or to any report obtained as part of the referral process, to repeat the referral process.
31.	Building Matters
31.1	The power pursuant to Regulation 45(1) of the General Regulations to, if in assessing an application for building consent, the delegate considers that:
31.1.1	a proposed performance solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for the intervention of a fire authority; or
31.1.2	the proposed development is at variance with a performance requirement of the Building Code which provides for the intervention of a fire authority; or
31.1.3	special problems for fire fighting could arise due to hazardous

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	conditions of a kind described in Section E of the Building Code,
	refer the application to the relevant fire authority for comment and report unless the fire authority indicates to the delegate that a referral is not required.
31.2	The power pursuant to Regulation 45(2) of the General Regulations, if a report is not received from the fire authority on a referral under Regulation 45(1) of the General Regulations within 20 business days, to presume that the fire authority does not desire to make a report.
31.3	The power pursuant to Regulation 45(3) of the General Regulations to have regard to any report received from a fire authority under Regulation 45 of the General Regulations.
31.4	The power pursuant to Regulation 45(4) of the General Regulations, if, in respect of an application referred to a fire authority under Regulation 45 of the General Regulations, the fire authority:
31.4.1	recommends against the granting of building consent; or
31.4.2	concurs in the granting of consent on conditions specified in its report,
	but the delegate:
31.4.3	proposes to grant building consent despite a recommendation referred to in Regulation 45(4)(a) of the General Regulations; or
31.4.4	does not propose to impose the conditions referred to in Regulation 45(b) of the General Regulations, or proposes to impose the conditions in varied form, on the grant of consent,
	to:
31.4.5	refer the application to the Commission; and
31.4.6	not grant consent unless the Commission concurs in the granting of the consent.
31.5	The power pursuant to Regulation 45(5) of the General Regulations to provide to the Commission a copy of any report received from a fire authority under Regulation 45(1) of the General Regulations that relates to an application that is referred to the Commission under the PDI Act.
32.	Preliminary Advice and Agreement (Section 123)

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32.1	The power pursuant to Regulation 46(6) of the General Regulations, if:
32.1.1	the delegate permits an applicant to vary an application under Section 119(9) of the PDI Act; and
32.1.2	the delegate determines that the application no longer accords with the agreement indicated by the prescribed body,
	to refer the application (unless withdrawn) to the prescribed body:
32.1.3	to obtain a variation to the agreement under Section 123 of the PDI Act; or
32.1.4	to obtain a response from the prescribed body for the purposes of Section 122 of the PDI Act.
32.2	The power pursuant to Regulation 46(7) of the General Regulations if:
32.2.1	an application is withdrawn by the applicant; and
32.2.2	the applicant sought to rely on an agreement under Section 123 of the PDI Act in connection with the application,
	to notify relevant prescribed body of the withdrawal.
32.3	The power pursuant to Regulation 46(8) of the General Regulations, if:
32.3.1	an application is lapsed by a relevant authority under Regulation 38 of the General Regulations; and
32.3.2	the applicant sought to rely on an agreement under Section 123 of the PDI Act in connection with the application,
	to notify the relevant prescribed body of the lapsing.
32.4	The power pursuant to Regulation 46(9) of the General Regulations, if:
32.4.1	an applicant seeks to rely on an agreement under Section 123 of the PDI Act in connection with the application; and
32.4.2	a notice of a decision on the application is issued by the delegate under Regulation 57 of the General Regulations,
	to provide a copy of the notice to the prescribed body within 5 business days after the notice is given to the applicant under Regulation 57 of the General Regulations.

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33. Notification of Application of Tree-damaging Activity to Owner of Land	
33.1	The power pursuant to Regulation 48 of the General Regulations, if an owner of land to which an application for a tree-damaging activity in relation to a regulated tree relates is not a party to the application, to:
33.1.1	give the owner notice of the application within 5 business days after the application is made; and
33.1.2	give due consideration in the delegate's assessment of the application to any submission made by the owner within 10 business days after the giving of notice under Regulation 48 of the General Regulations.
34. Public Inspection of Applications	
34.1	The power pursuant to Regulation 49(3) of the General Regulations to request a person verify information in such manner as the delegate thinks fit.
35. Representations	
35.1	The power pursuant to Regulation 50(5) of the General Regulations to, if the delegate considers that it would assist the delegate in making a decision on the application, allow a person:
35.1.1	who has made a representation under Regulation 50(1) of the General Regulations in relation to development being assessed under Section 107 of the PDI Act; and
35.1.2	who has indicated an interest in appearing before the delegate,
	an opportunity (at a time determined by the delegate) to appear personally or by representative before the delegate to be heard in support of the representation that has been made under Regulation 50(1) of the General Regulations.
36. Response by Applicant	
36.1	The power pursuant to Regulation 51(1) of the General Regulations to allow a response to a representation by the applicant to be made within such longer period as the delegate may allow.
37. Notice of Decision (Section 126(1))	
37.1	The power pursuant to Regulation 57(4)(a) of the General Regulations to endorse a set of any approved plans and other relevant documentation with

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an appropriate form of authentication.	
38.	Consideration of Other Development Authorisations
38.1	The power pursuant to Regulation 60 of the General Regulations, to, in deciding whether to grant a development authorisation, take into account any prior development authorisation that relates to the same proposed development under the PDI Act, and any conditions that apply in relation to that prior development authorisation.
39.	Certificate of Independent Technical Expert in Certain Cases
39.1	The power pursuant to Regulation 61(4)(c) of the General Regulations to form the opinion and be satisfied on the basis of advice received from the accreditation authority under the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019, a relevant professional association, or another relevant registration or accreditation authority, that a person has engineering or other qualifications, qualify the person to act as a technical expert under this regulation.
40.	Urgent Work
40.1	The power pursuant to Regulation 63(1) of the General Regulations to,
40.1.1	determine a telephone number determined for the purposes of Regulation 63(1)(a) of the General Regulations; and
40.1.2	determine the email address for the purposes of Regulation 63(1)(b) of the General Regulations.
40.2	The power pursuant to Regulation 63(2) of the General Regulations to, for the purposes of Section 135(2)(c) of the PDI Act, allow a longer period.
40.3	The power pursuant to Regulation 63(3) of the General Regulations to, for the purposes of Section 135(2)(c) of the PDI Act, allow a longer period.
41.	Variation of Authorisation (Section 128)
41.1	The power pursuant to Regulation 65(1) of the General Regulations to, for the purposes of Section 128(2)(b) of the PDI Act, if a person requests the variation of a development authorisation previously given under the Act (including by seeking the variation of a condition imposed with respect to the development authorisation) to form the opinion and be satisfied that the variation is minor in nature, and approve the variation.
42.	Advice from Commission

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42.1	The power pursuant to Regulation 76(2) of the General Regulations, if a report is not received from the Commission within 20 business days from the day on which the application is lodged under Regulation 29 of the General Regulations or within such longer period as the Commission may require by notice to the relevant authority, to presume that the Commission does not desire to make a report.
43. Underground Mains Area	
43.1	The power pursuant to Regulation 78(3) of the General Regulations, if an application relates to a proposed development that involves the division of land within, or partly within, an underground mains area (even if the area is declared as such after the application is lodged with the relevant authority), to require, as a condition on its decision on the application, that any electricity mains be placed underground.
44. Plans for Residential Alterations, Additions and New Dwellings	
44.1	The power pursuant to Clause 2(d)(ii)(B) of Schedule 8 of the General Regulations to form the belief that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land or in the vicinity of the land.
44.2	The power pursuant to Clause 2(d)(ii)(D) of Schedule 8 of the General Regulations to be satisfied a site contamination audit report (within the meaning of the Environment Protection Act 1993) is not required.
45. Plans for Building Work	
45.1	The power pursuant to Clause 4(3) of Schedule 8 of the General Regulations, in relation to an application for building consent for development consisting of or involving an alteration to a building, if:
45.1.1	the applicant is applying for a change in the classification of the building to a classification other than Class 10 under the Building Code; or
45.1.2	the building was erected before 1 January 1974 and the applicant is applying for a classification other than Class 10 under the Building Code to be assigned to the building,
	to require the application to be accompanied by such details, particulars, plans, drawings, specifications and other documents (in addition to the other documents required to accompany the application) as the delegate reasonably requires to show that the entire building will, on completion of the building work, comply with the requirements of the PDI Act and the General

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Regulations for a building of the classification applied for or with so many of those requirements as will ensure that the building is safe and conforms to a proper structural standard.

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**PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND
CONTRIBUTIONS) REGULATIONS 2019**

46. Calculation or Assessment of Fees
46.1 The power pursuant to Regulation 5(1) of the PDI (Fees, Charges and Contributions) Regulations 2019 (the Fees Regulations) in relation to an application which is duly lodged with the council under a related set of regulations (including via the SA planning portal):
46.1.1 to require the applicant to provide such information as the delegate may reasonably require to calculate any fee payable under the Fees Regulations or a related set of regulations; and
46.1.2 to make any other determination for the purposes of the Fees Regulations or a related set of regulations (even if the assessment panel is not a relevant authority).
46.2 The power pursuant to Regulation 5(2) of the Fees Regulations, if the delegate is acting under Regulation 5(1) of the Fees Regulations, or as the delegate of a relevant authority, believes that any information provided by an applicant is incomplete or inaccurate, to calculate any fee on the basis of estimates made by the delegate.
46.3 The power pursuant to Regulation 5(3) of the Fees Regulations to, at any time, and despite an earlier calculation or acceptance of an amount in respect of the fee, reassess a fee payable under the Fees Regulations or a related set of regulations.
47. Waiver or Refund of Fee
47.1 The power pursuant to Regulation 7 of the Fees Regulations to, as the delegate considers appropriate to do so:
47.1.1 waive the payment of the fee, or the payment of part of the fee; or
47.1.2 refund the whole or a part of the fee.

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PLANNING AND DESIGN CODE

48. Procedural Matter

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- 48.1 The power pursuant to and in accordance with the Planning and Design Code (**the PD Code**) to form the opinion development is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development and therefore is excluded from the operation of Sections 107(3) and (4) of the PDI Act.
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49. Procedural Referrals

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- 49.1 The power pursuant to and in accordance with the PD Code to form the opinion development is minor in nature and would not warrant a referral when considering the purpose of the referral.
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- 49.2 The power pursuant to and in accordance with the PD Code to form the opinion and deem:

49.2.1 alteration to an existing access or public road junction;

49.2.2 development that changes the nature of vehicular movements or increases the number or frequency of movements through an existing access,

to be minor.

- 49.3 The power pursuant to and in accordance with the PD Code to form the opinion an alteration or extension of an existing dwelling is minor.
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- 49.4 The power pursuant to and in accordance with the PD Code to form the opinion development is minor in nature or like for like maintenance and would not warrant a referral when considering the purpose of the referral.
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50. Referral Body: Minister Responsible for the Administration of the Aquaculture Act 2001

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- 50.1 The power pursuant to and in accordance with Part 9.4 of the PD Code to form the opinion that aquaculture development which involves an alteration to an existing or approved development is minor in nature.
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**STATE PLANNING COMMISSION PRACTICE DIRECTION 3 (NOTIFICATION OF
PERFORMANCE ASSESSED DEVELOPMENT APPLICATIONS) 2019**

51. Responsibility to Undertake Notification
51.1 The power pursuant to clause 6(4) of the State Planning Commission Practice Direction 3 (Notification of Performance Assessed Development Applications) 2019 (PD3), should the applicant request the relevant authority to place the notice on the land and pay the relevant fee, to (either personally or by engagement of a contractor) give notice of the application to members of the public by notice placed on the relevant land in accordance with Section 107(3)(a)(ii) of the PDI Act.
52. Preparing for Notification
52.1 The power pursuant to clause 8 of PD3, if the applicant has confirmed they accept responsibility to place a notice on the land as per clause 6(3)(a) of PD3, to, at least 4 business days prior to the commencement of the notification period:
52.1.1 give notice of the anticipated commencement date and of the notification period to the applicant; and
52.1.2 provide the applicant with a copy of the content of the notice to be placed on the relevant land in PDF format; and
52.1.3 advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of PD3.
53. Notice on Land
53.1 The power pursuant to clause 10(2) of PD3, in relation to clause 10(2) of PD3, to determine the most appropriate position for the notice on the land in order to provide for maximum visibility from a public road, and in cases where the relevant land has more than 1 frontage to a public road, to determine that more than 1 notice must be erected on each of the public road frontages to ensure that notice of the development is reasonably apparent to members of the public.

INSTRUMENT C

**INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE
ACT 2016, REGULATIONS, PLANNING AND DESIGN CODE AND PRACTICE DIRECTIONS OF
POWERS OF AN ASSESSMENT PANEL**

**STATE PLANNING COMMISSION PRACTICE DIRECTION (APPOINTMENT OF
ADDITIONAL MEMBERS TO ASSESSMENT PANEL) 2019**

54. Qualifications and Experience of Additional members
54.1 The power pursuant to clause 4(6) of the State Planning Commission Practice Direction (Appointment of Additional Members to Assessment Panel) 2019 (PD5) where the delegate forms the view that additional expert advice is required for an application which requires assessment of a matter listed in Column 1 of PD5, to engage an additional assessment panel member provided that person maintains both the minimum experience detailed in Column 2 of PD5, as well as the minimum qualification listed in Column 3 of PD5.
54.2 The power pursuant to clause 4(7) of PD5 to be satisfied of the minimum experience and qualifications of an additional assessment panel member.

**STATE PLANNING COMMISSION PRACTICE DIRECTION (SCHEME TO AVOID
CONFLICTING REGIMENS) 2019**

55. Scheme Provisions
55.1 The power pursuant to clause 5(1) of the State Planning Commission Practice Direction (Scheme to Avoid Conflicting Regimens) 2019 (PD6), to in undertaking a planning assessment or imposing controls, including through the imposition of conditions of planning consent, ensure that such assessment or controls do not conflict or duplicate matters dealt with or addressed under licencing or regulatory regimens under another Act.
55.2 The power pursuant to clause 5(3) of PD6 to, where the delegate is uncertain whether a matter conflicts with, or duplicates a matter dealt with under a licencing or regulatory regime under another Act, to seek the advice of that authority or agency.

INSTRUMENT C


**INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE
ACT 2016, REGULATIONS, PLANNING AND DESIGN CODE AND PRACTICE DIRECTIONS OF
POWERS OF AN ASSESSMENT PANEL**

SCHEDULE OF CONDITIONS

**CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT**

[Instructions for use: any conditions or limitations which apply to delegations under this Act should be inserted here – DELETE this note once conditions/limitations are entered. If no conditions apply insert 'NIL']

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
Nil	Nil

 Adelaide Plains Council	4.2	Policy for Assessment Panel Review of Decision of Assessment Manager
	Department: Report Author:	Development and Community General Manager Development & Community
Date: 3 February 2021	Document Ref:	D21/2710

DISCUSSION

A key element of the Planning, Development and Infrastructure (PDI) Act 2016 is the establishment of the Planning and Design Code. The Planning and Design Code ("the Code") will replace the Mallala Development Plan (and all other Development Plans in the State). Phase 3 of the Planning and Design Code is anticipated to go live in the first quarter of 2021 (though a precise date is yet to be announced).

With the introduction of the Planning and Design Code within Adelaide Plains Council, CAP will become a relevant authority in its own right and as such will need to determine a series of delegations, policies and procedures as a relevant authority.

The purpose of this report is for the Panel to adopt a process for the review of Assessment Manager decision's on the commencement of the Planning and Design Code within Adelaide Plains Council.

A new role of the Assessment Panel under the PDI Act 2016 that will come into operation on the commencement of the Planning and Design Code is to hear appeals against certain decisions made by the Assessment Manager. Section 203 of the PDI Act provides that the Panel may determine its own procedures in relation to an application for review of an Assessment Manager decision.

As part of the preparation for the introduction of the Planning and Design Code, the Local Government Association of South Australia has commissioned various templates to be used by local government in establishing the framework to operate under the new planning system. One of the templates developed has been a model policy for the review of an Assessment Manager (or delegate) decision.

The attached policy has been adapted from the template with the key features including:

- An application for review must be lodged within one month of the applicant receiving notice of the Prescribed Matter, unless the Presiding Member in his or her discretion grants an extension of time;
- Assessment Manager (or delegate) must prepare a report to the Panel setting out the details of the relevant development application, the prescribed matter the subject of the review and the reasons for the Assessment Manager (or delegate's) decision
- Information, materials and submissions which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the Panel.

- The Panel will not receive submissions or addresses from any party.
- The Presiding Member may permit Panel members to ask questions or seek clarification from the applicant and/or the Assessment Manager, in his or her discretion.
- The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.
- The Panel may, on a review:
 - affirm the Assessment Manager's decision on the Prescribed Matter;
 - vary the Assessment Manager's decision on the Prescribed Matter; or
 - set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.

RECOMMENDATION

1. *The Panel resolves to adopt the Adelaide Plains Council Assessment Panel Policy for Review of Decision of Assessment Manager dated February 2021 (Attachment 1)*

Attachments

1. Adelaide Plains Council Assessment Panel Policy for Review of Decision of Assessment Manager D21/2711

ADELAIDE PLAINS COUNCIL ASSESSMENT PANEL

POLICY FOR REVIEW OF DECISION OF ASSESSMENT MANAGER

February 2021

1. LEGISLATIVE FRAMEWORK

- 1.1 This Policy applies in addition to the statutory requirements for the review by the Adelaide Plains (**Panel**) of a decision of an Assessment Manager as set out in Part 16, Division 1 of the *Planning, Development and Infrastructure Act 2016* (**Act**).

2. COMMENCING A REVIEW

- 2.1 An application for review must relate to a prescribed matter, as defined in Section 201 of the Act, for which an Assessment Manager was the relevant authority.
- 2.2 An application for review must be:
- 2.2.1 made using the [Application to Assessment Panel for Assessment Manager's Decision Review](#) (the Form);
 - 2.2.2 lodged in a manner identified on the Form; and
 - 2.2.3 lodged within one month of the applicant receiving notice of the Prescribed Matter, unless the Presiding Member in his or her discretion grants an extension of time.
- 2.3 In determining whether to grant an extension of time, the Presiding Member may consider:
- the reason for the delay;
- 2.3.1 the length of the delay;
 - 2.3.2 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - 2.3.3 the interests of justice;
 - 2.3.4 whether the applicant has, or is within time to, appeal the prescribed matter to the ERD Court; and
 - 2.3.5 any other matters the Presiding Member considers relevant.

3. MATERIALS FOR REVIEW HEARING

- 3.1 The Assessment Manager shall collate for the Panel:
- 3.1.1 all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:

- 3.1.1.1 application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
 - 3.1.1.2 internal and/or external referral responses; and
 - 3.1.1.3 any report from Council staff or an external planning consultant written for the Assessment Manager;
- 3.1.2 any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
- 3.1.3 any other information requested by the Presiding Member.
- 3.2 The Assessment Manager (or delegate) must prepare a report to the Panel setting out the details of the relevant development application, the prescribed matter the subject of the review and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter.


4. REVIEW HEARING

- 4.1 The Assessment Manager must advise the applicant of the time and date of the Panel meeting at which the review application will be heard.
- 4.2 On review, the Panel will consider the Prescribed Matter afresh.
- 4.3 Information, materials and submissions which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the Panel.
- 4.4 The Panel will not receive submissions or addresses from any party.
- 4.5 The Presiding Member may permit Panel members to ask questions or seek clarification from the applicant and/or the Assessment Manager, in his or her discretion.
- 4.6 The Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
- 4.7 Where the decision on the Prescribed Matter was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
- 4.8 The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
- 4.9 The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.

5. OUTCOME ON REVIEW HEARING

- 5.1 The Panel may, on a review:
 - 5.1.1 affirm the Assessment Manager's decision on the Prescribed Matter;
 - 5.1.2 vary the Assessment Manager's decision on the Prescribed Matter; or

- 5.1.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.
- 5.2 An applicant should be advised in writing of the Panel's decision by the Assessment Manager.

 Adelaide Plains Council	4.3	Building Assessment Referral under the PDI Act 2016
	Department: Report Author:	Development and Community General Manager Development & Community
Date: 3 February 2021	Document Ref:	D21/2712

DISCUSSION

A key element of the Planning, Development and Infrastructure (PDI) Act 2016 is the establishment of the Planning and Design Code. The Planning and Design Code ("the Code") will replace the Mallala Development Plan (and all other Development Plans in the State). Phase 3 of the Planning and Design Code is anticipated to go live in the first quarter of 2021 (though a precise date is yet to be announced).

With the introduction of the Planning and Design Code within Adelaide Plains Council, CAP will become a relevant authority in its own right and as such will need to determine a series of delegations, policies and procedures as a relevant authority.

This report addresses the need to adopt a standing Building Referral.

Under the provisions of the Development Act 1993, Council is a relevant authority for the assessment of building applications, with the assessment undertaken by qualified Council staff under delegation. Council will not be a relevant authority for building consent under the PDI Act 2016 and Planning, Development and Infrastructure (General) Regulations 2017 (PDI Regulations). Relevant authorities will be Assessment Panels and Building Certifiers.

However, an Assessment Panel can choose to refer applications for building consent that are made to it to either Council, or a building certifier. If this occurs, Council or the building certifier will become the relevant authority (Section 99 of the PDI Act 2016).

Given the assessment of development applications involving building work is a specialist task that should be undertaken by professionals with relevant qualifications and experience, which the CAP membership does not possess, it is recommended that a standing referral for building assessment to Council is established by the CAP.

RECOMMENDATION

- 1. The Adelaide Plains Council Assessment Panel (Panel) determines to act under Section 99(1) (b) of the Planning, Development and Infrastructure Act 2016 (the Act) in relation to all development applications received by it that involve the performance of building work.*
- 2. Pursuant to Section 99(1)(c) of the Act, where the Panel has determined to act under Section 99(1) (b) of the Act, the Panel refers the assessment of the development in respect of the Building Rules to Adelaide Plains Council.*

Attachments

1. Nil

DETAILED REPORT

The purpose of this report is for the Panel to adopt a standing referral for functions and powers relating to building work to Council on the commencement of the Planning and Design Code within Adelaide Plains Council.

Unlike the current scheme under the Development Act 1993, Councils will not be relevant authorities for building consent under the PDI Act and Planning, Development and Infrastructure (General) Regulations 2017 (PDI Regulations). The relevant authorities will be:

- Assessment Panels; and
- Building Certifiers

However, an Assessment Panel can choose to refer applications for building consent that are made to it to either Council, or a building certifier. If this occurs, Council or the building certifier will become the relevant authority (Section 99 of the PDI Act).

To ensure that Council can carry out the necessary building functions and powers under the PDI Act efficiently and effectively, it is recommended that the Panel refer the assessment of development in respect to building rules to the relevant council for the area in which the proposed development is to be undertaken.

Conclusion

Given the assessment of development applications involving building work is a specialist task that should be undertaken by professionals with relevant qualifications and experience, which the CAP membership does not possess, it is recommended that a standing referral for building assessment to Council is established by the CAP.


References

Legislation

Name of relevant Legislation

Council Policies/Plans

Council Policy Title

 Adelaide Plains Council	4.4	Council Assessment Panel Terms of Reference & Meeting Procedures
	Department: Report Author:	Development and Community General Manager Development & Community
Date: 3 February 2021	Document Ref:	D21/2765

DISCUSSION

A key element of the Planning, Development and Infrastructure (PDI) Act 2016 is the establishment of the Planning and Design Code. The Planning and Design Code ("the Code") will replace the Mallala Development Plan (and all other Development Plans in the State). Phase 3 of the Planning and Design Code is anticipated to go live in the first quarter of 2021 (though a precise date is yet to be announced).

With the introduction of the Planning and Design Code within Adelaide Plains Council, CAP will become a relevant authority in its own right and as such will need to determine a series of delegations, policies and procedures as a relevant authority.

This report addresses the need of the Assessment Panel to adopt Terms of Reference and Meeting Procedures.

All members, including the presiding member, in performing, exercising or discharging their functions, powers or duties under the Act, must act in accordance with the general duties as set out in Section 15 of the Act and the Code of Conduct for assessment panel members.

As part of the operation of the Panel endorsed Terms of Reference and Meeting Procedures must be in place. Attached to this report are model Terms of Reference and Meeting Procedures prepared on behalf of Councils by the Local Government Association (LGA).

The Terms of Reference outline the composition of the Panel, appointment of members to the Panel, terms of appointment, and conditions of appointment and removal of CAP Members.

The Meeting Procedures outline the calling of CAP meeting and necessary notice, operation of meetings, decision making, hearing of representations and recording the decision of the Panel (Minutes).

Much of the content of both documents reflects the current operation of the Adelaide Plains CAP.

RECOMMENDATION

1. The Adelaide Plains Council Assessment Panel (Panel), on the commencement of the Planning and Design Code within the Adelaide Plains Council area, adopt the attached Adelaide Plains Assessment Panel Terms of Reference (Attachment 1) and Adelaide Plains Council Assessment Panel Meeting Procedures (Attachment 2).

Attachments

1. Adelaide Plains Council Assessment Panel Terms of Reference
D21/2724
2. Adelaide Plains Council Assessment Panel Meeting Procedures
D21/2725

Adelaide Plains Council Assessment Panel

Terms of Reference

Adopted [insert date]

1. BACKGROUND

- 1.1 The Adelaide Plains Council Assessment Panel (**CAP**) was appointed as a relevant authority under Section 82 and 83 of the *Planning, Development and Infrastructure Act 2016 (Act)* by resolution of the Adelaide Plains (**the Council**) commencing 1 October 2017.
- 1.2 The CAP is a relevant authority under the Act and, during transition to the Act, will act as a delegate of the Council for the purpose of the *Development Act 1993*.

2. MEMBERSHIP OF CAP

Appointment of Members

- 2.1 The CAP will be constituted of five (5) Members (**CAP Members**), to be appointed by the Council, comprising:
 - 2.1.1 one Member of the Council (**Council Member**); and
 - 2.1.2 four (4) Independent Members (**Independent Members**), not being Members of the Council or State Parliament.
- 2.2 The Council may determine that the CAP will be constituted by a different number of members for different classes of development, in which case the relevant details will be specified by the Council.
- 2.3 When appointing CAP Members, the Council may have regard to the following:
 - 2.3.1 the candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the Development Act;
 - 2.3.2 in relation to Independent Members, the candidate's qualifications or experience in a field that is relevant to the activities of the CAP being the assessment of development applications against established planning policy;
 - 2.3.3 in relation to the Council Member, the candidate's experience in local government and the assessment of development applications;

- 2.3.4 that a balance of qualifications and experience among CAP Members is desirable;
- 2.3.5 that gender diversity among CAP Members is desirable; and
- 2.3.6 such other matters as the Council considers relevant.

Appointment of Deputy Members

- 2.4 The Council must appoint at least one Deputy Member to the CAP for the purpose of filling in for a CAP Member who is unable to attend a CAP meeting or part of a CAP meeting.
- 2.5 Subject to clause 2.6, a Deputy Member must not be a Member of the Council or State Parliament.
- 2.6 Where a Deputy Member appointed for the Council Member is also a member of the Council, that person may not act as a deputy for any other CAP Member (whereas a Deputy Member who is not a member of the Council may act as a deputy for any CAP Member).
- 2.7 Where more than one Deputy Member is appointed, the Council must specify the circumstances in which each Deputy Members (or any one or more of them) will be invited to attend a CAP meeting.
- 2.8 In appointing a Deputy Member, the Council may have regard to the matters in clause 2.3, as well as to the qualifications and experience of the CAP Member or CAP Members to whom the candidate will be a deputy.
- 2.9 Unless the context otherwise requires, a reference to a CAP Member in this document includes a Deputy Member.

Expression of Interest

- 2.10 The Council will call for expressions of interest for appointment of CAP Members.

Presiding Member and Acting Presiding Member

- 2.11 The Council will appoint an Independent Member to be the Presiding Member of the CAP for such term and on such conditions as determined by the Council.
- 2.12 The Presiding Member will preside at any CAP meeting at which he or she is present.
- 2.13 In the event that the Presiding Member is not present at a meeting (or part thereof) an Acting Presiding Member will be appointed by those CAP Members who are present at the meeting.

- 2.14 A Presiding Member is eligible to be reappointed as the Presiding Member at the expiry of his or her term of office as Presiding Member.
- 2.15 In the event that the Presiding Member resigns or is removed from office, the Council will appoint an Independent Member to be the Presiding Member for such term and on such conditions as determined by the Council.

Term of Appointment

- 2.16 Subject to clause 5, Independent Members will be appointed for a term of up to two (2) years and on such other conditions as determined by the Council.
- 2.17 Subject to clause 5, the Council Member will be appointed for a term of up to two (2) years and on such other conditions as determined by the Council.
- 2.18 Deputy Members will be appointed for a term of up to two (2) years and on such other conditions as determined by the Council.
- 2.19 A CAP Member is eligible for reappointment for a further term, or further terms, upon the expiry of his or her current term.
- 2.20 A CAP Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled or for a period of six months from the expiry of the Member's term of office, whichever occurs first.

3. VACANCY IN MEMBERSHIP

- 3.1 In the event of a vacancy arising in the office of a CAP Member, the Council may appoint a person to be a CAP Member for the balance of the original CAP Member's term of office as soon as is reasonably practicable in the same manner as the original CAP Member was appointed.
- 3.2 The CAP Member appointed to fill a vacancy may be a Deputy Member in which case that person will automatically cease to be a Deputy Member.
- 3.3 In appointing a CAP Member pursuant to clause 3.1, the Council may have regard to the matters in clause 2.2 or 2.8 as the case requires.
- 3.4 A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meetings.

4. CONDITIONS OF APPOINTMENT

- 4.1 At all times, CAP Members must act honestly, lawfully, in good faith, and in accordance with any code of conduct applicable to CAP Members.

- 4.2 CAP Members may be remunerated as determined by the Council for the reasonable time and costs incurred by CAP Members in attending CAP meetings.
- 4.3 Different levels of remuneration may be fixed by the Council for Independent Members, the Council Member, the Presiding Member and Deputy Members.
- 4.4 Upon the commencement of Section 83(1)(c) of the Act:
 - 4.4.1 CAP Members, excluding a Member who is a Member or former Member of the Council, must be accredited professionals under the Act; and
 - 4.4.2 CAP Members who are Members or former Members of the Council must have sufficient experience in local government and the assessment of development applications to satisfy the Council that they are appropriately qualified to act as a Member of the CAP.

5. **REMOVAL FROM OFFICE**

- 5.1 A CAP Member will automatically lose office where:
 - 5.1.1 the CAP Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
 - 5.1.2 the CAP Member has been convicted of an indictable offence punishable by imprisonment;
 - 5.1.3 in the case of a Council Member, the Member ceases to be a member of the Council.
- 5.2 Subject to Clause 5.4, the Council may by resolution remove a CAP Member from office where, in the opinion of the Council, the behaviour of the CAP Member amounts to:
 - 5.2.1 a breach of a condition of his or her appointment as a CAP Member;
 - 5.2.2 misconduct;
 - 5.2.3 a breach of any legislative obligation or duty of a CAP Member;
 - 5.2.4 neglect of duty in attending to role and responsibilities as a CAP Member;
 - 5.2.5 a failure to carry out satisfactorily the duties of his or her office;
 - 5.2.6 a breach of fiduciary duty that arises by virtue of his or her office;
 - 5.2.7 inability to carry out satisfactorily the duties of his or her office.

- 5.2.8 except in relation to Deputy Members, a failure without reasonable excuse to attend three consecutive CAP meetings without the CAP previously having resolved to grant a leave of absence to the CAP Member; or
 - 5.2.9 in relation to a Deputy Member, a failure without reasonable excuse on three consecutive occasions to attend a meeting of the CAP when requested to do so; or
 - 5.2.10 for any other reason the Council considers appropriate.
- 5.3 The removal of the CAP Member pursuant to clause 5.2 will take effect upon the Council passing a resolution to remove the CAP Member from office (unless the Council resolves otherwise), and such resolution will be confirmed in writing to the CAP Member within 7 days of being passed.
- 5.4 Prior to resolving to remove a CAP Member from office pursuant to clause 5.2, the Council must:
- 5.4.1 give written notice to the CAP Member of:
 - 5.4.1.1 its intention to remove the CAP Member from office pursuant to clause 5.2; and
 - 5.4.1.2 the alleged behaviour of the CAP Member falling within clause 5.2.1 or reason the Council considers it appropriate to remove the CAP Member,not less than 7 days before the meeting of the Council at which the matter is to be considered;
 - 5.4.2 give the CAP Member an opportunity to make submissions to the Council on its intention to remove the CAP Member from office either orally at the Council meeting at which the matter is to be considered, or in writing by such date as the Council reasonably determines; and
 - 5.4.3 have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

Adelaide Plains Council Assessment Panel

Meeting Procedures

Adopted by the CAP on [insert date]

These Meeting Procedures are to be read in conjunction with the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)*.

1. CAP MEETINGS

Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the Adelaide Plains Council Assessment Panel (**CAP**) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than five (5) clear days prior to the holding of the meeting in accordance with clause 1.4
- 1.4 Notice of a meeting of the CAP must:
 - 1.4.1 be in writing;
 - 1.4.2 set out the date, time and place of the meeting;
 - 1.4.3 be signed by the Assessment Manager;
 - 1.4.4 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable); and
 - 1.4.5 be given to a CAP Member personally, by post to a place authorised in writing by the Member or by other means authorised by the Member as being an available means of giving notice.
- 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 CAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to CAP Members.
- 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 CAP 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 CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.9 A meeting will break for fifteen (15) minutes once every two (2) hours or more or less often as determined by the Presiding Member.

Special Meetings

- 1.10 The Presiding Member, or two or more CAP Members, may by delivering a written request to the Assessment Manager require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.
- 1.11 On receipt of a request pursuant to clause 1.10, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP members at least 4 hours before the commencement of the special meeting.

2. DEPUTY MEMBERS

- 2.1 If a CAP 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 or 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 CAP Member for the meeting or part of the meeting.
- 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 CAP may appoint up to two Additional Members in accordance with Section 85 of the *Planning, Development and Infrastructure Act 2016 (Act)*.

- 3.2 Where the CAP 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 CAP in dealing with a matter that it must assess under the Act (or, during the transition to the Act, the *Development Act 1993*).
- 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 CAP.

4. **COMMENCEMENT OF MEETINGS**

- 4.1 Subject to a quorum being present, a meeting of the CAP will commence as soon as possible after the time specified in the notice of a meeting.
- 4.2 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.
- 4.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 4.4 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 meeting appoints an Acting Presiding Member.

5. **DECISION MAKING**

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

- 5.2 The Assessment Manager may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The CAP may defer consideration of the application to a subsequent CAP meeting to enable full and proper assessment of the further information.
- 5.3 Any material to be considered by the CAP pursuant to clause 5.2 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.
- 5.4 In relation to each application it considers, the CAP must:
 - 5.4.1 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
 - 5.4.2 provide reasons for granting or refusing development authorisation and for the imposition of any conditions.
- 5.5 If the CAP determines that a proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant), it must refuse development authorisation to the application.
- 5.6 In relation to each application to be considered and determined by the CAP:
 - 5.6.1 a person who has lodged a representation in relation to a Category 2 or 3 application under the *Development Act 1993* or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 5.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent;
 - 5.6.2 a person who has lodged a representation in relation to either a Category 2 application under the *Development Act 1993* or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 5.1 and who has indicated that they wish to be heard on their representation may, at the discretion of the Presiding Member, appear before the CAP and be heard in support of their representation, in person or by an agent;

- 5.6.3 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any relevant matter raised by a representor, in person or by an agent;
 - 5.6.4 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;
 - 5.6.5 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;
 - 5.6.6 CAP members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and
 - 5.6.7 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.
- 5.7 Each Member present at a meeting of the CAP, 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 CAP to provide expert advice and assistance are not entitled to vote.
- 5.8 Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.
- 5.9 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a CAP Member, applicant, representor or other member of the public) to a specified date and time.
- 5.10 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:
- 5.10.1 behaving in a disorderly manner; or
 - 5.10.2 causing an interruption or disruption to the meeting.

6. MINUTES AND REPORTING

- 6.1 The CAP must ensure that accurate minutes are kept of all meetings.

- 6.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 6.3 The minutes will record:
- 6.3.1 the names of all Members present;
 - 6.3.2 the names of all Members from whom apologies have been received;
 - 6.3.3 the name and time that a Member enters or leaves the meeting;
 - 6.3.4 the name of every person who makes or responds to a representation;
 - 6.3.5 in relation to each application determined by the CAP:
 - 6.3.5.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant);
 - 6.3.5.2 the reasons for granting or refusing development authorisation and for the imposition of any conditions; and
 - 6.3.5.3 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;
 - 6.3.6 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
 - 6.3.7 a decision to exclude the public from attendance pursuant to the Regulations;
 - 6.3.8 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;
 - 6.3.9 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
 - 6.3.10 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.

- 6.4 All minutes must be confirmed by the Assessment Manager in conjunction with the Presiding Member as being accurate prior to, or at the commencement of, the following CAP meeting.

7. ADDITIONAL PROCEDURES

- 7.1 Insofar as any procedure to be followed by the CAP is not prescribed by the Act and Regulations (and, during the transition to the Act and Regulations, the Development Act and *Development Regulations 2008*), the CAP's Terms of Reference, the Code of Conduct or these Meeting Procedures - the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.
- 7.2 The CAP may call for and consider such professional assistance from the Assessment Manager and, in consultation with the Assessment Manager, other professional advisors as it deems necessary and appropriate from time to time.

TEMPORARY ADDENDUM TO FACILITATE ELECTRONIC MEETINGS

On 9 April 2020, the *COVID-19 Emergency Response Act 2020* (**COVID Act**) commenced operation. The COVID Act will expire on the earlier of 9 October 2020 or the day on which all relevant declarations relating to the outbreak of COVID-19 within South Australia have ceased (**Expiry Day**).

Section 17 of the COVID Act provides (relevantly) that despite a provision of any other act, a requirement that a meeting occur that requires 2 or more persons to be physically present will be taken to be satisfied if the persons meet remotely using audio-visual or audio only communication.

In reliance on Section 17 of the COVID Act, the CAP adopts the following temporary amendments to the ordinary meeting procedures numbered 1 to 7 above (**Ordinary Meeting Procedures**). These amendments will operate until the Expiry Day of the COVID Act.

8. DEFINITIONS

The following definitions apply in relation to these temporary amendments:

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

9. AMENDMENTS TO CLAUSE 1

9.1 Sub-clause 1.4 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraphs:

1.4.6 *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*

1.4.7 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. 9.2 Sub-clause 1.6 of the Ordinary Meeting Procedures is amended with the deletion of the words “*and at the Council’s offices*”.

10. ADDITIONAL CLAUSE 3A

A new clause 3A is inserted into the Ordinary Meeting Procedures as follows:

- 3A.1 *One or more Panel members may attend a meeting via electronic means.*
- 3A.2 *A Member attending a meeting by electronic means is taken to be present at the meeting provided that the Member:*
- 3A.2.1 *can hear and, where possible, see all other Members who are present at the meeting;*
 - 3A.2.2 *can hear and, where possible, see, all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;*
 - 3A.2.3 *can be heard and, where possible, seen by all other Members present at the meeting; and*
 - 3A.2.4 *can be heard and, where possible, seen by the person recording the minutes of the meeting.*
- 3A.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.*
- 3A.4 *Where a meeting is being live streamed, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations.*
- 3A.5 *Where the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for CAP members disconnect from or are disconnected from the meeting.*

11. AMENDMENTS TO CLAUSE 5

- 11.1 Sub-clause 5.6 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:
- 5.6.8 *Clauses 5.6.1 to 5.6.4 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.*
- 11.2 Sub-clause 5.10 of the Ordinary Meeting Procedures is amended with the inclusion of the words “or disconnect from” after the word “leave”. As amended, sub-clause 5.10 is as follows:
- 5.10 *The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or disconnect from a meeting where he or she is, in the opinion of the Presiding Member: ...’*

12. **AMENDMENTS TO CLAUSE 6**

Sub-clause 6.3 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:

6.3.4A *methods of attendance by all Members present and by every person who makes or responds to a representation.*