



**Adelaide
Plains
Council**

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, 10 March 2021 at 5.30 pm

.....
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 3 February 2021, be accepted as read and confirmed."

3. DECLARATION OF INTEREST

4. REPORTS FOR DECISION

4.1. Procedure for the Management of Appeals under PDI Act 2016

4.2. PDI Act 2016 Delegations

5. REPORTS FOR INFORMATION

6. OTHER BUSINESS

7. CONFIDENTIAL ITEMS

8. NEXT MEETING

Wednesday 7 April 2021 (To be confirmed)

9. CLOSURE

MINUTES

Of

Council Assessment Panel Meeting



**Adelaide
Plains
Council**

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

HELD

By electronic means

On

Wednesday, 3 February 2021 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)
Darren Starr (General Manager Development and Community)
Carol Wildbore (Minute Secretary)
Sean Murphy (IT Support Officer)

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 F Maiolo **Seconded** I O’Loan

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

Agreed

3. DECLARATION OF INTEREST

Nil

Darren Starr gave a brief summary of the reports for decision

4. REPORTS FOR DECISION

4.1. PDI Act 2016 Delegations

Darren Starr addressed the Panel and answered questions of the Panel

Moved I O’loan **Seconded** P Mickan

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.

Additions to the Schedule of Conditions are:

- 5.1 - Excluding performance assessed development applications that have undergone public notification
- 11.1 - The delegation of the power to apply the Court for an order quashing the consent pursuant to Section 125(6) of the Act is insisted to where the time within which the application must be made (being one month after the deemed planning consent is taken to have been granted) will expire before:
 1. The next meeting of the Panel is scheduled to occur; or
 2. A special meeting of the Panel is able to be convened in accordance with the Panel's General Operating Procedures.
- 37.1 - The delegation of the power to waiver or refund a fee pursuant to Regulation 7 of the Fee Regulations shall have regard to a procedure adopted by the Chief Executive Office of Council.

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.

Agreed

4.2. Policy for Assessment Panel Review of Decision of Assessment Manager

Darren Starr addressed the Panel and answered questions of the Panel

Moved A Curtis **Seconded** I O'Loan

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

Agreed

4.3. Building Assessment Referral under the PDI Act 2016

Darren Starr addressed the Panel and answered questions of the Panel

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

1. The Adelaide Plains 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.

Agreed

Ian O'Loan left the meeting at 7.02pm.

4.4. Council Assessment Panel Terms of Reference & Meeting Procedures

Darren Starr addressed the Panel and answered questions of the Panel

Moved P Mickan **Seconded** F Maiolo

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 Council Assessment Panel Terms of Reference (Attachment 1) and Adelaide Plains Council Assessment Panel Meeting Procedures (Attachment 2).

Agreed

5. REPORTS FOR INFORMATION

Nil

6. OTHER BUSINESS

Panel members raised the issue of reporting delegated decisions under the PDI Act

7. **CONFIDENTIAL ITEMS**

Nil

8. **NEXT MEETING**

Wednesday 3 March 2021 (To be confirmed)

9. **CLOSURE**


There being no further business, the Presiding Member declared the meeting closed at 7.18pm.

Confirmed as a true record.

Presiding Member:

Date: ____/____/____

Subject to confirmation

 Adelaide Plains Council	4.1	Procedure for the Management of Appeals under PDI Act 2016
	Department: Report Author:	Development and Community General Manager Development & Community
Date: 10 March 2021	Document Ref:	D21/10222

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 on 19 March 2021.

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 procedure for the management of appeals against a decision of the CAP within Adelaide Plains Council.

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 as well as providing information on the implementation of the new planning process including the attached information sheet 'What should be the mechanism by which Panels and Assessment Managers assign authority for determining how to progress and resolve appeals?'

As outlined in the Information Sheet under the PDI Act, both Panels and Assessment Managers are relevant authorities in their own right, rather than delegates of Council. As a consequence Panels and Assessment Managers will be the respondent to appeals against their decisions, rather than the respondent being Council. Despite this Council is directly responsible for the costs associated with appeals, as it is responsible for all costs and other liabilities associated with the activities of both its Assessment Manager and its CAP (Sections 83(1)(h)(ii) and 87(f)).

The LGA has recommended that all relevant authorities should consider how they will either consult with relevant council staff (CEO, managers, etc) before decisions as to the conduct or resolution of appeals are made, or how they will assign certain of their decision-making powers to relevant staff.

Recognising the timeframes that apply as part of the appeal process, it is recommended that the CAP authorises the Assessment Manager to make decisions as to the conduct of appeals, so that they can proceed in a timely manner, subject to limitations requiring regular updates be provided to the Panel, and for the Panel to be consulted before an appeal is resolved by way of compromise (unless a decision must be made urgently).

RECOMMENDATION

1. *The Panel resolves to adopt the Adelaide Plains Council Assessment Panel Procedure for the Management of Appeals under the PDI Act 2016 dated March 2021 (Attachment 2)*

Attachments

1. Information Sheet - What should be the mechanism by which Panels and Assessment Managers assign authority for determining how to progress and resolve appeals?
2. Adelaide Plains Council Assessment Panel Procedure for the Management of Appeals under the PDI Act 2016 dated March 2021

ADELAIDE PLAINS ASSESSMENT PANEL
PROCEDURE FOR MANAGEMENT OF APPEALS
UNDER THE PDI ACT 2016
MARCH 2021

1. The Adelaide Plains Assessment Panel authorise the Assessment Manager to make decisions as to the conduct of appeals, subject to consultation within the Presiding Member, so that they can proceed in a timely manner.
2. The Assessment Manager will provide regular updates to the Assessment Panel on the progress of any appeal against a decision of the Assessment Panel.
3. The Assessment Panel is to be consulted before any appeal is resolved by way of compromise, via a report to the Panel, unless a decision must be made urgently, in which case a report outlining the decision that was made will be presented to the next available Panel meeting.
4. The Adelaide Plains Assessment Panel authorise the Assessment Manager to make decisions to commence appeals against deemed consent notices under Section 125(6) of the Act.

Information Sheet

What should be the mechanism by which Panels and Assessment Managers assign authority for determining how to progress and resolve appeals?

Under the PDI Act, both Panels and Assessment Managers are relevant authorities in their own right, rather than delegates of the council. One consequence of this new arrangement is that Panels and Assessment managers will be the respondent to appeals against their decisions, rather than the respondent being the council.

This raises interesting questions about decision-making around appeals, as the body funding the appeal is not the decision-maker. As set out below, often the council will be the body responsible for funding the appeal (either directly or indirectly):

- For councils with CAPs, the council is directly responsible for the costs associated with appeals, as it is responsible for all costs and other liabilities associated with the activities of both its Assessment Manager and its CAP (Sections 83(1)(h)(ii) and 87(f)).
- For councils who are members of RAPs:
 - The Gazette notice constituting the panel will set out how the costs associated with the activities of the panel (which should include appeals against decisions of the panel) are to be shared between the member councils (Section 84(1)(i)).
 - Section 87(f) provides that the costs and liabilities of the Assessment Manager are to be borne by the *Minister*, as the designated authority who appointed the RAP. It is understood that the Minister intends to establish a scheme in the case of each RAP by which these costs and liabilities will be borne by the constituent councils to the RAP pursuant to Section 84(1)(i) of the Act.
- For councils who have entered into planning agreements under which joint planning boards have been established:
 - The joint planning board is responsible for all costs and other liabilities associated with the activities of its panel and its Assessment Manager (Sections 83(1)(h) and 87(f)), but the member councils are responsible for the costs and liabilities of the board (as agreed to in the planning agreement: Section 35(3)(e)). It is noted that boards may also receive some development assessment fees under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*.

As the relevant council will, ultimately, be responsible for funding court proceedings, all relevant authorities should consider how they will either consult with relevant council staff (CEO, managers, etc) before decisions as to the conduct or resolution of appeals are made, or how they will assign certain of their decision-making powers to relevant staff.

For example, out of administrative necessity, assessment panels will need to authorise their Assessment Manager or a member of council staff (i.e. the CEO) to make decisions as to the conduct of appeals, so that they can proceed in a timely manner. It is recommended such authorisations be made to the CEO and be subject to limitations requiring regular updates be

provided to the panel, and for the panel to be consulted before an appeal is resolved by way of compromise (unless a decision must be made urgently).

In the case of appeals against decisions of Assessment Managers, it is anticipated that most Assessment Managers would, as a matter of course, consult relevant staff (be it the CEO and/or a relevant manager) regarding financial decisions around the conduct of appeals (including the engagement of legal representation and expert witnesses, and whether to resolve the appeal by compromise, or proceed to a hearing). Such informal processes could continue. In the event of an Assessment Manager being absent, and/or should Assessment Managers desire more formal decision-making processes around the funding of appeals, Assessment Managers may also choose to authorise other member(s) of staff (i.e. the CEO) to make decisions on their behalf regarding the conduct and settling of appeals. A more formal process might be appropriate, for example, in the case of an Assessment Manager who is not a member of the relevant council's staff.

In these situations, it is recommended that the Assessment Manager authorise the CEO to make all necessary decisions regarding the conduct and resolution of appeals, but with the limitation that the CEO will consult with the Assessment Manager before agreeing to settle an appeal by way of compromise.

A similar process should also be followed regarding decisions to commence appeals against deemed consent notices under Section 125(6) of the Act (as only the relevant authority may commence such an appeal).

Finally, it is recommended that councils review their financial delegations, to ensure that delegations have been made to necessary relevant authorities (Assessment Manager, CAP, etc; noting that a delegation to the Manager of Planning is not a delegation to the assessment Manager, even if the same individual occupies both roles) and that the financial limit on such delegations reflects the role and functions of that relevant authority under the PDI Act.

Advice provided to the LGA by Norman Waterhouse Lawyers on 3 March 2020.


Further Information

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March 2020

 Adelaide Plains Council	4.2	PDI Act 2016 Delegations
	Department: Report Author:	Development and Community General Manager Development & Community
Date: 10 March 2021	Document Ref:	D21/10469

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).

At its February 2021 meeting the Panel adopted a series of delegations to staff which included limitations on the use of those powers. As part of the preparation of sub-delegations Instrument C and the limitations adopted by the Panel were reviewed by Norman Waterhouse and some concerns were raised with the use of the limitations table at the end of the Instrument as outlined below:

Power in Section 102(1)(a) – planning consent

The power to grant (or refuse) planning consent is included in the Instrument of Delegation in paragraph 5.1.1.1. It is understood that the CAP does not wish to delegate this power. This will mean that the CAP will determine all applications for planning consent for which it is the relevant authority, regardless of whether there are representors who wish to be heard, etc.

This is a valid exercise by the CAP of its power as the relevant authority. However, rather than simply not delegating this power, it appears that the CAP has delegated it to the Assessment Manager (paragraph 5.1.1.1), but has then sought to limit the exercise by the delegate (the Assessment Manager) in all situations. It is recommended that if the CAP chooses to not delegate the power to grant planning consent in any situation, that this be achieved by the CAP simply not delegating the power in 5.1.1.1 at all.

Having said that, the following situations are drawn to the CAP's attention for its consideration as to whether to delegate the power to grant planning consent to the Assessment Manager in certain limited circumstances:

- Where the time within which the application must be determined is due to expire before the next meeting of the CAP is scheduled to occur. If the power to grant planning consent in this circumstance is not delegated, the CAP risks an applicant serving on it a deemed consent notice (under s 125 of the PDI Act), at which time planning consent will have been deemed to have been granted by the CAP.*
- Where a deemed consent notice is served on the CAP under s 125 of the PDI Act. At this time, the CAP has 10 business days to grant the application planning consent itself, which means that it can impose its own conditions. If not, the application will be subject to a set of standard conditions of consent set out in Practice Direction 11 (where the CAP is not proposing to apply to the Court to quash the deemed consent). Given this 10-day turn around time, the time to impose conditions may expire before the next meeting of the CAP.*

Should the CAP wish to delegate the power to grant planning consent in one or both of these limited circumstances, this can be achieved by retaining the delegation of the power to grant planning consent in paragraph 5.1.1.1 but then limiting that power in the limitations table at the end of the Instrument as follows:

The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which:

- 1. the statutory timeframe within which the CAP must determine the application pursuant to Regulation 53 of the Planning, Development and Infrastructure (General) Regulations 2017 will expire before the next meeting of the CAP is scheduled to occur; or*
- 2. a deemed consent notice has been served on the CAP under Section 125(2) of the Act.*

It is recommended by staff that (as reflected in the updated Instrument of delegation attached) that the CAP delegates the power to grant planning consent in these limited circumstances.

Delegations to General Manager Development & Community

It is understood that the CAP wishes to delegate the powers in Section 125(6) of the PDI Act (the power to apply to the Court to quash a deemed consent notice – paragraph 11.1 of the Instrument of Delegation) and Regulation 7 of the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019 (to waive or refund fees – paragraph 37.1 of the Instrument of Delegation) to the General Manager Development & Community (GMC&D), rather than to the Assessment Manager.

The manner in which the CAP has purported to achieve this, by delegating the power to the Assessment Manager, but then identifying the GMC&D in the limitations table does not achieve this intent. Rather, these powers need to be delegated directly to the GMC&D in the relevant paragraphs of the Instrument of Delegation (paragraphs 11.1 and 37.1).

The latest update to Instrument C (February 2021) has removed the delegation of the power in Regulation 7 of the fee Regulations (paragraph 37.1). Accordingly, references to that paragraph have been deleted from Instrument C.

It is recommended by staff that the CAP re-delegate its powers and functions under the PDI Act, including direct delegation to the GMC&D relating to 14.1 (was 11.1) of the Instrument of Delegation.

RECOMMENDATION

1. That CAP revoke its delegations contained in Instrument of Delegation 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 dated 3 February 2021.
2. 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 10 March 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 10th of March 2021 to the positions identified in the third column of the Instrument of Delegation subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.
3. The delegated powers and functions may be exercised individually by each delegate in respect of any particular matter where the delegate is required or proposing to act in the course of their duties.
4. 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.
5. The powers in Sections 125(6) of the Planning, Development and Infrastructure Act 2016 may be further delegated by the General Manager Development & community in accordance with Section 100(2)(c) of the Planning, Development and Infrastructure Act 2016 as the Assessment Manager sees fit, unless otherwise indicated 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

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	Delegate
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.	Assessment Manager
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.	Assessment Manager
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.	Assessment Manager
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 authority.	Assessment Manager

**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**

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:	Assessment Manager
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	Assessment Manager
4.1.2 require that the assessment of the development in respect of the Building Rules be undertaken by a building certifier.	Assessment Manager
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):	Assessment Manager
5.1.1 -	
5.1.2.1 the relevant provisions of the Planning Rules; and	Assessment Manager
5.1.2.2 to the extent provided by Part 7 Division 2 of the PDI Act – the impacts of the development, (planning consent);	Assessment Manager
5.1.3 the relevant provisions of the Building Rules (building consent);	Assessment Manager
5.1.4 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):	Assessment Manager
5.1.4.1 requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;	Assessment Manager
5.1.4.2 any relevant requirements set out in a design standard has been satisfied;	Assessment Manager
5.1.4.3 the requirements of a water industry entity	Assessment

**INSTRUMENT C
INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE
ACT 2016, REGULATIONS, PLANNING AND DESIGN CODE AND PRACTICE DIRECTIONS OF
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	under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are satisfied;	Manager
5.1.4.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;	Assessment Manager
5.1.4.5	requirements set out in regulations made for the purposes of Section 102(1)(c) of the PDI Act are satisfied;	Assessment Manager
5.1.5	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):	Assessment Manager
5.1.5.1	requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;	Assessment Manager
5.1.5.2	any relevant requirements set out in a design standard has been satisfied;	Assessment Manager
5.1.5.3	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;	Assessment Manager
5.1.5.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;	Assessment Manager
5.1.5.5	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;	Assessment Manager
5.1.5.6	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;	Assessment Manager
5.1.5.7	the requirements of a water industry entity under the Water Industry Act 2012 identified	Assessment Manager

**INSTRUMENT C
INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE
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	under the regulations relating to the provision of water supply and sewerage services are satisfied;	
5.1.5.8	any building situated on the land complies with the Building Rules;	Assessment Manager
5.1.5.9	requirements set out in the regulations made for the purposes of Section 102(d) of the PDI Act are satisfied;	Assessment Manager
5.1.6	any encroachment of a building over, under, across or on a public 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;	Assessment Manager
5.1.7	if relevant - requirements applying under Part 15 Division 2 of the PDI Act are satisfied;	Assessment Manager
5.1.8	such other matters as may be prescribed.	Assessment Manager
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:	Assessment Manager
5.2.1	until further assessment of the relevant development under the PDI Act; or	Assessment Manager
5.2.2	until further assessment or consideration of the proposed development under another Act; or	Assessment Manager
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.	Assessment Manager
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.	Assessment Manager
6.	Performance Assessed Development	
6.1	The power pursuant to Section 107(2)(c) of the PDI Act to form the	Assessment

**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**

	opinion that the development is seriously at variance with the Planning and Design Code (disregarding minor variations).	Manager
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.	Assessment Manager
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.	Assessment Manager
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 any such building work a building consent (subject to such conditions or exceptions as may be prescribed by the regulations).	Assessment Manager
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.	Assessment Manager
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:	Assessment Manager
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:	Assessment Manager
	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	Assessment Manager
	(b) the variance is justifiable having regard to the objects of the Planning and Design	Assessment Manager

**INSTRUMENT C
INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE
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	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.	Assessment Manager
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.	Assessment Manager
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 in respect of the development that are as good as can reasonably be achieved in the circumstances.	Assessment Manager
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.	Assessment Manager
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:	Assessment Manager
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	Assessment Manager
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	Assessment Manager

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	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):	Assessment Manager
7.9.1	the variance; and	Assessment Manager
7.9.2	the grounds on which the decision is being made.	Assessment Manager
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.	Assessment Manager
8.2	The power pursuant to Section 119(3) of the PDI Act to request an applicant:	Assessment Manager
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;	Assessment Manager
8.2.2	to remedy any defect or deficiency in any application or accompanying document or information required by or under the PDI Act;	Assessment Manager
8.2.3	to consult with an authority or body prescribed by the regulations;	Assessment Manager
8.2.4	to comply with any other requirement prescribed by the regulations.	Assessment Manager
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	Assessment Manager
8.3.1	subject to Section 119(6)(b)(ii) of the PDI Act, refuse the	Assessment Manager

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	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).	Assessment Manager
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.	Assessment Manager
8.5	The power pursuant to Section 119(9) of the PDI Act to:	Assessment Manager
8.5.1	permit an applicant:	Assessment Manager
8.5.1.1	to vary an application;	Assessment Manager
8.5.1.2	to vary any plans, drawings, specifications or other documents that accompanied an application,	Assessment Manager
	(provided that the essential nature of the proposed development is not changed);	Assessment Manager
8.5.2	permit an applicant to lodge an application without the provision of any information or document required by the regulations;	Assessment Manager
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);	Assessment Manager
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 applicant or to any other person and determine not to finalise the matter until any specified matter is resolved, rectified or addressed.	Assessment Manager
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.	Assessment Manager
8.7	The power pursuant to Section 119(12) of the PDI Act to, in a	Assessment

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	consent, provide for, or envisage, the undertaking of development in stages, with separate consents or approvals for the various stages.	Manager
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.	Assessment Manager
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.	Assessment Manager
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:	Assessment Manager
9.2.1	grant any consent contemplated by the outline consent; and	Assessment Manager
9.2.2	not impose a requirement that is inconsistent with the outline consent.	Assessment Manager
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).	Assessment Manager
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:	Assessment Manager
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	Assessment Manager
11.1.2	not make a decision until the relevant authority has received a response from that prescribed body in relation to the matter or matters for which the referral was made	Assessment Manager

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	where the regulations so provide, subject to Section 122 of the PDI Act.	Assessment Manager
11.2	The power pursuant to Section 122(5)(b) of the PDI Act, acting by direction of a prescribed body:	Assessment Manager
11.2.1	to refuse the application; or	Assessment Manager
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.	Assessment Manager
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.	Assessment Manager
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.	Assessment Manager
12.	Preliminary Advice and Agreement	
12.1	The power pursuant to Section 123(2) of the PDI Act, if:	Assessment Manager
12.1.1	a proposed development is referred to a prescribed body under Section 123(1) of the PDI Act; and	Assessment Manager
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	Assessment Manager
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),	Assessment Manager
	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	Assessment Manager

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	application accords with the agreement indicated by the 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.	Assessment Manager
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).	Assessment Manager
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:	Assessment Manager
13.2.1	if the proposed development consists only of the creation fortifications - refuse the application; or	Assessment Manager
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	Assessment Manager
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.	Assessment Manager
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.	Assessment Manager
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.	General Manager Development and Community

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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.	Assessment Manager
15. Determination of Application		
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).	Assessment Manager
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.	Assessment Manager
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.	Assessment Manager
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.	Assessment Manager
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).	Assessment Manager
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.	Assessment Manager
16.5	The power pursuant to Section 127(8)(b) of the PDI Act to:	Assessment Manager

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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;	Assessment Manager
16.5.2	to seek the Minister's concurrence to grant an exemption under Section 127(8)(b) of the PDI Act.	Assessment Manager
17. Variation of Authorisation		
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.	Assessment Manager
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.	Assessment Manager
18.2	The power pursuant to Section 134(1) of the PDI Act, if:	Assessment Manager
18.2.1	an application for a building consent relates to:	Assessment Manager
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	Assessment Manager
18.2.1.2	a change of classification of a building; and	Assessment Manager
18.2.2	the building is, in the opinion of the delegate, unsafe, structurally unsound or in an unhealthy condition,	Assessment Manager
	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.	Assessment Manager
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	Assessment Manager

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	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:	Assessment Manager
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	Assessment Manager
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	Assessment Manager
18.5	The power pursuant to Section 134(4) of the PDI Act if:	Assessment Manager
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	Assessment Manager
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,	Assessment Manager
	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).	Assessment Manager
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:	Assessment Manager
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	Assessment Manager
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.	Assessment Manager

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19. Urgent Building Work	
19.1 The power pursuant to Section 135(2)(d) of the PDI Act to issue any direction.	Assessment Manager
20. Cancellation of Development Authorisation	
20.1 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.	Assessment Manager
20.2 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.	Assessment Manager
21. Professional Advice to be Obtained in Relation to Certain Matters	
21.1 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.	Assessment Manager
21.2 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 sought.	Assessment Manager
22. General Transitional Schemes for Panels	
22.1 The power pursuant to Clause 12(7) of Schedule 8 of the PDI Act, to	Assessment Manager
22.1.1 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	Assessment Manager
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	Assessment Manager
22.1.3 deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and	Assessment Manager
22.1.4 deal with any requirement or grant any variation imposed	Assessment

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	or proposed in connection with an application made before the relevant day under the repealed Act; and	Manager
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.	Assessment Manager
<u>(Only applicable to assessment panels appointed by a council or a joint planning board)</u>		
23. Regional Assessment Panels		
23.1	The power pursuant to Clause 13(5) of Schedule 8 of the PDI Act to:	Assessment Manager
23.1.1	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	Assessment Manager
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 made before the relevant day under the repealed Act; and	Assessment Manager
23.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and	Assessment Manager
23.1.4	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	Assessment Manager
23.1.5	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.	Assessment Manager
<u>(Relevant to regional assessment panels only)</u>		
24. Continuation of Processes		
24.1	The power pursuant to Clause 18(2) of Schedule 8 of the PDI Act, to:	Assessment Manager
24.1.1	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	Assessment Manager

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	PDI Act applies; and	
24.1.2	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	Assessment Manager
24.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and	Assessment Manager
24.1.4	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	Assessment Manager
24.1.5	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.	Assessment Manager

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25. Accredited Professionals		Delegate
25.1	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.	Assessment Manager
26. Verification of Application		
26.1	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:	Assessment Manager

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26.1.1	determine the nature of the development; and	Assessment Manager
26.1.2	if the application is for planning consent - determine:	Assessment Manager
26.1.2.1	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	Assessment Manager
26.1.2.2	the category or categories of development that apply for the purposes of development assessment; and	Assessment Manager
26.1.3	determine whether the relevant authority is the correct entity to assess the application under the PDI Act; and	Assessment Manager
26.1.4	if the relevant authority is the correct entity to assess the application (or any part of the application):	Assessment Manager
26.1.4.1	check that the appropriate documents and information have been lodged with the application; and	Assessment Manager
26.1.4.2	confirm the fees required to be paid at that point under the <i>Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019</i> ; and	Assessment Manager
26.1.4.3	provide an appropriate notice via the SA planning portal; and	Assessment Manager
26.1.5	if the relevant authority is not the correct entity to assess the application (or any part of the application):	Assessment Manager
26.1.5.1	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	Assessment Manager
26.1.5.2	provide an appropriate notice via the SA planning portal.	Assessment Manager

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27. Application and Further Information	
27.1 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.	Assessment Manager
28. Amended Applications	
28.1 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.	Assessment Manager
28.2 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.	Assessment Manager
29. Withdrawing/Lapsing Applications	
29.1 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:	Assessment Manager
29.1.1 any agency to which the application has been referred under Division 2 of the General Regulations; and	Assessment Manager
29.1.2 any person who has made a representation in relation to the application under Division 3 of the General Regulations,	Assessment Manager
of the withdrawal.	Assessment Manager
29.2 The power pursuant to Regulation 38(2) of the General Regulations to lapse an application for a development authorisation under Part 7 of the PDI Act if at least one year has passed since the date on which the application was lodged with the relevant authority.	Assessment Manager
29.3 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:	Assessment Manager

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29.3.1	take reasonable steps to notify the applicant of the action under consideration; and	Assessment Manager
29.3.2	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.	Assessment Manager
30. Court Proceedings		
30.1	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.	Assessment Manager
31. Additional Information or Amended Plans		
31.1	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.	Assessment Manager
32. Building Matters		
32.1	The power pursuant to Regulation 45(1) of the General Regulations to, if in assessing an application for building consent, the delegate considers that:	Assessment Manager
32.1.1	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	Assessment Manager
32.1.2	the proposed development is at variance with a performance requirement of the Building Code which provides for the intervention of a fire authority; or	Assessment Manager
32.1.3	special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,	Assessment Manager
	refer the application to the relevant fire authority for comment and report unless the fire authority indicates to the delegate that a	Assessment Manager

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	referral is not required.	
32.2	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.	Assessment Manager
32.3	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.	Assessment Manager
32.4	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:	Assessment Manager
32.4.1	recommends against the granting of building consent; or	Assessment Manager
32.4.2	concurs in the granting of consent on conditions specified in its report,	Assessment Manager
	but the delegate:	Assessment Manager
32.4.3	proposes to grant building consent despite a recommendation referred to in Regulation 45(4)(a) of the General Regulations; or	Assessment Manager
32.4.4	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,	Assessment Manager
	to:	
32.4.5	refer the application to the Commission; and	Assessment Manager
32.4.6	not grant consent unless the Commission concurs in the granting of the consent.	Assessment Manager
32.5	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.	Assessment Manager

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33. Preliminary Advice and Agreement (Section 123)	
33.1 The power pursuant to Regulation 46(6) of the General Regulations, if:	Assessment Manager
33.1.1 the delegate permits an applicant to vary an application under Section 119(9) of the PDI Act; and	Assessment Manager
33.1.2 the delegate determines that the application no longer accords with the agreement indicated by the prescribed body,	Assessment Manager
to refer the application (unless withdrawn) to the prescribed body:	Assessment Manager
33.1.3 to obtain a variation to the agreement under Section 123 of the PDI Act; or	Assessment Manager
33.1.4 to obtain a response from the prescribed body for the purposes of Section 122 of the PDI Act.	Assessment Manager
33.2 The power pursuant to Regulation 46(7) of the General Regulations if:	Assessment Manager
33.2.1 an application is withdrawn by the applicant; and	Assessment Manager
33.2.2 the applicant sought to rely on an agreement under Section 123 of the PDI Act in connection with the application,	Assessment Manager
to notify relevant prescribed body of the withdrawal.	Assessment Manager
33.3 The power pursuant to Regulation 46(8) of the General Regulations, if:	Assessment Manager
33.3.1 an application is lapsed by a relevant authority under Regulation 38 of the General Regulations; and	Assessment Manager
33.3.2 the applicant sought to rely on an agreement under Section 123 of the PDI Act in connection with the application,	Assessment Manager
to notify the relevant prescribed body of the lapsing.	Assessment Manager
33.4 The power pursuant to Regulation 46(9) of the General Regulations, if:	Assessment Manager

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33.4.1	an applicant seeks to rely on an agreement under Section 123 of the PDI Act in connection with the application; and	Assessment Manager
33.4.2	a notice of a decision on the application is issued by the delegate under Regulation 57 of the General Regulations,	Assessment Manager
	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.	Assessment Manager
34.	Notification of Application of Tree-damaging Activity to Owner of Land	
34.1	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:	Assessment Manager
34.1.1	give the owner notice of the application within 5 business days after the application is made; and	Assessment Manager
34.1.2	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.	Assessment Manager
35.	Public Inspection of Applications	
35.1	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.	Assessment Manager
36.	Representations	
36.1	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:	Assessment Manager
36.1.1	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	Assessment Manager
36.1.2	who has indicated an interest in appearing before the delegate,	Assessment Manager
	an opportunity (at a time determined by the delegate) to appear personally or by representative before the delegate to be heard in	Assessment Manager

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	support of the representation that has been made under Regulation 50(1) of the General Regulations.	
37.	Response by Applicant	
37.1	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.	Assessment Manager
38.	Notice of Decision (Section 126(1))	
38.1	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 an appropriate form of authentication.	Assessment Manager
39.	Consideration of Other Development Authorisations	
39.1	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.	Assessment Manager
40.	Certificate of Independent Technical Expert in Certain Cases	
40.1	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.	Assessment Manager
41.	Urgent Work	
41.1	The power pursuant to Regulation 63(1) of the General Regulations to,	Assessment Manager
41.1.1	determine a telephone number determined for the purposes of Regulation 63(1)(a) of the General Regulations; and	Assessment Manager
41.1.2	determine the email address for the purposes of	Assessment Manager

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Regulation 63(1)(b) of the General Regulations.		
41.2	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.	Assessment Manager
41.3	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.	Assessment Manager
42. Variation of Authorisation (Section 128)		
42.1	The power pursuant to Regulation 65(1)(a) 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.	Assessment Manager
43. Advice from Commission		
43.1	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.	Assessment Manager
44. Underground Mains Area		
44.1	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.	Assessment Manager
45. Construction Industry Training Fund		
45.1	The power pursuant to Regulation 99(4) of the General Regulations, if after assessing a proposed development against the building rules the delegate is yet to be satisfied that the appropriate levy has been paid under the <i>Construction Industry Training Fund Act 1993</i> or is not payable, to notify the applicant	Assessment Manager

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	that the delegate cannot issue a building consent until the delegate is satisfied that the levy has been paid or is not payable.	
45.2	The power pursuant to Regulation 99(5) of the General Regulations, if a notification is given under Regulation 99(4) of the General Regulations, if satisfactory evidence is not provided to the delegate within 20 business days after the date of the notification, to, if the delegate thinks fit, determine that the application has lapsed.	Assessment Manager
46.	Plans for Residential Alterations, Additions and New Dwellings	
46.1	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.	Assessment Manager
46.2	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.	Assessment Manager
47.	Plans for Building Work	
47.1	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:	Assessment Manager
47.1.1	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	Assessment Manager
47.1.2	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,	Assessment Manager
	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 Regulations for a building of the classification applied for or with so many of those	Assessment Manager

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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

48.	Calculation or Assessment of Fees	
48.1	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):	Assessment Manager
48.1.1	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	Assessment Manager
48.1.2	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).	Assessment Manager
48.2	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.	Assessment Manager
48.3	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.	Assessment Manager

PLANNING AND DESIGN CODE

49.	Procedural Matter	
49.1	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.	Assessment Manager

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50. Procedural Referrals	
50.1 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.	Assessment Manager
50.2 The power pursuant to and in accordance with the PD Code to form the opinion and deem:	Assessment Manager
50.2.1 alteration to an existing access or public road junction;	Assessment Manager
50.2.2 development that changes the nature of vehicular movements or increases the number or frequency of movements through an existing access,	Assessment Manager
to be minor.	Assessment Manager
50.3 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.	Assessment Manager
50.4 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.	Assessment Manager
51. Referral Body: Minister Responsible for the Administration of the Aquaculture Act 2001	
51.1 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.	Assessment Manager

STATE PLANNING COMMISSION PRACTICE DIRECTION 3 (NOTIFICATION OF PERFORMANCE ASSESSED DEVELOPMENT APPLICATIONS) 2019

52. Responsibility to Undertake Notification	
52.1 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	Assessment Manager

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	accordance with Section 107(3)(a)(ii) of the PDI Act.	
53.	Preparing for Notification	
53.1	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:	Assessment Manager
53.1.1	give notice of the anticipated commencement date and of the notification period to the applicant; and	Assessment Manager
53.1.2	provide the applicant with a copy of the content of the notice to be placed on the relevant land in PDF format; and	Assessment Manager
53.1.3	advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of PD3.	Assessment Manager
54.	Notice on Land	
54.1	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.	Assessment Manager

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

55.	Qualifications and Experience of Additional members	
55.1	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.	Assessment Manager

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55.2	The power pursuant to clause 4(7) of PD5 to be satisfied of the minimum experience and qualifications of an additional assessment panel member.	Assessment Manager
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**STATE PLANNING COMMISSION PRACTICE DIRECTION (SCHEME TO
AVOID CONFLICTING REGIMENS) 2019**

56. Scheme Provisions		
56.1	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.	Assessment Manager
56.2	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.	Assessment Manager

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SCHEDULE OF CONDITIONS

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

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
5.1.1.1	<p>The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which:</p> <ol style="list-style-type: none"><li data-bbox="646 898 1487 1062">1. the statutory timeframe within which the CAP must determine the application pursuant to Regulation 53 of the Planning, Development and Infrastructure (General) Regulations 2017 will expire before the next meeting of the CAP is scheduled to occur; or<li data-bbox="646 1100 1487 1163">2. a deemed consent notice has been served on the CAP under Section 125(2) of the Act.