

AGENDA

for the

EYRE PENINSULA

REGIONAL ASSESSMENT PANEL

MEETING

to be held on

MONDAY 12 OCTOBER 2020

commencing at 5.30pm

THIS DOCUMENT IS UNDER A MEDIA EMBARGO UNTIL CONSIDERED BY THE PANEL



8 October 2020

NOTICE OF MEETING

Notice is hereby given pursuant to Section 83 of the *Planning, Development and Infrastructure Act 2016*, that a meeting of the **Eyre Peninsula Regional Assessment Panel** has been called for:-

DATE: 12 October 2020

TIME: 5.30pm

PLACE: City of Port Lincoln Council Chambers, Level 1, 60 Tasman Terrace, Port Lincoln and via Zoom teleconference.

Please find enclosed a copy of the Agenda for the meeting.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jess Burns', with a stylized, cursive script.

Jess Burns

REGIONAL ASSESSMENT MANAGER

THE CITY OF PORT LINCOLN, DISTRICT COUNCIL OF CEDUNA, DISTRICT COUNCIL OF CLEVE,
DISTRICT COUNCIL OF ELLISTON, DISTRICT COUNCIL OF FRANKLIN HARBOUR, DISTRICT
COUNCIL OF KIMBA, DISTRICT COUNCIL OF LOWER EYRE PENINSULA, DISTRICT COUNCIL OF
STEAKY BAY, DISTRICT COUNCIL OF TUMBY BAY AND WUDINNA DISTRICT COUNCIL

AGENDA

COMMITTEE	EYRE PENINSULA REGIONAL ASSESSMENT PANEL (EPRAP)
MEETING DATE	MONDAY 12 OCTOBER 2020
LOCATION	CITY OF PORT LINCOLN COUNCIL CHAMBERS, LEVEL 1, 60 TASMAN TERRACE, PORT LINCOLN SA 5606
FILE REF	AGEN2043

ACKNOWLEDGEMENT OF COUNTRY

"We acknowledge the Barngarla People, the Traditional Owners of the land we meet on today and their continuing connection to land, sea, culture and community. We pay our respects to Elders past, present and emerging, and we extend that respect to other Aboriginal and Torres Strait Islander people in our community."

Members:

Presiding Member Rob Donaldson

Members Alex Mackenzie

Jodie Isle

Darren Starr

Cheryle Pedler

Staff:

Regional Assessment Manager Jess Burns

Minute Secretary Rachel McGuire

1. PRESENT

2. APOLOGIES

3. CONFIRMATION OF MINUTES

The minutes of the EPRAP meeting held Monday 10 August 2020 are attached as Attachment 3.1 for members information and adoption.

Recommendation

That the minutes of the EPRAP Meeting held Monday 10 August 2020 as per copies supplied to members be adopted as a true and correct record of that meeting.

4. BUSINESS ARISING FROM THE MINUTES**5. CONFLICT OF INTEREST DECLARATION****6. REPORTS**

6.1. *DELEGATIONS TO EPRAP FROM CITY OF PORT LINCOLN*

6.2. *UPDATED MEETING PROCEDURES*

7. OTHER BUSINESS**8. NEXT MEETING****9. CLOSURE**

MINUTES

for the

EYRE PENINSULA

REGIONAL ASSESSMENT PANEL

MEETING

held on

MONDAY 10 AUGUST 2020

commencing at 5.30pm

THIS DOCUMENT IS UNDER A MEDIA EMBARGO UNTIL CONSIDERED BY THE PANEL



Wudinna District Council

THE CITY OF PORT LINCOLN, DISTRICT COUNCIL OF CEDUNA, DISTRICT COUNCIL OF CLEVE,
DISTRICT COUNCIL OF ELLISTON, DISTRICT COUNCIL OF FRANKLIN HARBOUR, DISTRICT
COUNCIL OF KIMBA, DISTRICT COUNCIL OF LOWER EYRE PENINSULA, DISTRICT COUNCIL OF
STEAKY BAY, DISTRICT COUNCIL OF TUMBAY BAY AND WUDINNA DISTRICT COUNCIL

MINUTES

COMMITTEE	EYRE PENINSULA REGIONAL ASSESSMENT PANEL (EPRAP)
MEETING DATE	MONDAY 10 AUGUST 2020
LOCATION	CITY OF PORT LINCOLN COUNCIL CHAMBERS, LEVEL 1, 60 TASMAN TERRACE, PORT LINCOLN AND VIA ZOOM TELECONFERENCE
FILE REF	MIN2036

Meeting Opened: 5.30pm

1. PRESENT

Presiding Member	Rob Donaldson
Members	Alex Mackenzie (via Zoom teleconference)
	Jodie Isle
	Darren Starr (via Zoom teleconference)
	Cheryle Pedler (via Zoom teleconference)

Staff in Attendance

Acting Regional Assessment Manager	Jess Burns
Development Services	
Administration Officer	Rachel McGuire

Also in Attendance

Nil

2. ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member acknowledged the Barngarla People, the Traditional Owners of the land and their continuing connection to land, sea, culture and community. The Presiding Member paid his respects to Elders past, present and emerging, and extended that respect to other Aboriginal and Torres Strait Islander people in the community.

3. WELCOME TO THE EYRE PENINSULA REGIONAL ASSESSMENT PANEL

The Presiding Member welcomed Panel Members to the first meeting of the Eyre Peninsula Regional Assessment Panel. Each member of the Panel provided a self introduction and background of their professional working history.

4. CONFLICT OF INTEREST DECLARATION

Nil

5. REPORTS**5.1 CODE OF CONDUCT FOR ASSESSMENT PANEL MEMBERS**

EPRAP 20/01	CODE OF CONDUCT FOR ASSESSMENT PANEL MEMBERS
Moved:	A Mackenzie
Seconded:	J Isle
That the Eyre Peninsula Regional Assessment Panel receives and notes the 'Assessment Panel Members – Code of Conduct' attached as Attachment 5.1 to the Agenda.	

CARRIED

5.2 TERMS OF REFERENCE

EPRAP 20/02	EYRE PENINSULA REGIONAL ASSESSMENT PANEL TERMS OF REFERENCE
Moved:	C Pedler
Seconded:	D Starr
That the Eyre Peninsula Regional Assessment Panel receives and notes the 'Eyre Peninsula Regional Assessment Panel Terms of Reference' as Attachments 5.2 to the Agenda.	

CARRIED

5.3 EYRE PENINSULA REGIONAL ASSESSMENT PANEL MEETING PROCEDURES

EPRAP 20/03	EYRE PENINSULA REGIONAL ASSESSMENT PANEL MEETING PROCEDURES
Moved:	C Pedler
Seconded:	D Starr
That the Meeting Procedures policy attached to the Report as Attachment 5.3 to the meeting of 10 August 2020 be adopted by Eyre Peninsula Regional Assessment Panel.	

CARRIED

The Panel noted that a review of meeting procedures and policies will be undertaken in six months.

5.4 DELEGATION OF EPRAP POWERS AND DUTIES

EPRAP 20/04	DELEGATION OF EPRAP POWERS AND DUTIES
Moved:	J Isle
Seconded:	A Mackenzie
That the Eyre Peninsula Regional Assessment Panel:	

- 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 (attached as Attachment 5.4 to the Report dated 10 August 2020) and entitled 'Delegation of EPRAP Powers and Duties' – incorporating a change to item 3 of each of the limitations clauses to read, "3. A decision to refuse development authorisation, except in response to circumstances where a deemed consent is imminent, in the opinion of the delegate" - are hereby delegated this 10th day of August 2020 to the Regional Assessment Manager for the Eyre Peninsula Regional Assessment Panel (including any person acting in the position of Assessment Manager for the Eyre Peninsula Regional Assessment Panel) 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 Regional Assessment Manager for the Eyre Peninsula Regional Assessment Panel in accordance with Section 100(2)(c) of the Planning, Development and Infrastructure Act 2016 as the Regional Assessment Manager for the Eyre Peninsula Regional Assessment Panel sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.

CARRIED

5.5 STANDING REFERRAL FOR BUILDING WORK

EPRAP 20/05	STANDING REFERRAL FOR BUILDING WORK
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Moved: C Pedler**Seconded: D Starr**

1. The Eyre Peninsula Regional 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 the council for the area in which the proposed development is to be undertaken.

CARRIED

5.6 EYRE PENINSULA REGIONAL ASSESSMENT PANEL REVIEW OF DECISION OF ASSESSMENT MANAGER POLICY

EPRAP 20/06	EYRE PENINSULA REGIONAL ASSESSMENT PANEL REVIEW OF DECISION OF ASSESSMENT MANAGER POLICY
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Moved: J Isle**Seconded: D Starr**

1. The Eyre Peninsula Regional Assessment Panel adopts the '*Eyre Peninsula Regional Assessment Panel Review of Assessment Manager Policy*' as attached as Attachment 5.6 to the Agenda.

CARRIED

5.7 MANAGEMENT OF ERD COURT APPEALS AGAINST DECISIONS OF EPRAP

EPRAP 20/07	MANAGEMENT OF ERD COURT APPEALS AGAINST DECISIONS OF EPRAP
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Moved: D Starr**Seconded: C Pedler**

That the Eyre Peninsula Regional Assessment Panel resolves to request the Regional Assessment Manager to manage the conduct of appeals to the Environment Resources and Development Court against decisions of the Panel or its delegate/s, subject to the Regional Assessment Manager undertaking the following actions in each case:

- consult the Panel - either at a meeting or by out-of-session communication - and have regard to response/s received before agreeing to a compromise settlement;
- consult with the CEO of the relevant council and have regard to any response/s received, in relation to matters likely to have an impact, other than minor, on the conduct, cost or outcome of the appeal; and
- inform the Panel at scheduled meetings, or otherwise as appropriate, of the status of any appeal matters at any point in time.

CARRIED

6. **OTHER BUSINESS**

- 6.1 The Panel discussed the question of appointing Additional Members and agreed to rely on the current meeting procedures in the first instance. Should a circumstance arise where the Panel believes an Additional Member would improve the performance of the Panel's duties, then consideration will be given at that time.
- 6.2 The Panel discussed the question of appointing Deputy Members. The Panel agreed to proceed to operate without Deputy Member/s at this time, but will review the possible appointment of Deputy Member/s in or before February 2021.
- 6.3 The Panel discussed the use of a development assessment report template from the SA Planning Portal and agreed to await the proposed template to be developed by the Regional Assessment Manager, which will have regard to the portal template and ensure assessment reports that are suitable and consistent for the Panel's purposes.
- 6.4 The Panel discussed the preparation of draft standard conditions of consent. The proposed standard conditions will be made available for the information of the Panel.
- 6.5 The Panel discussed the scheduled timing of the EPRAP meetings and possible variations to the meeting time, when required, to accommodate optimal travel schedules for members of the Panel based outside the region and facilitate attendance in person and/or site visits as part of the assessment process. The Panel agreed that in such circumstances consideration would be given to varying the scheduled meeting time to accommodate attendance by all Panel members.


7. NEXT MEETING

The next meeting is scheduled for 14 September 2020

8. CLOSURE

There being no further business the meeting was declared closed at 6.57pm

Minutes confirmed:  DATE: 13-Aug-2020

Minutes confirmed:  DATE: 13-Aug-2020

REPORT 6.1:**DELEGATIONS TO THE EYRE PENINSULA REGIONAL ASSESSMENT
PANEL UNDER THE DEVELOPMENT ACT 1993****Officer:****JESS BURNS – REGIONAL ASSESSMENT MANAGER****File Ref:****REP203011**

PURPOSE OF REPORT

The purpose of this report is to inform the Panel of the recent delegations made by the City of Port Lincoln to the Eyre Peninsula Regional Assessment Panel (EPRAP) for powers and functions under the *Development Act 1993* (the Development Act).

REPORT DETAIL

Previously under the Development Act, Council had delegated its powers and functions to its Council Assessment Panel for certain types of planning applications, primarily those involving publicly notified development applications where a representor wishes to be heard. Under the *Planning, Development and Infrastructure Act 2016* (PDI Act), the EPRAP is a relevant authority in its own right for certain types of development. However, the newly established EPRAP is not the relevant authority for applications lodged under the Development Act. Until the last application has been processed under the Development Act, the City of Port Lincoln would ordinarily still need to maintain a CAP where Panel decisions are required. This would mean operating a CAP and a RAP concurrently to perform equivalent functions under the respective Acts.

The term of Council's current CAP expired in June 2020. Port Lincoln's transition to the PDI Act was originally scheduled for July 2020, however, current advice is that this will now occur at some point in 2021. Given the uncertainty around transition timeframes and the likelihood of a 'long tail' of Development Act matters requiring the CAP to remain in place well into 2021, it is considered preferable to avoid the governance, reporting and cost overheads of maintaining two panels (both effectively undertaking the same role).

Advice received from Norman Waterhouse Lawyers via the Local Government Association indicated that the Council could choose to revoke the existing delegations to the CAP and not re-appoint the CAP. Delegation of Council's Development Act powers and duties to the EPRAP would enable an immediate transition in practical terms, with the EPRAP first determining matters under the Development Act and later under the PDI Act.

From a legal perspective this approach has been confirmed as appropriate, lawful and represents a pragmatic solution. At the Ordinary Council meeting on 21 September 2020, the City of Port Lincoln resolved to revoke the existing delegations to the CAP and adopted a new set of delegations under the Development Act, equivalent to those of the CAP, from the Council to the EPRAP. The instrument of delegation is included in the attachment to this report.

For reference, the City of Port Lincoln CAP only met twice in the last financial year with a limited number of development applications historically requiring a Panel decision. All other EPRAP constituent councils except for one have confirmed that they will not require any delegations from their respective councils for Development Act determinations to the EPRAP as they are either electing to maintain their CAP or do not foresee any applications currently in their system requiring a panel decision.

RECOMMENDATION

That the Eyre Peninsula Regional Assessment Panel receives and notes the report and attached delegations.

Attachment 6.1: N209398 Instrument of Delegation to Eyre Peninsula Regional Assessment Panel

Instrument of Delegation under the Development Act 1993 and the Development Regulations 2008 –

Provisions for the Eyre Peninsula Regional Assessment Panel

In exercise of the power contained in Section 20 and 34(23) of the Development Act 1993, the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained hereunder are, subject to the conditions, limitations and provisos contained therein, hereby delegated this 21 September 2020 to the Eyre Peninsula Regional Assessment Panel.

Provision	Powers and Functions Delegated	Conditions and Limitations
s33(1)(a)	<p>10. Matters Against Which Development Must be Assessed</p> <p>10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development):</p> <p>10.1.1 the provisions of the appropriate Development Plan;</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the Eyre Peninsula Regional Assessment Panel.
s33(1)(c)	<p>10. Matters Against Which Development Must be Assessed</p> <p>10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development):</p> <p>10.1.3 in relation to a proposed division of land (otherwise than under the Community Titles</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre

Provision	Powers and Functions Delegated	Conditions and Limitations
	Act 1996 or the Strata Titles Act 1988) on the satisfaction of the conditions specified in Section 33(1)(c) of the Act;	<p>Peninsula Regional Assessment Panel in support of their representation.</p> <ul style="list-style-type: none"> Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s33(1)(d)	<p>10.Matters Against Which Development Must be Assessed</p> <p>10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development):</p> <p>10.1.4 in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 on the satisfaction of the conditions specified in Section 33(1)(d) of the Act;</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s33(1)(e)	<p>10.Matters Against Which Development Must be Assessed</p> <p>10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p>

Provision	Powers and Functions Delegated	Conditions and Limitations
	<p>development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development):</p> <p>10.1.5 the requirement that any encroachment of a building over, under, across or on a public place has been dealt with in a satisfactory manner; and</p>	<ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s33(1)(f)	<p>10. Matters Against Which Development Must be Assessed</p> <p>10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development):</p> <p>10.1.6 such other matters as may be prescribed.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or

Provision	Powers and Functions Delegated	Conditions and Limitations
		Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s33(3)	<p>10. Matters Against Which Development Must be Assessed</p> <p>10.2 The power pursuant to Section 33(3) of the Act, when granting a development plan consent, to reserve a decision on a specified matter until further assessment of the development under the Act.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s35(2)	<p>12. Special Provisions Relating to Assessment Against Development Plans</p> <p>12.4 The power pursuant to Section 35(2) of the Act to assess whether or not a development is seriously at variance with the relevant Development Plan.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre

Provision	Powers and Functions Delegated	Conditions and Limitations
		<p>Peninsula Regional Assessment Panel in support of their representation.</p> <ul style="list-style-type: none"> Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s37A(5)	<p>16. Proposed Development Involving Creation of Fortifications</p> <p>16.3 The duty pursuant to Section 37A(5) of the Act if the Commissioner determines that the proposed development involves the creation of fortifications to:</p> <p>16.3.1 if the proposed development consists only of the creation of fortifications - refuse the application; or</p> <p>16.3.2 in any other case - impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s37A(6)	<p>16. Proposed Development Involving Creation of Fortifications</p> <p>16.4 The duty pursuant to Section 37A(6) of the Act, if the Delegate acting on the basis of a determination of the Commissioner under subsection 37A(2) 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 37A of the Act.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation.

Provision	Powers and Functions Delegated	Conditions and Limitations
		<ul style="list-style-type: none"> Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s38(10)(a)	<p>17. Public Notice and Consultation</p> <p>17.6 The power pursuant to Section 38(10)(a) of the Act, in respect of a Category 2 development, to determine whether to allow a person who made a representation to appear personally or by representative before the Delegate.</p>	
s38(10)(b)	<p>17. Public Notice and Consultation</p> <p>17.7 The duty pursuant to Section 38(10)(b) of the Act, in respect of a Category 3 development, to allow a person who made a representation and who as part of that representation indicated an interest in appearing before the Delegate, a reasonable opportunity to appear personally or by representative to be heard in support of the representation.</p>	
s38(11)	<p>17. Public Notice and Consultation</p> <p>17.8 The duty pursuant to Section 38(11) of the Act to allow an applicant to appear personally or by representative before the Delegate or the Council in order to respond to any relevant matter.</p>	
s39(2)	<p>18. Application and Provision of Information</p> <p>18.1 The power pursuant to Section 39(2) of the Act to request an applicant to:</p> <p>18.1.1 provide such additional documents or information to enable assessment of the application;</p> <p>18.1.2 remedy any defect or deficiency in any application or accompanying document or information required by or under the Act;</p> <p>18.1.3 consult with an authority or body prescribed by the Regulations;</p> <p>18.1.4 (where required by the Regulations) prepare a statement of effect in relation to non-complying development; and</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Non-complying applications which are being assessed on their merits, and in respect of which representations have been made,

Provision	Powers and Functions Delegated	Conditions and Limitations
	18.1.5 comply with any other requirement prescribed by the Regulations.	<p>and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation.</p> <ul style="list-style-type: none"> Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s39(4)(a) s39(5)	<p>18. Application and Provision of Information</p> <p>18.7 The power pursuant to Section 39(4)(a) and Section 39(5) of the Act to permit an applicant to vary an application or vary any plans, drawings, specifications or other documents that accompanied an application.</p>	
s39(7)	<p>18. Application and Provision of Information</p> <p>18.12 The power pursuant to Section 39(7) of the Act to approve an application for variation of the conditions of the development authorisation previously given under the Act, or to extend the period for which such authorisation remains operative.</p>	
s39(7)(d)	<p>18. Application and Provision of Information</p> <p>18.14 The power, pursuant to section 39(7)(d) of the Act, to approve the seeking of a variation to extend the period for which the relevant authorisation remains operative.</p>	
s39(7a)	<p>18. Application and Provision of Information</p> <p>18.15 Where granting an application for variation of a development authorisation pursuant to section 39(6), the power, pursuant to section 39(7a), to make specific provision for the variation of a condition imposed with respect to the original authorisation in its decision on the application for variation.</p>	
s39(8)	<p>18. Application and Provision of Information</p> <p>18.16 The power pursuant to Section 39(8) of the Act to issue a consent which provides for the undertaking of development in stages.</p>	
s40(3)	<p>19. Determination of Application</p> <p>19.2 The power pursuant to Section 40(3) of the Act to extend the period of time within which a development authorisation remains operative.</p>	
s42(1)	<p>21. Conditions</p> <p>21.1 The power pursuant to Sections 42(1) and (3) of the Act to attach such conditions as the Delegate thinks fit or as may be prescribed by regulation to any decision under Division 1 of Part 4 of the Act.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre

Provision	Powers and Functions Delegated	Conditions and Limitations
		<p>Peninsula Regional Assessment Panel in support of their representation.</p> <ul style="list-style-type: none"> • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s50(1)	<p>26. Open Space Contribution System</p> <p>26.1 The power pursuant to Section 50(1) of the Act, with respect to an application for the division of land into more than 20 allotments where one or more allotments is less than one hectare in area, to require:</p> <p>26.1.1 that up to 12.5% in area of the relevant area be vested in the Council to be held as open space; or</p> <p>26.1.2 that the applicant make the contribution prescribed by the regulations in accordance with the requirements of by Section 50 of the Act; or</p> <p>26.1.3 that the land be vested in the Council and that the applicant make a contribution determined in accordance with Section 50(7) of the Act, according to the determination and specification of the Council or Delegate.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s50(3)	<p>26. Open Space Contribution System</p> <p>26.3 The power pursuant to Section 50(3) and 50(2)(d) of the Act to enter into an agreement</p>	

Provision	Powers and Functions Delegated	Conditions and Limitations
	on behalf of the Council with the Development Assessment Commission and the applicant under which certain land described by the relevant plan of division will be vested in the Council.	
s50(11)	<p>26. Open Space Contribution System</p> <p>26.6 The power pursuant to Section 50(11) of the Act to determine that the division of land is being undertaken in stages such that Section 50 of the Act does not apply to an application for development authorisation to the extent that an earlier application in respect of the same development has addressed the requirements of Section 50 of the Act in respect of the area of land as a whole.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s50A(5)(c)	<p>27. Carparking Fund</p> <p>27.3 The power pursuant to Section 50A(5)(c) of the Act to determine that a proposal does not provide for sufficient spaces for the parking of cars at the site of a development.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre

Provision	Powers and Functions Delegated	Conditions and Limitations
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s50A(5)(d)	<p>27. Carparking Fund</p> <p>27.4 The power pursuant to Section 50A(5)(d) of the Act to agree with an applicant that a contribution calculated in accordance with a determination of the Council or the Delegate can be made by the applicant to a car parking fund in lieu of providing a certain number of spaces for the parking of cars at the site of a development.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
s50A(5)	<p>27. Carparking Fund</p> <p>27.5 The power pursuant to Section 50A(5) of the Act to make a determination for the purpose of calculating amounts to be paid into a carparking fund.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation.

Provision	Powers and Functions Delegated	Conditions and Limitations
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r51(4)	<p>83. Width of Roads and Thoroughfares</p> <p>83.1 The power pursuant to Regulation 51(4) of the Regulations to dispense with the requirements of Regulation 51(1) and (3) dealing with the width of any proposed road or thoroughfare where the Delegate is of the opinion that the prescribed width is not necessary for the safe and convenient movement of vehicles or pedestrians or for underground services.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
r51(6)	<p>83. Width of Roads and Thoroughfares</p> <p>83.2 The power pursuant to Regulation 51(6) of the Regulations to dispense with the requirements of Regulation 51(5) dealing with the width of a road at the head of every cul-de-sac where it appears that the cul-de-sac is likely to become a through road.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre

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r52(1)	<p>84. Road Widening</p> <p>84.1 The power pursuant to Regulation 52(1) of the Regulations to require a road widening if land to be divided abuts an existing road.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
r53(1), (2)	<p>85. Requirement as to Forming of Roads</p> <p>85.1 The power pursuant to Regulation 53(1) and (2) of the Regulations to specify the width of roads.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre

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		<p>Peninsula Regional Assessment Panel in support of their representation.</p> <ul style="list-style-type: none"> • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
r53(4)	<p>85. Requirement as to Forming of Roads</p> <p>85.2 The power pursuant to Regulation 53(4) of the Regulations to dispense with the requirements of Regulation 53(3) of the Regulations that adequate provision be made for the turning of vehicles at the head of a cul-de-sac where the Delegate is of the opinion that the cul-de-sac is likely to become a through road.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
r53(6)	<p>85. Requirement as to Forming of Roads</p> <p>85.3 The power pursuant to Regulation 53(6) of the Regulations to dispense with the</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p>

Provision	Powers and Functions Delegated	Conditions and Limitations
	requirements of Regulation 53(5) dealing with the forming of footpaths, water-tables, kerbing, culverts and drains on proposed roads.	<ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.
r54(1)	<p>86. Construction of Roads, Bridges, Drains and Services</p> <p>86.1 The power pursuant to Regulation 54(1) of the Regulations to require the paving and sealing of the roadway of proposed roads.</p>	<p>These delegations may only be exercised by the Eyre Peninsula Regional Assessment Panel in respect of:</p> <ul style="list-style-type: none"> • Category 2 applications where representations have been made, and a representor or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Category 3 applications where representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Non-complying applications which are being assessed on their merits, and in respect of which representations have been made, and a representor, or representors wish to address the Eyre Peninsula Regional Assessment Panel in support of their representation. • Other such development applications, which may not satisfy the above criteria, but which the Chief Executive Officer and/or

Provision	Powers and Functions Delegated	Conditions and Limitations
		Coordinator Development Services believe should be determined by the by the Eyre Peninsula Regional Assessment Panel.

REPORT 6.2:**UPDATED EPRAP MEETING PROCEDURES****Officer:****JESS BURNS – REGIONAL ASSESSMENT MANAGER****File Ref:****REP20312**

PURPOSE OF REPORT

The purpose of this report is for the Panel to endorse the amended Eyre Peninsula Assessment Panel Meeting Procedures.

REPORT DETAIL

The RAP Model Meeting Procedures documents have recently been updated by Norman Waterhouse Lawyers. The changes relate to the new role of Panels in undertaking reviews of decisions of their Assessment Managers under Section 203 of the *Planning, Development and Infrastructure Act 2016* (PDI Act).

The meeting procedures that were originally adopted by the Panel on 10 August 2020 have now been updated to include the relevant procedures which reflect the Regional Assessment Panel Review of Decision of Assessment Manager policy. The changes can be seen through the track changes in the document for the Panel's consideration.

The meeting procedures are to be read in conjunction with the existing Regional Assessment Panel Review of Decision of Assessment Manager policy. This policy does not need to be amended or updated at this time.

RECOMMENDATION

That the meeting procedures attached to this report be adopted by the Eyre Peninsula Regional Assessment Panel.

Attachment 6.2:**EPRAP Amended Meeting Procedures Policy October 2020**

Eyre Peninsula Regional Assessment Panel

Meeting Procedures

Adopted by the RAP on ~~10-12 August~~ October 2020

NOTE:

The Minister may make provision with respect to the procedures of a RAP in the Gazette notice pursuant to which it is constituted (Section 84(1)(a) and (e)(ii) of the *Planning, Development and Infrastructure Act 2016*). A RAP must act in accordance with any such meeting procedures.

To the extent that the Minister has not made provision with respect to the procedures of a RAP, either in full or in relation to one or more matters, the RAP may choose to adopt its own procedures, which may incorporate the following model procedures.

A RAP must ensure that it does not adopt any model procedures (or other procedures) which are inconsistent with any procedures prescribed by the Minister in the notice constituting the RAP.

These Meeting Procedures are to be read in conjunction with:

- the Gazette notice pursuant to which the RAP was constituted; and
- the RAP's Policy for Assessment Panel Review of Decision of Assessment Manager (Assessment Manager Review Policy).

1. RAP MEETINGS

Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the Eyre Peninsula Regional Assessment Panel (**RAP**) will be held at such times and places as determined by the RAP.
- 1.2 The time and place of the first meeting of the RAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first RAP meeting to the RAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all RAP Members by the Assessment Manager not less than three (3) clear days prior to the holding of the meeting in accordance with clause 1.4
- 1.4 Notice of a meeting of the RAP must:

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- 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 RAP 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 RAP will be available for viewing by the public on each constituent Council's website and each constituent Council's offices as soon as practicable after the time that notice of the meeting has been given to RAP 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 RAP 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 RAP Meeting to a future date and time, unless the RAP resolves to continue the meeting.
- 1.9 A meeting will break for 10 minutes once every two hours, or more or less often as determined by the Presiding Member.

Special Meetings

- 1.10 The Presiding Member, or two or more RAP Members, may by delivering a written request to the Assessment Manager require a special meeting of the RAP 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 RAP members at least 4 hours before the commencement of the special meeting.

2. DEPUTY MEMBERS

- 2.1 If a RAP 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 RAP 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 RAP 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 RAP 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 RAP 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 RAP.

4. COMMENCEMENT OF MEETINGS

- 4.1 Subject to a quorum being present, a meeting of the RAP 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~~ASSESSMENT OF DEVELOPMENT APPLICATIONS

The procedures in Part 5 of these Meeting Procedures relate only to the RAP's assessment of development applications under Part 7 of the Act and Part 4 of the D Act. NB: The procedures for determining an application for review of an Assessment Manager's decision are contained in the Assessment Manager Review Policy.

5.

- 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 RAP any new or additional material submitted by a representor or applicant. The RAP may defer consideration of the application to enable full and proper assessment of the further information.
- 5.3 Any material to be considered by the RAP pursuant to clause 5.2 must be provided to the applicant and/or representor(s) (as the case maybe) 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 RAP 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 RAP determines that a proposal is seriously at variance with the Development Plan or Planning Rules (as relevant), it must refuse development authorisation to the application.

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- 5.6 In relation to each application to be considered and determined by the RAP:
- 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 RAP and be heard in support of their representation, in person or by an agent;
 - 5.6.2 where one or more representors are heard by the RAP, the applicant is entitled to appear before the RAP to respond to any relevant matter raised by a representor, in person or by an agent;
 - 5.6.3 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;
 - 5.6.4 representors and applicants will be allowed five minutes each to address the RAP. The Presiding Member may allow a party additional time at his or her discretion;
 - 5.6.5 RAP members may question and seek clarification from a representor or applicant who has addressed the RAP at the conclusion of their address; and
 - 5.6.6 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application; and
 - 5.6.7 the Presiding Member will call for a motion for a decision in relation to the relevant application, for which there must be a mover and seconder, and each Member present have the opportunity to speak to the motion, before a vote is called.

6. DECISION MAKING

- 5-76.1 Each Member present at a meeting of the RAP, 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 RAP to provide expert advice and assistance are not entitled to vote.
- 5-86.2 Matters arising for decision at a meeting of the RAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.

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~~5.96.3~~ The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a RAP Member, applicant, representor or other member of the public) to a specified date and time.

~~5.106.4~~ 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:

~~5.10.16.4.1~~ behaving in a disorderly manner; or

~~5.10.26.4.2~~ causing an interruption or disruption to the meeting.

~~6.7.~~ MINUTES AND REPORTING

~~6.47.1~~ The RAP must ensure that accurate minutes are kept of all meetings.

~~6.27.2~~ The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.

~~6.37.3~~ The minutes will record:

~~6.3.17.3.1~~ the names of all Members present;

~~6.3.27.3.2~~ the names of all Members from whom apologies have been received;

~~6.3.37.3.3~~ the name and time that a Member enters or leaves the meeting;

~~7.3.4~~ the name of every person who makes or responds to a representation [in relation to a development application](#);

~~6.3.47.3.5~~ [the name of every person who appears in relation to an application for review of an Assessment Manager decision \(including the Assessment Manager or delegate\)](#);

~~6.3.57.3.6~~ in relation to each [development](#) application ~~determined by the RAP~~:

~~6.3.5.47.3.6.1~~ the determination of the RAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); [and](#)

~~7.3.6.2~~ the reasons for granting or refusing development authorisation and for the imposition of any conditions; and

~~7.3.7~~ [in relation to each application for review of an Assessment Manager decision](#):

7.3.7.1 the determination of the RAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and

6.3.5.27.3.7.2 the reasons for the RAP's decision under Section 203(4) of the Act, including the reasons for the imposition of any new or varied conditions; and

6.3.5.37.3.7.3 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;

6.3.67.3.8 if an application is not determined by the RAP, the deferral of the application and the reasons for the deferral;

6.3.77.3.9 a decision to exclude the public from attendance;

6.3.87.3.10 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 84(1)(g) of the Act, and the nature of the interest;

6.3.97.3.11 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

6.3.107.3.12 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.

6.47.4 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 RAP meeting.

7.8. **ADDITIONAL PROCEDURES**

7.18.1 Insofar as any procedure to be followed by the RAP is not prescribed by the Act, any regulations made under the Act (and, during the transition to the Act, the Development Act and *Development Regulations 2008*), the notice published in the Gazette constituting the RAP, the RAP's Terms of Reference, the Code of Conduct, [the Assessment Manager Review Policy](#) or these Meeting Procedures - the RAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.

7.28.2 The RAP 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.

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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, on ~~40 August~~ 12 October 2020, the RAP 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.

8.9. DEFINITIONS

The following definitions apply in relation to these temporary amendments:

8.49.1 *connect* means able to hear and/or see the meeting by electronic means, including via a live stream

8.29.2 *disconnect* means to remove the connection so as to be unable to hear and see the meeting

8.39.3 *electronic means* includes a telephone, computer or other electronic device used for communication

8.49.4 *live stream* means the transmission of audio and/or video from a meeting at the time the meeting is occurring

9.10. AMENDMENTS TO CLAUSE 1

9.410.1 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*

9.210.2 Sub-clause 1.6 of the Ordinary Meeting Procedures is amended with the deletion of the words “*and at each constituent Council's offices*”.

~~40.11.~~ **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 for public viewing, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance.*
- 3A.5 *Where the public has been excluded from attendance, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for RAP members disconnect from or are disconnected from the meeting.*
- 3A.6 *The RAP will have regard to the matters set out in Regulation 13 of the Planning, Development and Infrastructure (General) Regulations 2017 when deciding whether to exclude the public from attendance, but is not bound by that Regulation.*

~~44.12.~~ **AMENDMENTS TO CLAUSE 5**

~~44.12.1~~ Sub-clause 5.6 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:

- 5.6.78 *Clauses 5.6.1 to 5.6.34 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.*

13. AMENDMENTS TO CLAUSE 6

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~~44.2~~13.1 Sub-clause ~~5.106.4~~ of the Ordinary Meeting Procedures is amended with the inclusion of the words “or disconnect from” after the word “leave”. As amended, sub-clause ~~5.106.4~~ 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: ...’*

13.2 Clause 6 of the Ordinary meeting Procedures is supplemented with the inclusion of the following additional paragraph:

6.5 *Where a person is entitled or has been requested to appear before the RAP in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate), the person may appear via electronic means. The Presiding Member may require that any such appearance be via electronic means*

~~42.14.~~ AMENDMENTS TO CLAUSE 76

Sub-clause ~~76.3~~ 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.*