

AGENDA

for the

EYRE PENINSULA

REGIONAL ASSESSMENT PANEL

MEETING

to be held on

MONDAY 10 AUGUST 2020

commencing at 5.30pm

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



5 August 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: 10 August 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

ACTING 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

A G E N D A

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 SA 5606
FILE REF	AGEN2036

Members:

Presiding Member Rob Donaldson

Members Alex Mackenzie

Jodie Isle

Darren Starr

Cheryle Pedler

Staff:

Acting Regional Assessment Manager Jess Burns

Minute Secretary Rachel McGuire

1. **PRESENT**

2. **APOLOGIES**

3. **WELCOME TO THE EYRE PENINSULA REGIONAL ASSESSMENT PANEL**

4. **CONFLICT OF INTEREST DECLARATION**

5. REPORTS

- 5.1. *ASSESSMENT PANEL MEMBERS CODE OF CONDUCT*
- 5.2. *TERMS OF REFERENCE*
- 5.3. *MEETING PROCEDURES FOR EPRAP*
- 5.4. *DELEGATION OF EPRAP POWERS AND DUTIES*
- 5.5. *STANDING REFERRAL FOR BUILDING WORK*
- 5.6. *REVIEW OF ASSESSMENT MANAGER DECISION*
- 5.7. *MANAGEMENT OF ERD COURT APPEALS AGAINST DECISIONS OF EPRAP*

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

REPORT 5.1: CODE OF CONDUCT FOR ASSESSMENT PANEL MEMBERS

Officer: JESS BURNS – ACTING REGIONAL ASSESSMENT MANAGER

File Ref: REP20255

PURPOSE OF REPORT

The purpose of this report is for the Panel to note the Assessment Panel Members – Code of Conduct that has been adopted by the Minister.

REPORT DETAIL

Under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (PDI Act) the Minister may adopt a code of conduct to be observed by members of an assessment panel established under the PDI Act. This code of conduct sets out standards of conduct and professionalism that are to be observed by all members of assessment panels under the PDI Act.

For the purposes of the PDI Act, a key requirement is that all members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of development assessment under the Act.

The code is the key tool to ensure that all members of assessment panels act honestly and ethically with a high degree of accountability. If a member of an assessment panel has any doubt in regard to any function they may perform under the Act they should seek the advice of the panel's assessment manager or some other appropriate person.

While some members of an assessment panel may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this code of conduct and any other professional code or standard, this code prevails for the purposes of the Act.

RECOMMENDATION

That the Eyre Peninsula Regional Assessment Panel receives and notes the '*Assessment Panel Members – Code of Conduct*' as attached.

Attachment 5.1: Assessment Panel Members – Code of Conduct



Assessment Panel Members – Code of Conduct

Introduction

Under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (PDI Act) the Minister may adopt a code of conduct to be observed by members of an assessment panel established under the PDI Act. This code of conduct sets out standards of conduct and professionalism that are to be observed by all members of assessment panels under the PDI Act. This code of conduct must be read in conjunction with the Act.

For the purposes of the PDI Act, a key requirement is that all members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of development assessment under the Act.

The code is the key tool to ensure that all members of assessment panels act honestly and ethically with a high degree of accountability. If a member of an assessment panel has any doubt in regard to any function they may perform under the Act they should seek the advice of the panel's assessment manager or some other appropriate person.

While some members of an assessment panel may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this code of conduct and any other professional code or standard, this code prevails for the purposes of the Act.

Legislative framework

Under section 15 of the PDI Act, all members of assessment panels are subject to a statutory duty as described in the section as follows:

- (1) *It is expected that a person or body that—*
- (a) *seeks to obtain an authorisation under this Act; or*
 - (b) *performs, exercises or discharges a function, power or duty under this Act; or*
 - (c) *takes the benefit of this Act or is otherwise involved in a process provided by this Act, will—*
 - (d) *act in a cooperative and constructive way; and*
 - (e) *be honest and open in interacting with other entities under this Act; and*
 - (f) *be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*

- (2) *Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must-*
- (a) *exercise professional care and diligence; and*
 - (b) *act honestly and in an impartial manner; and*
 - (c) *be responsible and accountable in its conduct; and*
 - (d) *comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) *The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) *The principles and benchmarks under this section— (a) do not give rise to substantive rights or liabilities; but (b) may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*

Code of conduct requirements

In acting as a member of an assessment panel, a member must comply with the following requirements.

General duties

1. A member of an assessment panel must in performing, exercising or discharging a function, power or duty under the PDI Act, act in accordance with the general duties as set out in section 15 of the PDI Act.

Act in the public interest

2. A member of an assessment panel must act in a manner that promotes or protects the public interest.

Procedures

3. A member of an assessment panel must ensure that the procedures specified in the Act or prescribed in the *Planning Development and Infrastructure (General) Regulations 2017* are complied with.
4. A member of an assessment panel must comply with the panel procedures in relation to public comments and communication with the media

Regard for honesty

5. A member of an assessment panel must act with integrity, good faith and equity and must not discriminate toward any person in performing their duties.
6. A member of an assessment panel must advise the assessment manger and the Commission immediately if the member:
 - a. is the subject of a formal investigation into, or have been found to have, breached any other code of conduct, ethical standards or similar, either in another State or through a professional body of which they are a member; or
 - b. has been found guilty of a breach of any Act related to planning, building or a development related matter.

Conflict of interest

7. A member of an assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the council development assessment panel (other than an indirect interest that exists in common with a substantial class of persons)—
 - a. must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and
 - b. must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.
8. A member of an assessment panel will be taken to have an interest in a matter for the purposes of item 7 if an associate of the member (within the meaning of section 3 (7) of the PDI Act) has an interest in the matter.
9. If an interest has been declared by a member of an assessment panel the nature of the interest must be recorded in the minutes of the meeting.

Making decisions and taking action

10. A member of an assessment panel must take all reasonable steps to obtain all relevant facts and information when making a decision on a matter before the panel.
11. A member of an assessment panel must ensure that the member's decisions and actions are reasonable, fair and appropriate to the circumstances, based on consideration of all relevant facts obtained, and supported by adequate documentation.
12. A member of an assessment panel must not approach or discuss with an applicant or representor any application which is either before the panel or will come before the panel at some future time expect during the course of a panel meeting where the application forms part of the agenda and the applicant or representor has a right to be heard by the panel.
13. Except where required as part of the assessment of a particular decision such as a formal panel viewing of a site of a proposed development, you should not enter the site even if invited by the land owner or a neighbouring property owner or any other person.
14. A member of an assessment panel must not:
 - a. engage in consultation outside of the panel process with any party on a proposed development application that is likely to be heard by the panel;
 - b. give advice to an applicant or other third party on a development application after it has been lodged outside of a panel meeting;
 - c. speak at a public meeting for or against a proposal where the purpose of the meeting is to discuss either a proposed development or a development application unless required by the Act;
 - d. express an opinion on a development application or a proposed development outside of a panel meeting; and
 - e. engage in any other act or omission which may give rise to a reasonable presumption that you have prejudged a development proposal or application.

Public comment

15. Only the presiding member or another person determined by the panel is permitted to speak publicly to the media and address the public on behalf of the panel. No other panel member may make comment to the media or the public in relation to any matter before the panel or any decision of the panel.

Protection and use of information

16. A member of an assessment panel must maintain the integrity and security of confidential information in their possession and must not use confidential information gained by virtue of the member's official position for the purpose of securing a private benefit for the member or any other person.
17. A member of an assessment panel must not disclose information acquired in the course of their professional work other than if consent of the relevant person has been granted or where there is a legal or professional duty to disclose such information.

Proper exercise of power

18. A member of an assessment panel must not take advantage of the member's position, power or duties for the purpose of obtaining, either directly or indirectly, any preferential treatment or other improper advantage for the member or any other person.

Gifts and benefits

19. A member of an assessment panel must not seek or accept a gift or benefit that is intended to, is likely to or could be perceived as likely to, cause them to act in an unfair or biased manner in the course of the member's duties.
20. A member of an assessment panel must take all reasonable steps to ensure that a person related to the member does not receive gifts or benefits that could appear to be an attempt to influence or secure or have the effect of influencing or securing a favour from the member of an assessment panel. A person is related to a member of an assessment panel for the purpose of this provision if the person is spouse, de facto partner, sibling, parent or child of the member of the assessment panel.

Bias

21. A member of an assessment panel should always have regard to any affiliation, disposition or any material, pecuniary or other interest that would lead to a reasonable apprehension that they may be biased in carrying out any aspect of their role under the Act.

REPORT 5.2: **EYRE PENINSULA REGIONAL ASSESSMENT PANEL TERMS OF REFERENCE**

Officer: **JESS BURNS – ACTING REGIONAL ASSESSMENT MANAGER**

File Ref: **REP20257**

PURPOSE OF REPORT

The purpose of this report is for the Panel to adopt the Eyre Peninsula Regional Assessment Panel Terms of Reference.

REPORT DETAIL

Pursuant to the *Planning, Development and Infrastructure Act 2016* (PDI Act), a Regional Assessment Panel (the Panel) established by the Minister for Planning must act in accordance with the PDI Act. A Terms of Reference is required for the Panel.

Attached is a Draft Terms of Reference for the Panel’s consideration. The Terms of Reference was drafted in conjunction with Kelliedy Jones lawyers together with the Service Agreement of the ten member Councils to form the Panel and was submitted to the Minister when the request to establish a Regional Assessment Panel was initiated.

RECOMMENDATION

That the Eyre Peninsula Regional Assessment Panel receives and notes the ‘*Eyre Peninsula Regional Assessment Panel Terms of Reference*’ as attached.

Attachment 5.2: **Eyre Peninsula Regional Assessment Panel Terms of Reference**

EYRE PENINSULA REGIONAL ASSESSMENT PANEL

TERMS OF REFERENCE

Name

1. The name of the Panel shall be the Eyre Peninsula Regional Assessment Panel ("the Panel").

Establishment

2. The Panel is established by the Minister for Planning ("the Minister") pursuant to Section 84(1) of the *Planning, Development and Infrastructure Act 2016* (the "PDI Act").
3. The Panel is, pursuant to section 84(1)(c) of the PDI Act, constituted for the areas of the following councils:
 - 3.1 City of Port Lincoln;
 - 3.2 The District Council of Ceduna;
 - 3.3 District Council of Cleve;
 - 3.4 District Council of Elliston;
 - 3.5 District Council of Franklin Harbour;
 - 3.6 District Council of Kimba;
 - 3.7 District Council of Lower Eyre Peninsula;
 - 3.8 District Council of Streaky Bay;
 - 3.9 District Council of Tumby Bay; and
 - 3.10 Wudinna District Council.

(together referred to as "the Councils")
4. The Panel will, at all times, act in accordance with the PDI Act, the Minister's notice constituting the Panel, the Code of Conduct adopted by the Minister under Schedule 3 of the PDI Act and these Terms of Reference.

Number of Panel members

5. Pursuant to section 84(1)(e)(i)(A) of the PDI Act, the Panel is constituted of five (5) members, none of which may be a member of a councils.

Appointment of members

6. Pursuant to section 84(1)(e) of the PDI Act, the Minister makes provision for the appointment of members of the Panel as follows:

- 6.1 all members of the Panel, must be accredited as an accredited professional – planning level 2 under the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*;
- 6.2 prior to the appointment of the initial Panel and, thereafter (as relevant):
 - 6.2.1 within one (1) month after the resignation of, or termination of appointment of a Panel member; or
 - 6.2.2 within two (2) months prior to the expiry of each term of the Panel,
- 6.3 the Councils will appoint Panel members in accordance with a Service Agreement agreed by the Council;
- 6.4 At the expiration of a term of appointment, a Panel member is eligible for reappointment.
- 6.5 The Councils may appoint deputy members to the Panel in accordance with a Service Agreement agreed by the Councils.
- 7. The Councils may appoint the presiding member of the Panel in accordance with a Service Agreement agreed by the Councils.
- 8. The Panel may appoint an acting presiding member whenever required, in its discretion.

Term of office

- 9. Members of the Panel, including deputy Members, as relevant, will be appointed for two (2)-year terms.

Conditions of appointment and grounds for removal from office

- 10. Panel members are appointed to the Panel subject to the condition that all Panel members must maintain the accreditation required by clause 6.1 above for the term of their appointment.
- 11. Appointment to the Panel will expire if the Panel member:
 - 11.1 fails to comply with clause 10 above;
 - 11.2 dies;
 - 11.3 resigns by giving written notice of his/her resignation to the Minister;
 - 11.4 becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors;
 - 11.5 is convicted of an offence;
 - 11.6 is removed from office under clause 10 below.
- 12. The Councils may, in accordance with the terms of a Service Agreement agreed by them, remove a Panel member from the Panel on the following grounds:

- 12.1 maladministration;
 - 12.2 misconduct;
 - 12.3 neglect of duty;
 - 12.4 incapacity to carry out satisfactorily the duties of his/her office;
 - 12.5 failure to carry out satisfactorily the duties of his/her office;
 - 12.6 failure to disclose his/her financial interests in accordance with Schedule 1 of the PDI Act;
 - 12.7 upon receipt of a recommendation or direction from the State Planning Commission that the Panel member be removed from office pursuant to regulation 11 of the PDI Regulations.
- 13. If a vacancy in the membership of the Panel occurs, subject to clause 6.2.1 above, the Councils will, in accordance with the terms of a Service Agreement agreed by them, fill that vacancy at the earliest opportunity.
 - 14. An act of the Panel is not invalid by reason only of a vacancy in its membership.
 - 15. The remuneration of Panel members will be determined by the Councils. The Councils are responsible for the payment of remuneration to Panel members.
 - 16. The costs of and associated with the Panel will be borne by the Councils.

Purpose

- 17. The Panel is the relevant authority for development applications within the areas of the Councils as specified by section 93 the PDI Act.

Powers and Functions

- 18. The powers, functions and duties of the Panel are to be exercised in accordance with the PDI Act, the *Planning, Development and Infrastructure (General) Regulations 2017* ("the PDI Regulations") and these Terms of Reference.
- 19. The powers, functions and duties of the Panel are assigned by section 93 of the PDI Act and Part 5 of the PDI Regulations.
- 20. The Panel has the power to delegate its powers, functions and duties pursuant to section 100 of the PDI Act.

Register of Financial Interests

- 21. The Councils will maintain a register containing the disclosures of financial interests made by the members of the Panel pursuant to their obligation under Schedule 1 of the PDI Act.

Assessment Manager

22. The Panel must have an Assessment Manager in accordance with Section 87 of the PDI Act.
23. The Assessment Manager be appointed by the Chief Executive of the Department of Planning, Transport and Infrastructure having regard to a nomination provided by the Councils.
24. The costs associated with the Assessment Manager will be borne by the Councils.

Meetings of the Panel

25. Meetings of the Panel must take place as determined by the Panel from time to time.
26. Meetings may be held by telephone, audio-visual or other instantaneous means (telecommunications meeting) provided that at least a quorum is present.
27. The meeting procedures of the Panel are those prescribed by the PDI Regulations.
28. Notice of a Panel meeting (whether ordinary or special) and the accompanying agenda will be given by the Assessment Manager to each Panel member and provided to each of the Councils not less than three clear working days prior to the meeting.

Reporting

29. The Assessment Manager shall present an annual report detailing the Panel's activities to each of the Councils before 30 September in each year.

Circumstances not provided for

30. If a circumstance arises in respect of which these Terms of Reference are silent or are incapable of being implemented, the Panel is authorised to determine by way of a unanimous decision of the Panel how to proceed and to carry out any action that the Panel deems must be taken.
31. In the event that an issue remains unresolved the Panel shall refer the matter to the Assessment Manager for direction.

REPORT 5.3: MEETING PROCEDURES FOR EPRAP

Author: ROB DONALDSON – PRESIDING MEMBER

File Ref: REP20258

BACKGROUND

The Eyre Peninsula Regional Assessment Panel (the Panel) has been established under the Planning Development and Infrastructure Act 2016 (the Act) to operate in relation to a defined scope of development assessment matters across ten local government areas of the Eyre Peninsula.

REPORT DETAIL

Consistent with other assessment panels established under the Act, it is necessary for the Panel to adopt a Meeting Procedures policy to guide the conduct of its formal activities. The Local Government Association of SA (LGA) has provided template Meeting Procedures prepared by Norman Waterhouse lawyers to assist in this decision.

The LGA meeting procedures template has been used to develop a draft Meeting Procedures document for consideration by the Panel, and subsequent adoption of a policy reflecting the preferred settings.

The attached draft Meeting Procedures document includes optional clauses from the LGA template, shown in blue highlight. In each case the option included is intended to support the efficient, effective, transparent, accountable, risk-managed operation of the Panel.

The draft document is presented for discussion, prior to the Panel adopting a preferred form of Meeting Procedures policy.

RECOMMENDATION

That the Meeting Procedures policy attached to the Report to the meeting of 10 August 2020 be adopted by Eyre Peninsula Regional Assessment Panel, subject to the following variations:

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Attachment 5.3: Draft Meeting Procedures for EPRAP

Eyre Peninsula Regional Assessment Panel

Meeting Procedures

Adopted by the RAP on 10 August 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.

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:

- 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 Manger 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 Manger 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 Manger 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

- 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 may be) in a manner directed by the Assessment Manager and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Assessment Manager.
- 5.4 In relation to each application it considers, the 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.
- 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 a person who has lodged a representation in relation to either a Category 2 application under the *Development Act 1993* or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 5.1 and who has indicated that they wish to be heard on their representation may, at the discretion of the Presiding Member, appear before the RAP and be heard in support of their representation, in person or by an agent; **[DELETE THIS IF 5.6.1 ALLOWS BOTH]**
- 5.6.3 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;
- 5.6.4 where no representors appear at the meeting, the Presiding Member may, in his or her discretion, allow an applicant to be heard in support of his or her application, in person or by an agent;
- 5.6.5 representors and applicants will be allowed five minutes each to address the RAP. The Presiding Member may allow a party additional time at his or her discretion;
- 5.6.6 RAP members may question and seek clarification from a representor or applicant who has addressed the RAP at the conclusion of their address; and
- 5.6.7 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application; and
- 5.6.8 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.
- 5.7 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.
- 5.8 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. **[MOST OF THIS SEEMS TO DUPLICATE 5.7]**

- 5.9 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.
- 5.10 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave a meeting where he or she is, in the opinion of the Presiding Member:
 - 5.10.1 behaving in a disorderly manner; or
 - 5.10.2 causing an interruption or disruption to the meeting.

6. MINUTES AND REPORTING

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

of a development made by a Member in accordance with Section 84(1)(g) of the Act, and the nature of the interest;

- 6.3.9 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (**Code of Conduct**), and the nature of the interest; and
- 6.3.10 if a meeting is adjourned by the Presiding Member, the reason for the adjournment and the date and time to which the meeting is adjourned.

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

7. **ADDITIONAL PROCEDURES**

- 7.1 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 or these Meeting Procedures - the RAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.
- 7.2 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.

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 10 August 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. DEFINITIONS

The following definitions apply in relation to these temporary amendments:

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

9. AMENDMENTS TO CLAUSE 1

- 9.1 Sub-clause 1.4 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraphs:
 - 1.4.6 *where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and*
 - 1.4.7 *where the meeting is to be live streamed for viewing by members of the public, include details of how to access and/or connect to the live stream*
- 9.2 Sub-clause 1.6 of the Ordinary Meeting Procedures is amended with the deletion of the words “*and at each constituent Council’s offices*”.

10. **ADDITIONAL CLAUSE 3A**

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

- 3A.1 *One or more Panel members may attend a meeting via electronic means.*
- 3A.2 *A Member attending a meeting by electronic means is taken to be present at the meeting provided that the Member:*
 - 3A.2.1 *can hear and, where possible, see all other Members who are present at the meeting;*
 - 3A.2.2 *can hear and, where possible, see, all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;*
 - 3A.2.3 *can be heard and, where possible, seen by all other Members present at the meeting; and*
 - 3A.2.4 *can be heard and, where possible, seen by the person recording the minutes of the meeting.*
- 3A.3 *Where a meeting occurs via electronic means, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.*
- 3A.4 *Where a meeting is being live streamed 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.*

11. **AMENDMENTS TO CLAUSE 5**

- 11.1 Sub-clause 5.6 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:
 - 5.6.8 *Clauses 5.6.1 to 5.6.4 are satisfied if a representor or applicant (as the case may be) appears via electronic means. The Presiding Member may require that any such appearance be via electronic means.*

- 11.2 Sub-clause 5.10 of the Ordinary Meeting Procedures is amended with the inclusion of the words “*or disconnect from*” after the word “*leave*”. As amended, sub-clause 5.10 is as follows:

5.10 *The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or disconnect from a meeting where he or she is, in the opinion of the Presiding Member: ...’*

12. **AMENDMENTS TO CLAUSE 6**

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

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

REPORT 5.4: DELEGATION OF EPRAP POWERS AND DUTIES

Author: ROB DONALDSON – PRESIDING MEMBER

File Ref: REP20256

BACKGROUND

The Eyre Peninsula Regional Assessment Panel (the Panel) has been established under the Planning Development and Infrastructure Act 2016 (the Act) to operate in relation to a defined scope of development assessment matters across ten local government areas of the Eyre Peninsula.

REPORT DETAIL

Consistent with other relevant authorities under the Act, it is necessary for the Panel to delegate relevant powers and duties to ensure the efficient and effective conduct of its activities. The Local Government Association of SA (LGA) has provided template delegation instruments prepared by Norman Waterhouse lawyers to assist relevant authorities in the delegation process.

Instrument C of the LGA templates has been used to develop a draft Instrument of Delegation from the Panel, for consideration and subsequent adoption of an Instrument reflecting the preferred balance of delegation, limitation and retention of powers and duties.

It is recommended that the Panel delegate the majority of its powers and duties to the Regional Assessment Manager (RAM), including the capacity to sub-delegate (to appropriate persons engaged or employed by the ten constituent councils) to enable development assessment activities to be undertaken in relation to matters within the Panel's scope. The matters not recommended for delegation and the limitations included are intended to enable the Panel to retain relevant powers and duties appropriate to its purpose.

Notwithstanding the delegation of powers and duties, the Panel can act in any matter when required; the RAM can also refer delegated matters to the Panel when she deems necessary or appropriate.

The draft Instrument of Delegation of powers and duties by the Panel is presented for discussion, prior to the Panel adopting a preferred Instrument.

RECOMMENDATION

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 to the Report dated 10 August 2020) and entitled 'Delegation of EPRAP Powers and Duties', 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.**

Attachment 5.4: Draft Delegation of EPRAP Powers and Duties

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)

10 August 2020

NOTES

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument.

2. Refer to the relevant Assessment Panel decision to identify when these delegations were made, reviewed and or amended.

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 Conditions/limitations included in this Instrument of Delegation

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)			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s7(5)(a)	<p>1. Environment and Food Production Areas – Greater Adelaide</p> <p>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.</p>	Not Delegated	
s7(5)(d)	<p>1. Environment and Food Production Areas – Greater Adelaide</p> <p>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</p>	Not Delegated	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	development, refuse to grant development authorisation in relation to the proposed development.		
s85(1)	<p>2. Appointment of Additional Members</p> <p>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.</p>	Not Delegated	
s94(3)(a)	<p>3. Relevant Authority – Commission</p> <p>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.</p>	Not Delegated	
s99(1)	<p>4. Relevant Provisions</p> <p>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:</p> <p>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</p> <p>4.1.2 require that the assessment of the development in respect of the Building Rules be undertaken by a building certifier.</p>	Assessment Manager	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s102(1)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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):</p> <p>5.1.1 -</p> <p>5.1.1.1 the relevant provisions of the Planning Rules; and</p> <p>5.1.1.2 to the extent provided by Part 7 Division 2 of the PDI Act – the impacts of the development,</p> <p>(planning consent);</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.
s102(1)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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):</p> <p>5.1.2 the relevant provisions of the Building Rules (building consent);</p>	Standing Referral	
s102(1)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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):</p> <p>5.1.3 in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988) - the requirement that the</p>	Assessment Manager	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):</p> <p>5.1.3.1 requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;</p> <p>5.1.3.3 the requirements of a water industry entity under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are satisfied;</p> <p>5.1.3.4 where land is to be vested in a council or other authority - the council or authority consents to the vesting;</p> <p>5.1.3.5 requirements set out in regulations made for the purposes of Section 102(1)(c) of the PDI Act are satisfied;</p>		
s102(1)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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):</p> <p>5.1.4 in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 - the requirement that the following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):</p> <p>5.1.4.1 requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;</p> <p>5.1.4.2 any relevant requirements set out in a design standard has been satisfied;</p>	Assessment Manager	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>5.1.4.3 any encroachment of a lot or unit over other land is acceptable having regard to any provision made by the Planning and Design Code or a design standard;</p> <p>5.1.4.4 where land is to be vested in a council or other authority - the council or authority consents to the vesting;</p> <p>5.1.4.5 a building or item intended to establish a boundary (or part of a boundary) of a lot or lots or a unit or units is appropriate for that purpose;</p> <p>5.1.4.6 the division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 is appropriate having regard to the nature and extent of the common property that would be established by the relevant scheme;</p> <p>5.1.4.7 the requirements of a water industry entity under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are satisfied;</p> <p>5.1.4.8 any building situated on the land complies with the Building Rules;</p> <p>5.1.4.9 requirements set out in the regulations made for the purposes of Section 102(d) of the PDI Act are satisfied;</p>		
s102(1)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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):</p> <p>5.1.5 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;</p>	Assessment Manager	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s102(1)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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):</p> <p>5.1.6 if relevant - requirements applying under Part 15 Division 2 of the PDI Act are satisfied;</p>	Assessment Manager	
s102(1)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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):</p> <p>5.1.7 such other matters as may be prescribed.</p>	Assessment Manager	
s102(3)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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:</p> <p>5.2.1 until further assessment of the relevant development under the PDI Act; or</p> <p>5.2.2 until further assessment or consideration of the proposed development under another Act; or</p> <p>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.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s102(4)	<p>5. Matters Against Which Development Must Be Assessed</p> <p>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.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.
s107(2)(c)	<p>6. Performance Assessed Development</p> <p>6.1 The power pursuant to Section 107(2)(c) of the PDI Act to form the opinion that the development is seriously at variance with the Planning and Design Code (disregarding minor variations).</p>	Not Delegated	
s107(3)	<p>6. Performance Assessed Development</p> <p>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.</p>	Assessment Manager	
s107(4)	<p>6. Performance Assessed Development</p>	Assessment Manager	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	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.		
s118(1)	<p>7. Building Consent</p> <p>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).</p>	Standing Referral	
s118(2)(a)	<p>7. Building Consent</p> <p>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.</p>	Standing Referral	
s118(2)	<p>7. Building Consent</p> <p>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:</p> <p>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:</p> <p>7.3.1.1 that:</p>	Standing Referral	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>(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</p> <p>(b) the variance is justifiable having regard to the objects of the Planning and Design Code or the performance requirements of the Building Code or a Ministerial building standard (as the case may be) and would achieve the objects of this Act as effectively, or more effectively, than if the variance were not to be allowed; or</p> <p>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.</p>		
s118(4)	<p>7. Building Consent</p> <p>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.</p>	Standing Referral	
s118(6)	<p>7. Building Consent</p> <p>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.</p>	Standing Referral	
s118(7)	<p>7. Building Consent</p> <p>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</p>	Standing Referral	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	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.		
s118(8)	<p>7. Building Consent</p> <p>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:</p> <p>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</p> <p>7.7.2 such compliance is certified by a building certifier.</p>	Standing Referral	
s118(10)	<p>7. Building Consent</p> <p>7.8 The power pursuant to Section 118(10) of the PDI Act to refuse to grant a consent in relation to any development if, as a result of that development, the type or standard of construction of a building of a particular classification would cease to conform with the requirements of the Building Rules for a building of that classification</p>	Standing Referral	
s118(11)	<p>7. Building Consent</p> <p>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):</p>	Standing Referral	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>7.9.1 the variance; and</p> <p>7.9.2 the grounds on which the decision is being made.</p>		
s119(1)(b)	<p>8. Application and Provision of Information</p> <p>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.</p>	Assessment Manager	
s119(3)	<p>8. Application and Provision of Information</p> <p>8.2 The power pursuant to Section 119(3) of the PDI Act to request an applicant:</p> <p>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;</p> <p>8.2.2 to remedy any defect or deficiency in any application or accompanying document or information required by or under the PDI Act;</p> <p>8.2.3 to consult with an authority or body prescribed by the regulations;</p> <p>8.2.4 to comply with any other requirement prescribed by the regulations.</p>	Assessment Manager	
s119(6)	<p>8. Application and Provision of Information</p> <p>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</p> <p>8.3.1 subject to Section 119(6)(b)(ii) of the PDI Act, refuse the application; and</p>	Not Delegated	

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)

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	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).		
s119(7)	<p>8. Application and Provision of Information</p> <p>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.</p>	Assessment Manager	
s119(9)	<p>8. Application and Provision of Information</p> <p>8.5 The power pursuant to Section 119(9) of the PDI Act to:</p> <p>8.5.1 permit an applicant:</p> <p>8.5.1.1 to vary an application;</p> <p>8.5.1.2 to vary any plans, drawings, specifications or other documents that accompanied an application,</p> <p>(provided that the essential nature of the proposed development is not changed);</p> <p>8.5.2 permit an applicant to lodge an application without the provision of any information or document required by the regulations;</p> <p>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);</p> <p>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</p>	Assessment Manager	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	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.		
s119(10)	<p>8. Application and Provision of Information</p> <p>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.</p>	Assessment Manager	
s119(12)	<p>8. Application and Provision of Information</p> <p>8.7 The power pursuant to Section 119(12) of the PDI Act to, in a consent, provide for, or envisage, the undertaking of development in stages, with separate consents or approvals for the various stages.</p>	Assessment Manager	
s119(14)	<p>8. Application and Provision of Information</p> <p>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.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s120(1)	<p>9. Outline Consent</p> <p>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.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.
s120(3)	<p>9. Outline Consent</p> <p>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:</p> <p>9.2.1 grant any consent contemplated by the outline consent; and</p> <p>9.2.2 not impose a requirement that is inconsistent with the outline consent.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s121(7)	<p>10. Design Review</p> <p>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).</p>	Assessment Manager	
s122(1)	<p>11. Referrals to Other Authorities or Agencies</p> <p>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:</p> <p>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</p> <p>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</p> <p>where the regulations so provide, subject to Section 122 of the PDI Act.</p>	Assessment Manager	
s122(5)(b)	<p>11. Referrals to Other Authorities or Agencies</p> <p>11.2 The power pursuant to Section 122(5)(b) of the PDI Act, acting by direction of a prescribed body:</p> <p>11.2.1 to refuse the application; or</p> <p>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)</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	where the regulations so provide.		<p>response to written representations (even if the representor has not requested to speak).</p> <p>3. A decision to refuse development authorisation.</p> <p>4. Development authorisation where the estimated value of the development is greater than \$1 million.</p>
s122(7)	<p>11. Referrals to Other Authorities or Agencies</p> <p>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.</p>	Assessment Manager	
s122(10)	<p>11. Referrals to Other Authorities or Agencies</p> <p>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.</p>	Assessment Manager	
s123(2)	<p>12. Preliminary Advice and Agreement</p> <p>12.1 The power pursuant to Section 123(2) of the PDI Act, if:</p> <p>12.1.1 a proposed development is referred to a prescribed body under Section 123(1) of the PDI Act; and</p> <p>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</p>	Assessment Manager	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>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),</p> <p>to, subject to Section 123(4) of the PDI Act if an application for planning consent with respect to the development is lodged with the relevant authority within the prescribed period after the prescribed body has indicated its agreement under Section 123(2)(c) of the PDI Act, form the opinion and be satisfied that the application accords with the agreement indicated by the prescribed body (taking into account the terms or elements of that agreement and any relevant plans and other documentation).</p>		
s123(4)	<p>12. Preliminary Advice and Agreement</p> <p>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.</p>	Assessment Manager	
s124(1)	<p>13. Proposed Development Involving Creation of Fortifications</p> <p>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).</p>	Assessment Manager	
s124(5)	<p>13. Proposed Development Involving Creation of Fortifications</p> <p>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:</p>	Not Delegated	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>13.2.1 if the proposed development consists only of the creation fortifications - refuse the application; or</p> <p>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</p>		
s124(6)	<p>13. Proposed Development Involving Creation of Fortifications</p> <p>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.</p>	Assessment Manager	
s124(7)	<p>13. Proposed Development Involving Creation of Fortifications</p> <p>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.</p>	Assessment Manager	
s125(6)	<p>14. Time Within Which Decision Must be Made</p> <p>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.</p>	Assessment Manager	
s125(7)	<p>14. Time Within Which Decision Must be Made</p> <p>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.</p>	Assessment Manager	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s126(1)	<p>15. Determination of Application</p> <p>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).</p>	Assessment Manager	
s126(3)	<p>15. Determination of Application</p> <p>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.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.
s127(1)	<p>16. Conditions</p> <p>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.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel.

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			<p>2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak).</p> <p>3. A decision to refuse development authorisation.</p> <p>4. Development authorisation where the estimated value of the development is greater than \$1 million.</p>
s127(2)(c)	<p>16. Conditions</p> <p>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.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <p>1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel.</p> <p>2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak).</p> <p>3. A decision to refuse development authorisation.</p> <p>4. Development authorisation where the estimated value of the development is greater than \$1 million.</p>
s127(4)	<p>16. Conditions</p> <p>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</p>	Not Delegated	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	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).		
s127(6)	<p>16. Conditions</p> <p>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.</p>	Not Delegated	
s127(8)(b)	<p>16. Conditions</p> <p>16.5 The power pursuant to Section 127(8)(b) of the PDI Act to:</p> <p>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;</p> <p>16.5.2 to seek the Minister's concurrence to grant an exemption under Section 127(8)(b) of the PDI Act.</p>	Not Delegated	
s128(2)(d)	<p>17. Variation of Authorisation</p> <p>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.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <p>1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel.</p>

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			<p>2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak).</p> <p>3. A decision to refuse development authorisation.</p> <p>4. Development authorisation where the estimated value of the development is greater than \$1 million.</p>
s134(1)	<p>18. Requirement to Up-grade</p> <p>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.</p>	Standing Referral	
s134(1)	<p>18. Requirement to Up-grade</p> <p>18.2 The power pursuant to Section 134(1) of the PDI Act, if:</p> <p>18.2.1 an application for a building consent relates to:</p> <p>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</p> <p>18.2.1.2 a change of classification of a building; and</p> <p>18.2.2 the building is, in the opinion of the delegate, unsafe, structurally unsound or in an unhealthy condition,</p> <p>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.</p>	Standing Referral	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s134(2)	<p>18. Requirement to Up-grade</p> <p>18.3 The power pursuant to Section 134(2) of the PDI Act, when imposing a requirement under Section 134(1) of the PDI Act, to specify (in reasonable detail) the matters under Section 134(1)(b) of the PDI Act that must, in the opinion of the delegate, be addressed.</p>	Standing Referral	
s134(3)	<p>18. Requirement to Up-grade</p> <p>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:</p> <p>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</p> <p>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</p>	Standing Referral	
s134(4)	<p>18. Requirement to Up-grade</p> <p>18.5 The power pursuant to Section 134(4) of the PDI Act if:</p> <p>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</p> <p>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,</p>	Standing Referral	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	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).		
s134(5)	<p>18. Requirement to Up-grade</p> <p>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:</p> <p>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</p> <p>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.</p>	Standing Referral	
s143(1)	<p>19. Cancellation of Development Authorisation</p> <p>19.1 The power pursuant to Section 143(1) of the PDI Act to, on the application of a person who has the benefit of the authorisation, cancel a development authorisation previously given by the relevant authority.</p>	Assessment Manager	
s143(2)	<p>19. Cancellation of Development Authorisation</p> <p>19.2 The power pursuant to Section 143(2) of the PDI Act to make a cancellation under Section 143(1) of the PDI Act subject to such conditions (if any) as the delegate thinks fit to impose.</p>	Assessment Manager	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s235(1)	<p>20. Professional Advice to be Obtained in Relation to Certain Matters</p> <p>20.1 The power pursuant to Section 235(1) of the PDI Act, to, in the exercise of a prescribed function, rely on a certificate of a person with prescribed qualifications.</p>	Assessment Manager	
s235(2)	<p>20. Professional Advice to be Obtained in Relation to Certain Matters</p> <p>20.2 The power pursuant to Section 235(2) of the PDI Act to seek and consider the advice of a person with prescribed qualifications, or a person approved by the Minister for that purpose, in relation to a matter arising under the PDI Act that is declared by regulation to be a matter on which such advice should be sought.</p>	Assessment Manager	
cl12(7) sch8	<p>21. General Transitional Schemes for Panels</p> <p>21.1 The power pursuant to Clause 12(7) of Schedule 8 of the PDI Act, to</p> <p>21.1.1 adopt any findings or determinations of a council development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and</p> <p>21.1.2 adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and</p> <p>21.1.3 deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and</p> <p>21.1.4 deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act; and</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>21.1.5 deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.</p> <p>(Only applicable to assessment panels appointed by a council or a joint planning board)</p>		
cl13(5) sch8	<p>22. Regional Assessment Panels</p> <p>22.1 The power pursuant to Clause 13(5) of Schedule 8 of the PDI Act to:</p> <p>22.1.1 adopt any findings or determinations of a council development assessment panel or a regional development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and</p> <p>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</p> <p>22.1.3 deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and</p> <p>22.1.4 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</p> <p>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.</p> <p>(Relevant to regional assessment panels only)</p>	Assessment Manager	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
cl18(2) sch8	<p>23. Continuation of Processes</p> <p>23.1 The power pursuant to Clause 18(2) of Schedule 8 of the PDI Act, to:</p> <p>23.1.1 adopt any findings or determinations of a relevant authority under the repealed Act that may be relevant to an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and</p> <p>23.1.2 adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and</p> <p>23.1.3 deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and</p> <p>23.1.4 deal with any requirement or grant any variation imposed or proposed in connection with an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and</p> <p>23.1.5 take any other step or make any other determination authorised by the regulations, or that is reasonably necessary to promote or ensure a smooth transition on account of the transfer of functions, powers or duties under Clause 18 of Schedule 8 of the PDI Act.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r25(7)(c)	<p>24. Accredited Professionals</p> <p>24.1 The power pursuant to Regulation 25(7)(c) of the Planning, Development and Infrastructure (General) Regulations 2017 (the General Regulations) to form the opinion and be satisfied, on the basis of advice received from the accreditation authority under the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019, a relevant professional association, or other relevant registration or accreditation authority, that a person has engineering or other qualifications that qualify the person to act as a technical expert under Regulation 25 of the General Regulations.</p>	Assessment Manager	
r31(1)	<p>25. Verification of Application</p> <p>25.1 The power pursuant to Regulation 31(1) of the General Regulations, on the receipt of an application under Section 119 of the PDI Act, and in addition to any other requirement under the General Regulations, to, in order to ensure that an application has been correctly lodged and can be assessed in accordance with the PDI Act:</p> <p>25.1.1 determine the nature of the development; and</p>	Assessment Manager	
r31(1)	<p>25. Verification of Application</p> <p>25.1 The power pursuant to Regulation 31(1) of the General Regulations, on the receipt of an application under Section 119 of the PDI Act, and in addition to any other requirement under the General Regulations, to, in order to ensure that an application has been correctly lodged and can be assessed in accordance with the PDI Act:</p> <p>25.1.2 if the application is for planning consent - determine:</p> <p>25.1.2.1 whether the development involves 2 or more elements and, if so, identify each of those elements for the purposes of assessment against the provisions of the Planning and Design Code; and</p>	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	25.1.2.2 the category or categories of development that apply for the purposes of development assessment; and		
r31(1)	<p>25. Verification of Application</p> <p>25.1 The power pursuant to Regulation 31(1) of the General Regulations, on the receipt of an application under Section 119 of the PDI Act, and in addition to any other requirement under the General Regulations, to, in order to ensure that an application has been correctly lodged and can be assessed in accordance with the PDI Act:</p> <p>25.1.3 determine whether the relevant authority is the correct entity to assess the application under the PDI Act; and</p>	Assessment Manager	
r31(1)	<p>25. Verification of Application</p> <p>25.1 The power pursuant to Regulation 31(1) of the General Regulations, on the receipt of an application under Section 119 of the PDI Act, and in addition to any other requirement under the General Regulations, to, in order to ensure that an application has been correctly lodged and can be assessed in accordance with the PDI Act:</p> <p>25.1.4 if the relevant authority is the correct entity to assess the application (or any part of the application):</p> <p>25.1.4.1 check that the appropriate documents and information have been lodged with the application; and</p> <p>25.1.4.2 confirm the fees required to be paid at that point under the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019; and</p> <p>25.1.4.3 provide an appropriate notice via the SA planning portal; and</p>	Assessment Manager	
r31(1)	25. Verification of Application	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>25.1 The power pursuant to Regulation 31(1) of the General Regulations, on the receipt of an application under Section 119 of the PDI Act, and in addition to any other requirement under the General Regulations, to, in order to ensure that an application has been correctly lodged and can be assessed in accordance with the PDI Act:</p> <p>25.1.5 if the relevant authority is not the correct entity to assess the application (or any part of the application):</p> <p>25.1.5.1 provide the application (or any relevant part of the application), and any relevant plans, drawings, specifications and other documents and information in its possession, to the entity that the delegate considers to be the correct relevant authority in accordance with any practice direction; and</p> <p>25.1.5.2 provide an appropriate notice via the SA planning portal.</p>		
r33(4)	<p>26. Application and Further Information</p> <p>26.1 The power pursuant to Regulation 33(4) of the General Regulations to seek clarification about any document or information that has been provided by the applicant.</p>	Assessment Manager	
r35(3)	<p>27. Amended Applications</p> <p>27.1 The power pursuant to Regulation 35(3) of the General Regulations if an application is varied following referral under Division 2 or giving of notice under Division 3, to, if the variations are not substantial, consider the application without the need to repeat an action otherwise required under Division 2 or Division 3.</p>	Assessment Manager	
r35(4)	<p>27. Amended Applications</p> <p>27.2 The power pursuant to Regulation 35(4) of the General Regulations if a variation would change the essential nature of a proposed development (as referred to in Section 119(9)(a) of the PDI Act), to agree with the applicant to proceed with the variation on the basis that the application (as so varied) will be treated as a new application under the General Regulations.</p>	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r38(1)	<p>28. Withdrawing/Lapsing Applications</p> <p>28.1 The power pursuant to Regulation 38(1) of the General Regulations if an application is withdrawn by the applicant under Section 119(14) of the PDI Act, to notify:</p> <p>28.1.1 any agency to which the application has been referred under Division 2 of the General Regulations; and</p> <p>28.1.2 any person who has made a representation in relation to the application under Division 3 of the General Regulations,</p> <p>of the withdrawal.</p>	Assessment Manager	
r38(3)	<p>28. Withdrawing/Lapsing Applications</p> <p>28.2 The power pursuant to Regulation 38(3) of the General Regulations before taking action to lapse an application under Regulation 38(2) of the General Regulations, to:</p> <p>28.2.1 take reasonable steps to notify the applicant of the action under consideration; and</p> <p>28.2.2 allow the applicant a reasonable opportunity to make submissions to the delegate (in a manner and form determined by the delegate) about the proposed course of action.</p>	Assessment Manager	
r40	<p>29. Court Proceedings</p> <p>29.1 The power pursuant to Regulation 40 of the General Regulations to, subject to Section 214(14) of the PDI Act, by notice in writing to the applicant, decline to deal with the application until any proceedings under the PDI Act have been concluded.</p>	Assessment Manager	
r42(1)	<p>30. Additional Information or Amended Plans</p> <p>30.1 The power pursuant to Regulation 42(1) of the General Regulations if a delegate has referred an application to a prescribed body under Division 1 of the General Regulations and the relevant authority subsequently receives additional information, or an amended plan, drawing or</p>	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	specification, which is materially relevant to the referral, or to any report obtained as part of the referral process, to repeat the referral process.		
r45(1)	<p>31. Building Matters</p> <p>31.1 The power pursuant to Regulation 45(1) of the General Regulations to, if in assessing an application for building consent, the delegate considers that:</p> <p>31.1.1 a proposed performance solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for the intervention of a fire authority; or</p> <p>31.1.2 the proposed development is at variance with a performance requirement of the Building Code which provides for the intervention of a fire authority; or</p> <p>31.1.3 special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,</p> <p>refer the application to the relevant fire authority for comment and report unless the fire authority indicates to the delegate that a referral is not required.</p>	Standing Referral	
r45(2)	<p>31. Building Matters</p> <p>31.2 The power pursuant to Regulation 45(2) of the General Regulations, if a report is not received from the fire authority on a referral under Regulation 45(1) of the General Regulations within 20 business days, to presume that the fire authority does not desire to make a report.</p>	Standing Referral	
r45(3)	<p>31. Building Matters</p> <p>31.3 The power pursuant to Regulation 45(3) of the General Regulations to have regard to any report received from a fire authority under Regulation 45 of the General Regulations.</p>	Standing Referral	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r45(4)	<p>31. Building Matters</p> <p>31.4 The power pursuant to Regulation 45(4) of the General Regulations, if, in respect of an application referred to a fire authority under Regulation 45 of the General Regulations, the fire authority:</p> <p>31.4.1 recommends against the granting of building consent; or</p> <p>31.4.2 concurs in the granting of consent on conditions specified in its report,</p> <p>but the delegate:</p> <p>31.4.3 proposes to grant building consent despite a recommendation referred to in Regulation 45(4)(a) of the General Regulations; or</p> <p>31.4.4 does not propose to impose the conditions referred to in Regulation 45(b) of the General Regulations, or proposes to impose the conditions in varied form, on the grant of consent,</p> <p>to:</p> <p>31.4.5 refer the application to the Commission; and</p> <p>31.4.6 not grant consent unless the Commission concurs in the granting of the consent.</p>	Standing Referral	
r45(5)	<p>31. Building Matters</p> <p>31.5 The power pursuant to Regulation 45(5) of the General Regulations to provide to the Commission a copy of any report received from a fire authority under Regulation 45(1) of the General Regulations that relates to an application that is referred to the Commission under the PDI Act.</p>	Standing Referral	
r46(6)	<p>32. Preliminary Advice and Agreement (Section 123)</p> <p>32.1 The power pursuant to Regulation 46(6) of the General Regulations, if:</p>	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>32.1.1 the delegate permits an applicant to vary an application under Section 119(9) of the PDI Act; and</p> <p>32.1.2 the delegate determines that the application no longer accords with the agreement indicated by the prescribed body,</p> <p>to refer the application (unless withdrawn) to the prescribed body:</p> <p>32.1.3 to obtain a variation to the agreement under Section 123 of the PDI Act; or</p> <p>32.1.4 to obtain a response from the prescribed body for the purposes of Section 122 of the PDI Act.</p>		
r46(7)	<p>32. Preliminary Advice and Agreement (Section 123)</p> <p>32.2 The power pursuant to Regulation 46(7) of the General Regulations if:</p> <p>32.2.1 an application is withdrawn by the applicant; and</p> <p>32.2.2 the applicant sought to rely on an agreement under Section 123 of the PDI Act in connection with the application,</p> <p>to notify relevant prescribed body of the withdrawal.</p>	Assessment Manager	
r46(8)	<p>32. Preliminary Advice and Agreement (Section 123)</p> <p>32.3 The power pursuant to Regulation 46(8) of the General Regulations, if:</p> <p>32.3.1 an application is lapsed by a relevant authority under Regulation 38 of the General Regulations; and</p> <p>32.3.2 the applicant sought to rely on an agreement under Section 123 of the PDI Act in connection with the application,</p> <p>to notify the relevant prescribed body of the lapsing.</p>	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r46(9)	<p>32. Preliminary Advice and Agreement (Section 123)</p> <p>32.4 The power pursuant to Regulation 46(9) of the General Regulations, if:</p> <p>32.4.1 an applicant seeks to rely on an agreement under Section 123 of the PDI Act in connection with the application; and</p> <p>32.4.2 a notice of a decision on the application is issued by the delegate under Regulation 57 of the General Regulations,</p> <p>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.</p>	Assessment Manager	
r48	<p>33. Notification of Application of Tree-damaging Activity to Owner of Land</p> <p>33.1 The power pursuant to Regulation 48 of the General Regulations, if an owner of land to which an application for a tree-damaging activity in relation to a regulated tree relates is not a party to the application, to:</p> <p>33.1.1 give the owner notice of the application within 5 business days after the application is made; and</p> <p>33.1.2 give due consideration in the delegate's assessment of the application to any submission made by the owner within 10 business days after the giving of notice under Regulation 48 of the General Regulations.</p>	Assessment Manager	
r49(3)	<p>34. Public Inspection of Applications</p> <p>34.1 The power pursuant to Regulation 49(3) of the General Regulations to request a person verify information in such manner as the delegate thinks fit.</p>	Assessment Manager	
r50(5)	35. Representations	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	<p>35.1 The power pursuant to Regulation 50(5) of the General Regulations to, if the delegate considers that it would assist the delegate in making a decision on the application, allow a person:</p> <p>35.1.1 who has made a representation under Regulation 50(1) of the General Regulations in relation to development being assessed under Section 107 of the PDI Act; and</p> <p>35.1.2 who has indicated an interest in appearing before the delegate,</p> <p>an opportunity (at a time determined by the delegate) to appear personally or by representative before the delegate to be heard in support of the representation that has been made under Regulation 50(1) of the General Regulations.</p>		
r51(1)	<p>36. Response by Applicant</p> <p>36.1 The power pursuant to Regulation 51(1) of the General Regulations to allow a response to a representation by the applicant to be made within such longer period as the delegate may allow.</p>	Assessment Manager	
r57(4)(a)	<p>37. Notice of Decision (Section 126(1))</p> <p>37.1 The power pursuant to Regulation 57(4)(a) of the General Regulations to endorse a set of any approved plans and other relevant documentation with an appropriate form of authentication.</p>	Assessment Manager	
r60	<p>38. Consideration of Other Development Authorisations</p> <p>38.1 The power pursuant to Regulation 60 of the General Regulations, to, in deciding whether to grant a development authorisation, take into account any prior development authorisation that relates to the same proposed development under the PDI Act, and any conditions that apply in relation to that prior development authorisation.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			<p>Panel, in response to written representations (even if the representor has not requested to speak).</p> <p>3. A decision to refuse development authorisation.</p> <p>4. Development authorisation where the estimated value of the development is greater than \$1 million.</p>
r61(4)(c)	<p>39. Certificate of Independent Technical Expert in Certain Cases</p> <p>39.1 The power pursuant to Regulation 61(4)(c) of the General Regulations to form the opinion and be satisfied on the basis of advice received from the accreditation authority under the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019, a relevant professional association, or another relevant registration or accreditation authority, that a person has engineering or other qualifications, qualify the person to act as a technical expert under this regulation.</p>	Assessment Manager	
r63(1)	<p>40. Urgent Work</p> <p>40.1 The power pursuant to Regulation 63(1) of the General Regulations to,</p> <p>40.1.1 determine a telephone number determined for the purposes of Regulation 63(1)(a) of the General Regulations; and</p> <p>40.1.2 determine the email address for the purposes of Regulation 63(1)(b) of the General Regulations.</p>	Assessment Manager	
r63(2)	<p>40. Urgent Work</p> <p>40.2 The power pursuant to Regulation 63(2) of the General Regulations to, for the purposes of Section 135(2)(c) of the PDI Act, allow a longer period.</p>	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r63(3)	<p>40. Urgent Work</p> <p>40.3 The power pursuant to Regulation 63(3) of the General Regulations to, for the purposes of Section 135(2)(c) of the PDI Act, allow a longer period.</p>	Assessment Manager	
r65(1)	<p>41. Variation of Authorisation (Section 128)</p> <p>41.1 The power pursuant to Regulation 65(1) of the General Regulations to, for the purposes of Section 128(2)(b) of the PDI Act, if a person requests the variation of a development authorisation previously given under the Act (including by seeking the variation of a condition imposed with respect to the development authorisation) to form the opinion and be satisfied that the variation is minor in nature, and approve the variation.</p>	Assessment Manager	<p>The delegate shall not be authorised to exercise these powers and functions in respect of the following:</p> <ol style="list-style-type: none"> 1. Development authorisation decision where representors and/or the applicant in response have made a request to make verbal representation to the Panel. 2. Development authorisation where the applicant has made a request to make verbal representation to the Panel, in response to written representations (even if the representor has not requested to speak). 3. A decision to refuse development authorisation. 4. Development authorisation where the estimated value of the development is greater than \$1 million.
r76(2)	<p>42. Advice from Commission</p> <p>42.1 The power pursuant to Regulation 76(2) of the General Regulations, if a report is not received from the Commission within 20 business days from the day on which the application is lodged under Regulation 29 of the General Regulations or within such longer period as the Commission may require by notice to the relevant authority, to presume that the Commission does not desire to make a report.</p>	Assessment Manager	
r78(3)	<p>43. Underground Mains Area</p>	Assessment Manager	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	43.1 The power pursuant to Regulation 78(3) of the General Regulations, if an application relates to a proposed development that involves the division of land within, or partly within, an underground mains area (even if the area is declared as such after the application is lodged with the relevant authority), to require, as a condition on its decision on the application, that any electricity mains be placed underground.		
cl2(d)(ii)(B)	<p>44. Plans for Residential Alterations, Additions and New Dwellings</p> <p>44.1 The power pursuant to Clause 2(d)(ii)(B) of Schedule 8 of the General Regulations to form the belief that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land or in the vicinity of the land.</p>	Assessment Manager	
cl2(d)(ii)(D)	<p>44. Plans for Residential Alterations, Additions and New Dwellings</p> <p>44.2 The power pursuant to Clause 2(d)(ii)(D) of Schedule 8 of the General Regulations to be satisfied a site contamination audit report (within the meaning of the Environment Protection Act 1993) is not required.</p>	Assessment Manager	
cl4(3)	<p>45. Plans for Building Work</p> <p>45.1 The power pursuant to Clause 4(3) of Schedule 8 of the General Regulations, in relation to an application for building consent for development consisting of or involving an alteration to a building, if:</p> <p>45.1.1 the applicant is applying for a change in the classification of the building to a classification other than Class 10 under the Building Code; or</p> <p>45.1.2 the building was erected before 1 January 1974 and the applicant is applying for a classification other than Class 10 under the Building Code to be assigned to the building,</p> <p>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</p>	Standing Referral	

Planning, Development and Infrastructure (General) Regulations 2017

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	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 requirements as will ensure that the building is safe and conforms to a proper structural standard.		

Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r5(1)	<p>46. Calculation or Assessment of Fees</p> <p>46.1 The power pursuant to Regulation 5(1) of the PDI (Fees, Charges and Contributions) Regulations 2019 (the Fees Regulations) in relation to an application which is duly lodged with the council under a related set of regulations (including via the SA planning portal):</p> <p>46.1.1 to require the applicant to provide such information as the delegate may reasonably require to calculate any fee payable under the Fees Regulations or a related set of regulations; and</p> <p>46.1.2 to make any other determination for the purposes of the Fees Regulations or a related set of regulations (even if the assessment panel is not a relevant authority).</p>	Assessment Manager	
r5(2)	<p>46. Calculation or Assessment of Fees</p> <p>46.2 The power pursuant to Regulation 5(2) of the Fees Regulations, if the delegate is acting under Regulation 5(1) of the Fees Regulations, or as the delegate of a relevant authority, believes that any information provided by an applicant is incomplete or inaccurate, to calculate any fee on the basis of estimates made by the delegate.</p>	Assessment Manager	
r5(3)	46. Calculation or Assessment of Fees	Assessment Manager	

Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	46.3 The power pursuant to Regulation 5(3) of the Fees Regulations to, at any time, and despite an earlier calculation or acceptance of an amount in respect of the fee, reassess a fee payable under the Fees Regulations or a related set of regulations.		
r7	<p>47. Waiver or Refund of Fee</p> <p>47.1 The power pursuant to Regulation 7 of the Fees Regulations to, as the delegate considers appropriate to do so:</p> <p>47.1.1 waive the payment of the fee, or the payment of part of the fee; or</p> <p>47.1.2 refund the whole or a part of the fee.</p>	Assessment Manager	

Planning and Design Code

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
PD Code	<p>48. Procedural Matter</p> <p>48.1 The power pursuant to and in accordance with the Planning and Design Code (the PD Code) to form the opinion development is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development and therefore is excluded from the operation of Sections 107(3) and (4) of the PDI Act.</p>	Assessment Manager	
PD Code	<p>49. Procedural Referrals</p> <p>49.1 The power pursuant to and in accordance with the PD Code to form the opinion development is minor in nature and would not warrant a referral when considering the purpose of the referral.</p>	Assessment Manager	

Planning and Design Code			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
PD Code	<p>49. Procedural Referrals</p> <p>49.2 The power pursuant to and in accordance with the PD Code to form the opinion and deem:</p> <p>49.2.1 alteration to an existing access or public road junction;</p> <p>49.2.2 development that changes the nature of vehicular movements or increases the number or frequency of movements through an existing access,</p> <p>to be minor.</p>	Assessment Manager	
PD Code	<p>49. Procedural Referrals</p> <p>49.3 The power pursuant to and in accordance with the PD Code to form the opinion an alteration or extension of an existing dwelling is minor.</p>	Assessment Manager	
PD Code	<p>49. Procedural Referrals</p> <p>49.4 The power pursuant to and in accordance with the PD Code to form the opinion development is minor in nature or like for like maintenance and would not warrant a referral when considering the purpose of the referral.</p>	Assessment Manager	
Part 9.4	<p>50. Referral Body: Minister Responsible for the Administration of the Aquaculture Act 2001</p> <p>50.1 The power pursuant to and in accordance with Part 9.4 of the PD Code to form the opinion that aquaculture development which involves an alteration to an existing or approved development is minor in nature.</p>	Assessment Manager	

State Planning Commission Practice Direction - 3 (Notification of Performance Assessed Development Applications) 2019

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
cl6(4)	<p>51. Responsibility to Undertake Notification</p> <p>51.1 The power pursuant to clause 6(4) of the State Planning Commission Practice Direction 3 (Notification of Performance Assessed Development Applications) 2019 (PD3), should the applicant request the relevant authority to place the notice on the land and pay the relevant fee, to (either personally or by engagement of a contractor) give notice of the application to members of the public by notice placed on the relevant land in accordance with Section 107(3)(a)(ii) of the PDI Act.</p>	Assessment Manager	
cl8	<p>52. Preparing for Notification</p> <p>52.1 The power pursuant to clause 8 of PD3, if the applicant has confirmed they accept responsibility to place a notice on the land as per clause 6(3)(a) of PD3, to, at least 4 business days prior to the commencement of the notification period:</p> <p>52.1.1 give notice of the anticipated commencement date and of the notification period to the applicant; and</p> <p>52.1.2 provide the applicant with a copy of the content of the notice to be placed on the relevant land in PDF format; and</p> <p>52.1.3 advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of PD3.</p>	Assessment Manager	
cl10(2)	<p>53. Notice on Land</p> <p>53.1 The power pursuant to clause 10(2) of PD3, in relation to clause 10(2) of PD3, to determine the most appropriate position for the notice on the land in order to provide for maximum visibility from a public road, and in cases where the relevant land has more than 1 frontage to a public road, to determine that more than 1 notice must be erected on each of the public road frontages to ensure that notice of the development is reasonably apparent to members of the public.</p>	Assessment Manager	

State Planning Commission Practice Direction (Appointment of Additional Members to Assessment Panel) 2019

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
cl4(6)	<p>54. Qualifications and Experience of Additional members</p> <p>54.1 The power pursuant to clause 4(6) of the State Planning Commission Practice Direction (Appointment of Additional Members to Assessment Panel) 2019 (PD5) where the delegate forms the view that additional expert advice is required for an application which requires assessment of a matter listed in Column 1 of PD5, to engage an additional assessment panel member provided that person maintains both the minimum experience detailed in Column 2 of PD5, as well as the minimum qualification listed in Column 3 of PD5.</p>	Not Delegated	
cl4(7)	<p>54. Qualifications and Experience of Additional members</p> <p>54.2 The power pursuant to clause 4(7) of PD5 to be satisfied of the minimum experience and qualifications of an additional assessment panel member.</p>	Not Delegated	

State Planning Commission Practice Direction (Scheme to Avoid Conflicting Regimens) 2019

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
cl5(1)	<p>55. Scheme Provisions</p> <p>55.1 The power pursuant to clause 5(1) of the State Planning Commission Practice Direction (Scheme to Avoid Conflicting Regimens) 2019 (PD6), to in undertaking a planning assessment or imposing controls, including through the imposition of conditions of planning consent, ensure that such assessment or controls do not conflict or duplicate matters dealt with or addressed under licencing or regulatory regimens under another Act.</p>	Assessment Manager	
cl5(3)	55. Scheme Provisions	Assessment Manager	

State Planning Commission Practice Direction (Scheme to Avoid Conflicting Regimens) 2019

Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	55.2 The power pursuant to clause 5(3) of PD6 to, where the delegate is uncertain whether a matter conflicts with, or duplicates a matter dealt with under a licencing or regulatory regime under another Act, to seek the advice of that authority or agency.		

- 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.**

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

Officer: JESS BURNS – ACTING REGIONAL ASSESSMENT MANAGER

File Ref: REP20260

PURPOSE OF REPORT

The purpose of this report is to seek the Panel's endorsement of the Eyre Peninsula Regional Assessment Panel Review of Decision of Assessment Manager policy.

REPORT DETAIL

Under the Planning, Development and Infrastructure Act 2016 (the Act), there is now a mechanism for an applicant who is dissatisfied with a development authorisation decision (of a 'prescribed matter' under the Act) made by an Assessment Manager (or a person acting under delegated authority) to apply to the Regional Assessment Panel (RAP) for a review of that decision.

The new draft policy has been developed to ensure that the RAP meets its legislative obligations under Section 202 of the Act and to make sure there is a fair, consistent and structured review process in place. The draft policy is based on the LGASA 'simplified' template for such a policy.

The implementation of this policy does not derogate the ability for an applicant to lodge an appeal in the Environment, Resources and Development (ERD) Court instead of applying to the RAP for a review of a decision by an Assessment Manager. However an applicant cannot do both, it must be one or the other. If an applicant applied to the Panel for a review of a decision and the original decision of the Assessment Manager was upheld, the applicant is still able to appeal the decision in the ERD Court. Such an appeal would be against the decision of the RAP in reviewing the development authorisation, not against the original decision of the Assessment Manager.

For reference, the fee to apply to the RAP for a review of Assessment Manager decision is currently set as \$511 in accordance with the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*.

RECOMMENDATION

That the Eyre Peninsula Regional Assessment Panel adopts the '*Eyre Peninsula Regional Assessment Panel Review of Assessment Manager Policy*' as attached.

Attachment 5.6: Draft Eyre Peninsula Regional Assessment Panel Review of Decision of Assessment Manager Policy

POLICY DOCUMENT

Policy Name	REGIONAL ASSESSMENT PANEL REVIEW OF DECISION OF ASSESSMENT MANAGER
Responsible Officer:	Assessment Manager
Version:	1
Policy adopted:	10 August 2020
Last revised date:	New policy
Next review date:	July 2022
Minute reference	
Applicable legislation:	Planning, Development and Infrastructure Act 2016

1. POLICY OBJECTIVE

This policy sets out the process for an applicant who is dissatisfied with a decision made by the Assessment Manager of the Eyre Peninsula Regional Assessment Panel (Assessment Manager), where the Assessment Manager was the relevant authority to determine a development application under the *Planning, Development and Infrastructure Act 2016* (Act), to make an application for a review of that decision.

2. DEFINITIONS

Assessment Manager	A person appointed by the Chief Executive of the Attorney General's Department to act as a relevant authority pursuant to Sections 82 and 87 of the Act.
Development Authorisation	Any assessment, decision, permission, consent, approval, authorisation or certificate required by or under the Act or by or under any other act prescribed by regulation for the purposes of the definition contained within the Act.
Prescribed Body	As listed in Schedule 9 under the Planning, Development and Infrastructure (General) Regulations 2017.
Prescribed Matter	<ol style="list-style-type: none"> 1) Any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the development application; or 2) A decision to refuse to grant development authorisation to the application; or 3) The imposition of conditions in relation to a grant of development authorisation; or 4) Subject to any exclusion prescribed by the Planning, Development and Infrastructure (General) Regulations 2017, any other assessment, request, decision, direction or act of the Assessment Manager under the Act in relation to the grant of development authorisation.

3. LEGISLATIVE FRAMEWORK

- 3.1 This Policy applies in addition to the statutory requirements for the review by the Panel of a decision of an Assessment Manager as set out in Part 16, Division 1 of the Act.

4. COMMENCING A REVIEW

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

5. MATERIALS FOR REVIEW HEARING

- 5.1 The Assessment Manager shall collate for the Panel:
 - 5.1.1 all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:
 - 5.1.1.1 application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
 - 5.1.1.2 internal and/or external referral responses; and
 - 5.1.1.3 any report from Council staff or an external planning consultant written for the Assessment Manager;
 - 5.1.2 any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
 - 5.1.3 any other information requested by the Presiding Member.

- 5.2 The Assessment Manager (or delegate) must prepare a report to the Panel setting out the details of the relevant development application, the prescribed matter the subject of the review and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter.

6. REVIEW HEARING

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

7. OUTCOME ON REVIEW HEARING

- 7.1 The Panel may, on a review:
- 7.1.1 affirm the Assessment Manager's decision on the Prescribed Matter;
 - 7.1.2 vary the Assessment Manager's decision on the Prescribed Matter; or
 - 7.1.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.
- 7.2 An applicant should be advised in writing of the Panel's decision by the Assessment Manager.

MANAGEMENT OF ERD COURT APPEALS AGAINST DECISIONS OF EPRAP

ROB DONALDSON – PRESIDING MEMBER

REP20261

The Eyre Peninsula Regional Assessment Panel (the Panel) has been established under the Planning Development and Infrastructure Act 2016 (the PDI Act) to operate in relation to a defined scope of development assessment matters across ten local government areas of the Eyre Peninsula. The management of appeals against panel decisions under the Development Act has been undertaken by councils as the 'relevant authority' for constituted panels. This will change under the PDI Act, with the Panel being the relevant authority and respondent to ERD Court appeals.

Section 202 of the PDI Act sets out rights of appeal in various circumstances.

It will be impractical for the Panel in its constituted form to manage appeal matters in a timely and efficient manner, and appropriate arrangements need to be made to provide for the management of appeal and related matters for the Panel.

It is noted that:

- the arrangements between the councils that have initiated the Panel provide for appeal costs to be borne by the council in whose area the development application is lodged;
- ERD Court appeals are conducted as de novo matters, not involving the 'defence' of a Panel or delegate decision; and
- the PDI Act provision for 'review of Regional Assessment Manager decisions' may result in some (or even many) matters that otherwise would have been appealed to the ERD Court, not proceeding to that forum.

In the circumstances, it is considered appropriate that the Regional Assessment Manager should manage appeal matters on behalf of the Panel, on the following basis:

- 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.

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.