

COUNCIL ASSESSMENT PANEL

General Operating Procedures

22 December 2020

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

1 Purpose

- 1.1. The purpose of the Council Assessment Panel (CAP) is to determine development applications that are assigned to the CAP under the Planning Development and Infrastructure Act 2016 or, during the transition to the PDI Act, the Development Act 1993 that are delegated from Council. The Panel may also provide advice to Council on trends, issues and other matters relating to planning or development matters.
- 1.2. The Panel acknowledges that in performing its statutory function, it is bound by the:
 - 1.2.1 Code of conduct adopted by the Minister for Planning.
 - 1.2.2 Objects, Planning Principles and General Responsibilities under the Planning, Development and Infrastructure Act 2016.
 - 1.2.3 Operating Procedures established by the Panel.

2 Timing & Notice of Meetings

Meeting time and place

- 2.1. CAP meetings will be scheduled by the CAP on the fourth Tuesday of the month, commencing at 6.30pm or another date as determined by the Presiding Member, subject to there being business to consider.
- 2.2. The CAP will meet in the Council Civic Centre at 34 Church Street Salisbury or at such other place, including audio visual media, as the Presiding Member may determine.

Notice of meeting

- 2.3. The Assessment Manager pursuant to the Planning Development and Infrastructure Act 2016 must provide written notice detailing the date, time and place of a meeting to all CAP members at least three working days before the meeting. The notice shall include the Agenda for the meeting.
- 2.4. Where attendance at the meeting is able to occur by electronic means (in whole or in part), the notice of the meeting will include details of how to access and/or connect to the meeting.
- 2.5. Notice of CAP meetings may be given to CAP members by email, to an email address nominated by a CAP Member, or by personal delivery or post to the usual residence of a CAP Member, or via such other means as authorised by a CAP Member.

- 2.6. A notice that is not given in accordance with clause 2.3 is taken to have been validly given if the Assessment Manager considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Member.

Viewing agenda

- 2.7. A copy of the Agenda for every ordinary meeting of the CAP shall be available for viewing by the public at the Council's offices and on the Council's web site at least three working days before the meeting of the CAP. The three working days notice shall not apply to a special meeting of the CAP under clause 2.8, or to an item included by the Assessment Manager under clause 2.10, in which cases the agenda will be made available for viewing by the public as soon as practicable.

Special meeting

- 2.8. A special meeting of the CAP may be convened by the Presiding Member, at any time, to consider urgent business by giving not less than two working days written notice to all CAP Members.
- 2.9. Notice of a special meeting of the CAP must be accompanied by an Agenda stating the item(s) of business for which the meeting has been convened. A special meeting must only deal with the business for which the meeting has been convened.

Late items

- 2.10. The Assessment Manager may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manager shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public in accordance with clause 2.7.

3 Commencement of Meetings & Quorum

- 3.1. CAP Meetings will be conducted in accordance with the requirements of the Planning, Development and Infrastructure Act 2016 ('the PDI Act'), Development Act 1993 ('the Act') and these Operating Procedures.
- 3.2. Meetings will commence on time, or as soon as a quorum is present. If a quorum is not present within thirty minutes of the time for commencement, the Presiding Member may adjourn the meeting to the next scheduled meeting

time and date, or to another time and date.

- 3.3. A quorum for a meeting of the CAP is three (3) CAP Members.
- 3.4. If the number of apologies received by the Assessment Manager in advance of a meeting indicate that a quorum will not be present at a meeting, the Presiding Member may, by notice from the Assessment Manager, provide to all CAP Members in advance of the meeting, a notice adjourning the meeting to a future time and date as specified in the notice (a copy of this notice will be displayed at the Council Offices and on the Council's website).
- 3.5. If a meeting is required to be adjourned by the Presiding Member, the reason for the adjournment, and the date and time to which the meeting is adjourned will be recorded in the Minutes.

Deputy Presiding Member

- 3.6. A Deputy Presiding Member of the CAP must be appointed by resolution of the CAP, and will preside at any meeting, or part thereof, when the Presiding Member is not present.
- 3.7. If both the Presiding Member and Deputy Presiding Member are absent from a CAP meeting (or part thereof), a CAP Member will be appointed from those present by means of resolution, and will preside at the meeting. That member will have all of the powers and duties of the Presiding Member.

Meeting behaviour

- 3.8. Subject to the PDI Act and these Operating Procedures, the Presiding Member will facilitate the meeting in a manner which promotes relevant, orderly, constructive, respectful and expeditious discussion, but not repetitious discussion, with the intent of ensuring well-informed decisions and debate leading to a determination of any matters before the Panel.
- 3.9. The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by a CAP Member, an applicant, a representor, or any other person present at the CAP meeting, until such time as the disruption or disturbance ceases.
- 3.10. The Presiding Member may ask a member of the public who is present at a meeting of a CAP to leave the meeting if this person is:
 - 3.10.1 behaving in a disorderly manner; or
 - 3.10.2 causing an interruption.

4 Deputy Members

- 4.1. If a CAP Member is unable or unwilling to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Presiding Member or Assessment Manager at his or her earliest opportunity.
- 4.2. If notification pursuant to clause 4.1 is given, the Assessment Manager may request a Deputy Member attend the meeting in place of the CAP Member for the meeting or part of the meeting.
- 4.3. Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Member.

5 Appointment of Additional Members

- 5.1. The CAP may appoint up to two Additional Members in accordance with Section 85 of the PDI Act and *Practice Direction 5 – Appointment of additional members to an Assessment Panel*.
- 5.2. Where the CAP has appointed Additional Member(s), the Presiding Member, in consultation with the Assessment Manager, may invite one or both Additional Members to attend any meeting (or part thereof) where he or she considers the Additional Member(s) will, by virtue of their qualifications, expertise or experience, assist the CAP in dealing with a matter that it must assess under the PDI Act (or, during the transition to the PDI Act, the Development Act 1993).
- 5.3. 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 2.3, highlighting the item(s) the Additional Member is required to consider.
- 5.4. Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes an Additional Member, save that an Additional Member is not able to vote on any matter arising for determination by the CAP.

6 Decision Making

- 6.1. The CAP will conduct its meetings, and undertake all considerations, in accordance with the PDI Act (or, during the transition to the PDI Act, the Development Act).

Public meetings

- 6.2. Subject to circumstances where it excludes the public from attendance at a meeting or part thereof pursuant to Part 13 of the Development, Infrastructure (General) Regulations 2017 or the review of the Assessment Manager Decision, the Panel will generally discuss and determine applications in public.

Member participation

- 6.3. The Presiding Member will invite all Panel members to speak on any matter before the Panel prior to calling for a motion.
- 6.4. Subject to a CAP Member not having a direct or indirect personal or pecuniary interest in a matter before the CAP (other than an indirect interest that exists in common with a substantial class of persons), each CAP Member present at a meeting of the CAP must vote on a question arising for decision.

Decisions by consensus

- 6.5. Decisions of the Panel will be where possible by consensus determined through debate and discussion of the agenda item, and where a consensus is reached the Presiding Member shall then call for a mover and confirm the consensus by a show of hands.

Decisions by vote

- 6.6. Where it is evident through debate and discussion that a consensus will not be reached by the Panel, the Presiding Member shall call for a mover and put the matter to a formal vote to determine.
- 6.7. Each CAP Member present at a meeting is entitled to one vote on any matter arising for decision and, if the votes are equal, the Member Presiding at the meeting is entitled to a second or casting vote.
- 6.8. All decisions of the CAP shall be made on the basis of a majority decision of the Members present and the Minutes shall record that decision only (Votes for/against will not be recorded, and are not relevant once the majority is determined).

CAP considerations

- 6.9. The CAP must use the Development Plan or Planning and Design Code (as may be relevant to the particular application under consideration), referred to hereafter as the Planning Rules, as the basis for its decisions, having had regard to any relevant written and verbal representations made in accordance with the provisions of the Act, or any other relevant legislation.

Seriously at variance

- 6.10. The CAP will, for each and every application, determine whether the proposal is seriously at variance with the Planning Rules, and expressly record its determination on this matter in the Minutes. If the CAP determines that the proposal is seriously at variance with the Planning Rules, the CAP must provide reasons for its determination, and must expressly record those reasons in the Minutes.

- 6.11. A development application that is assessed by the CAP as being seriously at variance with the Planning Rules will be refused.

Reasons for decision

- 6.12. The CAP must, for each and every application, provide reasons for granting or refusing Planning Rules Consent, and for the imposition of any conditions, and express or record those reasons in the Minutes.

Representations

- 6.13. Subject to the relevant Act, a person who has lodged a valid representation in relation to a Category 2 or 3 development application under the *Development Act 1993* or an application for which notice must be given under the *Planning, Development and Infrastructure Act 2016*, and has indicated their desire to be heard on their representation, is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent.

- 6.14. The Presiding Member may in his or her discretion exclude:

- 6.14.1 a representation or response to representation(s) which is received out of time; or
- 6.14.2 a representation or response to representation(s) which is otherwise invalid.

Speaking time

- 6.15. Applicants and Representors will be allowed five minutes to address the CAP, unless a longer time is allowed by the Presiding Member. Where a person is nominated in a representation or by notice of the representors as representing three or more representors (including themselves) the Presiding Member may allow a longer time to address the Panel. Where an applicant is responding to a significant number of representations or a significant number of issues raised in representations, the Presiding Member may allow a longer time to address the Panel.

Hearing applicants

- 6.16. Should there be no Representor wishing to be heard for a non-complying development application, Category 2 or Category 3 development application, and the recommendation is for a refusal, the Applicant will be entitled to appear before the CAP and be heard in support of the application. Applicants will be allowed five minutes to address the CAP, unless a longer time is allowed by the Presiding Member.

- 6.17. Should there be no Representor wishing to be heard for a non-complying

development application, Category 2 or Category 3 development application, and the recommendation is for approval, the Presiding Member may allow the Applicant to address the Panel to seek clarification and/or further information that may be required by the Panel in order to determine the application.

Additional material

- 6.18. At the discretion of the Presiding Member, any new or additional material to be submitted to the CAP by a person who has made a development application or a valid representation in relation to a matter may be accepted and considered by the CAP. A copy of any additional material accepted shall be provided to the applicant or representors by the party presenting the additional material.

Member's participation

- 6.19. A CAP Member may ask questions of any person appearing before the CAP. Subject to the Presiding Member's determination, all questions shall be relevant to the subject of the development application before the panel.

Appeals

- 6.20. The Assessment Manager is authorised to make decisions as to the conduct of appeals that do not change the nature of the decision of the Panel including preparing documentation required by the Court, engaging and instructing legal representation or expert witnesses, attending preliminary conferences, conciliation hearings or direction hearings, subject to consulting with the Presiding Member.
- 6.21. Where the Assessment Manager has acted on a matter under appeal, a report will be provided to the Panel at the next meeting.
- 6.22. Any compromise proposal arising from an appeal shall be presented to the Panel for decision.
- 6.23. In the event of an urgent matter, that the Presiding Member may convene a special meeting of the Panel in accordance with these General Operating Procedures.

7 Minutes and Reporting

- 7.1. The Assessment Manager is responsible for ensuring that accurate Minutes are kept of Panel meetings and that they are confirmed by the Panel and signed by the Presiding Member.
- 7.2. The Minutes of the proceedings of a CAP meeting will record:

- 7.2.1 the names of the CAP Members present;
 - 7.2.2 the names of all CAP Members from whom apologies have been received;
 - 7.2.3 the name and time that a CAP Member enters or leaves the meeting;
 - 7.2.4 the name of a person who has made a representation to the CAP at the meeting;
 - 7.2.5 the decision of the CAP, including the express opinion of the CAP on whether the proposed development is seriously at variance with the Planning Rules (including reasons as appropriate);
 - 7.2.6 reasons for granting or refusing Planning Rules Consent, and for the imposition of any conditions on a Planning Rules Consent;
 - 7.2.7 in the absence of a decision, the deferral of the application including the reasons for the deferral;
 - 7.2.8 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;
 - 7.2.9 a decision to exclude public attendance; and
 - 7.2.10 a notation, describing the confidential nature of the information and matter, in the event a matter has been excluded from the Minutes.
- 7.3. Minutes shall be read and adopted by the CAP at the end of the meeting.
 - 7.4. On the adoption of the Minutes, the Assessment Manager will forward the Minutes to the Presiding Member who will confirm the Minutes by electronic communication.
 - 7.5. The Minutes of a CAP meeting must be forwarded to the Council and must be publicly available within two business days after their confirmation by the CAP.

Annual Report

- 7.6. The Panel shall prepare and consider an Annual Report for presentation to the Council via the appropriate Standing Committee. The Annual Report may be presented by the Presiding Member and may contain (but not be limited to) statistical information in relation to the number of items considered, the outcomes of decisions on those items, and matters identified by the Panel in

the course of its assessment of development applications that warrant referral to Council for consideration of Planning Rules policy, legislative, or procedural change.

- 7.7. The Annual Report shall be prepared at the end of the financial year.

Reporting to the Panel

- 7.8. The Assessment Manager will prepare:

7.8.1 A quarterly report of the development applications with representations determined under delegated authority for the previous period.

7.8.2 A report at the next meeting of the Panel for any development application delegated by the Panel where a deemed consent notice has been received.

8 CAP Procedures & Support

Additional procedures

- 8.1. Insofar as the Act and these Operating Procedures do not prescribe the procedure to be followed at a CAP meeting, the CAP may determine the procedure at the time. Any such determination may be added to these Operating Procedures.

Staff Participation

- 8.2. The CAP will permit and encourage the active participation of Council staff in attendance at a meeting in providing advice to the CAP.

Assistance

- 8.3. The CAP may call for and consider such professional assistance from Council staff and other professional advisors as it deems necessary and appropriate.

Electronic Meetings

- 8.4. One or more Panel members may attend a meeting via electronic means.
- 8.5. A Member attending a meeting by electronic means is taken to be present at the meeting provided that the Member:
- 8.5.1 can hear and, where possible, see all other Members who are present at the meeting;
- 8.5.2 can hear and, where possible, see, all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;

- 8.5.3 can be heard and, where possible, seen by all other Members present at the meeting; and
- 8.5.4 can be heard and, where possible, seen by the person recording the minutes of the meeting.
- 8.6. The notice of the meeting shall include details of how to access and/or connect to the meeting by audio visual media.
- 8.7. Should audio visual media devices be utilised for the conduct of a CAP meeting, all voting shall be conducted on the voices, with the Presiding Member verbally acknowledging each individual vote before declaring the outcome of the vote, and noted in the minutes of the meeting, consistent with *Part 6: Decision Making* of the Operating Procedures.
- 8.8. Where the meeting occurs by audio visual media, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.
- 8.9. Where a meeting is being live streamed, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to clause 13(2) of the Regulations.
- 8.10. Where the public has been excluded from attendance pursuant to clause 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for CAP members disconnect from or are disconnected from the meeting.

Appendix A – Assessment Panel General Regulation Procedures

South Australia

Planning, Development and Infrastructure (General) Regulations 2017

under the *Planning, Development and Infrastructure Act 2016*

Part 3—Assessment panels—procedures

12—Application

This Part applies to and in relation to the procedures of an assessment panel established under section 83 of the Act or clause 12 or 13 of Schedule 8 of the Act.

13—Public access to meetings

- (1) In connection with the conduct of the proceedings of an assessment panel, members of the public are entitled to attend a meeting of the panel other than as set out in subregulation (2).
- (2) An assessment panel may exclude the public from attendance at a meeting—
 - (a) during so much of the meeting as is necessary to receive, discuss or consider in confidence any of the following matters:
 - (i) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - (ii) information the disclosure of which—
 - (A) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
 - (B) would, on balance, be contrary to the public interest;
 - (iii) information the disclosure of which would reveal a trade secret;
 - (iv) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (A) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (B) would, on balance, be contrary to the public interest;
 - (v) matters affecting the safety or security of any person or property;

- (vi) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (vii) matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (viii) legal advice;
- (ix) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;
- (x) information the disclosure of which—
 - (A) would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and
 - (B) would, on balance, be contrary to the public interest; and
- (b) during so much of the meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the assessment panel.

14—Minutes and other documents

- (1) An assessment panel must ensure that accurate minutes are kept of its proceedings.
- (2) A disclosure by a member of an assessment panel of a direct or indirect pecuniary interest in any aspect of a development or any body associated with any aspect of a development required under the Act must be recorded in the minutes of the assessment panel.
- (3) Members of the public are entitled to reasonable access to—
 - (a) the agendas for meetings of an assessment panel; and
 - (b) the minutes of meetings of an assessment panel.
- (4) However, an assessment panel may, before it releases a copy of any minutes under subregulation (3), exclude from the minutes information about any matter dealt with on a confidential basis by the assessment panel.
- (5) Minutes must be available under subregulation (3) within 5 business days after their adoption by the members of the assessment panel.

15—Quorum

A quorum at a meeting of an assessment panel is a number obtained by dividing the total number of members of the assessment panel for the time being in office by 2, ignoring any fraction resulting from the division, and adding 1.

16—Voting

- (1) Each member of an assessment panel present at a meeting of the assessment panel is entitled to 1 vote on a matter arising for decision and, if the votes are equal, the member presiding at the meeting is entitled to a second or casting vote.
- (2) Subregulation (1) does not apply to a person who is taken to be a member of an assessment panel under section 85 of the Act.

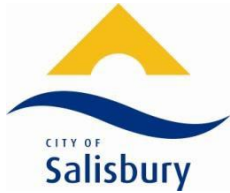
17—Validity of proceedings

A proceeding of an assessment panel (and any decision made by an assessment panel) is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

18—Other matters

Except insofar as a procedure is not prescribed by the Act or these regulations, the procedures of an assessment panel in relation to the conduct of its business will be as determined by the assessment panel (and an assessment panel is accordingly a specified body for the purposes of section 246(6)(d) of the Act).

Appendix B - Policy for the Assessment Panel Review of the Assessment Manager Decision



COUNCIL ASSESSMENT PANEL

Policy for the review of a decision of the Assessment Manager

28 April 2021

LEGISLATIVE FRAMEWORK

1. This Policy applies in addition to the statutory requirements for the review by the Council Assessment Panel/Regional Assessment Panel (Panel) of A decision of an Assessment Manager as set out in Part 16, Division 1 of the Planning, Development and Infrastructure Act 2016 (Act).

COMMENCING A REVIEW

2. An application for review must relate to a prescribed matter, as defined in Section 201 of the Act, for which an Assessment Manager was the relevant authority.
3. An application for review must be:
 - a. made using the Application to Assessment Panel for Assessment Manager's Decision Review (the Form);
 - b. lodged in a manner identified on the Form;
 - c. 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; and
 - d. an applicant may provide a written submission in support of his or her application for review.
4. In determining whether to grant an extension of time, the Presiding Member may consider:
 - a. the reason for the delay;
 - b. the length of the delay;
 - c. whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - d. the interests of justice;
 - e. whether the applicant has, or is within time to, appeal the prescribed matter to the ERD Court; and
 - f. any other matters the Presiding Member considers relevant.

MATERIALS FOR REVIEW HEARING

5. The Assessment Manager shall collate for the Panel:
 - a. 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:
 - i. application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
 - ii. internal and/or external referral responses; and
 - b. any report from Council staff or an external planning consultant written for the Assessment Manager;
 - c. any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
 - d. any other information requested by the Presiding Member.
6. 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.

REVIEW HEARING

7. The Assessment Manager must advise the applicant of the time and date of the Panel meeting at which the review application will be heard.
8. On review, the Panel will consider the Prescribed Matter afresh.
9. 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.
10. Except where provided in clause 3(d), the Panel will not receive submissions or addresses from any party.
11. The Presiding Member may permit Panel members to ask questions or seek clarification from the applicant and/or the Assessment Manager, in his or her discretion.
12. The Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
13. 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.
14. The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
15. The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.
16. Pursuant to regulation 13(2)(b) of the *Planning, Development and Infrastructure (General) Regulations 2017* the Panel will exclude the public and staff involved in the prescribed matter from attendance during the deliberation of the matter under this policy.

OUTCOME ON REVIEW HEARING

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

Appendix C – Standing Referral of Building Rules Assessment to Council

- At its meeting held 24 November 2020, the Salisbury Council Assessment Panel resolved 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; and
- 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 Salisbury Council Assessment Panel refers the assessment of the development in respect of the Building Rules to the City of Salisbury.

Appendix D – Delegations

At its meeting held 17 March 2021 the Panel resolved:

In accordance with Section 100(2)(d) of the Planning, Development and Infrastructure Act 2016 the Council Assessment Panel hereby revokes its previous delegations to the Assessment Manager and General Manager City Development of those powers and functions under the Planning Development and Infrastructure Act 2016.

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 regulations statutory instruments made thereunder contained in the proposed Instrument of Delegation as Attachment 1 to this report (Council Assessment Panel, 17 March 2021, Item No.8.2.1) are hereby delegated, effective from 19 March 2021, to the positions identified in the third column of the Instrument of Delegation subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.
2. The delegated powers and functions may be exercised individually by each delegate in respect of any particular matter where the delegate is required or proposing to act in the course of their duties.
3. Such powers and functions may be further delegated by the Assessment Manager in accordance with Section 100(2)(c) of the Planning, Development and Infrastructure Act 2016 as the Assessment Manager sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.
4. The power in Sections 119(9) and (14) of the Planning, Development and Infrastructure Act 2016 and Regulation 7 of the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019 may be further delegated by the General Manager City Development in accordance with Section 100(2)(c) of the Planning, Development and Infrastructure Act 2016 as the General Manager City Development sees fit, unless otherwise indicated in the Schedule of Conditions contained in the proposed Instrument of Delegation.
5. The delegations of the Council Assessment Panel be reviewed within 12 months.

Attachment 1

CITY OF SALISBURY COUNCIL ASSESSMENT PANEL

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

NOTES

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

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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

3.	Matters Against Which Development Must Be Assessed	
3.1	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):	
3.1.1.1	the relevant provisions of the Planning Rules; and	Assessment Manager General Manager City Development
3.1.1.2	to the extent provided by Part 7 Division 2 of the PDI Act – the impacts of the development, (planning consent);	Assessment Manager
3.1.2	in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988) - the requirement that the following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):	Assessment Manager
3.1.2.1	requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;	
3.1.2.2	any relevant requirements set out in a design standard has been satisfied;	
3.1.2.3	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;	
3.1.2.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;	
3.1.2.5	requirements set out in regulations made for the purposes of Section 102(1)(c) of the PDI Act are satisfied;	
3.1.3	in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 - the requirement that the	Assessment Manager

	following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):	
3.1.3.1	requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;	
3.1.3.2	any relevant requirements set out in a design standard has been satisfied;	
3.1.3.3	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;	
3.1.3.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;	
3.1.3.5	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;	
3.1.3.6	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;	
3.1.3.7	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;	
3.1.3.8	any building situated on the land complies with the Building Rules;	
3.1.3.9	requirements set out in the regulations made for the purposes of Section 102(d) of the PDI Act are satisfied;	
3.1.4	any encroachment of a building over, under, across or on a public place (and not otherwise dealt with above) is acceptable	Assessment Manager

	having regard to any provision made by the Planning and Design Code or a design standard;	
3.1.5	if relevant - requirements applying under Part 15 Division 2 of the PDI Act are satisfied;	
3.1.6	such other matters as may be prescribed.	
3.2	The power pursuant to Section 102(3) of the PDI Act to, in relation to granting a planning consent, on the delegate's own initiative or on application, reserve the delegate's decision on a specified matter or reserve the delegate's decision to grant a planning consent:	Assessment Manager
3.2.1	until further assessment of the relevant development under the PDI Act; or	
3.2.2	until further assessment or consideration of the proposed development under another Act; or	
3.2.3	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.	
3.3	The power pursuant to Section 102(4) of the PDI Act to allow any matter specified by the Planning and Design Code for the purposes of Section 102(4) of the PDI Act to be reserved on the application of the applicant.	Assessment Manager
4. Performance Assessed Development		
4.1	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).	Assessment Manager
4.2	The power pursuant to Section 107(3) of the PDI Act, if a proposed development is to be assessed under Section 107 of the PDI Act to make a decision in accordance with a practice direction.	Assessment Manager
4.3	The power pursuant to Section 107(4) of the PDI Act to limit the matters that the delegate will take into account to what should be the decision of the relevant authority as to planning consent in relation to the performance based elements of the development as assessed on its merits.	Assessment Manager

5.	Application and Provision of Information	
5.1	The power pursuant to Section 119(1)(b) of the PDI Act to require an application to the relevant authority for the purposes of Part 7 of the PDI Act, to include any information as the delegate may reasonably require.	Assessment Manager
5.2	The power pursuant to Section 119(3) of the PDI Act to request an applicant:	Assessment Manager
5.2.1	to provide such additional documents, assessments or information (including calculations and technical details) as the delegate may reasonably require to assess the application;	
5.2.2	to remedy any defect or deficiency in any application or accompanying document or information required by or under the PDI Act;	
5.2.3	to consult with an authority or body prescribed by the regulations;	
5.2.4	to comply with any other requirement prescribed by the regulations.	Assessment Manager
5.3	The power pursuant to Section 119(6) of the PDI Act if a request is made under Section 119(3) of the PDI Act, and the request is not complied with within the time specified by the regulations, to	Assessment Manager
5.3.1	subject to Section 119(6)(b)(ii) of the PDI Act, refuse the application; and	
5.3.2	refuse the application in prescribed circumstances (including, if the regulations so provide, in a case involving development that is deemed-to-satisfy development).	
5.4	The power pursuant to Section 119(7) of the PDI Act to, in dealing with an application that relates to a regulated tree, consider that special circumstances apply.	Assessment Manager
5.5	The power pursuant to Section 119(9) of the PDI Act to:	
5.5.1	permit an applicant:	Assessment Manager
5.5.1.1	to vary an application;	
5.5.1.2	to vary any plans, drawings, specifications or other documents that accompanied an application,	

	(provided that the essential nature of the proposed development is not changed);	
5.5.2	permit an applicant to lodge an application without the provision of any information or document required by the regulations;	Assessment Manager
5.5.3	to the extent that the fee is payable to the relevant authority waive payment of whole or part of the application fee, or refund an application fee (in whole or in part);	Assessment Manager
5.5.4	if there is an inconsistency between any documents lodged with the relevant authority for the purposes of Part 7 of the PDI Act (whether by an applicant or any other person), or between any such document and a development authorisation that has already been given that is relevant in the circumstances, return or forward any document to the applicant or to any other person and determine not to finalise the matter until any specified matter is resolved, rectified or addressed.	Assessment Manager
5.6	The power pursuant to Section 119(10) of the PDI Act to grant a permission under Section 119(9) of the PDI Act unconditionally or subject to such conditions as the delegate thinks fit.	Assessment Manager
5.7	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.	Assessment Manager
5.8	The power pursuant to Section 119(14) of the PDI Act to if an applicant withdraws an application to determine to refund the application fee.	Assessment Manager
6.	Outline Consent	
6.1	The power pursuant to Section 120(1) of the PDI Act and subject to Section 120 of the PDI Act, to on application, grant a consent in the nature of an outline consent.	Assessment Manager
6.2	The power pursuant to Section 120(3) of the PDI Act if an outline consent is granted and a subsequent application is made with respect to the same development (subject to any variations allowed by a practice direction) to:	Assessment Manager
6.2.1	grant any consent contemplated by the outline consent; and	
6.2.2	not impose a requirement that is inconsistent	

	with the outline consent.	
7.	Design Review	
7.1	The power pursuant to Section 121(7) of the PDI Act, to in acting under the PDI Act, take into account any advice provided by a design panel (insofar as may be relevant to the assessment of proposed development by the delegate).	Assessment Manager
8.	Referrals to Other Authorities or Agencies	
8.1	The power pursuant to Section 122(1) of the PDI Act, where an application for consent to, or approval of, a proposed development of a prescribed class is to be assessed by a relevant authority, to:	Assessment Manager
8.1.1	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	
8.1.2	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	
	where the regulations so provide, subject to Section 122 of the PDI Act.	
8.2	The power pursuant to Section 122(5)(b) of the PDI Act, acting by direction of a prescribed body:	Assessment Manager
8.2.1	to refuse the application; or	
8.2.2	consent to or approve the development and impose such conditions as the prescribed body thinks fit, (subject to any specific limitation under another Act as to the conditions that may be imposed by the prescribed body)	
	where the regulations so provide.	
8.3	The power pursuant to Section 122(7) of the PDI Act, if the relevant authority is directed by a prescribed body to refuse an application and the refusal is the subject of an appeal under the PDI Act, to apply for the relevant authority to be joined as a party to the proceedings.	Assessment Manager
8.4	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	Assessment Manager

	process of assessment.	
9.	Preliminary Advice and Agreement	
9.1	The power pursuant to Section 123(2) of the PDI Act, if:	Assessment Manager
9.1.1	a proposed development is referred to a prescribed body under Section 123(1) of the PDI Act; and	
9.1.2	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	
9.1.3	the prescribed body agrees, in the manner prescribed by the regulations, that the development meets the requirements (if any) of the prescribed body (including on the basis of the imposition of conditions),	
	to, subject to Section 123(4) of the PDI Act if an application for planning consent with respect to the development is lodged with the relevant authority within the prescribed period after the prescribed body has indicated its agreement under Section 123(2)(c) of the PDI Act, form the opinion and be satisfied that the application accords with the agreement indicated by the prescribed body (taking into account the terms or elements of that agreement and any relevant plans and other documentation).	
9.2	The power pursuant to Section 123(4) of the PDI Act to determine an agreement under Section 123 of the PDI Act is no longer appropriate due to the operation of Section 132 of the PDI Act.	Assessment Manager
10.	Proposed Development Involving Creation of Fortifications	
10.1	The power pursuant to Section 124(1) of the PDI Act, if the delegate has reason to believe that a proposed development may involve the creation of fortifications, to refer the application for consent to, or approval of, the proposed development to the Commissioner of Police (the Commissioner).	Assessment Manager
10.2	The power pursuant to Section 124(5) of the PDI Act, if the Commissioner determines that the proposed development involves the creation of fortification, to:	Assessment Manager
10.2.1	if the proposed development consists only of the creation fortifications - refuse the application; or	

10.2.2	in any other case - impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications	
10.3	The power pursuant to Section 124(6) of the PDI Act, if the relevant authority acting on the basis of a determination of the Commissioner under Section 124(2) of the PDI Act refuses an application or imposes conditions in respect of a development authorisation, to notify the applicant that the application was refused, or the conditions imposed, on the basis of a determination of the Commissioner under Section 124 of the PDI Act.	Assessment Manager
10.4	The power pursuant to Section 124(7) of the PDI Act, if a refusal or condition referred to in Section 124(5) of the PDI Act is the subject of an appeal under the PDI Act to apply to the Court to be joined as a party to the appeal.	Assessment Manager
11. Time Within Which Decision Must be Made		
11.1	The power pursuant to Section 125(6) of the PDI Act to form the opinion and consider that the relevant application for planning consent should have been refused and apply to the Court for an order quashing the consent.	General Manager City Development
11.2	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.	General Manager City Development
12. Determination of Application		
12.1	The power pursuant to Section 126(1) of the PDI Act to, on making a decision on an application under Part 7 of the PDI Act, give notice of the decision in accordance with the regulations (and, in the case of a refusal, to include in the notice the reasons for the refusal and any appeal rights that exist under the PDI Act).	Assessment Manager
12.2	The power pursuant to Section 126(3) of the PDI Act to, on the delegate's own initiative or on the application of a person who has the benefit of any relevant development authorisation, extend a period prescribed under Section 126(2) of the PDI Act.	Assessment Manager
13. Conditions		
13.1	The power pursuant to Section 127(1) of the PDI Act to make a decision subject to such conditions (if any) as the delegate thinks fit to impose in relation to the development.	Assessment Manager General Manager City Development

13.2	The power pursuant to Section 127(2)(c) of the PDI Act to vary or revoke a condition in accordance with an application under Part 7 of the PDI Act.	Assessment Manager
13.3	The power pursuant to Section 127(4) of the PDI Act, subject to Sections 127(6) and (8) of the PDI Act, if a development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, to apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the delegate) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).	Assessment Manager
13.4	The power pursuant to Section 127(6) of the PDI Act to, on the application of the applicant, determine that a payment of an amount calculated in accordance with the regulations be made into the relevant fund in lieu of planting 1 or more replacement trees under Section 127(4) of the PDI Act.	Assessment Manager
13.5	The power pursuant to Section 127(8)(b) of the PDI Act to:	Assessment Manager
13.5.1	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;	
13.5.2	to seek the Minister's concurrence to grant an exemption under Section 127(8)(b) of the PDI Act.	
14.	Variation of Authorisation	
14.1	The power pursuant to Section 128(2)(d) of the PDI Act to approve an application for a variation to a development authorisation previously given under the PDI Act, which seeks to extend the period for which the relevant authorisation remains operative.	Assessment Manager
15.	Cancellation of Development Authorisation	
15.1	The power pursuant to Section 143(1) of the PDI Act to, on the application of a person who has the benefit of the authorisation, cancel a development authorisation previously given by the relevant authority.	Assessment Manager
15.2	The power pursuant to Section 143(2) of the PDI Act	Assessment

	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.	Manager
16.	Professional Advice to be Obtained in Relation to Certain Matters	
16.1	The power pursuant to Section 235(1) of the PDI Act, to, in the exercise of a prescribed function, rely on a certificate of a person with prescribed qualifications.	Assessment Manager
16.2	The power pursuant to Section 235(2) of the PDI Act to seek and consider the advice of a person with prescribed qualifications, or a person approved by the Minister for that purpose, in relation to a matter arising under the PDI Act that is declared by regulation to be a matter on which such advice should be sought.	Assessment Manager
17.	General Transitional Schemes for Panels	
17.1	The power pursuant to Clause 12(7) of Schedule 8 of the PDI Act, to	
17.1.1	adopt any findings or determinations of a council development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and	Assessment Manager
17.1.2	adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and	Assessment Manager
17.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and	Assessment Manager
17.1.4	deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act; and	Assessment Manager
17.1.5	deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.	Assessment Manager
18.	Continuation of Processes	
18.1	The power pursuant to Clause 18(2) of Schedule 8 of the PDI Act, to:	
18.1.1	adopt any findings or determinations of a	Assessment

	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	Manager
18.1.2	adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and	Assessment Manager
18.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and	Assessment Manager
18.1.4	deal with any requirement or grant any variation imposed or proposed in connection with an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and	Assessment Manager
18.1.5	take any other step or make any other determination authorised by the regulations, or that is reasonably necessary to promote or ensure a smooth transition on account of the transfer of functions, powers or duties under Clause 18 of Schedule 8 of the PDI Act.	Assessment Manager

PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017

19. Verification of Application		Delegate
19.1	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:	
19.1.1	determine the nature of the development; and	Assessment Manager
19.1.2	if the application is for planning consent - determine:	Assessment Manager
19.1.2.1	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	

19.1.2.2	the category or categories of development that apply for the purposes of development assessment; and	
19.1.3	determine whether the relevant authority is the correct entity to assess the application under the PDI Act; and	Assessment Manager
19.1.4	if the relevant authority is the correct entity to assess the application (or any part of the application):	Assessment Manager
19.1.4.1	check that the appropriate documents and information have been lodged with the application; and	
19.1.4.2	confirm the fees required to be paid at that point under the <i>Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019</i> ; and	
19.1.4.3	provide an appropriate notice via the SA planning portal; and	
19.1.5	if the relevant authority is not the correct entity to assess the application (or any part of the application):	
19.1.5.1	provide the application (or any relevant part of the application), and any relevant plans, drawings, specifications and other documents and information in its possession, to the entity that the delegate considers to be the correct relevant authority in accordance with any practice direction; and	Assessment Manager
19.1.5.2	provide an appropriate notice via the SA planning portal.	
20. Application and Further Information		
20.1	The power pursuant to Regulation 33(4) of the General Regulations to seek clarification about any document or information that has been provided by the applicant.	Assessment Manager
21. Amended Applications		
21.1	The power pursuant to Regulation 35(3) of the	Assessment

	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.	Manager
21.2	The power pursuant to Regulation 35(4) of the General Regulations if a variation would change the essential nature of a proposed development (as referred to in Section 119(9)(a) of the PDI Act), to agree with the applicant to proceed with the variation on the basis that the application (as so varied) will be treated as a new application under the General Regulations.	Assessment Manager
22. Withdrawing/Lapsing Applications		
22.1	The power pursuant to Regulation 38(1) of the General Regulations if an application is withdrawn by the applicant under Section 119(14) of the PDI Act, to notify:	Assessment Manager
22.1.1	any agency to which the application has been referred under Division 2 of the General Regulations; and	
22.1.2	any person who has made a representation in relation to the application under Division 3 of the General Regulations,	
	of the withdrawal.	
22.2	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:	Assessment Manager
22.2.1	take reasonable steps to notify the applicant of the action under consideration; and	
22.2.2	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.	
23. Court Proceedings		
23.1	The power pursuant to Regulation 40 of the General Regulations to, subject to Section 214(14) of the PDI Act, by notice in writing to the applicant, decline to deal with the application until any proceedings under the PDI Act have been concluded.	Assessment Manager

24. Additional Information or Amended Plans	
24.1 The power pursuant to Regulation 42(1) of the General Regulations if a delegate has referred an application to a prescribed body under Division 1 of the General Regulations and the relevant authority subsequently receives additional information, or an amended plan, drawing or specification, which is materially relevant to the referral, or to any report obtained as part of the referral process, to repeat the referral process.	Assessment Manager
25. Preliminary Advice and Agreement (Section 123)	
25.1 The power pursuant to Regulation 46(6) of the General Regulations, if:	Assessment Manager
25.1.1 the delegate permits an applicant to vary an application under Section 119(9) of the PDI Act; and	
25.1.2 the delegate determines that the application no longer accords with the agreement indicated by the prescribed body,	
to refer the application (unless withdrawn) to the prescribed body:	
25.1.3 to obtain a variation to the agreement under Section 123 of the PDI Act; or	
25.1.4 to obtain a response from the prescribed body for the purposes of Section 122 of the PDI Act.	
25.2 The power pursuant to Regulation 46(7) of the General Regulations if:	Assessment Manager
25.2.1 an application is withdrawn by the applicant; and	
25.2.2 the applicant sought to rely on an agreement under Section 123 of the PDI Act in connection with the application,	
to notify relevant prescribed body of the withdrawal.	
25.3 The power pursuant to Regulation 46(8) of the General Regulations, if:	Assessment Manager
25.3.1 an application is lapsed by a relevant authority under Regulation 38 of the General Regulations; and	
25.3.2 the applicant sought to rely on an agreement under Section 123 of the PDI Act in	

	connection with the application,	
	to notify the relevant prescribed body of the lapsing.	
25.4	The power pursuant to Regulation 46(9) of the General Regulations, if:	Assessment Manager
25.4.1	an applicant seeks to rely on an agreement under Section 123 of the PDI Act in connection with the application; and	
25.4.2	a notice of a decision on the application is issued by the delegate under Regulation 57 of the General Regulations,	
	to provide a copy of the notice to the prescribed body within 5 business days after the notice is given to the applicant under Regulation 57 of the General Regulations.	
26.	Notification of Application of Tree-damaging Activity to Owner of Land	
26.1	The power pursuant to Regulation 48 of the General Regulations, if an owner of land to which an application for a tree-damaging activity in relation to a regulated tree relates is not a party to the application, to:	Assessment Manager
26.1.1	give the owner notice of the application within 5 business days after the application is made; and	
26.1.2	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.	
27.	Public Inspection of Applications	
27.1	The power pursuant to Regulation 49(3) of the General Regulations to request a person verify information in such manner as the delegate thinks fit.	Assessment Manager
28.	Response by Applicant	
28.1	The power pursuant to Regulation 51(1) of the General Regulations to allow a response to a representation by the applicant to be made within such longer period as the delegate may allow.	Assessment Manager
29.	Notice of Decision (Section 126(1))	
29.1	The power pursuant to Regulation 57(4)(a) of the	Assessment

General Regulations to endorse a set of any approved plans and other relevant documentation with an appropriate form of authentication.	Manager
30. Consideration of Other Development Authorisations	
30.1 The power pursuant to Regulation 60 of the General Regulations, to, in deciding whether to grant a development authorisation, take into account any prior development authorisation that relates to the same proposed development under the PDI Act, and any conditions that apply in relation to that prior development authorisation.	Assessment Manager
31. Variation of Authorisation (Section 128)	
31.1 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.	Assessment Manager
32. Advice from Commission	
32.1 The power pursuant to Regulation 76(2) of the General Regulations, if a report is not received from the Commission within 20 business days from the day on which the application is lodged under Regulation 29 of the General Regulations or within such longer period as the Commission may require by notice to the relevant authority, to presume that the Commission does not desire to make a report.	Assessment Manager
33. Underground Mains Area	
33.1 The power pursuant to Regulation 78(3) of the General Regulations, if an application relates to a proposed development that involves the division of land within, or partly within, an underground mains area (even if the area is declared as such after the application is lodged with the relevant authority), to require, as a condition on its decision on the application, that any electricity mains be placed underground.	Assessment Manager
34. Plans for Residential Alterations, Additions and New Dwellings	
34.1 The power pursuant to Clause 2(d)(ii)(B) of Schedule 8 of the General Regulations to form the belief that	Assessment Manager

	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.	
34.2	The power pursuant to Clause 2(d)(ii)(D) of Schedule 8 of the General Regulations to be satisfied a site contamination audit report (within the meaning of the Environment Protection Act 1993) is not required.	Assessment Manager

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

35. Calculation or Assessment of Fees		
35.1	The power pursuant to Regulation 5(1) of the PDI (Fees, Charges and Contributions) Regulations 2019 (the Fees Regulations) in relation to an application which is duly lodged with the council under a related set of regulations (including via the SA planning portal):	Assessment Manager
35.1.1	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	
35.1.2	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).	
35.2	The power pursuant to Regulation 5(2) of the Fees Regulations, if the delegate is acting under Regulation 5(1) of the Fees Regulations, or as the delegate of a relevant authority, believes that any information provided by an applicant is incomplete or inaccurate, to calculate any fee on the basis of estimates made by the delegate.	Assessment Manager
35.3	The power pursuant to Regulation 5(3) of the Fees Regulations to, at any time, and despite an earlier calculation or acceptance of an amount in respect of the fee, reassess a fee payable under the Fees Regulations or a related set of regulations.	Assessment Manager
36. Waiver or Refund of Fee		
36.1	The power pursuant to Regulation 7 of the Fees Regulations to, as the delegate considers appropriate to do so:	General Manager City Development
36.1.1	waive the payment of the fee, or the payment	

	of part of the fee; or	
	36.1.2 refund the whole or a part of the fee.	
	PLANNING AND DESIGN CODE	
37. Procedural Matter		
37.1	The power pursuant to and in accordance with the Planning and Design Code (the PD Code) to form the opinion development is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development and therefore is excluded from the operation of Sections 107(3) and (4) of the PDI Act.	Assessment Manager
38. Procedural Referrals		
38.1	The power pursuant to and in accordance with the PD Code to form the opinion development is minor in nature and would not warrant a referral when considering the purpose of the referral.	Assessment Manager
38.2	The power pursuant to and in accordance with the PD Code to form the opinion and deem:	Assessment Manager
38.2.1	alteration to an existing access or public road junction;	
38.2.2	development that changes the nature of vehicular movements or increases the number or frequency of movements through an existing access,	
	to be minor.	
38.3	The power pursuant to and in accordance with the PD Code to form the opinion an alteration or extension of an existing dwelling is minor.	Assessment Manager
38.4	The power pursuant to and in accordance with the PD Code to form the opinion development is minor in nature or like for like maintenance and would not warrant a referral when considering the purpose of the referral.	Assessment Manager
39. Referral Body: Minister Responsible for the Administration of the Aquaculture Act 2001		
39.1	The power pursuant to and in accordance with Part 9.4 of the PD Code to form the opinion that aquaculture development which involves an alteration to an existing or approved development is minor in nature.	Assessment Manager

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

40. Responsibility to Undertake Notification	
40.1 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.	Assessment Manager
41. Preparing for Notification	
41.1 The power pursuant to clause 8 of PD3, if the applicant has confirmed they accept responsibility to place a notice on the land as per clause 6(3)(a) of PD3, to, at least 4 business days prior to the commencement of the notification period:	Assessment Manager
41.1.1 give notice of the anticipated commencement date and of the notification period to the applicant; and	
41.1.2 provide the applicant with a copy of the content of the notice to be placed on the relevant land in PDF format; and	
41.1.3 advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of PD3.	
42. Notice on Land	
42.1 The power pursuant to clause 10(2) of PD3, in relation to clause 10(2) of PD3, to determine the most appropriate position for the notice on the land in order to provide for maximum visibility from a public road, and in cases where the relevant land has more than 1 frontage to a public road, to determine that more than 1 notice must be erected on each of the public road frontages to ensure that notice of the development is reasonably apparent to members of the public.	Assessment Manager

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

43. Scheme Provisions	
43.1 The power pursuant to clause 5(1) of the State	Assessment

	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.	Manager
43.2	The power pursuant to clause 5(3) of PD6 to, where the delegate is uncertain whether a matter conflicts with, or duplicates a matter dealt with under a licencing or regulatory regime under another Act, to seek the advice of that authority or agency.	Assessment Manager

SCHEDULE OF CONDITIONS

CONDITIONS OR LIMITATIONS APPLICABLE TO DELEGATIONS CONTAINED IN THIS INSTRUMENT

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
3.1.1.1	<p>The delegation to the Assessment Manager of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which one or more of the following apply:</p> <ol style="list-style-type: none"> 1. No valid representations are received; 2. All valid representations are withdrawn; 3. No representor who has lodged a valid representation wishes to be heard; 4. A deemed consent notice has been served on the Panel under Section 125(2) of the Act. <p>The delegation to the General Manager City Development of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications for which the applicant has not agreed to extend the statutory timeframe within which the Panel must determine the development application pursuant to Regulation 53 of the Regulations, and that timeframe will expire before the next meeting of the Panel is scheduled to occur.</p>
11.1	<p>The delegation of the power to apply to the Court for an order quashing the consent pursuant to Section 125(6) of the Act is limited to where the time within which the application must be made (being one month after the deemed planning consent is taken to have been granted) will expire before:</p> <ol style="list-style-type: none"> 1. The next meeting of the Panel is scheduled to occur; or 2. A special meeting of the Panel is able to be convened in accordance with the Panel's General Operating Procedures.
36.1	<p>Prior to exercising the power to waive or refund a fee pursuant to Regulation 7 of the Fee Regulations, the delegate shall have regard to any policy adopted by the Chief Executive Officer of Council.</p>