



AGENDA

FOR COUNCIL ASSESSMENT PANEL MEETING TO BE HELD ON

26 SEPTEMBER 2023 AT 6.30 PM

**IN LITTLE PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB, 34
CHURCH STREET, SALISBURY**

MEMBERS

Mr T Mosel (Presiding Member)
Mr R Bateup
Ms C Gill
Mr B Brug
Mr J Botten

REQUIRED STAFF

Assessment Manager, Mr C Zafiropoulos
General Manager City Development, Ms M English

APOLOGIES

LEAVE OF ABSENCE

PRESENTATIONS

PRES1 Case Law Update

Mr Peter Psaltis, Principal from Norman Waterhouse Lawyers will attend this meeting to facilitate the session.

ADOPTED MINUTES FROM PREVIOUS MEETING

Presentation of the Minutes of the Council Assessment Panel Meeting held on 29 August 2023.

DECLARATIONS OF CONFLICTS OF INTEREST

REPORTS

Nil

OTHER BUSINESS

8.2.1	Delegations	7
8.2.2	Status of Current Appeal Matters and Deferred Items	47
8.2.3	Policy Issues Arising from Consideration of Development Applications	
8.2.4	Future Meetings & Agenda Items	

CLOSE

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**MINUTES OF COUNCIL ASSESSMENT PANEL MEETING HELD IN LITTLE PARA
CONFERENCE ROOMS, SALISBURY COMMUNITY HUB, 34 CHURCH STREET,
SALISBURY ON**

29 AUGUST 2023

MEMBERS PRESENT

Mr T Mosel (Presiding Member)
Mr R Bateup
Mr B Brug
Mr M Atkinson

STAFF

General Manager City Development, Michelle English
Assessment Manager, Mr C Zafiropoulos
Team Leader Planning, Mr C Carrey
Development Officer Planning, Mr B Ferguson

The meeting commenced at 6:30pm

The Presiding Member welcomed the members, staff and the gallery to the meeting.

APOLOGIES

Apologies were received from Ms C Gill..

LEAVE OF ABSENCE

Nil

ADOPTED MINUTES FROM PREVIOUS MEETING

The Minutes of the Council Assessment Panel Meeting held on 25 July
2023, be taken as read and confirmed.

DECLARATIONS OF CONFLICTS OF INTEREST

Nil

REPORTS

Nil

OTHER BUSINESS

8.2.1 **Review of Assessment Manager Decision - DA 22035526, 24 O'Grady Drive, Para Hills SA 5096**

Mr D Furnell, Certified PD spoke on behalf of the applicant and answered questions from the Panel

Ms K A Hodges – attended by MS Teams but was not invited to answer questions from the Panel

ORDER TO EXCLUDE THE PUBLIC

Mr Bateup moved and the Council Assessment Panel resolved to:

Exclude the public, Mr B Ferguson - Development Officer Planning and Mr C Zafiropoulos - Assessment Manager, from the CAP proceedings for consideration of item 8.2.1 on the Agenda of the CAP meeting 29 August 2023 on the basis of regulation 13(2)(b) of the Planning, Development and Infrastructure (General) Regulations 2017.

Mr C Zafiropoulos & Mr B Ferguson & the public left the meeting at 6:49pm.

Mr B Brug moved and the Council Assessment Panel resolved to:

Affirm the Assessment Manager's decision with regards to Development Application no. 22035526, for '*Land Division (1 into 2) Conventional. Retain existing dwelling. Carport*' at 24 O'Grady Drive, Para Hills SA 5096.

Mr C Zafiropoulos and Mr B Ferguson returned at 7:05pm

Mr D Furnell and Ms K A Hodges did not return to the meeting.

8.2.2 **Review of Assessment Manager Decision Policy**

Mr M Atkinson moved and the Council Assessment Panel resolved to:

Endorse the *Council Assessment Panel Policy for the review of a decision of the Assessment Manager* provided in Attachment 1 with an amendment to clause 10 of the Policy to remove reference to "he/she has" and replace with "they have".

8.2.3 **Annual Report of the Council Assessment Panel for 2022/23**

Mr R Bateup moved and the Council Assessment Panel resolved:

That the draft Council Assessment Panel Annual Report for 2022/23 be adopted.

8.2.4 Status of Current Appeal Matters and Deferred Items

Mr Zafiropoulos provided a verbal update on the status of appeal matters.

8.2.5 Policy Issues Arising from Consideration of Development Applications

Nil

8.2.6 Acknowledgment of Mr M Atkinson

Mr B Brug moved and the Council Assessment Panel resolved to:

Thank Mr M Atkinson for his insightful contribution and service to the Salisbury Council Assessment Panel during his term of appointment.

8.2.7 Future Meetings & Agenda Items

Next meeting scheduled for Tuesday 26 September 2023

ADOPTION OF MINUTES

Mr M Atkinson moved, and the Council Assessment Panel resolved that the Minutes of the Council Assessment Panel Meeting be taken and read as confirmed.

The meeting closed at 7:33pm.

PRESIDING MEMBER: Mr T Mosel

DATE: 29 August 2023
(refer to email approving minutes registered in the City of Salisbury's Record Management System - Document Number 7923641.)

ITEM

8.2.1

COUNCIL ASSESSMENT PANEL**DATE**

26 September 2023

PREV REFS

Council Assessment Panel	8.2.1	17/03/2021
Council Assessment Panel	8.2.3	24/08/2021
Council Assessment Panel	8.2.2	27/04/2022

HEADING

Delegations

AUTHOR

Chris Zafiropoulos, Assessment Manager, City Development

CITY PLAN LINKS

4.4 We plan effectively to address community needs and identify new opportunities

SUMMARY

The Panel reviews its delegations annually. This report provides information on outcomes of the previous financial year and seeks the Panel's endorsement of delegations for the next twelve months.

RECOMMENDATION**THAT THE COUNCIL ASSESSMENT PANEL:**

1. Revokes, in accordance with Section 100(2)(d) of the *Planning, Development and Infrastructure Act 2016* 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* as included in Attachment 1 (CAP meeting 27 April 2022, Item no. 8.2.2).
2. Delegates 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 as Attachment 1 to this report (CAP, 26 September 2023, Item 8.2.1) to the positions identified in the third column of the proposed Instrument of Delegation subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.
3. Notes the delegated powers and functions may be exercised individually by each delegate in respect of any particular matter where the delegate is required or proposing to act in the course of their duties.
4. Notes that 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 as included in Attachment 1 (CAP meeting 26 September 2023, Item 8.2.1).

5. Notes 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 as included in Attachment 1 (CAP meeting 26 September 2023, Item 8.2.1).
6. Notes that the delegations be reviewed in September 2024.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Delegations
2. Applications determined under delegated authority by the Assessment Manager - 2022/23

1. BACKGROUND

- 1.1 The *Planning Development and Infrastructure Act 2016* (the Act) assigns the Panel as a relevant authority in its own right under the Act. In the exercise of its duties, the Panel has delegated to Council staff specific duties or to exercise powers on its behalf.
- 1.2 Delegations enhance decision making processes and allow nominated matters to be resolved efficiently and effectively without the need for the Panel's consideration. The delegations provide for:
 - Duties to assist in the timely processing of applications.
 - Determination of prescribed development applications by Council staff.
- 1.3 The Assessment Panel last reviewed its delegations under the Act at the meeting on 27 April 2022.
- 1.4 This review has been delayed pending updated delegation templates from the LGA following legislative amendments, and to align with the term of the new Panel.

2. REPORT

Relevant Authority

- 2.1 The Act provides that an Assessment Panel will be a relevant authority (planning and building) in relation to a proposed development that is to be undertaken within the area of a council, unless another authority is prescribed by the Act or regulations (section 93 of the Act).
- 2.2 The Assessment Panel is designated the relevant authority for:
 - Performance assessed development under section 107 of the Act where notice of the application must be given under section 107(3) of the Act.

- Development which involves the assessment of the building rules under section 99 of the Act where a building certifier has not been nominated, unless the Panel refers building rules matters to Council. The Panel referred all the building rules assessment to Council on 24 November 2020.

Current Delegations

2.3 The current delegations to staff include granting power to:

- 2.3.1 Perform the various duties and responsibilities for the efficient processing of development applications.
- 2.3.2 Assess and determine development applications where no representations have been made, or are withdrawn, or representors do not wish to be heard in support of their representation.
- 2.3.3 Assess and determine development applications that are/or may be subject deemed consent notice.

Publicly Notified Applications

2.4 The table below summarises the number of applications assessed by the Panel over the last six (6) years, compared to the number of publicly notified applications for the same period.

	2016/17	2017/18	2018/19	2019/20	2021/22	2022/23
Publicly Notified	48	89	102	89	52 ¹ / 13 ²	50
CAP Assessed	23	9	19	11	8 ¹ / 6 ²	12 / 5 ³

¹ PDI Act notified development applications

² Dev Act notified development applications

³ Applications delegated to Panel from AM

2.5 The overall number of notified applications is lower in this last financial year. However, if tree damaging applications are excluded however from the pre-2021 period that were notified applications under the *Development Act 1993*, there has been an increase in notified development applications under the PDI Act. Tree damaging development applications accounted for some sixty (60) of the notified applications under the *Development Act* in 2018/19 & 2019/20.

- 2.6 A more detailed breakdown of planning applications under the Act for the 2022/23 financial year is summarised in the table below.

	Number
Planning Applications submitted	1,753
Planning Applications determined	1,533
Notified Applications	50
Determined planning consents by relevant authority	
➤ CAP	17
➤ Assessment Manager (AM)	1,425
➤ AM as delegate for Panel	27

- 2.7 The quarterly reports provided to the Panel identify all the applications determined under delegated authority by the Assessment Manager for the Panel. A summary of all the applications considered in the previous financial year is provided in Attachment 2. The table highlights where representations have been made in respect to these development applications, the representations have generally indicated support for the development application.
- 2.8 The overall number of development applications considered by the Panel during this period of 17 development applications is within the higher range of total development applications historically considered by the Panel over a 12-month period. It is noted that where representors generally have stronger objections to a development application, they will explicitly request to appear before the Panel to make a verbal submission to support their objection.
- 2.9 The delegations appear to be providing the appropriate balance of the Panel assessing more contested development applications and delegating other development applications to the Assessment Manager to maintain customer service levels within current resourcing.
- 2.10 It is recommended that the Panel retain the current delegations and that they be reviewed again in 12 months.

Deemed Approval

- 2.11 Section 125 of the PDI Act provides that in the event a relevant authority fails to determine an application for planning consent within the time stipulated by regulations, the applicant can choose to serve a “deemed consent notice” on the relevant authority. Upon service of a deemed consent notice, the application is taken to have been granted planning consent. The relevant authority can then:
- 2.11.1 Take no action, in which case the development authorisation will remain, subject to standard conditions set out in Practice Direction 11;

- 2.11.2 Within 10 business days, issue its own planning consent, including with its own conditions; or
- 2.11.3 Within one month, appeal the deemed consent notice.
- 2.12 The LGA has recommended that Panels (should they wish to avoid special meetings being convened from time to time), grant power to the Assessment Manager to grant planning consent within 10 days for development applications which are subject to a deemed consent notice.
- 2.13 This is because it is considered that the standard conditions in Practice Direction 11 may prove inadequate in some circumstances and it has been suggested that the enforceability of some conditions may prove difficult down the track. Accordingly, in such situations it is preferable to issue a planning consent subject to appropriate conditions for the development.
- 2.14 In addition, there may be a circumstance where a decision may be required to refuse a development application within the prescribed timeframe, in the event the applicant has not agreed to extend the timeframe for the Panel to consider the development application. This will avoid the possibility of a deemed consent notice being issued.
- 2.15 In the event a deemed consent notice has been issued, the delegations provide that the Assessment Manager will provide a report to the Panel on the outcome of the notice. The Panel may, at this time, consider if it wishes to lodge an application with the ERD Court seeking an order to quash the deemed consent notice.
- 2.16 In the circumstance where an application to quash a deemed consent notice must be lodged before the Panel is able to meet (including a special meeting), the power to lodge the application has been delegated to the General Manager City Development. This approach was based on legal advice that identified the benefit of an additional step (review) in the processes that is removed from the Assessment Manager.
- 2.17 There have been no deemed consent notices issues against the Panel in this period. It is recommended that the Panel however retain the delegations for applications that may captured by the deemed planning consent clauses of the Act.

Updates to Template as a result of legislative amendments

- 2.18 As a consequence of changes to regulations, the following parts of the delegations have been updated (shown in tracked changes in Attachment 1). The changes are generally considered to be minor in nature.
 - 2.18.1 Clause 14.1 in relation to varying a development application.
 - 2.18.2 Clause 40.2 relating to determine minor variations for the purpose of public notification.
 - 2.18.3 Clauses 41.8 relating to determining a minor variation to an application does not require referral to a referral body.
 - 2.18.4 Clause 41.9 to form the opinion a development materially affects a State Heritage Place.
 - 2.18.5 Clause 42.1 to form the opinion that an element of the development does not contribute to the heritage value or characteristics for the purpose of public notification.

3. CONCLUSION / PROPOSAL

- 3.1 Delegations have served the City of Salisbury well for a number of years, and Council has earned a reputation for efficient, timely and considered determination of development applications.
- 3.2 It is recommended that the Panel retain its current delegations for the efficient and effective processing of development applications under the *Planning, Development and Infrastructure Act 2016*.
- 3.3 The instrument of delegation is provided in Attachment 1 for the Panel's consideration and adoption.

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

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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	

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	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 following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):	Assessment Manager
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	

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	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 having regard to any provision made by the Planning and Design Code or a design standard;	Assessment Manager
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	Assessment Manager

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applicant.		
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

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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	Assessment Manager

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	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.	
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.	

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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	Assessment Manager

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	proceedings.	
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 process of assessment.	Assessment Manager
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	Assessment Manager

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	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).	
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		

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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	Assessment

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Act to:	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	
<u>14.1 The power pursuant to Sections 128(1) and (2) of the PDI Act to determine an application seeking the variations of a development authorisation previously given under the PDI Act (including an application seeking the variation of a condition imposed with respect to the development authorisation).</u>	<u>Assessment Manager</u>
14.1 14.2 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 to make a cancellation under Section 143(1) of the PDI Act subject to such conditions (if any) as the delegate thinks fit to impose.	Assessment Manager

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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

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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 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	Assessment 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. Interpretation	Delegate
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19.1	The power pursuant to Regulation 3(6)(b) of the Planning, Development and Infrastructure (General) Regulations 2017 (the General Regulations) to require that a statement of site suitability provided to a relevant authority in connection with an application for development authorisation be issued by a site contamination auditor if the Environment Protection Authority directs the relevant authority to do so in relation to a particular application.	Assessment Manager
20. Verification of Application		
20.1	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:	
20.1.1	determine the nature of the development; and	Assessment Manager
20.1.2	if the application is for planning consent - determine:	Assessment Manager
20.1.2.1	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	
20.1.2.2	the category or categories of development that apply for the purposes of development assessment; and	
20.1.3	determine whether the relevant authority is the correct entity to assess the application under the PDI Act; and	Assessment Manager
20.1.4	if the relevant authority is the correct entity to assess the application (or any part of the application):	Assessment Manager
20.1.4.1	check that the appropriate documents and information have	

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	been lodged with the application; and	
20.1.4.2	confirm the fees required to be paid at that point; and	
20.1.4.3	provide an appropriate notice via the SA planning portal; and	
20.1.5	if the relevant authority is not the correct entity to assess the application (or any part of the application);	Assessment Manager
20.1.5.1	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	
20.1.5.2	provide an appropriate notice via the SA planning portal.	

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21. Site Contamination – Detailed Site Investigation Report	
21.1 The power pursuant to Regulation 32A(1) of the General Regulations to, for the purposes of Section 119(3)(d) of the PDI Act in relation to an application to which Schedule 8 clause 2A applies, request the applicant to provide a detailed site investigation report if:	Assessment Manager
21.1.1 the preliminary site investigation report indicates that site contamination is present, or is likely to be present, at the site of the proposed development; and	Assessment Manager
21.1.2 the delegate considers that there is insufficient information to determine that the site is suitable for its intended use, having regard to:	Assessment Manager
21.1.2.1 site contamination; and	Assessment Manager
21.1.2.2 if remediation is required, the extent of that remediation; and	Assessment Manager
21.1.3 the application is not required to be referred to the Environment Protection Authority under Item 9A or 9AB of the table in Schedule 9 clause 3.	Assessment Manager
21.1.4 The power pursuant to Regulation 32A(2) of the General Regulations to require that a detailed site investigation report be prepared by a site contamination auditor if the Environment Protection Authority directs the relevant authority to do so in relation to a particular application.	Assessment Manager
22. Site Contamination – Statement of Suitability	
22.1 The power pursuant to Regulation 32B of the General Regulations to, for the purposes of Section 119(3)(d) of the PDI Act, in relation to an application to which Schedule 8 clause 2A applies, require the applicant to provide a statement of site suitability that confirms that the site is suitable for its intended use before the relevant authority issues a planning consent in relation to the application.	Assessment Manager

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23. Application and Further Information		
23.1	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
24. Amended Applications		
24.1	The power pursuant to Regulation 35(3) of the General Regulations if an application is varied following referral under Division 2 or giving of notice under Division 3, to, if the variations are not substantial, consider the application without the need to repeat an action otherwise required under Division 2 or Division 3.	Assessment Manager
24.2	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
25. Withdrawing/Lapsing Applications		
25.1	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
25.1.1	any agency to which the application has been referred under Division 2 of the General Regulations; and	
25.1.2	any person who has made a representation in relation to the application under Division 3 of the General Regulations,	
	of the withdrawal.	
25.2	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

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25.2.1	take reasonable steps to notify the applicant of the action under consideration; and	
25.2.2	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.	
26. Court Proceedings		
26.1	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
27. Additional Information or Amended Plans		
27.1	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
28. Preliminary Advice and Agreement (Section 123)		
28.1	The power pursuant to Regulation 46(6) of the General Regulations, if:	Assessment Manager
28.1.1	the delegate permits an applicant to vary an application under Section 119(9) of the PDI Act; and	
28.1.2	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:	
28.1.3	to obtain a variation to the agreement under Section 123 of the PDI Act; or	

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28.1.4	to obtain a response from the prescribed body for the purposes of Section 122 of the PDI Act.	
28.2	The power pursuant to Regulation 46(7) of the General Regulations if:	Assessment Manager
28.2.1	an application is withdrawn by the applicant; and	
28.2.2	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.	
28.3	The power pursuant to Regulation 46(8) of the General Regulations, if:	Assessment Manager
28.3.1	an application is lapsed by a relevant authority under Regulation 38 of the General Regulations; and	
28.3.2	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.	
28.4	The power pursuant to Regulation 46(9) of the General Regulations, if:	Assessment Manager
28.4.1	an applicant seeks to rely on an agreement under Section 123 of the PDI Act in connection with the application; and	
28.4.2	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.	
29.	Notification of Application of Tree-damaging Activity to Owner of Land	

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29.1	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
29.1.1	give the owner notice of the application within 5 business days after the application is made; and	
29.1.2	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.	
30.	Public Inspection of Applications	
30.1	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
31.	Response by Applicant	
31.1	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
32.	Notice of Decision (Section 126(1))	
32.1	The power pursuant to Regulation 57(4)(a) of the General Regulations to endorse a set of any approved plans and other relevant documentation with an appropriate form of authentication.	Assessment Manager
33.	Consideration of Other Development Authorisations	
33.1	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

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34. Variation of Authorisation (Section 128)		
34.1	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
35. Advice from Commission		
35.1	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
36. Underground Mains Area		
36.1	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
37. New Dwellings		
37.1	The power pursuant to clause 2(1)(b) of Schedule 6B 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, other than a previous use or activity that was for residential purposes.	Assessment Manager

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

38. Calculation or Assessment of Fees	
38.1 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
38.1.1 to require the applicant to provide such information as the delegate may reasonably require to calculate any fee; and	
38.1.2 to make any other determination for the purposes of the Fees Regulations or a related set of regulations or a fee notice (even if the assessment panel is not a relevant authority).	
38.2 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
38.3 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
39. Waiver or Refund of Fee	
39.1 The power pursuant to Regulation 7 of the Fees Regulations to, as the delegate considers appropriate to do so:	General Manager City Development
39.1.1 waive the payment of the fee, or the payment of part of the fee; or	
39.1.2 refund the whole or a part of the fee.	

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PLANNING AND DESIGN CODE	
40. Procedural Matter	
40.1 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
<u>40.2 The power pursuant to and in accordance with the PD Code to determine that the variation to one or more corresponding exclusions prescribed in Column B is minor in nature and does not require notification.</u>	<u>Assessment Manager</u>
41. Procedural Referrals	
41.1 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
41.2 The power pursuant to and in accordance with the PD Code to form the opinion and deem:	Assessment Manager
41.2.1 alteration to an existing access or public road junction;	
41.2.2 development that changes the nature of vehicular movements or increases the number or frequency of movements through an existing access,	
to be minor.	
41.3 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
41.4 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

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41.5	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
41.6	The power pursuant to and in accordance with the PD Code to form the opinion alterations to an existing access or public road junction are minor.	Assessment Manager
41.7	The power pursuant to and in accordance with the PD Code to form the opinion development that changes the nature of vehicular movements or increase the number or frequency of movements through an existing access is minor.	Assessment Manager
<u>41.8</u>	<u>The power pursuant to and in accordance with the PD Code to form the opinion the variation to an application is minor in nature or would not warrant a referral when considering the purpose of the referral.</u>	<u>Assessment Manager</u>
<u>41.9</u>	<u>The power pursuant to and in accordance with the PD Code to form the opinion development materially affects the context within which the State Heritage Place is situated.</u>	<u>Assessment Manager</u>
<u>42. Administrative Terms and Definition</u>		
<u>42.1</u>	<u>The power pursuant to and in accordance with Part 8 of the PD Code to for the purposes of Table 5 – Procedural Matters (PM) – Notification and the definition of 'Excluded Building', form the opinion that:</u>	<u>Assessment Manager</u>
<u>42.1.1</u>	<u>the building, structure or landscape feature (or part thereof) does not contribute to the building or features of identified heritage value within the State Heritage Area;</u>	<u>Assessment Manager</u>
<u>42.1.2</u>	<u>the building (or part thereof) does not demonstrate the historic characteristics as expressed in the Historic Area Statement.</u>	<u>Assessment Manager</u>
<u>42.43</u>	Referral Body: Minister Responsible for the Administration of the Aquaculture Act 2001	
<u>42.143.1</u>	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	Assessment Manager

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to an existing or approved development is minor in nature.	
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**STATE PLANNING COMMISSION PRACTICE DIRECTION 3
(NOTIFICATION OF PERFORMANCE ASSESSED
DEVELOPMENT APPLICATIONS) 2019**

43.44. Responsibility to Undertake Notification	
43.144.1 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
44.45. Preparing for Notification	
44.145.1 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
44.1.145.1.1 give notice of the anticipated commencement date and of the notification period to the applicant; and	
44.1.245.1.2 provide the applicant with a copy of the content of the notice to be placed on the relevant land; and	
44.1.345.1.3 advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of PD3.	
45.46. Notice on Land	
45.146.1 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	Assessment Manager

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

46.47. Scheme Provisions	
46.147.1 The power pursuant to clause 5(1) of the State Planning Commission Practice Direction (Scheme to Avoid Conflicting Regimens) 2019 (PD6), to in undertaking a planning assessment or imposing controls, including through the imposition of conditions of planning consent, ensure that such assessment or controls do not conflict or duplicate matters dealt with or addressed under licencing or regulatory regimens under another Act.	Assessment Manager
46.247.2 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

**SITE PLANNING COMMISSION PRACTICE DIRECTION 14 SITE CONTAMINATION
ASSESSMENT 2021**

47.48. Change of Use Where Remediation is Required After the Issue of Planning Consent – Section 127(1)(b) of Act	
47.148.1 The power pursuant to clause 12 of the State Planning Commission Practice Direction (Site Contamination Assessment) 2021 (PD14) to be satisfied that a site is suitable for its intended use subject to remediation being undertaken and to issue a planning consent without the remediation work having been carried out, subject to Condition A, B or C in PD14 as relevant.	Assessment Manager

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48.49. Land Division Where Remediation is Required After the Issue of Planning Consent – Section 127(1)(b) of Act	
<p>48.149.1 The power pursuant to clause 13 of PD14 to be satisfied in relation to proposed land division that a site is suitable for its intended use subject to remediation being undertaken and to issue a planning consent without the remediation work having been carried out subject to the consent being subject to the following condition:</p> <p><i>A land division certificate under Section 138 of the Planning, Development and Infrastructure Act 2016 must not be issued until a statement of site suitability is issued certifying that the required remediation has been undertaken and the land is suitable for the proposed use.</i></p>	Assessment Manager

**SITE PLANNING COMMISSION PRACTICE DIRECTION 16 URBAN TREE CANOPY
OFF-SET SCHEME**

49.50. Reserved Matter	
<p>49.150.1 The power pursuant to clause 6(2) of State Planning Commission Practice Direction 16 Urban Tree Canopy Off-set Scheme (PD16) to where an applicant has elected to reserve consideration of the DTS/DPF Policy in the Overlay, as provided for in the Code and under Section 102(4) of the PDI Act, to require the applicant to provide documents which are considered by the delegate as sufficient to confirm whether the relevant development site includes a Designated Soil Type.</p>	Assessment Manager

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50.51. Process for Payments to the Fund	
50.451.1 The power pursuant to clause 7 of PD16 where an applicant has elected to make a payment into the Fund, in lieu of planting a tree (or trees) as provided in the DTS/DPF Policy in the Overlay, to verify the payment as being correct in accordance with the Scheme, prior to the granting of development authorisation under the PDI Act.	Assessment Manager
51.52. Development within Council Fund Designated Areas	
51.452.1 The power pursuant to clause 8(3) of PD16, where a development application relates to a site which is located both within a Council Fund Designated Area and within the Overlay to impose a condition requiring payment into a Council Fund, irrespective of an election by the applicant to plant a tree or make a payment into the Fund as provided under the Scheme.	Assessment Manager

URBAN TREE CANOPY OFF-SET SCHEME

52.53. Payment into Fund	
52.453.1 The power pursuant to clause 6(4) of the Urban Tree Canopy Off-set Scheme (UTCOS) where an applicant has elected to make a contribution to the fund under this scheme to impose a condition on the relevant development authorisation for planning consent requiring that payment of the amount specified in clause 6(1) of the UTCOS be made into the fund before the issue of development approval for the subject development application.	Assessment Manager

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SCHEDULE OF CONDITIONS

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

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
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.
40-139.1	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.

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Development Applications Determined by the Assessment Manager under Delegated Authority

2022-23 Financial Year

<p>Three (3) Single Storey Dwellings and combined retaining and fencing greater than 2.1m high to side and rear boundaries at 8 Makin Road Ingle Farm</p> <p>Representations – two (oppose)</p> <p>Decision – Approve with conditions</p>
<p>Construction of a child care centre, advertisements, retaining walls and acoustic fences, removal of two regulated trees at 237 Bridge Road, Ingle Farm</p> <p>Representations – one (support)</p> <p>Decision – Approve with conditions</p>
<p>Amendment to DA 361/2639/2020/2B (change in the location of control building and fuel canopy, and amendment to carparking layout and internal manoeuvring area) at 155-185 Winzor St, Salisbury Downs</p> <p>Representations – none</p> <p>Decision – Approve with conditions</p>
<p>6.3m High Freestanding LED Pylon Sign at 138-140 & 142 Salisbury Highway Salisbury</p> <p>Representations – two (support)</p> <p>Decision – Approve with conditions</p>
<p>Alterations and Additions to existing Service Trade Premise, including Office, Warehouse, Workshop, replacement Wash Bay, replacement Pylon Sign, replacement Perimeter Fencing and removal of one Regulated Tree. at UNIT 1-2 147-161 Port Wakefield Road, Cavan</p> <p>Representations – one (support)</p> <p>Decision – Approve with conditions</p>
<p>Carport and Verandah at 9 Aberdeen Cr, Brahma Lodge</p> <p>Representations – none</p> <p>Decision – Approve with conditions</p>
<p>Change of Land Use (shop to indoor recreation facility - children's play café) and internal fit-out at 1-7 Mawson Lakes Blvd, Mawson Lakes</p> <p>Representations – none</p> <p>Decision – Approve with conditions</p>
<p>Carport and Verandah (enclosed on southern side boundary) at 94 Andrew Smith Drive, Parafield Gardens</p> <p>Representations – none</p> <p>Decision – Approve with conditions</p>

Truck Parking (Parking of maximum 10 commercial vehicles for a temporary period of 18 months only) at 56-62 Kaurna Ave, Edinburgh Representations – none Decision – Approve with conditions
Change of Use to Automotive Collision Repair at 14-26 Nylex Ave, Salisbury South Representations – Three (oppose) Decision – Approve with conditions
Change of Use from Indoor Recreation Facility to Community Facility and Internal Alterations at 57 Stanbel Rd, Salisbury Plain Representations – one (support) Decision – Approve with conditions
Upgrade to Existing Telecommunications Facility at 87-93 Milne Road, Para Vista Representations – one (support) Decision – Approve with conditions
Two Storey Dwelling with associated Retaining Walls and Fencing with a combined height greater than 2.1 metres at 12 Oklahoma Ave, Para Vista Representations – three (support) Decision – Approve with conditions
Alterations and Additions to Thomas More College at 23-29 & 42-44 Amsterdam Cr Salisbury Downs Representations – none Decision – Approve with conditions
Two Storey Dwelling with Associated Masonry Front Fencing & Granny Flat at 12 Taylor St, Parafield Gardens Representations – five (support) Decision – Approve with conditions
Double storey dwelling with combined retaining wall and fence exceeding 2.1m high at 7 Wilmot St, Ingle Farm Representations – two (support) Decision – Approve with conditions

Attached Verandah at 31 Dignam Drive, Paralowie Representations – one (support) Decision – Approve with conditions
Detached Dwelling and combined Retaining and Fencing greater than 2.1m high at 6 Gully View Ct, Salisbury Heights Representations – four one (three support / 1 support with concerns) Decision – Approve with conditions
Single storey detached dwelling and associated retaining / fencing at 16a Alfred St Pooraka Representations – one (support) Decision – Approve with conditions
Change in use from Warehouse to Motor Repair Station and advertisement (Unit 1), Change in use to Warehouse and Light Industry and advertisement (Unit 2) at Units 1 and 2, 51-53 Stanbel Road, Salisbury Plain Representations – Two (oppose) Decision – Approve with conditions
Carport at 22 Tania St Paralowie Representations – Three (support), One (oppose) Decision – Approve with conditions
Single Storey Detached Dwelling and Associated Retaining and Fencing with Combined Height Greater than 2.1m at 38 Cornwall Dr, Gulfview Heights Representations – Two (support) Decision – Approve with conditions
Change of Use of from Warehouse to Gym (Tenancy 4) at 23-25 Maxwell Road, Pooraka Representations – One (Oppose) Decision – Approve with conditions
Single storey dwelling with associated retaining wall and fence exceeding 2.1m high at 28 Maves Rd, Para Hills Representations – Two (Support) Decision – Approve with conditions
Two Storey Dwelling, Swimming Pool and Safety Fence, Outbuilding (Shed), Retaining Walls and Fencing with combined height greater than 2.1m at 34A Cornwall Drive Gulfview Heights Representations – Two (Support) Decision – Approve with conditions

Light Industrial Facility with Ancillary Showroom, Office and Food Preparation Areas, Retaining Walls, One (1) Pylon Sign, One (1) Façade Sign, Carparking, Landscaping and Removal of Two (2) Regulated Trees at 1772 Main North Road, Salisbury Plain

Representations – Three (Support)

Decision – Approve with conditions

Change Of Use From Workshop To Indoor Recreation Facility (Karate Dojo), Storage Shed And Signage (Rear Tenancy Only) at 22 Pentland Road Salisbury South

Representations – none

Decision – Approve with conditions

**INFORMATION
ONLY
ITEM**

8.2.2

COUNCIL ASSESSMENT PANEL**DATE**

26 September 2023

HEADING

Status of Current Appeal Matters and Deferred Items

AUTHOR

Chris Zafiropoulos, Assessment Manager, City Development

SUMMARY

The report provides an update on current appeal matters and deferred items.

RECOMMENDATIONThat the Panel:

1. Receives the information.

ATTACHMENTS

There are no attachments to this report.

1. REPORT

Applicant Appeal to Environment, Resources and Development Court, Development Holdings Pty Ltd v City of Salisbury Assessment Panel (ERD-23-000053) - Development Application 23002678

This ERD Court has scheduled a Hearing for 20-22 September 2023.

Background

The Applicant appealed against the decision of the Panel on 28 May 2023 to refuse the development application for the *Childcare Centre ('pre-school') with associated car parking, landscaping, signage, retaining walls and fencing* at 61 Stanford Road, Salisbury Heights. The grounds for the appeal are that ...*Having regard to the circumstances and all of the provisions of the Planning and Design Code, the proposed development warranted planning consent.* Norman Waterhouse Lawyers have been engaged to represent the Panel at the ERD Court. The applicant presented an alternative proposal in response to the decision of the Panel but the amendment did not address the concerns of the Panel.

An application by Ms B Jenzen to be joinder to these proceedings has been approved by the Court.

The Court has scheduled the hearing for up to 3 days from 20-22 September 2023.

Applicant Appeal to Environment, Resources and Development Court, Tony Maiello (N27 Pty Ltd) v City of Salisbury (ERD-22-000014) - Development Application 361/1618/2020/2A

This appeal has been adjourned at the request of the appellant and is currently relisted before the Court for 31 October 2023.

Background

The Applicant appealed against the decision of the Panel to refuse the development application. The applicant presented two alternative proposals in response to the decision of the Panel but the amendments have not addressed the concerns of the Panel. Kelledy Jones Lawyers have been engaged to act on behalf of the Panel before the ERD Court.

The applicant has requested a further adjournment to await the outcome of a development application lodged over another site (appeal matter below for Shepherdson Road) before determining whether to proceed to trial in this appeal.

Applicant Appeal to Environment, Resources and Development Court, Tony Maiello (N43 Pty Ltd) v City of Salisbury (ERD-23-000022) - Development Application 22031953

This appeal has been adjourned at the request of the appellant to lodge an alternative proposal and is currently relisted before the Court for 26 September 2023.

Background

The Applicant has appealed against the decision of the Panel to affirm the decision of the Assessment Manager to refuse the development application for the *Construction of Two (2) Single Storey Group Dwellings in Association with Four (4) Existing Single Storey Group Dwellings, Shared Driveway, Visitor Car Parking and Landscaping* at Unit 1-2, 30 Shepherdson Road, Parafield Gardens, SA 5107. The applicant requested that this matter be adjourned to enable the submission of a revised proposal.

The revised proposal has been submitted for two ancillary accommodation buildings. Having sought a legal opinion, the applicant was advised that the nature of development has been determined to be ...*‘Two (2) single storey group dwellings in association with four (4) existing single storey group dwellings’*. The applicant has been requested to advise if they wish for Council to verify the application as two additional group dwellings.

It is understood that the applicant has subsequently lodged a development application with an accredited professional for assessment. Council will not formally be in a position to review this planning consent until such time as development approval is sought.