

**NOTICE OF
COUNCIL ASSESSMENT PANEL MEETING**

Notice is hereby given that a Council Assessment Panel Meeting will be held:

Wednesday 03 February 2021

Commencing at 6.30 p.m.

Committee Room 1 & 2

Council Administration Centre

245 Sturt Road, Sturt

A copy of the Agenda for the meeting is attached. Meetings are open to the public and interested members of the community are welcome to attend. Access to the CAP Meeting is via the main entrance to the Administration building, 245 Sturt Road, Sturt.



Alex Wright
ASSESSMENT MANAGER

27 January 2021

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**CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 03 FEBRUARY 2021
COMMENCING AT 6.30PM**



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UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016
TO ASSESSMENT MANAGER**

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HELD ON 03 FEBRUARY 2021**

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CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 03 FEBRUARY 2021**



**3. APPLICATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
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**4. APPEALS UPDATE
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 03 FEBRUARY 2021**



4.1 APPEALS AGAINST PANEL DECISIONS

New Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status

On-going Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
100/2020/568	373 Diagonal Road, Sturt	3/11/20	Granted	Refused	Conference set 4th February 2021.

4.2 APPEALS AGAINST DELEGATED APPLICATIONS

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
100/2017/2090	79-81 Thomas Street, South Plympton	2/10/2020	Refused	Refused / Appeal Dismissed	Matter heard in the Supreme Court 10/11/20. Awaiting outcome.

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**5. POLICY OBSERVATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 03 FEBRUARY 2021**



6. OTHER BUSINESS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 03 FEBRUARY 2021



**6.1: OTHER BUSINESS – PDI Preparation
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 3 FEBRUARY 2020**



Originating Officer: Alex Wright
Team Leader - Planning

Report: Delegated powers of Assessment Panel as a Relevant Authority under the Planning, Development and Infrastructure Act 2016 to Assessment Manager.

Report Type: PDI Readiness

Recommendation:

That the Panel RESOLVES the following;

1. In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016 the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed Instrument of Delegation (annexed to the Report dated 3/02/2021 and entitled '*Marion Council Assessment Panel - Instrument of Delegation – Instrument C*' and marked Attachment II) are hereby delegated on 3rd of February 2021 to the City of Marion Assessment Manager subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.
2. Such powers and functions may be further delegated by the City of Marion 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.

Attachment 1: CAP Instrument of Delegations – marked up
Attachment 2: Marion CAP - Instrument of Delegation – Instrument C'

Introduction

The Planning and Development Infrastructure Act 2016 (the Act) introduces changes to the planning and development system.

Under the Act, the Council is no longer the relevant authority for planning consent. Rather, 'Relevant Authorities' for planning consent are assigned under the Act and Regulations and effectively operate autonomously from the Council. Pursuant to Section 93 (1)(a) of the Act (*Determination of relevant authority, Relevant authority—Panels*) the Panel is a 'relevant authority' in its own right.

An Assessment Panel will be the relevant authority for planning and building in relation to proposed development that is to be undertaken within the area of the council unless another authority is described by the Act or Regulations (section 93 of the Act).

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Council has sought Norman Waterhouse to undertake a review of Council's current delegations and assist in the development of best practice templates and delegations for Council, the Panel and Assessment Manager.

Background & Analysis

As the Panel is considered to be a 'Relevant Authority' in its own right it will be responsible for the provision of Planning Consent for Performance Assessed applications which have undergone Public Notification.

To Assist Members in understanding what may change in relation to applications being considered by the CAP, statistics and brief analysis is provided below.

In 2018-2019 a total of 89 development applications were considered by the Panel, of which 69 were of a residential nature (i.e. 1 or more dwellings).

Of the 69 residential type applications considered, 32 related to one or more allotments being undersized and a further 27 related to representations against the proposal.

Under the new system, unless the application has undergone public notification the Panel will not be the relevant authority and therefore will not consider the application.

Table 1 below outlines the forms of development currently assigned as Category 2 and 3 development and indicates whether this will be applicable in the new Planning & Design Code.

Table 2 outlines the current Residential Policy Areas and proposed zones within the Planning and Design Code, and the proposed Public Notification triggers of each Zone.

The current Development Plan and Regulations assign the following as Category 2 or 3 forms of development;

Table 1: Current Forms of Development Subject to Public Notification	
Development Plan	Inclusion in P&D Code.
A residential building of 2 or more storeys on a battle-axe site.	No
Demolition of a Local Heritage Place or State Heritage Place.	Yes
Wall (excluding retaining wall) for residential development which exceeds a length of 8 metres and/or exceeds a height of 3 metres when measured from natural ground level where abutting a side or rear boundary (other than a common wall of semi-detached dwellings, row dwellings or residential flat buildings).	No
Retaining wall/s and/or earthworks, other than where assigned Category 1.	In most instances no
Horse keeping and associated facilities where located within Racecourse Policy Area 15 where the subject property is adjacent a property in a different residential policy area.	No
Development Regulations	Inclusion in P&D Code.
1 or more buildings of 2 storeys comprising dwellings	No
2 or more dwellings on the same site where at least 1 of those dwellings is 2 storeys high (but no higher than 2).	No
Not listed as Cat 1 or 2 (therefore cat 3)	No

Table 2: Existing – Proposed Zones and Notification Trigger

Current Zone	Proposed Zone	Public Notification Trigger
Marion Plains Policy Area 8; Lonsdale Policy Area 9; Medium Density Policy Area 12; Northern Policy Area 13;	General Neighbourhood	- Exceeding maximum building height of 9 metres
Hills Policy Area 11; Foothills and Seaside Policy Area 23	Hills Neighbourhood	- Exceeding maximum building height of 9 metres - Retaining exceeding 1.5 metres; or - Where more than 1.5 metres is to be retained in total, are stepped in a series of low walls each not exceeding 1m in height and separated by at least 700mm.
Cement Hill Policy Area 10; Racecourse Policy Area 15: Southern Policy Area 18; Coastal Policy Area 21	Suburban Neighbourhood	- Exceeding maximum building height of 9 metres
Residential Character Policy Area 17	Establish Neighbourhood	- Exceeding maximum building height of 1 level - Exceeding Maximum building height of 9 metres
Regeneration Policy Area 16	Housing Diversity Neighbourhood	- Exceeding Maximum building height of 9 metres

In general, development within a residentially based zone will only require consideration by the Panel when the proposal either exceeds the specified building height (predominantly 9 metres in most zones) and/or when within the Hills Neighbourhood Zone and incorporates retaining exceeding 1.5 metres.

Anecdotal analysis of the future Public Notification triggers suggests the number of current applications considered by staff which may trigger future notification and the type of applications currently considered by the Panel will result in less applications requiring consideration by the Panel.

Whilst it is anticipated the Panel will, when compared to now, see more proposals located within the Hills Neighbourhood Zone, the vast majority of residentially based applications involving undersized allotments and representations (typically due to walls on boundaries) will no longer be considered by the Panel.

It is anticipated a similar volume of non-residential applications under the PDI will be considered by the Panel as currently.

General Discussion

Section 100 of the Planning, Development and Infrastructure Act outlines that a relevant authority may delegate any functions or powers held under the Act. A delegation may be made to a particular person, body or a person occupying a particular office or position.

The delegation may be made subject to conditions or limitations specified in the instrument of delegation and may be further delegated by the delegate. Importantly, delegations are revocable and do not derogate from the power of the relevant authority to act in any matter.

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As the Panel has been assigned as a relevant authority in its own right, in exercising these duties the Panel will need to consider delegations to Council staff to undertake specific duties or exercise powers on its behalf.

Delegations enhance the decision-making processes and allow nominated matters to be resolved efficiently and effectively without the need for the Panel's consideration, in much the same way current delegations from Council operate under the Development Act.

Administration have provided a proposed Instrument of Delegation (Attachment II) which outlines the Planning, Development And Infrastructure Act 2016, Planning, Development And Infrastructure (General) Regulations 2017 and Planning, Development and Infrastructure (Fees, Charges And Contributions) Regulations 2019 and the proposed delegation and sub-delegations.

In essence the Delegations enable elements of the Act to be undertaken such as;

Administrative Tasks

Whilst the Panel is the Relevant Authority for applications which require Public Notification it would be impractical for the Panel not to delegate responsibilities such as verification of Applications (i.e. requiring information and fees) and undertaking statutory referrals to the Assessment Manager of the Council.

Additionally, the Procedural Matters Notification Table within each Zone enables development to be excluded from Public Notification where, in the opinion of the relevant authority, the development is of a minor nature and will not unreasonably impact owners or occupiers of land in the locality of the site of the development.

In this situation it is proposed that the ability to deem a development 'minor' will be limited to the Assessment Manager and qualified staff with planning experience (i.e. whilst a Planning Officer could deem an application 'minor' to preclude from notification, other officers such as a Planning Assistant could not).

Public Notification of Applications

It is proposed the Panel delegate the processing of applications and all administrative actions (such as creation and installation of signage, issuing of letters, collation of reps etc) associated with the Public Notification process to the Assessment Manager (and subsequently sub-delegated to appropriate staff).

It is proposed that the Manager, Development & Regulatory Services, Team Leader, Planning and Senior Development Officer, Planning will be sub-delegated the responsibility to physically attend the site and affix the sign. It is anticipated these positions will subsequently direct other positions to undertake these roles and responsibilities.

Delegation of Planning Consent

Whilst the Panel is the Relevant Authority for applications which have undergone Public Notification, the Panel can choose to delegate to the Assessment Manager (and sub-delegate to Planning staff) the ability to determine certain applications. Norman Waterhouse has used the Council's existing Development Delegations Policy to guide which applications may be sub-delegated back to Council staff for consideration.

To provide consistency with the current delegations, it is recommended the following development applications be delegated to the Assessment Manager (and sub-delegated back to staff).

The following applications are delegated from the Panel to staff, where;

1. *No valid representations are received against the proposed development;*
2. *All valid representations against the proposed development are withdrawn;*
3. *No representor who has lodged a valid representation against the proposed development wishes to be heard;*
4. *The application relates to a local heritage place or a State Heritage Place but does not seek total demolition of the place, and heritage advice commissioned by the Assessment Panel (or delegate) or State Government Department responsible for State Heritage have recommended that approval should be granted.*

For Members benefit, Section 5.1.1.1 of the Instrument of Delegation outlines the type of Development Applications delegated to the Assessment Manager (following notification), with some exceptions (see above).

Deemed Consents

In the event a relevant authority fails to determine an application for planning consent within the legislated time, the applicant can choose to serve a 'deemed consent notice' on the relevant authority.

Upon service of the notice, the application is taken to have been granted planning consent.

The Relevant Authority can:

- Take no action, in which case the consent will remain subject to standard conditions outlined in Practice Direction 11 being attached; or
- Issue a planning consent, including its own conditions; or.
- Appeal the deemed consent within one month of the notice.

To avoid special meetings being convened to consider a deemed consent, it is recommended the Assessment Manager be delegated the capability to grant consent (should this be deemed appropriate) within 10 days as this provides the ability to attach additional conditions deemed necessary.

Conclusion

Delegations enhance the decision-making processes and allow nominated matters to be resolved efficiently and effectively without the need for the Panel's consideration, in much the same way current delegations from Council operate under the Development Act.

It is recommended that, pursuant to Section 100, the Assessment Panel delegate powers as a Relevant Authority under the Planning, Development and Infrastructure Act 2016 to the Assessment Manager as outlined in Attachment 2 *Marion CAP - Instrument of Delegation – Instrument C*

Recommendation

That the Panel RESOLVES the following;

- 1. In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016 the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed Instrument of Delegation (annexed to the Report dated 3/02/2021 and entitled '*Marion CAP - Instrument of Delegation – Instrument C*' and marked Attachment 2) are hereby delegated on 3rd of February 2021 to the City of Marion Assessment Manager subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.**
- 2. Such powers and functions may be further delegated by the City of Marion 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.**

INSTRUMENT C

**INSTRUMENT OF DELEGATION UNDER THE
PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING,
DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND
PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND
CONTRIBUTIONS) REGULATIONS 2019
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 resolution(s) to identify when these delegations were made, reviewed and or amended.

References:

- MDRS Manager Development & Regulatory Services
- TLP Team Leader Planning
- SDOP Senior Development Officer Planning
- DOP Development Officer Planning
- DOPA Development Officer Planning Assistant
- SPP Senior Policy Planner
- AC Administrator Coordinator
- ASODS Administration Support Officer Development Services
- SO Systems Officer
- DCO Development Compliance Officer
- UMES Unit Manager Engineering Services
- DCO Development Compliance Officer

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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

1. Environment and Food Production Areas – Greater Adelaide	Delegation	Sub-delegation
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.	N/A Marion is not in an Environment and Food Production Area	N/A
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.	N/A Marion is not in an Environment and Food Production Area	N/A
2. Appointment of Additional Members		
2.1 The power pursuant to Section 85(1) of the PDI Act to appoint 1 or 2 members to act as additional members of the assessment panel for the purposes of dealing with a matter that the assessment panel must assess as a relevant authority under the PDI Act.		N/A
3. Relevant Authority – Commission		
3.1 The power pursuant to Section 94(3)(a) of the PDI Act, if the Minister acts under Section 94(1)(h) of the PDI Act to, at the request of the Commission, provide the Commission with a report relating to any application for development authorisation that has been under consideration by the relevant authority.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP
4. Relevant Provisions	(See standing Referral for building Applications – no further delegation	

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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

		for this recommended)	
4.1	The power pursuant to Section 99(1) of the PDI Act, if a proposed development involves the performance of building work to determine to act under Section 99(1) of the PDI Act to:		N/A
4.1.1	refer the assessment of the development in respect of the Building Rules to the council for the area in which the proposed development is to be undertaken; or		
4.1.2	require that the assessment of the development in respect of the Building Rules be undertaken by a building certifier.		
5.	Matters Against Which Development Must Be Assessed		
5.1	The power pursuant to Section 102(1) of the PDI Act to assess a development against, and grant or refuse a consent in respect of, each of the following matters (insofar as they are relevant to the particular development):		
5.1.1	-		
5.1.1.1	the relevant provisions of the Planning Rules; and	<p>The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which:</p> <p>1. Planning consent is not sought for:</p>	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP <p>(Based on current sub-delegations for s 33 Development Act)</p>

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**INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE
ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017
AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS)
REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL**

	<p>a) any development in relation to a Local Heritage Place or a State Heritage Place where the heritage advice commissioned on behalf of the CAP or the State Government Department responsible for State Heritage have recommended that planning consent should not be granted;</p> <p>b) the total demolition of a Local Heritage Place or a State Heritage Place;</p> <p>c) land division that proposes the creation of three or more additional allotments (excluding an allotment identified as common property or as a free an unrestricted right of way) where one or</p>	
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INSTRUMENT C

**INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE
ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017
AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS)
REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL**

	<p>more of the proposed allotments is more than 5% below the minimum site area recommended by the relevant policy in the Code; or</p> <p>d) three or more dwellings (including detached, semidetached, row and residential flat) where one or more dwelling sites are more than 5% below the minimum site area recommended by the relevant policy in the Code; and</p> <p>2. One or more of the following are satisfied:</p> <p>a) No valid representations are received against the proposed development;</p> <p>b) All valid representations against the proposed</p>	
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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

	development are withdrawn; c) No representor who has lodged a valid representation against the proposed development wishes to be heard; Except in cases where a deemed consent notice has been served on the Panel under Section 125(2) of the Act, in which case the limitation does not apply, and the Assessment Manager is delegated the power pursuant to Section 102(1)(a)(i) of the PDI Act to grant consent in respect of the relevant provisions of the Planning Rules without limitation.		
5.1.1.2 to the extent provided by Part 7 Division 2 of the PDI Act – the impacts of the development, (planning consent);	N/A	N/A	
5.1.2 the relevant provisions of the Building Rules (building consent);	Delegations not required if standing referral of application for	N/A	

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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

		building consent is made		
5.1.3	in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988) - the requirement that the following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):	N/A (Assessment Manager is the relevant authority)		
5.1.3.1	requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;			
5.1.3.2	any relevant requirements set out in a design standard has been satisfied;			
5.1.3.3	the requirements of a water industry entity under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are satisfied;			
5.1.3.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;			
5.1.3.5	requirements set out in regulations made for the purposes of Section 102(1)(c) of the PDI Act are satisfied;			
5.1.4	in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 - the requirement that the following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):	N/A (Assessment Manager is the relevant authority)		
5.1.4.1	requirements set out in the Planning and Design Code made for the			

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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

	purposes of this provision are satisfied;			
5.1.4.2	any relevant requirements set out in a design standard has been satisfied;			
5.1.4.3	any encroachment of a lot or unit over other land is acceptable having regard to any provision made by the Planning and Design Code or a design standard;			
5.1.4.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;			
5.1.4.5	a building or item intended to establish a boundary (or part of a boundary) of a lot or lots or a unit or units is appropriate for that purpose;			
5.1.4.6	the division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 is appropriate having regard to the nature and extent of the common property that would be established by the relevant scheme;			
5.1.4.7	the requirements of a water industry entity under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are satisfied;			
5.1.4.8	any building situated on the land complies with the Building Rules;			
5.1.4.9	requirements set out in the regulations made for the purposes of Section 102(d) of the PDI Act are satisfied;			

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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

5.1.5	any encroachment of a building over, under, across or on a public place (and not otherwise dealt with above) is acceptable having regard to any provision made by the Planning and Design Code or a design standard;	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
5.1.6	if relevant - requirements applying under Part 15 Division 2 of the PDI Act are satisfied;	Assessment Manager	<p>This is a new provision requiring confirmation that off set scheme requirements (car parking fund equivalent, open space, urban trees fund), have been met.</p> <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • DCO
5.1.7	such other matters as may be prescribed.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • TLB
5.2	The power pursuant to Section 102(3) of the PDI Act to, in relation to granting a planning consent, on the delegate's own initiative or on application, reserve the delegate's decision on a specified matter or reserve the delegate's decision to grant a planning consent:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
5.2.1	until further assessment of the relevant development under the PDI Act; or		
5.2.2	until further assessment or consideration of the proposed development under another Act; or		

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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

5.2.3	until a licence, permission, consent, approval, authorisation, certificate or other authority is granted, or not granted (by the decision of another authority), under another Act.		
5.3	The power pursuant to Section 102(4) of the PDI Act to allow any matter specified by the Planning and Design Code for the purposes of Section 102(4) of the PDI Act to be reserved on the application of the applicant.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
6.	Performance Assessed Development		
6.1	The power pursuant to Section 107(2)(c) of the PDI Act to form the opinion that the development is seriously at variance with the Planning and Design Code (disregarding minor variations).	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
6.2	The power pursuant to Section 107(3) of the PDI Act, if a proposed development is to be assessed under Section 107 of the PDI Act to make a decision in accordance with a practice direction.	Assessment Manager	As per 6.1
6.3	The power pursuant to Section 107(4) of the PDI Act to limit the matters that the delegate will take into account to what should be the decision of the relevant authority as to planning consent in relation to the performance based elements of the development as assessed on its merits.	Assessment Manager	As per 6.1
7.	Building Consent		
		It is not necessary to delegate any powers or functions under Item 7 if standing referral to Council is made.	
7.1	The power pursuant to Section 118(1) of the PDI Act, if the Regulations provide that a form of building work complies with the Building Rules, to grant any such building work a building consent (subject to such	N/A	N/A

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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

	conditions or exceptions as may be prescribed by the regulations).		
7.2	The power pursuant to Section 118(2)(a) of the PDI Act to seek the concurrence of the Commission to grant a building consent in respect of a development that is at variance with the performance requirements of the Building Code or a Ministerial building standard.	N/A	N/A
7.3	The power pursuant to Section 118(2) of the PDI Act, subject to Section 118(6) of the PDI Act, to grant a building consent to a development that is at variance with the Building Rules if:	N/A	N/A
7.3.1	the variance is with a part of the Building Rules other than the Building Code or a Ministerial building standard and the delegate determines that it is appropriate to grant the consent despite the variance on the basis that the delegate is satisfied:		
7.3.1.1	that:		
	(a) the provisions of the Building Rules are inappropriate to the particular building or building work, or the proposed building work fails to conform with the Building Rules only in minor respects; and		
	(b) the variance is justifiable having regard to the objects of the Planning and Design Code or the performance requirements of the Building Code or a Ministerial building standard (as the case may be) and would achieve the objects of this Act as effectively, or more effectively, than if the variance were not to be allowed; or		
7.3.1.2	in a case where the consent is being sought after the development has occurred - that the variance is		

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	justifiable in the circumstances of the particular case.		
7.4	The power pursuant to Section 118(4) of the PDI Act, to at the request or with the agreement of the applicant, refer proposed building work to the Commission for an opinion on whether or not it complies with the performance requirements of the Building Code or a Ministerial building standard.	N/A	N/A
7.5	The power pursuant to Section 118(6) of the PDI Act if an inconsistency exists between the Building Rules and the Planning Rules in relation to a State heritage place or a local heritage place, to, in determining an application for building rules consent, ensure, so far as is reasonably practicable, that standards of building soundness, occupant safety and amenity are achieved in respect of the development that are as good as can reasonably be achieved in the circumstances.	N/A	N/A
7.6	The power pursuant to Section 118(7) of the PDI Act to seek and consider the advice of the Commission before imposing or agreeing to a requirement under Section 18(6) of the PDI Act that would be at variance with the performance requirements of the Building Code or a Ministerial building standard.	N/A	N/A
7.7	The power pursuant to Section 118(8) of the PDI Act, to, subject to the PDI Act, accept that proposed building work complies with the Building Rules to the extent that:	N/A	N/A
7.7.1	such compliance is certified by the provision of technical details, particulars, plans, drawings or specifications prepared and certified in accordance with the regulations; or		
7.7.2	such compliance is certified by a building certifier.		
7.8	The power pursuant to Section 118(10) of the PDI Act to refuse to grant a consent in relation to any development if, as a result of that development, the type or standard of construction of a building of a particular classification would cease to conform with the	N/A	N/A

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INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

	requirements of the Building Rules for a building of that classification		
7.9	The power pursuant to Section 118(11) of the PDI Act, if a relevant authority decides to grant building consent in relation to a development that is at variance with the Building Rules, to, subject to the regulations, in giving notice of the relevant authority's decision on the application for that consent, specify (in the notice or in an accompanying document):	N/A	N/A
7.9.1	the variance; and		
7.9.2	the grounds on which the decision is being made.		
8.	Application and Provision of Information		
8.1	The power pursuant to Section 119(1)(b) of the PDI Act to require an application to the relevant authority for the purposes of Part 7 of the PDI Act, to include any information as the delegate may reasonably require.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB • DOPA • AC • ASODS • SO • DCO
8.2	The power pursuant to Section 119(3) of the PDI Act to request an applicant:		
8.2.1	to provide such additional documents, assessments or information (including calculations and technical details) as the delegate may reasonably require to assess the application;	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB • DOPA • AC • ASODS

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INSTRUMENT C

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		<ul style="list-style-type: none"> • SO • DCO
8.2.2	to remedy any defect or deficiency in any application or accompanying document or information required by or under the PDI Act;	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB • DOPA • AC • ASODS • SO • DCO
8.2.3	to consult with an authority or body prescribed by the regulations;	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB • DOPA • AC • ASODS • SO • DCO
8.2.4	to comply with any other requirement prescribed by the regulations.	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB • DOPA • AC • ASODS • SO • DCO

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8.3	The power pursuant to Section 119(6) of the PDI Act if a request is made under Section 119(3) of the PDI Act, and the request is not complied with within the time specified by the regulations, to	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
8.3.1	subject to Section 119(6)(b)(ii) of the PDI Act, refuse the application; and		
8.3.2	refuse the application in prescribed circumstances (including, if the regulations so provide, in a case involving development that is deemed-to-satisfy development).		
8.4	The power pursuant to Section 119(7) of the PDI Act to, in dealing with an application that relates to a regulated tree, consider that special circumstances apply.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
8.5	The power pursuant to Section 119(9) of the PDI Act to:		
8.5.1	permit an applicant:		
8.5.1.1	to vary an application;	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP
8.5.1.2	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);	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP

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8.5.2	permit an applicant to lodge an application without the provision of any information or document required by the regulations;	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA
8.5.3	to the extent that the fee is payable to the relevant authority waive payment of whole or part of the application fee, or refund an application fee (in whole or in part);	Assessment Manager	<ul style="list-style-type: none"> • MDRS <p>Based on existing sub-delegations for s 39(4)(c) Development Act</p>
8.5.4	if there is an inconsistency between any documents lodged with the relevant authority for the purposes of Part 7 of the PDI Act (whether by an applicant or any other person), or between any such document and a development authorisation that has already been given that is relevant in the circumstances, return or forward 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA <p>Based on existing sub-delegations for s 39(4)(e) Development Act</p>
8.6	The power pursuant to Section 119(10) of the PDI Act to grant a permission under Section 119(9) of the PDI Act unconditionally or subject to such conditions as the delegate thinks fit.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA
8.7	The power pursuant to Section 119(12) of the PDI Act to, in a consent, provide for, or envisage, the undertaking of development in stages, with separate consents or approvals for the various stages.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DCO

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8.8	The power pursuant to Section 119(14) of the PDI Act to if an applicant withdraws an application to determine to refund the application fee.	Assessment Manager	<ul style="list-style-type: none"> MDRS
9. Outline Consent			
9.1	The power pursuant to Section 120(1) of the PDI Act and subject to Section 120 of the PDI Act, to on application, grant a consent in the nature of an outline consent.		<p>N/A</p> <p>No delegation until practice direction necessary to enable operation of s 120 is published.</p>
9.2	The power pursuant to Section 120(3) of the PDI Act if an outline consent is granted and a subsequent application is made with respect to the same development (subject to any variations allowed by a practice direction) to:	As per 9.1 above	As per 9.1 above
9.2.1	grant any consent contemplated by the outline consent; and		
9.2.2	not impose a requirement that is inconsistent with the outline consent.		
10. Design Review			
10.1	The power pursuant to Section 121(7) of the PDI Act, to in acting under the PDI Act, take into account any advice provided by a design panel (insofar as may be relevant to the assessment of proposed development by the delegate).	Assessment Manager	<ul style="list-style-type: none"> MDRS TLP SDOP DOP SPP
11. Referrals to Other Authorities or Agencies			
11.1	The power pursuant to Section 122(1) of the PDI Act, where an application for consent to, or approval of, a proposed development of a prescribed class is to be assessed by a relevant authority, to:	Assessment Manager	<ul style="list-style-type: none"> MDRS TLP SDOP DOP DOPA SPP DCO

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11.1.1	refer the application, together with a copy of any relevant information provided by the applicant, to a body prescribed by the regulations (including, if so prescribed, the Commission); and	
11.1.2	not make a decision until the relevant authority has received a response from that prescribed body in relation to the matter or matters for which the referral was made	
	where the regulations so provide, subject to Section 122 of the PDI Act.	
11.2	The power pursuant to Section 122(5)(b) of the PDI Act, acting by direction of a prescribed body:	Assessment Manager As per 11.1
11.2.1	to refuse the application; or	
11.2.2	consent to or approve the development and impose such conditions as the prescribed body thinks fit, (subject to any specific limitation under another Act as to the conditions that may be imposed by the prescribed body)	
	where the regulations so provide.	
11.3	The power pursuant to Section 122(7) of the PDI Act, if the relevant authority is directed by a prescribed body to refuse an application and the refusal is the subject of an appeal under the PDI Act, to apply for the relevant authority to be joined as a party to the proceedings.	Assessment Manager • MDRS
11.4	The power pursuant to Section 122(10) of the PDI Act to, if requested by an applicant, defer a referral under Section 122 of the PDI Act to a particular stage in the process of assessment.	Assessment Manager • MDRS • TLP • SDOP • DOP • SPP
12.	Preliminary Advice and Agreement	

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INSTRUMENT C

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017 AND PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019 OF POWERS OF AN ASSESSMENT PANEL

12.1	The power pursuant to Section 123(2) of the PDI Act, if:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
12.1.1	a proposed development is referred to a prescribed body under Section 123(1) of the PDI Act; and		
12.1.2	the prescribed body agrees to consider the matter under Section 123 of the PDI Act after taking into account any matter prescribed by the regulations; and		
12.1.3	the prescribed body agrees, in the manner prescribed by the regulations, that the development meets the requirements (if any) of the prescribed body (including on the basis of the imposition of conditions),		
	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).		
12.2	The power pursuant to Section 123(4) of the PDI Act to determine an agreement under Section 123 of the PDI Act is no longer appropriate due to the operation of Section 132 of the PDI Act.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP (As per 12.1)
13.	Proposed Development Involving Creation of Fortifications		
13.1	The power pursuant to Section 124(1) of the PDI Act, if the delegate has reason to believe that a proposed development may involve the creation of fortifications,	Assessment Manager	<ul style="list-style-type: none"> • MDRS

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	to refer the application for consent to, or approval of, the proposed development to the Commissioner of Police (the Commissioner).		
13.2	The power pursuant to Section 124(5) of the PDI Act, if the Commissioner determines that the proposed development involves the creation of fortification, to:	Assessment Manager	<ul style="list-style-type: none"> MDRS
13.2.1	if the proposed development consists only of the creation fortifications - refuse the application; or		
13.2.2	in any other case - impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications		
13.3	The power pursuant to Section 124(6) of the PDI Act, if the relevant authority acting on the basis of a determination of the Commissioner under Section 124(2) of the PDI Act refuses an application or imposes conditions in respect of a development authorisation, to notify the applicant that the application was refused, or the conditions imposed, on the basis of a determination of the Commissioner under Section 124 of the PDI Act.	Assessment Manager	<ul style="list-style-type: none"> MDRS
13.4	The power pursuant to Section 124(7) of the PDI Act, if a refusal or condition referred to in Section 124(5) of the PDI Act is the subject of an appeal under the PDI Act to apply to the Court to be joined as a party to the appeal.	Assessment Manager	<ul style="list-style-type: none"> MDRS
14.	Time Within Which Decision Must be Made		
14.1	The power pursuant to Section 125(6) of the PDI Act to form the opinion and consider that the relevant application for planning consent should have been refused and apply to the Court for an order quashing the consent.	<p>Assessment Manager</p> <p>This power is to commence an appeal against a deemed approval.</p> <p>We <u>do</u> recommend it be delegated, particularly as</p>	<ul style="list-style-type: none"> MDRS <p>Based on other existing D Act sub-delegations, recommend sub-delegation to MDRS if head delegation is made to</p>

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INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE
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	<p>appeals must be commenced within one month.</p> <p>In relation to how the delegation is made, we refer to Item 11.3, i.e. a delegation to Assessment Manager or MDRS</p>	Assessment Manager
14.2	The power pursuant to Section 125(7) of the Act to apply to the Court for an extension of time to make an application under Section 125(6) of the Act.	As per 14.1
15.	Determination of Application	
15.1	The power pursuant to Section 126(1) of the PDI Act to, on making a decision on an application under Part 7 of the PDI Act, give notice of the decision in accordance with the regulations (and, in the case of a refusal, to include in the notice the reasons for the refusal and any appeal rights that exist under the PDI Act).	<p>Assessment Manager</p> <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOPP • SPP • DOPA • AC • ASODS • SO • DCO
15.2	The power pursuant to Section 126(3) of the PDI Act to, on the delegate's own initiative or on the application of a person who has the benefit of any relevant development authorisation, extend a period prescribed under Section 126(2) of the PDI Act.	<p>Assessment Manager</p> <ul style="list-style-type: none"> • MDRS • TLP
16.	Conditions	
16.1	The power pursuant to Section 127(1) of the PDI Act to make a decision subject to such conditions (if any) as the delegate thinks fit to impose in relation to the development.	<p>Assessment Manager</p> <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP • DCO

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16.2	The power pursuant to Section 127(2)(c) of the PDI Act to vary or revoke a condition in accordance with an application under Part 7 of the PDI Act.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
16.3	The power pursuant to Section 127(4) of the PDI Act, subject to Sections 127(6) and (8) of the PDI Act, if a development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, to apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the delegate) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • DCO
16.4	The power pursuant to Section 127(6) of the PDI Act to, on the application of the applicant, determine that a payment of an amount calculated in accordance with the regulations be made into the relevant fund in lieu of planting 1 or more replacement trees under Section 127(4) of the PDI Act.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • DCO
16.5	The power pursuant to Section 127(8)(b) of the PDI Act to:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • DCO
16.5.1	determine that it is appropriate to grant an exemption under Section 127(8)(b) of the PDI Act in a particular case after taking into account any criteria prescribed by the regulations and provided the Minister concurs in the granting of the exemption;		

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16.5.2	to seek the Minister's concurrence to grant an exemption under Section 127(8)(b) of the PDI Act.		
17. Variation of Authorisation			
17.1	The power pursuant to Section 128(2)(d) of the PDI Act to approve an application for a variation to a development authorisation previously given under the PDI Act, which seeks to extend the period for which the relevant authorisation remains operative.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DCO <p>Based on current sub-delegations for s 40(3) Development Act</p>
18. Requirement to Up-grade		No delegations required under Item 18 if standing referral of applications for building consent is made to Council.	
18.1	The power pursuant to Section 134(1) of the PDI Act to form the opinion that the building is unsafe, structurally unsound or in an unhealthy condition.	N/A	N/A
18.2	The power pursuant to Section 134(1) of the PDI Act, if:	N/A	N/A
18.2.1	an application for a building consent relates to:		
18.2.1.1	building work in the nature of an alteration to a building constructed before the date prescribed by regulation for the purposes of Section 134(1) of the PDI Act; or		
18.2.1.2	a change of classification of a building; and		

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18.2.2	the building is, in the opinion of the delegate, unsafe, structurally unsound or in an unhealthy condition,			
	to require that building work that conforms with the requirements of the Building Rules be carried out to the extent reasonably necessary to ensure that the building is safe and conforms to proper structural and health standards.			
18.3	The power pursuant to Section 134(2) of the PDI Act, when imposing a requirement under Section 134(1) of the PDI Act, to specify (in reasonable detail) the matters under Section 134(1)(b) of the PDI Act that must, in the opinion of the delegate, be addressed.	N/A	N/A	
18.4	The power pursuant to Section 134(3) of the PDI Act to impose a requirement under Section 134(1) of the PDI Act:	N/A	N/A	
18.4.1	subject to Section 134(3)(b) of the PDI Act - on the basis that the relevant matters must be addressed as part of the application before the relevant authority will grant building consent; and			
18.4.2	in cases prescribed by the regulations - as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed			
18.5	The power pursuant to Section 134(4) of the PDI Act if:	N/A	N/A	
18.5.1	an application is made for building consent for building work in the nature of an alteration of a class prescribed by the regulations; and			
18.5.2	the delegate is of the opinion that the affected part of the building does not comply with the performance requirements of the Building Code or a Ministerial building standard in relation to access to buildings, and facilities and services within buildings, for people with disabilities,			

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	to require that building work or other measures be carried out to the extent necessary to ensure that the affected part of the building will comply with those performance requirements of the Building Code or the Ministerial building standard (as the case may be).		
18.6	The power pursuant to Section 134(5) of the PDI Act to impose a requirement under Section 134(4) of the PDI Act:	N/A	N/A
18.6.1	subject to Section 134(5)(b) of the PDI Act - on the basis that the building work or other measures to achieve compliance with the relevant performance requirements must be addressed before the relevant authority will grant building consent; and		
18.6.2	in cases prescribed by the regulations - as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed.		
19. Cancellation of Development Authorisation			
19.1	The power pursuant to Section 143(1) of the PDI Act to, on the application of a person who has the benefit of the authorisation, cancel a development authorisation previously given by the relevant authority.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • TLB
19.2	The power pursuant to Section 143(2) of the PDI Act to make a cancellation under Section 143(1) of the PDI Act subject to such conditions (if any) as the delegate thinks fit to impose.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • TLB

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20. Professional Advice to be Obtained in Relation to Certain Matters		
20.1 The power pursuant to Section 235(1) of the PDI Act, to, in the exercise of a prescribed function, rely on a certificate of a person with prescribed qualifications.	Assessment Manager	• MDRS
20.2 The power pursuant to Section 235(2) of the PDI Act to seek and consider the advice of a person with prescribed qualifications, or a person approved by the Minister for that purpose, in relation to a matter arising under the PDI Act that is declared by regulation to be a matter on which such advice should be sought.	Assessment Manager	• MDRS
21. General Transitional Schemes for Panels		
21.1 The power pursuant to Clause 12(7) of Schedule 8 of the PDI Act, to	N/A	N/A
21.1.1 adopt any findings or determinations of a council development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and		
21.1.2 adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and		
21.1.3 deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and		
21.1.4 deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act; and		
21.1.5 deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.		

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22. Continuation of Processes		This Clause will not become operational. Delegations are not required for Item 22.	
22.1	The power pursuant to Clause 18(2) of Schedule 8 of the PDI Act, to:	N/A	N/A
22.1.1	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		
22.1.2	adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and		
22.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and		
22.1.4	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		
22.1.5	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.		

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REGULATIONS 2017

23. Accredited Professionals	Delegation	Sub-delegation
23.1 The power pursuant to Regulation 25(7)(c) of the Planning, Development and Infrastructure (General) Regulations 2017 (the General Regulations) to form the opinion and be satisfied, on the basis of advice received from the accreditation authority under the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019, a relevant professional association, or other relevant registration or accreditation authority, that a person has engineering or other qualifications that qualify the person to act as a technical expert under Regulation 25 of the General Regulations.	It is not necessary to delegate this power if standing referral to Council is made.	N/A
24. Verification of Application		
24.1 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:		
24.1.1 determine the nature of the development; and	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • DCO
24.1.2 if the application is for planning consent - determine:		
24.1.2.1 whether the development involves 2 or more elements and, if so, identify each of those elements for the purposes of assessment against the provisions of the Planning and Design Code; and	Assessment Manager	Per 24.1.1

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24.1.2.2	the category or categories of development that apply for the purposes of development assessment; and	Assessment Manager	Per 24.1.1
24.1.3	determine whether the relevant authority is the correct entity to assess the application under the PDI Act; and	Assessment Manager	Per 24.1.1
24.1.4	if the relevant authority is the correct entity to assess the application (or any part of the application):		
24.1.4.1	check that the appropriate documents and information have been lodged with the application; and	Assessment Manager	Per 24.1.1
24.1.4.2	confirm the fees required to be paid at that point under the <i>Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019</i> ; and	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • AC • ASODS • SO • DCO
24.1.4.3	provide an appropriate notice via the SA planning portal; and	Assessment Manager	Per 24.1.1
24.1.5	if the relevant authority is not the correct entity to assess the application (or any part of the application):	Assessment Manager	Per 24.1.1
24.1.5.1	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		

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	relevant authority in accordance with any practice direction; and		
	24.1.5.2 provide an appropriate notice via the SA planning portal.		
25.	Application and Further Information		
25.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • AC • ASODS • SO • DCO
26.	Amended Applications		
26.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • DCO
26.2	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	Per 26.1
27.	Withdrawing/Lapsing Applications		

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27.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • AC • ASODS • SO • DCO
27.1.1	any agency to which the application has been referred under Division 2 of the General Regulations; and		
27.1.2	any person who has made a representation in relation to the application under Division 3 of the General Regulations,		
	of the withdrawal.		
27.2	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:		
27.2.1	take reasonable steps to notify the applicant of the action under consideration; and	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • AC • ASODS • SO
27.2.2	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.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP
28.	Court Proceedings		

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28.1	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 This power relates to how the delegate will choose to conduct ongoing court proceedings. Out of an abundance of caution, we recommend it be delegated as per 11.3 (i.e. to Assessment Manager or MDRS)	<ul style="list-style-type: none"> MDRS
29.	Additional Information or Amended Plans		
29.1	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	<ul style="list-style-type: none"> MDRS TLP SDOP DOP SPP DOPA
30.	Building Matters	It is not necessary to delegate any powers or functions under Item 31 if standing referral to Council is made.	
30.1	The power pursuant to Regulation 45(1) of the General Regulations to, if in assessing an application for building consent, the delegate considers that:	N/A	N/A

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30.1.1	a proposed performance solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for the intervention of a fire authority; or		
30.1.2	the proposed development is at variance with a performance requirement of the Building Code which provides for the intervention of a fire authority; or		
30.1.3	special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,		
	refer the application to the relevant fire authority for comment and report unless the fire authority indicates to the delegate that a referral is not required.		
30.2	The power pursuant to Regulation 45(2) of the General Regulations, if a report is not received from the fire authority on a referral under Regulation 45(1) of the General Regulations within 20 business days, to presume that the fire authority does not desire to make a report.	N/A	N/A
30.3	The power pursuant to Regulation 45(3) of the General Regulations to have regard to any report received from a fire authority under Regulation 45 of the General Regulations.	N/A	N/A
30.4	The power pursuant to Regulation 45(4) of the General Regulations, if, in respect of an application referred to a fire authority under Regulation 45 of the General Regulations, the fire authority:	N/A	N/A
30.4.1	recommends against the granting of building consent; or		
30.4.2	concurs in the granting of consent on conditions specified in its report,		
	but the delegate:		

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30.4.3	proposes to grant building consent despite a recommendation referred to in Regulation 45(4)(a) of the General Regulations; or		
30.4.4	does not propose to impose the conditions referred to in Regulation 45(b) of the General Regulations, or proposes to impose the conditions in varied form, on the grant of consent,		
	to:		
30.4.5	refer the application to the Commission; and		
30.4.6	not grant consent unless the Commission concurs in the granting of the consent.		
30.5	The power pursuant to Regulation 45(5) of the General Regulations to provide to the Commission a copy of any report received from a fire authority under Regulation 45(1) of the General Regulations that relates to an application that is referred to the Commission under the PDI Act.	N/A	N/A
31. Preliminary Advice and Agreement (Section 123)			
31.1	The power pursuant to Regulation 46(6) of the General Regulations, if:		
31.1.1	the delegate permits an applicant to vary an application under Section 119(9) of the PDI Act; and	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
31.1.2	the delegate determines that the application no longer accords with the agreement indicated by the prescribed body,	Assessment Manager	Per 31.1.1
	to refer the application (unless withdrawn) to the prescribed body:		
31.1.3	to obtain a variation to the agreement under Section 123 of the PDI Act; or	Assessment Manager	Per 31.1.1

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31.1.4	to obtain a response from the prescribed body for the purposes of Section 122 of the PDI Act.	Assessment Manager	Per 31.1.1
31.2	The power pursuant to Regulation 46(7) of the General Regulations if:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • AC • ASODS • SO
31.2.1	an application is withdrawn by the applicant; and		
31.2.2	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.		
31.3	The power pursuant to Regulation 46(8) of the General Regulations, if:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • AC • ASODS • SO
31.3.1	an application is lapsed by a relevant authority under Regulation 38 of the General Regulations; and		
31.3.2	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.		
31.4	The power pursuant to Regulation 46(9) of the General Regulations, if:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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		<ul style="list-style-type: none"> • AC • ASODS • SO
31.4.1	an applicant seeks to rely on an agreement under Section 123 of the PDI Act in connection with the application; and	
31.4.2	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.	
32.	Notification of Application of Tree-damaging Activity to Owner of Land	
32.1	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:	
32.1.1	give the owner notice of the application within 5 business days after the application is made; and	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP • AC • ASODS • SO • DCO Based on current sub-delegations for r 18(a) Development Regulations
32.1.2	give due consideration in the delegate's assessment of the application to any submission made by the owner within 10 business days after	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP

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the giving of notice under Regulation 48 of the General Regulations.		<ul style="list-style-type: none"> • DOPA • SPP • DCO
33. Public Inspection of Applications		
33.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DCO • DOPA • TLB • SDOB • DOB • AC • ASODS • SO • DCO
34. Representations	Powers in Item 34 do not require delegation unless the Panel is considering delegating to Assessment Manager the power to determine applications in relation to which representors wish to be heard.	
34.1 The power pursuant to Regulation 50(5) of the General Regulations to, if the delegate considers that it would assist	N/A	N/A

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the delegate in making a decision on the application, allow a person:		
34.1.1 who has made a representation under Regulation 50(1) of the General Regulations in relation to development being assessed under Section 107 of the PDI Act; and		
34.1.2 who has indicated an interest in appearing before the delegate,		
an opportunity (at a time determined by the delegate) to appear personally or by representative before the delegate to be heard in support of the representation that has been made under Regulation 50(1) of the General Regulations.		
35. Response by Applicant		
35.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOPA • DOP • SPP
36. Notice of Decision (Section 126(1))		
36.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • AC • ASODS • SO • DCO
37. Consideration of Other Development Authorisations		

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37.1	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	Per 5.1.1.1
38.	Certificate of Independent Technical Expert in Certain Cases	Power relates to building consent – delegation not necessary if standing referral to Council is made	
38.1	The power pursuant to Regulation 61(4)(c) of the General Regulations to form the opinion and be satisfied on the basis of advice received from the accreditation authority under the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019, a relevant professional association, or another relevant registration or accreditation authority, that a person has engineering or other qualifications, qualify the person to act as a technical expert under this regulation.	N/A	N/A
39.	Urgent Work		
39.1	The power pursuant to Regulation 63(1) of the General Regulations to,	Assessment Manager	<ul style="list-style-type: none"> TLB <p>Stephen.Zillante @marion.sa.gov.au</p> <p>8375 6696</p>
39.1.1	determine a telephone number determined for the purposes of Regulation 63(1)(a) of the General Regulations; and		
39.1.2	determine the email address for the purposes of Regulation 63(1)(b) of the General Regulations.		

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39.2	The power pursuant to Regulation 63(2) of the General Regulations to, for the purposes of Section 135(2)(c) of the PDI Act, allow a longer period.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLB • SDOB • DOB
39.3	The power pursuant to Regulation 63(3) of the General Regulations to, for the purposes of Section 135(2)(c) of the PDI Act, allow a longer period.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLB • SDOB • DOB
40. Variation of Authorisation (Section 128)			
40.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
41. Advice from Commission			
41.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
42. Underground Mains Area			
42.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP Subject to concurrence of the UMES .

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43. Plans for Residential Alterations, Additions and New Dwellings		
43.1 The power pursuant to Clause 2(d)(ii)(B) of Schedule 8 of the General Regulations to form the belief that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land or in the vicinity of the land.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
43.2 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	Per 43.1
44. Plans for Building Work	Not necessary to delegate any powers or functions under Item 45 if standing referral to Council is made.	
44.1 The power pursuant to Clause 4(3) of Schedule 8 of the General Regulations, in relation to an application for building consent for development consisting of or involving an alteration to a building, if:	N/A	N/A
44.1.1 the applicant is applying for a change in the classification of the building to a classification other than Class 10 under the Building Code; or		
44.1.2 the building was erected before 1 January 1974 and the applicant is applying for a classification other than Class 10 under the Building Code to be assigned to the building,		
to require the application to be accompanied by such details, particulars, plans, drawings, specifications and other documents (in addition to the other documents required to accompany the application) as the delegate reasonably requires to show that the entire building will, on completion of the building work, comply with the requirements of the PDI Act and the General Regulations		

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for a building of the classification applied for or with so many of those requirements as will ensure that the building is safe and conforms to a proper structural standard.		
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PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND CONTRIBUTIONS) REGULATIONS 2019

45. Calculation or Assessment of Fees		
45.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • AC • ASODS • SO • DCO
45.1.1 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		
45.1.2 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).		
45.2 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	Per 45.1
45.3 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	Assessment Manager	Per 45.1

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	fee, reassess a fee payable under the Fees Regulations or a related set of regulations.		
46. Waiver or Refund of Fee			
46.1	The power pursuant to Regulation 7 of the Fees Regulations to, as the delegate considers appropriate to do so:	Assessment Manager	<ul style="list-style-type: none"> • MDRS
46.1.1	waive the payment of the fee, or the payment of part of the fee; or		
46.1.2	refund the whole or a part of the fee.		

PLANNING AND DESIGN CODE

47. Procedural Matter	Delegation	Sub-delegation
47.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
48. Procedural Referrals		
48.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
48.2 The power pursuant to and in accordance with the PD Code to form the opinion and deem:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
48.2.1 alteration to an existing access or public road junction;		

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48.2.2	development that changes the nature of vehicular movements or increases the number or frequency of movements through an existing access,		
	to be minor.		
48.3	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
48.4	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
49.	Referral Body: Minister Responsible for the Administration of the Aquaculture Act 2001		
49.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
STATE PLANNING COMMISSION PRACTICE DIRECTION 3 (NOTIFICATION OF PERFORMANCE ASSESSED DEVELOPMENT APPLICATIONS) 2019			
50.	Responsibility to Undertake Notification		
50.1	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	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP

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notice placed on the relevant land in accordance with Section 107(3)(a)(ii) of the PDI Act.		
51. Preparing for Notification		
51.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP • DCO • AC • ASODS • SO
51.1.1 give notice of the anticipated commencement date and of the notification period to the applicant; and		
51.1.2 provide the applicant with a copy of the content of the notice to be placed on the relevant land in PDF format; and		
51.1.3 advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of PD3.		
52. Notice on Land		
52.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • DCO • SPP

Commented [AW1]: Will need to know what other officers may be installing the sign as they need to be delegated to place the sign on the land.

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

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53. Qualifications and Experience of Additional members		
53.1 The power pursuant to clause 4(6) of the State Planning Commission Practice Direction (Appointment of Additional Members to Assessment Panel) 2019 (PD5) where the delegate forms the view that additional expert advice is required for an application which requires assessment of a matter listed in Column 1 of PD5, to engage an additional assessment panel member provided that person maintains both the minimum experience detailed in Column 2 of PD5, as well as the minimum qualification listed in Column 3 of PD5.	Not delegated	Not sub-delegated
53.2 The power pursuant to clause 4(7) of PD5 to be satisfied of the minimum experience and qualifications of an additional assessment panel member.	Not delegated	Not sub-delegated

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

54. Scheme Provisions		
54.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
54.2 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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SCHEDULE OF CONDITIONS

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

[Instructions for use: any conditions or limitations which apply to delegations under this Act should be inserted here – DELETE this note once conditions/limitations are entered. If no conditions apply insert 'NIL']

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
Nil	Nil

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Version:

Endorsed Date	Amendments

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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 resolution(s) to identify when these delegations were made, reviewed and or amended.

References:

- MDRS Manager Development & Regulatory Services
- TLP Team Leader Planning
- SDOP Senior Development Officer Planning
- DOP Development Officer Planning
- DOPA Development Officer Planning Assistant
- SPP Senior Policy Planner
- AC Administrator Coordinator
- ASODS Administration Support Officer Development Services
- SO Systems Officer
- DCO Development Compliance Officer
- UMES Unit Manager Engineering Services

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POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

1. Environment and Food Production Areas – Greater Adelaide	Delegation	Sub-delegation
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.	N/A	N/A
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.	N/A	N/A
2. Appointment of Additional Members		
2.1 The power pursuant to Section 85(1) of the PDI Act to appoint 1 or 2 members to act as additional members of the assessment panel for the purposes of dealing with a matter that the assessment panel must assess as a relevant authority under the PDI Act.		N/A
3. Relevant Authority – Commission		
3.1 The power pursuant to Section 94(3)(a) of the PDI Act, if the Minister acts under Section 94(1)(h) of the PDI Act to, at the request of the Commission, provide the Commission with a report relating to any application for development authorisation that has been under consideration by the relevant authority.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP
4. Relevant Provisions		N/A
4.1 The power pursuant to Section 99(1) of the PDI Act, if a proposed development involves the performance of		

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building work to determine to act under Section 99(1) of the PDI Act to:		
4.1.1 refer the assessment of the development in respect of the Building Rules to the council for the area in which the proposed development is to be undertaken; or		
4.1.2 require that the assessment of the development in respect of the Building Rules be undertaken by a building certifier.		
5. Matters Against Which Development Must Be Assessed		
5.1 The power pursuant to Section 102(1) of the PDI Act to assess a development against, and grant or refuse a consent in respect of, each of the following matters (insofar as they are relevant to the particular development):		
5.1.1 -		
5.1.1.1 the relevant provisions of the Planning Rules; and	<p>The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which:</p> <p>1. Planning consent is not sought for:</p> <p>a) any development in relation to a Local Heritage Place or a State Heritage</p>	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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	<p>Place where the heritage advice commissioned on behalf of the CAP or the State Government Department responsible for State Heritage have recommended that planning consent should not be granted;</p> <p>b) the total demolition of a Local Heritage Place or a State Heritage Place;</p> <p>c) land division that proposes the creation of three or more additional allotments (excluding an allotment identified as common property or as a free an unrestricted right of way) where one or more of the proposed allotments is more than 5% below the minimum site</p>	
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	<p>area recommended by the relevant policy in the Code; or</p> <p>d) three or more dwellings (including detached, semidetached, row and residential flat) where one or more dwelling sites are more than 5% below the minimum site area recommended by the relevant policy in the Code; and</p> <p>2. One or more of the following are satisfied:</p> <p>a) No valid representations are received against the proposed development;</p> <p>b) All valid representations against the proposed development are withdrawn;</p> <p>c) No representor who has lodged a valid</p>	
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		<p>representation against the proposed development wishes to be heard;</p> <p>Except in cases where a deemed consent notice has been served on the Panel under Section 125(2) of the Act, in which case the limitation does not apply, and the Assessment Manager is delegated the power pursuant to Section 102(1)(a)(i) of the PDI Act to grant consent in respect of the relevant provisions of the Planning Rules without limitation.</p>	
5.1.1.2	to the extent provided by Part 7 Division 2 of the PDI Act – the impacts of the development, (planning consent);	N/A	N/A
5.1.2	the relevant provisions of the Building Rules (building consent);	Delegations not required if standing referral of application for building consent is made	N/A
5.1.3	in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988) - the requirement that the following conditions be	N/A (Assessment Manager is the relevant authority)	

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	satisfied (or will be satisfied by the imposition of conditions under the PDI Act):		
5.1.3.1	requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;		
5.1.3.2	any relevant requirements set out in a design standard has been satisfied;		
5.1.3.3	the requirements of a water industry entity under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are satisfied;		
5.1.3.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;		
5.1.3.5	requirements set out in regulations made for the purposes of Section 102(1)(c) of the PDI Act are satisfied;		
5.1.4	in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 - the requirement that the following conditions be satisfied (or will be satisfied by the imposition of conditions under the PDI Act):	N/A (Assessment Manager is the relevant authority)	
5.1.4.1	requirements set out in the Planning and Design Code made for the purposes of this provision are satisfied;		
5.1.4.2	any relevant requirements set out in a design standard has been satisfied;		

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5.1.4.3	any encroachment of a lot or unit over other land is acceptable having regard to any provision made by the Planning and Design Code or a design standard;		
5.1.4.4	where land is to be vested in a council or other authority - the council or authority consents to the vesting;		
5.1.4.5	a building or item intended to establish a boundary (or part of a boundary) of a lot or lots or a unit or units is appropriate for that purpose;		
5.1.4.6	the division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 is appropriate having regard to the nature and extent of the common property that would be established by the relevant scheme;		
5.1.4.7	the requirements of a water industry entity under the Water Industry Act 2012 identified under the regulations relating to the provision of water supply and sewerage services are satisfied;		
5.1.4.8	any building situated on the land complies with the Building Rules;		
5.1.4.9	requirements set out in the regulations made for the purposes of Section 102(d) of the PDI Act are satisfied;		
5.1.5	any encroachment of a building over, under, across or on a public place (and not otherwise dealt with above) is acceptable having regard to any provision made by the Planning and Design Code or a design standard;	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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5.1.6	if relevant - requirements applying under Part 15 Division 2 of the PDI Act are satisfied;	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • DCO
5.1.7	such other matters as may be prescribed.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • TLB
5.2	The power pursuant to Section 102(3) of the PDI Act to, in relation to granting a planning consent, on the delegate's own initiative or on application, reserve the delegate's decision on a specified matter or reserve the delegate's decision to grant a planning consent:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
5.2.1	until further assessment of the relevant development under the PDI Act; or		
5.2.2	until further assessment or consideration of the proposed development under another Act; or		
5.2.3	until a licence, permission, consent, approval, authorisation, certificate or other authority is granted, or not granted (by the decision of another authority), under another Act.		
5.3	The power pursuant to Section 102(4) of the PDI Act to allow any matter specified by the Planning and Design Code for the purposes of Section 102(4) of the PDI Act to be reserved on the application of the applicant.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
6.	Performance Assessed Development		
6.1	The power pursuant to Section 107(2)(c) of the PDI Act to form the opinion that the development is seriously at variance with the Planning and Design Code (disregarding minor variations).	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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6.2	The power pursuant to Section 107(3) of the PDI Act, if a proposed development is to be assessed under Section 107 of the PDI Act to make a decision in accordance with a practice direction.	Assessment Manager
6.3	The power pursuant to Section 107(4) of the PDI Act to limit the matters that the delegate will take into account to what should be the decision of the relevant authority as to planning consent in relation to the performance based elements of the development as assessed on its merits.	Assessment Manager
7.	Building Consent	N/A
7.1	The power pursuant to Section 118(1) of the PDI Act, if the Regulations provide that a form of building work complies with the Building Rules, to grant any such building work a building consent (subject to such conditions or exceptions as may be prescribed by the regulations).	
7.2	The power pursuant to Section 118(2)(a) of the PDI Act to seek the concurrence of the Commission to grant a building consent in respect of a development that is at variance with the performance requirements of the Building Code or a Ministerial building standard.	
7.3	The power pursuant to Section 118(2) of the PDI Act, subject to Section 118(6) of the PDI Act, to grant a building consent to a development that is at variance with the Building Rules if:	
7.3.1	the variance is with a part of the Building Rules other than the Building Code or a Ministerial building standard and the delegate determines that it is appropriate to grant the consent despite the variance on the basis that the delegate is satisfied:	
7.3.1.1	that:	
	(a) the provisions of the Building Rules are inappropriate to the particular building or building work, or the proposed building	

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	work fails to conform with the Building Rules only in minor respects; and		
	(b) the variance is justifiable having regard to the objects of the Planning and Design Code or the performance requirements of the Building Code or a Ministerial building standard (as the case may be) and would achieve the objects of this Act as effectively, or more effectively, than if the variance were not to be allowed; or		
	7.3.1.2 in a case where the consent is being sought after the development has occurred - that the variance is justifiable in the circumstances of the particular case.		
7.4	The power pursuant to Section 118(4) of the PDI Act, to at the request or with the agreement of the applicant, refer proposed building work to the Commission for an opinion on whether or not it complies with the performance requirements of the Building Code or a Ministerial building standard.	N/A	N/A
7.5	The power pursuant to Section 118(6) of the PDI Act if an inconsistency exists between the Building Rules and the Planning Rules in relation to a State heritage place or a local heritage place, to, in determining an application for building rules consent, ensure, so far as is reasonably practicable, that standards of building soundness, occupant safety and amenity are achieved in respect of the development that are as good as can reasonably be achieved in the circumstances.	N/A	N/A
7.6	The power pursuant to Section 118(7) of the PDI Act to seek and consider the advice of the Commission before imposing or agreeing to a requirement under Section 18(6) of the PDI Act that would be at variance with the	N/A	N/A

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	performance requirements of the Building Code or a Ministerial building standard.		
7.7	The power pursuant to Section 118(8) of the PDI Act, to, subject to the PDI Act, accept that proposed building work complies with the Building Rules to the extent that:	N/A	N/A
7.7.1	such compliance is certified by the provision of technical details, particulars, plans, drawings or specifications prepared and certified in accordance with the regulations; or		
7.7.2	such compliance is certified by a building certifier.		
7.8	The power pursuant to Section 118(10) of the PDI Act to refuse to grant a consent in relation to any development if, as a result of that development, the type or standard of construction of a building of a particular classification would cease to conform with the requirements of the Building Rules for a building of that classification	N/A	N/A
7.9	The power pursuant to Section 118(11) of the PDI Act, if a relevant authority decides to grant building consent in relation to a development that is at variance with the Building Rules, to, subject to the regulations, in giving notice of the relevant authority's decision on the application for that consent, specify (in the notice or in an accompanying document):	N/A	N/A
7.9.1	the variance; and		
7.9.2	the grounds on which the decision is being made.		
8.	Application and Provision of Information		
8.1	The power pursuant to Section 119(1)(b) of the PDI Act to require an application to the relevant authority for the purposes of Part 7 of the PDI Act, to include any information as the delegate may reasonably require.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB

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		<ul style="list-style-type: none"> • SDOB • DOPA • AC • ASODS • SO • DCO
8.2	The power pursuant to Section 119(3) of the PDI Act to request an applicant:	
8.2.1	to provide such additional documents, assessments or information (including calculations and technical details) as the delegate may reasonably require to assess the application;	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB • DOPA • AC • ASODS • SO • DCO
8.2.2	to remedy any defect or deficiency in any application or accompanying document or information required by or under the PDI Act;	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB • DOPA • AC • ASODS • SO • DCO
8.2.3	to consult with an authority or body prescribed by the regulations;	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB

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		<ul style="list-style-type: none"> • DOPA • AC • ASODS • SO • DCO
8.2.4	to comply with any other requirement prescribed by the regulations.	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • TLB • SDOB • DOPA • AC • ASODS • SO • DCO
8.3	The power pursuant to Section 119(6) of the PDI Act if a request is made under Section 119(3) of the PDI Act, and the request is not complied with within the time specified by the regulations, to	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
8.3.1	subject to Section 119(6)(b)(ii) of the PDI Act, refuse the application; and	
8.3.2	refuse the application in prescribed circumstances (including, if the regulations so provide, in a case involving development that is deemed-to-satisfy development).	
8.4	The power pursuant to Section 119(7) of the PDI Act to, in dealing with an application that relates to a regulated tree, consider that special circumstances apply.	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
8.5	The power pursuant to Section 119(9) of the PDI Act to:	
8.5.1	permit an applicant:	

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8.5.1.1	to vary an application;	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP
8.5.1.2	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);	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP
8.5.2	permit an applicant to lodge an application without the provision of any information or document required by the regulations;	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA
8.5.3	to the extent that the fee is payable to the relevant authority waive payment of whole or part of the application fee, or refund an application fee (in whole or in part);	Assessment Manager	<ul style="list-style-type: none"> • MDRS
8.5.4	if there is an inconsistency between any documents lodged with the relevant authority for the purposes of Part 7 of the PDI Act (whether by an applicant or any other person), or between any such document and a development authorisation that has already been given that is relevant in the circumstances, return or forward any document to the applicant or to any other person and determine not to finalise the matter until any specified matter is resolved, rectified or addressed.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA

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8.6	The power pursuant to Section 119(10) of the PDI Act to grant a permission under Section 119(9) of the PDI Act unconditionally or subject to such conditions as the delegate thinks fit.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA
8.7	The power pursuant to Section 119(12) of the PDI Act to, in a consent, provide for, or envisage, the undertaking of development in stages, with separate consents or approvals for the various stages.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DCO
8.8	The power pursuant to Section 119(14) of the PDI Act to if an applicant withdraws an application to determine to refund the application fee.	Assessment Manager	<ul style="list-style-type: none"> • MDRS
9.	Outline Consent		
9.1	The power pursuant to Section 120(1) of the PDI Act and subject to Section 120 of the PDI Act, to on application, grant a consent in the nature of an outline consent.		<p>N/A</p> <p><i>No delegation until practice direction necessary to enable operation of s 120 is published.</i></p>
9.2	The power pursuant to Section 120(3) of the PDI Act if an outline consent is granted and a subsequent application is made with respect to the same development (subject to any variations allowed by a practice direction) to:	As per 9.1 above	As per 9.1 above
9.2.1	grant any consent contemplated by the outline consent; and		
9.2.2	not impose a requirement that is inconsistent with the outline consent.		
10.	Design Review		

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10.1	The power pursuant to Section 121(7) of the PDI Act, to in acting under the PDI Act, take into account any advice provided by a design panel (insofar as may be relevant to the assessment of proposed development by the delegate).	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
11. Referrals to Other Authorities or Agencies			
11.1	The power pursuant to Section 122(1) of the PDI Act, where an application for consent to, or approval of, a proposed development of a prescribed class is to be assessed by a relevant authority, to:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP • DCO
11.1.1	refer the application, together with a copy of any relevant information provided by the applicant, to a body prescribed by the regulations (including, if so prescribed, the Commission); and		
11.1.2	not make a decision until the relevant authority has received a response from that prescribed body in relation to the matter or matters for which the referral was made		
	where the regulations so provide, subject to Section 122 of the PDI Act.		
11.2	The power pursuant to Section 122(5)(b) of the PDI Act, acting by direction of a prescribed body:	Assessment Manager	As per 11.1
11.2.1	to refuse the application; or		
11.2.2	consent to or approve the development and impose such conditions as the prescribed body thinks fit, (subject to any specific limitation under another Act as to the conditions that may be imposed by the prescribed body)		
	where the regulations so provide.		

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11.3	The power pursuant to Section 122(7) of the PDI Act, if the relevant authority is directed by a prescribed body to refuse an application and the refusal is the subject of an appeal under the PDI Act, to apply for the relevant authority to be joined as a party to the proceedings.	Assessment Manager	<ul style="list-style-type: none"> • MDRS
11.4	The power pursuant to Section 122(10) of the PDI Act to, if requested by an applicant, defer a referral under Section 122 of the PDI Act to a particular stage in the process of assessment.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
12. Preliminary Advice and Agreement			
12.1	The power pursuant to Section 123(2) of the PDI Act, if:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
12.1.1	a proposed development is referred to a prescribed body under Section 123(1) of the PDI Act; and		
12.1.2	the prescribed body agrees to consider the matter under Section 123 of the PDI Act after taking into account any matter prescribed by the regulations; and		
12.1.3	the prescribed body agrees, in the manner prescribed by the regulations, that the development meets the requirements (if any) of the prescribed body (including on the basis of the imposition of conditions),		
	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		

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	prescribed body (taking into account the terms or elements of that agreement and any relevant plans and other documentation).		
12.2	The power pursuant to Section 123(4) of the PDI Act to determine an agreement under Section 123 of the PDI Act is no longer appropriate due to the operation of Section 132 of the PDI Act.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
13.	Proposed Development Involving Creation of Fortifications		
13.1	The power pursuant to Section 124(1) of the PDI Act, if the delegate has reason to believe that a proposed development may involve the creation of fortifications, to refer the application for consent to, or approval of, the proposed development to the Commissioner of Police (the Commissioner).	Assessment Manager	<ul style="list-style-type: none"> • MDRS
13.2	The power pursuant to Section 124(5) of the PDI Act, if the Commissioner determines that the proposed development involves the creation of fortification, to:	Assessment Manager	<ul style="list-style-type: none"> • MDRS
13.2.1	if the proposed development consists only of the creation fortifications - refuse the application; or		
13.2.2	in any other case - impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications		
13.3	The power pursuant to Section 124(6) of the PDI Act, if the relevant authority acting on the basis of a determination of the Commissioner under Section 124(2) of the PDI Act refuses an application or imposes conditions in respect of a development authorisation, to notify the applicant that the application was refused, or the conditions imposed, on the basis of a determination of the Commissioner under Section 124 of the PDI Act.	Assessment Manager	<ul style="list-style-type: none"> • MDRS
13.4	The power pursuant to Section 124(7) of the PDI Act, if a refusal or condition referred to in Section 124(5) of the PDI Act is the subject of an appeal under the PDI	Assessment Manager	<ul style="list-style-type: none"> • MDRS

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Act to apply to the Court to be joined as a party to the appeal.			
14. Time Within Which Decision Must be Made			
14.1 The power pursuant to Section 125(6) of the PDI Act to form the opinion and consider that the relevant application for planning consent should have been refused and apply to the Court for an order quashing the consent.	Assessment Manager		<ul style="list-style-type: none"> MDRS
14.2 The power pursuant to Section 125(7) of the Act to apply to the Court for an extension of time to make an application under Section 125(6) of the Act.	As per 14.1		As per 14.1
15. Determination of Application			
15.1 The power pursuant to Section 126(1) of the PDI Act to, on making a decision on an application under Part 7 of the PDI Act, give notice of the decision in accordance with the regulations (and, in the case of a refusal, to include in the notice the reasons for the refusal and any appeal rights that exist under the PDI Act).	Assessment Manager		<ul style="list-style-type: none"> MDRS TLP SDOP DOPP SPP DOPA AC ASODS SO DCO
15.2 The power pursuant to Section 126(3) of the PDI Act to, on the delegate's own initiative or on the application of a person who has the benefit of any relevant development authorisation, extend a period prescribed under Section 126(2) of the PDI Act.	Assessment Manager		<ul style="list-style-type: none"> MDRS TLP
16. Conditions			
16.1 The power pursuant to Section 127(1) of the PDI Act to make a decision subject to such conditions (if any) as the delegate thinks fit to impose in relation to the development.	Assessment Manager		<ul style="list-style-type: none"> MDRS TLP SDOP DOP DOPA SPP DCO

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16.2	The power pursuant to Section 127(2)(c) of the PDI Act to vary or revoke a condition in accordance with an application under Part 7 of the PDI Act.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
16.3	The power pursuant to Section 127(4) of the PDI Act, subject to Sections 127(6) and (8) of the PDI Act, if a development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, to apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the delegate) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • DCO
16.4	The power pursuant to Section 127(6) of the PDI Act to, on the application of the applicant, determine that a payment of an amount calculated in accordance with the regulations be made into the relevant fund in lieu of planting 1 or more replacement trees under Section 127(4) of the PDI Act.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • DCO
16.5	The power pursuant to Section 127(8)(b) of the PDI Act to:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • DCO
16.5.1	determine that it is appropriate to grant an exemption under Section 127(8)(b) of the PDI Act in a particular case after taking into account any criteria prescribed by the regulations and provided the Minister concurs in the granting of the exemption;		

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16.5.2	to seek the Minister's concurrence to grant an exemption under Section 127(8)(b) of the PDI Act.		
17.	Variation of Authorisation		
17.1	The power pursuant to Section 128(2)(d) of the PDI Act to approve an application for a variation to a development authorisation previously given under the PDI Act, which seeks to extend the period for which the relevant authorisation remains operative.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DCO <p>Based on current sub-delegations for s 40(3) Development Act</p>
18.	Requirement to Up-grade	N/A	N/A
18.1	The power pursuant to Section 134(1) of the PDI Act to form the opinion that the building is unsafe, structurally unsound or in an unhealthy condition.	N/A	N/A
18.2	The power pursuant to Section 134(1) of the PDI Act, if:	N/A	N/A
18.2.1	an application for a building consent relates to:		
18.2.1.1	building work in the nature of an alteration to a building constructed before the date prescribed by regulation for the purposes of Section 134(1) of the PDI Act; or		
18.2.1.2	a change of classification of a building; and		
18.2.2	the building is, in the opinion of the delegate, unsafe, structurally unsound or in an unhealthy condition,		
	to require that building work that conforms with the requirements of the Building Rules be carried out to the extent reasonably necessary to ensure that the building		

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	is safe and conforms to proper structural and health standards.		
18.3	The power pursuant to Section 134(2) of the PDI Act, when imposing a requirement under Section 134(1) of the PDI Act, to specify (in reasonable detail) the matters under Section 134(1)(b) of the PDI Act that must, in the opinion of the delegate, be addressed.	N/A	N/A
18.4	The power pursuant to Section 134(3) of the PDI Act to impose a requirement under Section 134(1) of the PDI Act:	N/A	N/A
18.4.1	subject to Section 134(3)(b) of the PDI Act - on the basis that the relevant matters must be addressed as part of the application before the relevant authority will grant building consent; and		
18.4.2	in cases prescribed by the regulations - as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed		
18.5	The power pursuant to Section 134(4) of the PDI Act if:	N/A	N/A
18.5.1	an application is made for building consent for building work in the nature of an alteration of a class prescribed by the regulations; and		
18.5.2	the delegate is of the opinion that the affected part of the building does not comply with the performance requirements of the Building Code or a Ministerial building standard in relation to access to buildings, and facilities and services within buildings, for people with disabilities,		
	to require that building work or other measures be carried out to the extent necessary to ensure that the affected part of the building will comply with those performance requirements of the Building Code or the Ministerial building standard (as the case may be).		

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18.6	The power pursuant to Section 134(5) of the PDI Act to impose a requirement under Section 134(4) of the PDI Act:	N/A	N/A
18.6.1	subject to Section 134(5)(b) of the PDI Act - on the basis that the building work or other measures to achieve compliance with the relevant performance requirements must be addressed before the relevant authority will grant building consent; and		
18.6.2	in cases prescribed by the regulations - as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed.		
19.	Cancellation of Development Authorisation		
19.1	The power pursuant to Section 143(1) of the PDI Act to, on the application of a person who has the benefit of the authorisation, cancel a development authorisation previously given by the relevant authority.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • TLB
19.2	The power pursuant to Section 143(2) of the PDI Act to make a cancellation under Section 143(1) of the PDI Act subject to such conditions (if any) as the delegate thinks fit to impose.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • TLB
20.	Professional Advice to be Obtained in Relation to Certain Matters		
20.1	The power pursuant to Section 235(1) of the PDI Act, to, in the exercise of a prescribed function, rely on a certificate of a person with prescribed qualifications.	Assessment Manager	<ul style="list-style-type: none"> • MDRS
20.2	The power pursuant to Section 235(2) of the PDI Act to seek and consider the advice of a person with prescribed qualifications, or a person approved by the Minister for that purpose, in relation to a matter arising under the PDI Act that is declared by regulation to be a matter on which such advice should be sought.	Assessment Manager	<ul style="list-style-type: none"> • MDRS

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21. General Transitional Schemes for Panels			
21.1	The power pursuant to Clause 12(7) of Schedule 8 of the PDI Act, to	N/A	N/A
21.1.1	adopt any findings or determinations of a council development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and		
21.1.2	adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and		
21.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and		
21.1.4	deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act; and		
21.1.5	deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.		
22. Continuation of Processes			
22.1	The power pursuant to Clause 18(2) of Schedule 8 of the PDI Act, to:	N/A	N/A
22.1.1	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		
22.1.2	adopt or make any decision (including a decision in the nature of a determination),		

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	direction or order in relation to an application to which Clause 18(1) of Schedule 8 of the PDI Act applies; and		
22.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and		
22.1.4	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		
22.1.5	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.		

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23. Accredited Professionals	Delegation	Sub-delegation
23.1 The power pursuant to Regulation 25(7)(c) of the Planning, Development and Infrastructure (General) Regulations 2017 (the General Regulations) to form the opinion and be satisfied, on the basis of advice received from the accreditation authority under the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019, a relevant professional association, or other relevant registration or accreditation authority, that a person has engineering or other qualifications that qualify the person to act as a technical expert under Regulation 25 of the General Regulations.	N/A	N/A
24. Verification of Application		

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24.1	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:		
24.1.1	determine the nature of the development; and	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • DCO
24.1.2	if the application is for planning consent - determine:		
24.1.2.1	whether the development involves 2 or more elements and, if so, identify each of those elements for the purposes of assessment against the provisions of the Planning and Design Code; and	Assessment Manager	Per 24.1.1
24.1.2.2	the category or categories of development that apply for the purposes of development assessment; and	Assessment Manager	Per 24.1.1
24.1.3	determine whether the relevant authority is the correct entity to assess the application under the PDI Act; and	Assessment Manager	Per 24.1.1
24.1.4	if the relevant authority is the correct entity to assess the application (or any part of the application):		
24.1.4.1	check that the appropriate documents and information have been lodged with the application; and	Assessment Manager	Per 24.1.1

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24.1.4.2	confirm the fees required to be paid at that point under the <i>Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019</i> ; and	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • AC • ASODS • SO • DCO
24.1.4.3	provide an appropriate notice via the SA planning portal; and	Assessment Manager	Per 24.1.1
24.1.5	if the relevant authority is not the correct entity to assess the application (or any part of the application):	Assessment Manager	Per 24.1.1
24.1.5.1	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		
24.1.5.2	provide an appropriate notice via the SA planning portal.		
25. Application and Further Information			
25.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB

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		<ul style="list-style-type: none"> • AC • ASODS • SO • DCO
26. Amended Applications		
26.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • DCO
26.2 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	Per 26.1
27. Withdrawing/Lapsing Applications		
27.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • AC • ASODS • SO • DCO
27.1.1 any agency to which the application has been referred under Division 2 of the General Regulations; and		

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27.1.2	any person who has made a representation in relation to the application under Division 3 of the General Regulations,		
	of the withdrawal.		
27.2	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:		
27.2.1	take reasonable steps to notify the applicant of the action under consideration; and	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • AC • ASODS • SO
27.2.2	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.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP
28.	Court Proceedings		
28.1	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	<ul style="list-style-type: none"> • MDRS
29.	Additional Information or Amended Plans		
29.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA
30.	Building Matters	N/A	N/A

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30.1	The power pursuant to Regulation 45(1) of the General Regulations to, if in assessing an application for building consent, the delegate considers that:	N/A	N/A
30.1.1	a proposed performance solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for the intervention of a fire authority; or		
30.1.2	the proposed development is at variance with a performance requirement of the Building Code which provides for the intervention of a fire authority; or		
30.1.3	special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,		
	refer the application to the relevant fire authority for comment and report unless the fire authority indicates to the delegate that a referral is not required.		
30.2	The power pursuant to Regulation 45(2) of the General Regulations, if a report is not received from the fire authority on a referral under Regulation 45(1) of the General Regulations within 20 business days, to presume that the fire authority does not desire to make a report.	N/A	N/A
30.3	The power pursuant to Regulation 45(3) of the General Regulations to have regard to any report received from a fire authority under Regulation 45 of the General Regulations.	N/A	N/A
30.4	The power pursuant to Regulation 45(4) of the General Regulations, if, in respect of an application referred to a fire authority under Regulation 45 of the General Regulations, the fire authority:	N/A	N/A
30.4.1	recommends against the granting of building consent; or		
30.4.2	concurs in the granting of consent on conditions specified in its report,		

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but the delegate:			
30.4.3	proposes to grant building consent despite a recommendation referred to in Regulation 45(4)(a) of the General Regulations; or		
30.4.4	does not propose to impose the conditions referred to in Regulation 45(b) of the General Regulations, or proposes to impose the conditions in varied form, on the grant of consent,		
to:			
30.4.5	refer the application to the Commission; and		
30.4.6	not grant consent unless the Commission concurs in the granting of the consent.		
30.5	The power pursuant to Regulation 45(5) of the General Regulations to provide to the Commission a copy of any report received from a fire authority under Regulation 45(1) of the General Regulations that relates to an application that is referred to the Commission under the PDI Act.	N/A	N/A
31. Preliminary Advice and Agreement (Section 123)			
31.1	The power pursuant to Regulation 46(6) of the General Regulations, if:		
31.1.1	the delegate permits an applicant to vary an application under Section 119(9) of the PDI Act; and	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
31.1.2	the delegate determines that the application no longer accords with the agreement indicated by the prescribed body,	Assessment Manager	Per 31.1.1
to refer the application (unless withdrawn) to the prescribed body:			
31.1.3	to obtain a variation to the agreement under Section 123 of the PDI Act; or	Assessment Manager	Per 31.1.1

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31.1.4	to obtain a response from the prescribed body for the purposes of Section 122 of the PDI Act.	Assessment Manager	Per 31.1.1
31.2	The power pursuant to Regulation 46(7) of the General Regulations if:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • AC • ASODS • SO
31.2.1	an application is withdrawn by the applicant; and		
31.2.2	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.		
31.3	The power pursuant to Regulation 46(8) of the General Regulations, if:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • AC • ASODS • SO
31.3.1	an application is lapsed by a relevant authority under Regulation 38 of the General Regulations; and		
31.3.2	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.		
31.4	The power pursuant to Regulation 46(9) of the General Regulations, if:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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		<ul style="list-style-type: none"> • AC • ASODS • SO
31.4.1	an applicant seeks to rely on an agreement under Section 123 of the PDI Act in connection with the application; and	
31.4.2	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.	
32.	Notification of Application of Tree-damaging Activity to Owner of Land	
32.1	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:	
32.1.1	give the owner notice of the application within 5 business days after the application is made; and	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP • AC • ASODS • SO • DCO
32.1.2	give due consideration in the delegate's assessment of the application to any submission made by the owner within 10 business days after the giving of notice under Regulation 48 of the General Regulations.	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP • DCO

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33. Public Inspection of Applications		
33.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DCO • DOPA • TLB • SDOB • DOB • AC • ASODS • SO • DCO
34. Representations	N/A	N/A
34.1 The power pursuant to Regulation 50(5) of the General Regulations to, if the delegate considers that it would assist the delegate in making a decision on the application, allow a person:	N/A	N/A
34.1.1 who has made a representation under Regulation 50(1) of the General Regulations in relation to development being assessed under Section 107 of the PDI Act; and		
34.1.2 who has indicated an interest in appearing before the delegate,		
an opportunity (at a time determined by the delegate) to appear personally or by representative before the delegate to be heard in support of the representation that has been made under Regulation 50(1) of the General Regulations.		
35. Response by Applicant		
35.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOPA • DOP

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		<ul style="list-style-type: none"> SPP
36. Notice of Decision (Section 126(1))		
36.1 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	<ul style="list-style-type: none"> MDRS TLP SDOP DOP SPP DOPA TLB SDOB AC ASODS SO DCO
37. Consideration of Other Development Authorisations		
37.1 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	Per 5.1.1.1
38. Certificate of Independent Technical Expert in Certain Cases	N/A	N/A
38.1 The power pursuant to Regulation 61(4)(c) of the General Regulations to form the opinion and be satisfied on the basis of advice received from the accreditation authority under the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019, a relevant professional association, or another relevant registration or accreditation authority, that a person has engineering or other qualifications, qualify the person to act as a technical expert under this regulation.	N/A	N/A
39. Urgent Work		
39.1 The power pursuant to Regulation 63(1) of the General Regulations to,	Assessment Manager	<ul style="list-style-type: none"> TLB <p>Stephen.Zillante @marion.sa.gov.au</p>

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		8375 6696
39.1.1	determine a telephone number determined for the purposes of Regulation 63(1)(a) of the General Regulations; and	
39.1.2	determine the email address for the purposes of Regulation 63(1)(b) of the General Regulations.	
39.2	The power pursuant to Regulation 63(2) of the General Regulations to, for the purposes of Section 135(2)(c) of the PDI Act, allow a longer period.	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLB • SDOB • DOB
39.3	The power pursuant to Regulation 63(3) of the General Regulations to, for the purposes of Section 135(2)(c) of the PDI Act, allow a longer period.	Assessment Manager <ul style="list-style-type: none"> • MDRS • TLB • SDOB • DOB
40. Variation of Authorisation (Section 128)		
40.1	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 <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
41. Advice from Commission		
41.1	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 <ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
42. Underground Mains Area		

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42.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP Subject to concurrence of the UMES.
43.	Plans for Residential Alterations, Additions and New Dwellings		
43.1	The power pursuant to Clause 2(d)(ii)(B) of Schedule 8 of the General Regulations to form the belief that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land or in the vicinity of the land.	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
43.2	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	Per 43.1
44.	Plans for Building Work	Not necessary to delegate any powers or functions under Item 45 if standing referral to Council is made.	
44.1	The power pursuant to Clause 4(3) of Schedule 8 of the General Regulations, in relation to an application for building consent for development consisting of or involving an alteration to a building, if:	N/A	N/A
44.1.1	the applicant is applying for a change in the classification of the building to a classification other than Class 10 under the Building Code; or		

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44.1.2 the building was erected before 1 January 1974 and the applicant is applying for a classification other than Class 10 under the Building Code to be assigned to the building,		
to require the application to be accompanied by such details, particulars, plans, drawings, specifications and other documents (in addition to the other documents required to accompany the application) as the delegate reasonably requires to show that the entire building will, on completion of the building work, comply with the requirements of the PDI Act and the General Regulations for a building of the classification applied for or with so many of those requirements as will ensure that the building is safe and conforms to a proper structural standard.		

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

45. Calculation or Assessment of Fees		
45.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP • DOPA • TLB • SDOB • AC • ASODS • SO • DCO
45.1.1 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		
45.1.2 to make any other determination for the purposes of the Fees Regulations or a related set of		

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	regulations (even if the assessment panel is not a relevant authority).		
45.2	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	Per 45.1
45.3	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	Per 45.1
46.	Waiver or Refund of Fee		
46.1	The power pursuant to Regulation 7 of the Fees Regulations to, as the delegate considers appropriate to do so:	Assessment Manager	• MDRS
46.1.1	waive the payment of the fee, or the payment of part of the fee; or		
46.1.2	refund the whole or a part of the fee.		

PLANNING AND DESIGN CODE

47.	Procedural Matter	Delegation	Sub-delegation
47.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
48.	Procedural Referrals		

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48.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
48.2	The power pursuant to and in accordance with the PD Code to form the opinion and deem:	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
48.2.1	alteration to an existing access or public road junction;		
48.2.2	development that changes the nature of vehicular movements or increases the number or frequency of movements through an existing access,		
	to be minor.		
48.3	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
48.4	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP
49.	Referral Body: Minister Responsible for the Administration of the Aquaculture Act 2001		
49.1	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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

50. Responsibility to Undertake Notification		
50.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP
51. Preparing for Notification		
51.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • SPP • DCO • AC • ASODS • SO
51.1.1 give notice of the anticipated commencement date and of the notification period to the applicant; and		
51.1.2 provide the applicant with a copy of the content of the notice to be placed on the relevant land in PDF format; and		
51.1.3 advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of PD3.		

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52. Notice on Land		
52.1 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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • DOPA • DCO • SPP

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

53. Qualifications and Experience of Additional members		
53.1 The power pursuant to clause 4(6) of the State Planning Commission Practice Direction (Appointment of Additional Members to Assessment Panel) 2019 (PD5) where the delegate forms the view that additional expert advice is required for an application which requires assessment of a matter listed in Column 1 of PD5, to engage an additional assessment panel member provided that person maintains both the minimum experience detailed in Column 2 of PD5, as well as the minimum qualification listed in Column 3 of PD5.	Not delegated	Not sub-delegated
53.2 The power pursuant to clause 4(7) of PD5 to be satisfied of the minimum experience and qualifications of an additional assessment panel member.	Not delegated	Not sub-delegated

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

54. Scheme Provisions		
54.1 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	Assessment Manager	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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	or duplicate matters dealt with or addressed under licencing or regulatory regimens under another Act.		
54.2	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	<ul style="list-style-type: none"> • MDRS • TLP • SDOP • DOP • SPP

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SCHEDULE OF CONDITIONS

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

[Instructions for use: any conditions or limitations which apply to delegations under this Act should be inserted here – DELETE this note once conditions/limitations are entered. If no conditions apply insert 'NIL']

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
Nil	Nil

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Version:

Endorsed Date	Amendments

**6.2: OTHER BUSINESS – PDI Preparation
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 3 FEBRUARY 2021**



Originating Officer: Alex Wright
Team Leader - Planning

Report: Standing Referral to Council relating to Building Rules Assessment

Report Type: PDI Readiness

Recommendation:

That the Panel RESOLVES the following;

- 1. The City of Marion Council Assessment Panel (Panel) DETERMINES TO ACT under Section 99(1)(b) of the *Planning, Development and Infrastructure Act 2016* (the Act) in relation to all development applications received by it that involve the performance of building work.**
- 2. Pursuant to Section 99(1)(c) of the Act, where the Panel has determined to act under Section 99(1)(b) of the Act, the Panel REFERS THE ASSESSMENT of the development in respect of the Building Rules to the Corporation of the City of Marion.**

Background

The Planning and Development Infrastructure Act 2016 (the Act) introduces changes to the planning and development system.

Pursuant to Section 93 (1)(a) (*Determination of relevant authority, Relevant authority—Panels*) of the Act the Panel is a 'relevant authority' in its own right. An Assessment Panel will be the relevant authority for planning and building in relation to proposed development that is to be undertaken within the area of the council unless another authority is described by the Act or Regulations (section 93 of the Act).

Discussion

The Panel is the relevant authority for Building Rules, unless it has chosen to delegate these responsibilities to the Council or an Accredited Professional (i.e. building certifier).

If a proposed development involves the performance of building work and a relevant authority (i.e. the Panel) has determined to act under Section 99(1)(b) of the Act, the relevant authority may, pursuant to Section 99 (1)(c) or (d) of the Act, either refer the assessment of the development in respect of the Building Rules to the Council, or require the assessment (in respect of the Building Rules) be undertaken by a building certifier.

Whilst comment has been sought from Planning and Land Use Services (PLUS – formally part of DPTI) as to why Panels are the Relevant Authority for building rules, no comment or formal explanation has been provided.

In either case, by referring the Building Rules to a Council or Building Certifier that entity will be the relevant authority in the issuing of Building Rules consent.

HOME

Given Council has a well-resourced and suitably accredited building team, it is suggested that the Panel consider referring all building rules matters to the Council.

In the event the Panel refers assessment of development in respect of Building Rules to the Council, the Council will, pursuant to Section 99 (2)(a), be the relevant authority for;

- Assessing the development against the provisions of the relevant Building Rules
- Granting a consent in respect of the relevant Building Rules
- Granting Development Approval, if appropriate.

Additionally, the Council will be the Relevant Authority for the purposes of granting the final Development Approval after one or more elements of the development have been granted Consent.

Conclusion

The Act provides the ability for Panels to refer a proposed development which involves the assessment of the Building Rules to the Council for the area in which the proposed development is to be undertaken. This is the practice anticipated to be adopted by Panels throughout South Australia.

It is recommended that the Panel consider referring all proposed development which involves the assessment of the Building Rules to the Council.

Recommendation

That;

1. **The City of Marion Council Assessment Panel (Panel) determines to act under Section 99(1)(b) of the *Planning, Development and Infrastructure Act 2016* (the Act) in relation to all development applications received by it that involve the performance of building work.**
2. **Pursuant to Section 99(1)(c) of the Act, where the Panel has determined to act under Section 99(1)(b) of the Act, the Panel refers the assessment of the development in respect of the Building Rules to the Corporation of the City of Marion.**

**6.3: OTHER BUSINESS – PDI Preparation
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 3 FEBRUARY 2021**



Originating Officer: Alex Wright
Team Leader - Planning

Report: Policy for the Assessment Panel Review of a Decision of
the Assessment Manager

Report Type: PDI Readiness

Recommendation:

That the Panel RESOLVES the following;

- 1. The Panel RESOLVES to adopt the ‘Simplified’ *Policy for Assessment Panel review of decision of Assessment Manager* dated 3 February 2021 (the policy) which forms Attachment 1.**

OR

- 2. The Panel RESOLVES to adopt the ‘Prescriptive’ *Policy for Assessment Panel review of decision of Assessment Manager* dated 3 February 2021 (the policy) which forms Attachment 2.**

** Delete non-applicable resolution.*

Attachment 1: ‘Prescriptive’ Policy for Assessment Panel review of decision of Assessment Manager

Attachment 2: ‘Simplified’ Policy for Assessment Panel review of decision of Assessment Manager

Attachment 3: Application to Assessment Panel – Decision Review Request Form

Background

The Planning and Development Infrastructure Act 2016 (the Act) introduces changes to the planning and development system.

The Act provides that where the Assessment Manager of a Council is the Relevant Authority in making a decision, an applicant can apply/request the Panel to review the prescribed matter. A ‘prescribed matter’ is defined in the Act and will be discussed in further detail within this report.

In summary, the Panel can review any request, decision (including to refuse), imposition of conditions and any other decision or act in relation to the authorisation.

The Panel can choose to accept or issue an alternative decision.

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Discussion

What is 'Review Request'

Pursuant to Section 202(1)(b)(i)(A) of the Act an applicant can apply to the Panel to review a 'prescribed matter' in scenarios where the Assessment Manager is the Relevant Authority in making a decision.

Section 203 (Part 16, Division 1) of the Act outlines the statutory requirements for the review by the Council Assessment Panel of a decision of an Assessment Manager. The prescribed legislative requirements include;

- The application must be made within 1 month of receiving notice of the decision constituting a prescribed matter.
- An application must be made in a prescribed manner (refer to *Attachment 5 – Application to Assessment Panel for Assessment Manager's Decision Review Form*) and accompanied by a fee of \$511.00.
- The Panel may adopt a procedure for a review of a decision.
- The Panel is not bound by the rules of evidence and may inform itself as it thinks fit and draw any conclusions of fact it considers proper.
- The Assessment Manager must provide the Panel all relevant documentation for the application and relevant material requested by the Panel including a report on the matter if requested by the Panel.
- The Panel may on a review affirm the decision, vary the decision or set aside the decision and substitute its own decision.

A "Prescribed Matter" is outlined as;

- Any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the development application; or
- A decision to refuse to grant development authorisation to the application; or
- The imposition of conditions in relation to a grant of development authorisation; or
- Subject to any exclusion prescribed by the (General) Regulations 2017, any other assessment, request, decision, direction or act of the Assessment Manager under the Act in relation to the grant of development authorisation.

Review Process and Procedure

Whilst the Act prescribes some of the legislative requirements of the review process, the Panel may establish its own policies and procedures for matters that are not prescribed.

It is recommended the Panel undertake the review within one month of an application being received by the Panel, notwithstanding the Panel may provide additional time for a review.

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To ensure the review occurs within an appropriate timeframe and maintains appropriate governance structure, it is proposed the Panel endorse a Policy outlining the process for the Assessment Panel to Review a Decision of the Assessment Manager.

Provided the legislated requirements are followed, it is at the discretion of the Panel as to how the policy is determined and operated. Norman Waterhouse has created two policy templates for the Panel's consideration - a simplified and a prescriptive policy template.

The templates provide the following key clauses for consideration;

- The Presiding Member be provided the ability to determine if an extension of time should be granted for practical expediency.
- The Assessment Manager, for procedural fairness, provides the Panel all material considered in assessment and processing of the application.
- The Assessment Manager (or relevant delegate) provides the Panel a report outlining the relevant details and reasons for the decision.
- the Panel considers the prescribed matters afresh

The 'simplified' policy provides the opportunity for the Panel to review a Prescribed Matter with the relevant made available to the Assessment Manager (or delegate) at the time of the decision. Whilst the applicant and Assessment Manager (or delegate) may answer questions of the Panel, they will not be entitled to provide submissions or address the Panel.

The 'prescriptive' policy provides further information as to how the applicant may lodge the application and prescribes a detailed process for an applicant to submit additional information for review, should the Panel wish this in reviewing the decision. The applicant and Assessment Manager (or delegate) are entitled to appear before the panel and provide submissions.

The 'simplified' policy has a defined scope whilst the 'prescriptive' policy provides the panel with greater flexibility and scope to undertake a quasi-hearing of the issue prior to making a decision.

A person who is dissatisfied with the outcome of the review may appeal to the Court against a decision of the assessment panel on the review.

Whilst the legislation provides the opportunity for the Panel to review a decision of the Assessment Manager an applicant maintains the opportunity to lodge a full appeal to the ERD Court.

Conclusion

It is the prerogative of the Panel to establish which Policy best serves the needs and requirements in undertaking the review process.

The simplified version will provide a robust opportunity for the Panel to consider the decision of the Assessment Manager based purely on the information the Assessment Manager had when making the decision.

The prescriptive version will provide the Panel with an opportunity to conduct a quasi-hearing and receive and hear further information from both the applicant and Assessment Manager. Whilst this may provide the Panel with a greater opportunity to review the decision, it does not provide an opportunity to redesign or facilitate a different outcome. The Prescriptive Policy is likely to

require additional time, monetary and physical resources to ensure the process is undertaken in an appropriate manner.

The ability to consider the report and review the decision in confidence (including the provision of the report in confidence prior to the meeting) is at the decision of the Panel. In determining whether the review should be considered and held in confidence, the transparency and confidence in the review and decision making process must be appropriately weighed against the ability of the Panel to consider and discuss all aspects of the review in a frank and open process. It is noted, a member of Council staff must be present during deliberations to provide advice (if sought) and record any formal decision of the Panel.

Council Administration has sought legal advice on this matter. Should the Panel decide to go into confidence when considering a review, this would occur pursuant to Regulation 13(2)(b) of the PDI (General) Regs or potentially Regulation 13(2)(a)(ix)).

Recommendation

That the Panel;

- 1. Note the report prepared by administration;**
- 2. RESOLVES to adopt the ‘Simplified’ *Policy for Assessment Panel review of decision of Assessment Manager* dated 3 February 2021 (the policy) which forms Attachment 1.**

OR

- 3. RESOLVES to adopt the ‘Prescriptive’ *Policy for Assessment Panel review of decision of Assessment Manager* dated 3 February 2021 (the policy) which forms Attachment 2.**

DRAFT

Version 1: Dated 3/02/2021

MARION COUNCIL ASSESSMENT PANEL

REVIEW OF DECISION OF ASSESSMENT MANAGER

Simplified

1. LEGISLATIVE FRAMEWORK

- 1.1 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**).

2. COMMENCING A REVIEW

- 2.1 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.
- 2.2 An application for review must be:
- 2.2.1 made using the [Application to Assessment Panel for Assessment Manager's Decision Review](#) (the Form);
 - 2.2.2 lodged in a manner identified on the Form; and
 - 2.2.3 lodged within one month of the applicant receiving notice of the Prescribed Matter, unless the Presiding Member in his or her discretion grants an extension of time.
- 2.3 In determining whether to grant an extension of time, the Presiding Member may consider:
- the reason for the delay;
 - 2.3.1 the length of the delay;
 - 2.3.2 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - 2.3.3 the interests of justice;
 - 2.3.4 whether the applicant has, or is within time to, appeal the prescribed matter to the ERD Court; and
 - 2.3.5 any other matters the Presiding Member considers relevant.

3. MATERIALS FOR REVIEW HEARING

- 3.1 The Assessment Manager shall collate for the Panel:
- 3.1.1 all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:

- 3.1.1.1 application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
 - 3.1.1.2 internal and/or external referral responses; and
 - 3.1.1.3 any report from Council staff or an external planning consultant written for the Assessment Manager;
- 3.1.2 any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
- 3.1.3 any other information requested by the Presiding Member.
- 3.2 The Assessment Manager (or delegate) must prepare a report to the Panel setting out the details of the relevant development application, the prescribed matter the subject of the review and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter.

4. REVIEW HEARING

- 4.1 The Assessment Manager must advise the applicant of the time and date of the Panel meeting at which the review application will be heard.
- 4.2 On review, the Panel will consider the Prescribed Matter afresh..
- 4.3 Information, materials and submissions which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the Panel.
- 4.4 The Panel will not receive submissions or addresses from any party.
- 4.5 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.
- 4.6 The Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
- 4.7 Where the decision on the Prescribed Matter was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
- 4.8 The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
- 4.9 The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.

5. OUTCOME ON REVIEW HEARING

- 5.1 The Panel may, on a review:
 - 5.1.1 affirm the Assessment Manager's decision on the Prescribed Matter;
 - 5.1.2 vary the Assessment Manager's decision on the Prescribed Matter; or

- 5.1.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.

- 5.2 An applicant should be advised in writing of the Panel's decision by the Assessment Manager.

6. DRAFT RESOLUTIONS

Draft resolution 6.1 below may be adopted by Panels in order to adopt this Policy and delegate to the Presiding Member administrative decisions regarding the manner in which reviews will proceed.

- 6.1 *The Panel resolves to adopt the Policy for Assessment Panel Review of Decision of Assessment Manager dated January 2020 (the Policy).*

Draft resolutions 6.2 to 6.5 below are intended to provide guidance to Panels as to how they might word resolutions to give effect to the decisions they make on review. Panels may adopt this wording, or amend it as appropriate.

- 6.2 Resolution to affirm a decision of the Assessment Manager:

*The Panel resolves to affirm the decision of the Assessment Manager
[insert description of decision, for example:]*

- that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations) and that planning consent be granted to DA No [insert] for [insert nature of development] subject to the [insert number] of conditions imposed by the Assessment Manager*
- that DA No [insert] is classified as code assessed (performance assessed) development*
- that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations), but that DA No. [insert] does not warrant planning consent for the following reasons:*

- 6.3 Resolution to vary a decision of the Assessment Manager:

The Panel resolves to vary the decision of the Assessment Manager in relation to DA No [insert] by deleting condition [insert number] of planning consent and replacing it with the following condition:

[insert varied condition]

- 6.4 Resolution to set aside a decision of the Assessment Manager:

The Panel resolves to set aside the decision of the Assessment Manager to [insert description of decision being reversed, for example, refuse planning consent to DA No [insert]] and substitute the following decision:

- DA No [insert] is not seriously at variance with the Planning and Design Code (disregarding minor variations) and that planning consent is granted to the application subject to the following conditions:*

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6.5 Resolution to defer review hearing:

The Panel resolves to defer its decision in relation to its review of the decision of the Assessment Manager to [insert description of the decision] in relation to DA No [insert] until:

- *the next ordinary meeting of the Panel;*
- *the next ordinary meeting of the Panel after [insert additional information which has been requested by the Panel] is provided*
- *until the next ordinary meeting of the Panel after [insert date (i.e. giving an applicant 2 months to provide information)]*

(etc).

Version 1: Dated 3/02/2021

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DRAFT

Version 1: Dated 3/02/2020

MARION COUNCIL ASSESSMENT PANEL

REVIEW OF DECISION OF ASSESSMENT MANAGER

Prescriptive

1. LEGISLATIVE FRAMEWORK

- 1.1 This Policy applies in addition to the statutory requirements for the review by the Council 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)*.
- 1.2 This Policy shall be reviewed every 12 months and following any change to the relevant legislation.

2. COMMENCING A REVIEW

- 2.1 An application for review in relation to a development application or development authorisation may only be commenced by the applicant for the development authorisation.
- 2.2 An application for review must relate to a Prescribed Matter in relation to which the Assessment Manager was the relevant authority.
- 2.3 A "Prescribed Matter" means:
 - 2.3.1 any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the development application; or
 - 2.3.2 a decision to refuse to grant development authorisation to the application; or
 - 2.3.3 the imposition of conditions in relation to a grant of development authorisation; or
 - 2.3.4 subject to any exclusion prescribed by the *Planning, Development and Infrastructure (General) Regulations 2017*, any other assessment, request, decision, direction or act of the Assessment Manager under the Act in relation to the grant of development authorisation.
- 2.4 An application for review must be:
 - 2.4.1 made using the [Application to Assessment Panel for Assessment Manager's Decision Review \(MS Word Document, 63.4 KB\)](#) (**the Form**);
 - 2.4.2 lodged in a manner identified on the Form; and
 - 2.4.3 lodged within one month of the applicant receiving notice of the Prescribed Matter, unless the Presiding Member, in his or her discretion, grants an extension of time.

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- 2.5 In determining whether to grant an extension of time, the Presiding Member may consider:
- 2.5.1 the reason for the delay;
 - 2.5.2 the length of the delay;
 - 2.5.3 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - 2.5.4 the interests of justice;
 - 2.5.5 whether the applicant has, or is within time to, appeal the Prescribed Matter to the ERD Court; and
 - 2.5.6 any other matters the Presiding Member considers relevant.
- 2.6 An application for review should, upon receipt by the Panel, be notified to the Assessment Manager within 2 business days.

3. **APPLICANT'S DOCUMENTS**

Written submission

- 3.1 An applicant may provide a written submission in support of his or her application for review.
- 3.2 Such a submission must be received by the Presiding Member within one month of the lodgement of the application for review, or such longer period as is requested by the applicant and granted by the Presiding Member, in his or her discretion.
- 3.3 A written submission should be marked to the attention of the Presiding Member and lodged in a manner specified in Clause 7.
- 3.4 The Presiding Member should provide a copy of any written submission to the Assessment Manager within 2 business days of its receipt.

Additional information

- 3.5 An applicant may request the opportunity to place additional information and/or materials before the Panel, by application to the Presiding Member lodged in a manner specified in Clause 7.
- 3.6 Any such application must be received by the Presiding Member within one month of the lodgement of the application for review, or such longer period as is requested by the applicant and granted by the Presiding Member, in his or her discretion and either attach the additional information and/or materials, or set out the nature of the information and/or materials and by whom it has been or will be prepared.
- 3.7 The Presiding Member will determine, in his or her discretion, whether to permit the additional information and/or materials to be put before the Panel within 5 business days.
- 3.8 In making this decision, the Presiding Member may consider:

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- 3.8.1 the relevance of the information and/or materials to the review application;
 - 3.8.2 the amount of time the Panel would need to consider the additional information and/or materials;
 - 3.8.3 whether the information and/or materials relate to a matter which has been the subject of a referral to a referral agency;
 - 3.8.4 the reasons the additional information and/or materials were not put before the Assessment Manager;
 - 3.8.5 the interests of justice;
 - 3.8.6 whether the information and/or materials would cause prejudice to any party; and
 - 3.8.7 any other matters the Presiding Member considers relevant.
- 3.9 The Presiding Member should advise the applicant of his or her decision within 2 business days. If the decision is to allow the provision of additional information and/or materials, the Presiding Member should also advise the applicant of the time within which the information and/or materials is to be provided.
- 3.10 Additional information provided in accordance with Clause 3.7 should be marked to the attention of the Presiding Member and lodged in a manner specified in Clause 7.
- 3.11 Upon receipt of additional information and/or materials, the Presiding Member should provide a copy to the Assessment Manager within 2 business days.
- 3.12 Within 5 business days of the receipt of additional information, the Presiding Member should determine, in his or her discretion, whether to provide a referral agency which provided a response on the application with the opportunity to review and respond to the additional information and/or materials, in such manner and within such time as is determined by the Presiding Member.
- 3.13 Where a response is received from a referral agency, the Presiding Member should provide a copy to the applicant and Assessment Manager within 2 business days.

4. MATERIALS FOR REVIEW HEARING

- 4.1 Within the time prescribed in clause 4.5, the Assessment Manager should collate for the Panel:
- 4.1.1 all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:
 - 4.1.1.1 application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
 - 4.1.1.2 internal and/or external referral responses; and
 - 4.1.1.3 any report from Council staff or an external planning consultant written for the Assessment Manager;

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- 4.1.2 any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
- 4.1.3 a report prepared by the Assessment Manager (or delegate) setting out the details of the relevant development application; the Prescribed Matter; an assessment of any additional information and/or materials provided by the applicant pursuant to clause 3.7 (including, where appropriate, whether the additional information and/or materials changes the Assessment Manager's original decision on the Prescribed Matter); and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter;
- 4.1.4 any written submission prepared by the applicant pursuant to clause 3.1;
- 4.1.5 such additional information or materials as the Presiding Member has permitted to be placed before the Panel pursuant to clause 3.7; and
- 4.1.6 any further information requested by the Presiding Member.
- 4.2 After the completion of the requirements in Clause 4.1, the Assessment Manager should assign the review application to the next available Panel meeting.
- 4.3 The documents identified in Clause 4.1 will be included as Annexures to the agenda item.
- 4.4 The Assessment Manager should advise the applicant in writing of the time and date of the Panel meeting at which the review application will be heard not less than 5 business days before the meeting.
- 4.5 The Assessment Manager should comply with Clause 4.1 within the following period of time:
 - 4.5.1 one month from the lodgement of the application for review; plus
 - 4.5.2 where the applicant is granted an extension of time to provide a written submission pursuant to clause 3.2, the period of time granted by the Presiding Members; plus
 - 4.5.3 where the applicant requests the opportunity to put additional information and/or materials before the Panel, the time taken by the Presiding Member to determine that request and advise the applicant; plus
 - 4.5.4 where the Presiding Member determines to allow an applicant to put additional information and/or materials before the Panel:
 - the time allowed by the Presiding Member for those materials to be provided; plus
 - the time taken to determine whether to provide those materials to a referral agency; plus
 - the time allowed for the referral agency to respond; plus
 - 4.5.5 any additional period of time granted by the Presiding Member in his or her discretion, upon the request of the Assessment Manager.

5. REVIEW HEARING

- 5.1 On review, the Panel will consider the Prescribed Matter afresh.
- 5.2 The Panel will not hear from any party other than the applicant and the Assessment Manager.
- 5.3 The Panel will hear from the applicant (or his or her representative), where he or she requests to be heard.
- 5.4 An applicant will be allowed five minutes to address the Panel. The Presiding Member may allow additional time at his or her discretion.
- 5.5 Where an applicant is heard by the Panel, the Assessment Manager will be allowed five minutes to respond to any issues raised by the applicant. The Presiding Member may allow additional time at his or her discretion.
- 5.6 Panel members may ask questions and seek clarification from the applicant and/or Assessment Manager at the conclusion of their addresses.
- 5.7 Whether or not the applicant chooses to be heard by the Panel, the Assessment Manager should be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
- 5.8 Where the Decision was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
- 5.9 Following any addresses from the applicant and/or Assessment Manager, the Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
- 5.10 The Panel may resolve to defer its decision if it considers it requires additional time, or additional information from the applicant or the Assessment Manager (including legal or other professional advice), to make its decision.
- 5.11 The deferral will be to the next ordinary meeting of the Panel, or such longer period of time as is determined by the Panel to enable the information sought to be obtained and considered.
- 5.12 Where an applicant is to provide further information to a Panel pursuant to Clause 5.10, the information must be provided within the time specified by the Panel and in a manner specified in Clause 7.
- 5.13 Where an Assessment Manager is to provide further information to a Panel pursuant to Clause 5.10, a copy of the information must also be provided to the applicant not less than 5 business days before the meeting at which it will be considered by the Panel.

6. OUTCOME ON REVIEW HEARING

- 6.1 The Panel may, on a review:
 - 6.1.1 affirm the Assessment Manager's decision on the Prescribed Matter;
 - 6.1.2 vary the Assessment Manager's decision on the Prescribed Matter; or

- 6.1.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.

- 6.2 An applicant should be advised in writing of the Panel's decision (including its reasons) by the Assessment Manager (or delegate) within 2 business days of the Panel's decision.

7. LODGING WRITTEN MATERIALS & DOCUMENTS WITH THE PANEL

- 7.1 All documents and written communications with the Panel must be lodged via:
- 7.1.1 the SA Planning Portal (to the extent the Portal is able to receive such a submission);
- 7.1.2 email to: planning@marion.sa.gov.au
- 7.1.3 hand-delivery or post to

Attention: Marion Council Assessment Panel
PO Box 21
Oakland Park SA 5046

8. DRAFT RESOLUTIONS

Draft resolution 8.1 below may be adopted by Panels in order to adopt this Policy and delegate to the Presiding Member administrative decisions regarding the manner in which reviews will proceed.

- 8.1 *The Panel resolves to adopt the Policy for Assessment Panel Review of Decision of Assessment Manager dated January 2020 (**the Policy**).*

Draft resolutions 8.2 to 8.5 below are intended to provide guidance to Panels as to how they might word resolutions to give effect to the decisions they make on review. Panels may adopt this wording, or amend it as appropriate.

- 8.2 Resolution to affirm a decision of the Assessment Manager:

*The Panel resolves to affirm the decision of the Assessment Manager
[insert description of decision, for example:]*

- *that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations) and that planning consent be granted to DA No [insert] for [insert nature of development] subject to the [insert number] of conditions imposed by the Assessment Manager*
- *that DA No [insert] is classified as code assessed (performance assessed) development*
- *that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations), but that DA No. [insert] does not warrant planning consent for the following reasons:*

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- 8.3 Resolution to vary a decision of the Assessment Manager:

The Panel resolves to vary the decision of the Assessment Manager in relation to DA No [insert] by deleting condition [insert number] of planning consent and replacing it with the following condition:

[insert varied condition]

8.4 Resolution to set aside a decision of the Assessment Manager:

The Panel resolves to set aside the decision of the Assessment Manager to [insert description of decision being reversed, for example, refuse planning consent to DA No [insert]] and substitute the following decision:

- *DA No [insert] is not seriously at variance with the Planning and Design Code (disregarding minor variations) and that planning consent is granted to the application subject to the following conditions:*

8.5 Resolution to defer review hearing:

The Panel resolves to defer its decision in relation to its review of the decision of the Assessment Manager to [insert description of the decision] in relation to DA No [insert] until:

- *the next ordinary meeting of the Panel;*
- *the next ordinary meeting of the Panel after [insert additional information which has been requested by the Panel] is provided*
- *until the next ordinary meeting of the Panel after [insert date (i.e. giving an applicant 2 months to provide information)]*

(etc).

Application to Assessment Panel¹

DECISION REVIEW REQUEST

Prescribed form pursuant to section 203(1) for review of a decision of an Assessment Manager under section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016* (Act)

Applicant details:	Name: Click here to enter text. Phone: Click here to enter text. Email: Click here to enter text. Postal address: Click here to enter text.
Development Application Number:	Click here to enter text.
Subject Land:	Click here to enter text. <i>[street number, street name, suburb, postcode]</i> <i>[lot number, plan number, certificate of title number, volume and folio]</i>
Date of decision of the Assessment Manager:	Click here to enter text.
Decision (prescribed matter²) for review by Assessment Panel:	Click here to enter text.
Reason for review:	Click here to enter text. <i>[Briefly state the facts, circumstances and other relevant matters upon which this application is based. Attach additional pages as necessary]</i>
Do you wish to be heard by the Assessment Panel?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Date:	Click here to enter text.
Signature:	<input type="checkbox"/> <i>If being lodged electronically please tick to indicate agreement to this declaration.</i>

¹ This application must be made through the relevant facility on the SA planning portal. To the extent that the SA planning portal does not have the necessary facilities to lodge this form, the application may be lodged—

- (i) by email, using the main email address of the relevant assessment panel; or
- (ii) by delivering the application to the principal office or address of the relevant assessment panel.

² **Prescribed matter**, in relation to an application for a development authorisation, means—

- (a) any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the application; or
- (b) a decision to refuse to grant the authorisation; or
- (c) the imposition of conditions in relation to the authorisation; or
- (d) subject to any exclusion prescribed by the regulations, any other assessment, request, decision, direction or act of the assessment manager under the Act in relation to the authorisation.

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This form constitutes the form of an application to an assessment panel under section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016*, determined by the Minister for Planning pursuant to regulation 116 of the *Planning, Development and Infrastructure (General) Regulations 2017*.

**6.4: OTHER BUSINESS – PDI Preparation
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 3 February 2020**



Originating Officer: Alex Wright
Team Leader - Planning

Report: Procedure for Assigning, Progressing and Resolving Appeals
– CAP to Council

Report Type: PDI Readiness

Recommendation:

That the Council Assessment Panel RESOLVES to;

- 1. Note the *Procedure for Assigning, Progressing and Resolving Appeals*.**
- 2. Authorise the CEO and/or equivalent position to make decisions as to the conduct of appeals¹.**
- 3. Require any compromise arising from an appeal be presented to the Panel for a decision.**
- 4. Enable the Panel to determine the matter by electronic meeting in accordance with its General Operating Procedures.**

Attachment 1: Procedure for Assigning, Progressing and Resolving Appeals

Introduction

Under the Act, the Panel has been assigned as a relevant authority in its own right. The implication of this change is that, technically, the Panel will be responsible for the running of appeals against their decisions rather than the council. The council will however be responsible for funding the cost of these appeals.

Discussion

The advice provided by the LGA is that all relevant authorities (i.e. Panel's and Assessment Managers) should consider how they either consult with the relevant council staff before decisions as to the conduct or resolution of appeals, or assign their decision making powers to staff to proceed with the appeal process (and keep the Panel informed of the process).

It is noted this procedure is only applicable for decisions made under the PDI Act and not the Development Act where the existing delegation and decision-making process remains.

The LGA advice suggests, at a minimum, a recommendation that Panels;

- Authorise their Assessment Manager or a member of council staff (i.e. the CEO or General Manager) to make decisions as to the conduct of appeals so that they can proceed in a timely manner – e.g. engage legal and planning representation, discuss preliminary proposals etc).

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- Require updates be provided to the Panel and for the Panel to be consulted before an appeal is resolved by way of a compromise (i.e. a compromise is presented to the Panel for final consideration), unless a decision must be made urgently.

It is suggested the Panel assign their decision making Powers to staff to proceed with the appeal process, with the provision that the ultimate decision to accept or not accept a compromise is that of the Panel (i.e. Council staff be empowered to undertake administrative tasks and the running of an appeal whilst the Panel makes the ultimate decision to accept or not accept a compromise).

It is noted that whilst the Council is responsible for the costs and other liabilities associated with the activities of the Panel. It is an unknown what would occur should the Council be unwilling to provide funds in the event the Panel determines to continue with an appeal where the advice is that no legal or planning (or other) representation is willing (or can be reasonably found) to defend the decision.

A *Procedure for Assigning, Progressing and Resolving Appeals* (Attachment 1) has been prepared and outlines suggested steps the Panel follow in assigning authority to Council staff to progress and conduct the running of an appeal.

Assigning authority to progress an appeal

The following, which forms the formal recommendation to this report, is suggested;

- **The Panel authorise the **CEO and/or equivalent position** to make decisions as to the conduct of appeals.**

Conduct of the appeals includes (but is not limited too)

- accepting and considering compromise plans on behalf of the Panel
- engaging legal representation if/when required;
- engaging planning or other related experts if/when required
- representing the Panel during ERD or Supreme Court proceedings (including conferences, hearing etc)

- **Require any compromise arising from an appeal be presented to the Panel for a decision.**

Whilst Council staff would be authorised to undertake administrative actions associated with the appeal, any compromise submitted by the applicant for formal consideration must be presented to the Panel for a decision.

- **Enable the Panel to determine the matter by electronic meeting in accordance with its General Operating Procedures.**

Should the need to determine an appeal be required urgently, the Panel can, by way of special meeting, hold a meeting electronically.

The CEO can delegate the running of an appeal to appropriate staff and be informed via way of a memo at key hold points (such as the need to engage legal representation or independent experts, preceding to Directions Hearing or Full Appeal etc).

Process in considering and running an appeal

Should the Panel resolved to authorise the CEO to make decisions as to the conduct of an appeal, it is recommended the following processes be included.

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- Appeal Lodged with ERD Court. The Panel is advised of appeal informally via email and formally via the next Panel Agenda.
- Memo from relevant Planning Officer to CEO advising an appeal has been lodged and notice received by Council. The CEO to advise authorised staff member responsible for conducting the appeal process.
- Authorised Council staff member to attend all Court related matters and internal communications.
- Negotiations between appellant and Planning Staff (acting on behalf of Panel).
- Compromise documentation and accompanying report presented to the Panel for a decision (whether to accept or not accept the compromise).
- Authorised Council staff member to advise ERD Court whether compromise is accepted or not accepted.

In the event the compromise is not supported and Council Administration is unable to find legal and/or planning (or other) representation to defend the decision of the Panel a report will be presented to the Panel comprising one or more of the following;

- Report from authorised Council staff member summarising current position
- Legal memo outlining prospects of success
- Advice from planning and/or required experts outlining position

In the event the Panel supports the proposed procedure and process, amendments to the General Operating Procedures (this may be included within the GOP's or make reference to a separate procedure) will be presented to the Panel for consideration and reflect the process required in considering an appeal.

A draft procedure to assign authority to a member of Council is outlined below. The procedure further outlines a draft process as to how an appeal is to be handled and considered by the Panel.

Conclusion

It is recommended the Panel authorise the CEO to make decisions as to the conduct of appeals, noting the CEO can sub-delegate and/or direct Development Services staff to undertake the day to day conduct of the appeal.

This approach will provide consistency with the current Development Act processes whereby the General Manager is delegated to make decisions relating to appeals.

It is recommended that, whilst the Panel authorise the CEO (or authorised staff member) to undertake the appeal process, any compromise be presented to the Panel for a decision.

Additionally, it is recommended the Panel have the ability to determine the matter by electronic meeting in accordance with its General Operating Procedures, should the need arise in urgent situations (noting compromises will generally be considered at regularly scheduled Panel meeting's).

Recommendation

That the Council Assessment Panel RESOLVES to;

- 1. Note the *Procedure for Assigning, Progressing and Resolving Appeals*.**
- 2. Authorise the **CEO and/or equivalent position** to make decisions as to the conduct of appeals¹.**
- 3. Require any compromise arising from an appeal be presented to the Panel for a decision.**
- 4. Enable the Panel to determine the matter by electronic meeting in accordance with its General Operating Procedures.**

¹ *Conduct of the appeals includes, but is not limited to, formally receiving and considering compromise plans on behalf of the Panel, engaging legal and other experts if/when required, representing the Panel at ERD Court conferences and hearings etc.*

Assigning, Progressing and Resolving Appeals

Introduction

This procedure outlines the steps the Marion Council Assessment Panel (the Panel) has resolved to follow in assigning authority from the to Council staff to progress and conduct the running of an appeal.

The Panel has been assigned as a 'Relevant Authority' in its own right pursuant to Section 82 of the Planning, Development and Infrastructure Act 2016.

Whilst the Panel will be the respondent to appeals against their decisions, rather than the Council, pursuant to Section 83(h)(ii) the Council will be responsible for funding the cost of the appeal.

Assignment of authority

The Panel, **on date x**, resolved to assign decision-making powers to the General Manager, City Development in relation to the conduct of appeals.

Conduct of appeals includes (but is not limited to):

- receiving (and therefore accepting) and considering compromise plans on behalf of the Panel;
- engaging legal representation if/when required;
- engaging planning or other related experts if/when required;
- representing the Panel during ERD Court proceedings (including conferences, hearing etc).

Any compromise arising from an appeal shall be presented to the Panel for a decision (whether to accept or not accept the compromise). Council administration will be responsible for advising the ERD Court accordingly and undertaking general administration of the process.

In the event of an urgent matter the Panel may determine the matter by electronic meeting in accordance with its general operating procedures.

The General Manager can delegate the running of an appeal to appropriate staff and be informed via way of Memo at key hold points (such as the need to engage legal representation or independent experts, proceeding to Directions Hearing or Full Appeal etc).

Process in considering and running an appeal

The following process will occur following a decision of the Panel and subsequent appeal to the ERD Court;

- Appeal Lodged with ERD Court. The Panel is advised of appeal informally via email and formally via the next Panel Agenda.
- Memo from relevant Planning Officer to CEO or equivalent position - advising that the appeal has been lodged. CEO or equivalent position to advise, via return Memo, the staff member authorised and responsible for conducting the appeal process.
- Authorised Council staff member to attend all Court related matters and internal communications.

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- Negotiations between appellant and Planning Staff (acting on behalf of Panel).
- Compromise documentation and accompanying report presented to the Panel for a decision (whether to accept or not accept the compromise).
- Authorised Council staff member to advise ERD Court whether compromise is accepted or not accepted.

In the event the compromise is not supported and Council Administration is unable to find legal and/or planning (or other) representation to defend the decision of the Panel a report will be presented to the Panel comprising one or more of the following;

- Report from authorised Council staff member summarising current position;
- Legal memo outlining prospects of success;
- Advice from planning and/or required experts outlining position.

Availability

The Procedure is available to be downloaded, free of charge, from the Marion Council Assessment Panel website

<https://www.marion.sa.gov.au/services-we-offer/planning-and-building/council-assessment-panel>

The Policy is available for inspection without charge at the Administration Building during standard business hours and a copy may be purchased at a fee set annually by Council.

City of Marion Administration Building
245 Sturt Road, Sturt SA 5047

Telephone: 8375 6600
Email: council@marion.sa.gov.au

Office hours: Monday to Friday, 8:30am to 5:00pm (except public holidays)

Review and Evaluation

This Procedure will be reviewed by the Council Assessment Panel every 24 months and/or updated on an 'as needed' basis.