

	<b>TERMS OF REFERENCE KANGAROO ISLAND COUNCIL ASSESSMENT PANEL</b>
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## Interpretation

- 1 In this document:
  - 1.1 *Assessment Manager* means the person appointed to that role by the Chief Executive Officer of the Council pursuant to section 87(d)(ii) of the PDI Act, or their delegate
  - 1.2 **Council** means the Kangaroo Island Council
  - 1.3 **Development Act** means the *Development Act 1993*
  - 1.4 **Member** means a member of the Panel
  - 1.5 **Panel** means the Kangaroo Island Council Assessment Panel established by the Council pursuant to section 83 of the PDI Act;
  - 1.6 **PDI Act** means the Planning, Development and Infrastructure Act 2016
  - 1.7 **PDI (AP) Regulations** means the Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019
  - 1.8 **PDI (Gen) Regulations** means the Planning, Development and Infrastructure (General) Regulations 2017
  - 1.9 **Phase 3 Commencement date** means the date determined by the South Australia State Government upon which the Commencement of the Planning and Design Code applies to Kangaroo island Council
  - 1.10 **Presiding Member** means the Presiding Member of the Panel appointed by the Council pursuant to section 83 of the PDI Act

## Purpose

- 2 The Panel is established pursuant to Section 83(1)(b) of the PDI Act and in accordance with this document.



- 3 The Panel is a relevant authority pursuant to section 93 of the PDI Act and is responsible for assessing and determining planning consent for performance assessed development applications requiring public notification.
- 4 The Panel may, in its discretion, provide advice and reports to the Council on trends, issues and other matters relating to planning and development and the operation of the Planning and Design Code in the Council's area that have become apparent or have arisen through the assessment of development applications.
- 5 The Panel is also the delegate of the Council for the determination of certain development applications lodged under the Development Act prior to Phase 3 Commencement date. The Delegations Policy and delegated powers of Council to the Panel under the Development Act are contained in Appendix A. For the sake of clarity, references to "Council Development Assessment Panel" are to be read as "Council Assessment Panel".

### **Membership of the Panel**

6. The Panel shall consist of five (5) Members appointed by the Council as follows:
  - 6.1. no more than one (1) person who is an elected member of the Council;
  - 6.2. the balance being persons who are accredited as Accredited professional — planning level 2 under the PDI (AP) Regulations or who otherwise is a former and not current elected member of a Council;
  - 6.3. at least one (1) Member must be a man and at least one (1) Member must be a woman;
  - 6.4. as far as reasonably practicable, the Panel must consist of equal numbers of men and women.
- 7 The Council will determine the term of appointment for Members. Terms of appointment for one (1) or more Members may be extended at any time by the Council in its absolute discretion.
- 8 At the expiration of a term of appointment, a Member is eligible for reappointment.
- 9 The Council may appoint deputy Members for the Panel. If deputy Members are appointed, an elected member of the Council may be appointed as the deputy Member for the incumbent elected member on the Panel. Other deputy Members must comply with clause 6.2 above.
- 10 Members of the Panel are required to comply with the Assessment Panels — Code of Conduct adopted by the Minister in accordance with Schedule 3 of the PDI Act (and as contained in Appendix B to this document).
- 11 Pursuant to Regulation 11 of the PDI (Gen) Regulations, any person may make a complaint to the State Planning Commission if the person believes that a member of the Panel has acted in contravention of the Assessment Panels — Code of Conduct. The SPC may conduct an investigation regarding the complaint at its sole discretion.
- 12 All Members must disclose their financial interests in accordance with Schedule 1 of the PDI Act.

- 13 Members of the Panel other than elected members of the Council will be paid a sitting fee of \$300.00 per Panel meeting, whether attended in person or in accordance with Item 30 of this document. Additionally an allowance of up to \$300.00 shall be made available in respect of compensation of travel expenses for attendance of Panel meetings.

### **Appointment of Members**

14. The Presiding Member will be appointed by the Council having regard to the following factors.

14.1. the Presiding Member must not be an elected member or officer of the Council; and

14.2. the Presiding Member must be a person who is determined by Council to have:

14.2.1. demonstrable, detailed knowledge of the operation and requirements of the PDI Act and the Development Act;

14.2.2. appreciation for the unique attributes of Kangaroo Island and its geography;

14.2.3. knowledge of the provisions of the Planning and Design Code as they apply to Kangaroo Island;

14.2.4. prior experience in chairing public meetings.

- 15 Other Members (other than the elected member of the Council appointed to the Panel) will be appointed by the Council having regard to the following factors:

15.1 Members must not be an officer of the Council;

15.2 Members must demonstrate appropriate knowledge of:

15.2.1 the operation and requirements of the PDI Act and the Development Act;

15.2.2 the unique attributes of Kangaroo Island and its geography;

15.2.3 provisions of the Planning and Design Code as they apply to Kangaroo Island.

### **Assessment Manager**

- 16 The Chief Executive Officer of the Council will appoint an Assessment Manager in accordance with Section 87 of the PDI Act. The Assessment Manager is not a member of the Panel.
- 17 The functions of the Assessment Manager are prescribed in Section 87 of the PDI Act and regulation 24 of the PDI (Gen) Regulations.
- 18 The Panel will delegate appropriate functions and powers to the Assessment Manager.

### **Responsibilities of the Presiding Member**

- 19 The role of the Presiding Member includes, but is not be limited to:

- 19.1 the conduct of the business of the Panel at meetings and ensuring appropriate meeting procedures are followed, including matters relating to the Assessment Panels — Code of Conduct and the Panel's Meeting Procedures; and
- 19.2 ensuring the Panel properly considers matters in terms of the PDI Act and the Development Act in an efficient and timely manner; and
- 19.3 ensuring that Members are aware of their role and responsibilities under the PDI Act and do not confuse that role with any other role including, as relevant, as an elected member of the Council under the *Local Government Act 1999*.

### **Responsibilities of Panel Members**

- 20 The Panel will ensure that its meeting procedures:
  - 20.1 are, as far as permitted under the PDI Act, fair and contribute to open, transparent and informed decision making; and
  - 20.2 reflect the levels of formality appropriate to the nature and scope of responsibilities exercised at that meeting; and
  - 20.3 are sufficiently certain to give the community and decision maker's confidence in the deliberations undertaken at the meeting.
- 21 The Panel will appoint an acting Presiding Member of the Panel pursuant to section 83(1)(b)(vi) of the PDI Act whenever the Presiding Member is not present at a meeting.

### **Removal from Office**

- 22 Subject to the procedural requirements under this Clause, the Council may resolve to remove a Member from the Panel on the following grounds:
  - 22.1 breach of, or failure to comply with, this document; or
  - 22.2 maladministration or misconduct; or
  - 22.3 neglect of duty; or
  - 22.4 incapacity to carry out satisfactorily the duties of his or her office; or
  - 22.5 failure to carry out satisfactorily the duties of his or her office; or
  - 22.6 failure to disclose his or her financial interests in accordance with Schedule 1 of the PDI Act; or
  - 22.7 failure to attend three (3) consecutive meetings of the Panel without first obtaining the leave of the Panel; or
  - 22.8 upon receipt of a recommendation or direction from the SPC that the member be removed from office pursuant to regulation 11 of the PDI Regulations.
- 23 Particulars of the grounds for removal shall be communicated to the Member at least one (1) calendar month before the meeting of the Council at which the matter will be determined.

- 24 The Member must provide any written representation in response to the particulars at least fourteen (14) days before the meeting of the Council at which the matter will be determined, which response must be taken into account in any determination by the Council.
- 25 The determination of the Council shall be communicated to the Member, and in the event of an adverse determination the Member shall cease to be a Member immediately after the Council has communicated its determination to him or her.

**Vacancy of Office**

- 26 The office of a Member of the Panel will become vacant if the Member:
  - 26.1 fails to maintain the accreditation required by the PDI Act and clause 6.2 above;
  - 26.2 dies;
  - 26.3 completes a term of office and is not reappointed;
  - 26.4 resigns by written notice to the Council;
  - 26.5 becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
  - 26.6 is convicted of an indictable offence punishable by imprisonment;
  - 26.7 is removed from office in accordance with this document.
- 27 On the office of a Member becoming vacant, a person will be appointed in accordance with the provisions of the PDI Act and this document.
- 28 The vacancy of office of a single Member will not invalidate the decisions made by the Panel.

**Meetings of the Panel**

- 29 Meetings of the Panel must take place as determined by the Panel from time to time.
- 30 Meetings may be held by telephone, audio-visual or other electronic means provided that at least a quorum is present.
- 31 The meeting procedures of the Panel are those prescribed by the PDI Regulations.

**Circumstances not provided for**

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

**Review**

- 34 These Kangaroo Island Council Assessment Panel (CAP) Terms of Reference shall be reviewed by the Kangaroo Island Council within (2) years of the issued date.



**Appendix A****Kangaroo Island Council****Delegations Policy**

DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008

**Appendix B****Kangaroo Island Council****Schedule 3 – Assessment Panels -- Code of Conduct**