



COUNCIL ASSESSMENT PANEL POLICY

Council Assessment Panel Review of Decision of Assessment Manager

Policy Number:	PO179		
Strategic Plan Objective	Goal 5 - Responsible Governance		
Policy Owner:	Director Development Services	Record Number:	20/50024
Responsible Officer:	Manager Development Services	Minute Reference:	CAP 027/2020(30/06/2020)
Date Adopted:	30 June 2020	Next Review Date:	June 2024

1. POLICY OBJECTIVES

This policy sets out how a person who is dissatisfied with a decision (Applicant) made by the Yorke Peninsula Council's Assessment Manager (Assessment Manager), where the Assessment Manager was the relevant authority under the Planning, Development and Infrastructure Act 2016 (Act), can go about making an application for a review of the decision.

This Policy applies in addition to the statutory requirements for the Council Assessment Panel (CAP) to review a decision of an Assessment Manager, as set out in Section 202 of the Act.

2. DEFINITIONS

Assessment Manager	A person appointed by the Chief Executive Officer of the Yorke Peninsula Council to act as a relevant authority pursuant to Sections 82 and 87 of the Act.
Development Authorisation	Any assessment, decision, permission, consent, approval, authorisation or certificate required by or under the Act or by or under any other act prescribed by regulation for the purposes of the definition contained within the Act.
Prescribed Body	As listed in Schedule 9 under the Planning, Development and Infrastructure (General) Regulations 2017.
Prescribed Matter	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 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.
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3. POLICY STATEMENT

3.1 Making an Application for Review

An Applicant may apply for a review of a Development Authorisation decision. An application for review must relate to:

- a) A matter where the Assessment Manager was the relevant authority; and
- b) A Prescribed Matter.

An application for review must be:

- a) Made using the [Application to Assessment Panel for Assessment Manager's Decision Review](#) (the Form) via the SA Planning Portal;
- b) Lodged in a manner identified on the Form; and
- c) Lodged within one month of the Applicant receiving notice of the Prescribed Matter, unless an extension of time is granted at the discretion of the Presiding Member of the CAP.

The Presiding Member of the CAP will notify the Assessment Manager within three business days of having received an application for review.

3.2 Written submission

An Applicant may provide a written submission in support of the application for review. This must be received by the Presiding Member of the CAP within one month of the lodgement of the application for review, unless a longer period is granted at the discretion of the Presiding Member of the CAP.

The Presiding Member of the CAP will notify the Assessment Manager within three business days of having received a written submission.

All written submissions, additional information and/or materials must be lodged via:

- The SA Planning Portal (to the extent the Portal is able to receive such a submission);
- Email to: admin@yorke.sa.gov.au; or
- Hand-delivery or post to 8 Elizabeth Street, MAITLAND, SA, 5573.

3.3 Prescribed Body Referral

Where the Prescribed Matter required the Assessment Manager to refer the Prescribed Matter to a Prescribed Body, the Presiding Member of the CAP will determine whether to request that the Prescribed Body consider the application for review.

Where a Prescribed Body is requested to consider the application for review, the Presiding Member of the CAP will notify the Applicant and the Assessment Manager within three business days of having received a response from the Prescribed Body.

3.4 Application for Review Documentation

The Assessment Manager is responsible for compiling all relevant documents relating to the application for review, including those which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, any written submission/additional information and/or materials from the Applicant and any requested response from a Prescribed Body (Documents).

The Assessment Manager will refer the application for review to the CAP for consideration in the next available Agenda.

3.5 CAP Review

The Assessment Manager will advise the Applicant in writing of the time and date of the CAP meeting at which the application for review will be considered, not less than five business days before the meeting.

The Assessment Manager (or delegate) will be present at the CAP meeting to respond to any questions or requests for clarification from the CAP.

The CAP will:

- Consider the Prescribed Matter afresh;
- Not hear from any party other than the Applicant (or their representative) and the Assessment Manager (or delegate);
- Allow the Applicant (or their representative) five minutes to address the CAP, if the Applicant requests to be heard. The Presiding Member of the CAP may exercise discretion and allow additional time;
- Where an Applicant (or their representative) is heard, allow the Assessment Manager (or delegate) five minutes to respond. The Presiding Member of the CAP may exercise discretion and allow additional time.

CAP members may ask questions and seek clarification from the Applicant (or their representative) and/or Assessment Manager (or delegate) at the conclusion of any addresses.

The CAP may resolve to defer any decision about the application for review to the next ordinary meeting of the CAP, or such longer period of time as is determined by the CAP if it considers that additional information is required from the Applicant or the Assessment Manager.

Where an Applicant is to provide additional information to the CAP, the information must be provided to the Assessment Manager within any timeframe that may be determined by the CAP and in a manner specified in Clause 3.2.

Where the Assessment Manager is to provide further information, a copy of the information must also be provided to the Applicant not less than five business days before the meeting at which it will be considered by the CAP.

3.6 CAP Review Outcomes

The CAP may:

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- Affirm the Assessment Manager’s decision on the Prescribed Matter;
- Vary the Assessment Manager’s decision on the Prescribed Matter;
- Set aside the Assessment Manager’s decision on the Prescribed Matter and substitute its own decision.

The Assessment Manager will provide the Applicant with written confirmation of the CAP’s decision within five business days of the Panel’s decision.

3.7 Right of Appeal

A person who, after having an application review considered by the CAP, is dissatisfied with the outcome of the review, may be able to appeal to the Environment, Resources and Development Court against the decision of the CAP.

4. COMPLAINTS

Complaints about the failure to comply with requirements of this policy, must be made in writing to the Yorke Peninsula Council’s Chief Executive Officer and will be managed in accordance with Council’s Complaints Policy PO147.

5. REVIEW

This Policy will be reviewed every four years or in line with legislative changes, relevant standards, codes, guidelines and audit findings.

6. TRAINING

Council is committed to supporting members of the CAP and the Assessment Manager (and/or delegates) in complying with this policy and will provide appropriate training to ensure they can effectively carry out their duties.

Training needs will be identified through recruitment processes, performance reviews, audit results and training needs analysis.

Training needs will be reviewed as necessary in consideration of any changes to legislation and relevant standards, codes, and guidelines and audit findings.

7. RELATED COUNCIL POLICIES AND DOCUMENTS

Council Assessment Panel Terms of Reference
PO147 Complaints Policy
PO037 Internal Review of a Council Decision Policy
PO011 Training and Development Policy

8. REFERENCES AND LEGISLATION

Planning, Development and Infrastructure Act 2016
Development Act 1993
Local Government Act 1999

9. COUNCIL DELEGATION

Details of Delegation:	Chief Executive Officer
Delegate:	Director Development Services

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10. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Council Assessment Panel Review of Decision of Assessment Manager	PO179	30/06/2020	