



I hereby give notice that the Council Assessment Panel Meeting will be held on:

Date: Tuesday, 28 July 2020
Time: 9.30am
Location: Council Chambers
Minlaton Town Hall
57 Main Street
Minlaton

AGENDA

Council Assessment Panel Meeting

28 July 2020

Roger Brooks
ASSESSMENT MANAGER

**Yorke Peninsula Council
Assessment Panel Membership**

Debra Agnew – Presiding Member

Ben Green

Peter Allen

Elinor Walker

John Rich

Richard Carruthers

CONFLICT OF INTEREST

Council Assessment Panel Members are reminded of the requirements for disclosure by Members of direct or indirect personal or pecuniary interest in an item listed for consideration on the Agenda. Section 56A of the Development Act 1993 requires that Members declare any interest and provide full and accurate details of the relevant interest to the Council Assessment Panel prior to consideration of that item on the Agenda.

Each Member of a Council Assessment Panel has a duty to vote at all meetings unless excepted by legislation.

The major exception being where a Member has a conflict of interest.

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1 WELCOME BY PRESIDING MEMBER

Meeting declared opened

2 PRESENT

3 GALLERY

4 APOLOGIES

Nil

5 LEAVE OF ABSENCE

Nil

6 MINUTES OF PREVIOUS MEETING – FOR CONFIRMATION

Council Assessment Panel Meeting - 30 June 2020

7 CONFLICT OF INTEREST

8 VISITORS TO THE MEETING

REPORTS

REPORTS

9 DEVELOPMENT APPLICATIONS**9.1 544/1086/2020 - OUTHRED ENGLISH & ASSOCIATES**

Document #: 20/65250

Department: Development Services

PROPOSAL OUTLINE

Author: Jodie Terp

Application No.: 544/1086/2020

Applicant: Outhred English & Associates

Owner: R Rittberger

Development Proposal: Single Storey Detached Dwelling, Domestic Outbuilding (Garage) and 3 Rainwater Tanks

Lodgement Date: 31 March 2020

Subject Land: Section 1, Hundred of Coonarie, South Coast Road, Foul Bay

Zone: Coastal Conservation / Primary Production

Nature of Development: Non-complying

Public Notification: Category 3

Representations: Nil

Referrals: Coast Protection Board

Development Plan Version: 29 November 2018

Development Legislation: Development Act 1993

RECOMMENDATION

- A. That Development Application 544/1086/2020 for a Single Storey Detached Dwelling, Domestic Outbuilding (Garage) and 3 Rainwater Tanks at Section 1, Hundred of Coonarie, South Coast Road, Foul Bay is not seriously at variance with the provisions of the Yorke Peninsula Council Development Plan consolidated 29 November 2018.
- B. That following consideration and having regard to all relevant matters concerning the construction of a Single Storey Detached Dwelling, Domestic Outbuilding (Garage) and 3 Rainwater Tanks at Section 1, Hundred of Coonarie, South Coast Road, Foul Bay the proposal be **GRANTED** Development Plan Consent, subject to the following conditions of consent and concurrence being sought from the State Commission Assessment Panel.

Conditions

1. The applicant shall proceed strictly in accordance with the plans submitted and conditions imposed by this consent, except where minor changes are required to comply with the Building Code of Australia.
2. The Applicant or Landowner shall apply and obtain the necessary approvals for a waste control system in accordance with the South Australian Public Health Act 2011, prior to obtaining Development Approval.
3. Where a Private Certifier is engaged for Building Rules Consent, the Private Certifier is to provide Council with a certified statement to verify that the Building Rules Consent is consistent with the Development Plan Consent.

4. Driveways, vehicle manoeuvring and parking areas shall be constructed of dolomite (or similar material) as a minimum, prior to occupation or use of the development herein approved. Such surfaces shall be maintained in a good and substantial condition at all times to the reasonable satisfaction of Council.
5. Excavation and construction shall be carried out in a manner which minimises environmental impacts on the coastal landform.
6. Any imported substrate material or engineered fill shall be free of weeds and pathogens to ensure that noxious weed or contamination sources are not introduced into the coastal environment.
7. The plants comprising the landscaping shall be maintained in a healthy condition with dead and diseased plants being promptly replaced.
8. The revegetation and pest species management program provided as part of the development application shall be adhered to and implemented as outlined in the Land Management Agreement.
9. No industrial or commercial activity shall be conducted from this garage without the prior consent of Council.
10. The building (garage) shall not be used or converted for use for human habitation. Human habitation includes the occupation of the building whether on a part time overnight basis or on a permanent basis.

NATURE OF THE DEVELOPMENT

The applicant proposes to erect a single storey detached dwelling, domestic outbuilding (garage) and three aboveground rainwater tanks at Section 1, Hundred of Coonarie, South Coast Road, Foul Bay.

The subject land is located in the Coastal Conservation and Primary Production Zones, as depicted in the Yorke Peninsula Development Plan, consolidated 29 November 2018. The proposed development would predominantly sit within the Coastal Conservation Zone with only the existing access track going across the Primary Production land.

Dwellings are non-complying in both the Coastal Conservation and Primary Production Zones unless it meets certain exceptions as outlined below:

Coastal Conservation Zone

Dwelling Except where it achieves one of the following:

- a) *It is used for the purposes of administering either or both of the :*
 - i. *National Parks and Wildlife Act 1972*
 - ii. *Wilderness Protection Act 1992*
- b) *It will replace an existing dwelling located on a freehold Certificate of Title, provided it is not vulnerable to coastal hazards, and not exceed 4.5 metres in height above natural ground level (excluding any elevation necessary for hazard minimisation from sea level rise).*

Primary Production Zone

Dwelling Except for a dwelling that satisfies one of the following:

- a) *It is located on land held at Point Pearce by the Aboriginal Lands Trust and the dwelling will meet the needs of the local aboriginal population...*
- b) *It is in the form of workers accommodation*
- c) *It is for the replacement of an existing freehold dwelling.*

The proposal does not meet any of the abovementioned exceptions, and therefore, must be assessed as a non-complying type of development.

After consideration of the "Brief Statement in Support" submitted by the applicant in accordance with Regulation 17(1) of the *Development Regulations 2008*, as well as consideration of the general character of the area staff under delegation resolved to proceed with the assessment of the application. (refer Attachments 1 &2).

The applicant was then requested to provide a Statement of Effect in accordance with the requirements of Regulation 17(5) (refer Attachment 3).

DESCRIPTION OF THE PROPOSAL

The proposed development involves the construction of a single storey detached dwelling with associated outbuilding to be used as a garage and three aboveground 22 000 litre rainwater tanks. The dwelling would be 230 square metres and would contain three bedrooms, two bathrooms, laundry, open plan pantry, kitchen, meals and living area. Externally it is proposed to have an alfresco area at the rear of the dwelling off of the living area and a deck along the entire front of the dwelling.

The proposed dwelling is conventional in nature with a hipped roof corrugated steel roof and timber walls and the exterior of the dwelling incorporating a number of finishes including weatherboard cladding for the walls. The colours chosen being paperbark and mangrove will complement and blend in with the surrounding vegetation being of similar hues.

The proposal also incorporates a domestic outbuilding in the form of a three car garage. The garage would be 72 square metres with a 2.4 metre wall height. The proposed garage and dwelling would both feed in to three 22 000 litre rainwater tanks which would be positioned to the rear of the garage. The garage and rainwater tank would all be Colorbond mangrove

Landscaping with native species is proposed along the driveway entrance and around the proposed dwelling and outbuilding. The landscaping to the rear of the dwelling and outbuilding has been positioned so as to screen the development from the public road but still allow solar access from the north.

SUBJECT LAND AND LOCALITY

The subject land is irregular in shape with a wide road frontage of approximately 994 metres and coastal frontage of approximately 947 metres and varying depths of between approximately 239 and 612 metres and an overall area of approximately 34 hectares.

The subject land is located about 7 kilometres north east of the small coastal settlement of Foul Bay with the nearest town being Warooka which is 26 kilometres away. The subject allotment is part of a strip of coastal land that runs along the southern side of South Coast Road at Foul Bay with the land once used in association with primary production land to the north but now predominantly just conservation land with the coastal vegetation being the predominant landform. The locality consists of a variety of different sized allotments many of them with detached dwellings and outbuildings.

PUBLIC NOTIFICATION

A dwelling, which is characterised as a non-complying form of development, is not listed as being Category 1 or Category 2 development for the purpose of public consultation under the relevant zone policies or Schedule 9 of the *Development Regulations 2008*.

Therefore, the proposal underwent the public notification process for Category 3 development as is prescribed under Section 38(2)(c) of the *Development Act 1993*.

Nil (0) representations were received.

CONSULTATION

The subject land partially being in the Coastal Conservation Zone meant a referral under Schedule 8 of the *Development Regulations 2008* was required to the Coast Protection Board.

The response is *Attachment 5* and advises that the Board has no objection to the proposed development subject to certain conditions being applied to the final approval.

ASSESSMENT

Determination of whether the application is seriously at variance

Pursuant to Section 35(2) of the *Development Act 1993*, the proposal has been assessed and is considered not to be seriously at variance with the Yorke Peninsula Council Development Plan consolidated 29 November 2018.

Development Plan

The provisions of the Yorke Peninsula Development Plan applicable to the assessment of the proposed development are listed below.

Coastal Conservation Zone Provisions

Objectives: 1, 4

Principles of Development Control: 2, 7, 8, 9, 10, 11, 12

Primary Production Zone Provisions

Objectives: 1, 2, 3

Principles of Development Control 2, 5, 9, 11, 12

General Section Provisions

Coastal Areas

Objectives: 1,3,4,5,6,7,8

Principles of Development Control: 1,2,3,4, 5, 6, 8

Design and Appearance

Objectives: 1

Principles of Development Control: 1, 2, 3, 4, 5, 6, 19

Energy Efficiency

Objectives: 1

Principles of Development Control: 1, 2

Hazards

Objectives: 5

Principles of Development Control: 1, 2, 8, 9, 10, 11, 13, 16

Infrastructure

Objectives: 1, 4, 5

Principles of Development Control: 1, 6

Interface Between Land Uses

Objectives: 1, 3

Principles of Development Control: 1, 2, 4, 5, 16

Landscaping, Fences and Walls

Objectives: 1

Principles of Development Control: 1, 2, 3

Natural Resources

Objectives: 1, 6, 8, 9, 10, 11, 13

Principles of Development Control: 1, 2, 4, 26, 27, 28, 29, 32, 33, 36, 38

Orderly and Sustainable Development

Objectives: 1, 2, 3, 4, 6

Principles of Development Control: 1, 2, 5, 6, 8

Residential Development

Objectives: 1

Principles of Development Control: 11, 13, 18, 19, 3

Siting and Visibility

Objectives: 1

Principles of Development Control: 1, 2, 4, 5, 6, 7, 8

Transportation and Access

Objectives: 2

Principles of Development Control: 22, 23, 28, 31, 32

Waste

Objectives: 2

Principles of Development Control: 10, 11, 12, 13, 14, 15

Table YoP/1 – Coastal Areas: Site/Building Floor Levels

Foul Bay – Minimum Site Level 2.9 metres AHD – Minimum Building Floor Level 3.15 metres AHD

Table YoP/2 – Building Setbacks from Road Boundaries

30 metres setback distance from road boundary

Table YoP/3 – Off Street Vehicle Parking Requirements

Detached Dwelling – 2 car parking spaces per dwelling containing up to 3 bedrooms one of which is to be covered

Table YoP/4 – Design Guidelines for Coastal Dwellings

Components: 1, 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, 14, 15, 19 & 20

Coastal Conservation Zone Provisions

The policies of the zone seek to enhance and conserve the natural features of the coast including visual amenity, landforms, fauna and flora. Existing native vegetation and sensitive areas such as sand dunes and cliff tops should be protected by limiting agricultural activity and other development. Residential development should be limited to upgrading or the replacement of existing detached dwellings which are compatible to the natural features of the locality and not vulnerable to the coastal hazards.

Development should be designed and sited to be compatible with conservation and enhancement of the coastal environment and scenic beauty of the zone. The proposed dwelling is proposed to be located over 100 metres from the coast line and will be situated behind existing native vegetation. It is a modest design with a slim profile which will be sympathetic with the landscape. Landscaping is also proposed which will soften any visual impact.

Primary Production Zone Provisions

The objective of the zone is to ensure the long term continuation of primary production and to maintain allotments that promote the efficient use of land and to restrict encroachment of incompatible land uses.

The subject land is approximately 50 per cent in the primary production zone though there have been no farming practices undertaken in the last 5 years. The small area that was previously farmed

was only viable as part of a larger lease agreement and in recent years has not been seen to be viable at all potentially due to the hassle of relocating machinery for such a small parcel or poor quality of cropping soil so close to the coast. It is therefore not seen as a detrimental outcome for this particular site that there is no continuance of farming of the land and provides a buffer between the conservation work of the property owners closer to the coast and the ongoing primary production to the north.

General Section Provisions – Coastal Areas

Provisions seek to protect and enhance the natural coastal environment, including sand dunes and native vegetation. Development should be managed to sustain or enhance the remaining natural coastal environment. Development should also be compatible with the coastal environment in terms of appearance and landscaping.

The proposed development seeks to blend with the coastal environment through the small scale nature of the built form and the use on non-reflective and natural earth colours. The proposed landscaping with native coastal trees will also soften the appearance of the proposed dwelling.

This provision talks of development being protected from sea level rise by ensuring levels specified in Table YoP/1 are met. In this instance a site level of 2.9 m AHD and a finished floor level of 3.15 metres AHD are specified and the proposed dwelling satisfies these with a site level of 3.6 metres AHD and a finished floor level of 4 metres AHD. The location of the dwelling 100 metres from the shore also provides a buffer from any sea level rise.

General Section Provisions - Design and Appearance

The design principles of the Yorke Peninsula Council Development Plan seek to foster development which is articulated, having visual interest and elements to reduce the overall bulk and to assist it being sympathetic to the locality and the context of its setting. The external walls and roofs of buildings should not incorporate highly reflective materials.

The proposed dwelling will be clad in weatherboard cladding painted Paperbark a colorbond Mangrove coloured roof. These softer natural colourings are intended to blend in with the landscape and vegetation and assist in lessening the visual impact.

Development should be designed and sited to be compatible with conservation and enhancement of the coastal environment and scenic beauty of the zone. Setbacks from road boundaries are stipulated in Table YoP/2 of 30 metres in both the Coastal Conservation and Primary Production Zones and the proposal meets this requirement as located approximately 100 metres from the road.

General Section Provisions - Energy Efficiency

Development should be designed and sited to conserve energy. The majority of the windows and living spaces will face north which is favourable for making the most of the winter months and cross ventilation which supports the policies.

General Section Provisions – Hazards

Development should be located and designed to minimise the threat and impact of bushfires on life and property.

The subject land is in a Medium Bushfire Protection Area and will need to be built according to the specifications of the *Minister's Code – Undertaking Development in Bushfire Protection Areas* and will form part of the building rules assessment.

General Section Provisions - Infrastructure

Rainwater tanks comprising an excess of the minimum of 45,000 litres are included in the proposal to provide an adequate on-site water storage system for the development in an area with no water supply as per the policies.

General Section Provisions - Landscaping, Fences and Walls

The objective of this policy is to ensure that locally indigenous plant species are used when landscaping.

The proposal has identified native coastal species to be used for landscaping. No fences or walls are proposed.

General Section Provisions - Natural Resources

Re-using stormwater, managing pollution and limiting the impact of development on native vegetation form the intent of many of the policies of this section.

The dwelling proposes water catchment to service the dwelling by way of rainwater tanks and whilst there is high quality vegetation on the block, the landscaping plan indicates that additional native trees are to be planted to reduce the visual impact of the dwelling. Ongoing conservation work will also be undertaken in accordance with the timeframes agreed in the Land Management Agreement with the Department of Environment and Water.

General Section Provisions – Orderly and Sustainable Development

Land outside of townships should primarily be used for primary production and conservation purpose. Development should not prejudice the intended purpose of the zone. The intended purpose of the zone in this instance is to conserve the coastal environment and the proposed development through surveillance and ongoing native flora and fauna restoration and preservation seeks to do this.

General Section Provisions - Residential Development

The nature of the locality with large setbacks has meant many of the issues associated with residential development such as overshadowing, overlooking, site coverage etc. are not an issue with the proposed development.

The dwelling has been sited and designed to provide surveillance and views towards the coast. The proposal provides landscaping appropriate to its coastal location.

The design for the dwelling takes into account passive energy design with a northern orientation with the proposed alfresco shading in summer and providing access for winter sun into the living areas. The design also provides for cross ventilation thus reducing energy consumption to cool the dwelling in summer and taking advantage of coastal breezes. Vehicle parking and storage are provided in the proposed garage.

General Section Provisions - Siting and Visibility

The policies of this section seek to minimise the visual impact of development on the landscape by encouraging low profiles and roof lines complementing the natural form using materials which will not detract from the visual character and amenity of the landscape. The location and design should also be such that the building is not readily visible against the skyline when viewed from public roads.

While visible from the coast the proposed dwelling will seek to integrate with the existing landscape through the use of a low profile design, natural colours that blend with the existing vegetation and the establishment and regeneration where appropriate.

General Section Provisions – Transportation and Access

Development should have direct access from an all-weather public road as well as be safe and convenient for all vehicles including emergency service vehicles.

The proposed dwelling will be accessed from a new driveway adjacent an existing fire track which is to be retained.

General Section Provisions - Waste

Given the non-complying nature of the proposed development an application has not yet been made for a wastewater system. If the application proceeds this will be undertaken in accordance with the policy.

The allotment is of sufficient size to easily accommodate a wastewater management system.

Table YoP/4 – Design Guidelines for Coastal Dwellings

Development in the Coastal Conservation Zone should have regard to the design guidelines for coastal dwellings as contained in Table YoP/4. These guidelines generally seek to minimise the

impact of development on the coast by guiding site layout, height, form, colours, materials and vegetation management.

The proposed dwelling satisfies most of these design guidelines.

CONCLUSION

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal on balance satisfies the relevant provisions of the Development Plan, despite its non-complying nature. The proposal is not harmful to the desired character of the zone and is not considered to have a detrimental impact upon the amenity of the adjoining properties in the locality. Accordingly, it is considered that the proposal warrants the granting of Development Plan Consent subject to conditions of consent and the concurrence of the State Commission Assessment Panel.

ATTACHMENTS

- 1. Statement of Support**
- 2. Delegated Authority Report - Proceed to Assessment**
- 3. Statement of Effect**
- 4. Proposed Plans**
- 5. Coast Protection Board Response**

9.2 544/1416/2019 - M HARRIS**Document #:** 20/66001**Department:** Development Services**PROPOSAL OUTLINE****Author:** Jodie Terp**Application No.:** 544/1416/2019**Applicant:** M Harris**Owner:** M Harris**Development Proposal:** Single Storey Detached Dwelling and retrospective Outbuilding**Lodgement Date:** 15 November 2019**Subject Land:** 193 Feneley Road, White Hut**Zone:** Water Protection**Nature of Development:** Non- complying**Public Notification:** Category 3**Representations:** Nil**Referrals:** Nil**Development Plan Version:** 29 November 2018**Development Legislation:** Development Act 1993**RECOMMENDATION**

- A. That Development Application 544/1416/2019 for a Single Storey Detached Dwelling and retrospective Outbuilding at 193 Feneley Road, White Hut is not seriously at variance with the provisions of the Yorke Peninsula Council Development Plan consolidated 29 November 2018.**
- B. That following consideration and having regard to all relevant matters concerning the construction of a Single Storey Detached Dwelling and retrospective Outbuilding at 193 Feneley Road, White Hut the proposal be GRANTED Development Plan Consent, subject to the following conditions of consent and concurrence being sought from the State Commission Assessment Panel.**

Conditions

- 1. The applicant shall proceed strictly in accordance with the plans submitted and conditions imposed by this consent, except where minor changes are required to comply with the Building Code of Australia.**
- 2. The Applicant or Landowner shall apply and obtain the necessary approvals for a waste control system in accordance with the South Australian Public Health Act 2011, prior to obtaining Development Approval.**
- 3. Where a Private Certifier is engaged for Building Rules Consent, the Private Certifier is to provide Council with a certified statement to verify that the Building Rules Consent is consistent with the Development Plan Consent.**
- 4. Driveways, vehicle manoeuvring and parking areas shall be constructed of dolomite (or similar material) as a minimum, prior to occupation or use of the development**

herein approved. Such surfaces shall be maintained in a good and substantial condition at all times to the reasonable satisfaction of Council.

5. No industrial or commercial activity shall be conducted from this garage without the prior consent of Council.
6. The building (garage) shall not be used or converted for use for human habitation. Human habitation includes the occupation of the building whether on a part time overnight basis or on a permanent basis.
7. Where no mains water is available, the gutters of the dwelling shall be connected to on-site rainwater tanks with a minimum capacity of 45, 000 litres, reticulated to the dwelling and with appropriate connection to enable its use for firefighting purposes.

NATURE OF THE DEVELOPMENT

The applicant proposes to erect a single storey detached dwelling and get retrospective approval for an outbuilding (storage shed) at 193 Feneley Road, White Hut.

The subject land is located in the Water Protection Zone, as depicted in the Yorke Peninsula Development Plan, consolidated 29 November 2018.

Dwellings are non-complying in both the Water Protection Zone unless it meets certain exceptions as outlined below:

Water Protection Zone

Dwelling Except where used for the purposes of administering the:

- a) *National Parks and Wildlife Act 1972*
- b) *Wilderness Protection Act 1992*

The proposal does not satisfy either of the abovementioned exceptions, and therefore, must be assessed as a non-complying type of development.

After consideration of the "Brief Statement in Support" submitted by the applicant in accordance with Regulation 17(1) of the *Development Regulations 2008*, as well as consideration of the general character of the area staff under delegation resolved to proceed with the assessment of the application (*refer Attachment 2*).

The applicant was then requested to provide a Statement of Effect in accordance with the requirements of Regulation 17(5) (*refer Attachment 4*).

DESCRIPTION OF THE PROPOSAL

The proposed development involves the construction of a single storey detached dwelling and associated outbuilding. The dwelling would be 255 square metres and would contain three bedrooms, two bathrooms, laundry, sunroom, gallery, open plan pantry, kitchen, dining and lounge area. A two-car garage is also proposed under the main roof and would incorporate a gym and sauna. Externally it is proposed to have a large deck wrapping around three sides of the dwelling.

The proposed dwelling is contemporary in nature with a gable roof with feature dormer windows. The roof and the exterior walls of the dwelling would be profiled metal cladding with the incorporation for rammed earth and hardwood timber. The colours chosen include the corrugated metal in mid grey, with silver ash hardwood and dark grey window frames the subtle colour palette also including the rammed earth wall would complement and blend in with the surrounding environment.

The proposal also incorporates an outbuilding which is retrospective and has utilised two existing containers on the site and been covered to provide additional undercover storage adjacent the containers. The outbuilding has a roof area of approximately 99 square metres and is shielded from the proposed dwelling by dense vegetation. The outbuilding has a Colorbond steel roof and sides.

The proposed dwelling would be positioned to the west of the outbuilding subject to this application and adjacent existing farm buildings and tanks to the south and the west. The proposed development would be accessed from an existing track.

SUBJECT LAND AND LOCALITY

The subject land is irregular in shape with a Feneley Road frontage of approximately 495 metres and rear boundary of 447 metres and varying depths of between approximately 609 and 806 metres and an overall area of approximately 32 hectares.

The subject land is located approximately 2 kilometres from the coast to the west. The closest town is Marion Bay which is 21 kilometres to the south.

The subject allotment is part of a strip of coastal land situated about 1 kilometre behind large sand dunes which run along the coast in the locality. The allotment is relatively cleared having presumably one time being used as farming land but is now being revegetated by the current owners.

The immediate locality consists of about 20 allotments of similar size with a number of these already having been developed with dwellings.

PUBLIC NOTIFICATION

A dwelling, which is characterised as a non-complying form of development, is not listed as being Category 1 or Category 2 development for the purpose of public consultation under the relevant zone policies or Schedule 9 of the *Development Regulations 2008*.

Therefore, the proposal underwent the public notification process for Category 3 development as is prescribed under Section 38(2)(c) of the *Development Act 1993*.

Nil (0) representations were received.

CONSULTATION

No Schedule 8 referrals were required.

ASSESSMENT

Determination of whether the application is seriously at variance

Pursuant to Section 35(2) of the *Development Act 1993*, the proposal has been assessed and is considered not to be seriously at variance with the Yorke Peninsula Council Development Plan consolidated 29 November 2018.

Development Plan

The provisions of the Yorke Peninsula Development Plan applicable to the assessment of the proposed development are listed below.

Water Protection Zone

Objectives: 1, 2, 3, 6

Principles of Development Control 2, 4, 8

General Section

Design and Appearance

Objectives: 1

Principles of Development Control: 1, 2, 3, 4, 6, 19

Energy Efficiency

Objectives: 1

Principles of Development Control: 1, 2

Hazards

Objectives: 5

Principles of Development Control: 18, 19

Infrastructure

Objectives: 1, 4, 5

Principles of Development Control: 1, 6

Natural Resources

Objectives: 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 13

Principles of Development Control: 1, 2, 4, 26, 27, 28, 29, 32, 33, 36, 38

Orderly and Sustainable Development

Objectives: 1, 2, 3, 4, 6

Principles of Development Control: 1, 2

Residential Development

Objectives: 1

Principles of Development Control: 11, 13, 18, 19, 31

Siting and Visibility

Objectives: 1

Principles of Development Control: 1, 2, 4, 5, 6, 7, 8

Transportation and Access

Objectives: 2

Principles of Development Control: 22, 23, 28, 31, 32

Waste

Objectives: 2

Principles of Development Control: 1, 2, 3, 4, 10, 11, 12, 13, 14, 15

Table YoP/2 – Building Setbacks from Road Boundaries

30 metres setback distance from road boundary

Table YoP/3 – Off Street Vehicle Parking Requirements

Detached Dwelling – 2 car parking spaces per dwelling containing up to 3 bedrooms one of which is to be covered

Water Protection Zone

The objective of the zone is to protect the surface and underground water resources which form the Carribie, Para Wurlie and Marion Basins and represent significant regional water resources. To help safeguard this it is desired that locally indigenous plant species are established and retained.

The proposal is that for the owners to be able to reside more permanently on the property and therefore being able to contribute more actively to this conservation and revegetation work.

General Section - Design and Appearance

The design principles of the Yorke Peninsula Council Development Plan seek to foster development which is articulated, having visual interest and elements to reduce the overall bulk and to assist it being sympathetic to the locality and the context of its setting. The external walls and roofs of buildings should not incorporate highly reflective materials.

The proposed dwelling is considered to achieve this through the use of various building materials which blend with the coastal environment and have provided visual interest to the dwelling through

the use of large dormer windows and the incorporation of rammed earth. These softer natural colourings will blend with the landscape and vegetation and assist in lessening the visual impact.

Development should be designed and sited to be compatible with conservation and enhancement of the coastal environment and scenic beauty of the zone. Setbacks from road boundaries are stipulated in Table YoP/2 of 30 metres in the Water Protection Zone, the proposal meets this requirement as it is located approximately 86.5 metres from the road.

General Section - Energy Efficiency

Development should be designed and sited to conserve energy. The majority of the windows and living spaces will face north which is favourable for making the most of the winter months and cross ventilation is available with the dwelling being able to be opened to allow prevailing breezes from the south. The incorporation of rammed earth is also considered an energy efficiency benefit due to its thermal mass properties.

General Section – Hazards

Development should not increase the potential for an increase in soil salinity and should seek to preserve, maintain and restore locally indigenous plant species to ensure long term improvement.

The proposal would help satisfy this with the owners being resident and able to progress revegetation efforts.

General Section - Infrastructure

Rainwater tanks comprising of 20 000 litres are included in the proposal and it would be a condition of approval that 45 000 litres is connected which may be able to be done using existing tanks on site.

General Section - Natural Resources

Re-using stormwater, managing pollution and limiting the impact of development on native vegetation form the intent of many of the policies of this section.

The dwelling proposes water catchment to service the dwelling by way of rainwater tanks and whilst there is some existing vegetation on the block, the intent is that revegetation will be undertaken in the future and conservation work as well will be able to manage any pest species.

General Section – Orderly and Sustainable Development

Land outside of townships should primarily be used for primary production and conservation purposes. Development should not prejudice the intended purpose of the zone. The intended purpose of the zone in this instance is to conserve the underground water resources and the development through native vegetation restoration and preservation seeks to do this.

General Section - Residential Development

The nature of the locality with large setbacks has meant many of the issues associated with residential development such as overshadowing, overlooking, site coverage etc. are not an issue with the proposed development.

The design for the dwelling takes into account passive energy design with a northern orientation with the proposed verandah shading in summer and providing access for winter sun into the living areas with the thermal mass of the rammed earth wall being able to retain this. The design also provides for cross ventilation thus reducing energy consumption to cool the dwelling in summer and taking advantage of coastal breezes. Vehicle parking and storage are provided in the proposed garage under the main roof.

General Section - Siting and Visibility

The policies of this section seek to minimise the visual impact of development on the landscape by encouraging low profiles and roof lines complementing the natural form using materials which will not detract from the visual character and amenity of the landscape. The location and design should also be such that the building is not readily visible against the skyline when viewed from public roads.

The dwelling would be set back over 80 metres from the public road and would be screened by existing well established vegetation.

General Section Provisions – Transportation and Access

Development should have direct access from an all-weather public road as well as be safe and convenient for all vehicles including emergency service vehicles.

The proposed dwelling will be accessed from an existing driveway.

General Section Provisions - Waste

Given the non-complying nature of the proposed development an application has not yet been made for a wastewater system. If the application proceeds this will be undertaken in accordance with the policy.

The allotment is of sufficient size to easily accommodate a wastewater management system.

CONCLUSION

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal on balance satisfies the relevant provisions of the Development Plan, despite its non-complying nature. The proposal is not harmful to the desired character of the zone and is not considered to have a detrimental impact upon the amenity of the adjoining properties in the locality. Accordingly, it is considered that the proposal warrants the granting of Development Plan Consent subject to conditions of consent and the concurrence of the State Commission Assessment Panel.

ATTACHMENTS

- 1. Locality and Site Maps**
- 2. Statement of Support**
- 3. Delegated Authority Report - Proceed to Assessment**
- 4. Statement of Effect**
- 5. Proposed Plans**

10 MATTERS DEFERRED

Nil

11 ERD COURT MATTERS

544/1096/2018 – WR McFarlane – Lot 9 Black Point Road, Black Point
A preliminary conference held on 29 June 2020 (McFarlane Vs Yorke Peninsula Council).
Appellant intends lodging compromise proposal for Council consideration. The
court granted a 2 month adjournment.

12 CONCURRENCE APPROVALS

544/1370/2019 S Palecek (M Kenny) 1121 Graham Road – Concurrence received.

13 PROCEDURAL MATTERS

13.1 COUNCIL ASSESSMENT PANEL INSTRUMENT OF DELEGATION C AMENDMENTS

Document #: 20/67215

Department: Executive Services

PURPOSE

For the Yorke Peninsula Council Assessment Panel to consider delegation of the powers and functions to be vested or conferred in or on the Yorke Peninsula Council's Assessment Manager under the Planning, Development and Infrastructure Act 2016, following the implementation of new delegations pursuant to the Planning and Design Code and Practice Directions issued by the State Planning Commission.

RECOMMENDATION

That having considered its Instrument of Delegation C in response to legislative change, the Yorke Peninsula Council Assessment Panel:

- 1. **Revocations**
 - 1.1 Hereby revokes its previous delegations of those powers and functions under the following:
 - 1.1.1 Planning, Development and Infrastructure Act 2016
 - 1.1.2 Planning, Development and Infrastructure (General) Regulations 2017
 - 1.1.3 Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019
- 2. **Delegate Powers of an Assessment Panel as a Relevant Authority under the Planning, Development and Infrastructure Act 2016**
 - 2.1 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 C (attached to this report – Attachment 1) are hereby delegated this 28th day of July 2020 to the Yorke Peninsula Council's 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.
 - 2.2 Such powers and functions may be further delegated by the Yorke Peninsula Council's Assessment Manager in accordance with Section 100(2)(c) of the Planning Development and Infrastructure Act 2016 as the Yorke Peninsula Council's Assessment Manager sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.

LINK TO STRATEGIC PLAN

Goal: 5 Responsible Governance

Strategy: 5.3 Meet all legislative requirements and compliance with Council's internal controls

BACKGROUND

Significant powers and functions have been vested/conferred in or on the Yorke Peninsula Council Assessment Panel (CAP) with the implementation of the Planning, Development and Infrastructure Act 2016 (Act) in regional South Australia on 31 July 2020.

In accordance with Section 100 of the Act, the CAP delegated those powers and functions (with conditions and/or limitations) to the Yorke Peninsula Council's Assessment Manager (Assessment Manager) during its meeting held on 30 June 2020.

It is now necessary to amend Instrument of Delegation C to incorporate the new Planning and Design Code (Code) and Practice Directions 2, 3, 5, 6, 9 and 10 issued by the State Planning Commission.

DISCUSSION

Instrument of Delegation C, as provided in Attachment 1, has been amended to incorporate the new Planning and Design Code (Code) and Practice Directions 2, 3, 5, 6, 9 and 10 issued by the State Planning Commission.

In summary, amendments to Instrument of Delegation C are:

Planning, Development and Infrastructure (General) Regulations 2017

- A minor amendment to change the 'old' language of "Building Rules consent" to the 'new' language of "building consent".
- A minor amendment has been made to the regulation reference in Item 42.1.

Code

A new section has been created relating to:

- Whether an application for performance assessed development is 'minor' and does not require notification; and
- Whether the application requires referral.

Practice Directions

A new section has been created to facilitate delegation of the CAP's powers and functions under:

- Practice Direction 3 – Notification of performance assessed development;
- Practice Direction 5 – Appointment of additional panel members; and
- Practice Direction 6 – Scheme to avoid conflicting regimens.

To ensure that these powers and functions are effectively carried out, it is appropriate for the CAP to consider delegating the powers and functions, as set out in the attached Instrument of Delegation (attached to this report – Attachment 1), to Council's Assessment Manager. Delegations may be made subject to conditions or limitations as the CAP sees fit. Any conditions or limitations are documented via the Instrument of Delegation.

A Sub-delegation may also be made by the Assessment Manager to a particular person or body or a person occupying a particular office or position as may be required to ensure that persons with responsibilities are able to carry out those responsibilities without hindrance. Sub-delegations may also be made subject to conditions or limitations as specified in an instrument of Sub-delegation.

The Local Government Association delegation templates have been utilised to develop the attached (Attachment 1) Instrument of Delegation.

COMMUNITY ENGAGEMENT PLAN

Level 1 - Inform

CONSULTATION PROCESS

In preparing this report, the following Yorke Peninsula Council officers were consulted:

- Governance Officer

In preparing this report, the following external parties were consulted:

- Local Government Association

- Norman Waterhouse Lawyers

POLICY IMPLICATIONS

It is to be noted that Council is in the transition phase from the Development Act 1993 to the Planning, Development and Infrastructure Act 2016. Therefore, the Council Policy PO127 Council Assessment Panel Delegations, will remain in place for the duration of time that is required for Council to finalise Development Applications that commenced under the Development Act 1993.

PO09 Building Inspections Policy.

BUDGET AND RESOURCE IMPLICATIONS

Nil.

RISKS/LEGAL/LEGISLATIVE/ IMPLICATIONS

Planning, Development and Infrastructure Act 2016

Local Government Act 1999

It is essential that appropriate delegations are in place to ensure legislative compliance and that appropriate persons with appropriate qualifications are able to carry out CAP powers and functions.

ATTACHMENTS

1. **Council Assessment Panel - Instrument of Delegation C - Planning Development Infrastructure Act 2016 Regulations Planning Design Code Practice Directions of Powers of An Assessment Panel as at 28-07-2020**

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

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

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

1. Environment and Food Production Areas – Greater Adelaide
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.
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.
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.
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

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	authority.
4.	Relevant Provisions
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:
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
5.1.1.2	to the extent provided by Part 7 Division 2 of the PDI Act – the impacts of the development, (planning consent);
5.1.2	the relevant provisions of the Building Rules (building consent);
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):
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

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	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):
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;
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

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	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;
5.1.6	if relevant - requirements applying under Part 15 Division 2 of the PDI Act are satisfied;
5.1.7	such other matters as may be prescribed.
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:
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.
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).
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.
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

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elements of the development as assessed on its merits.	
7.	Building Consent
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 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

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	performance requirements of the Building Code or a Ministerial building standard.
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 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.
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.
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:
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
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):
7.9.1	the variance; and
7.9.2	the grounds on which the decision is being made.

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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.
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;
8.2.2	to remedy any defect or deficiency in any application or accompanying document or information required by or under the PDI Act;
8.2.3	to consult with an authority or body prescribed by the regulations;
8.2.4	to comply with any other requirement prescribed by the regulations.
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
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.
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;
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

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	not changed);
8.5.2	permit an applicant to lodge an application without the provision of any information or document required by the regulations;
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);
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.
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.
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.
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.
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.
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:
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.

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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).
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:
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:
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.
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.

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12. Preliminary Advice and Agreement	
12.1	The power pursuant to Section 123(2) of the PDI Act, if:
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.
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).
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:
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

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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.
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.
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.
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.
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).
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.
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.
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.
16.3	The power pursuant to Section 127(4) of the PDI Act, subject to Sections

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	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).
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.
16.5	The power pursuant to Section 127(8)(b) of the PDI Act to:
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;
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.
18. Requirement to Up-grade	
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.
18.2	The power pursuant to Section 134(1) of the PDI Act, if:
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

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	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 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.
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:
	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:
	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).
18.6	The power pursuant to Section 134(5) of the PDI Act to impose a requirement

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	under Section 134(4) of the PDI Act:
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.
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.
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.
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.
21.	General Transitional Schemes for Panels
21.1	The power pursuant to Clause 12(7) of Schedule 8 of the PDI Act, to
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

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	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.
	<u>(Only applicable to assessment panels appointed by a council or a joint planning board)</u>
22. Regional Assessment Panels	
22.1	The power pursuant to Clause 13(5) of Schedule 8 of the PDI Act to:
22.1.1	adopt any findings or determinations of a council development assessment panel or a regional development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; 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 made before the relevant day under the repealed Act; and
22.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and
22.1.4	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
22.1.5	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.
	<u>(Relevant to regional assessment panels only)</u>

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23. Continuation of Processes	
23.1	The power pursuant to Clause 18(2) of Schedule 8 of the PDI Act, to:
23.1.1	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
23.1.2	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
23.1.3	deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and
23.1.4	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
23.1.5	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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24. Accredited Professionals	
24.1	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.
25. Verification of Application	
25.1	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

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	that an application has been correctly lodged and can be assessed in accordance with the PDI Act:
25.1.1	determine the nature of the development; and
25.1.2	if the application is for planning consent - determine:
25.1.2.1	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
25.1.2.2	the category or categories of development that apply for the purposes of development assessment; and
25.1.3	determine whether the relevant authority is the correct entity to assess the application under the PDI Act; and
25.1.4	if the relevant authority is the correct entity to assess the application (or any part of the application):
25.1.4.1	check that the appropriate documents and information have been lodged with the application; and
25.1.4.2	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
25.1.4.3	provide an appropriate notice via the SA planning portal; and
25.1.5	if the relevant authority is not the correct entity to assess the application (or any part of the application):
25.1.5.1	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
25.1.5.2	provide an appropriate notice via the SA planning portal.

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26. Application and Further Information	
26.1	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.
27. Amended Applications	
27.1	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.
27.2	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.
28. Withdrawing/Lapsing Applications	
28.1	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:
28.1.1	any agency to which the application has been referred under Division 2 of the General Regulations; and
28.1.2	any person who has made a representation in relation to the application under Division 3 of the General Regulations,
	of the withdrawal.
28.2	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:
28.2.1	take reasonable steps to notify the applicant of the action under consideration; and
28.2.2	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.

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29. Court Proceedings	
29.1	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.
30. Additional Information or Amended Plans	
30.1	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.
31. Building Matters	
31.1	The power pursuant to Regulation 45(1) of the General Regulations to, if in assessing an application for building consent, the delegate considers that:
31.1.1	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
31.1.2	the proposed development is at variance with a performance requirement of the Building Code which provides for the intervention of a fire authority; or
31.1.3	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.
31.2	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.
31.3	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

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General Regulations.	
31.4	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:
31.4.1	recommends against the granting of building consent; or
31.4.2	concurs in the granting of consent on conditions specified in its report,
but the delegate:	
31.4.3	proposes to grant building consent despite a recommendation referred to in Regulation 45(4)(a) of the General Regulations; or
31.4.4	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:	
31.4.5	refer the application to the Commission; and
31.4.6	not grant consent unless the Commission concurs in the granting of the consent.
31.5	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.
32. Preliminary Advice and Agreement (Section 123)	
32.1	The power pursuant to Regulation 46(6) of the General Regulations, if:
32.1.1	the delegate permits an applicant to vary an application under Section 119(9) of the PDI Act; and
32.1.2	the delegate determines that the application no longer accords with the agreement indicated by the prescribed body,
to refer the application (unless withdrawn) to the prescribed body:	
32.1.3	to obtain a variation to the agreement under Section 123 of the PDI

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	Act; or
32.1.4	to obtain a response from the prescribed body for the purposes of Section 122 of the PDI Act.
32.2	The power pursuant to Regulation 46(7) of the General Regulations if:
32.2.1	an application is withdrawn by the applicant; and
32.2.2	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.
32.3	The power pursuant to Regulation 46(8) of the General Regulations, if:
32.3.1	an application is lapsed by a relevant authority under Regulation 38 of the General Regulations; and
32.3.2	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.
32.4	The power pursuant to Regulation 46(9) of the General Regulations, if:
32.4.1	an applicant seeks to rely on an agreement under Section 123 of the PDI Act in connection with the application; and
32.4.2	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.
33.	Notification of Application of Tree-damaging Activity to Owner of Land
33.1	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:
33.1.1	give the owner notice of the application within 5 business days after the application is made; and

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33.1.2	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.
34. Public Inspection of Applications	
34.1	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.
35. Representations	
35.1	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:
35.1.1	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
35.1.2	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.
36. Response by Applicant	
36.1	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.
37. Notice of Decision (Section 126(1))	
37.1	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.
38. Consideration of Other Development Authorisations	
38.1	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

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	that prior development authorisation.
39.	Certificate of Independent Technical Expert in Certain Cases
39.1	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.
40.	Urgent Work
40.1	The power pursuant to Regulation 63(1) of the General Regulations to,
40.1.1	determine a telephone number determined for the purposes of Regulation 63(1)(a) of the General Regulations; and
40.1.2	determine the email address for the purposes of Regulation 63(1)(b) of the General Regulations.
40.2	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.
40.3	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.
41.	Variation of Authorisation (Section 128)
41.1	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.
42.	Advice from Commission
42.1	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

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desire to make a report.	
43.	Underground Mains Area
43.1	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.
44.	Plans for Residential Alterations, Additions and New Dwellings
44.1	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.
44.2	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.
45.	Plans for Building Work
45.1	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:
45.1.1	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
45.1.2	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.	

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

46. Calculation or Assessment of Fees	
46.1	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):
46.1.1	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
46.1.2	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).
46.2	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.
46.3	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.
47. Waiver or Refund of Fee	
47.1	The power pursuant to Regulation 7 of the Fees Regulations to, as the delegate considers appropriate to do so:
47.1.1	waive the payment of the fee, or the payment of part of the fee; or
47.1.2	refund the whole or a part of the fee.

PLANNING AND DESIGN CODE

48. Procedural Matter

48.1 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

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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.

49. Procedural Referrals

49.1 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.

49.2 The power pursuant to and in accordance with the PD Code to form the opinion and deem:

49.2.1 alteration to an existing access or public road junction;

49.2.2 development that changes the nature of vehicular movements or increases the number or frequency of movements through an existing access,

to be minor.

49.3 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.

49.4 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.

50. Referral Body: Minister Responsible for the Administration of the Aquaculture Act 2001

50.1 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.

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

51. Responsibility to Undertake Notification

51.1 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

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	public by notice placed on the relevant land in accordance with Section 107(3)(a)(ii) of the PDI Act.
52. Preparing for Notification	
52.1	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:
52.1.1	give notice of the anticipated commencement date and of the notification period to the applicant; and
52.1.2	provide the applicant with a copy of the content of the notice to be placed on the relevant land in PDF format; and
52.1.3	advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of PD3.
53. Notice on Land	
53.1	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.

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

54. Qualifications and Experience of Additional members	
54.1	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.
54.2	The power pursuant to clause 4(7) of PD5 to be satisfied of the minimum

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experience and qualifications of an additional assessment panel member.

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

55.	Scheme Provisions	
55.1		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.
55.2		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.

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SCHEDULE OF CONDITIONS

CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
5.1.1.1	<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 one or more of the following apply:</p> <ul style="list-style-type: none"> • No valid representations are received at all; • No valid representations are received against the proposed development; • All valid representations against the proposed development are withdrawn; • No representor wishes to be heard. <p>Except in cases where a deemed consent notice has been served on the CAP/Assessment Manager, in which case the limitation does not apply, and the Yorke Peninsula Council's 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>
Paragraph 22	Not applicable.

14 NEXT MEETING

25 August 2020

15 CLOSURE