



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

**Date:** Tuesday, 8 December 2020  
**Time:** 9.30am  
**Location:** Council Chambers  
Minlaton Town Hall  
57 Main Street  
Minlaton

# **AGENDA**

## **Council Assessment Panel Meeting**

### **8 December 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.

## Agenda

1	Welcome by Presiding Member .....	5
2	Present .....	5
3	Gallery .....	5
4	Apologies .....	5
5	Leave of Absence .....	5
6	Minutes of Previous Meeting – for Confirmation .....	5
7	Conflict of Interest .....	5
8	Visitors to the Meeting.....	5
	<b>REPORTS .....</b>	<b>7</b>
9	<b>Development Applications .....</b>	<b>8</b>
9.1	20001067 - Aurecon Australasia .....	8
9.2	20000412 - Mark and Sharon Haydon (Port Vincent Caravan Park and Seaside Cabins Pty Ltd).....	14
10	<b>Matters Deferred .....</b>	<b>22</b>
10.1	544/1346/2018 - P Phillips.....	22
11	<b>Review of Decision of Assessment Manager.....</b>	<b>83</b>
	Nil	
12	<b>ERD Court Matters .....</b>	<b>83</b>
	Nil	
13	<b>Concurrence Approvals .....</b>	<b>83</b>
14	<b>Procedural Matters .....</b>	<b>84</b>
14.1	Meeting Procedures .....	84
15	<b>Next Meeting .....</b>	<b>113</b>
16	<b>Closure .....</b>	<b>113</b>



**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 – 22 September 2020

**7 CONFLICT OF INTEREST**

**8 VISITORS TO THE MEETING**

# REPORTS

REPORTS

**9 DEVELOPMENT APPLICATIONS****9.1 20001067 - AURECON AUSTRALASIA**

Document #: 20/106211

Department: Development Services

**PROPOSAL OUTLINE**

Author: Jodie Terp

Application No.: 20001067

Applicant: Aurecon Australasia

Owner: Harward Properties

Development Proposal: Remove Condition 2 of Development Approval 544/1221/2019

Lodgement Date: 9 October 2020

Subject Land: 608 Cant Road Warooka

Zone: Rural

Nature of Development: Code Assessed - Performance Assessed

Public Notification: Nil

Representations: Nil

Referrals: Nil

Development Plan Version: Planning and Design Code Version 2.1

Development Legislation: Planning, Development and Infrastructure Act 2016

**RECOMMENDATION**

- A. That Development Application 20001067, to remove condition 2 from Development Approval 544/1221/2019, for a Telstra Telecommunications Tower & associated infrastructure at 608 Cant Road, Warooka, is not seriously at variance with the Planning & Design Code Version 2.1.**
  
- B. That Development Plan Consent for application 20001067, to remove condition 2 from Development Approval 544/1221/2019, for a Telstra Telecommunications Tower & associated infrastructure at 608 Cant Road, Warooka be GRANTED.**

**NATURE OF THE DEVELOPMENT**

The application is a request for a variation to a condition of the previously granted Development Approval for the proposed 50 metre high lattice tower facility and associated infrastructure, located at 608 Cant Road, Warooka.

Regulation 65 of the *Planning, Development and Infrastructure Regulations 2017* allows a relevant authority to approve a minor variation if it is satisfied that it is minor. The removal of condition 2 was not deemed to be minor and as the CAP was the relevant authority for the initial approval the proposal to vary that approval has come back to the CAP for a decision.

## DESCRIPTION OF THE PROPOSAL

The proposed telecommunications facility, owned by Telstra, was granted Development Approval by Yorke Peninsula Council on 5 June 2020 under Development Application no. 544/1221/2019.

This Development Approval included two Development Plan Conditions of Approval, including the condition below:

*(2) The existing Telstra lattice tower, panels/antennas and associated equipment (i.e. cable tray, fibre pit and equipment shelter) held on allotment 871 of filed plan 195483 as contained in Volume 5849 Folio 436 shall be decommissioned and removed from the land upon the new facility being constructed.*

The existing Telstra lattice tower held on Allotment 871 of Filed Plan 195483 currently supports the South Australian Government Radio Network (SAGRN) equipment alongside Telstra equipment (see Figure 1 on the following page). The intention to move Telstra's equipment to the new tower (once constructed) remains. However, negotiations with SAGRN to determine the future location of their equipment has resulted in a preference to retain their equipment on the existing tower.

SAGRN have advised Telstra that they are unable to move their equipment from the existing tower to the recently approved Telstra tower due to the following reasons:

- Commercial limitations - upgrades to the network have recently been completed, including the site at Warooka;
- Coverage impacts - SAGRN's design for effective network coverage has relied on this specific location. Relocation may impact coverage for emergency services in the local area;
- Connectivity - SAGRN's microwave links are dependent on a line of site to adjacent towers in the network. The design relies on this precise location in order to be able to connect this site to the broader network;
- Service availability - There is a risk that during relocation to the new tower there may be extended periods where there is no coverage for emergency services;
- Outage delays - The risk of delays in restoring network service during an outage incident is increased by SAGRN equipment being located on third party towers due to access issues. This may extend the unavailability of services to emergency services in the local area.

It is for these reasons that the applicant is seeking to vary the previous development authorisation and is requesting the removal of condition 2 and thereby allowing the retention of the existing 30 metre Telstra tower on Allotment 871 of Filed Plan 195483 to remain for SAGRN to continue to occupy.

## SUBJECT LAND AND LOCALITY

The subject land is located at 608 Cant Road, Warooka and within the Primary Production Zone at the time of initial assessment and is now within the Rural Zone.

The site in addition to its use for farming is already utilised by a number of telecommunications providers who have erected towers on the site, the subject of this application being one of them.

## PUBLIC NOTIFICATION

No public notification was required.

## CONSULTATION

No internal or external referrals were required

**ASSESSMENT**

On 31 July 2020 the Yorke Peninsula Council transitioned to the new Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*. The variation must be assessed in accordance with the new planning policy the relevant sections being as below:

**Part 2 - Zones and Sub Zones****Rural Zone****Assessment Provisions (AP)****Desired Outcome (DO)****Desired Outcome**

## DO 1

A zone supporting the economic prosperity of South Australia primarily through the production, processing, storage and distribution of primary produce, forestry and the generation of energy from renewable sources.

## DO 2

A zone supporting diversification of existing businesses that promote value-adding such as industry, storage and warehousing activities, the sale and consumption of primary produce, tourist development and accommodation.

**Part 4 - General Development Policies****Infrastructure and Renewable Energy Facilities****Assessment Provisions (AP)****Desired Outcome (DO)**

## DO 1

Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.

Performance Outcome Deemed-to-Satisfy Criteria / Designated Performance Feature

## General

## PO 1.1

Development is located and designed to minimise hazard or nuisance to adjacent development and land uses.

## DTS/DPF 1.1

None are applicable.

**Visual Amenity**

## PO 2.1

The visual impact of above-ground infrastructure networks and services, renewable energy facilities (excluding wind farms), energy storage facilities and ancillary development is minimised from townships, scenic routes and public roads by:

- a) utilising features of the natural landscape to obscure views where practicable
- b) siting development below ridgelines where practicable
- c) avoiding visually sensitive and significant landscapes
- d) using materials and finishes with low-reflectivity and colours that complement the surroundings
- e) using existing vegetation to screen buildings

- f) incorporating landscaping or landscaped mounding around the perimeter of a site and between adjacent allotments accommodating or zoned to primarily accommodate sensitive receivers.

DTS/DPF 2.1

None are applicable.

### **Telecommunication Facilities**

PO 6.1

The proliferation of telecommunications facilities in the form of towers/monopoles in any one locality is managed, where technically feasible, by co-locating a facility with other communications facilities to mitigate impacts from clutter on visual amenity.

DTS/DPF 6.1

None are applicable.

PO 6.2

Telecommunications antennae are located as close as practicable to support structures to manage overall bulk and mitigate impacts on visual amenity.

DTS/DPF 6.2

None are applicable.

PO 6.3

Telecommunications facilities, particularly towers/monopoles, are located and sized to mitigate visual impacts by the following methods:

- a) where technically feasible, incorporating the facility within an existing structure that may serve another purpose  
or all of the following:
- b) using existing buildings and landscape features to obscure or interrupt views of a facility from nearby public roads, residential areas and places of high public amenity to the extent practical without unduly hindering the effective provision of telecommunications services
- c) using materials and finishes that complement the environment
- d) screening using landscaping and vegetation, particularly for equipment shelters and huts.

DTS/DPF 6.3

None are applicable.

The telecommunication facility that is the subject of this application already exists and has previously had the required approvals and has been present in the locality without any ill effects or significant detrimental visual impacts. It does form part of a cluster of towers which is unavoidable given the geography required for the maximum efficiency of such facilities, however by being clustered it does reduce the visual impact to the landscape to one area. The tower in question is one of the smaller towers and is setback from the road and to a degree screened by roadside vegetation. It does not interrupt views and is well separated from nearby residences. The role that it now plays is integral to the critical communications required by the States' emergency services and other agencies which provide a crucial service to the local community.

### **CONCLUSION**

It is therefore considered that when assessed against the provisions of the Planning and Design Code and having regard to the context of the locality and the nature of the proposal, that the request to remove condition 2 satisfies the relevant assessment provisions.

The proposal is not harmful to the desired outcome of the zone and is not considered to have a detrimental impact on the amenity of the locality. Accordingly, it is considered the proposal warrants the granting of Planning Consent.

**ATTACHMENTS**

1. **Photos - Aurecon Communication Towers**

**9.2 20000412 - MARK AND SHARON HAYDON (PORT VINCENT CARAVAN PARK AND SEASIDE CABINS PTY LTD)**

Document #: 20/106665

Department: Development Services

**PROPOSAL OUTLINE**

Author: David Hutchison – Access Planning (SA) Pty Ltd

Application No.: 20000412

Applicant: Mark and Sharon Haydon

Owner: Port Vincent Caravan Park and Seaside Cabins Pty Ltd

Development Proposal: Variation comprising boundary fencing not more than 2.1m high along Curramulka Road.

Lodgement Date: 28 September 2020

Subject Land: (Lot 2002) 14-16 Minlacowie Road, Port Vincent

Zone: Neighbourhood Zone

Nature of Development: Performance Assessed

Public Notification: Category 1

Representations: N/A

Referrals: Nil

Development Plan Version: Planning and Design Code V2.1

Development Legislation: Planning, Development and Infrastructure Act, 2016

**RECOMMENDATION**

- A. That Development Application 20000412 for a variation comprising boundary fencing not more than 2.1m high along the Curramulka Road boundary of the land at 15-16 Minlacowie Road, Port Vincent is not seriously at variance with the Planning & Design Code Version 2.1.**
- B. That Development Application 20000412 for a variation comprising boundary fencing not more than 2.1m high along the Curramulka Road boundary of the land at 15-16 Minlacowie Road, Port Vincent be GRANTED.**

**NATURE OF THE DEVELOPMENT**

A fence not exceeding 2.1m in height is excluded from the definition of development under the *Planning, Development and Infrastructure (General) Regulations, 2017*, Schedule 4, clause 4(d).

Application has been received to vary a notation referring to a chain mesh fence on the approved plan to be replaced with a of 2.1m high Colorbond fence. (*Refer Attachments 3 – Site Plan and Attachment 4 – Fence Elevation Plan – DAP Application ID 20000412.*)

As the fence is not development in its own right the application is classified as Code Assessed – Performance Assessed.

**DESCRIPTION OF THE PROPOSAL**

The variation application proposes to remove the notation on the previously approved plan referring to a chain mesh fence in order to construct a replacement Colorbond fence not more than 2.1m high. Fencing less than 2.1m high is not ordinarily classed as development, however as the chain mesh fence is noted on the plan a variation application was required to be considered by the Panel. (*Refer Attachment 2 – Approved Site Plan – DA 544/1059/2019*)

**SUBJECT LAND AND LOCALITY**

The subject land is formally identified as Lot 2002, 14-16 Minlacowie Road, Port Vincent has a 70 metre frontage along Curramulka Road. (*Refer Attachment 1, Figure 2 of Access Planning report.*)

**PUBLIC NOTIFICATION**

The application is considered to be a kind of development which is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development therefore public notification was not required.

**CONSULTATION**

Nil

**ASSESSMENT**

Refer Attachment 1 – Access Planning report.

**CONCLUSION**

Refer Attachment 1 – Access Planning report.

**ATTACHMENTS**

1. **Access Planning Report**
2. **Approved site plan - DA 544/1059/2019**
3. **Site plan - DAP Application ID 20000412**
4. **Fence elevation plan - DAP Applicatoin ID 20000412**



5<sup>th</sup> October 2020

Ref: 7634 CAP Report.variation

The Chief Executive Officer  
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**ATTENTION:** Mr. Dustin Guthberg

Dear Dustin,

**RE: VARIATION TO EXISTING CARAVAN PARK AT 14- 16 MINLACOWIE ROAD PORT VINCENT. DEVELOPMENT APPLICATION: 20000412**

#### **1.0 RECOMMENDATION**

That Development Application 20000412 for a variation comprising boundary fencing not more than 2.1m high along the Curramulka Road boundary of the land at 14-16 Minlacowie Road, Port Vincent is not seriously at variance with the South Australia Planning & Design Code.

That Development Application 20000412 for a variation comprising boundary fencing not more than 2.1m high along the Curramulka Road boundary of the land at 14-16 Minlacowie Road, Port Vincent be granted.

#### **2.0 BACKGROUND**

This application is for the variation to an existing caravan park at the above address.

By way of background, there was application in 2019 for the existing caravan park to be expanded over the old Port Vincent Primary School site which involved the caravan park activities extending to Curramulka Road.

The application was put out on Category 3 public notification and was the subject of a number of representations primarily based around the potential for noise impacts to affect the amenity of residents.

The application was approved by the Panel but was the subject of an appeal.

The appeal was resolved by a compromise, which involved removing portion of the proposed caravan park extension adjacent to Curramulka Road by setting it back some 32m and by providing an acoustic fence along the north-western boundary of the proposed extension, returning along the boundary of the adjoining dwelling at 21 Curramulka Road.

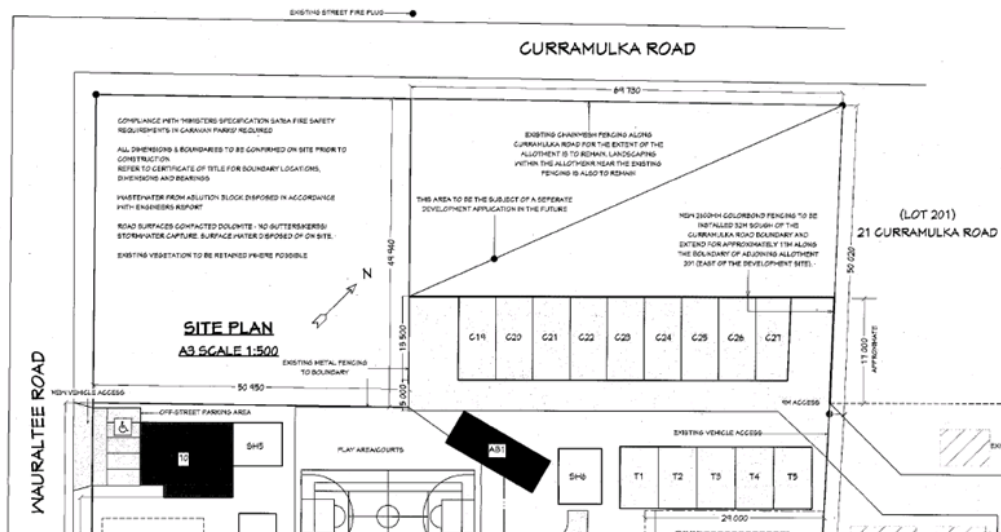


Figure 1: Extract of the Court approved compromise plan

The compromise plan is shown in Figure 1 above.

The plan agreed by compromise also included a note to the effect that the existing chain mesh fence along Curramulka Road was to be retained.

It is now proposed to remove the chain mesh fence along Curramulka Road and replace it with a 2.1m high fence comprising 400mm high concrete sleepers at the base with a 1700mm high ‘Windspray’ coloured (Light Gray), Colorbond fence.

The subject land and extent of proposed fencing is shown in Figure 2 below.

The applicants have submitted that the fence is not development by way of the exclusion of a fence **“not exceeding 2.1 m in height (measured from the lower of the 2 adjoining finished ground levels), other than.....”** from the definition of development as set out in Schedule 4 of the Planning, Development and Infrastructure (General) Regulations 2017.

To ensure that there was no question of the application being processed correctly, the Council sought legal advice as to how the variation should be processed. That advice confirmed that notwithstanding the fence was not development, it was nonetheless a variation to an approved development and should be treated as such.

The advice also confirmed that public consultation was not required for the variation and that the Panel should be the relevant authority for determining the application.

At all times it has been the position of the legal advice that the fence is not development for the purposes of the assessment, and it is only because of the note on the final approved plan that the **“Existing chain mesh fencing along Curramulka Road for the extent of the allotment is to remain. Landscaping within the allotment near the existing fence is also to remain.”** that the application is now before the Panel for consideration.

There is little more than can be said in relation to the fence. In normal circumstances the fence would be erected without the need for approval from the Council. That said, the fence goes some additional way to addressing the concerns of the adjoining residents to the extent that it provides a further visual and acoustic barrier to the activities being undertaken on the caravan park site.



**Figure 2: Subject land showing extent of proposed fencing**

Yours sincerely,

A handwritten signature in blue ink that reads "D Hutchison".

David Hutchison BA CPP PIA  
ACCESS PLANNING (SA) PTY LTD

**10 MATTERS DEFERRED****10.1 544/1346/2018 - P PHILLIPS****Document #:** 20/106985**Department:** Development Services**PROPOSAL OUTLINE****Author:** Jodie Terp**Application No.:** 544/1346/2018**Applicant:** P Phillips**Owner:** P Phillips**Development Proposal:** Detached Dwelling**Lodgement Date:** 3 October 2018**Subject Land:** (Lot 7) 1689 Gleesons Road, White Hut (Hd Carribie)**Zone:** Coastal Conservation**Nature of Development:** Non-complying**Public Notification:** Category 3**Representations:** Nil**Referrals:** Coast Protection Board & Country Fire Service**Development Plan Version:** 31 October 2017**Development Legislation:** Development Act 1993**RECOMMENDATION**

- A. That Development Application 544/1346/2018 for the construction of a Detached Dwelling, at Lot 7, 1689 Gleesons Road, White Hut, Hundred of Carribie is not seriously at variance with the provisions of the Yorke Peninsula Council Development Plan consolidated 31 October 2017.**
- B. That following consideration and having regard to all relevant matters concerning the construction of a Detached Dwelling, at Lot 7, 1689 Gleesons Road, White Hut, Hundred of Carribie (Development Application 544/1346/2018), 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. Where no mains water is available, the gutters of the dwelling shall be connected to on-site rainwater storage tank(s) with a minimum capacity of 45,000 litres, reticulated to the dwelling and with appropriate connection to enable its use for firefighting purposes.
5. 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.
6. Excavation and construction shall be carried out in accordance with the recommendations outlined in the Ecological Assessment Report prepared by ebs ecology and dated 10 November 2020 to minimise environmental impacts on the coastal landform.
7. 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.
8. Weed control shall be ongoing and have particular focus on the removal of boxthorns and all weed species within the wastewater soakage area.
9. Landscaping shall only include local native species which are of local provenance to ensure no new weed species are introduced.

**Country Fire Service Conditions:**

***ACCESS TO DWELLING***

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.3.1 describes the mandatory provision that 'Private' roads and driveways to buildings shall provide safe and convenient access/egress for large bushfire fighting vehicles, where the furthest point to the building from the nearest public road is more than 30 metres.

SA CFS has no objection to the proposed access driveway as detailed on drawing named Preliminary Site Plan (n.d.), received 12 September 2018, with the following conditions:

- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles.
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either –
  - i. A loop road around the building, OR
  - ii. A turning area with a minimum radius of 12.5 metres, OR
  - iii. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres.
- Private access shall have minimum internal radii of 9.5 metres on all bends.
- Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.

***ACCESS (to dedicated water supply)***

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.4.1 requires a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA 78 describes the mandatory provision for access to the dedicated water for fire-fighting vehicles where the path of travel from the entrance to the property to the water storage facility is more than 30 metres in length, by an all-weather roadway:

The proposed location of dedicated fire fighting water has not been detailed on the drawings provided. The fire fighting water supply shall be located to comply with the following conditions:

- The water supply outlet shall be easily accessible and clearly identifiable from the access way, that is a distance of no greater than 30 metres from the proposed dwelling. Stand alone tanks shall be identified with the signage 'WATER FOR FIRE FIGHTING' and the tank capacity written in 100mm lettering on the side of each tank and repeated so that the sign is visible from all approaches to the tank. The sign shall be in fade-resistant lettering in a colour contrasting with that of the background (ie blue sign with white lettering).
- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- Provision shall be made adjacent to the water supply for a flat hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.
- SA CFS appliance inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.
- A gravity fed water supply outlet may be remotely located from the tank to provide adequate access.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.
- Ideally a remote water supply outlet should be gravity fed, where this is not possible the following dimensions shall be considered as the maximum capability in any hydraulic design for draughting purposes:
  - The dedicated water supply outlet for draughting purposes shall not exceed 5 metre maximum vertical lift (calculated on the height of the hardstand surface to the lowest point of the storage) and no greater than 6 metre horizontal distance.
- The suction outlet pipework from the tank shall be fitted with an inline non return valve of nominal internal diameter not less than that of the suction pipe and be located from the lowest point of extract from the tank. All fittings shall be installed to allow for easy maintenance.

#### **WATER SUPPLY**

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.4.1 prescribes the mandatory provision of a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA78 provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe-work and fire-fighting hose(s) in accordance with Minister's Specification SA78:

- A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes.
- The minimum requirement of 22,000 litres may be combined with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply.
- The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant SA CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times.
- The water storage facility (and any support structure) shall be constructed of non-combustible material.
- The dedicated fire-fighting water supply shall be pressurised by a pump that has –
  - i. A minimum inlet diameter of 38mm, AND
  - ii. Is powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp), OR
  - iii. A pumping system that operates independently of mains electricity and is capable of pressurising the water for fire-fighting purposes.
- The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An ‘Operations Instruction Procedure’ shall be located with the pump control panel.
- The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.
- All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (i.e. at opposite ends of the dwelling).
- All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.
- All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221.
- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and a maximum length of 36 metres.
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.
- All fire-fighting hoses shall be readily available at all times.

#### **VEGETATION**

Minister’s Code 2009 “Undertaking development in Bushfire Protection Areas” (as amended October 2012), Part 2.3.5 mandates that landscaping shall include Bushfire Protection features that will prevent or inhibit the spread of bushfire and minimise the risk to life and/or damage to buildings and property.

The proposed landscaping has not been detailed on drawings provided.

A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the dwelling (or to the property boundaries – whichever comes first) as follows:

- i. The number of trees and understorey plants existing and to be established within the VMZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous.

Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.

SA CFS notes that coverage of vegetation within 20m of the proposed dwelling is currently greater than 30%.

- ii. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
- iii. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- iv. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- v. Shrubs must not be planted under trees or must be separated by at least 1.5 times their mature height from the trees' lowest branches.
- vi. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- vii. No understorey vegetation shall be established within 1 metre of the dwelling understorey is defined as plants and bushes up to 2 metres in height).
- viii. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves
- ix. The VMZ shall be maintained to be free of accumulated dead vegetation.

Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a '*measure of protection*' from the approach, impact and passing of a bushfire.

#### Notes

The applicant is advised that any native vegetation on the site is protected under the Native Vegetation Act 1991 and Native Vegetation Regulations 2017. Prior to any clearance being undertaken, the applicant should seek Native Vegetation Council approval to do so, which may include provision of a Significant Environmental Benefit offset. Note that 'clearance' means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information visit: <http://www.nvc.sa.gov.au>, which includes an online interactive guide that helps to determine if an application to clear native vegetation is required, alternatively the Native vegetation Council can be contacted on 8303 9777 or [nvc@sa.gov.au](mailto:nvc@sa.gov.au).

## EXECUTIVE SUMMARY

The proposal seeks to erect a detached dwelling. The subject site is zoned Coastal Conservation and dwellings are listed as non-complying in the relevant Development Plan so the application previously underwent Category 3 public notification and there were no representations.

The application also undertook mandatory referral's to the Coast Protection Board and the Country Fire Service (CFS). A Land Management Agreement (LMA) is attached to the title of the subject site and contains a building envelope the relocation of which was granted approval in 2017.

As members would recall the application was presented at the 24 March 2020 Council Assessment Panel meeting (*attachment 1*) and it was resolved to defer the application seeking further information including contour plans of the site and adjoining sites and an ecological assessment which have both now been provided (*Attachment 2 & 3*).

A more detailed site plan has also been provided along with further information on the low impact footing system that is proposed (*Attachment 2 & 4*).

### **DISCUSSION OF APPLICANTS RESPONSE**

The contour plans (*attachment 2*) show the dwelling positioned within the approved building envelope and with a consistent setback to adjoining allotments.

The ecological assessment undertaken by ebs ecology (*Attachment 3*) includes a survey of the flora and fauna on the site and identifies the Significant Environmental Benefit (SEB) offset required for the vegetation clearance required for the proposed dwelling and associated infrastructure. The final requirement will be dependent on the amount of clearance undertaken to meet the requirements of the CFS management zone. The SEB required can be used for an application to the Native Vegetation Council should the development application be approved.

### **SUMMARY AND CONCLUSION**

The proposed detached dwelling location is positioned within the approved building envelope and as identified by the ecological assessment the impact on the vegetation would be similar regardless of where it is located on the property as the entire parcel of land is in a similar condition which was determined to be very good. The site already has established access and outbuilding.

The design of the dwelling and in particular the proposed footing system reduces the impact on the area and reduces the ongoing risk of erosion. Proposed condition 6 has been amended to reference the recommendations from the ecological assessment. Additional conditions have also been included to manage weed control and landscaping.

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, and taking in to account the additional information provided it is considered that the proposal on balance satisfies the relevant provisions of the Development Plan. 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 my conclusion 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. CAP Report - 24 March 2020**
- 2. Contour Plan & Site Plan**
- 3. Ecological Assessment**
- 4. Surefoot Footing System**

## COUNCIL ASSESSMENT PANEL MEETING AGENDA

24 MARCH 2020

## 9.2 544/1346/2018 - P PHILLIPS C/- TOWN PLANNING HQ PTY LTD

Document #: 20/19050

Department: Development Services

## PROPOSAL OUTLINE

Author: Heidi Smith / Jodie Terp  
Application No.: 544/1346/2018  
Applicant: P Phillips C/- Town Planning HQ Pty Ltd  
Owner: P W Phillips  
Development Proposal: Detached Dwelling, Decking and Verandah  
Lodgement Date: 28 September 2018  
Subject Land: (Lot 7) 1689 Gleesons Road White Hut (Hd Carribe)  
Zone: Coastal Conservation  
Nature of Development: Non-complying  
Public Notification: Category 3  
Representations: Nil  
Referrals: Coast Protection Board, Country Fire Service  
Development Plan Version: 31 October 2017

## RECOMMENDATION

- A. That Development Application 544/1346/2018 for the construction of a detached dwelling, decking and verandah at Lot 7, 1689 Gleesons Road, White Hut, Hundred of Carribe is not seriously at variance with the provisions of the Yorke Peninsula Council Development Plan consolidated 31 October 2017.
- B. That following consideration and having regard to all relevant matters concerning the construction of a detached dwelling, decking and verandah at Lot 7, 1689 Gleesons Road, White Hut, Hundred of Carribe (Development Application 544/1346/2018), the proposal be **GRANTED** Development Plan Consent, subject to the following conditions of consent and concurrence being sought from the State Commission Assessment Panel.

## Reserved Matters:

The following matter shall be submitted for further assessment and approval by the Manager – Development Services, as delegate of the Council Assessment Panel, as reserved matters under Section 33(3) of the *Development Act 1993*:

1. A detailed environmental management plan shall be prepared in consultation with staff from the Coastal Protection Board and Council prior to development approval to identify ongoing commitments to conservation and rehabilitation works on the subject site to protect and increase biodiversity in relation to revegetation and pest species management.

## 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. Where no mains water is available, the gutters of the dwelling shall be connected to on-site rainwater storage tank(s) with a minimum capacity of 45,000 litres, reticulated to the dwelling and with appropriate connection to enable its use for firefighting purposes.
5. 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.
6. Excavation and construction shall be carried out in a manner which minimises environmental impacts on the coastal landform.
7. 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.
8. Country Fire Service Conditions:

**ACCESS TO DWELLING**

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.3.1 describes the mandatory provision that 'Private' roads and driveways to buildings shall provide safe and convenient access/egress for large bushfire fighting vehicles, where the furthest point to the building from the nearest public road is more than 30 metres.

SA CFS has no objection to the proposed access driveway as detailed on drawing named Preliminary Site Plan (n.d.), received 12 September 2018, with the following conditions:

- (a) Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles.
- (b) The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either –
  - i. A loop road around the building, OR
  - ii. A turning area with a minimum radius of 12.5 metres, OR
  - iii. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres.
- (c) Private access shall have minimum internal radii of 9.5 metres on all bends.
- (d) Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.

***ACCESS (to dedicated water supply)***

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.4.1 requires a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA 78 describes the mandatory provision for access to the dedicated water for

fire-fighting vehicles where the path of travel from the entrance to the property to the water storage facility is more than 30 metres in length, by an all-weather roadway:

The proposed location of dedicated fire fighting water has not been detailed on the drawings provided. The fire fighting water supply shall be located to comply with the following conditions:

- (a) The water supply outlet shall be easily accessible and clearly identifiable from the access way, that is a distance of no greater than 30 metres from the proposed dwelling. Stand alone tanks shall be identified with the signage 'WATER FOR FIRE FIGHTING' and the tank capacity written in 100mm lettering on the side of each tank and repeated so that the sign is visible from all approaches to the tank. The sign shall be in fade-resistant lettering in a colour contrasting with that of the background (ie blue sign with white lettering).
- (b) Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- (c) Provision shall be made adjacent to the water supply for a flat hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.
- (d) SA CFS appliance inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.
- (e) A gravity fed water supply outlet may be remotely located from the tank to provide adequate access.
- (f) All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- (g) All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.
- (h) Ideally a remote water supply outlet should be gravity fed, where this is not possible the following dimensions shall be considered as the maximum capability in any hydraulic design for draughting purposes:
  - (i) The dedicated water supply outlet for draughting purposes shall not exceed 5 metre maximum vertical lift (calculated on the height of the hardstand surface to the lowest point of the storage) and no greater than 6 metre horizontal distance.
  - (j) The suction outlet pipework from the tank shall be fitted with an inline non return valve of nominal internal diameter not less than that of the suction pipe and be located from the lowest point of extract from the tank. All fittings shall be installed to allow for easy maintenance.

**WATER SUPPLY**

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.4.1 prescribes the mandatory provision of a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA78 provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe-work and fire-fighting hose(s) in accordance with Minister's Specification SA78:

- (a) A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes.
- (b) The minimum requirement of 22,000 litres may be combined with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply.
- (c) The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant SA CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times.
- (d) The water storage facility (and any support structure) shall be constructed of non-combustible material.
- (e) The dedicated fire-fighting water supply shall be pressurised by a pump that has –
  - i. A minimum inlet diameter of 38mm, AND
  - ii. Is powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp), OR
- (f) A pumping system that operates independently of mains electricity and is capable of pressurising the water for fire-fighting purposes.
- (g) The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An 'Operations Instruction Procedure' shall be located with the pump control panel.
- (h) The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.
- (i) All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.
- (j) All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- (k) A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (i.e. at opposite ends of the dwelling).
- (l) All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.
- (e) All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221.
- (f) All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and a maximum length of 36 metres.

## COUNCIL ASSESSMENT PANEL MEETING AGENDA

24 MARCH 2020

(g) All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.

(h) All fire-fighting hoses shall be readily available at all times.

**VEGETATION**

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.5 mandates that landscaping shall include Bushfire Protection features that will prevent or inhibit the spread of bushfire and minimise the risk to life and/or damage to buildings and property.

The proposed landscaping has not been detailed on drawings provided.

(a) A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the dwelling (or to the property boundaries – whichever comes first) as follows:

- i. The number of trees and understorey plants existing and to be established within the VMZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous.
- ii. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.  
SA CFS notes that coverage of vegetation within 20m of the proposed dwelling is currently greater than 30%.
- iii. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
- iv. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- v. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- vi. Shrubs must not be planted under trees or must be separated by at least 1.5 times their mature height from the trees' lowest branches.
- vii. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- viii. No understorey vegetation shall be established within 1 metre of the dwelling understorey is defined as plants and bushes up to 2 metres in height).
- ix. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves
- x. The VMZ shall be maintained to be free of accumulated dead vegetation.

Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a 'measure of protection' from the approach, impact and passing of a bushfire.

**NATURE OF THE DEVELOPMENT**

The applicant proposes to erect a new dwelling at (Lot 7) 1689 Gleesons Road, White Hut.

The subject land is located in the Coastal Conservation Zone, as depicted in the Yorke Peninsula Development Plan, consolidated 31 October 2017.

**COUNCIL ASSESSMENT PANEL MEETING AGENDA****24 MARCH 2020**

New dwellings are non-complying in the Coastal Conservation Zone unless they meet a number of requirements as outlined below:

*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).*

The proposal does not meet any of the above criterion, 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 and a Land Management Agreement which exists over the land and includes a building envelope (*refer Attachment 3*), staff under delegation resolved to proceed with the assessment of the application.

The applicant was then requested to provide a Statement of Effect in accordance with the requirements of Regulation 17(5) (*refer Attachment 6*).

**DESCRIPTION OF THE PROPOSAL**

The application (*refer Attachment 2*) is for a new dwelling on a parcel of land that is described on the Certificate of Title as Allotment 7 Deposited Plan 44261, in the area named White Hut, Hundred of Carribe commonly known as 1689 Gleesons Road, White Hut.

The property is one of 4 similar parcels of land along Gleesons Road, all approximately 40 hectares in size and two of which have already been developed with dwellings and associated outbuildings.

Lot 7 has an average width of 117 metres, and has a 320 metre frontage to Gleesons Road along its northern boundary and is 40.01 hectares in size. The proposed dwelling location is in the portion of the allotment closest to the road and the coast, approximately 60 metres from the road boundary, 140 to 160 metres from side boundaries and 50 metres from an existing shed, which was approved in 2011.

The land is subject to a Land Management Agreement (LMA), which was implemented as a result of a 1995 land division approval. The LMA envisages the development of a dwelling and associated outbuildings. In 2017, a variation was applied to the agreement resulting in a slightly adjusted location for the building envelope.

The proposal consists of a single storey detached dwelling of 3 bedrooms, open living, dining and kitchen areas and outdoor verandah/deck areas. The total footprint of the proposal is 256 square metres and the dwelling is clad with plywood (texture groove) in a natural finish and colorbond sheeting in 'Wallaby' (mid-grey in colour) for the roof. The walls are parapet style in nature with roof sheeting not visible whereas the verandah roofing will be visible and provides some articulation to the dwelling design. The footings proposed are a pier like design by a company which promotes them as concrete free and requiring little disturbance of the land. The piers will support the dwelling slightly above the selected site without significant impacts to the dune or vegetation and without the need to level the site.

Additional vegetation is proposed at strategic locations to soften the visual impact of the dwelling when viewed from the public and neighbouring land.

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**COUNCIL ASSESSMENT PANEL MEETING AGENDA****24 MARCH 2020****SUBJECT LAND AND LOCALITY**

The subject land is wholly contained within the Coastal Conservation Zone (*refer Attachment 1*). This zone primarily abuts the Water Protection Zone but also abuts the Primary Production Zone in parts. The general area has some cleared land as well as large tracts of native vegetation.

The subject land forms part of a coastal cliff top dune system with lower profile coastal vegetation and has post and wire fencing, gates, a shed and vehicle tracks. The land is undulating in nature and well vegetated. The area between the allotment and the coast has roads and tracks as well as parking and viewing areas. Some camping is allowed along the coast line and the beaches are enjoyed by the public in general for activities such as walking, swimming, angling and surfing.

Two of the four similarly sized allotments have dwellings, with one in particular, more visible from the public road. This dwelling appears to have some taller vegetation, which assists in lessening the impact of the existing dwelling (*refer Attachment 1*).

**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**

As the subject land falls within the definition of 'coastal land' for the purposes of referral under Schedule 8 of the Development Regulations, 2008, a referral to the Coast Protection Board was required.

The Coast Protection Board response (*refer Attachment 7*) recommends that the application be refused on the basis that it is at odds with Board's policies.

These policies mainly relate to:

- Opposing development in sand dunes unless it has a significant public or environmental benefit
- Protecting and managing coastal environments with high conservation values
- Opposing linear or scattered coastal development
- Supporting development outside of urban areas provided it is subservient to important natural values within the coastal environment, is not subject to unaddressed coastal hazards, avoids adverse impacts on the natural features, landscapes and environment and will not significantly impact on the amenity of the scenic coastal vistas

As the subject land is located in a high bushfire protection area, a referral to the Country Fire Service (CFS) is required. The applicant utilised Section 37AA – Preliminary advice and agreement of the Development Act 1993 to take advantage of information provided to guide the design of the proposal. Under this section, the application must be submitted to the relevant authority within 3 months of the date of the advice. The advice was dated 22 October 2018, the application was lodged with Council on 28 September and the paperwork was submitted to Council on 12 November 2018.

Plans of the proposal were stamped as sighted and assessed by the SACFS and a list of mandatory Bushfire Protection planning requirements as conditions of consent for the development were stipulated.

**COUNCIL ASSESSMENT PANEL MEETING AGENDA**

24 MARCH 2020

The conditions mainly relate to:

- Access to the building of all-weather construction allowing fire-fighting vehicles to safely enter and exit in a forward direction
- Dedicated water supply and access for fire fighting vehicles as well as adequate fire fighting equipment
- Vegetation management

**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 31 October 2017.

Development Plan

The provisions of the Yorke Peninsula Development Plan consolidated 31 October 2017 applicable to the assessment of the proposed development are listed below.

**Coastal Conservation Zone Provisions**

Objectives: 1, 2, 3, 4

Principles of Development Control: 1, 2, 3, 4, 7, 8, 9, 10, 11, 12

**General Section Provisions**Coastal Areas

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

Principles of Development Control: 1,2,3,4,8,9,10,31

Crime Prevention

Objectives: 1

Principles of Development Control: 1 & 2

Design and Appearance

Objectives: 1

Principles of Development Control: 1, 2, 3, 6, 16, 19

Energy Efficiency

Objectives: 1

Principles of Development Control: 2

Hazards

Objectives: 1, 2, 5

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

Infrastructure

Objectives: 1

Principles of Development Control: 6

Landscaping, Fences and Walls

Objectives: 1

Principles of Development Control: 1, 2, 3

**COUNCIL ASSESSMENT PANEL MEETING AGENDA**

24 MARCH 2020

Natural Resources

Objectives: 1, 5, 6, 7, 8, 9, 10, 11, 12 &amp; 13

Principles of Development Control: 1, 2, 4, 5, 7, 8, 10, 14, 26, 27, 28, 29, 30, 31, 32, 33, 36, 37, 38, 39

Orderly and Sustainable Development

Objectives: 1, 3, 4

Principles of Development Control: 1, 2

Residential Development

Objectives: 1

Principles of Development Control: 1, 7, 8, 14, 22, 35

Siting and Visibility

Objectives: 1

Principles of Development Control: 1, 2, 3, 4, 5, 7, 8

Sloping Land

Objectives: 1

Principles of Development Control: 1, 2, 3, 4, 5, 6, 7

Transportation and Access

Objectives: 2

Principles of Development Control: 22, 23, 24, 28

Waste

Objectives: 1 &amp; 2

Principles of Development Control: 1, 2, 3, 4, 5, 7, 10, 11, 12, 13, 14, 15

**Table YoP/4 – Design Guidelines for Coastal Dwellings**

Components: 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 19 &amp; 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 not hidden with its location on the top of a sand dune and does not avoid impacting on native vegetation. However, it is designed to be sympathetic with the landscape and is reasonably modest in stature. The footings are designed to limit the impact at construction and it is proposed that the affected vegetation underneath the dwelling footprint will be relocated. Additional vegetation is proposed to soften the visual impact as well as secure the dune.

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**COUNCIL ASSESSMENT PANEL MEETING AGENDA****24 MARCH 2020****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 not being in a scattered form, however, the establishment of a Land Management Agreement with associated building envelopes indicate development of a detached dwelling was always envisaged in this locality.

**General Section Provisions - Crime Prevention**

The proposed development has opportunities for surveillance towards the road, the beach and the coastal land to the east as per the policies.

**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 Shadowclad Plywood Natural Colour Finish (texture groove) and have a colorbond Wallaby roof sheeting. 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.

**General Section Provisions - Energy Efficiency**

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 High 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. The report from the Country Fire Service had no objection to the proposed development provided the conditions as recommended are included as part of any consent. Should the proposal be granted approval, these conditions will be included with the conditions of consent.

**General Section Provisions - Infrastructure**

Rainwater tanks comprising a 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 taking in to consideration the requirements stipulated by the Country Fire Service. No fences or walls are proposed.

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**COUNCIL ASSESSMENT PANEL MEETING AGENDA****24 MARCH 2020*****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, drawing numbers 05 and 06 (*refer* Attachment 4) indicate that additional native trees are to be planted to reduce the visual impact of the dwelling and to secure the dune.

***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 residential site in this instance has been specified through the use of a building envelope stipulated by a Land Management Agreement. The nature of the locality with four large allotments and large setbacks between building envelopes 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 and given access to the beach the need for private open space is diminished.

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. 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 already provided in the existing shed.

***General Section Provisions – Sloping Land***

Development should minimise impacts on the natural environment, visual impacts and soil stability. Dwellings should be designed to minimise visual impact by reducing the bulk of the building and should seek to minimise the extent of cut and fill.

The proposed dwelling design is small scale and seeks to integrate with its natural surroundings and the proposed concrete free footing designs as detailed (*refer* Attachment 4) will minimise any disturbance of the dune structure.

***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 an existing track.

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**COUNCIL ASSESSMENT PANEL MEETING AGENDA****24 MARCH 2020****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 is not sited strictly in accordance with these guidelines, however, has adhered to the requirements of the building envelope. The guidelines do not encourage flat or skillion rooflines in this instance it serves to reduce the scale of the dwelling and therefore minimise any visual impact. The proposal conforms to all other aspects in regard to design.

**CONCLUSION**

The intent of the policies of the Coastal Conservation Zone is clearly for protection and conservation of coastal features. Development is strongly discouraged unless there appears to be some additional value. The question of this application, is whether a dwelling in this zone will hinder or assist that general aim. The argument in these locations often swings between observing policies which insist that the best way forward is to leave the land untouched with little interference, in the hope that what was always there will continue on in its pristine form at one end and at the other, allowing for a custodian of the land to manage it in such a way that pest plants and animals can be controlled and potential damage from vandals and trespassers on motorised vehicles destroying the dunes being deterred by the on-going presence of a resident.

Either scenario has merit but each also has an outcome which cannot be entirely predicted. A decision either way may result in assisting or hindering the core intent of the zone policies.

It has been argued that the active engagement of the current owner with managing the land, particularly detailed in the response to the Coast Protection Board Report (*refer Attachment 9*), is partly the reason why the vegetation and land is in such good condition as had it not been monitored and cared for so vigilantly, the fences, which had been cut, would not have been repaired, allowing free access for vehicles to traverse the dunes and boxthorn and other weeds would be more prevalent if were not for the intervention and management of the owner.

If it is accepted that a dwelling is appropriate on the allotment for the purpose of better managing and maintaining the land i.e. for the purpose of conservation, then the second question is whether the proposed location of the dwelling is appropriate. Again, there are two opposing views, both having merit. One is that the dwelling is better suited to being hidden from view behind dunes so that the general vista is not interrupted by the built form and the other view, is that the obvious presence of a dwelling with active surveillance towards the coast as well as landward, will offer a level of protection not able to be obtained otherwise.

The fact that a Land Management Agreement exists over the land, which identifies a building envelope suitable for a dwelling and insists on development principles which include preserving the natural environment and contributing towards it through tree planting and the like, should also be considered.

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 my conclusion 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 Plans & Photos**
2. **Application & Certificate of Title**
3. **Land Management Agreement & Building Envelope Variation**
4. **Proposed Plans**
5. **Delegated Authority Report**
6. **Statement of Effect**
7. **Country Fire Service Report & Assessed Plans**
8. **Coast Protection Board Report**
9. **Applicant Response to Coast Protection Board Report**

**11 REVIEW OF DECISION OF ASSESSMENT MANAGER**

Nil

**12 ERD COURT MATTERS**

Nil

**13 CONCURRENCE APPROVALS**

## 14 PROCEDURAL MATTERS

### 14.1 MEETING PROCEDURES

**Document #:** 20/95622

**Department:** Development Services

#### PURPOSE

In accordance with Section 203 of the Planning, Development Infrastructure (PDI) Act 2016, the Yorke Peninsula Council Assessment Panel (CAP) Meeting Procedures have been updated to incorporate the requirements for "Assessment Panel Review of Decision of Assessment Manager".

#### RECOMMENDATION

That the Council Assessment Panel endorse and adopt the updated Yorke Peninsula Council Assessment Panel Meeting Procedures in accordance with Section 203 of the Planning, Development and Infrastructure Act 2016.

#### LINK TO STRATEGIC PLAN

**Goal:** 5 Responsible Governance

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

#### BACKGROUND

Further to the PDI Act 2016 going live on 31 July 2020, the Local Government Association has released Model Meeting Procedures (refer Attachment 1) with changes related to the new role for assessment panels undertaking reviews of decisions of their Assessment Managers under Section 203 of the Planning, Development and Infrastructure Act 2016.

#### DISCUSSION

The CAP Meeting Procedures have been updated (refer Attachment 2) to incorporate and outline the panel's role for undertaking a review of the decision of the Assessment Manager. The updates are in line with advice received from the Local Government Association and the Meeting Procedures are to be read in conjunction with Council Assessment Panel Policy – PO179 Council Assessment Panel Review of Decision of Assessment Manager (refer Attachment 3).

It is recommended that CAP's in Phase 2 Council areas adopt the changes at the earliest opportunity.

#### COMMUNITY ENGAGEMENT PLAN

Level 1 - Inform

#### CONSULTATION PROCESS

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

- Assessment Manager
- Manager of Development

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

- Local Government Association

#### POLICY IMPLICATIONS

Not applicable

**BUDGET AND RESOURCE IMPLICATIONS**

Not applicable

**RISKS/LEGAL/LEGISLATIVE/ IMPLICATIONS**

The attached CAP Meeting Procedures are to be read in conjunction with the meeting procedures contained within the Planning, Development and Infrastructure (General) Regulations 2017 and PO179 Council Assessment Panel Review of Decision of Assessment Manager.

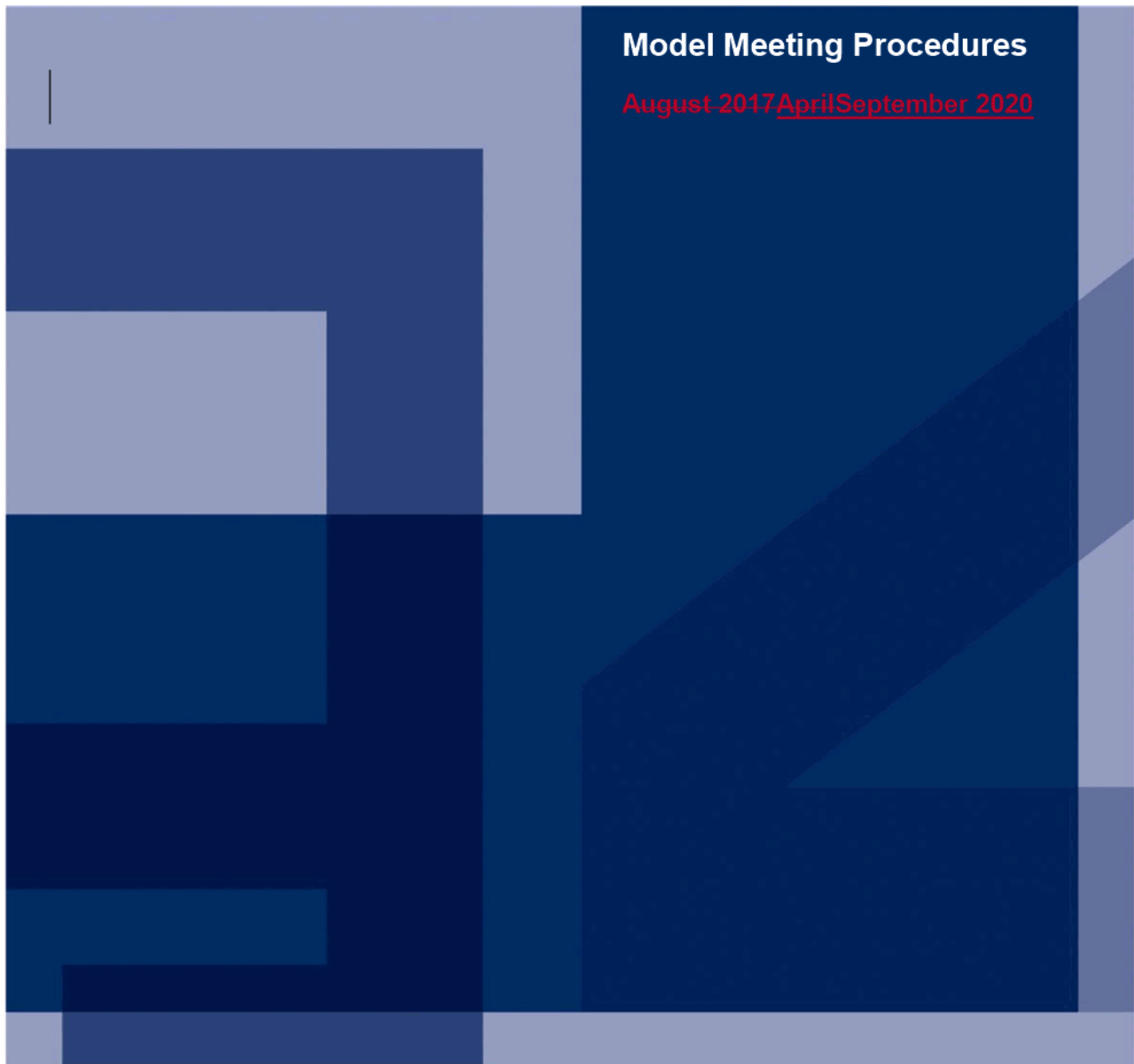
**ATTACHMENTS**

- 1. Local Government Association - Model Meeting Procedures**
- 2. Draft Council Assessment Panel Meeting Procedures (To Be Adopted)**
- 3. PO179 Council Assessment Panel Review of Decision of Assessment Manager Policy**



The voice of local government.

## Council Assessment Panel



- 1 -

**[COUNCIL] Council Assessment Panel****Meeting Procedures**

Adopted by the CAP on [insert date]

These Meeting Procedures are to be read in conjunction with:

- the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)*; and
- the CAP's Policy for Assessment Panel Review of Decision of Assessment Manager (Assessment Manager Review Policy).

**1. CAP MEETINGS****Ordinary Meetings**

- 1.1 Subject to clause 1.2, ordinary meetings of the [COUNCIL] Council Assessment Panel (CAP) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than [insert] clear days prior to the holding of the meeting in accordance with clause 1.4
- 1.4 Notice of a meeting of the CAP must:
  - 1.4.1 be in writing;
  - 1.4.2 set out the date, time and place of the meeting;
  - 1.4.3 be signed by the Assessment Manager;
  - 1.4.4 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable); and
  - 1.4.5 be given to a CAP Member personally, by post to a place authorised in writing by the Member or by other means authorised by the Member as being an available means of giving notice.
- 1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manger considers it impracticable to give the notice in accordance with that clause and takes action the

ECM 703877

- 2 -

Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Member.

- 1.6 A copy of the agenda for all meetings of the CAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to CAP Members.
- 1.7 The Assessment Manger may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manger shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.
- 1.8 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.9 A meeting will break for [insert time period] once every [insert time period], or more or less often as determined by the Presiding Member.

### **Special Meetings**

- 1.10 The Presiding Member, or two or more CAP Members, may by delivering a written request to the Assessment Manager require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.
- 1.11 On receipt of a request pursuant to clause 1.10, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP members at least 4 hours before the commencement of the special meeting.

## **2. DEPUTY MEMBERS**

- 2.1 If a CAP Member is unable or unwilling to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Presiding Member or Assessment Manager at his or her earliest opportunity.
- 2.2 If notification pursuant to clause 2.1 is given, the Assessment Manager [p1] may request a Deputy Member attend the meeting in place of the CAP Member for the meeting or part of the meeting.
- 2.3 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Member.

ECM 703877

- 3 -

### 3. **ADDITIONAL MEMBERS**[p2]

- 3.1 The CAP may appoint up to two Additional Members in accordance with Section 85 of the *Planning, Development and Infrastructure Act 2016 (Act)*.
- 3.2 Where the CAP has appointed Additional Member(s), the Presiding Member, in consultation with the Assessment Manager, may invite one or both Additional Members to attend any meeting (or part thereof) where he or she considers the Additional Member(s) will, by virtue of their qualifications, expertise or experience, assist the CAP in dealing with a matter that it must assess under the Act (or, during the transition to the Act, the *Development Act 1993 (D Act)*).
- 3.3 A request that an Additional Member attend a meeting must be made in writing and be accompanied by the notice for the meeting in accordance with clause 1.4, highlighting the item(s) the Additional Member is required to consider.
- 3.4 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes an Additional Member, save that an Additional Member is not able to vote on any matter arising for determination by the CAP.

### 4. **COMMENCEMENT OF MEETINGS**

- 4.1 Subject to a quorum being present, a meeting of the CAP will commence as soon as possible after the time specified in the notice of a meeting.
- 4.2 If the number of apologies received by the Assessment Manager or Presiding Member indicates that a quorum will not be present at a meeting, the Presiding Member may adjourn the meeting to a specified day and time.
- 4.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 4.4 In the event that the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the meeting appoints an Acting Presiding Member.

### 5. **DECISION MAKING ASSESSMENT OF DEVELOPMENT APPLICATIONS**

The procedures in Part 5 of these Meeting Procedures relate only to the CAP's assessment of development applications under Part 7 of the Act and Part 4 of the D Act. NB: The procedures for determining an application for review of an Assessment Manager's decision are contained in the Assessment Manager Review Policy.

ECM 703877

- 4 -

4.55.1 The Assessment Manager [p3] may in his or her discretion exclude:

4.5.15.1.1 a representation or response to representation(s) which is received out of time;

4.5.25.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or

4.5.35.1.3 a representation or response to representation(s) which is otherwise invalid.

4.65.2 The Assessment Manager [p4] may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The CAP may defer consideration of the application to enable full and proper assessment of the further information.

4.75.3 Any material to be considered by the CAP pursuant to clause 5.2 must be provided to the applicant and/or representor(s) (as the case may be) in a manner directed by the Assessment Manager [jfc5] and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Assessment Manager [p6].

4.85.4 In relation to each application it considers, the CAP must:

4.8.15.4.1 determine whether the proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant) and provide reasons for its determination; and

4.8.25.4.2 provide reasons for granting or refusing development authorisation and for the imposition of any conditions.

4.95.5 If the CAP determines that a proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant), it must refuse development authorisation to the application.

4.105.6 In relation to each application to be considered and determined by the CAP:

4.10.15.6.1 a person who has lodged a representation in relation to a Category 2 or [jfc7]3 application under the *D Act Development Act 1993* or an application for which notice must be given under the Act [jfc8], which has not been excluded pursuant to clause 5.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent;

ECM 703877

- 5 -

4.10.25.6.2 a person who has lodged a representation in relation to either a Category 2 application under the D Act Development Act 1993 or an application for which notice must be given under the Act<sup>[jfc9]</sup>, which has not been excluded pursuant to clause 5.1 and who has indicated that they wish to be heard on their representation may, at the discretion of the Presiding Member, appear before the CAP and be heard in support of their representation, in person or by an agent;

4.10.35.6.3 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any relevant matter raised by a representor, in person or by an agent;

4.10.45.6.4 where no representors appear at the meeting, the Presiding Member may, in his or her discretion, allow an applicant to be heard in support of his or her application, in person or by an agent;

4.10.55.6.5 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;

4.10.65.6.6 CAP members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and

4.10.75.6.7 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.

## 6. DECISION MAKING

4.116.1 Each Member present at a meeting of the CAP, including a Deputy Member who has been requested to attend the meeting or part of the meeting in place of a Member who is unable or unwilling to attend the meeting, is entitled to one vote on any matter arising for decision. If the votes are equal, the Presiding Member is entitled to a second or casting vote. Additional Members appointed to the CAP to provide expert advice and assistance are not entitled to vote.

4.126.2 Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.

ECM 703877

- 6 -

4.136.3 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a CAP Member, applicant, representor or other member of the public) to a specified date and time.

4.146.4 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave a meeting where he or she is, in the opinion of the Presiding Member:

4.14.16.4.1 behaving in a disorderly manner; or

4.14.26.4.2 causing an interruption or disruption to the meeting.

## 5.7. MINUTES AND REPORTING

5.17.1 The CAP must ensure that accurate minutes are kept of all meetings.

5.27.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.

5.37.3 The minutes will record:

5.3.17.3.1 the names of all Members present;

5.3.27.3.2 the names of all Members from whom apologies have been received;

5.3.37.3.3 the name and time that a Member enters or leaves the meeting;

7.3.4 the name of every person who makes or responds to a representation in relation to a development application;

7.3.5 the name of every person who appears in relation to an application for review [JC10] of an Assessment Manager decision (including the Assessment Manager or delegate);

5.3.4 —

5.3.57.3.6 in relation to each development application determined by the CAP:

5.3.5.17.3.6.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and

ECM 703877

- 7 -

7.3.6.2 the reasons for granting or refusing development authorisation and for the imposition of any conditions; and

7.3.7 in relation to each application for review of an Assessment Manager decision:

7.3.7.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and

5.3.5-27.3.7.2 the reasons for the CAP's decision under Section 203(4) of the Act, including the reasons for the imposition of any new or varied conditions; and

7.3.8 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;

5.3.67.3.9 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;

5.3.77.3.10 a decision to exclude the public from attendance pursuant to the Regulations;

5.3.87.3.11 any disclosure of a direct or indirect pecuniary interest in any aspect of a development or anybody associated with any aspect of a development made by a Member in accordance with Section 83(1)(g) of the Act, and the nature of the interest;

5.3.97.3.12 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (**Code of Conduct**), and the nature of the interest; and

5.3.107.3.13 if a meeting is adjourned by the Presiding Member, the reason for the adjournment and the date and time to which the meeting is adjourned.

5.47.4 All minutes must be confirmed by the Assessment Manager in conjunction with the Presiding Member as being accurate prior to, or at the commencement of, the following CAP meeting.

## 6.8. **ADDITIONAL PROCEDURES**

6.18.1 Insofar as any procedure to be followed by the CAP is not prescribed by the Act and Regulations (and, during the transition to the Act and Regulations, the Development D Act and *Development Regulations 2008*), the CAP's Terms of Reference, the Code of Conduct, the Assessment Manager Review Policy, or these Meeting Procedures - the

ECM 703877

- 8 -

CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.

[6.28.2](#) The CAP may call for and consider such professional assistance from the Assessment Manager and, in consultation with the Assessment Manager, other professional advisors as it deems necessary and appropriate from time to time.

ECM 703877

- 9 -

### TEMPORARY ADDENDUM TO FACILITATE ELECTRONIC MEETINGS

On 9 April 2020, the *COVID-19 Emergency Response Act 2020* (**COVID Act**) commenced operation. The COVID Act will expire on the earlier of 9 October 2020 or the day on which all relevant declarations relating to the outbreak of COVID-19 within South Australia have ceased (**Expiry Day**).

Section 17 of the COVID Act provides (relevantly) that despite a provision of any other act, a requirement that a meeting occur that requires 2 or more persons to be physically present will be taken to be satisfied if the persons meet remotely using audio-visual or audio only communication.

In reliance on Section 17 of the COVID Act, on [insert date], the CAP adopts the following temporary amendments to the ordinary meeting procedures numbered 1 to 7.8 above (**Ordinary Meeting Procedures**). These amendments will operate until the Expiry Day of the COVID Act.

#### 7.9. DEFINITIONS

The following definitions apply in relation to these temporary amendments:

7.19.1 *connect* means able to hear and/or see the meeting by electronic means, including via a live stream

7.29.2 *disconnect* means to remove the connection so as to be unable to hear and see the meeting

7.39.3 *electronic means* includes a telephone, computer or other electronic device used for communication

7.49.4 *live stream* means the transmission of audio and/or video from a meeting at the time the meeting is occurring

#### 8.10. AMENDMENTS TO CLAUSE 1

9.1 Sub-clause 1.4 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraphs:

1.4.6 *where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and*

1.4.7 *where the meeting is to be live streamed for viewing by members of the public, include details of how to access and/or connect to the live stream.*

ECM 703877

- 10 -

9.2 Sub-clause 1.6 of the Ordinary Meeting Procedures is amended with the deletion of the words “and at the Council’s offices”.

#### 9.11. **ADDITIONAL CLAUSE 3A**

A new clause 3A is inserted into the Ordinary Meeting Procedures as follows:

- 3A.1 *One or more Panel members may attend a meeting via electronic means.*
- 3A.2 *A Member attending a meeting by electronic means is taken to be present at the meeting provided that the Member:*
- 3A.2.1 *can hear and, where possible, see [jfc11] all other Members who are present at the meeting;*
- 3A.2.2 *can hear and, where possible, see [jfc12], all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;*
- 3A.2.3 *can be heard and, where possible, seen [jfc13] by all other Members present at the meeting; and*
- 3A.2.4 *can be heard and, where possible, seen [jfc14] by the person recording the minutes of the meeting.*
- 3A.3 *Where a meeting occurs via electronic means, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.*
- 3A.4 *Where a meeting is being live streamed, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations.*
- 3A.5 *Where the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for CAP members disconnect from or are disconnected from the meeting.*

#### 10.12. **AMENDMENTS TO CLAUSE 5**

10.112.1 Sub-clause 5.6 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:

- 5.6. 8[jfc15] *Clauses 5.6.1 to 5.6. 4[jfc16] are satisfied if a representor or applicant (as the case may be) appears via electronic means. The Presiding Member may require that any such appearance be via electronic means.*

ECM 703877

- 11 -

**13. AMENDMENTS TO CLAUSE 6**

**10.213.1** Sub-clause **5.10-6.4** of the Ordinary Meeting Procedures is amended with the inclusion of the words "or disconnect from" after the word "leave". As amended, sub-clause **5.10-6.4** is as follows:

**5.106.4** *The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or disconnect from a meeting where he or she is, in the opinion of the Presiding Member: ...'*

**13.2** Clause 6 of the Ordinary meeting Procedures is supplemented with the inclusion of the following additional paragraph[JC17]:

**6.5** Where a person is entitled or has been requested[JC18]to appear before the CAP in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate), the person may appear via electronic means. The Presiding Member may require that any such appearance be via electronic means.

**11.14. AMENDMENTS TO CLAUSE 67**

Sub-clause **67.3** of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:

**67.3.4A** *methods of attendance by all Members present and by every person who makes or responds to a representation.*

ECM 703877



## Yorke Peninsula Council Assessment Panel

### Meeting Procedures

Adopted by the CAP on 24 November 2020

These Meeting Procedures are to be read in conjunction with:

- the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)*; and
- the CAP's Policy for Assessment Panel Review of Decision of Assessment Manager (**Assessment Manager Review Policy**).

#### 1. CAP MEETINGS

##### Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the Yorke Peninsula Council Assessment Panel (**CAP**) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than five (5) clear days prior to the holding of the meeting in accordance with clause 1.4
- 1.4 Notice of a meeting of the CAP must:
  - 1.4.1 be in writing;
  - 1.4.2 set out the date, time and place of the meeting;
  - 1.4.3 be signed by the Assessment Manager;
  - 1.4.4 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable); and

- 1 -

- 1.4.5 be given to a CAP Member personally, by post to a place authorised in writing by the Member or by other means authorised by the Member as being an available means of giving notice.
- 1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manger considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Member.
- 1.6 A copy of the agenda for all meetings of the CAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to CAP Members.
- 1.7 The Assessment Manger may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manger shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.
- 1.8 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.9 A meeting will break for 15 minutes once every 2 hours, or more or less often as determined by the Presiding Member.

### **Special Meetings**

- 1.10 The Presiding Member, or two or more CAP Members, may by delivering a written request to the Assessment Manager require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.
- 1.11 On receipt of a request pursuant to clause 1.10, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP members at least 4 hours before the commencement of the special meeting.

## **2. DEPUTY MEMBERS**

- 2.1 If a CAP Member is unable or unwilling to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Presiding Member or Assessment Manager at his or her earliest opportunity.

- 2 -

- 2.2 If notification pursuant to clause 2.1 is given, the Assessment Manager may request a Deputy Member attend the meeting in place of the CAP Member for the meeting or part of the meeting.
- 2.3 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Member.

### 3. COMMENCEMENT OF MEETINGS

- 3.1 Subject to a quorum being present, a meeting of the CAP will commence as soon as possible after the time specified in the notice of a meeting.
- 3.2 If the number of apologies received by the Assessment Manager or Presiding Member indicates that a quorum will not be present at a meeting, the Presiding Member may adjourn the meeting to a specified day and time.
- 3.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 3.4 In the event that the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the meeting appoints an Acting Presiding Member.

### 4. ASSESSMENT OF DEVELOPMENT APPLICATIONS

The procedures in Part 5 of these Meeting Procedures relate only to the CAP's assessment of development applications under Part 7 of the Act and Part 4 of the D Act. NB: The procedures for determining an application for review of an Assessment Manager's decision are contained in the Assessment Manager Review Policy.

- 4.1 The Assessment Manager may in his or her discretion exclude:
  - 4.1.1 a representation or response to representation(s) which is received out of time;
  - 4.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or
  - 4.1.3 a representation or response to representation(s) which is otherwise invalid.
- 4.2 The Assessment Manager may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The CAP may defer consideration of the application to enable full and proper assessment of the further information.

- 3 -

- 4.3 Any material to be considered by the CAP pursuant to clause 4.2 must be provided to the applicant and/or representor(s) (as the case may be) in a manner directed by the Assessment Manager and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Assessment Manager.
- 4.4 In relation to each application it considers, the CAP must:
- 4.4.1 determine whether the proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant) and provide reasons for its determination; and
  - 4.4.2 provide reasons for granting or refusing development authorisation and for the imposition of any conditions.
- 4.5 If the CAP determines that a proposal is seriously at variance with the Development Plan or the Planning Rules (as relevant), it must refuse development authorisation to the application.
- 4.6 In relation to each application to be considered and determined by the CAP:
- 4.6.1 a person who has lodged a representation in relation to a Category 2 or 3 application under the D Act or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 4.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent;
  - 4.6.2 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any relevant matter raised by a representor, in person or by an agent;
  - 4.6.3 where no representors appear at the meeting, the Presiding Member may, in his or her discretion, allow an applicant to be heard in support of his or her application, in person or by an agent;
  - 4.6.4 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;
  - 4.6.5 CAP members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and

- 4 -

- 4.6.6 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.

## 5. DECISION MAKING

- 5.1 Each Member present at a meeting of the CAP, including a Deputy Member who has been requested to attend the meeting or part of the meeting in place of a Member who is unable or unwilling to attend the meeting, is entitled to one vote on any matter arising for decision. If the votes are equal, the Presiding Member is entitled to a second or casting vote. Additional Members appointed to the CAP to provide expert advice and assistance are not entitled to vote.
- 5.2 Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.
- 5.3 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a CAP Member, applicant, representor or other member of the public) to a specified date and time.
- 5.4 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave a meeting where he or she is, in the opinion of the Presiding Member:
- 5.4.1 behaving in a disorderly manner; or
  - 5.4.2 causing an interruption or disruption to the meeting.

## 6. MINUTES AND REPORTING

- 6.1 The CAP must ensure that accurate minutes are kept of all meetings.
- 6.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 6.3 The minutes will record:
- 6.3.1 the names of all Members present;
  - 6.3.2 the names of all Members from whom apologies have been received;
  - 6.3.3 the name and time that a Member enters or leaves the meeting;
  - 6.3.4 the name of every person who makes or responds to a representation in relation to a development application;

- 5 -

- 6.3.5 the name of every person who appears in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate);
- 6.3.6 in relation to each development application:
  - 6.3.6.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
  - 6.3.6.2 the reasons for granting or refusing development authorisation and for the imposition of any conditions; and
- 6.3.7 in relation to each application for review of an Assessment Manager decision:
  - 6.3.7.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
  - 6.3.7.2 the reasons for the CAP's decision under Section 203(4) of the Act, including the reasons for the imposition of any new or varied conditions; and
- 6.3.8 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;
- 6.3.9 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
- 6.3.10 a decision to exclude the public from attendance pursuant to the Regulations;
- 6.3.11 any disclosure of a direct or indirect pecuniary interest in any aspect of a development or anybody associated with any aspect of a development made by a Member in accordance with Section 83(1)(g) of the Act, and the nature of the interest;
- 6.3.12 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (**Code of Conduct**), and the nature of the interest; and
- 6.3.13 if a meeting is adjourned by the Presiding Member, the reason for the adjournment and the date and time to which the meeting is adjourned.

- 6 -

- 6.4 All minutes must be confirmed by the Assessment Manager in conjunction with the Presiding Member as being accurate prior to, or at the commencement of, the following CAP meeting.

**7. ADDITIONAL PROCEDURES**

- 7.1 Insofar as any procedure to be followed by the CAP is not prescribed by the Act and Regulations (and, during the transition to the Act and Regulations, the D Act and *Development Regulations 2008*), the CAP's Terms of Reference, the Code of Conduct, the Assessment Manager Review Policy, or these Meeting Procedures - the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.
- 7.2 The CAP may call for and consider such professional assistance from the Assessment Manager and, in consultation with the Assessment Manager, other professional advisors as it deems necessary and appropriate from time to time.

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- 7 -

### TEMPORARY ADDENDUM TO FACILITATE ELECTRONIC MEETINGS

On 9 April 2020, the *COVID-19 Emergency Response Act 2020* (**COVID Act**) commenced operation. The COVID Act will expire on the earlier of 9 October 2020 or the day on which all relevant declarations relating to the outbreak of COVID-19 within South Australia have ceased.

Section 17 of the COVID Act provides (relevantly) that despite a provision of any other act, a requirement that a meeting occur that requires 2 or more persons to be physically present will be taken to be satisfied if the persons meet remotely using audio-visual or audio only communication.

In reliance on Section 17 of the COVID Act, on 24 November 2020 the CAP adopts the following temporary amendments to the ordinary meeting procedures numbered 1 to 7 above (**Ordinary Meeting Procedures**). These amendments will operate until the Expiry Day of the COVID Act.

#### 8. DEFINITIONS

The following definitions apply in relation to these temporary amendments:

- 8.1 *connect* means able to hear and/or see the meeting by electronic means, including via a live stream
- 8.2 *disconnect* means to remove the connection so as to be unable to hear and see the meeting
- 8.3 *electronic means* includes a telephone, computer or other electronic device used for communication
- 8.4 *live stream* means the transmission of audio and/or video from a meeting at the time the meeting is occurring

#### 9. AMENDMENTS TO CLAUSE 1

9.1 Sub-clause 1.4 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraphs:

- 1.4.6 *where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and*

- 8 -

1.4.7 *where the meeting is to be live streamed for viewing by members of the public, include details of how to access and/or connect to the live stream.*

9.2 Sub-clause 1.6 of the Ordinary Meeting Procedures is amended with the deletion of the words "*and at the Council's offices*".

#### 10. **ADDITIONAL CLAUSE 3A**

A new clause 3A is inserted into the Ordinary Meeting Procedures as follows:

3A.1 *One or more Panel members may attend a meeting via electronic means.*

3A.2 *A Member attending a meeting by electronic means is taken to be present at the meeting provided that the Member:*

3A.2.1 *can hear and, where possible, see all other Members who are present at the meeting;*

3A.2.2 *can hear and, where possible, see, all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;*

3A.2.3 *can be heard and, where possible, seen by all other Members present at the meeting; and*

3A.2.4 *can be heard and, where possible, seen by the person recording the minutes of the meeting.*

3A.3 *Where a meeting occurs via electronic means, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.*

3A.4 *Where a meeting is being live streamed, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations.*

3A.5 *Where the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for CAP members disconnect from or are disconnected from the meeting.*

#### 11. **AMENDMENTS TO CLAUSE 5**

11.1 Sub-clause 5.6 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:

Yorke Peninsula Council  
Meetings Procedures – Council Assessment Panel  
Adopted 24 November 2020

- 9 -

5.6.7 *Clauses 5.6.1 to 5.6.3 are satisfied if a representor or applicant (as the case may be) appears via electronic means. The Presiding Member may require that any such appearance be via electronic means.*

## 12. AMENDMENTS TO CLAUSE 6

12.1 Sub-clause 6.4 of the Ordinary Meeting Procedures is amended with the inclusion of the words "*or disconnect from*" after the word "*leave*". As amended, sub-clause 6.4 is as follows:

6.4 *The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or disconnect from a meeting where he or she is, in the opinion of the Presiding Member: ...'*

12.2 Clause 6 of the Ordinary meeting Procedures is supplemented with the inclusion of the following additional paragraph:

6.5 *Where a person is entitled to appear before the CAP in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate), the person may appear via electronic means. The Presiding Member may require that any such appearance be via electronic means.*

## 13. AMENDMENTS TO CLAUSE 7

Sub-clause 7.3 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:

7.3.4A *methods of attendance by all Members present and by every person who makes or responds to a representation.*



## COUNCIL ASSESSMENT PANEL POLICY

### Council Assessment Panel Review of Decision of Assessment Manager

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

#### 1. POLICY OBJECTIVES

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

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

#### 2. DEFINITIONS

<b>Assessment Manager</b>	A person appointed by the Chief Executive Officer of the Yorke Peninsula Council to act as a relevant authority pursuant to Sections 82 and 87 of the Act.
<b>Development Authorisation</b>	Any assessment, decision, permission, consent, approval, authorisation or certificate required by or under the Act or by or under any other act prescribed by regulation for the purposes of the definition contained within the Act.
<b>Prescribed Body</b>	As listed in Schedule 9 under the Planning, Development and Infrastructure (General) Regulations 2017.
<b>Prescribed Matter</b>	Any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the development application; or  A decision to refuse to grant development authorisation to the application; or  The imposition of conditions in relation to a grant of development authorisation; or

*Printed copies are considered uncontrolled.  
Before using a printed copy, verify that it is the current version.*

Updated 30/06/2020

**PO179 – Council Assessment Panel Review of Decision of Assessment Manager**

	Subject to any exclusion prescribed by the Planning, Development and Infrastructure (General) Regulations 2017, any other assessment, request, decision, direction or act of the Assessment Manager under the Act in relation to the grant of development authorisation.
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**3. POLICY STATEMENT****3.1 Making an Application for Review**

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

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

An application for review must be:

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

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

**3.2 Written submission**

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

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

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

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

**3.3 Prescribed Body Referral**

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

**PO179 – Council Assessment Panel Review of Decision of Assessment Manager**

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

**3.4 Application for Review Documentation**

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

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

**3.5 CAP Review**

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

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

The CAP will:

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

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

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

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

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

**3.6 CAP Review Outcomes**

The CAP may:

**PO179 – Council Assessment Panel Review of Decision of Assessment Manager**

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

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

3.7 Right of Appeal

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

4. **COMPLAINTS**

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

5. **REVIEW**

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

6. **TRAINING**

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

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

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

7. **RELATED COUNCIL POLICIES AND DOCUMENTS**

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

8. **REFERENCES AND LEGISLATION**

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

9. **COUNCIL DELEGATION**

<b>Details of Delegation:</b>	Chief Executive Officer
<b>Delegate:</b>	Director Development Services

**PO179 – Council Assessment Panel Review of Decision of Assessment Manager****10. VERSION HISTORY**

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

**15 NEXT MEETING**

To Be Confirmed

**16 CLOSURE**