

	Development & Environmental Services Department Council Assessment Panel Terms of Reference	Version No:	01
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Interpretation:

1. In these Terms of Reference:

- **Administration** means the Kangaroo Island Council employees
- **Assessment Manager** means the person appointed to that role by the Chief Executive Officer of the Council
- **Council** means the Kangaroo Island Council
- **Development Act** means the *Development Act 1993*
- **Member** means a member of the Panel
- **Panel** means the Kangaroo Island Council Assessment Panel established by the Council pursuant to the provisions of the PDI Act 2016
- **PDI Act** means *Planning, Development and Infrastructure Act 2016*
- **PDI Regulations** means *Planning, Development and Infrastructure (General) Regulations 2017*
- **Presiding Member** means the Member of the Panel who is appointed as it's Presiding Member

Purpose and Role of the Council Assessment Panel:

2. The Panel is established in accordance with these Terms of Reference pursuant to Section 83 of the PDI Act for the purposes of performing functions assigned to it under the PDI Act and Part 4 of the Development Act.
3. The functions of the Panel, as prescribed in the PDI Act and the Development Act are:
 - (a) to act as a delegate of the Council in accordance with the requirements of the PDI Act, the Development Act and any relevant instrument of delegation; and
 - (b) to provide advice and reports to the Council as it thinks fit on trends, issues and other matters relating to planning or development that have become apparent or arisen through its assessment of applications under the Development Act; and
 - (c) to perform other functions (other than functions involving the formulation of policy) assigned to the Panel by the Council, the PDI Act or the PDI Regulations from time to time.

The Delegations Policy and delegated powers of Council to the Panel are contained in **Appendix A**. For the sake of clarity, references to “Council Development Assessment Panel” are to be read as “Council Assessment Panel”.

4. The Panel shall exercise, perform and discharge the following responsibilities on behalf of the Council:
 - (a) the consideration of matters submitted by the Administration relating to assessment and determination of applications for Development Plan consent;
 - (b) the provision of comment or advice to the Development Assessment Commission on major matters submitted to the Council by the Commission;
 - (c) the consideration of proposals for settlement on matters subject to appeal to the Environment, Resources and Development Court; and
 - (d) the consideration of such other assessment matters as may be referred to the Panel by the Administration.
5. The Panel is separate from and operates wholly independently of the elected body of the Council.

Membership of the Panel:

6. The Panel shall consist of five members appointed by the Council as follows:
 - (a) up to one person who is an elected Council member;
 - (b) the balance being independent persons – i.e. persons who are neither an elected member nor officer of the Council - one of whom shall be appointed by the Council as the Presiding Member;
 - (c) at least one (1) member shall be a man and at least one (1) member shall be woman;
 - (d) as far as reasonably practicable, the Panel must consist of equal numbers of men and women;
 - (e) members of the Panel shall hold their positions for a term determined by the Council;
 - (f) at the expiration of a term of appointment, a member is eligible for reappointment.
7. There are no proxy members on the Panel.
8. Members of the Panel will be required to comply with any Code of Conduct adopted by the Minister in accordance with Schedule 3 of the PDI Act (**as contained in Appendix B**).
9. The Chief Executive Officer of the Council will appoint an Assessment Manager in accordance with Section 87 of the PDI Act. The Assessment Manager is not a member of the Panel.
10. The functions of the Assessment Manager are prescribed in Section 87 of the PDI Act.

Conditions of Appointment to the Panel:

11. The Presiding Member is appointed to the Panel for a maximum period of two (2) calendar years.
12. The Presiding Member will be appointed by the Council taking into account the following requirements:

- (a) The Presiding Member must not be a member or officer of the Council; and
 - (b) The Presiding Member must be fit and proper person to be a member of the Panel; and
 - (c) The Presiding Member must be a person who is determined by Council to have a reasonable knowledge of the operation and requirements of the PDI Act, Development Act and appropriate qualifications or experience in a field that is relevant to the activities of the Panel.
13. Independent Members are appointed to the Panel for maximum period of two (2) calendar years.
14. The Independent Members of the Panel shall be appointed by the Council taking into account the following requirements:
- (a) Each must be a fit and proper person to be a member of the Panel; and
 - (b) Each must be a person who is determined by Council to have a reasonable knowledge of the operation and requirements of the PDI Act, Development Act and appropriate qualifications or experience in a field that is relevant to the activities of the Panel; and
 - (c) The qualifications and experience of these members, when considered in conjunction with the qualifications and experience of the Presiding Member, must provide a reasonable balance across the fields that are relevant to the activities of the Panel.
15. The Council Member is appointed to the Panel for a maximum period of two (2) calendar years.
16. Each Member of the Panel is appointed at the discretion of the Council in accordance with the provisions of the PDI Act.
17. Appointment to the Panel for all independent Members has an associated payment of \$300 (ex GST) per meeting for attendance at Panel meetings.

Conduct of Members:

18. All members of the Panel must disclose his or her financial interests in accordance with Schedule 1 of the PDI Act.
19. A member of the Panel who has a direct or indirect personal or pecuniary interest in a matter before the Panel (other than an indirect interest that exists in common with a substantial class of persons):
- (a) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the Panel; and
 - (b) must not take part in any hearings conducted by the Panel, or in any deliberations or decision of the Panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.

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20. A member of the Panel will be taken to have an interest in a matter if an associate of the member (within the meaning of section 3(7) of the PDI Act) has an interest in the matter.
 21. Pursuant to Regulation 11 of the PDI Regulations, any person may make a complaint to the State Planning Commission (“SPC”) if the person believes that a member of the Panel has acted in contravention of the Code of Conduct prescribed by the Minister under Schedule 3 of the PDI Act (including by breaching conflict of interest provisions in clause 19 above). The SPC may conduct an investigation regarding the complaint at its sole discretion.

Responsibilities of the Presiding Member:

22. The role of the Presiding Member will include, but will not be limited to:
 - (a) the conduct of the business of the Panel at meetings and ensuring appropriate meeting procedures are followed, including matters relating to the Minister’s Code of Conduct and the Panel’s Meeting Procedures; and
 - (b) ensuring the Panel properly considers matters in terms of the PDI Act and the Development Act in an efficient and timely manner; and
 - (c) ensuring that members are aware of their role and responsibilities as a Panel member under the PDI Act and do not confuse that role with any other role or a role as an Elected Member under the *Local Government Act 1999*.

Responsibilities of Panel Members:

23. The Panel will ensure that procedures:
 - (a) are fair and contribute to open, transparent and informed decision making; and
 - (b) reflect the levels of formality appropriate to the nature and scope of responsibilities exercised at that meeting; and
 - (c) are sufficiently certain to give the community and decision maker’s confidence in the deliberations undertaken at the meeting.
24. The members of the Panel will appoint the Deputy Presiding Member of the Panel pursuant to section 83(1)(b)(vi) whenever the Presiding Member is not present at a meeting.

Removal from Office:

25. Subject to the procedural requirements under this Clause, the Council may resolve to remove a member from the Panel on the following grounds:
 - (a) breach of, or failure to comply with, the conditions of appointment; or
 - (b) maladministration or misconduct; or
 - (c) neglect of duty; or
 - (d) incapacity to carry out satisfactorily the duties of his or her office; or
 - (e) failure to carry out satisfactorily the duties of his or her office; or

- (f) failure to disclose his or her financial interests in accordance with Schedule 1 of the PDI Act; or
 - (g) failure to attend three (3) consecutive meetings of the Panel without first obtaining the leave of the Panel; or
 - (h) upon receipt of a recommendation or direction from the SPC that the member be removed from office pursuant to regulation 11 of the PDI Regulations.
26. Particulars of the grounds for removal shall be communicated to the member at least one (1) calendar month before the meeting of the Council at which the matter will be determined.
27. The member shall provide any written representation in response to the particulars at least fourteen (14) days before the meeting of the Council at which the matter will be determined, which response must be taken into account in any determination by the Council
28. The determination of the Council shall be communicated to the Panel member, and in the event of an adverse determination the member shall cease to be a member immediately after the Council has communicated its determination to him/her.

Vacancy of Office:

29. The office of a member of the Panel will become vacant if the member:
- (a) dies;
 - (b) completes a term of office and is not reappointed;
 - (c) resigns by written notice to the Council;
 - (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
 - (e) is convicted of an indictable offence punishable by imprisonment; or
 - (f) is removed from office in accordance with these Terms of Reference.
30. On the office of a member of the Panel becoming vacant, a person will be appointed in accordance with the provisions of the PDI Act and the Panel's Terms of Reference.
31. The vacancy of office of a single member of the Panel will not invalidate the decision making of the remaining members of the Panel.
32. Council may reappoint all or any members of the Panel for a further term of office at their terms expiry.
33. A member of the Panel whose term of office expires may nevertheless continue to act as a Member, for a period of up to 6 months, until he or she is reappointed or a successor is appointed (as the case may be).

Review:

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

Appendix A

Kangaroo Island Council

Delegations Policy

DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008

Appendix B

Kangaroo Island Council

Schedule 3 - Minister's Code of Conduct

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016