



Agenda Report for Decision

Meeting Date: 23 June 2022

Item Name	Governance Audit 2022
Presenters	Chelsea Lucas
Purpose of Report	Decision
Item Number	5.3
Strategic Plan Reference	N/A
Work Plan Reference	N/A
Confidentiality	Not Confidential (Release Immediately) – Agenda Report & Attachments 2 to 6 (inclusive) Confidential (Draft Advice or Documents) – Attachments 1 & 7 to 11 (inclusive)
Related Decisions	N/A

Recommendation

It is recommended that the State Planning Commission (the Commission) resolves to:

1. Approve the designation of this item as follows:
 - Agenda Report – Not Confidential (Release Immediately)
 - **Attachment 1** – Confidential (Draft Advice or Documents)
 - **Attachments 2 to 6** (inclusive) – Not Confidential (Release Immediately)
 - **Attachments 7 to 10** (inclusive) – Confidential (Draft Advice or Documents).
2. Note the Internal Audit Report (Governance) and Register of Governance Documents, Policies and Procedures at **Attachment 1**.
3. Approve amendments to various documents, policies and procedures as noted in the Internal Audit Report (Governance), and as shown in mark-up in the following documents:
 - a. Responsibilities and Functions of the State Planning Commission (**Attachment 2**)
 - b. Gifts and Benefits Policy (**Attachment 3**)
 - c. Complaints Handling Procedure for Assessment Panels (**Attachment 4**)
 - d. SCAP Practice & Operating Directions (**Attachment 5**)
 - e. SPC Chair Position Description (**Attachment 6**)
 - f. SPC Member Position Description (**Attachment 7**)

- g. Ex Officio Member Position Description (**Attachment 8**)
 - h. Skills and Diversity Policy (**Attachment 9**)
 - i. Member Induction Policy (**Attachment 10**)
4. Approve publication of updated **Attachments 2 to 5** (inclusive) on the Commission's website.
5. Authorise the Chair of the Commission to sign the updated State Commission Assessment Panel (SCAP) Practice & Operating Directions (**Attachment 5**).
6. Authorise the Chair to make any minor or editorial changes to the attachments as required to finalise.
7. Authorise the Chair and the Ex Officio to commence the renegotiation of the Commission's Service Level Agreement (SLA) with the Chief Executive of the Department for Trade and Investment (the Department), following Machinery of Government (MoG) changes in July 2022, and provide a further report to the Commission in due course.
8. Note the Department will undertake a further governance and legislative compliance audit on an annual basis in the second quarter of each year.

Background

A number of documents, policies and procedures which have previously been adopted by the Commission contemplate review on an annual basis. To formalise this review process, the Department has undertaken a comprehensive Internal Governance Audit of the Commission's documents, policies and procedures relating to the Commission's governance and corporate management.

The Internal Audit Report (Governance) at **Attachment 1** provides the findings and recommendations of the Department's audit.

Discussion

The Internal Audit Report has recommended that a number of documents are amended to reflect current practices and updates to external policy references and legislative requirements, as well as minor editorial amendments to ensure consistency and clarity within and between various documents. These documents include:

- a. Responsibilities and Functions of the State Planning Commission
- b. Gifts and Benefits Policy
- c. Complaints Handling Procedure for Assessment Panels
- d. SCAP Practice & Operating Directions
- e. SPC Chair Position Description
- f. SPC Member Position Description
- g. Ex Officio Member Position Description
- h. Skills and Diversity Policy
- i. Member Induction Policy

The Commission's SLA expired on 30 June 2021. Given the change of Government following the 2022 State Election, and the MoG changes affecting Planning and Land Use Services (PLUS), the SLA will be renegotiated with PLUS' new Chief Executive in mid-2022.

The audit has noted that amendments to various documents, such as the Commission's Governance Manual, will be required following the abovementioned MoG changes and renegotiation of the SLA. This may also extend to other documents, such as the SCAP Practice & Operating Directions, that contain clauses relating to the SLA.

The Department has also reflected on the need to update several documents which contain the Attorney-General's Department (AGD) logo and any reference to AGD to the Department for Trade and Investment, from 1 July 2022. Further, it is recommended that the documents that require updating be republished on the Commission's website post 1 July 2022.

The Department recommends that the Commission notes the Internal Audit Report (Governance) at **Attachment 1** and approves the various recommendations in that Report, including amendments to the documents as shown in mark-up in **Attachments 2 to 10** (inclusive).

To ensure the Commission's suite of documents, policies and procedures remains up-to-date and relevant, and that recommended changes are appropriately adopted, it is also recommended that the Department continues to undertake a further full internal governance audit on an annual basis.

Attachments:

1. Internal Audit Report (Governance) (#18736395) and Register of Governance Audit Documents (Appendix A) (#18736385).
2. Responsibilities and Functions of the State Planning Commission (#11610957).
3. Gifts and Benefits Policy (#11610252).
4. Complaints Handling Procedure for Assessment Panels (#18736293).
5. SCAP Practice & Operating Directions (#12296371).
6. SPC Chair Position Description (#11611334).
7. SPC Member Position Description (#11611395).
8. Ex Officio Member Position Description (#11610770).
9. Skills and Diversity Policy (#11610635).
10. Member Induction Policy (#11611155).

Prepared by: Jaclyn Symons

Endorsed by: Chelsea Lucas

Date: 27 May 2022



Responsibilities and Functions

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
Planning Regions				
Create regions	Must advise Minister on proclamation of regions	s5		
Create sub-regions	Must advise Minister on proclamation of sub-regions	s6		
Environment Food Production Area				
Principles for decision making	In making any decision under section 7 -	s7(3)	Must ensure that areas of rural, landscape, environmental or food production significance within Greater Adelaide are protected from urban encroachment - Commission may only vary an environment and food production area if the Commission is satisfied of specified criteria	Variation of EFPA under section 7(8)
Creation of additional lots	Additional allotments – May concur with a Council to grant approval	s7(5)(a)	Must have reference to the objectives set out in s7(6). Must not be for residential purposes.	If it is for residential purposes, it must be refused.
	Additional allotments – May approve	s7(5)(b)	Must have the concurrence of the Council. Must not be for residential purposes.	If it is for residential purposes, it must be refused.
Vary an area	May vary an environment and food production area	s7(8) and (9)	Conduct an inquiry and report to the Minister.	Publish in the GG and planning portal
5 yearly review	Must review on a five yearly basis	s7(10)		Assess matters set out under s7(3)(a)

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
State Planning Commission				
Must have regard to.	Must, in the performance of its functions, take into account government policy, or principle or matter specified by the Minister	s17(6)		
Specialist members	May appoint additional (Specialist) members	s17(19)(1) s17(19)(2)(a) v	1 or 2 persons from a list established by the Minister.	
	Must appoint additional (Specialist) members	s17(19)(2)(d)	Where prescribed.	
	Advise the Minister on expertise required of members on the list.	s17(19)(2)(b)		
Function and role	Perform the functions and roles <u>As roles as</u> set out	s22(1) and (2)	Act on its own initiative, or on request – s22(3)	
Inquiry	In the conduct of an Inquiry	s22(4)	May – receive submissions, request information, and collect information. May retain information confidentially. Must report to the Minister	
Receive assistance	Request the assistance of an agency.	s22(5)		
Assistance at the direction of the Minister	Advise the Minister when directing an agency to assist.	s22(7)		
Powers of the Commission	Powers as set out.	s23		
Minister to be kept informed	Keep the Minister reasonably informed.	s24		
Minister to have access to information	Provide access to information to the Minister	s25	As required or requested, and subject to confidentiality.	

Formatted Table

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
Meeting proceedings	Meeting proceedings – conference – determine manner of giving notice of conference for the purposes of achieving a quorum.	s27(4)		
	Must determine its own procedures	s27(9)	Subject to the Act	
Commission Assessment Panel(s)	Must establish	s29(1)(a)		
Committees	Must establish as required	s29(1)(b)	By regulation or by the Minister – to assist the Commission	
	May establish as required	s29(1)(c)	With the approval of the Minister – to assist the Commission	
	May determine the procedures for a committee	s29(3)		
Delegations	May delegate functions and powers	s30(1)	To a person, conditions, further delegation, revoke - s30(2)	Commission to develop a delegation policy
	Must delegate planning assessment functions	s30(3)	To a delegate as described in s30(3)(a)–(c) May delegate by class of development and vary from time to time - s30(4) May be further delegated - s30(5)	
Staff and facilities	Staff and facilities – may use department	s31(3)(a)	By arrangement	
	Staff and facilities – may use or engage other persons etc	s31(3)(b)	Approval of the Minister	
Annual report	Annual report to the Minister	s32	By 30 September Contain information required by the regulations	

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
General functions				
Planning Agreements	Provide advice to the Minister before entering into a planning agreement.	s35(1)		
Joint Planning Boards	Provide advice to the Minister before appointing an administrator.	s41(2)(b)		
Practice directions	May issue, vary, revoke. Envisaged for: establishment of regional plans preparation of designated instruments	s42(1) and (4) s64(5) s73(13)		Publish in the GG and planning portal
	Must prepare a practice direction to ensure controls under the Act do not conflict with or duplicate other licensing or regulatory regimes.	s42(3)		Publish in the GG and planning portal
	Must prepare a practice direction in relation to assessment of restricted development.	s109		Publish in the GG and planning portal
Practice Guidelines	May make in relation to interpretation, use and application of the Planning Rules and Building Rules.	s43(1)	Approval of Minister	Publish in the GG and planning portal
	May vary, revoke	s43(4)(b)	-	Publish in the GG and planning portal
Community Engagement Charter	Establish and maintain	s 44(2)		
	Adopt any alternative way of achieving the charter	s 44(10)		

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
	May direct an entity to comply with the charter, or take an action required by its direction	s s-44(12)		
	Amend	s s-45	Own initiative or request by Minister	Consult. Report to Minister.
	Amend form or correction	s s-45(6) and (8)	Own initiative	Publish on the portal. Report to the Minister.
	Review every 5 years	s45(7)	prescribed	Publish on the portal. Report to the Minister.
On-line planning services	May prepare and publish standards and specifications in relation to the SA Portal, Planning Database, on-line atlas.	s51(1)	Matters to be included – s51(2)	
	May determine other matters to be considered by a standard or specification	s51(2)(f)		
	Advice to the Minister on prohibiting or restricting access to information on the portal	s54(1)		
State Planning Policies	Must prepare	s58(1)		
	Determine any other matter appropriate to a spp.	s58(3)(b)	s58(2), (3)(a),(c)	
	The extent or manner to which any other matter may be the subject of a spp.	s58(3)(c)		
	Specific policies the Commission must prepare	s59 – 62		

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
	Must establish a SPP with respect to certain special legislative schemes	s63(1)	Consult with the relevant Minister – s63(3)	Publish in the GG
	May amend a special legislative scheme SPP after seeking the advice of the Minister	s63(2)	Consult with the relevant Minister – s63(3)	Publish in the GG
Regional Plans	Must prepare a plan for each region	s64	Other than where a joint planning board exists – s64(2) In accordance with s64(3)	
	May prepare a practice direction for regional plans	s64(5)		
Planning and Design Code	Must prepare and maintain	s65(1)	In accordance with s66, s67, s68	
Design Standards	May prepare	s69	Must relate to the public realm or infrastructure	
Designated Instruments	May prescribe any matter or thing to be determined, dispensed with or regulated by a designated instrument.	s71(e)		
	May initiate a proposal to prepare/amend	s73(1) and (2)(a)	Own initiative or at the request of the Minister	
	Must advise the Minister when the Minister approves another body to initiate a proposal to amend	s73(2)(b)		
	Must specify a person or body to be consulted by a designated entity when preparing a proposal	s73(6)(e)		
	Must advise the Minister if required (when assessing a designated instrument)	s73(10)(e)		

Formatted: Indent: Hanging: 0.3 cm

Formatted: Indent: Left: 0.24 cm

Formatted: Indent: Left: 0.24 cm

Formatted: Indent: Left: 0.24 cm

Formatted: Indent: Left: 0.24 cm

Formatted: Indent: Left: 0.24 cm



OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
	Must prepare a report when a instrument is referred to the ERD Ctte	s74(3)		
	Must advise the Minister before the Minister makes an amendment <u>amendment</u> in response to the ERD Committee	s74(10)		
	Must advise the Minister in relation to initiating an amendment to the Planning and design Code.	s75(1)		
	Must advise the Minister in relation to making to a designated instrument.	s76(4)		
Early commencement	Must advise the Minister in relation to bringing in to operation early a regional plan or the Planning and Design Code or standard.	s78(3)		
Building Related Instruments	Must advise the Minister before the Minister publishes a Ministerial building standard.	S s80(4)		
	Must advise the Minister before the Minister varies or revokes Ministerial building standard.	s s80(1)		
Assessment Panels	Must advise the Minister before the Minister directs a Council to substitute existing members of a panel.	s s83(1)(i)		
	Must make a recommendation to the Minister before the Minister constitutes a local assessment panel under s86.	s84(1)(d)	The Commission must conduct an enquiry as set out under s86.	

Formatted: Indent: Left: 0.24 cm

Formatted: Indent: Left: 0.24 cm

Formatted: Indent: Left: 0.24 cm

Formatted: Indent: Left: 0.24 cm

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
	Must request a relevant authority to provide information, and adopt or continue to assess an application - where the Minister has called in a development for assessment.	s94(3)		
Delegations	May delegate functions and powers	s100(1)	As set out under s100	
Development Assessment	Must assess development	s102(1)	As set out under s102 to 105, s119, s120, s125, s126, s127, s128	
Impact assessed development	Must publish a practice direction in relation to restricted development and impact assessed development	s109(1)	Matters contained in s109(2)	
Restricted Development	Relevant authority to assess	s110	Prescribed	Procedural matters – s110
Impact Assessment by Minister	Determine level of detail required in EIS	s112	Practice direction. Views of persons prescribed by regs.	
	Prepare an assessment report	s113(9)	Prescribed	s113(10)-(12) Notify, public notice, publish, Councils
Building Consent	Concur in granting building consent for variations to the Building Code	s118(2)(a)	s118(5)	
	Provide an opinion on whether a proposed building work complies with a code or standard	s118(4)		

Formatted Table

Formatted Table

Formatted: Indent: First line: 0.31 cm

Formatted: Indent: Left: 0.49 cm

Formatted: Indent: First line: 0.31 cm

Formatted: Indent: First line: 0.31 cm



OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
	Must provide advice in relation to a variation from the code or standard before a relevant authority makes a decision in relation to a State heritage Place.	s118(7)	s118(9)	
	Must accept a decision of a private certifier.	s118(8)		
	May refuse to grant building consent	s118(10)		
	May grant building consent.	s118(11)	s 2118(11)(a) and (b)	
Design review	Must determine the form of an application for design review	s121(3)		
	Must act, and have regard to referral advice	s121(7) and s 122		
Design standards	Recommend the Minister adopt a standard infrastructure design	s129(2)		
Essential Infrastructure	Must assess an application for essential infrastructure.	s130	As prescribed s130	
Crown development	Must assess an application for Crown development	s131(2)	As prescribed s131	
Land Division Certificate	Must issue when satisfied prescribed conditions have been met	s138		
Uncompleted development	May apply to the court if development has not been completed	s141(1)		
	May cause work to be undertaken where work has failed to be undertaken by Court order – recover costs	s141(5) and (6)		

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
Completed development	May serve a notice where development has not been completed.	s142(1)		
	May cause work to be undertaken where work has failed to be undertaken in accordance with a notice – recover costs	s142(2) and (3)		
Cancellation of a development authorisation	May cancel an authorisation on application by a person with the benefit of the authorisation,	s143		
Inspection Policies	Must issue a practice direction requiring Council to carry out inspections.	s144(1)	s144(2) and (3)	
Swimming Pools	May issue a practice direction that requires a council to carry out swimming pool inspections.	S s156(5)		
Initiation of General Infrastructure Scheme	Must advise the Minister in relation to the Minister initiating a general infrastructure scheme.	s164(4)	s164(5)	
	Must advise the Minister before the Minister significantly varies a general infrastructure scheme.	s167(7)		
	Establish an arrangement to be kept informed about the operation of a scheme.	s167(12)		
	Funding arrangements – the Commission must consult with parties prior to the Minister making a recommendation	s169(9)	s169(a)(i) and (ii) and s169(10)	

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
Open space contribution	May require an open space contribution, or enter into an agreement	s198(1)(b) and (2)(c) and (d), and s199(1)	s198(4), (6), (10) and (12) and s199(4)	
Disputes – application to an assessment panel	Procedures to be adopted on application for review – cause action in notice not complied with – recover costs	s203(2) – (4)		
Civil enforcement	Actions to be undertaken where a breach of the Act has been committed.	s213	s213	
Civil penalties	Commence civil penalty proceedings	s225(1)	s225	Publish information about proceedings on the portal
Recovery of economic benefit	Receive payments and pay into the P&D fund	s229(1) and (4)		
Enforceable voluntary undertakings	May accept where a person has contravened the Act	s230(1)		s230(13) - Publish on portal
	May apply to Court if undertaking is contravened	s230(4)		
	Agree to a variation of an undertaking	s230(7)		s230(13) - Publish on portal
	May accept undertaking before any proceedings have been finalised	s230(11)		s230(12) - Must seek proceedings be discontinued.
	Authorise a council to be a designated entity	s230(14)		s230(15) - May impose conditions on the Council
Regulation of advertisements	Form an opinion and order removal of an advertisement	s231(1)	s231(2)	As prescribed

Formatted Table

OFFICIAL

Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related actions
	May remove advertisement of order not complied with	s231(3)		As prescribed
Copyright	Must publish information	s238(1)	s238(2) – (4)	
Inquiries	Must undertake certain inquiries and furnish reports to the Minister	s245(1) and (4)	s245(2) and (3)	
Disclosure of Financial Interest	Must submit returns as prescribed.	Schedule 1		
Performance targets	Must advise the Minister on the setting of performance targets	Schedule 4		

This table is advisory only and is not intended to supersede or replace the provisions of the PDI Act.



Gifts and Benefits Policy

1. Objective

The objective of this policy is to provide the State Planning Commission (the Commission) with a clear understanding of expectations and responsibilities in the public sector regarding the giving and receiving of gifts or benefits.

2. Definitions

Gifts include anything of value offered to a Commission member above their normal remuneration or entitlements and which exceeds common courtesy. They may be enduring or consumable and may range in value from nominal to significant and may be given for different reasons. Examples of gifts include items such as cash, shares, entertainment, travel and accommodation, acceptance of fees, bottles of wine, prizes, personal items, clothing, books, and other tangible goods.

Benefits include the giving of preferential treatment, privileged access, discounts, favours or other advantages. While the value of benefits may be difficult to quantify in dollars, they may be highly valued by the intended recipient and therefore used to influence future behaviour. Examples of benefits include accruing value or points for loyalty schemes (such as frequent flyer schemes), car hire or other discounts, meals, hospitality and travel upgrades.

3. Guidelines

Members of the Commission should familiarise themselves with the following documents, guidelines and provisions:

- Guideline of the Commissioner for Public Sector Employment – Gifts and Benefits (August 2020)
- Commissioner for Public Sector Employment, Code of Ethics for the South Australian Public Sector (August 2019)
- Section 5(6) of the *Public Sector Act 2009* - Ethical Behaviour and Professional Integrity
- [Office for Public Integrity: Directions and Guidelines for Public Officers](#)
- [Ombudsman SA: Directions and Guidelines for Public Officers \(November 2021\)](#)
- ~~[Independent Commissioner Against Corruption: Directions and Guidelines for Public Officers \(January 2021\)](#)~~
- Attorney General's Department - Frequently Asked Questions – Gifts and Benefits

Commission members as public sector employees have a duty to act honestly and contravention of that duty is a criminal offence under section 27 of the *Public Sector (Honesty and Accountability) Act 1995*.

These guidelines set out expectations to ensure that the giving or acceptance of gifts for benefits does not expose Commission members to being improperly influenced in the performance of their duties. It is also important that Commission members consider all ethical implications including public perception, both real and perceived, in relation to giving or acceptance of gifts or benefits.

4. Responsibilities

To ensure transparency and accountability, Commission members should report all offers of gifts or benefits (whether accepted or not) in line with the guidelines.

Offers should be reported to the Governance Team or other appropriate Department staff member for inclusion in the Gifts and Benefits Register.

5. Review

The Commission will review this Gifts and Benefits Policy annually and update it as necessary.

6. Register

A Gifts and Benefits Register is maintained by the Department on behalf of the Commission and is available for inspection by a member of the public on request.

Version	Produced By	Endorsed By	Approved by	Review Due
1.0	R Bolingbroke 18 July 2017	A Allen 10 August 2017	Commission 17 August 2017	August 2018
1.1	Chelsea Lucas 13 April 2021	S Smith 6 May 2021	Commission 13 May 2021	April 2022
<u>1.2</u>	<u>Jaclyn Symons</u> <u>13 April 2022</u>			



Complaints Handling Procedure for Assessment Panels

1. Introduction

- 1.1. A complaint may be lodged with the Commission alleging a breach by an assessment panel member of the Code of Conduct adopted by the Minister under clause 1(1)(c) of schedule 3 to the PDI Act. The powers of the Commission in dealing with a complaint are set out in regulation 11 of the PDI Regulations. Regulation 11 also sets out requirements on the Commission and investigators in dealing with complaints.
- 1.2. This procedure sets out the Commission's approach to dealing with complaints. This procedure supplements regulation 11 of the PDI Regulations. If there is any inconsistency between this procedure and regulation 11, the regulation will prevail to the extent of the inconsistency.
- 1.3. Powers and functions of the Commission under regulation 11 of the PDI Regulations may be undertaken by the Commission or a delegate of the Commission. References to the 'Commission' in this procedure include a reference to a delegate of the Commission appointed under section 30 of the PDI Act.
- 1.4. This policy only concerns complaints made in respect of individual assessment panel members under the Code of Conduct. Any concerns regarding the assessment and/or determination of a development application, should be raised with the relevant development assessments staff and/or where available, pursued through the appeal process under the PDI Act.
- 1.5. The Commission may consult with, or provide a report to, the Minister at any stage regarding a complaint made under regulation 11 of the PDI Regulations. Where the assessment panel member who is the subject of the complaint was appointed by a joint planning board or a council, the Commission may consult with, or provide a report to, that entity at any time in relation to that complaint.

2. Defined terms

- 2.1. The following table sets out definitions for capitalised terms used in this procedure.

Term	Definition
Assessment Panel Member	A member of a panel established under section 29(1)(a) or Part 6 – Division 2 of the PDI Act
Code of Conduct	Assessment Panel Members – Code of Conduct adopted by the Minister under clause 1(1)(c) of schedule 3 (gazetted 29 September 2017, as amended from time to time)

OFFICIAL

saplanningcommission.sa.gov.au



Government of South Australia
Attorney-General's Department

Term	Definition
Complainant	A person who makes a complaint against an Assessment Panel Member under the Code of Conduct
Commission	State Planning Commission established under section 17 of the PDI Act (or its delegate)
Investigator	A person appointed by the Commission for the purpose of investigating a complaint against an Assessment Panel Member
Minister	Minister for Planning
OPI	Office for Public Integrity
PDI Act	Planning, Development and Infrastructure Act 2016
PDI Regulations	Planning, Development and Infrastructure (General) Regulations 2017

3. Receipt of a complaint

Form and content of a complaint

- 3.1. A person may lodge a complaint with the Commission alleging that an assessment panel member has breached the Code of Conduct. A complaint is only validly made if the complaint:
- is in writing;
 - contains particulars of the allegations on which the complaint is based; and
 - is verified by a statutory declaration.
- 3.2. Complaints may be addressed to the State Planning Commission, GPO Box 1815, Adelaide, SA, 5001.
- 3.3. If a person attempts to lodge a complaint with the Commission which does not satisfy these requirements, then a letter will be sent to the person indicating the requirements for a lodging a valid complaint.
- 3.4. The Commission may require the person lodging a complaint to provide further information to the Commission. The Commission may require this further information to be verified by statutory declaration.
- 3.5. When a person makes a complaint to the Commission, they are encouraged to keep the details confidential so that it can be investigated and determined thoroughly and properly.

Timing of a complaint

- 3.6. A complaint is required to be lodged within 6 months of the day on which the complainant first became aware of the matters alleged in the complaint, unless the Commission approves otherwise.

- 3.7. If a person lodges a complaint with the Commission in regard to circumstances which occurred more than 6 months before lodging the complaint, then the Commission will determine whether to approve the lodging of the complaint. The Commission's decision will be advised by letter to the person who lodged the complaint.
- 3.8. If a person lodges a complaint with the Commission and it is unclear whether the circumstances occurred within the 6 months prior to lodging the complaint, then further information will be sought from the complainant. If this further information indicates that the matters alleged in the complaint occurred more than 6 months prior to the lodging of the complaint, then the Commission will determine whether to approve the lodging of the complaint. The Commission's decision will be advised by letter to the person who lodged the complaint.

Acknowledgement

- 3.9. If a complaint satisfies the form, content and timing requirements, then the Commission will acknowledge the receipt of the complaint by letter to the complainant.

4. Initial assessment of a complaint

- 4.1. Once a complaint has been received, the Commission will make an initial assessment of the complaint.
- 4.2. If on the basis of information contained in a complaint, a member of the Commission or any other public officer has a reasonable suspicion of corruption, serious or systemic misconduct or serious or systemic maladministration, then a report will be made by that member or public officer to the OPI [or Ombudsman SA](#) (see part 9 of this procedure).
- 4.3. The Commission may refuse to entertain a complaint if it appears to the Commission that:
 - (a) the complainant does not have a sufficient interest in the matter to which the complaint relates;
 - (b) the matter raised by the complaint is trivial;
 - (c) the complaint is frivolous or vexatious or is not made in good faith; or
 - (d) there is some other good reason not to proceed (or further proceed) with considering the complaint.
- 4.4. The Commission will undertake an initial assessment of the complaint to determine if any of the circumstances listed in paragraph 4.3 exist. The Commission may base its assessment on the information provided by the complainant and further information, if any, gathered by the Commission either directly or through an investigator (see part 6 of this procedure). The Commission or investigator may request further information from the complainant, seek information from persons with direct knowledge of the matters alleged in the complaint or refer the complaint to the assessment panel member to whom the complainant relates for a response.
- 4.5. If the Commission determines that a circumstance listed in paragraph 4.3 exists, then the Commission will determine whether or not it will refuse to entertain the complaint. If the Commission determines to refuse to entertain the complaint, then the Commission will notify the complainant of this decision by letter.

5. Consideration of the complaint

- 5.1. If the Commission determines to entertain a complaint, then the Commission may request further information from the complainant, seek information from persons with direct knowledge of the matters alleged in the complaint or refer the complaint to the assessment panel member to whom the complainant relates for a response.
- 5.2. The Commission could determine on the basis of this information that the complaint:
 - (a) has been substantiated;
 - (b) has not been substantiated; or
 - (c) requires further investigation.
- 5.3. For the Commission to determine that a complaint has been substantiated, the Commission must be reasonably satisfied that the facts alleged in the complaint have been established on the information available to the Commission and that these established facts constitute a breach of the Code of Conduct. Where an allegation to be determined will have serious consequences, then the Commission should ensure that the evidence supports the findings of fact to its reasonable satisfaction. The level of proof required to attain reasonable satisfaction is determined by the seriousness of the consequences of the complaint being made out.
- 5.4. If the Commission determines that the complaint has been substantiated then the Commission will consider the action to be taken in response to the complaint. See part 8 of this procedure.
- 5.5. If the Commission determines that the complaint has not been substantiated, then the Commission will inform the complainant of its determination by letter.
- 5.6. If the Commission determines that the complaint requires further investigation, the Commission will either seek further information itself or will appoint an investigator (see part 6 of this procedure).

6. Appointing an investigator

Terms of appointment

- 6.1. The Commission may at any time after the receipt of a complaint determine to appoint an investigator. The appointment of the investigator will be in writing. The Commission will provide the investigator with a copy of the information received by the Commission in relation to the complaint.
- 6.2. The terms of an investigator's appointment will provide that the investigator:
 - (a) must investigate the complaint as soon as practicable after the appointment has been made;
 - (b) must give the member of the assessment panel to whom the complaint relates a reasonable opportunity to make representations to the investigator about the complaint;
 - (c) may require the complainant or the assessment panel member to provide any documentation or other information relevant to the investigation of the complaint;

- (d) may require any information provided by a complainant or the relevant assessment panel member to be verified by statutory declaration;
 - (e) may investigate in such manner as the investigator thinks fit (including by undertaking other consultations and inquiries), provided that the investigator must comply with the rules of natural justice; and
 - (f) may following consultation with the Commission, investigate circumstances of which the investigator is satisfied which would be the basis of another complaint against the assessment panel member.
- 6.3. The Commission may direct the investigator to undertake the investigation in a particular manner provided that any direction is not inconsistent with the terms set out above.

Informing the assessment panel member of the investigator's appointment

- 6.4. The Commission must inform the assessment panel member of the appointment of an investigator and provide formal notification of the nature of the complaint.
- 6.5. The Commission may require an investigator to gather information regarding the complaint and provide an interim report to the Commission, so that the Commission is able to provide formal notification of the nature of the complaint to the assessment panel member.
- 6.6. Once the Commission is in a position to provide formal notification of the nature of the complaint to the assessment panel member, then the Commission will provide this notification as soon as practicable by letter. The letter will also inform the assessment panel member that:
- (a) he or she will be provided with:
 - (i) a reasonable opportunity to make representations to the investigator regarding the complaint; and
 - (ii) a copy of the investigator's final report to the Commission in relation to the complaint;
 - (b) the information provided by the assessment panel member to the investigator will need to be verified by statutory declaration; and
 - (c) aside from investigating the notified complaint, the investigator is permitted to investigate other circumstances if satisfied that these would be the basis of another complaint against the assessment panel member.

Interim and final reports of the investigator

- 6.7. If on the basis of information contained in an interim report or final report of the investigator, a member of the Commission or any other public officer has a reasonable suspicion of corruption, serious or systemic misconduct or serious or systemic maladministration then a report will be made by that member or public officer to the OPI [or Ombudsman SA](#) (see part 9 of this procedure).

- 6.8. The Commission may also use information in an interim report from an investigator in order to determine whether to refuse to further entertain a complaint due to one of the circumstances listed in paragraph 4.3, or otherwise to take no further action in respect of a complaint. If the Commission determines not to proceed with a complaint, then the Commission will by letter notify:
- (a) the assessment panel member of the appointment of the investigator and the nature of the complaint (if this has not already occurred) and the Commission's determination not to proceed further with the complaint; and
 - (b) the complainant of the Commission's determination not to proceed further with the complaint.

7. Following an investigation

- 7.1. At the conclusion of an investigation, the Commission will consider the investigator's final report.
- 7.2. The final report will be provided by the Commission to the assessment panel member. The Commission may invite the assessment panel member to provide a response to the report to the Commission. The Commission should invite a response from the assessment panel member, if this is required to satisfy the rules of natural justice. If the Commission invites a response from the assessment panel member, then this response should be considered in the Commission's final determination of the complaint.
- 7.3. The Commission could determine on the basis of the investigator's report and any response from the assessment panel member, that the complaint:
- (a) has been substantiated;
 - (b) has not been substantiated; or
 - (c) requires further investigation.
- 7.4. For the Commission to determine that a complaint has been substantiated, the Commission must be reasonably satisfied that the facts alleged in the complaint have been established on the information available to the Commission and that these established facts constitute a breach of the Code of Conduct (see paragraph 5.3 of this procedure).
- 7.5. The Commission may:
- (a) decide to take no further action on the complaint;
 - (b) undertake any consultation or further inquiry as the Commission thinks fit;
 - (c) take action to have the assessment panel member removed from office; or
 - (d) take such other action as the Commission thinks fit.

8. Consequences of breaching the Code of Conduct

- 8.1. The Commission may take action in regard to an assessment panel member who has breached the Code of Conduct. In determining the appropriate action, the Commission will consider the severity of the breach. Repeated minor breaches of the Code of Conduct by an assessment panel member may be considered to be a serious breach of the Code of Conduct.
- 8.2. Assessment panel members are appointed either by a joint planning board or council (a 'designated authority') under section 83 of the PDI Act or the Minister under section 84 of the PDI Act. Sanctions in regard to a breach of the Code of Conduct cannot be imposed by the Commission, but can (subject to the terms of an assessment panel member's appointment) be imposed by the designated authority or the Minister (as relevant).
- 8.3. If the Commission forms the view that the assessment panel member should be removed from office as a consequence of the breach of the Code of Conduct, then the Commission will consult with the Minister or designated authority (as relevant to the assessment member) with respect to removing the assessment panel member from office.
- 8.4. If the Commission determines that another sanction is appropriate in respect of the breach of the Code of Conduct, then the Commission will consult with the Minister or designated authority (as relevant to the assessment member) with respect to the Commission's recommendation. Recommendations of the Commission could include that the assessment panel member:
 - (a) undergo training in regard to the Code of Conduct;
 - (b) issue a public or private apology to the complainant; or
 - (c) be reprimanded.

9. Report to the Office for Public Integrity or Ombudsman SA

- 9.1. The members of the Commission are public officers for the purposes of the *Independent Commission ~~or~~ Against Corruption Act 2012*.
- 9.2. If at any stage during the handling of a complaint, a member of the Commission or another public officer has a reasonable suspicion of corruption in public administration, ~~serious or systemic misconduct in public administration or serious or systemic maladministration in public administration in relation to the circumstances of the complaint,~~ then a report will be made by that member or public officer to the OPI in accordance with the Directions and Guidelines for Public Officers issued by the OPI/Independent Commissioner Against Corruption.

9.3. If at any stage during the handling of a complaint, a member of the Commission or another public officer has a reasonable suspicion of misconduct or maladministration in public administration, then a report will be made by that member or public officer to Ombudsman SA in accordance with Directions and Guidelines for Public Officers issued by Ombudsman SA.

9.3-9.4. The Commission will follow any directions of the Independent Commissioner ~~or~~ Against Corruption, ~~or~~ OPI or Ombudsman SA regarding the continuation or suspension of any inquiries or investigations initiated by the Commission in regard

to the relevant complaint.



State Commission Assessment Panel (SCAP) Practice and Operating Directions

Formatted: Font: Verdana, 18 pt

Formatted: Left

Preamble

Formatted: Font color: Custom Color(230,35,35)

The State Planning Commission (Commission) established the State Commission Assessment Panel (SCAP) as a committee, pursuant to section 29(1)(a) of the *Planning, Development and Infrastructure Act 2016* (the PDI Act).

Formatted: Font: Arial

Formatted: Indent: Left: 0 cm

These Practice and Operating Directions to be observed in relation to the conduct of the SCAP business are determined by the Commission pursuant to section 29(3)(a) of the Act.

Objective

Formatted: Font color: Custom Color(230,35,35)

1. The objectives of the SCAP are to:

Formatted: Font: (Default) Arial

- 1.1. Discharge the development assessment functions, powers and duties of the Commission, as required by the *Development Act 1993* and the PDI Act, as delegated to the SCAP by Instrument of Delegation from the Commission.

Principles

Formatted: Font color: Custom Color(230,35,35)

2. The SCAP will support the Commission by:

Formatted: Font: (Default) Arial

- 2.1. Working with purpose and collaboratively to achieve good decisions.
- 2.2. Creating an environment where all Members can participate in honest, open and robust discussions.
- 2.3. Acting with integrity and providing informed and considered advice.
- 2.4. Being professional on all fronts, including in the respectful recognition of differing views and opinions.
- 2.5. Recognising that communication, information sharing and consultation are the keys to facilitating effective cooperation and a spirit of trust.
- 2.6. Providing regular updates to the Commission.

OFFICIAL

Membership

3. SCAP Composition

- 3.1. The Commission will appoint the Presiding Member, Deputy Presiding Member and five ordinary Members to the SCAP. The Commission will, in appointing the members of the SCAP, seek to ensure that, as far as is practicable, the members of the SCAP collectively have qualifications, knowledge, expertise and experience in the following areas:
 - 3.1.1. Urban and regional planning or a related discipline;
 - 3.1.2. Building and engineering;
 - 3.1.3. Public administration, including state and local government;
 - 3.1.4. Urban or regional development, commerce or industry;
 - 3.1.5. Environmental conservation or management, or the management of natural resources;
 - 3.1.6. The provision of facilities for the benefit of the community;
 - 3.1.7. Urban design, building design or landscape design.
- 3.2. Each Member appointed to the SCAP must be registered under the PDI Act as an Accredited Professional Level 2 – Planning to ensure they have expertise relevant to development assessment.
- 3.3. Each Member will be appointed for a term not exceeding three years, and on conditions determined by the Commission. On the expiration of a term of appointment, Members may be eligible for reappointment as determined by the Commission.
- 3.4. Membership must, as far as practicable, comprise equal numbers of women and men.
- 3.5. An act or proceeding of the SCAP is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

4. Occasional Members appointed to the SCAP

- 4.1. From time to time, the Commission may appoint members, selected from a pool of occasional members established by the Commission, for a specified period for a purpose including to supplement the membership of the SCAP, to meet quorum requirements and/or to provide specialist expertise in the consideration of particular matters referred to the SCAP.

5. Commission Members appointed to SCAP

- 5.1. Section 29(2) provides that the SCAP may consist of members of the Commission.
- 5.2. A Commission member may be appointed to the SCAP from time to time to supplement the membership of the SCAP, to meet quorum requirements and/or to provide specialist expertise in the consideration of particular matters referred to the SCAP.
- 5.3. Commission members appointed to the SCAP must have relevant development assessment expertise or must complete a Development Assessment Induction module determined by the Commission prior to considering any matters.

OFFICIAL

6. Remuneration

- 6.1. Appointed Members of the SCAP are entitled to fees, allowances and expenses in accordance with the Department of the Premier and Cabinet *Circular PD016 – Remuneration for Government Appointed Part-Time Boards and Committees, and the Boards and Committees – Remuneration Framework.*

Responsibilities

7. Conduct of Members

- 7.1. The members of the SCAP are bound by the Minister’s Code of Conduct for Assessment Panel Members at **Appendix 1**.
- 7.2. Members will not conduct private business matters during the course of the formal meeting.
- 7.3. Members will devote the time and attention as necessary to diligently carry out their duties.
- 7.4. Members will attend a minimum of 75% of regular scheduled meetings.

8. Conflict of Interest

- 8.1. SCAP Members must, within 60 days of appointment, submit a Primary Return identifying any financial or other interests as required by the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations).
- 8.2. SCAP Members must, within 60 days of 30 June annually, submit an Ordinary Return identifying any financial or other interests as required by the Regulations.
- 8.3. SCAP Members must, as soon as they become aware of an actual or potential conflict of interest, or the potential for a perceived conflict of interest, disclose the nature and extent of the interest to the Presiding Member and the SCAP Secretariat.
- 8.4. If a Member declares a conflict of interest, that Member must not take part in any hearings conducted by the SCAP, or in any deliberations or decision of the SCAP, on the matter and must be absent from the meeting when any deliberations are taking place or a decision is being made.
- 8.5. If a conflict of interest has been declared by a SCAP Member, the general nature of the interest must be recorded in the minutes.

9. Public Officer Responsibilities

- 9.1. In accordance with the *Independent Commission Against Corruption Act 2012*, members of the SCAP are classified as ‘public officers’ because they are a person to whom a function or power of a public authority or a public officer is delegated in accordance with an Act.

- 9.2. In accordance with the OPI: Directions and Guidelines for Public Officers, all SCAP members have an obligation to report a matter that is reasonably suspected of involving corruption in public administration to the OPI. The process for reporting such a matter to the OPI is outlined in the Directions and Guidelines document on the OPI website at www.publicintegrity.sa.gov.au.

Formatted: Font: Arial, Not Italic
Formatted: Font: Arial

Formatted: Font: Arial
Formatted: Font: Arial
Formatted: Font: Arial

OFFICIAL

9.3. In accordance with Ombudsman SA: Directions and Guidelines for Public Officers, SCAP members may report a matter that is reasonably suspected of involving misconduct or maladministration in public administration to Ombudsman SA. The process for reporting such a matter to Ombudsman SA is outlined in the Directions and Guidelines document on the Ombudsman SA website at www.ombudsmansa.gov.au.

Helpful Reference: www.icac.sa.gov.au/opi/reporting-obligations

Formatted: Font: Arial

Formatted: Font: Arial

10. Confidentiality

- 10.1. SCAP Members must ensure that any confidential information remains confidential and is not disclosed improperly to others.
- 10.2. The SCAP decision making process includes an allocation of time to allow for honest, open and robust debate of applications and associated impact issues. This will occur in confidence in order to achieve the environment stated in item 2.2 of this document.
- 10.3. SCAP Members must not disclose any information relating to deliberations and/or advice considered by the SCAP.

11. Media

- 11.1. All media enquiries should be directed to the Department's Media team on 0422 007 069. The Media team will coordinate the preparation and provision of all responses to media outlets. Individual SCAP Members and associated departmental staff will not provide direct advice to media outlets if approached personally.
- 11.2. The use of electronic recording devices is not permitted in meetings in order to maintain a respectful and non-threatening environment for those providing verbal submissions.
- 11.3. Requests for live or pre-recorded interviews with SCAP Members will not be permitted unless authorised by the Chair of the Commission.

12. Website

- 12.1. The SCAP website is linked from the Commission website - www.saplanningcommission.sa.gov.au/scap.
- 12.2. The website and its content are managed by Department staff on behalf of the SCAP.
- 12.3. The website provides the following information:
 - the role and function of the SCAP;
 - background and qualifications of the SCAP Members;
 - applications on public notification;
 - details of Hearings of Verbal Representations;
 - agendas and minutes of SCAP meetings;
 - contact and address details for the SCAP Secretariat; and
 - links to other relevant websites and resources.

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

13. Departmental Services

- 13.1. The Department will support the SCAP in accordance with a Service Level Agreement between the Commission and the Department. In general, this will include the following:
 - 13.1.1. Provision of professional, independent planning advice including the provision of assessment reports and recommendations;

OFFICIAL

- 13.1.2. Facilitation of the provision of related professional and technical advice to the SCAP as required;
- 13.1.3. The provision of a suitable venue to accommodate hearings of verbal representations and for the purpose of general meetings;
- 13.1.4. Provision of administrative support through the SCAP Secretariat;
- 13.1.5. Provision of appropriate electronic equipment, a suitable email address and software for accessing SCAP agendas and documentation;
- 13.1.6. Provision of agenda material in electronic form and printed as required;
- 13.1.7. Maintenance of a register of all applications accessible to Members and the public;
- 13.1.8. Reporting on Development Application lodgement, completion and timeline statistics;
- 13.1.9. Reporting on the use of delegations;
- 13.1.10. Provision of a written response to policy or legislative issues raised by the SCAP with the Commission;
- 13.1.11. Facilitate the provision of legislative or legal advice as it relates to the development assessment function;
- 13.1.12. Reporting on appeals that are or have been active during the reporting period;
- 13.1.13. Reporting on enforcement proceedings that are or have been active during the reporting period;
- 13.1.14. Reporting on all Ministerial decisions in relation to Crown Development or Public Infrastructure applications made during the reporting period.

Meetings & Proceedings

14. Meeting Schedule

- 14.1. Regular meetings of the SCAP will be held twice each month. Alterations to the scheduled meeting arrangements or additional meetings will be negotiated as far ahead as practical with all SCAP Members and at the direction of the Presiding Member.
- 14.2. A schedule of regular meetings will be published at the commencement of each term of the SCAP.
- 14.3. When required, meetings and/or site inspections may need to be held in a regional location, and could require an overnight stay. The arrangements for these will be negotiated as far ahead as practical with SCAP Members.
- 14.4. Where possible, Members will provide advance notice (at least 10 business days) of a Member's inability to attend a meeting or function of the SCAP.
- 14.5. The SCAP will work with the Commission and the Department to ensure that sufficient Members are available for a meeting to form a quorum for the purpose of making a decision. Where a quorum cannot be achieved, that item or meeting will be cancelled and rescheduled.

OFFICIAL

15. Site Visits

- 15.1. Where practical, members will endeavour to view the site of the development prior to the meeting, bearing in mind they cannot engage in any communication or trespass.
- 15.2. Where group site inspections are to be undertaken, these will be pre-arranged in consultation with the SCAP Members and Department staff.

16. Agendas and supporting documentation

- 16.1. All SCAP business will be conducted on secure government emails to support confidentiality and the provisions of the *State Records Act 1997* and *Freedom of Information Act 1991*. All agenda information, supporting documentation and correspondence will be provided to Members via the secure email account provided by the Department.
- 16.2. Notice of meeting dates, times and venue, and a copy of the meeting agenda and any associated papers for prior reading will be distributed to SCAP Members five working days prior to the next scheduled meeting.
- 16.3. Meeting agendas will be prepared in a form agreed to by the Presiding Member and the SCAP Secretariat, and will be made available on the SCAP website 4 business days prior to the meeting.
- 16.4. Agenda item materials issued by the Department will contain the staff report and recommendation, all supporting application documentation, written public representations, Agency comments and advice, and applicant responses.
- 16.5. SCAP Members are required to read the relevant agenda item materials prior to meetings to ensure they are suitably informed and able to participate in the discussion and decision making process.

17. General Proceedings

- 17.1. The SCAP may conduct meetings (including public hearings) online or by telephone or audio-visual equipment provided members have prior notice and concur to the arrangements. Any such meetings may occur notwithstanding the clauses of these Practice & Operating Directions where in-person meetings are implied. In addition, any clauses in these Practice & Operating Directions where in-person meetings are implied will be read as permitting meetings conducted online or by telephone or audio-visual equipment.
- 17.2. The Presiding Member will preside over meetings of the SCAP. The Deputy Presiding Member will preside over meetings if the Presiding Member is absent. In the absence of both the Presiding and Deputy Presiding Members, another member of the SCAP will be chosen by those members present to preside over the meeting.
- 17.3. A quorum of the SCAP will be 4 members (and no business may be transacted at a meeting of the SCAP unless a quorum is present). For the purpose of forming a quorum, a SCAP member may include the Presiding Member, the Deputy Presiding Member, an Ordinary Member and any Occasional Member appointed to a particular meeting or item.
- 17.4. Each member has one vote, and the Presiding Member has a casting vote, if required to address an even vote.

OFFICIAL

- 17.5. Meetings will generally commence at 9.30am and finish by 5.00pm. The precise timeframe of meetings will be determined to ensure all business is able to be conducted on the scheduled meeting day.
- 17.6. The Presiding Member will facilitate the meeting in a manner which promotes healthy, orderly, constructive, respectful and expeditious discussion and not allow repetitious or irrelevant discussion having regard to the function of the SCAP.
- 17.7. Motions may be put informally at the discretion of the Presiding Member, so long as they are clearly communicated to all members present.
- 17.8. The Presiding Member will allow any SCAP Member to ask relevant questions of any person appearing before it, and may refuse to allow any questions, comment or debate that in his/her opinion is not relevant to the subject matter or beyond the scope of the decision.
- 17.9. Unless otherwise resolved by the SCAP, all parties, other than Departmental Assessment staff, will be required to leave the meeting immediately prior to the SCAP's final deliberations.

18. Order of Business

- 18.1. The meeting will be run in accordance with the running sheet. Items will be addressed at times specified on the running sheet as far as is reasonably practicable.

19. Minutes

- 19.1. Minutes of meetings will be kept and prepared in a form agreed to by the Presiding Member and the SCAP Secretariat.
- 19.2. As decisions of the SCAP are carried by the majority of votes cast, the minutes will only record the decision and not the votes for or against, as these are irrelevant once the majority is determined.
- 19.3. SCAP meeting minutes will record:
 - 19.3.1. The names of the SCAP members present;
 - 19.3.2. Any apologies received from SCAP members;
 - 19.3.3. The names of all Departmental staff in attendance;
 - 19.3.4. The name of all persons appearing before the SCAP;
 - 19.3.5. The decision of the SCAP in relation to all matters before it;
 - 19.3.6. If an application is approved, a short explanation as to why it was approved, and relevant reserved matters and conditions;
 - 19.3.7. If an application is refused, the reasons for refusal;
 - 19.3.8. If an application is deferred, the reasons for deferral;
 - 19.3.9. Any disclosure of interest made by a member of the SCAP or Departmental staff.
- 19.4. Minutes of the meeting will be finalised at the end of the meeting and will be made available on the SCAP website by midday the following business day. Hard copies will be made available upon request.

OFFICIAL

20. Advisory Agendas and Minutes

- 20.1. There are a number of matters for which the SCAP is not the decision maker and there are some circumstances where matters need to be discussed in confidence due to legal proceedings. Therefore, in addition to the standard meeting agenda and minutes above, separate meeting agendas and minutes will be prepared and kept for the following:
 - 20.1.1. Recommendations for Crown development applications. It is noted that the final decision from the Minister in the form of a Decision Notification Form is made available on the SCAP public register.
 - 20.1.2. Matters such as (but not limited to) legal advice, consideration of compromise proposals arising from court appeals, other court matters, internal staff briefings and compliance or enforcement matters.
- 20.2. As with general matters, the SCAP agenda for Crown developments will be made available on the SCAP website 4 business days prior to the meeting.
- 20.3. These meeting agendas and minutes will follow the same format and processes as the standard meeting agendas and minutes, where relevant.

Attendance at Meetings

21. General

- 21.1. SCAP meetings (with the exception of SCAP deliberations and the items listed at 20.1 of this document) are open to members of the public and the media to attend.
- 21.2. Third party representors that have expressed a desire to be heard will be heard at a "Hearing of Verbal Representations", as required by the *Development Act 1993*, the PDI Act and the SCAP Practice and Operating Directions. This is described in more detail in the Section "Hearing of Verbal Representations".
- 21.3. Government Agencies and Councils that have provided a written representation or referral response and expressed a desire to be heard will also be given an opportunity to be heard at the Hearing.
- 21.4. In relation to Category 2 representations under the *Development Act 1993*, the SCAP will hear only representors who the SCAP, in its absolute discretion in accordance with section 38(10) of the *Development Act 1993*, decides to allow to be heard in support of their representation.
- 21.5. In relation to performance assessed development that has been publicly notified under the PDI Act, the SCAP will hear only representors who the SCAP, in its absolute discretion in accordance with regulation 50(5) of the PDI Act, decides to allow to be heard in support of their representation.
- 21.6. In relation to Category 3 representations under the *Development Act 1993*, third party representors will be heard as required by section 38(1)(b) of the *Development Act 1993*.
- 21.7. In relation to representations concerning Crown development under the *Development Act 1993*, third party representors will be heard as required by section 49(7d)(b) of the *Development Act 1993*.
- 21.8. In relation to representations concerning Electricity Infrastructure development under the *Development Act 1993*, third party representors will be heard as required by section 49A(7d)(b) of the *Development Act 1993*.

#12296371 v22+

OFFICIAL

- 21.9. In relation to development that is classified by the Planning and Design Code as restricted development, third party representors will be heard as required by section 110(3) of the PDI Act.
- 21.10. In relation to representations concerning Crown development under the PDI Act, third party representors will be heard as required by section 131(13)(b) of the PDI Act.
- 21.11. In relation to representations concerning Essential Infrastructure development under the PDI Act, third party representors will be heard as required by section 131(13)(b) of the PDI Act.
- 21.12. Government Agency and Council representatives may be invited by the SCAP to attend a meeting to provide technical advice.
- 21.13. Other specialist advice may be sought by the SCAP and those individuals may also be invited by the SCAP to attend a meeting to provide specialist advice.
- 21.14. The SCAP can provide a telephone or online audio-visual link for applicants, representors, Councils and agencies in regional areas.
- 21.15. Members, staff and visitors will not use mobile phones during the meeting.
- 21.16. The Presiding Member may ask any person attending a meeting of the SCAP, who is behaving in a disorderly manner or otherwise causing a disruption, to leave the meeting.
- 21.17. In relation to Concurrence items, the SCAP will not hear verbal representations from Councils, Agencies, applicants or representors.

22. Applicants

- 22.1. The SCAP provides the opportunity for applicants to attend the meeting, even when there are no representors to be heard. Applicants may appoint a representative to attend a meeting with suitable authority to speak on their behalf.
- 22.2. Applicants may make verbal and visual representations to assist with the decision making process. Such presentations will be no more than 10 minutes.
- 22.3. Presentations must be confined to addressing matters relevant to the specific application and the development assessment decision making task.
- 22.4. Applicants are advised to bring relevant technical team members as appropriate.
- 22.5. The Presiding Member may agree to allocate additional time for presentations provided that there is a sound justification that the information to be provided will assist the decision making process.

Hearing of Verbal Representations

23. Hearing of Verbal Representations

- 23.1. The primary purpose of a hearing of verbal representations is for the representor to be heard in support of their representation. This requires the attendance of the representor (or their nominated representative) to enable two-way communication.
- 23.2. The hearing does not enable debate between representors and the applicant.
- 23.3. When a representor is advised of a hearing, it is essential that every effort is made to notify the SCAP of attendance as soon as possible, and prior to the nominated date. This enables the SCAP to allocate sufficient time to hear the verbal representations.

OFFICIAL

Representors may make their submissions via a phone, video or web link, however this must be arranged in advance.

- 23.4. Only the person who made the written submission can speak at a hearing, unless a representative of this person has been nominated to attend and speak at the hearing. This nomination must be made by the valid representor, in writing and prior to the hearing.
- 23.5. Pre-recorded verbal submissions will not be accepted.
- 23.6. Verbal submissions of representors must be limited to no more than 5 minutes and relevant visual representations may be provided. It is recommended that representors highlight those issues of greatest concern and are encouraged to elaborate on issues or raise new issues, rather than re-read their written submissions.
- 23.7. The Presiding Member will allow any SCAP Member to ask relevant questions of any person appearing before it, and may refuse to allow any questions, comment or debate that in his or her opinion is not relevant to the subject matter or beyond the scope of the decision.
- 23.8. The Hearing will generally be conducted in the following way:
 - 23.8.1. An outline of the project context and philosophy will be provided by the applicant, particularly highlighting updates and changes made in response to public and agency comments (maximum 10 minutes);
 - 23.8.2. Individual hearing of representors (maximum 5 minutes per presentation);
 - 23.8.3. SCAP Members may ask questions of representors at the end of their presentation;
 - 23.8.4. Hearing from State Agencies and Council (as appropriate) (maximum 5 minutes per presentation);
 - 23.8.5. SCAP Members may ask questions of the Agencies/Council at the end of their presentation;
 - 23.8.6. Applicant's response (as required to respond to the issues raised);
 - 23.8.7. SCAP Members may ask questions of the applicant at the end of their response;
- 23.9. Hearings generally commence on time. Members of the public and media who attend to observe hearings will not be admitted to a meeting if they arrive more than 5 minutes after the commencement of the meeting to avoid disruption and distraction for representors.

24. Attendance at the Hearing of Verbal Representations by members of the public and the Media

- 24.1. Members of the public, including journalists, must arrive at the nominated time of the agenda item they wish to attend.
- 24.2. The Presiding Member will endeavour to create an environment conducive to the respectful sharing of information. This will include:
 - 24.2.1. All information and interactions being directed to the SCAP Members;
 - 24.2.2. Respectful verbal interactions between all parties;

OFFICIAL

- 24.2.3. Avoiding an intimidating environment for representors (electronic recording of verbal submissions will not be permitted);
- 24.2.4. Addressing any inappropriate interaction between representors, applicants, members of the public and media.
- 24.3. Unless otherwise directed, Members of the public and media who attend SCAP meetings should:
 - 24.3.1. Sit in the seating towards the rear of the meeting room.
 - 24.3.2. Enter and leave quietly.
 - 24.3.3. Avoid talking and eating.
 - 24.3.4. Turn mobile phones on silent mode and any other electronic equipment (no recording devices are allowed).

25. Security Procedures at the Hearings of Verbal Representations

- 25.1. A security guard may be employed for SCAP meetings on a case by case basis determined by the Manager, Development Assessment and Presiding Member.
- 25.2. All invited attendees, members of the public and the media will sign the attendance sheet prior to admittance to a meeting.
- 25.3. Everyone invited to attend a meeting will be provided a copy of the User Guidelines for Representors/Applicants/Councils prior to the meeting.
- 25.4. The Presiding Member will be provided a copy of the attendance sheet with the names of all visitors attending the meeting, and at the commencement of each agenda item will outline the requirements and obligations of those attending.
- 25.5. If a visitor of a meeting becomes disruptive or behaves inappropriately in any way:
 - 25.5.1. The Presiding Member will interrupt the meeting and warn the person (once only), to stop the behaviour or they will be asked to leave the meeting.
 - 25.5.2. If a person continues to cause a nuisance or again disrupts the meeting, the Presiding Member will immediately adjourn the meeting and all SCAP Members will vacate the room.
 - 25.5.3. If, in the opinion of the most senior staff member at the meeting, that the behaviour warrants police intervention, the staff member will contact the police for immediate assistance.

Review

26. These Practice and Operating Directions will be reviewed:

- 26.1. By the SCAP Presiding Member, in consultation with the SCAP Members and the Commission, following the appointment of a new Presiding Member or every two years (whichever occurs first).

OFFICIAL

Terms

Commission	State Planning Commission
Department	Department for Trade and Investment
Minister	Minister for Planning
SCAP	State Commission Assessment Panel

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Adopted by the State Planning Commission on ~~13-23 June~~ April 2022

Formatted: Font color: Custom Color(230,35,35)

.....

Formatted: Font: (Default) Arial

Date: ~~XX26/XX04~~/2022

Chair, State Planning Commission

Formatted: Font: Bold

Chair, State Planning Commission

Formatted: Font: (Default) Arial, Bold

Formatted: Font: (Default) Arial

APPENDIX 1 – Minister’s Code of Conduct for Assessment Panel Members (#17543498)

Formatted: Font: (Default) Arial

Formatted: Justified, Indent: Left: 0 cm, First line: 0 cm



State Planning Commission Chair - Position Description

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Role

The role of Chair requires the Chair to:

1. Chair Commission meetings as required under section 18(4) of the *Planning, Development and Infrastructure Act 2016* (the Act).
2. Keep the Minister reasonably informed about the Commission's activities as required under section 24 of the Act.
3. Provide leadership to the State Planning Commission (the Commission).
4. Take responsibility for the effectiveness of the Commission.
5. Accept responsibility for the Commission's consistent achievement of its strategic objectives.
6. Provide support and advice to the Minister, the ex officio and other Commission members.

Responsibilities

The Chair of the Commission will:

1. Be a recognised leader within the planning sector.
2. Utilise their experience in the best interests of the Commission.
3. Provide vision and imagination.
4. Ensure that the Commission functions effectively, interacts with the Department optimally, and fulfils all of its duties under the Act.
5. Have a positive working relationship with other Commission members to get the best input and involvement of each Commission member, and motivating Commission members to give their best.
6. Be an available resource to the Minister, the Chief Executive, the ex officio and the Commission, where required.
7. Periodically consult with Commission members on their assessment of how the Commission is performing.
8. Discuss and review issues confronting or of concern to the Commission with the Minister, the Department and ex officio as necessary.
9. Undertake annual performance reviews of the Commission.



10. Undertake annual performance reviews of Commission members.
11. Undertake annual performance review of the State Commission Assessment Panel, or any other active committees appointed by the Commission.
12. Participate in performance management with the Minister.
13. Be the signing officer for certain documents such as meeting minutes, financial reports and annual reports and general correspondence.
14. As required, serve as a spokesperson and ambassador for the Commission with the media, government and other stakeholders where appropriate.

Chairing Meetings

The Chair is expected to:

1. Be well prepared to chair meetings
2. Ensure orderly conduct and a fair and appropriate opportunity for all Commission members to contribute while encouraging wider and deeper discussion of important issues.
3. Manage meetings ensuring suitable time allocation per item, directing discussion towards consensus and, clarifying and summing up actions and decisions.

Rights

The Chair is entitled to:

1. Be provided with information and advice by the Department as required to adequately serve as a Commission member and Chair.
2. Subject to approval by an appropriately authorised officer in the Department, engage an outside expert at the Commission's expense to provide advice on particular matters.

Time Commitment

Your time commitment as Chair will involve preparation for and attendance at:

1. Commission meetings and committee meetings (if required)
2. strategy meetings and planning days
3. training and development sessions
4. public hearings from time to time
5. other meetings or events as reasonably required to fulfil the role of Chair.



Review

The Commission will review the Chair Position Description policy annually and update where necessary.

Version	Produced By	Endorsed By	Approved by	Review Due
1.0	R Bolingbroke 18 July 2017	A Allen 10 August 2017	Commission 17 August 2017	August 2018
1.1	Chelsea Lucas 22 April 2021	Sally Smith 6 May 2021	Commission 13 May 2021	May 2022