

17. Officer Reports – Planning, Development and Infrastructure Act applications
Nil
18. Other miscellaneous set-up matters
There was general discussion relating to conducting monthly meetings on a needs basis, undertaking inspections on an as needs basis, agreement of members to distribute minutes and agendas by email and the wish of members that the public agenda contains reports, plans and attachments.
19. **Other Business:**
Management of Appeals

	Moved R Donaldson	Seconded F Barr
RAP09/21	Assessment manager to provide an information report to consider options regarding planning appeals that proceed beyond the compromise stage.	

CARRIED
20. Meeting Closed 5.08pm

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Stewart Payne
PRESIDING MEMBER

UPPER SPENCER GULF REGIONAL ASSESSMENT PANEL
Meeting Procedures 2021
As adopted by the Panel, 24 March 2021

1. Purpose

- 1.1 These Meeting Procedures have been determined by the Upper Spencer Gulf Regional Assessment Panel (“the Panel”) pursuant to the Upper Spencer Gulf Regional Panel Meeting Procedures determined by the Minister pursuant to section 84(1)(e)(ii) of the *Planning, Development and Infrastructure Act 2016* (“the PDI Act”) and having regard to the Terms of Reference for the Panel as adopted by the Minister, Port Pirie Regional Council, The Corporation of the City of Whyalla and the Port Augusta City Council (“the Councils”).
- 1.2 The procedures are intended to:
 - 1.2.1 outline the procedures by which the Panel will conduct its business at meetings; and
 - 1.2.2 facilitate the conduct of the Panel’s business in a transparent, timely, efficient and appropriate manner to ensure compliance with the requirements of the Act.
- 1.3 In so far as procedures for the Panel are not prescribed in the Regional Assessment Panel Meeting Procedures determined by the Minister, or these Procedures, the Panel may determine its own procedures as required.

2. Meeting Notice, Times and Venue

- 2.1 Scheduled meetings of the Panel will be held on the First Tuesday of each month at 4.00pm, as determined by the Assessment Manager:
 - 2.1.1 at the Chambers of the Councils on an annual, rotating basis in accordance with the Service Agreement between the Councils; or
 - 2.1.2 at a particular Council Chamber as determined by the Assessment Manager in consultation with the Panel;
 - 2.1.3 via teleconference, video conference, webinar, online platform or other electronic means.
- 2.2 Where a meeting is to be convened at a Council Chambers, Panel members may request that they attend the meeting via teleconference, video conference, webinar, online platform or other electronic means. Such requests must be made to the Assessment Manager, via email, at least one (1) clear business day before the meeting. The Assessment Manager will determine how attendance will be facilitated and will provide appropriate details to the Panel member.
- 2.3 A minimum of five (5) clear business days’ notice of a scheduled meeting shall be given to applicants and representors as required by the *Planning, Development and Infrastructure (General) Regulations 2017* (“the Regulations”).
- 2.4 Notice of a Panel meeting and the accompanying agenda will be provided to Panel members three (3) clear business days before a scheduled meeting.
- 2.5 Notice of the meeting shall be given by email or fax. Notice via post will be given only if the relevant Panel member, applicant or representor has not provided an email or fax number or has otherwise indicated that they wish to receive notices by post only. The notice must specify

whether the meeting will be convened as a physical meeting or via teleconference, video conference, webinar, online platform or other electronic means. If the latter, the notice must include appropriate log-in and other details.

- 2.6 Special meetings (being any meeting of the Panel which is not a scheduled meeting under 2.1 above) of the Panel may be required in special circumstances to expedite decisions on applications before the Panel, and will be called at the discretion of the Presiding Member in consultation with the Assessment Manager. Members of the Panel, applicants, representors and the public shall be given five (5) clear business days' notice of a special meeting of the Panel. The Assessment Manager will determine whether a special meeting will occur at a physical location or via teleconference, video conference, webinar, online platform or other electronic means. Where a special meeting is to occur at a physical location, the Assessment Manager will determine the location.
- 2.7 Meetings of the Panel shall be conducted in public except where the Panel may exclude the public pursuant to regulation 13 of the Regulations. Where a meeting is to be convened via teleconference, video conference, webinar, online platform or other electronic means, the meeting will be livestreamed or made accessible in a manner deemed appropriate by the Assessment Manager, such that members of the public can hear and (if relevant) see the meeting as they would in the public gallery of a physical meeting.
- 2.8 Public notice of a scheduled meeting will be provided at the Councils' offices and on the Councils' websites. Where a scheduled meeting is to be convened via teleconference, video conference, webinar, online platform or other electronic means, log-in and/or access link details will be provided in the notice.
- 2.9 A copy of the Agenda and reports provided to the Panel for every meeting of the Panel shall be available for viewing by the public at the Councils' offices at least three (3) business days before the meeting.
- 2.10 A copy of the Agenda and reports from the Assessment Manager for every meeting of the Panel shall be available for viewing on each of the Councils' websites (excluding the attachments to reports) at least three (3) business days before the meeting.

3. Applicants to address the Panel

- 3.1 An applicant has the right to address the Panel at a Hearing of Representations in accordance with the provisions of regulation 50 of the Regulations.
- 3.2 Except as provided in regulation 50 of the Regulations or otherwise provided in these Meeting Procedures an applicant for a development application before the Panel may not address the Panel but the Presiding Member may allow Panel Members to address questions to the applicant or their representatives. The applicant or their representatives must limit their response to the questions raised.
- 3.3 Applicants and their representatives may request that they attend Panel meetings via teleconference, video conference, webinar, online platform or other electronic means. Such requests must be made to the Assessment Manager, via email, at least one (1) clear business day before the meeting. The Assessment Manager will determine how attendance will be facilitated and will provide appropriate details to the applicant or their representative.

4. Hearing of Representations

- 4.1 The Panel shall conduct a Hearing of Representations in accordance with regulation 50 of the Regulations for all performance assessed development applications that require public

notification. For clarity, the Panel will hear all representors who lodge a valid representation and who indicate on their written representation that they wish to be heard on their representation by the Panel. The Hearing of Representations will take place at the commencement of the consideration of the relevant agenda item.

- 4.2 The Hearing of Representations will hear representors in support of their representations before hearing the applicant's response to the representations. At a Hearing the persons making representations will be allocated five (5) minutes to address the Panel. The applicant will be allocated ten (10) minutes to respond to the representations made to the Panel, unless otherwise determined by the Presiding Member.
- 4.3 Where two (2) or more persons have nominated a spokesperson to support their representations at the Hearing of Representations the Presiding Member will prior to the Panel Meeting determine the allocated the time that the spokesperson will address the Panel.
- 4.4 Where representors are addressing the Panel on a common issue or issues, the Panel may request such representors to address the Panel in a group, rather than individually.
- 4.5 Representors will not be allowed a further opportunity to address the Panel once applicants have concluded their response.
- 4.6 Representors or the applicant will not be allowed a further opportunity to address the Panel at any subsequent meeting of the Panel to consider the matter, except at the discretion of the Presiding Member.
- 4.7 Where no representors appear at the Hearing of Representations an applicant may only be heard (at the discretion of the Presiding Member) where their written response to representations requires explanation or where the Panel will otherwise benefit from hearing them.
- 4.8 At the conclusion of a formal Hearing of Representation with the representor and applicant having addressed the Panel, the Panel may defer a decision on the application in accordance with clause 7 below.
- 4.9 When the application is next brought before the Panel for consideration the representor and applicant will not again be heard by the Panel unless the application has been re-advertised and a new Hearing of Representation is to be held. The Presiding Member may however allow Panel Members to address questions to the applicant or the representor who must limit their responses to the questions raised.
- 4.10 Panel Members may question and seek clarification from a representor and the applicant at the conclusion of their address to the Panel.
- 4.11 Individual elected members of the Councils do not have a right to be heard by the Panel unless they have made a representation as a private citizen and are a representor pursuant to regulation 50 of the Regulations are or have been appointed by a representor to speak on their behalf.
- 4.12 Representors and their representatives (as relevant) may request that they attend Panel meetings via teleconference, video conference, webinar, online platform or other electronic means. Such requests must be made to the Assessment Manager, via email, at least one (1) clear business day before the meeting. The Assessment Manager will determine how attendance will be facilitated and will provide appropriate details to the representor or their representative.

5. Site Inspections and Locality Visits

- 5.1 Formal site visits of the Panel Members may be arranged on request from any member of the Panel. The Panel may request attendance of a Council Officer to provide relevant information. The Panel will not hear deputations at a formal site visit.
- 5.2 If formal site visits are undertaken by the Panel they will be undertaken in accordance with the Ministers Code of Conduct for Assessment Panel members.

6. Information provided following preparation of the meeting agenda

- 6.1 Additional information submitted after distribution of the meeting agenda, either before or during a meeting of the Panel, should be submitted to the Assessment Manager so that they may advise the Panel. Additional information submitted at the Panel meeting will not normally be considered unless on the advice of the reporting officer or at the discretion of the Presiding Member. The Panel may defer consideration of the application to enable a full and proper assessment of any further information submitted.
- 6.2 Representors and applicants must avoid raising new material that has not been raised in their written submissions when they appear before the panel. Where it is necessary, any new additional information that must be presented should be forwarded to Council at least five (5) business days prior to the meeting **so that the Assessment Manager** can confirm necessity and effect distribution to the applicant and to members of the Panel for consideration.
- 6.3 Full disclosure of all relevant information prior to the Panel meeting is necessary for adequate assessment and appropriate decision making. In circumstances where new information is discovered as a result of the Hearing of Representations the Panel may, in its discretion, agree to defer the application, conduct a further hearing, or undertake other investigations to determine the relevance of new information if it believes it will assist reaching a decision.
- 6.4 After hearing an applicant and /or representors, the Panel may discuss an application and any new information to determine its relevance and may seek clarification from Council's planning staff in attendance.
- 6.5 At the discretion of the Presiding Member (in consultation with members of the Panel), any new information presented by any person appearing before the Panel, may not be considered. The Presiding Member's determination in this regard is final.

7. Deferrals

- 7.1 The Panel may defer a decision on an application where:
 - 7.1.1 the assessment timeframe for the application prescribed by regulation 53 of the Regulations has not expired; **and**
 - 7.1.2 the applicant has requested the deferral to allow variations to be made to the application; **and**
 - 7.1.3 there is sufficient time available for the variations to be made and submitted to the Panel's delegate prior to the expiry of the relevant assessment timeframe for the application.
- 7.2 Where a decision on an application is deferred by the Panel pursuant to clause 7.1 above, the Panel must resolve to authorise the Assessment Manager to determine the application on any conditions specified by it, should the variations not be received prior to the expiration of the relevant assessment timeframe.

7.3 Where the Panel has permitted an applicant to vary its application:

- 7.3.1 it must be noted that it is a privilege of the applicant to request that they be permitted to vary an application, and that the Panel is not empowered to compel an applicant to vary an application;
- 7.3.2 a variation of an application may be permitted, providing that the essential nature of the development does not change. The test for determining whether the essential nature of a development has changed is to ask whether the amended proposal is essentially the same as the original proposal.

8. Form of Debate

- 8.1 In order to ensure informed decision making and to facilitate comprehensive consideration of issues, debate and discussion by the Panel of matters before it shall be, as far as practicable, informal within the bounds of professional meeting procedures whilst still adhering to the correct procedures for the assessment of development applications as set out in the Regulations, as well as applicable principles of procedural fairness.
- 8.2 In the interests of informality, during hearings of representations the Presiding Member will be referred to as “Presiding Member”, and Panel members will be referred to by their first name (not by title or position). In subsequent discussion of items in the meeting of the Panel, members may refer to each other by their first names and address the Assessment Manager and Council staff by their first names.

9. Quorum and Voting

- 9.1 A quorum at a meeting of the Panel is a number ascertained by dividing the total number of members of the Panel for the time being in office by two (2), ignoring any fraction resulting from the division, and adding one (1). The Panel comprises five (5) members and therefore a quorum at a meeting is three (3) members.
- 9.2 If the number of apologies received by the Presiding Member **and/or** the Assessment Manager, indicate that a quorum will not be present at a meeting, the Presiding Member, may adjourn the meeting to a specified day and time.
- 9.3 In the absence of the Presiding Member, an Acting Presiding Member shall be appointed by the Panel for the relevant meeting or portion of a meeting.
- 9.4 Should a quorum not be reached within thirty (30) minutes of the scheduled commencement time of the meeting and there is no apparent prospect of achieving a quorum within a reasonable time thereafter, the meeting will be cancelled and the business on the agenda will be considered at the next meeting of the Panel.
- 9.5 Decisions will be made by a vote of all members present and the decision made on the basis of a majority vote. If the votes are equal, the Presiding Member is entitled to a second or casting vote.
- 9.6 Subject to the entitlement of the Presiding Member at clause 9.5 above, all Panel Members will participate in the decision of the Panel by making one vote.
- 9.7 The minutes shall record the decision of the Panel on each development application and record a mover and seconder for items decided by vote.

9.8 Members of the Panel cannot call for a division, nor can they submit any notice of motion to revoke or amend a previous decision of the Panel.

10. Decision-making

10.1 The Panel must have regard to the Planning and Design Code as the basis for its decisions, and also have regard to any written and verbal representations made in accordance with the provisions of the Act.

10.2 In making a decision, the Panel:

10.2.1 must state whether the proposal is seriously at variance with the provisions of the Planning and Design Code (and must refuse to grant planning consent if the proposal is seriously at variance with the provisions of the Planning and Design Code); and

10.2.2 if the proposal is not seriously at variance with the provisions of the Planning and Design Code, must state whether planning consent should be granted or refused; and

10.2.3 must provide reasons (as the case may be):

(a) why a proposal is seriously at variance with the provisions of the Planning and Design Code;

(b) if planning consent is granted subject to conditions, why the conditions have been imposed; and

(c) why planning consent is refused.

11. Minutes

11.1 The decisions of the Panel will be recorded in the Minutes of the meeting.

11.2 The Minutes of the proceedings of a meeting will record:

11.2.1 the names of the Panel members present;

11.2.2 the name and time of a Panel member entering or leaving;

11.2.3 the name of a person who has made a verbal representation to the Panel at the meeting;

11.2.4 the decision of the Panel;

11.2.5 any disclosure of interest made by a Panel member and the nature of the interest; and the decision of the Panel to exclude public attendance including reasons.

11.3 The Panel may, before it releases a copy of any minutes to the public, exclude from the minutes information about any matter dealt with on a confidential basis by Members of the Panel.

11.4 Minutes shall not be formal Minutes until adopted by the Panel at the next meeting of the Panel. However, this does not preclude the issue of Decision Notification under the Act advising of the determination of the Panel immediately after a meeting at which the Panel made its determination.

- 11.5 Upon adoption of the Minutes, the Presiding Member shall authorise the Minutes by signature and date of adoption on the last page of the Minutes.
- 11.6 Copies of the draft Minutes will be available to the public at Councils offices at least three (3) working days after the date of the meeting.
- 11.7 Adopted Minutes will be available to the public at the Councils offices within five (5) working days after the date of their adoption.

12. Planning Appeals

Should an appeal be lodged in the relation to a decision of the Panel the Panel will determine whether any “compromise proposal” is appropriate or the matter proceed to a Hearing of the Environment, Resources and Development Court.

13. Assessment Panel Review of Decisions of Assessment Manager

13.1 This clause applies to reviews commenced by applicants pursuant to section 203 of the PDI Act (“Application for Review”). For clarity, this process applies to applications assessed and determined by the Assessment Manager **or their delegate** as the relevant authority pursuant to section 96 of the PDI Act. This process does not apply to decisions made by delegates of the Panel. No representations are permitted for the original applications or the review process.

13.2 Applications for Review:

13.2.1 may, pursuant to section 201 of the PDI Act, relate to:

- (a) any assessment, request, decision, direction or act of the Assessment Manager that is relevant to any aspect of the determination of the relevant application;
- (b) a decision to grant or refuse a development authorisation by the Assessment Manager; or
- (c) the imposition of conditions in relation to a development authorisation by the Assessment Manager; or
- (d) subject to any exclusion prescribed by the PDI Regulations, any other assessment, request, decision, direction or act of the Assessment Manager;

13.2.2 must be submitted using the [Application to Assessment Panel for Assessment Manager's Decision Review](#) available for download from PlanSA (“the Form”);

13.2.3 lodged in a manner identified on the Form ; and

13.2.4 lodged within one month of the applicant receiving notice of the reviewed matter pursuant to clause 13.2.1 above, unless the Presiding Member in their discretion, grants an extension of time.

13.3 In determining whether to grant an extension of time, the Presiding Member may consider:

13.3.1 the reasons for the delay;

- 13.3.2 the length of the delay;
 - 13.3.3 whether any rights or interests of other persons would be affected by allowing the review to be commenced out of time;
 - 13.3.4 the interests of justice;
 - 13.3.5 whether the applicant has, or is within time to, appeal the prescribed matter to the ERD Court; and
 - 13.3.6 any other matters the Presiding Member considers relevant.
- 13.4 The Assessment Manager must ensure that the following documents are provided on the relevant Agenda for an Application for Review:
- 13.4.1 a report to the Panel containing all of the details of the relevant development application and the details of the reviewed decision;
 - 13.4.2 all materials which were before the Assessment Manager (or their delegate) at the time of the reviewed decision including (as relevant):
 - (a) application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
 - (b) internal and/or external referral responses; and
 - (c) any report from administration or an external planning consultant provided to the Assessment Manager (or their delegate);
 - 13.4.3 any assessment checklist used by the Assessment Manager (or their delegate) when making the reviewed decision;
 - 13.4.4 any other information requested by the Presiding Member.
- 13.5 The Assessment Manager must advise the applicant of the time and date of the Panel meeting at which the review application will be heard.
- 13.6 The applicant will be provided with a reasonable timeframe as determined by the Presiding Member with the agreement of the Panel to address the Panel on their review and why they believe the Panel should reach a different decision to that made by the Assessment Manager or their delegate.
- 13.7 On review, the Panel will consider the reviewed decision afresh on the information provided to it and on the submissions of the applicant.
- 13.8 Information, materials, plans, details, specifications and other documents which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the Panel.
- 13.9 In addition to clause 13.6 above, the Presiding Member may permit Panel members to ask questions or seek clarification from the applicant and/or the Assessment Manager, in his or her discretion.

- 13.10 Subject to clause 13.11 the Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
- 13.11 Where the decision was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
- 13.12 The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
- 13.13 The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.
- 13.14 The Panel may, on a review:
- 13.14.1 affirm the Assessment Manager's decision on the Prescribed Matter;
 - 13.14.2 vary the Assessment Manager's decision on the Prescribed Matter; or
 - 13.14.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.
- 13.15 The Assessment Manager will advise the applicant, in writing, of the Panel's decision within five (5) business days of the meeting or otherwise prescribed by the PDI Regulations.

14. **Conflict of Interest**

If a Panel Member is of the view that they have a conflict of interest in relation to a matter before the Panel they are required to make a disclosure clearly stating the nature of that interest to the Panel, in accordance with Clause 7(a) of the Code of Conduct adopted by the Minister pursuant to Schedule 3 of the Act, and then in the meeting when the relevant agenda item is reached, must remove themselves from the meeting in accordance with clause 7(b) of the Code of Conduct.

15. **Conduct**

- 15.1 Members of the Panel must act at all times in accordance with section 15(2) of the Act and the Minister's Code of Conduct and professional standards adopted pursuant to Schedule 3 of the Act.
- 15.2 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by a member, an applicant, a representor or any person or persons present at the meeting of the Panel until such time as the disruption or disturbance ceases, or failing that, order a persons or persons to leave the meeting.
- 15.3 The Panel whenever possible will conduct its meetings in public; however should the discussion or determination of a development application be inhibited by the presence of the public at the meeting the Panel may exclude the public from attendance pursuant to the Regulations.
- 15.4 Where a meeting is convened via teleconference, video conference, webinar, online platform or other electronic means, the Presiding Member may mute or disconnect a person from the meeting link in the event that the person is, in the opinion of the Presiding Member, behaving in accordance with clauses 15.2 or 15.3 above.

15.5 Where a meeting is convened via teleconference, video conference, webinar, online platform or other electronic means, and the Panel resolves to exclude the public from the meeting pursuant to the Regulations, members of the public will, as relevant, be excluded from the meeting via livestream being paused or otherwise audio and video feeds being disabled for the duration of the confidential item.

15.6 Panel members must not initiate individual discussions with applicants, representors or government agencies regarding a matter that is or is likely to be before the Panel for determination, and, if placed in a situation where such discussion is unavoidable, should not express an opinion that could be constructed as having made a decision in relation to the proposal before the Panel has collectively assessed and determined the development application.

16. Planning Policy

16.1 The Panel may, from time to time, consider trends, issues and other matters relating to planning or development that have become apparent or arisen through the assessment of development applicants, and report to Council accordingly. However the Act does not empower the Panel to act as a policy formulating body.

16.2 The Panel may, upon request from a Council, comment on draft planning policy.

17. Other Matters

17.1 An applicant will not be permitted to defer matters from the meeting agenda after the agenda has been sent to Panel Members, unless agreed at the meeting or by the Presiding Member prior to the meeting. The applicant must make this request in writing to the Panel Assessment Manager, including reason(s) for their request to defer.

17.2 Should a Panel Member receive by direct post, fax, e-mail or other means, information in relation to a development application being assessed by Council development assessment officers which may be referred for decision by the Panel at a future time, then the Panel Member must immediately forward the information received to the Assessment Manager. The Panel Members should not acknowledge receipt of the information and must not enter into discussion with the sender in relation to any matters contained within the information received. If a Panel Member receives such information, he or she must disclose this fact to the meeting, and confirm that the information will not be taken into account for the purposes of making a decision on the relevant application.

17.3 Should a request be made for public comment on the operations or decisions made by the Panel the matter should be referred to the Presiding Member. Comment may be made at the discretion of the Presiding Member.

17.4 The Panel at a meeting may appoint an additional member of the Panel for the purpose of providing independent expert advice on any relevant matter before the Panel. The person will be appointed under section 86 of the Act and will be a member of the Panel in all respects but will not have a vote on any matter arising for determination by the Panel.

17.5 The role of the Panel is not one of mediator or arbitrator for parties expressing divergent views but is a decision maker charged with the responsibility of assessing each proposal against the relevant provisions of the Planning and Design Code. It is a role that is inquisitorial rather than adversarial. The Panel does not therefore have a role as a mediator or arbitrator at its meetings or otherwise between an applicant and representors.

- 17.6 The role of the Panel in performing the function of a “relevant authority” under the provisions of the Act is to test each development proposal against the provisions of the Planning and Design Code, whether general or particular, and which are relevant to each application.
- 17.7 The Panel may, during a meeting, request independent expert advice on any relevant matter before the Panel and this request must be actioned by the Assessment Manager. If the Assessment Manager decides not to engage such advice, then the Panel must be advised of the decision and the reason as soon as reasonably possible.
- 17.8 Except insofar as a procedure is prescribed by the Act or the Regulations, the procedures of an assessment panel in relation to the conduct of its business will be determined by the Panel.
- 17.9 A proceeding of the Panel (i.e. any decision made by the Panel) is not invalid by reason of a vacancy in its membership or a defect in the appointment of a member.

18. Public access to meetings

In accordance with regulation 13 of the Regulations:

18.1 In connection with the conduct of the proceedings of the Panel, members of the public are entitled to attend a meeting of the panel other than as set out in sub-regulation (2).

18.2 The Panel may exclude the public from attendance at a meeting:

18.2.1 during so much of the meeting as is necessary to receive, discuss or consider in confidence any of the following matters:

- i. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- ii. information the disclosure of which:
 - (A) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
 - (B) would, on balance, be contrary to the public interest;
- iii. information the disclosure of which would reveal a trade secret;
- iv. commercial information of a confidential nature (not being a trade secret) the disclosure of which:
 - (A) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (B) would, on balance, be contrary to the public interest;
- v. matters affecting the safety or security of any person or property;
- vi. information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- vii. matters that should be considered in confidence in order to ensure that the Panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- viii. legal advice;

- ix. information relating to actual litigation, or litigation that the Panel believes on reasonable grounds will take place; and
 - x. information the disclosure of which:
 - (A) would divulge information provided on a confidential basis by or to a Minister of the Crown, the State Planning Commission, or another public authority or official; and
 - (B) would, on balance, be contrary to the public interest;
- 18.2.2 during so much of the meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the Panel.

**INSTRUMENT OF DELEGATION FOR THE UPPER SPENCER GULF ASSESSMENT PANEL
UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 AND
PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017**

HEAD DELEGATION

Except where otherwise specified, in the exercise of the power contained in Section 100 of the *Planning, Development and Infrastructure Act 2016* and in accordance with the resolution made by the Upper Spencer Gulf Assessment Panel (the ‘USGAP’) on 24 March 2021 the following powers and functions are delegated by the USGAP to the person occupying the office of the Assessment Manager to the USGAP (‘the Delegate’). The Delegate is authorised to further delegate these powers and functions in accordance with Section 100 of the *Planning, Development and Infrastructure Act 2016* as the Delegate sees fit, unless otherwise indicated within this instrument of delegation.

SUB-DELEGATION

Except where otherwise specified, in the exercise of the power contained in Section 100 of the *Planning, Development and Infrastructure Act 2016* and in accordance with the decision made by the Assessment Manager of the USGAP on the 24 March 2021 the following powers and functions are sub-delegated by the Assessment Manager to the person occupying the office indicated in the table below and to any person appointed to act in that position (‘the Sub-Delegate’). The Sub-Delegate is authorised to further delegate these powers and functions in accordance with Section 100 of the *Planning, Development and Infrastructure Act 2016* as the Sub-Delegate sees fit, unless otherwise indicated within this instrument of delegation.

NOTES

Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.

POWERS AND FUNCTIONS SUB-DELEGATED IN THIS INSTRUMENT

	SUB DELEGATION
1. Relevant authority – councils and related provisions	
1.1 The power, pursuant to section 99 of the Act to refer the assessment of a development against the Building Rules to the council or a building certifier.	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer

	<p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>2. Matters against which development must be assessed</p>	
<p>2.1 The power pursuant to section 102(1)(a)(i) of the Act to assess a development against and grant or refuse planning consent to a development application.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>2.2 The power pursuant to section 102(3) of the Act and subject to section 102(5) of the Act, when granting a planning consent, to reserve a decision on a specified matter or reserve a decision to grant planning consent until:</p> <p>2.2.1 further assessment of the development under the Act; or</p> <p>2.2.2 further assessment or consideration of the development under another Act; or</p> <p>2.2.3 a licence, permission, consent, approval, authorisation, certificate or other authority is granted, or not granted (by another authority), under another Act.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p>

	<ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>2.3 The power pursuant to section 102(7) of the Act, where a development involves two or more elements, to assess and grant planning consent to each element separately.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>3. Performance assessed development</p>	
<p>3.1 The power pursuant to section 107(2)(b) of the Act to assess any elements of a development that are not deemed-to-satisfy, on its merits against the Planning and Design Code.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p>

	<ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>3.2 The power pursuant to section 107(2)(c) of the Act to refuse planning consent if the relevant authority is of the opinion that the development is seriously at variance with the Planning and Design Code (disregarding minor variations).</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>3.3 The power pursuant to section 107(3)(a) of the Act, subject to section 107(6) of the Act, to determine, in accordance with the relevant practice direction and the <i>Planning, Development and Infrastructure (General) Regulations 2019</i> (“the Regulations”) to give notice of an application for planning consent to:</p> <p>3.3.1 an owner and occupier of each piece of adjacent land; and</p> <p>3.3.2 members of the public by notice placed on the land.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer

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	<p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>3.4 The power pursuant to section 107(8) of the Act to determine not to grant planning consent on a performance assessed development, even if the development includes one or more elements that are deemed-to-satisfy.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>4. Impact assessment by Minister – procedural matters</p>	
<p>4.1 The power pursuant to section 111(2)(a) of the Act to transmit to the Minister any documentation, in accordance with regulation 74(1) of the Regulations, that has been lodged for applications made under Division 4 that relate to development within the ambit of the relevant regulation or declaration by the Minister.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p>

	<ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
5. Application and provision of information	
5.1 The power pursuant to section 119(3) of the Act, subject to section 119(4) and (5) of the Act, to request an applicant:	
5.1.1 to provide such additional documents, assessments or information (including calculations and technical details) as may reasonably be required to assess the application;	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
5.1.2 to remedy any defect or deficiency in any application or accompanying document or information required by or under the Act;	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p>

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	<ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>5.1.3 to consult with an authority of body prescribed by the Regulations;</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>5.1.4 to comply with any other requirement prescribed by the Regulations.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services

	<ul style="list-style-type: none"> • Planning Officer
<p>5.2 The power pursuant to section 119(6)(b)(i) of the Act, to refuse an application if a request for additional information in accordance with section 119(3) of the Act is not complied with within the specified timeframe.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>5.3 The power pursuant to section 119(9) of the Act to:</p>	
<p>permit an applicant to:</p> <p>5.3.1 vary an application; or</p> <p>5.3.2 vary plans, drawings, specification or other documents accompanying an application, provided that the variations do not change the essential nature of the application;</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer

<p>5.3.3 permit an applicant to lodge an application without the provision of any information or document required by the regulations;</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>5.3.4 waive payment of whole or part of the application fee or refund an application fee (in whole or in part);</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>5.3.5 if there is an inconsistency between documents lodged for the purpose of section 119 of the Act, return or forward any document to the applicant and determine not to finalise the matter until the matter is resolved, rectified or addressed.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner

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	<ul style="list-style-type: none"> • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>5.4 The power pursuant to section 119(10) of the Act to grant a permission under section 119(9) of the Act unconditionally or subject to such conditions as the delegate sees fit.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>6. Outline consent</p>	
<p>6.1 The power pursuant to section 120(1) of the Act, on application, to grant or refuse an outline consent.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner

	<p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>6.2 The power pursuant to section 120(3) of the Act to, where an outline consent has been granted and subject to section 120(4) of the Act, grant any consent contemplated by the outline consent and not impose restrictions inconsistent with the outline consent</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>7. Referrals to other authorities or agencies</p>	
<p>7.1 The power pursuant to section 122(10) of the Act to, on application by the applicant and subject to section 122(11) of the Act, defer referral until a particular stage in assessment.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p>

	<ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>8. Preliminary advice and agreement</p>	
<p>8.1 The power pursuant to section 123(2)(e) of the Act to, subject to section 123(1) and (2)(a), (b), (c) and (d) and section 132 of the Act, determine that an application accords with an agreement indicated by a prescribed body.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>9. Time within which a decision must be made</p>	
<p>9.1 The power pursuant to section 125(4) of the Act to, subject to section 125(3) of the Act and receipt of a deemed consent notice, within ten (10) business days, grant planning consent itself or subject to conditions.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p>

	<ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>9.2 The power pursuant to section 125(6) of the Act to, where the delegate believes that consent should have been refused, apply to the Court within one (1) month for an order quashing the deemed planning consent.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>10. Determination of an application</p>	
<p>10.1 The power pursuant to section 126(3) of the Act to, either on the delegates own initiative or on application by the applicant, extend the operative period of an application.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation

	<ul style="list-style-type: none"> • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>11. Conditions</p>	
<p>11.1 The power pursuant to section 127(1)(a) of the Act to, subject to section 127(2)(a) of the Act and in accordance with section 127(3) of the Act, impose conditions on an application.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>11.2 The power pursuant to section 127(8) of the Act to, subject to the concurrence of the Minister, grant an exemption to the requirement in section 127(4) and (6) of the Act.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer

	<p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>12. Saving provisions</p>	
<p>12.1 The power pursuant to section 133(3) of the Act to, subject to section 133(1) and (2) of the Act, extend the limitation period for applications to in order to avoid or reduce hardship.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>13. Cancellation of a development authorisation</p>	
<p>13.1 The power pursuant to section 143(1) of the Act to, on application by a person with the benefit of an application, cancel a development authorisation previously given.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation

	<ul style="list-style-type: none"> • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>13.2 The power pursuant to section 143(2) of the Act to, impose conditions on a cancellation as the delegate thinks fit to impose.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>14. Off-setting contributions</p>	
<p>14.1 The power pursuant to section 197(3)(c) of the Act to act under or in connection with section 197(3)(a) or (b) of the Act:</p> <p>14.1.1 requiring a person who is proposing to undertake development:</p> <p>(a) to make a contribution to a fund established for the scheme;</p> <p>(b) to undertake work or to achieve some other goal or outcome (on an “in kind” basis); or</p> <p>(c) to proceed under a combination of (a) and (b) above, in order to provide for or address a particular matter identified by the scheme; and</p> <p>14.1.2 to include an ability for a provision of the Planning and Design Code to apply with a specified variation under the terms of the scheme,</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer

<p>including where the delegate is not the designated entity that has established the scheme.</p>	<p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>15. Rights of review and appeal</p>	
<p>15.1 The power pursuant to section 202(1)(b) of the Act to respond to any appeal against a decision of the USGAP or a delegate by an applicant for development authorisation.</p> <p>15.2 The power pursuant to section 202(1)(c) of the Act to respond to any appeal against a decision of the USGAP made on a review pursuant to section 202(1)(b)(i)(a) of the Act.</p> <p>15.3 The power pursuant to section 202(1)(g) of the Act to respond to a review against a decision made by the USGAP or a delegate as to the nature of a development under Part 7 Division 2 Subdivision 1, Subdivision 2 or Subdivision 3.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>16. Professional advice to be obtained in relation to certain matters</p>	
<p>16.1 The power pursuant to section 235(1) of the Act to rely on a certificate of a person with a prescribed qualification in the exercise of the delegates prescribed functions.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer

	<p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
TRANSITIONAL PROVISIONS	
17. Regional Assessment Panels	
<p>17.1 The power pursuant to clause 13(5) of Schedule 8 of the Act to:</p> <p>17.1.1 adopt any findings or determinations of a council development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act;</p> <p>17.1.2 adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and</p> <p>17.1.3 deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and</p> <p>17.1.4 deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act; and</p> <p>17.1.5 deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
18. Continuation of processes	
<p>18.1 The power pursuant to clause 18(1) of Schedule 8 to the Act to, in respect of an application made to a relevant authority under section 39 of the repealed Act that has not been finally determined before the designated day may be continued and completed under the provisions of the repealed Act.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation

	<ul style="list-style-type: none"> • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>18.2 The power, pursuant to clause 18(2) of Schedule 8 of the Act to:</p> <p>18.2.1 adopt any findings or determinations of a relevant authority under the repealed Act that may be relevant to an application to which clause 18(1) of Schedule 8 applies;</p> <p>18.2.2 adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application to which clause 18(1) of Schedule 8 applies;</p> <p>18.2.3 deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and</p> <p>18.2.4 deal with any requirement or grant any variation imposed or proposed in connection with an application to which clause 18(1) of Schedule 8 applies; and</p> <p>18.2.5 take any other step or make any other determination authorised by the regulations, or that is reasonably necessary to promote or ensure a smooth transition on account of the transfer of functions, powers or duties under this clause.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer

PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017

	SUB DELEGATION
19. Verification of application and determination of nature of development	
<p>19.1 The power pursuant to regulation 31(1)(a), (b) and (c) of the Regulations to, within 5 business days of receiving an application:</p> <p>19.1.1 determine the nature of the development; and</p> <p>19.1.2 determine each element of a development for the purposes of assessment against the Planning and Design Code; and</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner

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<p>19.1.3 determine the category or categories of the development that apply for the purposes of development assessment; and</p> <p>19.1.4 determine whether the relevant authority is the correct entity to assess the application under the Act.</p>	<ul style="list-style-type: none"> • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>19.2 The power pursuant to regulation 31(1)(d) of the Regulations, subject to the relevant authority being to correct entity to assess the application under the Act, to:</p> <p>19.2.1 check the appropriate documents and information have been lodged with the application; and</p> <p>19.2.2 confirm the fees required to be paid for the application in accordance with the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019; and</p> <p>19.2.3 lodge an appropriate notice on the SA Planning Portal.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>19.3 The power pursuant to regulation 31(1)(e) of the Regulations to, where the USGAP is not the relevant authority to assess the application:</p>	<p><u>Port Augusta Council</u></p>

<p>19.3.1 transmit the application to the correct relevant authority; and 19.3.2 lodge an appropriate notice on the SA Planning Portal.</p>	<ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>19.4 The power pursuant to regulation 32 of the Regulations to determine whether an application, if referred to the USGAP pursuant to regulation 31(1)(e) of the Regulations, falls within a category of accepted development.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer

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<p>20. Site contamination—detailed site investigation report</p>	
<p>20.1 The power, pursuant to regulation 32A(1), in respect of an application to which Schedule 8 clause 2A applies, to request a detailed site investigation report where the grounds set out in regulations 32A(1)(a) – 32A(1)(c) apply.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>21. Site contamination—statement of site suitability</p>	
<p>21.1 The power pursuant to regulation 32B, in respect of an application to which Schedule 8 clause 2A applies, to require the applicant to provide a statement of site suitability that confirms that the site is suitable for its intended use before the relevant authority issues a planning consent in relation to the application.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental

Planning, Development and Infrastructure Act 2016
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	<p>Health and Regulatory Services</p> <ul style="list-style-type: none"> • Planning Officer
22. Withdrawing/lapsing applications	
<p>22.1 The power pursuant to regulation 38(2) of the Regulations to, subject to regulation 38(3) of the Regulations, lapse an application for development authorisation under Part 7 of the Act if at least one year has passed since the date on which the application was lodged.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>22.2 The power pursuant to regulation 38(3)(b) of the Regulations to determine the time (the “reasonable opportunity”) within which an applicant is to be given to make submissions in respect of an action under regulation 38(2) of the Regulations.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation

	<ul style="list-style-type: none"> • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>23. Additional information or amended plans</p>	
<p>23.1 The power pursuant to regulation 42(1) of the Regulations to repeat a referral process where the application is amended or additional information is received.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>23.2 The power and duty pursuant to regulation 42(1) of the Regulations to repeat a referral process where it appears that the amendment or additional information is significant.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner

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	<p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
24. Representations	
<p>24.1 The power pursuant to regulation 50(5) of the Regulations, subject to section 107(6) of the Act, to allow a representor to be heard in support of a representation made.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
25. Response by applicant	
<p>25.1 The power pursuant to regulation 51(1) of the Regulations to extend the time within which as applicant can respond to representations.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure

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	<ul style="list-style-type: none"> • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer
<p>26. Variation of authorisation</p>	
<p>26.1 The power pursuant to regulation 65 of the Regulations, subject to the criteria expressed within, to approve a minor variation.</p>	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Director Infrastructure • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Director Development & Regulation • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Manager Environmental Health and Regulatory Services • Planning Officer

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SCHEDULE OF CONDITIONS
CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
All	The Delegate may only exercise functions and powers in respect of developments that are proposed within the Council area which appointed them.
All	<p>Any person acting in the capacity of:</p> <p><u>Port Augusta Council</u></p> <ul style="list-style-type: none"> • Community Planner • Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none"> • Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none"> • Planning Officer <p>is not permitted to further sub-delegate the powers and functions in this instrument of delegation.</p>
2.1	<p>This delegation can only be exercised by delegates where:</p> <ul style="list-style-type: none"> • no representations have been received in respect to the relevant development application; and • the development cost does not exceed \$5,000,000; and • the development is, in the opinion of the Assessment Manager, not of major significance to the relevant council area.
2.1	The sub-delegation is limited to the granting of planning consent to an application pursuant to section 102(1)(a)(i) of the Act where no representations were received for the application, for any person acting in the position of:

	<p><u>Port Augusta Council</u></p> <ul style="list-style-type: none">• Director Infrastructure• Community Planner• Assistant Community Planner <p><u>Port Pirie Council</u></p> <ul style="list-style-type: none">• Director Development & Regulation• Planning Officer <p><u>Whyalla Council</u></p> <ul style="list-style-type: none">• Manager Environmental Health and Regulatory Services• Planning Officer <p>These positions are not authorised to refuse an application pursuant to section 102(1)(a)(i) of the Act.</p>
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