

CITY OF WEST TORRENS



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

<b>Classification:</b>	Council Assessment Panel Policy	
<b>First Issued:</b>	2021	
<b>Dates of Review:</b>	2023	
<b>Version Number:</b>	2	
<b>Next Review Due:</b>	2028	
<b>Objective ID:</b>	A2644986	
<b>Applicable Legislation</b>	<a href="#">Planning Development and Infrastructure Act 2016</a> <a href="#">Planning, Development and Infrastructure (General) Regulations 2017 (SA)</a>	
<b>Related Policies or Corporate Documents</b>	<a href="#">Procedures at Council Assessment Panel Meetings</a> <a href="#">Terms of Reference - Council Assessment Panel</a>	
<b>Associated Forms:</b>	Application for assessment panel review of assessment manager's decision	
<b>Note</b>		
<b>Responsible Manager</b>	Assessment Manager	
<b>Endorsed by Council Assessment Panel:</b>	Council Assessment Panel Minutes	Date: 12 September 2023

## **Council Assessment Panel Policy: Review of Decision of Assessment Manager**

### **1. Preamble**

- 1.1. This policy is made under the *Planning Development and Infrastructure Act 2016* as part of the necessary framework for the making of development decisions.

### **2. Purpose**

- 2.1. This policy provides for the process to apply for and the hearing of a review of a decision of the Assessment Manager.

### **3. Definitions**

- 3.1. **Assessment Manager** means the Assessment Manager of the City of West Torrens.
- 3.2. **ERD Court** means Environment, Resources and Development Court of South Australia.
- 3.3. **Presiding Member** means the Presiding Member of the City of West Torrens Council Assessment Panel.

### **4. Legislative Framework**

- 4.1. This Policy applies in addition to the statutory requirements for the review by the Council Assessment Panel/Regional Assessment Panel (Panel) of a decision of an Assessment Manager as set out in Part 16, Division 1 of the *Planning, Development and Infrastructure Act 2016* (Act).

### **5. Commencing a Review**

- 5.1. An application for review must relate to a prescribed matter, as defined in Section 201 of the Act, for which an Assessment Manager was the relevant authority.
- 5.2. An application for review must be:
- 5.2.1. made using the [Application for assessment panel review for assessment manager's decision](#) (the Form); lodged in a manner identified on the Form; and
  - 5.2.2. lodged within one month of the Applicant receiving notice of the Prescribed Matter, unless the Presiding Member in his or her discretion grants an extension of time.
- 5.3. In determining whether to grant an extension of time, the Presiding Member may consider:
- 5.3.1. the reason for the delay;
  - 5.3.2. the length of the delay;

- 5.3.3. whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
- 5.3.4. the interests of justice;
- 5.3.5. whether the Applicant has, or is within time to, appeal the prescribed matter to the ERD Court; and
- 5.3.6. any other matters the Presiding Member considers relevant.

## **6. Applicant's Documents**

- 6.1. An Applicant for review must be given an opportunity to provide written submissions (which includes, for the avoidance of doubt, additional information or materials) to the Panel in support of his or her application for review.
- 6.2. The Assessment Manager must inform the Applicant in writing of their right to provide written submissions to the Panel within 5 business days of the application for review being received by the Panel.
- 6.3. Such written submissions must be received by the Presiding Member within 1 month of the lodgement of the application for review, or such longer period as is requested by the Applicant and granted by the Presiding Member, in the Presiding Member's discretion.
- 6.4. Within 5 business days of the receipt of the Applicant's written submissions, the Presiding Member should determine, in his or her discretion, whether to provide a referral agency which provided a response on the application with the opportunity to review and respond any additional information and/or materials, in such manner and within such time as is determined by the Presiding Member.
- 6.5. Where a response is received from a referral agency, the Presiding Member should provide a copy to the Applicant and Assessment Manager within 2 business days.
- 6.6. If the Presiding Member considers that an Applicant's written submissions are substantial, the Presiding Member may defer the date for a hearing for such reasonable period as the Presiding Member considers appropriate, in order to:
  - 6.6.1. provide the Assessment Manager with an opportunity to review and respond to the written submissions; and
  - 6.6.2. provide any relevant referral bodies with an opportunity to review and respond to the written submissions in accordance with clause 6.5. and must provide written notice to the Applicant as soon as reasonably practicable after determining to defer the hearing, and in any event, no less than 24 hours before the hearing was due to take place.

## **7. Materials for Review Hearing**

- 7.1. The Assessment Manager shall collate for the Panel:

- 7.1.1. all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:
  - 7.1.2. application documents, reports, submissions, plans, specifications or other documents submitted by the Applicant;
  - 7.1.3. internal and/or external referral responses; and
  - 7.1.4. any report from Council staff or an external planning consultant written for the Assessment Manager;
  - 7.1.5. any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
  - 7.1.6. any written submission, including additional information or materials, prepared by the Applicant pursuant to clause 3.1;
  - 7.1.7. any other information requested by the Presiding Member.
- 7.2. The Assessment Manager (or delegate) must prepare a report to the Panel setting out the details of the relevant development application, the prescribed matter the subject of the review and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter.
- 7.3. The Assessment Manager must, by written notice to the Applicant:
- 7.3.1. advise the Applicant of the time and date of the Panel meeting at which the review application will be heard; and
  - 7.3.2. inform the Applicant of their right to appear and make submissions in person to the Panel at the hearing; and
  - 7.3.3. invite the Applicant to confirm in writing at least 1 business day prior to the hearing whether he or she wishes to be heard, not less than 5 business days before the meeting.

## **8. Review Hearing**

- 8.1. On review, the Panel will consider the Prescribed Matter afresh.
- 8.2. The Panel will hear from the Applicant (or the Applicant's representative) where he or she has elected to be heard.
- 8.3. The Applicant or their representative will be allowed a maximum of five minutes in which to make oral submissions to the Panel unless the Presiding Member, in his or her discretion, allows additional time.
- 8.4. Where an Applicant is heard by the Panel, the Assessment Manager will be allowed five minutes to respond to any issues raised by the Applicant. The Presiding Member may allow additional time at his or her discretion.

- 8.5. 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.
- 8.6. The Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
- 8.7. Where the decision on the Prescribed Matter was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
- 8.8. The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
- 8.9. The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.

## **9. Outcome on Review Hearing**

- 9.1. The Panel may, on a review:
  - 9.1.1. affirm the Assessment Manager's decision on the Prescribed Matter;
  - 9.1.2. vary the Assessment Manager's decision on the Prescribed Matter; or
  - 9.1.3. set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.
- 9.2. An Applicant should be advised in writing of the Panel's decision by the Assessment Manager.