

POLICY DOCUMENT

Policy Name	REGIONAL ASSESSMENT PANEL REVIEW OF DECISION OF ASSESSMENT MANAGER
Responsible Officer:	Assessment Manager
Version:	1
Policy adopted:	10 August 2020
Last revised date:	New policy
Next review date:	July 2022
Minute reference	MIN2036 – EPRAP Meeting Monday 10 August 2020
Applicable legislation:	Planning, Development and Infrastructure Act 2016

1. POLICY OBJECTIVE

This policy sets out the process for an applicant who is dissatisfied with a decision made by the Assessment Manager of the Eyre Peninsula Regional Assessment Panel (Assessment Manager), where the Assessment Manager was the relevant authority to determine a development application under the *Planning, Development and Infrastructure Act 2016 (Act)*, to make an application for a review of that decision.

2. DEFINITIONS

Assessment Manager	A person appointed by the Chief Executive of the Attorney General's Department to act as a relevant authority pursuant to Sections 82 and 87 of the Act.
Development Authorisation	Any assessment, decision, permission, consent, approval, authorisation or certificate required by or under the Act or by or under any other act prescribed by regulation for the purposes of the definition contained within the Act.
Prescribed Body	As listed in Schedule 9 under the Planning, Development and Infrastructure (General) Regulations 2017.
Prescribed Matter	<ol style="list-style-type: none"> 1) Any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the development application; or 2) A decision to refuse to grant development authorisation to the application; or 3) The imposition of conditions in relation to a grant of development authorisation; or 4) Subject to any exclusion prescribed by the Planning, Development and Infrastructure (General) Regulations 2017, any other assessment, request, decision, direction or act of the Assessment Manager under the Act in relation to the grant of development authorisation.

3. LEGISLATIVE FRAMEWORK

3.1 This Policy applies in addition to the statutory requirements for the review by the Panel of a decision of an Assessment Manager as set out in Part 16, Division 1 of the Act.

4. COMMENCING A REVIEW

- 4.1 An application for review must relate to a prescribed matter, as defined in Section 201 of the Act, for which a Assessment Manager was the relevant authority.
- 4.2 An application for review must be:
- 4.2.1 made using the [Application to Assessment Panel for Assessment Manager's Decision Review](#) (the Form);
 - 4.2.2 lodged in a manner identified on the Form; and
 - 4.2.3 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.
- 4.3 In determining whether to grant an extension of time, the Presiding Member may consider:
- the reason for the delay;
- 4.3.1 the length of the delay;
 - 4.3.2 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - 4.3.3 the interests of justice;
 - 4.3.4 whether the applicant has, or is within time to, appeal the prescribed matter to the ERD Court; and
 - 4.3.5 any other matters the Presiding Member considers relevant.

5. MATERIALS FOR REVIEW HEARING

- 5.1 The Assessment Manager shall collate for the Panel:
- 5.1.1 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:
 - 5.1.1.1 application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
 - 5.1.1.2 internal and/or external referral responses; and
 - 5.1.1.3 any report from Council staff or an external planning consultant written for the Assessment Manager;
 - 5.1.2 any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
 - 5.1.3 any other information requested by the Presiding Member.

- 5.2 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.

6. REVIEW HEARING

- 6.1 The Assessment Manager must advise the applicant of the time and date of the Panel meeting at which the review application will be heard.
- 6.2 On review, the Panel will consider the Prescribed Matter afresh..
- 6.3 Information, materials and submissions which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the Panel.
- 6.4 The Panel will not receive submissions or addresses from any party.
- 6.5 The Presiding Member may permit Panel members to ask questions or seek clarification from the applicant and/or the Assessment Manager (or delegate), in his or her discretion.
- 6.6 The Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
- 6.7 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.
- 6.8 The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
- 6.9 The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.

7. OUTCOME ON REVIEW HEARING

- 7.1 The Panel may, on a review:
- 7.1.1 affirm the Assessment Manager's decision on the Prescribed Matter;
 - 7.1.2 vary the Assessment Manager's decision on the Prescribed Matter; or
 - 7.1.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.
- 7.2 An applicant should be advised in writing of the Panel's decision by the Assessment Manager.