

# Council Assessment Panel – Delegations

Council Assessment Panel  
Monday, 23 October 2023

**From:**  
Manager, City Development  
(Assessment Manager)

## PURPOSE

Following recent changes to legislation, new delegations are required to be considered and endorsed by the Council Assessment Panel (CAP).

## RECOMMENDATION

That the Council Assessment Panel:

1. Delegates powers of an Assessment Panel as Relevant Authority under the *Planning, Development and Infrastructure Act 2016* (SA) as follows:
  - 1.1 In exercise of the power contained in Section 100 of the *Planning, Development and Infrastructure Act 2016* (SA) the powers and functions under the *Planning, Development and Infrastructure Act 2016* (SA) and statutory instruments made thereunder contained in the proposed Instrument of Delegation (Attachment A to this report dated 23 October 2023 and entitled 'Instrument C' – Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning and Design Code and Practice Directions of Powers of an Assessment Panel) are hereby delegated from 23 October 2023 to the City of Adelaide Assessment Manager, subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.
  - 1.2 Such powers and functions may be further delegated by the City of Adelaide Assessment Manager in accordance with Section 100(2)(c) of the *Planning Development and Infrastructure Act 2016* (SA) as the City of Adelaide Assessment Manager sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.

## ATTACHMENTS

**Attachment A** - Instrument C – Council Assessment Panel Delegations under the *Planning, Development and Infrastructure Act 2016* (SA) with proposed changes highlighted.

## BACKGROUND

1. The City of Adelaide CAP has been established in accordance with Section 83 of the *Planning, Development and Infrastructure Act 2016* (SA) ('PDI Act').

2. Section 100 of the PDI Act allows a Relevant Authority (other than an Accredited Professional) to delegate its powers and functions under this Act. The Minister, the State Planning Commission, Council, the CAP, an appointed Assessment Manager and an Accredited Professional are all Relevant Authorities under the PDI Act. The CAP, Council and the Assessment Manager can all sub-delegate their powers and functions.
3. The most recent delegations from the CAP to the Assessment Manager were adopted by the CAP on 31 January 2022.
4. Since adoption of Instrument C by the CAP, there have been changes to the legislation which necessitate preparation and endorsement of new delegations. The new delegations have been prepared by Administration for the consideration of the CAP and are included as **Attachment A** to this report.

## DISCUSSION

### **CAP as a Relevant Authority**

5. The Act provides the CAP is a Relevant Authority for planning and building consents in relation to development undertaken within the area of a Council unless another authority is prescribed by Section 93 of the Act, or the Regulations.
6. The Panel is responsible for all administrative actions associated with the assessment of a development application requiring public notification including verification, determining the classification and relevant fees, any requests for additional information, undertaking public notification (including potentially the placement of a notice on the subject land), referral of the application to agencies, and a range of other administrative matters.
7. The intent of delegations is to allow administrative matters to be managed on a day-to-day basis by the Assessment Manager, so the Panel's role in relation to these remains the hearing of representations, deliberation and determination of development applications.

### **New Delegations**

8. As the Planning, Development and Infrastructure legislation has been updated, there are additional delegations required highlighted in **Attachment A**. The head delegate for all the powers, unless explicitly listed, is the Assessment Manager. New delegations relate to:
  - Determining variations of a development authorisation previously given under the PDI Act (including variation of a condition)
  - Forming an opinion a building (or part thereof) does not demonstrate the historic characteristics expressed in an Historic Area Statement
  - Determining a variation to one or more corresponding exclusions prescribed in Column B of Table 5 is minor in nature and does not require public notification
  - Forming an opinion the variation to an application is minor in nature or would not warrant referral when considering the purpose of the referral
  - Forming an opinion a development materially affects the context within which a State Heritage Place is situated
  - Power to use money distributed from the Urban Tree Canopy Off-set Scheme.
9. Instrument C proposes the CAP delegate (where appropriate) powers to the City of Adelaide Assessment Manager in the first instance, as the person being appointed by the Chief Executive Officer responsible for the management of Council's planning assessment operations and the CAP. The exception being for the power to use money distributed from the Urban Tree Canopy Off-set Scheme which would be delegated to the Chief Executive Officer.

## **Sub-Delegations**

10. If CAP allows, a delegate may sub-delegate its powers. This is consistent with powers under Section 100 of the Act. Specific sub-delegations have been prepared with Council's Corporate Governance and Risk Team. Further instruments of sub-delegation with suggested subdelegates will be formalised once CAP resolves to delegate its powers for the additional delegations to the head delegate (the Assessment Manager).

## **Implementation**

11. The additional delegations proposed, should CAP resolve to adopt them, will come into effect as part of an updated Instrument C – Instrument of Delegation and the previous delegations will be revoked.

## **CONCLUSION**

12. Instrument C – Instrument of Delegation has been drafted to be consistent with practices under the existing system. The proposed new Instrument C appropriately balances the discharging of the CAP's role and responsibilities against ensuring efficient and effective ongoing operations. It is important to note delegations can be reviewed at any time and there may be a need to make further changes in the future.