

State Planning Commission Governance Charter

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1. State Planning Commission Charter (the Charter)

1.1 Purpose of the State Planning Commission Governance Charter

The purpose of this Charter is to explain how the State Planning Commission (Commission) will operate consistent with the *Planning, Development and Infrastructure Act 2016* (the Act) and Departmental administrative arrangements.

The Charter outlines the framework for how the Commission will work, to promote its effectiveness and efficiency, emphasising good conduct and judgement, proper oversight and accountability.

1.2 The Commission's role

As the State's principal planning advisory and development assessment body established under the Act, the Commission is accountable to the Minister for Planning for the administration of the Act and to further the Act's objects and principles.

At its core, the Commission's role is to Act in the best interests of all South Australians in promoting the objects of the Act, to encourage state-wide economic growth, to support liveability in ways that are ecologically sustainable, and to meet the needs and expectations, and reflect the diversity, of the State's communities by creating an effective, efficient and enabling system. As a statutory authority, the Commission exists for a public purpose, and is required to both comply with and to implement government policy and existing legislation. This brings with it the highest requirements for transparency, reporting and integrity.

The Commission is responsible to the Minister for undertaking and exercising its functions and powers under the Act (sections 22 and 23 of the *Planning, Development and Infrastructure Act 2016*, summarised at Attachment C). The Commission's primary duties are to provide advice and recommendations on government planning policy; analyse and assess proposed development projects; undertake and publish research, analyse and monitor trends; coordinate planning with infrastructure; provide information and guidance to local councils and accredited professionals in the delivery of the new planning system and lead community engagement in setting policies for the planning system.

In undertaking these duties the Commission will:

- exercise independent judgment and provide independent oversight of the Commission's tasks;
- Act diligently on an appropriately informed basis and have access to accurate, relevant and timely information;
- clearly communicate with our stakeholders about our activities;
- strive to continue to improve our performance and seek feedback from our stakeholders; and
- put in place appropriate delegations to ensure effective delivery of business.



1.3 The Commission's expertise

The Commission was proclaimed on 1 April 2017 and commenced in May 2017, and comprises six people (including the Chair), and an *ex officio* member. The members bring expertise from a range of disciplines including economics, urban design, construction, social and environmental policy and public administration.

The Commission has established the State Commission Assessment Panel to exercise its assessment powers and functions as a relevant authority, as required under the *Act*; a Building Committee to assist with technical expertise required for building advice and concurrence in relation to applications involving building work; and may establish other committees as required by the Minister or under Regulation.

1.4 The Commission's relationships

The role of the Commission intersects with those of two other main parties – the Minister and the Chief Executive of the Department of Planning, Transport and Infrastructure (the Department). Clarity of understanding and agreement on governance by those parties is necessary to ensure functionality. For the Commission to perform its duties properly, it is essential for these interrelationships to be governed well.

For this reason, this Charter sets out explicitly the roles of the Commission (above), as well as those of the Minister and the Chief Executive of the Department (to follow).

The Minister has overarching responsibility for the planning system, and is ultimately accountable to Parliament and the community for furthering the objects of the *Act*. While under the *Act* the Minister has powers of general control and direction over the Commission, the Minister has no specific powers to direct the Commission in relation to its recommendations or advice, nor the exercise of its discretion in relation to granting a development authorisation.

While the Commission has a duty to keep the Minister informed of its activities, and the Minister has access to and the ability to request information from the Commission, the Commission need not provide the Minister with information it considers should be kept confidential, so long as this does not adversely affect the proper performance of Ministerial functions or duties.

The Minister may approve provision of as many staff as are required to assist the Commission but it is intended for the most part that the Chief Executive will provide the resources necessary to support the Commission's functions under the *Act*. The Chief Executive is to work with and be responsible to the Commission to manage its business efficiently and effectively, and supervise any staff appointed to support the Commission.

Thus the Minister relies on the Commission and the Department to administer the *Act*, and the Commission, in turn, relies on the Department to provide services and support to enable it to do its work.



The Service Level Agreement, Work Program and Planning Reform Implementation Strategy, which form appendices to this Charter (refer Attachment B), map out responsibilities of the respective parties in greater detail, in order to help navigate these complex inter-relationships.

For these arrangements to work properly, there must also be a commitment from all parties to be open, frank and respectful in keeping each other fully informed on matters of substance and allowing each to fulfil to the best of their abilities their roles and functions under the *Act*. The *ex officio* member's presence on the Commission will help to ensure the departmental – Commission relationship is sound. Likewise, the Chair's regular interaction with the Minister and senior departmental officers will support these relationships. In particular, the *ex officio* has an important role in ensuring that the advice of the Commission is informed but not unduly influenced by the Department's perspective. The Commission's autonomy in certain functions, and independence in its advice to the Minister, is vital.

1.5 Charter contents

Commission Strategy

The Commission's Strategic Plan to guide the work program, and Communications and Media Strategy to ensure well-organised external engagement.

Commission Policies

A series of key policies aimed at good governance – covering roles and responsibilities, specialist members, delegations, transparency, conflicts, legal advice and services, media and communications, and other matters.

Commission Operating Procedures

Support for the daily activities of the Commission such as agendas; minutes; calendar; registers of decisions and risks, gifts and benefits; public meetings; relationships with Committees.

Appendices

The Minister's Code of Conduct, the Service Level Agreement which clarifies how the Department will support the Commission's functions, the Work Program, and the Planning Reform Implementation Strategy for the Commission and the Department to deliver the new planning system under the *Act*.

1.6 Review of the Charter

We will review this Charter annually, and when updates are necessary.

2. Our Strategy

2.1 Commission Strategic Plan

The State Planning Commission is South Australia's top planning advisory and development assessment body. The passage of the *Planning, Development and Infrastructure Act 2016* marked the beginning of the biggest overhaul to South Australia's planning system in over 20 years. A three year transition period sees The *Development Act 1993* being replaced by the *Act*.

The Commission was established on 1 April 2017. It comprises seven members including the Chair and a public sector representative, all of whom bring significant experience and expertise across urban design, construction, economics and public policy.

The Commission reports to the Minister for Planning. The Department of Planning, Transport and Infrastructure provides the Commission with professional and technical expertise, administrative support and other resources as needed.

The names and details of the Commission members are available at saplanningcommission.sa.gov.au.

The State Planning Commission is heavily involved in guiding the development of the new planning system's components and planning instruments. The Commission has taken over the functions of the former Development Assessment Commission and established the State Commission Assessment Panel to assist in assessing and determining developments.

The Commission has also established a Building Committee to provide advice on building related policies. This replaces the Building Advisory Committee and Building Rules Assessment Committee.

This plan covers the establishment phase of the Commission. Whilst our efforts will always be on the long term, our actions in the first 12 months will provide the platform for future work. At the end of this first year we will have established considerable momentum in the reform process, advanced policy reform and have many detailed preparations for the implementation of the Code.

A new plan will be required to deal with the next phase.

OUR GOALS

An acknowledged world class planning system based upon evidence and research through:

- Effective stewardship of the State's economic, social and environmental assets
- Conscious creation and renewal of distinctive places
- High levels of public engagement and confidence
- Vision driven policy and practice.



OUR GUIDING PRINCIPLES

The Commission's charter is to act in the best interests of all South Australians, promoting the principles outlined in the *Act*.

The State Planning Commission will further the objects of the *Act* by having regard to the principles of good planning.

A long-term focus that promotes balance between present and future needs and responds to emerging challenges.

An appreciation of urban renewal to accommodate future growth, protect areas of rural, landscape or environmental significance and make best use of existing buildings and infrastructure.

High quality design that reflects the local environment and identity, is durable and adaptive, inclusive and accessible and delivers well connected cities and towns.

Activation and liveability that promote mixed use neighbourhoods, diverse social, cultural and economic activities, high quality housing options and healthy lifestyles.

A focus on **sustainability** in the design of cities and towns, promoting sustainable resource use, energy efficiency and reuse and renewal.

Investment facilitation to strengthen the prosperity of the State and foster growth and investment.

Integrated delivery to ensure the efficient and effective achievement of planning outcomes and the coordinated development of infrastructure, public spaces and facilities.

OUR OBJECTIVES

Provide impartial advice and leadership on all aspects of planning and development throughout our state and overseeing the ongoing management of the system.

Lead the development and implementation of aspects of the new planning system, including:

- Community Engagement Charter (requirements for engaging the community on proposed changes to planning policy)
- State Planning Policies (sets out the State's overarching goals and requirements of the planning system)
- Planning and Design Code (the policies, rules and classifications for the purpose of development assessment)
- Regional Plans (the long term vision for regions or areas about the integration of land use, transport, infrastructure and public realm)
- Practice Directions (procedural requirements under the *Act*)
- Practice Guidelines (interpretation, use or application of the Planning and Design)
- Promote cooperation and integration between and among State Government agencies and local government.



- Promote an integrated approach that considers transport connections, infrastructure, facilities and public spaces to support a growing population as part of planning, design and development.
- Support the Minister for Planning in the administration of the Act.
- Work with the Department of Planning, Transport and Infrastructure, local government and the development sector to prepare tools that further the prosperity of South Australia.
- Guide local council and accredited professionals in the delivery of new planning services.
- Analyse and provide policy advice on some classes of development.
- Take a lead role in ensuring the community is engaged early in the development of planning policy.

ACTIONS FOR 2017-2018

ESTABLISH A PERFORMANCE MEASUREMENT SYSTEM

Establish a performance measurement system that enables the Commission to evaluate the performance of the planning system. This will include:

- Levels of stakeholder confidence, established through a benchmark survey
- Percentage of Planning Policies updated
- Time taken for assessment decisions at state, local and regional levels

IDENTIFY AND ADDRESS STRATEGIC PLANNING ISSUES IN SA

Establish and implement a work plan to identify and address the important strategic planning issues and allocate responsibilities to commissioners. These will initially cover:

- Affordable Living and Housing Choice
- Design Quality *
- Integrated Planning*
- Public Open Space, Places and Streetscapes
- Adaptive Re-Use*
- Character Preservation Areas
- Primary Production
- Key Resources & Employment Lands
- Strategic Transport Corridors and Facilities
- Energy
- Climate Change*
- Coastal Environment
- Natural Character
- Culture and Heritage
- Water Security and Quality
- Natural Hazards



- Emissions and Hazardous Activities

**Indicates legislated State Planning Policies*

ESTABLISH SUPPORTING REQUIREMENTS FOR COMMISSION OPERATIONS

- Put in place a secretariat that supports the work of the Commission.
- Establish a governance framework.
- Develop a service level agreement with the Department of Planning, Transport and Infrastructure.
- Prepare and implement a strategic plan and subordinate plans for risk and communications.
- Review performance at six-monthly intervals against the strategic plan and the statutory obligations of the Commission.

DELIVERY AND IMPLEMENTATION OF THE BUILDING BLOCKS OF THE *PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016*

- Implement a project reporting framework for a rolling departmental work program and individual project plans for the first year of operation.
- Deliver the first generation Community Engagement Charter.
- Consult on theme papers to inform development of State Planning Policies and the Planning and Design Code.
- Consult in accordance with the Charter to prepare State Planning Policies, setting out the State's overarching goals for the planning system.
- Advise the Minister in relation to establishment of planning agreements and pilot Joint Planning Boards.

3. Our Policies

3.1 Governance Policy

In addition to its more comprehensive suite of policies on particular topics, the Commission has prepared an over-arching 'Governance Policy' which brings together the following core elements of governance, which are considered essential to ensuring that the Commission can perform its roles efficiently and effectively.

3.1.1 Commission Roles and Responsibilities

- **Chair**
The Chair is responsible for leadership of the Commission, and its effectiveness in achieving our strategic objectives as set out in the Commission strategic plan. In doing so, the Chair sets the Commission agenda in consultation with Commission members, leads the members and arranges adequate support for them to participate in Commission business. Developing sound working relationships with members, the Chair assists members in understanding their roles, responsibilities and accountabilities. The Chair also has an outward-facing role, in keeping the Minister reasonably informed regarding Commission activities, fostering sound relationships with the Department, and more generally providing leadership within the planning and development sector.
- **Members of the Commission**
The members of the Commission are responsible for working with and under the leadership of the Chair to contribute to the strategic objectives set out in the Commission strategic plan. In doing so, members facilitate agenda setting, use their skills to support the Chair and request additional support if needed to effectively participate in Commission business. Members foster sound working relationships with the Chair and each other, the *ex officio* and departmental support team. Through the Chair, members keep the Minister reasonably informed of Commission activities, and provide leadership within the planning and development sector.
- ***Ex officio***
The *ex officio* member of the Commission brings the Department's perspective and expertise to the Commission. The *ex officio* monitors management of operations and affairs of the Commission, and takes responsibility for departmental/Governmental operational issues outside the ambit of the Commission. He or she supports the Commission with timely and accurate reports and ensures their participation in Commission business that the interests of the Commission are paramount (in line with the Commission Code of Conduct).
- **Specialist members**
The Act allows for Specialist members to be appointed by the Commission from time to time to assist the Commission in public hearings and specialist discussions. The appointment of a Specialist member shall be made by the



Commission for a task and a term, should the Commission feel the need for specialist input into a decision beyond the need for expert advice which may be sought at any time by the Commission.

The Commission selects Specialist members from a list established by the Minister. The same requirements apply to any Specialist members as Commission members.

- Committee members
The Commission may appoint Committees, as prescribed in the Regulations or required/agreed by the Minister, and delegate to those Committees its powers and functions in order to help distribute and manage its workload, and to allow for greater specialisation where needed. In addition, the Commission is required to appoint a Commission Assessment Panel that is known as the State Commission Assessment Panel, to perform its functions as a relevant authority.

3.1.2 Delegations Policy

In order to manage its workload, the Commission delegates some of its functions and powers under the *Act*, so as to authorise others to act on its behalf. Delegating these powers, functions or duties to a Commission member, the Chair, Committee members, or to officers of the Department, does not absolve the Commission or its members from accountability for the exercise of those powers or functions.

The Commission therefore carefully considers which powers and functions are suitable for delegation, prior to formally delegating the functions and powers by resolution recorded in the minutes of the relevant Commission meeting. The Commission requires the Department to maintain an accurate and up to date register of delegations, including any sub-delegations and that the *ex officio* report to the Commission includes a report on the exercise of delegations on a regular basis. Thus the Commission is kept aware how often delegations are being used, and can confirm that they are being applied as intended.

3.1.3 Transparency

- Agenda
The Commission meeting agenda is developed by the Chair in consultation with the *ex officio* (or delegate) and the Governance Unit. Commission members may suggest specific agenda items be included, through the Chair.

The Chair, each of the members, and the *ex officio*, each report relevant information and activities via standing items (their reports) at regular Commission meetings. This ensures amongst other things that all members are kept fully apprised of:

- Members' relevant activities since the previous meeting;
- Any complaints submitted to the Chair regarding the operation of assessment panels under the *Act* (Chair's report); and
- Budget updates (*ex officio* reports).



The Agenda also includes strategic topics for discussion, matters for decision and those for information/noting and an item requiring members to declare any potential conflicts, gifts or benefits (refer 3.1.4 and 3.1.5 below).

- **Agenda reports**
Agenda reports provided to the Commission must comprise accurate, digestible information including sufficient detail to support informed decision-making. The Commission is obliged to take suitable measures to ensure it is properly informed, and to seek advice to help in that process if required. Chairs of Committees established by the Commission should also provide reports to the Commission including the minutes of their meetings and any recommendations made by the Committee/s for the Commission's consideration and to answer any questions.
- **Minutes**
After each meeting, draft minutes are sent to the Chair for review. To ensure they are timely, draft minutes are sent within three working days to other members for approval at the Commission's next meeting. Commission members are encouraged to check the draft minutes and only endorse them if satisfied that they are accurate and complete.
- **Public meetings**
The Commission may conduct meetings with members of the public in relation to any matter which the Commission considers requires community engagement and input, and where this is required under the *Act* or Regulations.
- **Confidentiality**
As public officials, Commission members are required to comply with requirements for members of South Australian Government Committees. Members are careful to use information gained through their position only for the purpose for which it has been provided, and to comply with departmental and Governmental directions regarding the use of such information. The Commission consults with other parties regarding the release of any information confidential to such parties, and only releases information after obtaining consent or as permitted or required by law.

3.1.4 Conflicts of Interest

Transparency of Commission decisions maintains the public interest and promotes confidence in its integrity as a statutory authority. Any actual and perceived conflicts of duty or interest must be declared and managed in the public interest of the Commission, not the individual member.

At each Commission meeting the Chair asks if any member has a private interest or duty to another organisation in relation to any matter on the agenda. Commission members must declare such interests. This enables the Commission to determine



how to best manage any conflict in the public interest, including by requiring the member with a material conflict to:

- Leave the meeting for that item;
- Not discuss the matter with any other member at the meeting or elsewhere; and
- Not participate in Commission discussion and deliberation on the matter.

3.1.5 Gifts and Benefits

The Commission has approved a Gifts and Benefits policy and established a Gifts and Benefits Register. The policy provides definitions of gifts and benefits and the policy and associated guidelines set out expectations and responsibilities in the public sector regarding the giving and receiving of gifts and benefits. The intent is to prevent Commission members being exposed to improper influence in performing their duties and to ensure Commission members consider the ethical implications including public perceptions of giving or acceptance of gifts and benefits.

To ensure transparency and accountability, Commission members should report all offers of gifts or benefits in line with the guidelines to the Governance Unit or other appropriate DPTI staff member for inclusion in the Gifts and Benefits Register, and ultimately reporting back to the Commission.

3.1.6 Access to Legal Advice and Services

For the most part it is intended that departmental staff will provide support and assistance to the Commission, in accordance with Schedule 1 of the Service Level Agreement between the Commission and the Department, including legal services through the Department's relationship with the Crown Solicitor's Office. Any member of the Commission seeking access to Crown advice should make a request through the Chair for such advice.

On receipt and subject to the Chair's approval Crown advice should be circulated to all Commission members with any necessary explanatory material.

Where an external specific skillset or expertise is required, including external legal advice, the Commission may with the approval of the Minister (or Delegate) engage any person to perform specific work on terms and conditions determined by the Commission.

On receipt and subject to the Chair's approval, any external advice should be circulated to all Commission members with any necessary explanatory material.

Commission members are conscious of maintaining legal professional privilege when seeking professional advice.

3.1.7 Indemnity and Insurance

The Commission members are required to undertake their duties in accordance with the *Act*, acting in the best interests of South Australia, and demonstrating good

conduct and judgement, proper oversight and accountability, as members of a State Government Committee.

As public officials, Commission members are indemnified under the *Public Sector Act 2009* for acts or omissions in the exercise of their official powers and functions. Members are also indemnified by the Government of South Australia against claims incurred in the course of their duties provided they have acted in good faith and in accordance with the *Act*.

Members of the Commission are provided with personal accident insurance during their official duties (including travel to and from these duties) under the State Government's insurance and risk management framework.

3.1.8 Risk Policy

Purpose

The purpose of this policy is to outline the State Planning Commission's (the Commission) risk management processes and sets out the responsibilities in relation to risk management.

Scope

This policy applies to all State Planning Commission activities within and carried out by the Commission. It forms part of the State Planning Commission Governance Charter and applies to all members of the Commission including additional members of the Committee appointed by the Minister in accordance with section 19(1) of the *Act*.

Responsibilities

The Commission is responsible for:

- identifying and understanding the risks and liabilities arising from Commission activities;
- monitoring and managing those risks; and
- bringing these to the attention of the Minister and the Department where required.

The Governance Unit maintains a register of risks on behalf of the Commission, and supports the Commission in establishing systems and processes to manage those risks.

Risk Categories

Key risk categories are detailed below:

- Corporate Strategy and Business Planning
- Financial
- WHS and Community Safety
- Business Performance and Service Delivery
- Reputation and Political
- Legislation and Compliance



Risk Management Process

The main elements of the risk management process are as follows:

- Identify Risks
 - Identifying where, when, why and how events could prevent, degrade, delay or enhance the achievement of the Commission's objectives.
- Record Risks
 - Document the risks identified in the risk register.
- Analyse Risks
 - Identify and evaluate existing controls. Determine consequences and likelihood and hence the level of risk by analysing the range of potential consequences and how these could occur.
- Evaluate Risks
 - Rate the likelihood of the risk based on the assumption there are no existing risk management and compliance processes in place. Likelihood of risk is broken down into Almost Certain, Likely, Possible, Unlikely and Rare; and
 - Rate the consequence of the risk which is assessed as Insignificant, Minor, Medium, Major and Critical.
- Treat Risks
 - Implement mitigation strategies
- Monitor and Review
 - The risk register will be reviewed by the Chair and Deputy Chair at least quarterly
 - The risk register, including any updates, will be tabled for review by Commission members at the next Commission meeting following that review; and
 - Preparing, reviewing and updating the risk register and any associated actions will be agreed to at Commission meetings and updated by the Governance Unit.
- Embed Risk Culture
 - The Commission will reinforce a culture of identifying and appropriately managing risk and compliance through these processes and the conduct of its meetings and interactions with the Department.

4. Commission's Statutory and Operating Procedures

4.1 Statutory Requirements and Procedures

Under section 18 of the *Act*, the Commission comprises at least 4 and no more than 6 persons appointed by the Governor on the nomination of the Minister, and a public sector employee other than the Chief Executive, responsible for assisting in the administration of the *Act*. Sections 18, 19 and 20 of the *Act* set out the composition and terms of membership of the Commission.

The Minister will appoint a member of the Commission to chair its meetings. The Governor may, on the Minister's recommendation, appoint a Deputy of an appointed member to act as a member of the Commission during any period of absence.

Section 27 of the *Act* sets out a range of statutory procedures that govern the operation of the Commission, including:

- Constitution of a quorum, being four or more persons.
- Decisions based on majority of votes.
- Each member is entitled to one vote; the Chair is entitled to a second or casting vote.
- Ability to conduct meetings by telephone or audio-visual equipment provided members have prior notice and concur to the arrangements.
- Members must disclose any direct or indirect personal or pecuniary interest in a matter and not participate in meetings or discussions regarding the matter.
- The requirement to keep accurate minutes.

The members of the Commission are bound by the Minister's Code of Conduct approved under section 15(2)(d) of the *Act*, as set out in Schedule 3.

4.2 Operating procedures

Operating procedures determined by the Commission for its meetings, as allowed for under section 27(9) of the *Act*, include:

- Members shall review the agenda papers, attend all meetings and formal functions of the Commission wherever possible.
- Meetings will ordinarily be held in camera unless otherwise determined by the Chair.
- Members, staff and visitors will not use mobile phones during the meeting.
- No electronic recording or photography will be permitted in meetings other than with the express and prior permission of the Chair.
- Advance notice of a member's inability to attend a meeting or function of the Commission is required. Similarly, conflicts or potential conflicts of interest should be identified as soon as practicable.
- Items may be added to the meeting agenda by prior agreement with the Chair. In addition, motions may be put informally at the discretion of the Chair so long as they are clearly communicated to all members present.
- Business discussed in meetings is confidential and shall not be discussed with other persons outside of the meeting framework.



4.3 Calendar

Regular meetings of the Commission will be held every three weeks. Alterations to the scheduled meeting arrangements or additional meetings will be negotiated as far as practicable with all members of the Commission and at the direction of the Chair.

Meetings will generally commence at 9.30am and finish by 5pm. The precise timeframe of meetings will be determined to ensure all business is able to be conducted on the scheduled meeting day.

Meetings will normally be held at 50 Flinders Street, Adelaide, unless otherwise notified by the Department's Governance Unit.

Notice of meeting dates, times and venues and a copy of the meeting agenda will be provided to members of the Commission by the Governance Unit at least 4 working days prior to the meeting. Notice will be given to the email address nominated by the member.

Where site inspections or external visits are required, these will be arranged in consultation with the members.

4.4 Agenda

Meeting agendas will be prepared in a form agreed to by the Chair and the *ex officio* member. Members will have the opportunity to propose additional items for inclusion in an upcoming agenda with the agreement of the Chair.

Agendas, including all documentation for the meetings, are made available electronically to members on the Friday afternoon before the scheduled meeting.

Agenda reports for matters other than those which are confidential are made available to the public.

4.5 Minutes

The minutes of meetings will be kept and prepared in a form approved by the Chair.

Commission meeting minutes shall record:

- The names of the members present and any apologies received from members.
- The names of all departmental staff in attendance.
- The names of all persons appearing before the Commission.
- The decision of the Commission in relation to all matters before it.
- Any disclosure of conflict of interest, gift or benefit made by a member of the Commission or departmental staff.

As decisions of the Commission are carried by a majority of the votes cast, the minutes will only record the decision and not the votes for or against as these are irrelevant once the majority is determined.



After each meeting, draft minutes are sent within three working days to other members for endorsement, and then noted at the Commission's next meeting. Minutes will be made available to the public on the Commission website once agreed by the Commission, with hard copies available on request.

In addition to the standard agendas and minutes above, separate confidential agenda reports and minutes will also be prepared and kept for particular matters, including:

- Cabinet in confidence – matters prepared that will ultimately be considered by Cabinet.
- All other matters such as (but not limited to) legal advice and matters being considered through the courts, staff briefings and compliance/enforcement.
- Complaints received in relation to assessment panels under the Complaints Handling Procedure endorsed by the Commission.

The confidential agenda and minutes follow the same format and processes as the standard agendas and minutes, where relevant.

4.6 Decision Register

The Commission's decisions, achieved by resolution in its meetings or out of session in accordance with the Commission's procedures, will be recorded on a register of decisions by the Governance Unit, DPTI. The Register will be available to the public noting that confidential matters will be recorded in a manner that will not breach confidentiality.

4.7 Disclosure of interests

Section 28 and Schedule 1 of the *Act* set out provisions relating to disclosure of financial interests of members of the Commission and other designated entities under the *Act*. In addition, Regulation 8 of the Planning, Development and Infrastructure (General) Regulations 2017 sets out the requirements for the Primary and Ordinary Returns.

A Primary Return must be provided within 60 days of appointment of a member. An Ordinary Return must be provided on an annual basis by every member within 60 days of 30 June.

The Register may be inspected by a member of the public. The Register should be present at every Commission meeting and members are required to notify any specific conflicts likely to arise as a result of agenda items for that meeting.

4.8 Gifts and Benefits Register

Members are required not to accept or offer gifts, benefits and hospitality unless it is clearly in the public interest to do so. An offer of a gift or benefit must always be declared to the Commission so that the Commission can determine whether or not it may be accepted in accordance with the Gifts and Benefits Policy. Declarations are recorded by the Governance Unit on the Gifts and Benefits Register, which is to be maintained by the Department on behalf of the Commission. The Register should be present at every Commission meeting and members are required to notify any gifts and benefits likely to be relevant as a result of agenda items for that meeting.



4.9 Commission Public Meetings

The Commission may conduct meetings with members of the public in relation to any matter which the Commission considers requires community engagement and input, and where this is required under the *Act* or Regulations.

4.10 Relationship between Commission and its Committees

Section 29 of the *Act* requires the Commission to establish one or more Commission assessment panels in connection with its functions and powers as a relevant authority under the *Act*, with respect to determining whether or not to grant planning consent under the *Act*. The Commission must also establish such other committees as may be required by the Regulations or by the Minister, and may with Ministerial approval establish other committees.

Section 30 enables the Commission to delegate its powers and functions to any person or entity. Each committee established will provide minutes of their meetings to the Commission, and report significant issues to the Commission for discussion and decision.

Appendix A – Minister’s Code of Conduct

Objective

The objective of this Code of Conduct is to articulate, in practical terms, the way in which each State Planning Commission (the Commission) member agrees to behave in their role as a member of the Commission.

Introduction

Under Schedule 3 of the *Act* the Minister may adopt a code of conduct to be observed by members of the State Planning Commission established under the *PDI Act*. This code of conduct sets out standards of conduct and professionalism that are to be observed by all members of the State Planning Commission. This code of conduct must be read in conjunction with the *Act*.

For the purposes of the *PDI Act*, a key requirement is that all members of the State Planning Commission must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of the *Act*.

The code is a key tool to ensure that all members of the State Planning Commission act honestly and ethically with a high degree of accountability.

While some members of the State Planning Commission may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the *Act*. If there is a conflict between a requirement in this code of conduct and any other professional code or standard, this code prevails for the purposes of the *Act*.

Legislative framework

Under section 15 of the *PDI Act*, all members of the State Planning Commission are subject to a statutory duty as described in the section as follows:

- (1) *It is expected that a person or body that—*
 - (a) *seeks to obtain an authorisation under this Act; or*
 - (b) *performs, exercises or discharges a function, power or duty under this Act; or*
 - (c) *takes the benefit of this Act or is otherwise involved in a process provided by this Act, will—*
 - (d) *act in a cooperative and constructive way; and*
 - (e) *be honest and open in interacting with other entities under this Act; and*
 - (f) *be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*
- (2) *Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must—*
 - (a) *exercise professional care and diligence; and*
 - (b) *act honestly and in an impartial manner; and*

- (c) be responsible and accountable in its conduct; and*
 - (d) comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) The principles and benchmarks under this section— (a) do not give rise to substantive rights or liabilities; but (b) may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*

Code of conduct requirements

In acting as a member of the State Planning Commission, a member must comply with the following requirements.

General duties

A member of the State Planning Commission must in performing, exercising or discharging a function, power or duty under the *Act*, act in accordance with the general duties as set out in section 15 of the *PDI Act*.

Public Sector Code of Ethics

A member of the State Planning Commission must ensure that in performing any duties related to their role as a Commission member they act in accordance with the Code of Ethics for the South Australian Public Sector.

Honesty and Accountability

A member of the State Planning Commission must ensure that they comply with the document *Honesty and Accountability for members of government boards – March 2011* issued by the Department of Premier and Cabinet. A member of the State Planning Commission must also have an understanding of the requirements of the provisions of the *Public Sector (Honesty and Accountability) Act 1995* that apply in relation to the member.

Procedures

A member of the State Planning Commission must take reasonable steps to ensure compliance with the procedures specified in the *Act* or prescribed in the Regulations insofar as they apply in relation to the member or the activities of the Commission.

A member of the State Planning Commission must respect the Commission procedures in relation to public comments and communication with the media.

Regard for honesty

A member of the State Planning Commission must advise the Minister immediately if the member:

- a. is the subject of a formal investigation in respect of, or has been found to have breached, any other code of conduct, ethical standards or similar, including in another State or Territory or through a professional body of which they are a member; or
- b. has been found guilty of a breach of any Act (including an Act that applies in another jurisdiction) related to planning, building or a development related matter.

Review

The Commission reviews this Code of Conduct at least annually in consultation with the Minister and updates where necessary.

Appendix B - Commission's Role and Functions

The functions and role of the Commission are outlined in Section 22 of the *Act*.

1. Functions under the *Act*

1.1 Under the *Act*, the Commission has the following functions:

- a) to act as the State's principal planning advisory and development assessment body;
- b) to support the Minister in the administration of the *Act* and, in so doing, to provide advice and make recommendations to the Minister on the administration of the *Act* and with respect to the effect of any other legislation that is relevant to the operation of the *Act*;
- c) at the request of the Minister, to provide a report on any specified matter;
- d) to work with -
 - (i) the other entities involved in the administration of the *Act*; and
 - (ii) other entities that perform functions or exercise powers under any other *Act* that is relevant to the operation of the *Act* or to furthering the objects of the *Act*; and
 - (iii) other entities (both within the public and private sectors) that have a significant role with respect to planning, development or infrastructure provision within the State;
- e) to conduct inquiries with respect to any matter -
 - (i) referred to the Commission by the Minister; or
 - (ii) determined by the Commission with the approval of the Minister; and
- f) to assist the Minister by working with the Chief Executive -
 - (i) in connection with the implementation of planning policies developed under the *Act*; and
 - (ii) in considering and providing advice with respect to funding programs that are relevant to planning or development within the State; and
 - (iii) in working with government agencies and councils, including by providing information, guidance material and training in connection with the operation of the *Act*; and
 - (iv) in undertaking or publishing research, or analysing or monitoring trends, with respect to planning and development within the State;
- g) such other functions assigned to the Commission by the Minister or by or under the or any other *Act*.



- 1.2 Without limiting subsection 1.1, the Commission has a role that includes providing advice with respect to any of the following matters:
 - a) initiatives that are consistent with or promote principles that relate to the planning system established by the *Act*;
 - b) the regulatory controls, standards or rules that apply, or should apply, with respect to development;
 - c) the making, amendment or repeal of instruments under the *Act*;
 - d) the performance of entities acting under the *Act*;
 - e) other matters or issues that are relevant to the operation of the *Act*.
- 1.3 The Commission may, in relation to providing advice under the *Act*, act on its own initiative or on request.
- 1.4 If an inquiry is conducted by the Commission under 1.1(e):
 - a) the Commission may, for the purposes of the inquiry:
 - (i) call for or receive submissions or representations; and
 - (ii) request any person to provide information or materials to the Commission; and
 - (iii) otherwise collect information or materials or inform itself as the Commission thinks fit; and
 - b) the Commission may, if it thinks fit, receive or retain any information or materials provided to it on a confidential basis; and
 - c) the Commission must, at the conclusion of the inquiry, furnish a report to the Minister about:
 - (i) the matters addressed by the inquiry; and
 - (ii) the outcomes of the inquiry; and
 - (iii) any other relevant matter (including any advice or recommendations of the Commission).

2. Role under the Act

Under the *Act*, the Commission has a role that includes providing advice with respect to any of the following matters:

- 2.1 initiatives that are consistent with or promote principles that relate to the planning system established by the *Act*;
- 2.2 the regulatory controls, standards or rules that apply, or should apply, with respect to development;
- 2.3 the making, amendment or repeal of instruments under the *Act*;



2.4 the performance of entities acting under the *Act*;

2.5 other matters or issues that are relevant to the operation of the *Act*.

The Commission may, in relation to providing advice, act on its own initiative or on request.

Other areas of responsibility under the Act

In addition to Section 22, the *Act* outlines other areas of Commission responsibility. While not exhaustive, the table below summarises some of these responsibilities.

Responsibilities and functions

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

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



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



Annual report	Annual report to the Minister	s32	By 30 September	Contain information required by the regulations
Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related Actions
General functions				
Planning Agreements	Provide advice to the Minister before entering into a planning agreement	s35(1)		
Joint Planning Boards	Provide advice to the Minister before appointing an administrator	s41(2)(b)		
Practice directions	May issue, vary, revoke. Envisaged for: - establishment of regional plans - preparation of designated instruments	s42(1) and (4) s64(5) s73(13)		Publish in the GG and planning portal
	Must prepare a practice direction to ensure controls under the Act do not conflict with or duplicate other licensing or regulatory regimes	s42(3)		Publish in the GG and planning portal
	Must prepare a practice direction in relation to assessment of restricted development	s109		Publish in the GG and planning portal
Practice Guidelines	May make in relation to interpretation, use and application of the Planning Rules and Building Rules	s43(1)	Approval of Minister	Publish in the GG and planning portal
	May vary, revoke	s43(4)(b)	-	Publish in the GG and planning portal
Community Engagement Charter	Establish and maintain	s 44(2)		



Item	Responsibility	Leg Ref	Limitations/conditions in exercising function	Related Actions
	Adopt any alternative way of achieving the charter	S 44(10)		
	May direct an entity to comply with the charter, or take an action required by its direction	S 44(12)		
	Amend	S 45	Own initiative or request by Minister	Consult. Report to Minister.
	Amend form or correction	S 45(6)and(8)	Own initiative	Publish on the portal. Report to the Minister.
	Review every 5 years	s45(7)	prescribed	Publish on the portal. Report to the Minister.
On-line planning services	May prepare and publish standards and specifications in relation to the SA Portal, Planning Database, on-line atlas.	s51(1)	Matters to be included – s51(2)	
	May determine other matters to be considered by a standard or specification	s51(2)(f)		
	Advice to the Minister on prohibiting or restricting access to information on the portal	s54(1)		
State Planning Policies	Must prepare	s58(1)		
	Determine any other matter appropriate to a spp	s58(3)(b)	s58(2), (3)(a),(c)	



	The extent or manner to which any other matter may be the subject of a spp	s58(3)(c)		
	Specific policies the Commission must prepare	s59 – 62		
	Must establish a SPP with respect to certain special legislative schemes	s63(1)	Consult with the relevant Minister – s63(3)	Publish in the GG
	May amend a special legislative scheme SPP after seeking the advice of the Minister	s63(2)	Consult with the relevant Minister – s63(3)	Publish in the GG
Regional Plans	Must prepare a plan for each region	s64	Other than where a joint planning board exists – s64(2) In accordance with s64(3)	
	May prepare a practice direction for regional plans	s64(5)		
Planning and Design Code	Must prepare and maintain	s65(1)	In accordance with s66, s67, s68	
Design Standards	May prepare	s69	Must relate to the public realm or infrastructure	
Designated Instruments	May prescribe any matter or thing to be determined, dispensed with or regulated by a designated instrument	s71(e)		
	May initiate a proposal to prepare/amend	s73(1) and (2)(a)	Own initiative or at the request of the Minister	
	Must advise the Minister when the Minister approves another body to initiate a proposal to amend	s73(2)(b)		



	Must specify a person or body to be consulted by a designated entity when preparing a proposal	s73(6)(e)
	Must advise the Minister if required (when assessing a designated instrument)	s73(10)(e)
	Must prepare a report when a instrument is referred to the ERD Committee	s74(3)
	Must advise the Minister before the Minister makes an amendment in response to the ERD Committee	s74(10)
	Must advise the Minister in relation to initiating an amendment to the Planning and design Code	s75(1)
	Must advise the Minister in relation to making to a designated instrument	s76(4)
Early commencement	Must advise the Minister in relation to bringing in to operation early a regional plan or the Planning and Design Code or standard	s78(3)
Building Related Instruments	Must advise the Minister before the Minister publishes a Ministerial building standard	S80(4)
	Must advise the Minister before the Minister varies or revokes Ministerial building standard	S80(1)



Assessment Panels	Must advise the Minister before the Minister directs a Council to substitute existing members of a panel	S83(1)(i)		
	Must make a recommendation to the Minister before the Minister constitutes a local assessment panel under s86	s84(1)(d)	The Commission must conduct an enquiry as set out under s86.	
	Must request a relevant authority to provide information, and adopt or continue to assess an application - where the Minister has called in a development for assessment	s94(3)		
Delegations	May delegate functions and powers	s100(1)	As set out under s100	
Development Assessment	Must assess development	s102(1)	As set out under s102 to 105, s119, s120, s125, s126, s127, s128	
Impact assessed development	Must publish a practice direction in relation to restricted development and impact assessed development	s109(1)	Matters contained in s109(2)	
Restricted Development	Relevant authority to assess	s110	prescribed	Procedural matters – s110
Impact Assessment by Minister	Determine level of detail required in EIS	s112	Practice direction. Views of persons prescribed by regs.	
	Prepare an assessment report	s113(9)	Prescribed	s113(10)-(12) Notify, public notice, publish, Councils



Building Consent	Concur in granting building consent for variations to the Building Code	s118(2)(a)	s118(5)
	Provide an opinion on whether a proposed building work complies with a code or standard	s118(4)	
	Must provide advice in relation to a variation from the code or standard before a relevant authority makes a decision in relation to a State Heritage Place	s118(7)	s118(9)
	Must accept a decision of a private certifier	s118(8)	
	May refuse to grant building consent	s118(10)	
	May grant building consent	s118(11)	2118(11)(a) and (b)
Design review	Must determine the form of an application for design review	s121(3)	
	Must act, and have regard to referral advice	s121(7) and s122	
Design standards	Recommend the Minister adopt a standard infrastructure design	s129(2)	
Essential Infrastructure	Must assess an application for essential infrastructure	s130	As prescribed s130
Crown development	Must assess an application for Crown development	s131(2)	As prescribed s131
Land Division Certificate	Must issue when satisfied prescribed conditions have been met	s138	



Uncompleted development	May apply to the court if development has not been completed	s141(1)	
	May cause work to be undertaken where work has failed to be undertaken by Court order – recover costs	s141(5) and (6)	
Completed development	May serve a notice where development has not been completed	s142(1)	
	May cause work to be undertaken where work has failed to be undertaken in accordance with a notice – recover costs	s142(2) and (3)	
Cancellation of a development authorisation	May cancel an authorisation on application by a person with the benefit of the authorisation	s143	
Inspection Policies	Must issue a practice direction requiring Council to carry out inspections	s144(1)	s144(2) and (3)
Swimming Pools	May issue a practice direction that requires a council to carry out swimming pool inspections	S156(5)	
Initiation of General Infrastructure Scheme	Must advise the Minister in relation to the Minister initiating a general infrastructure scheme	s164(4)	s164(5)
	Must advise the Minister before the Minister significantly varies a general infrastructure scheme	s167(7)	



	Establish an arrangement to be kept informed about the operation of a scheme	s167(12)		
	Funding arrangements – the Commission must consult with parties prior to the Minister making a recommendation	s169(9)	s169(a)(i) and (ii) and s169(10)	
Open space contribution	May require an open space contribution, or enter into an agreement	s198(1)(b) and (2)(c) and (d), and s199(1)	s198(4), (6), (10) and (12) and s199(4)	
Disputes – application to an assessment panel	Procedures to be adopted on application for review – cause action in notice not complied with – recover costs	s203(2) – (4)		
Civil enforcement	Actions to be undertaken where a breach of the Act has been committed	s213	s213	
Civil penalties	Commence civil penalty proceedings	s225(1)	s225	Publish information about proceedings on the
Recovery of economic benefit	Receive payments and pay into the P&D fund	s229(1) and (4)		
Enforceable voluntary undertakings	May accept where a person has contravened the Act	s230(1)		s230(13) - Publish on portal
	May apply to Court if undertaking is contravened	s230(4)		
	Agree to a variation of an undertaking	s230(7)		s230(13) - Publish on portal
	May accept undertaking before any proceedings have been finalised	s230(11)		s230(12) - Must seek proceedings be



	Authorise a council to be a designated entity	s230(14)		s230(15) - May impose conditions on the Council
Regulation of advertisements	Form an opinion and order removal of an advertisement	s231(1)	s231(2)	As prescribed
	May remove advertisement of order not complied with	s231(3)		As prescribed
Copyright	Must publish information	s238(1)	s238(2) – (4)	
Inquiries	Must undertake certain inquiries and furnish reports to the Minister	s245(1) and (4)	s245(2) and (3)	
Disclosure of Financial Interest	Must submit returns as prescribed	Schedule 1		
Performance targets	Must advise the Minister on the setting of performance targets	Schedule 4		

This table is advisory only and is not intended to substitute reference to the provisions of the PDI Act.