

ASSESSMENT PANEL REPORTING POLICY

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Classification	Council Policy
Responsible Officer	Group Manager Planning, Environment & Regulatory
Relevant Legislation	<i>Planning, Development and Infrastructure Act 2016</i> <i>Local Government Act 1999</i> <i>Local Government (Financial Management)</i> <i>Regulations 2011</i>
Related Policies	Procurement Policy Financial Internal Controls Policy Code of Conduct for Employees
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1. Introduction

Section 93 of the *Planning, Development and Infrastructure Act 2016* outlines that an Assessment Panel is a relevant authority in their own right. This policy provides a framework that ensures that any decisions of the Council Assessment Panel that affect Council's budget are appropriately vetted.

2. Scope

The objective of this Policy is to provide guidance and a framework which ensures that:

- 2.1. the Assessment Panel has regard to certain considerations when making decisions as a relevant authority involving Court proceedings and the expenditure of funds; and
- 2.2. the Council is kept informed of Assessment Manager decisions in their capacity as a relevant authority to enable expenditure to be monitored and budgeted.

3. Definitions

3.1. For the purposes of this Policy:

- 3.1.1. **"Assessment Manager"** means the person appointed as an Assessment Manager pursuant to Section 87 of the PDI Act 2016.
- 3.1.2. **"Assessment Panel"** means an assessment panel established by a joint planning board or a council pursuant to Section 83 of the PDI Act 2016 or a regional assessment panel constituted by the Planning Minister pursuant to Section 84 of the PDI Act 2016.
- 3.1.3. **"CEO"** means the Chief Executive Officer of a Council.
- 3.1.4. **"Council"** means the Corporation of the Town of Walkerville.
- 3.1.5. **"Court"** means the Environment, Resources and Development Court.
- 3.1.6. **"Deemed planning consent"** means a planning consent taken to have been granted following the receipt of a deemed consent notice pursuant to Section 125(3) of the PDI Act 2016.
- 3.1.7. **"Designated authority"** means:
 - a Joint Planning Board in the case of an Assessment Panel appointed by a Joint Planning Board.
 - a council in the case of an Assessment Panel appointed by a council.

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- the councils for the areas in relation to which a Regional Assessment Panel is constituted by the Planning Minister.
- 3.1.8. **“Development authorisation”** means any assessment, decision, permission, consent, approval, or authorisation by or under the PDI Act 2016.
- 3.1.9. **“PDI Act”** means the *Planning, Development and Infrastructure Act 2016*.
- 3.1.10. **“Prescribed matter”** means any assessment, request, decision, direction or act of the Assessment Panel under the PDI Act 2016 as relevant to any aspect of the determination of an application for development authorisation; or a decision to refuse to grant the authorisation or the imposition of conditions in relation to the authorisation.
- 3.1.11. **“Relevant authority”** means a relevant authority pursuant to Section 82 of the PDI Act 2016.

4. Legislative and Corporate Policy Context

- 4.1. Under the PDI Act, the Assessment Panel will act as a relevant authority in its own right in circumstances provided for in the PDI Act 2016. This function is not subject to direction by a council or any other person.
- 4.2. The designated authority that appoints the Assessment Manager is responsible for the costs and other liabilities associated with the activities of the Assessment Manager. There is no statutory limit on the amount of costs that an Assessment Manager may expend or liabilities that may be incurred when performing their function as a relevant authority.
- 4.3. Costs and liabilities can arise in a variety of ways including responding to appeals and review applications and initiating proceedings in the Court. These can include costs and liabilities incurred and associated with the engagement of experts and legal counsel and adverse costs orders.
- 4.4. A person who has applied for a development authorisation may, in respect of a prescribed matter, in a case where the application was made to an Assessment Panel acting as relevant authority, appeal to the Court against the prescribed matter.
- 4.5. A person who can demonstrate an interest in a matter that is relevant to the determination of an application for development authorisation by an Assessment Panel acting as relevant authority by virtue of being an owner or occupier of the subject land or of adjacent land, may apply to the Court for a review of a decision as to the nature of the development.

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- 4.6. An Assessment Panel may apply to the Court for an order quashing a deemed planning consent where it considers that the relevant application for planning consent should have been refused.
- 4.7. If an Assessment Panel acting as the relevant authority does not decide an application within the prescribed time, an applicant may apply to the Court for an order requiring the Assessment Panel to make its determination within a time fixed by the Court. If the Court makes an order, in the absence of mitigating circumstances, the Court will also order that the Assessment Panel pay the applicant's costs of the proceedings.
- 4.8. This Policy is related to Section 137 (Expenditure of funds) of the LG Act 1999 which empowers the Council to expend funds in the exercise, performance and discharge of its powers, functions or duties.

5. Policy Statement

- 5.1. When responding to appeal or review proceedings, or initiating proceedings in the Court the Assessment Panel will:
 - 5.1.1. have regard to the objects of the PDI Act 2016 and principles of good planning in Sections 12 & 13 and the general duties in Section 15 of the PDI Act 2016; and
 - 5.1.2. seek the permission of the Assessment Manager before making a decision on whether to initiate proceedings to quash a deemed consent, obtain expert legal opinion or representation, proceed to trial or with respect to any other financial matter arising from a review or appeal.

6. Delegation/Authorisation

- 6.1. This Policy applies to the Assessment Panel notwithstanding any delegation or authorisation of the Assessment Panel to any other person of its powers or functions under the PDI Act 2016.
- 6.2. The Assessment Panel must provide a copy of this Policy to any such delegate or person authorised as referenced in paragraph 5.1.

7. Availability of Policy

- 7.1. This Policy will be available for inspection at Council's principal office during ordinary business hours and on Council's website www.walkerville.sa.gov.au
- 7.2. Copies will also be provided to interested members of the community upon request and payment of associated fees in accordance with Council's schedule of fees and charges.

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8. Review

- 8.1. A request for an internal review of decisions made under this policy can be made in accordance with the Town of Walkerville Internal Review of Council Decisions Policy; Internal Review of Council Decisions policy.
- 8.2. A request for an external review of decisions made under this policy can be lodged with office of the Ombudsman SA; <https://www.ombudsman.sa.gov.au>