

State Commission Assessment Panel (SCAP) Practice and Operating Directions

Preamble

The State Planning Commission (Commission) established the State Commission Assessment Panel (SCAP) as a committee, pursuant to section 29(1)(a) of the *Planning, Development and Infrastructure Act 2016* (the PDI Act).

These Practice and Operating Directions to be observed in relation to the conduct of the SCAP business are determined by the Commission pursuant to section 29(3)(a) of the Act.

Objective

1. The objectives of the SCAP are to:

- 1.1. Discharge the development assessment functions, powers and duties of the Commission, as required by the *Development Act 1993* and the PDI Act, as delegated to the SCAP by Instrument of Delegation from the Commission.

Principles

2. The SCAP will support the Commission by:

- 2.1. Working with purpose and collaboratively to achieve good decisions.
- 2.2. Creating an environment where all Members can participate in honest, open and robust discussions.
- 2.3. Acting with integrity and providing informed and considered advice.
- 2.4. Being professional on all fronts, including in the respectful recognition of differing views and opinions.
- 2.5. Recognising that communication, information sharing and consultation are the keys to facilitating effective cooperation and a spirit of trust.
- 2.6. Providing regular updates to the Commission.

Membership

3. SCAP Composition

- 3.1. The Commission will appoint the Presiding Member, Deputy Presiding Member and five ordinary Members to the SCAP. The Commission will, in appointing the members of the SCAP, seek to ensure that, as far as is practicable, the members of the SCAP collectively have qualifications, knowledge, expertise and experience in the following areas:
 - 3.1.1. Urban and regional planning or a related discipline;
 - 3.1.2. Building and engineering;
 - 3.1.3. Public administration, including state and local government;
 - 3.1.4. Urban or regional development, commerce or industry;
 - 3.1.5. Environmental conservation or management, or the management of natural resources;
 - 3.1.6. The provision of facilities for the benefit of the community;
 - 3.1.7. Urban design, building design or landscape design.
- 3.2. Each Member appointed to the SCAP must be registered under the PDI Act as an Accredited Professional Level 2 – Planning to ensure they have expertise relevant to development assessment.
- 3.3. Each Member will be appointed for a term not exceeding three years, and on conditions determined by the Commission. On the expiration of a term of appointment, Members may be eligible for reappointment as determined by the Commission.
- 3.4. Membership must, as far as practicable, comprise equal numbers of women and men.
- 3.5. An act or proceeding of the SCAP is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

4. Occasional Members appointed to the SCAP

- 4.1. From time to time, the Commission may appoint members, selected from a pool of occasional members established by the Commission, for a specified period for a purpose including to supplement the membership of the SCAP, to meet quorum requirements and/or to provide specialist expertise in the consideration of particular matters referred to the SCAP.

5. Commission Members appointed to SCAP

- 5.1. Section 29(2) provides that the SCAP may consist of members of the Commission.
- 5.2. A Commission member may be appointed to the SCAP from time to time to supplement the membership of the SCAP, to meet quorum requirements and/or to provide specialist expertise in the consideration of particular matters referred to the SCAP.

- 5.3. Commission members appointed to the SCAP must have relevant development assessment expertise or must complete a Development Assessment Induction module determined by the Commission prior to considering any matters.

6. Remuneration

- 6.1. Appointed Members of the SCAP are entitled to fees, allowances and expenses in accordance with the Department of the Premier and Cabinet *Circular PD016 – Remuneration for Government Appointed Part-Time Boards and Committees*, and the *Boards and Committees – Remuneration Framework*.

Responsibilities

7. Conduct of Members

- 7.1. The members of the SCAP are bound by the Minister's Code of Conduct for Assessment Panel Members at **Appendix A**.
- 7.2. Members will not conduct private business matters during the course of the formal meeting.
- 7.3. Members will devote the time and attention as necessary to diligently carry out their duties.
- 7.4. Members will attend a minimum of 75 per cent of regular scheduled meetings. If a members attendance drops below 75 per cent within a 12 month period, a review of their ongoing role will be conducted.

8. Conflict of Interest

- 8.1. SCAP Members must, within 60 days of appointment, submit a Primary Return identifying any financial or other interests as required by the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations).
- 8.2. SCAP Members must, within 60 days of 30 June annually, submit an Ordinary Return identifying any financial or other interests as required by the Regulations.
- 8.3. SCAP Members must, as soon as they become aware of an actual or potential conflict of interest, or the potential for a perceived conflict of interest, disclose the nature and extent of the interest to the Presiding Member and the SCAP Secretariat.
- 8.4. If a Member declares a conflict of interest, that Member must not take part in any hearings conducted by the SCAP, or in any deliberations or decision of the SCAP, on the matter and must be absent from the meeting when any deliberations are taking place or a decision is being made.
- 8.5. If a conflict of interest has been declared by a SCAP Member, the general nature of the interest must be recorded in the minutes.

9. Public Officer Responsibilities

- 9.1. In accordance with the *Independent Commission Against Corruption Act 2012*, members of the SCAP are classified as 'public officers' because they are a person to whom a function or power of a public authority or a public officer is delegated in accordance with an Act.
- 9.2. In accordance with the OPI: Directions and Guidelines for Public Officers, all SCAP members have an obligation to report a matter that is reasonably suspected of involving corruption in public administration to the OPI. The process for reporting such a matter to the OPI is outlined in the Directions and Guidelines document on the OPI website at www.publicintegrity.sa.gov.au.
- 9.3. In accordance with Ombudsman SA: Directions and Guidelines for Public Officers, SCAP members may report a matter that is reasonably suspected of involving misconduct or maladministration in public administration to Ombudsman SA. The process for reporting such a matter to Ombudsman SA is outlined in the Directions and Guidelines document on the Ombudsman SA website at www.ombudsmansa.gov.au.

Helpful Reference: www.icac.sa.gov.au/opi/reporting-obligations

10. Confidentiality

- 10.1. SCAP Members must ensure that any confidential information remains confidential and is not disclosed improperly to others.
- 10.2. The SCAP decision making process includes an allocation of time to allow for honest, open and robust debate of applications and associated impact issues. This will occur in confidence in order to achieve the environment stated in item 2.2 of this document.
- 10.3. SCAP Members must not disclose any information relating to deliberations and/or advice considered by the SCAP.

11. Media

- 11.1. All media enquiries should be directed to the Department's Media team on 0422 007 069. The Media team will coordinate the preparation and provision of all responses to media outlets. Individual SCAP Members and associated departmental staff will not provide direct advice to media outlets if approached personally.
- 11.2. The use of electronic recording devices is not permitted in meetings in order to maintain a respectful and non-threatening environment for those providing verbal submissions.
- 11.3. Requests for live or pre-recorded interviews with SCAP Members will not be permitted unless authorised by the Chair of the Commission.

12. Website

- 12.1. The SCAP website is linked from the Commission website - www.saplanningcommission.sa.gov.au/scap.
- 12.2. The website and its content are managed by Department staff on behalf of the SCAP.

12.3. The website provides the following information:

- the role and function of the SCAP;
- background and qualifications of the SCAP Members;
- applications on public notification;
- details of Hearings of Verbal Representations;
- agendas and minutes of SCAP meetings;
- contact and address details for the SCAP Secretariat; and
- links to other relevant websites and resources.

13. Departmental Services

13.1. The Department will support the SCAP in accordance with a Service Level Agreement between the Commission and the Department. In general, this will include the following:

- 13.1.1. Provision of professional, independent planning advice including the provision of assessment reports and recommendations;
- 13.1.2. Facilitation of the provision of related professional and technical advice to the SCAP as required;
- 13.1.3. The provision of a suitable venue to accommodate hearings of verbal representations and for the purpose of general meetings;
- 13.1.4. Provision of administrative support through the SCAP Secretariat;
- 13.1.5. Provision of appropriate electronic equipment, a suitable email address and software for accessing SCAP agendas and documentation;
- 13.1.6. Provision of agenda material in electronic form and printed as required;
- 13.1.7. Maintenance of a register of all applications accessible to Members and the public;
- 13.1.8. Reporting on Development Application lodgement, completion and timeline statistics;
- 13.1.9. Reporting on the use of delegations;
- 13.1.10. Provision of a written response to policy or legislative issues raised by the SCAP with the Commission;
- 13.1.11. Facilitate the provision of legislative or legal advice as it relates to the development assessment function;
- 13.1.12. Reporting on appeals that are or have been active during the reporting period;
- 13.1.13. Reporting on enforcement proceedings that are or have been active during the reporting period;
- 13.1.14. Reporting on all Ministerial decisions in relation to Crown Development or Public Infrastructure applications made during the reporting period.

Meetings & Proceedings

14. Meeting Schedule

- 14.1. Regular meetings of the SCAP will be held twice each month. Alterations to the scheduled meeting arrangements or additional meetings will be negotiated as far ahead as practical with all SCAP Members and at the direction of the Presiding Member.
- 14.2. A schedule of regular meetings will be published at the commencement of each term of the SCAP.
- 14.3. When required, meetings and/or site inspections may need to be held in a regional location and could require an overnight stay. The arrangements for these will be negotiated as far ahead as practical with SCAP Members.
- 14.4. Where possible, Members will provide advance notice (at least 10 business days) of a Member's inability to attend a meeting or function of the SCAP.
- 14.5. The SCAP will work with the Commission and the Department to ensure that sufficient Members are available for a meeting to form a quorum for the purpose of making a decision. Where a quorum cannot be achieved, that item or meeting will be cancelled and rescheduled.

15. Site Visits

- 15.1. Where practical, members will endeavour to view the site of the development prior to the meeting, bearing in mind they cannot engage in any communication or trespass.
- 15.2. Where group site inspections are to be undertaken, these will be pre-arranged in consultation with the SCAP Members and Department staff.

16. Agendas and supporting documentation

- 16.1. All SCAP business will be conducted on secure government emails to support confidentiality and the provisions of the *State Records Act 1997* and *Freedom of Information Act 1991*. All agenda information, supporting documentation and correspondence will be provided to Members via the secure email account provided by the Department.
- 16.2. Notice of meeting dates, times and venue, and a copy of the meeting agenda and any associated papers for prior reading will be distributed to SCAP Members five working days prior to the next scheduled meeting.
- 16.3. Meeting agendas will be prepared in a form agreed to by the Presiding Member and the SCAP Secretariat and will be made available on the SCAP website 4 business days prior to the meeting.
- 16.4. Agenda item materials issued by the Department will contain the staff report and recommendation, all supporting application documentation, written public representations, Agency comments and advice, and applicant responses.

- 16.5. SCAP Members are required to read the relevant agenda item materials prior to meetings to ensure they are suitably informed and able to participate in the discussion and decision-making process.

17. General Proceedings

- 17.1. The SCAP may conduct meetings (including public hearings) online or by telephone or audio-visual equipment provided members have prior notice and concur to the arrangements. Any such meetings may occur notwithstanding the clauses of these Practice & Operating Directions where in-person meetings are implied. In addition, any clauses in these Practice & Operating Directions where in-person meetings are implied will be read as permitting meetings conducted online or by telephone or audio-visual equipment.
- 17.2. The Presiding Member will preside over meetings of the SCAP. The Deputy Presiding Member will preside over meetings if the Presiding Member is absent. In the absence of both the Presiding and Deputy Presiding Members, another member of the SCAP will be chosen by those members present to preside over the meeting.
- 17.3. A quorum of the SCAP will be 4 members (and no business may be transacted at a meeting of the SCAP unless a quorum is present). For the purpose of forming a quorum, a SCAP member may include the Presiding Member, the Deputy Presiding Member, an Ordinary Member and any Occasional Member appointed to a particular meeting or item.
- 17.4. Each member has one vote, and the Presiding Member has a casting vote, if required to address an even vote.
- 17.5. Meetings will generally commence at 9.30am and finish by 5.00pm. The precise timeframe of meetings will be determined to ensure all business is able to be conducted on the scheduled meeting day.
- 17.6. The Presiding Member will facilitate the meeting in a manner which promotes healthy, orderly, constructive, respectful and expeditious discussion and not allow repetitious or irrelevant discussion having regard to the function of the SCAP.
- 17.7. Motions may be put informally at the discretion of the Presiding Member, so long as they are clearly communicated to all members present.
- 17.8. The Presiding Member will allow any SCAP Member to ask relevant questions of any person appearing before it, and may refuse to allow any questions, comment or debate that in his/her opinion is not relevant to the subject matter or beyond the scope of the decision.
- 17.9. Unless otherwise resolved by the SCAP, all parties, other than Departmental Assessment staff, will be required to leave the meeting immediately prior to the SCAP's final deliberations.

18. Order of Business

- 18.1. The meeting will be run in accordance with the running sheet. Items will be addressed at times specified on the running sheet as far as is reasonably practicable.

19. Minutes

- 19.1. Minutes of meetings will be kept and prepared in a form agreed to by the Presiding Member and the SCAP Secretariat.
- 19.2. As decisions of the SCAP are carried by the majority of 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.
- 19.3. SCAP meeting minutes will record:
 - 19.3.1. The names of the SCAP members present;
 - 19.3.2. Any apologies received from SCAP members;
 - 19.3.3. The names of all Departmental staff in attendance;
 - 19.3.4. The name of all persons appearing before the SCAP;
 - 19.3.5. The decision of the SCAP in relation to all matters before it;
 - 19.3.6. If an application is approved, a short explanation as to why it was approved, and relevant reserved matters and conditions;
 - 19.3.7. If an application is refused, the reasons for refusal;
 - 19.3.8. If an application is deferred, the reasons for deferral;
 - 19.3.9. Any disclosure of interest made by a member of the SCAP or Departmental staff.
- 19.4. Minutes of the meeting will be finalised at the end of the meeting and will be made available on the SCAP website by midday the following business day. Hard copies will be made available upon request.

20. Advisory Agendas and Minutes

- 20.1. There are a number of matters for which the SCAP is not the decision maker and there are some circumstances where matters need to be discussed in confidence due to legal proceedings. Therefore, in addition to the standard meeting agenda and minutes above, separate meeting agendas and minutes will be prepared and kept for the following:
 - 20.1.1. Recommendations for Crown development applications. It is noted that the final decision from the Minister in the form of a Decision Notification Form is made available on the SCAP public register.
 - 20.1.2. Matters such as (but not limited to) legal advice, consideration of compromise proposals arising from court appeals, other court matters, internal staff briefings and compliance or enforcement matters.
- 20.2. As with general matters, the SCAP agenda for Crown developments will be made available on the SCAP website 4 business days prior to the meeting.
- 20.3. These meeting agendas and minutes will follow the same format and processes as the standard meeting agendas and minutes, where relevant.

Attendance at Meetings

21. General

- 21.1. SCAP meetings (with the exception of SCAP deliberations and the items listed at 20.1 of this document) are open to members of the public and the media to attend.
- 21.2. Third party representors that have expressed a desire to be heard will be heard at a “Hearing of Verbal Representations”, as required by the *Development Act 1993*, the PDI Act and the SCAP Practice and Operating Directions. This is described in more detail in the Section “Hearing of Verbal Representations”.
- 21.3. Government Agencies and Councils that have provided a written representation or referral response and expressed a desire to be heard will also be given an opportunity to be heard at the Hearing.
- 21.4. In relation to Category 2 representations under the *Development Act 1993*, the SCAP will hear only representors who the SCAP, in its absolute discretion in accordance with section 38(10) of the *Development Act 1993*, decides to allow to be heard in support of their representation.
- 21.5. In relation to performance assessed development that has been publicly notified under the PDI Act, the SCAP will hear only representors who the SCAP, in its absolute discretion in accordance with regulation 50(5) of the PDI Act, decides to allow to be heard in support of their representation.
- 21.6. In relation to Category 3 representations under the *Development Act 1993*, third party representors will be heard as required by section 38(1)(b) of the *Development Act 1993*.
- 21.7. In relation to representations concerning Crown development under the *Development Act 1993*, third party representors will be heard as required by section 49(7d)(b) of the *Development Act 1993*.
- 21.8. In relation to representations concerning Electricity Infrastructure development under the *Development Act 1993*, third party representors will be heard as required by section 49A(7d)(b) of the *Development Act 1993*.
- 21.9. In relation to development that is classified by the Planning and Design Code as restricted development, third party representors will be heard as required by section 110(3) of the PDI Act.
- 21.10. In relation to representations concerning Crown development under the PDI Act, third party representors will be heard as required by section 131(13)(b) of the PDI Act.
- 21.11. In relation to representations concerning Essential Infrastructure development under the PDI Act, third party representors will be heard as required by section 131(13)(b) of the PDI Act.
- 21.12. Government Agency and Council representatives may be invited by the SCAP to attend a meeting to provide technical advice.
- 21.13. Other specialist advice may be sought by the SCAP and those individuals may also be invited by the SCAP to attend a meeting to provide specialist advice.

- 21.14. The SCAP can provide a telephone or online audio-visual link for applicants, representors, Councils, and agencies in regional areas.
- 21.15. Members, staff, and visitors will not use mobile phones during the meeting.
- 21.16. The Presiding Member may ask any person attending a meeting of the SCAP, who is behaving in a disorderly manner or otherwise causing a disruption, to leave the meeting.
- 21.17. In relation to Concurrence items, the SCAP will not hear verbal representations from Councils, Agencies, applicants, or representors.

22. Applicants

- 22.1. The SCAP provides the opportunity for applicants to attend the meeting, even when there are no representors to be heard. Applicants may appoint a representative to attend a meeting with suitable authority to speak on their behalf.
- 22.2. Applicants may make verbal and visual representations to assist with the decision-making process. Such presentations will be no more than 10 minutes.
- 22.3. Presentations must be confined to addressing matters relevant to the specific application and the development assessment decision making task.
- 22.4. Applicants are advised to bring relevant technical team members as appropriate.
- 22.5. The Presiding Member may agree to allocate additional time for presentations provided that there is a sound justification that the information to be provided will assist the decision making process.

Hearing of Verbal Representations

23. Hearing of Verbal Representations

- 23.1. The primary purpose of a hearing of verbal representations is for the representor to be heard in support of their representation. This requires the attendance of the representor (or their nominated representative) to enable two-way communication.
- 23.2. The hearing does not enable debate between representors and the applicant.
- 23.3. When a representor is advised of a hearing, it is essential that every effort is made to notify the SCAP of attendance as soon as possible, and prior to the nominated date. This enables the SCAP to allocate sufficient time to hear the verbal representations. Representors may make their submissions via a phone, video, or web link; however, this must be arranged in advance.
- 23.4. Only the person who made the written submission can speak at a hearing, unless a representative of this person has been nominated to attend and speak at the hearing. This nomination must be made by the valid representor, in writing and prior to the hearing.
- 23.5. Pre-recorded verbal submissions will not be accepted.

- 23.6. Verbal submissions of representors must be limited to no more than 5 minutes and relevant visual representations may be provided. It is recommended that representors highlight those issues of greatest concern and are encouraged to elaborate on issues or raise new issues, rather than re-read their written submissions.
- 23.7. The Presiding Member will allow any SCAP Member to ask relevant questions of any person appearing before it, and may refuse to allow any questions, comment or debate that in his or her opinion is not relevant to the subject matter or beyond the scope of the decision.
- 23.8. The Hearing will generally be conducted in the following way:
- 23.8.1. An outline of the project context and philosophy will be provided by the applicant, particularly highlighting updates and changes made in response to public and agency comments (maximum 10 minutes);
 - 23.8.2. Individual hearing of representors (maximum 5 minutes per presentation);
 - 23.8.3. SCAP Members may ask questions of representors at the end of their presentation;
 - 23.8.4. Hearing from State Agencies and Council (as appropriate) (maximum 5 minutes per presentation);
 - 23.8.5. SCAP Members may ask questions of the Agencies/Council at the end of their presentation;
 - 23.8.6. Applicant's response (as required to respond to the issues raised);
 - 23.8.7. SCAP Members may ask questions of the applicant at the end of their response;
- 23.9. Hearings generally commence on time. Members of the public and media who attend to observe hearings will not be admitted to a meeting if they arrive more than 5 minutes after the commencement of the meeting to avoid disruption and distraction for representors.

24. Attendance at the Hearing of Verbal Representations by members of the public and the Media

- 24.1. Members of the public, including journalists, must arrive at the nominated time of the agenda item they wish to attend.
- 24.2. The Presiding Member will endeavour to create an environment conducive to the respectful sharing of information. This will include:
- 24.2.1. All information and interactions being directed to the SCAP Members;
 - 24.2.2. Respectful verbal interactions between all parties;
 - 24.2.3. Avoiding an intimidating environment for representors (electronic recording of verbal submissions will not be permitted);
 - 24.2.4. Addressing any inappropriate interaction between representors, applicants, members of the public and media.

- 24.3. Unless otherwise directed, Members of the public and media who attend SCAP meetings should:
- 24.3.1. Sit in the seating towards the rear of the meeting room.
 - 24.3.2. Enter and leave quietly.
 - 24.3.3. Avoid talking and eating.
 - 24.3.4. Turn mobile phones on silent mode and any other electronic equipment (no recording devices are allowed).

25. Security Procedures at the Hearings of Verbal Representations

- 25.1. A security guard may be employed for SCAP meetings on a case-by-case basis determined by the Manager, Development Assessment and Presiding Member.
- 25.2. Information regarding attendance at SCAP meetings is available on the SCAP website.
- 25.3. The Presiding Member will be provided a copy of the attendance sheet with the names of all visitors attending the meeting, and at the commencement of each agenda item will outline the requirements and obligations of those attending.
- 25.4. If a visitor of a meeting becomes disruptive or behaves inappropriately in any way:
- 25.4.1. The Presiding Member will interrupt the meeting and warn the person (once only), to stop the behaviour or they will be asked to leave the meeting.
 - 25.4.2. If a person continues to cause a nuisance or again disrupts the meeting, the Presiding Member will immediately adjourn the meeting and all SCAP Members will vacate the room.
 - 25.4.3. If, in the opinion of the most senior staff member at the meeting, that the behaviour warrants police intervention, the staff member will contact the police for immediate assistance.

Review

26. These Practice and Operating Directions will be reviewed:

- 26.1. By the SCAP Presiding Member, in consultation with the SCAP Members and the Commission, following the appointment of a new Presiding Member or every two years (whichever occurs first).

27. Terms

	State Planning Commission
	Department for Trade and Investment
	Minister for Planning
	State Commission Assessment Panel

Adopted by the State Planning Commission on 27 April 2023



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Date: 1/05/2023

Chair, State Planning Commission

APPENDIX A – Minister’s Code of Conduct for Assessment Panel Members (#17543498)