



State Planning Commission Governance Manual

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1. State Planning Commission Governance Manual

1.1 Purpose of the State Planning Commission Governance Manual

The purpose of this Governance Manual is to provide a governance framework for the Commission's operations.

1.2 The role of the Commission

The Commission's role is to act as the State's principal planning advisory and development assessment body established under the *Planning, Development and Infrastructure Act 2016* (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.

The Commission's functions and powers are set out in section 22 and 23 of the *Act*. A table outlining other areas of Commission responsibility under the *Act* is available on [the Commission's Website](#).

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 planning 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.

1.3 Relationships with the Minister and the Department

The role of the Commission intersects with those of two other main parties – the Minister and the Chief Executive of the Department for Trade and Investment (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.

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.

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 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.

A Service Level Agreement between the Commission and the Chief Executive, as well as the Commission's Strategic Plan (and underlying Work Plan) are in place to provide greater clarity and detail on the responsibilities of the respective parties, 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 helps to ensure the relationship between the Commission and the Department 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.

1.4 Contents of the Manual

Commission Strategy

The Commission's Strategic Plan guides a detailed Work Plan and its Communications and Engagement Plan ensures well organised external engagement.

Commission Policies

A series of policies aimed at good governance.

Commission Meeting Procedures

Support for the activities of the Commission.

1.5 Review of the Governance Manual

The Commission will review this Manual on an annual basis.

2. Our Strategy

2.1 Commission's Strategic Plan

The Commission's Strategic Plan frames the way the Commission will conduct its business and describes the emphasis that it will give to its detailed Work Plan over a 12 to 18 month period.

The Strategic Plan will be revised each year to ensure the proposed actions are contemporary and respond to changing circumstances.

A copy of the Commission's current Strategic Plan is available at www.saplanningcommission.sa.gov.au/about_the_commission/strategic_direction.

2.2 Performance Measures

Performance measures established in relation to Strategic Plan delivery are:

2.2.1 Satisfactory progress against the Commission's Work Plan

2.2.2 Fulfilment of Statutory Obligations

2.2.3 Evaluation through benchmark survey of stakeholder confidence

2.2.4 Satisfactory annual review by the Minister

Performance measure review will be undertaken between July and September annually.

3. Our Policies

3.1 Governance Policies

The Department maintains a register of policies on behalf of the Commission. From time to time the Commission may develop further governance policies and these will also be noted in this Manual as required. For some matters the Commission will rely on whole of government and/or Departmental policy.

3.2 Delegations

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. The Commission is also required under the Act to delegate all of its functions and powers as a relevant authority (with respect to determining whether or not to grant planning consent), either to an Assessment Panel or a person occupying a particular office or position.

Delegating powers or functions to the Chair, a Commission Member, an Assessment Panel or Committee appointed by the Commission, or to officers of the Department, does not absolve the Commission from accountability for the exercise of those powers or functions.

The Commission therefore carefully considers which powers and functions are suitable for delegation (and to whom), 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.

3.3 Transparency

3.3.1 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. This may occur in addition to requirements for community engagement and input under the *Act* or *Planning, Development and Infrastructure (General) Regulations 2017* (the *Regulations*).

3.3.2 Confidentiality

As public officials, Commission Members are required to comply with requirements for members of South Australian Government Boards and Committees. Commission Members will be 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 will consult with relevant parties regarding the release of any information confidential to those parties, and will only release information after obtaining consent or as permitted or required by law.

3.4 Conflicts of Interest Policy

Any actual or perceived conflicts of duty or interest must be declared and managed in the public interest of the Commission, not the individual member.

A copy of the approved Conflict of Interest Policy is available on the Commission's website.

All declared conflicts on interests are recorded in a register which will be present at every Commission meeting and may be inspected by a member of the public on request. Commission Members are required to notify the Department of any specific conflicts likely to arise as a result of agenda items for each meeting.

In addition, 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*. Regulation 8 of the *Regulations* sets out the requirements for the Primary and Ordinary Returns.

A Primary Return must be provided within 60 days of appointment of a Commission Member. An Ordinary Return must be provided on an annual basis by every Commission Member within 60 days of 30 June. The Department will maintain a record of Returns provided by Commission Members and other Committee Members appointed by the Commission.

3.5 Deputation, External Meeting and Event Policy

The Commission is committed to transparency in relation to hearing from parties to inform its decision-making process and inform itself as a Commission.

The objective of the Deputation, External Meeting and Event Policy is to provide further detail in relation to transparency and confidentiality to assist in the Commission's consistent management of deputations, external meetings and events.

A copy of the approved Deputation, External Meeting and Event Policy is available on the Commission's website.

3.6 Risk Register

The Commission is responsible for:

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

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

4. Commission's Meeting Procedures

4.1 Statutory Requirements and Procedures

The Commission membership requirements are set out in section 18 of the *Act*. Sections 19 and 20 of the *Act* also provide additional member provisions and the conditions of membership of the Commission. The Chair is appointed by the Minister under section 18(4) of the *Act*.

Provisions relating to Commission proceedings are set out in Section 27 of the *Act* and include:

- quorum requirements
- decision and voting requirements
- ability to conduct meetings by telephone or audio-visual equipment provided members have prior notice and concur to the arrangements
- disclosure and non-participation requirements relating to any direct or indirect personal or pecuniary interest in a matter
- a requirement to keep accurate minutes.

Under section 15(2)(d) of the *Act* Commission Members are bound by the Minister's Code of Conduct approved under Schedule 3 of the *Act*. A copy is available at: www.saplanningcommission.sa.gov.au/about_the_commission/strategic_direction.

4.2 Meeting procedures

Subject to specific requirements set out in the *Act*, section 27(9) permits the Commission to determine its own procedures. Procedures established by the Commission, include:

- Commission Members will review the agenda papers, attend all meetings and formal functions of the Commission wherever possible.
- Commission Meetings will ordinarily be held in camera unless otherwise determined by the Chair.
- Commission Members, staff and visitors will not use mobile phones during a 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.
- In the absence of the Chair, another Commission Member will be chosen by those Commission Members present to preside over the meeting.
- 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 Commission Members present.
- Deliberations of the Commission and business discussed in meetings is confidential and will not be discussed with other persons outside of the meeting.

4.3 Agenda

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

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

- Commission Members' relevant activities since the previous meeting
- complaints submitted to the Chair regarding the operation of assessment panels under the *Act* (reported via the Chair's report)
- departmental updates (reported via the *ex officio* report).

The Agenda also includes strategic topics for discussion, matters for decision and those for information or noting and an item requiring members to declare any potential conflicts of interest, gifts or benefits.

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

Meeting agendas are publicly available on the Commission's website.

4.4 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.

Agenda Reports for all items which are not deemed as confidential (in accordance with the criteria listed for confidential items below) will be made available to the public on the Commission's Website.

Agenda Reports for items deemed as "Not Confidential (Release Delayed)" (as described below) will be maintained in confidence while the matter or advice is pending a decision. These items will be published on the Commission's Website following a decision being made or project being completed, or until another identified publication "trigger" is reached.

4.5 Minutes

Not Confidential

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

Commission meeting minutes will record:

- the names of the Commission Members present and any apologies received
- the names of all departmental staff in attendance
- the names of all persons appearing before the Commission
- the factual basis for decision and the decision of the Commission in relation to all matters before it (with the exception of confidential matters described below)
- 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 record the decision as a resolution of the majority of the Commission and not the individual votes for or against as these are irrelevant once the majority is determined.

Minutes will be approved by the Commission at the end of each meeting where possible. Alternatively, draft minutes will be sent within three working days to Commission 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.

Not Confidential (Release Delayed)

Agenda Items which are designated by the Commission as “Not Confidential (Release Delayed)” may be maintained in confidence while the matter or item is pending a decision. These items will be published by the Commission following a decision being made or project being completed. These items will generally include matters relating to the decision making functions of the Commission, the Minister or the Chief Executive.

Confidential Minutes

In addition to the standard minutes, separate confidential minutes will be prepared and kept for the following confidential matters:

- 4.5.1 **Cabinet in Confidence** – matters that have been or are expected to be considered by Cabinet.
- 4.5.2 **Legal Obligations** - matters which must be considered in confidence to ensure the Commission does not breach any law, order or direction of court or tribunal or other legal obligation or duty.
- 4.5.3 **Legal Advice or Litigation** - matters involving legal advice, or actual or potential litigation including (without limitation) compliance or enforcement matters.
- 4.5.4 **Complaints** – matters involving complaints received by the Commission in relation to assessment panels under the *Act*.
- 4.5.5 **Security and Safety** – matters which, if released publically, may affect the safety or security of any person or property.
- 4.5.6 **Personal Information** – matters which would involve the unreasonable disclosure of personal information.
- 4.5.7 **Commercial in Confidence** – matters which are provided as or considered to be commercial in confidence and where there is a *public interest* in maintaining these documents in confidence.
- 4.5.8 **Draft Advice or Documents** – matters which involve preliminary, draft, incomplete, work-in-progress or formative reports, advice, plans, presentations or other documents.

The confidential minutes follow the same format and processes as the standard minutes where relevant, but are not made available to the public.

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 maintained by the Department. A register of decisions made out of session will be available to the public and decisions made by the Commission in its meetings will be published in the Commission’s Minutes (noting that confidential matters will be recorded in a manner that will not breach confidentiality).