

# State Commission Assessment Panel

Crown Development Applications  
Section 49 and 49A of the Development Act 1993



## information sheet

### Establishment of the State Commission Assessment Panel

The State Planning Commission assumed the functions, powers and duties of the former Development Assessment Commission (DAC) on 1 August 2017. On the same day the State Planning Commission established the State Commission Assessment Panel (SCAP) to continue the assessment functions formerly undertaken by the DAC.

### Role of the State Commission Assessment Panel

The SCAP is established under South Australia's *Planning, Development and Infrastructure Act 2016*. The SCAP has assumed the functions, powers and duties of the Development Assessment Commission. These include:

- assess and determine development applications, pursuant to Schedule 10 of the *Development Regulations 2008*
- act as the concurring authority for non-complying applications approved by a council or regional assessment panel
- assess and report on crown development and public infrastructure applications to the Minister for Planning
- assist in the initial stages of proposals being assessed under the major development provisions of the Act

- act as the lodgement authority for all land division applications

The SCAP consists of seven members, who are appointed by the State Planning Commission of South Australia. The members comprise the former DAC membership to draw upon their extensive experience and ensure an orderly transition to a new planning system.

### Assessment and Advisory Role

SCAP assesses and determines specified kinds of development applications in South Australia in accordance with the provisions of the *Development Act 1993* and *Development Regulations 2008*, and any other applicable legislation. Under Section 49 and 49A of the Act, SCAP is required to assess Crown Development and Public and Electricity Infrastructure applications, and prepare a report to the Minister for Planning who is responsible for making the final decision. Certain kinds of Crown Development are excluded by *the Act* and *Regulations* from requiring approval.

### Referrals

Applications under Section 49 and 49A of the Act are lodged directly with the SCAP. Where the application lies within a council area, SCAP is required to refer the application to the council for a report. A council has eight weeks within which to provide any comments to SCAP.

Certain applications may also be required to be referred to government agencies for comment. The *Regulations* identify the prescribed classes of development, the agency to be consulted and provides that a report must be received by SCAP within six weeks.

The prescribed classes of development are set out in Schedule 8 of the *Regulations* and typically involve the following agencies/Acts: Environment Protection Agency; State Heritage Unit; Government Architect; Coast Protection Board; Commissioner of Highways; Office of the Technical Regulator; SA Country Fire Service; *Mining Act*; *Natural Resources Management Act*; *River Murray Act*; *Aquaculture Act*; and *Public and Environmental Health Act*.

## Public Consultation

Crown Development applications with a value exceeding \$4M are required under the Act to be notified by public advertisement. There is no requirement to directly notify adjoining owners or occupiers of land. The public are allowed a minimum of 15 days within which to make a written submission to SCAP, and may request to appear at a SCAP hearing in support of their submission. SCAP must have regard to any submissions received in their assessment of the application.

## SCAP Meetings

SCAP meetings are held on the 2<sup>nd</sup> and 4<sup>th</sup> Thursday of each month, special meetings can be convened or when travelling to regional or remote areas. Meeting and site visits are governed by the Minister's Code of Conduct.

In respect to Crown Development, SCAP is providing advice to the Minister for Planning only and is not the actual decision maker. The planning assessment report prepared by the Development Division staff and SCAP's report to the Minister is therefore, under normal circumstances, not available to the public. These meetings of SCAP are generally conducted in private.

Accordingly, whilst the agenda for a scheduled meeting is made available on the SCAP website and from the SCAP Secretary on the Monday afternoon prior to the meeting (which is generally held on a Thursday), any meeting papers relating to Crown Development applications are not publicly available.

All other agenda papers are available for inspection and purchase at the SCAP public counter (Level 5, 50 Flinders Street, Adelaide) from the Monday afternoon prior to the meeting or online on the SCAP website ([www.SCAP.sa.gov.au](http://www.SCAP.sa.gov.au)).

Minutes of SCAP's meetings (excluding legal opinion and commercially confidential information, and papers relating to Crown Development or mining proposals) are published online the next business day following the meeting.

## Hearing of Representors

When there is to be a hearing on an application, all parties who have indicated a wish to be heard are advised in writing of the date and time of the hearing one week prior to the meeting.

Attendance is usually confined to representors (who had previously indicated a wish to be heard in their written submission), relevant state agencies and the applicant. On certain occasions members of the public may be able to attend and observe the proceedings only. Persons attending the hearing will be asked to sign an attendance sheet prior to entering the meeting room.

The SCAP hearing is not a debate, but an opportunity to summarise representations and to provide SCAP with any relevant additional information in respect of the proposed development. As the purpose of the hearing is to ensure SCAP is informed about possible planning impacts, the Presiding Member will seek to ensure that verbal submissions are confined to planning issues.

The Presiding Member will usually invite the applicant to outline the key elements of the proposal and provide relevant background information or design context. Government agencies and Representors or their nominated spokesperson will then be invited to speak. The applicant will then be invited to respond to the points made by the representors.

Either party may speak on their own behalf, or seek assistance from lawyers, expert planners or other supporters/representors. SCAP members may ask the representors or applicant questions to clarify points. All comments must be directed to the SCAP and interaction between parties is not allowed. Questions may only be initiated by the SCAP through the Presiding Member.

As SCAP members will have received, prior to the meeting, a detailed report on the proposed development (including copies of the representations and the written response of the applicant), persons making a representation are encouraged to briefly summarise their views and not to read verbatim from submissions they have prepared especially for the hearing.

If desired, these additional written submissions can be tabled at the hearing, however, sufficient copies should be provided for the seven members of SCAP, the Committee Secretary and the applicant.

SCAP will usually set aside a limited time period to enable each person that made a representation to be heard and for the response of the applicant.

It is important that verbal representations be confined to around 5 minutes to allow sufficient time for all parties to be heard in a fair and orderly manner. To assist matters, a spokesperson can be selected to speak on behalf of multiple representors, whereupon additional time can be provided to ensure that the same points are not repeated.

Please be aware that SCAP usually hears a number of matters on the same day, so the cooperation of applicants and members of the public is requested to ensure the agenda can be completed on time.

SCAP will not make its decision on the development during the hearing. Visitors will be required to leave the room prior to enable SCAP's deliberation and recommendation in private.

If SCAP does not require additional information, a recommendation to the Minister will generally be finalised on the day of the hearing. However, on occasions, SCAP may defer the matter to enable further information to be obtained to fully address matters raised in the hearing.

## The Report to the Minister

When providing its report to the Minister, SCAP must:

- Determine whether the proposal is seriously at variance with the relevant provisions of the Development Plan(s)
- Provide a copy of any report by a council where that report expresses opposition to the proposal
- Provide a copy of any report received from a government agency during the referral process

The Minister may then approve or refuse to approve the development. Any approval may be for a part or the whole of the development, and may be subject to conditions.

If a council has expressed opposition to the proposal, or if SCAP advises the Minister the proposal is seriously at variance with the Development plan, the Minister must prepare a report on the matter to be laid before both Houses of Parliament.

## Crown Development Enquiries

For enquiries about Crown development applications, or to clarify the assessment process, please contact the SCAP Secretary:

Phone: (08) 8343 2653

Email: [scapadmin@sa.gov.au](mailto:scapadmin@sa.gov.au)

Website:

[https://www.saplanningcommission.sa.gov.au/scap/crown\\_development\\_applications](https://www.saplanningcommission.sa.gov.au/scap/crown_development_applications)

Postal Address:

GPO Box 1815  
Adelaide SA 5001

### Further information:

Call: (08) 8343 2653

Email: [scapadmin@sa.gov.au](mailto:scapadmin@sa.gov.au)



**Government of South Australia**

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