

Expert Panel for the Implementation Review

Agenda Report

Meeting No. 1

Date	23 August 2022
Item Name	Governance Arrangements
Presenters	Jane Trotter (DTI)
Item Number	2.1
Related Items	Nil

Recommendation

It is recommended that the Expert Panel (the Panel) resolves to:

1. Approve and adopt the draft Transparency and Confidentiality Policy (**Attachment 2**);
2. Note the following matters relating to the governance of the Expert Panel:
 - 2.1. the attendance of Jane Trotter, Director, Business Services; Tyler Johns, Principal Advisor; and Ashleigh Robertson, Research Officer at each Expert Panel meeting, to facilitate the governance arrangements of the Expert Panel;
 - 2.2. meeting papers will be received electronically through Sharepoint;
 - 2.3. Expert Panel communications will be conducted by email, unless otherwise agreed; and
 - 2.4. Expert Panel members should allow a half-day for each meeting;
3. Approve the attendance of, and presentation by, relevant subject matter experts from Planning and Land Use Services at Panel meetings, on matters relating to their field of expertise;
4. Approve and adopt the Implementation Review Project Plan, inclusive of meeting dates and times (**Attachment 3**); and
5. Authorise the Presiding Member to make any minor or editorial amendments to the Project Plan as required.

Background

1. The government's planning and heritage policy platform documents released prior to the March 2022 State Election provide for the commissioning of an implementation review of the *Planning, Development and Infrastructure Act 2016* (the Act) and the Planning and Design Code (the Code). The election commitment documents provide for the review to be undertaken with the aid of the Panel, and will address the following policy objectives:
 - 1.1. protecting the character and heritage of our local communities;

- 1.2. ensuring greater tree canopy coverage and green open space;
 - 1.3. providing certainty to business, industry and communities by implementing appropriate design standards; and
 - 1.4. considering improvements to the e-planning system and processes.
2. On 21 July 2022, the Minister for Planning (the Minister) approved the Terms of Reference (ToR) (**Attachment 1**) for the work of the Panel, which will include review of the following:
 - 2.1. the Act;
 - 2.2. the Code (and related instruments) as it relates to infill policy, trees, character, heritage and car parking;
 - 2.3. the e-planning system to ensure that it is delivering an efficient and user-friendly process and platform; and
 - 2.4. the PlanSA Website to assess usability and access to information by the community.
 3. The ToR anticipate a five (5) month Project term. As this is a relatively short Project term, the Panel will need to apply a strict timeframe to its activities to ensure that it delivers the final report to the Minister by the planned delivery date.
 4. The purpose of this Report is to:
 - 4.1. seek the Panel's approval of the draft Transparency and Confidentiality Policy;
 - 4.2. confirm the governance arrangements that have been put in place to support the Panel throughout the Project term;
 - 4.3. seek the Panel's approval for subject matter experts from the Department for Trade and Investment (DTI) to attend at relevant meetings to provide information briefings to the Panel; and
 - 4.4. seek the Panel's approval of the proposed Project Plan, to assist the Panel in scheduling its activities

Discussion

5. *Transparency and Confidentiality*
 - 5.1. Pursuant to clause 15 of the Panel's ToR (**Attachment 1**), the Panel's meetings will not be open to the general public or media to attend.
 - 5.2. The ToR are silent as to whether documents considered and/or prepared by the Panel (including but not limited to Agendas, Minutes, Decisions and Agenda Reports) are to be made public or retained in confidence. It is therefore a matter for the Panel's discretion.
 - 5.3. Noting that the Panel's work will, amongst other things, involve the receipt of advice and recommendations that will inform its final recommendations to the Minister, it is appropriate for the Panel to establish a clear position on what will and will not be released into the public realm.

- 5.4. A draft Transparency and Confidentiality Policy (the Policy) has been prepared for the Panel's consideration and adoption (**Attachment 2**).
- 5.5. The Policy is based on the State Planning Commission's position on transparency and confidentiality.

6. *Expert Panel Governance*

- 6.1. The Panel has been assigned two (2) employees to support it throughout the Project term. The Panel's staff are:
 - 6.1.1. Principal Advisor, Tyler Johns, who will be responsible for coordinating and preparing meeting papers, making meeting arrangements and preparing the final report for the Minister, on the Panel's behalf. Tyler will attend each meeting of the Panel to support its functions, and will be the Panel's main point of contact; and
 - 6.1.2. Research Officer, Ashleigh Robertson, who will work with Tyler and relevant subject matter experts in Planning Land Use Services (PLUS) to research and prepare meeting papers on each area for review. Ashleigh will be responsible for distributing meeting agenda papers, and for preparing and distributing meeting minutes to Panel members. Ashleigh will attend each meeting of the Panel.
- 6.2. Jane Trotter, Director, PLUS Business Services, will also attend all Expert Panel meetings in an advisory capacity and as a representative of PLUS.
- 6.3. The Panel will receive its meeting papers (including Agendas, Minutes, workshop materials and relevant research material) via Sharepoint. This will be facilitated through Microsoft Teams, which all Panel members will have access to using their state government assigned email address.
- 6.4. Unless otherwise indicated by the Panel, all Panel communications will be conducted by email using Panel members state government assigned email address.
- 6.5. Following the inaugural meeting, the Panel will meet fortnightly on a Monday, commencing from Monday 5 September 2022. It is anticipated that Panel meetings will generally be a half-day in duration, commencing at 11:00am and finishing at approximately 3:00pm to 3:30pm. It is recommended that Panel members provide for meetings to conclude at 5:00pm in their schedules to allow for any unanticipated overruns.

7. *Subject Matter Expert Meeting Attendance*

- 7.1. The Panel will be reviewing specific matters arising from the Code (as determined by the Minister), the e-planning system and issues arising under the Act that the Panel determines ought to be within the scope of the review.
- 7.2. The Panel will be required to comprehensively consider the issues arising out of each area for review, and to make recommendations to the Minister as to how these issues can be remedied or otherwise improved, moving forward.
- 7.3. To ensure that the Panel receives a relevant, current, and comprehensive understanding of each area for review, PLUS has agreed to provide information workshops to the Panel, through its subject matter experts. This was foreshadowed in clause 15 of the ToR.

7.4. PLUS has advised that it anticipates the following personnel will be responsible for providing the Panel with information workshops throughout the Project term:

<i>Item For Review</i>	<i>Presenter</i>	<i>PLUS Role Title</i>
PDI Act Items for Review	Chelsea Lucas	Manager, Governance and Legislation
Character and Heritage	Paul Bennett	Director, Growth Management
E-Planning	Ameya Sawant	Director, PlanSA
Urban Infill Policy	Paul Bennett	Director, Growth Management
Trees Policy	Paul Bennett	Director, Growth Management
Car Parking Policy	Paul Bennett	Director, Growth Management

7.5. The abovenamed personnel are subject to change and/or may attend with additional subject matter experts from PLUS, for the purposes of presenting to the Panel.

8. *Project Plan*

8.1. As the Panel's ToR anticipate a five (5) month Project term, a Project Plan has been prepared to assist the Panel in delivering the Project within the anticipated timeframe (**Attachment 3**).

8.2. The Project Plan provides that the Panel:

- 8.2.1. (following the inaugural meeting) will meet fortnightly on a Monday at 11:00am in the Kardi Munaintya Meeting Room, Ground Floor, 50 Flinders Street, Adelaide 5000, commencing on Monday 5 September 2022 (excluding during the community engagement period, where there will be one (1) meeting);
- 8.2.2. meetings will be held at 83 Pirie Street, Adelaide 5000 from approximately 10 October 2022, following the relocation of PLUS. The new meeting location will be confirmed and communicated to the Panel closer to the move date;
- 8.2.3. will receive agenda papers no later than five (5) business days prior to each meeting, to ensure all members have adequate time to consider the materials (per clause 10 of the ToR);
- 8.2.4. will undertake a ten (10) week community engagement period between 10 October 2022 and 16 December 2022 (per clause 2 of the ToR);
- 8.2.5. will conduct five (5) community engagement events (to be determined in accordance with the Communications and Engagement Plan, once approved by the Panel), throughout the Project term; and

8.2.6. will receive briefings from relevant subject matter experts from DTI (per clause 15 of the ToR).

8.3. The Project Plan is intended to be a guideline and can be amended subject to the requirements and availability of the Panel.

Attachments

1. Terms of Reference – Expert Panel for the Implementation Review Project (Knet #18826623)
2. Draft Transparency and Confidentiality Policy (Knet #18917511)
3. Implementation Review Project Plan (Knet #18891753)

Prepared by: Tyler Johns, Principal Advisor

Endorsed by: Jane Trotter, Director Business Services

Date: 12 August 2022

For more information:

Tyler Johns
Principal Advisor
T 0430 190 692
E tyler.johns@sa.gov.au



Terms of Reference

Expert Panel for the Implementation Review Project

1. Purpose

The purpose of the Expert Panel for the Implementation Review Project (the Expert Panel) is to deliver the Implementation Review Project (the Project). The scope of the Project will include review by the Expert Panel of:

- a. the *Planning, Development and Infrastructure Act 2016*;
- b. the Planning and Design Code (and related instruments) as it relates to infill policy, trees, character, heritage and car parking;
- c. the e-planning system with a view to ensuring that it is delivering an efficient and user-friendly process and platform; and
- d. the PlanSA Website with a view to ensuring its useability and access to information by the community.

2. Objectives

The Expert Panel will seek to achieve the following objectives through its delivery of the Project:

- a. undertake a review of those legislative, policy and operational matters within the scope of the Project;
- b. consult with the State Planning Commission and other stakeholders (including local government and industry) as required to effectively deliver the Project;
- c. provide advice and make recommendations in the form of a report to the Minister for Planning (the Minister) on matters within the scope of the Project at the end of the 5 month term; and
- d. provide early advice or recommendations as requested by the Minister or as considered appropriate by the Expert Panel, as well as final advice or recommendations at the completion of the Project.

3. Principles

The Expert Panel will operate consistently with the following principles:

- a. taking an evidence and data based approach to review of information;
- b. taking an open-minded and unbiased approach to consultation;
- c. providing frank and fearless advice;
- d. focusing on achieving pragmatic and quality outcomes and the delivery of results.

4. Membership

- a. The Expert Panel will be comprised of four (4) Members who, as far as reasonably practicable, have combined expertise within the following areas:
 - statutory planning, including development assessment;

- planning policy, which may include strategic planning, urban design or architecture;
 - local government, public administration or law; and
 - information technology systems or customer service systems or workflows.
- b. Members of the Expert Panel will be appointed by the Minister, and on conditions determined by the Minister in writing.
- c. The Minister will appoint one Member as the Presiding Member of the Expert Panel.

5. Remuneration

Sessional fees will be paid to Expert Panel Members in accordance with Department of the Premier and Cabinet Circular PC016 – Remuneration for Government Appointed Part-Time Boards and Committees (September 2016), and the Boards and Committees – Remuneration Framework (Approved by Cabinet on 10 December 2007).

6. Term

The Expert Panel will operate for a period of five (5) months, commencing 1 August 2022 to 31 December 2022.

7. Presiding Member

- a. The primary role and function of the Presiding Member is to lead and manage the processes and practices of the Expert Panel, and to ensure the effective delivery of the Expert Panel's purpose.
- b. In the absence of the Presiding Member, a Member chosen by the majority of Members present will preside at a meeting of the Expert Panel.

8. Conflict of Interest

- a. Members must declare any conflicts of interest to the Expert Panel at the start of each meeting or before discussion of the relevant agenda item or topic. Details of the potential or actual conflicts of interest must be appropriately minuted.
- b. Where Members at Expert Panel meetings are deemed to have a real or perceived conflict of interest, it may be appropriate that the Member is excused from deliberations on the matter.

9. Meeting schedule

The Expert Panel will meet in person or via Microsoft Teams every month or as otherwise required to deliver the Project (as determined by the Presiding Member in consultation with the Executive Officer).

10. Agenda and meeting papers

An agenda and any associated meeting papers will be distributed by the Executive Officer five working days prior to each meeting of the Expert Panel.

11. Proceedings

- a. If required, Expert Panel business may be conducted 'out-of-session' by electronic correspondence between the Presiding Member, Members and the Executive Officer (where appropriate).
- b. Each Member has one vote, and the Presiding Member has a casting vote, if required to address an even vote.
- c. Decisions of the Expert Panel are carried by the majority of votes cast. The minutes will only record the decision and not the votes for or against.

12. Quorum

For Expert Panel meetings, the quorum is three (3) Members (and no business may be transacted at a meeting of the Expert Panel unless a quorum is present).

13. Proxies

Proxy Members will not be appointed. Members are encouraged to attend via online meeting facilities if they are not available to attend in person, otherwise an apology is to be tendered.

14. Minutes

- a. The Executive Officer will minute the meeting. The minutes will be concise and only record:
 - The names of Members present
 - Apologies received from Members
 - Any disclosure of interest or conflicts made by a Member
 - A high-level overview of discussion
 - Details of any actions agreed to, and the responsibility for those actions.
- b. The minutes will be distributed amongst members of the Expert Panel within five business days following the meeting and will be included on the agenda of the next Expert Panel meeting for noting.

15. Attendance of external parties

- a. Expert Panel meetings are not open to the general public or the media.
- b. The Presiding Member may invite guests to attend specific meetings of the Expert Panel as required, including for the purpose of external parties presenting or advising on specific matters.
- c. Officers from the Department for Trade and Investment may also attend meetings of the Expert Panel as required to support its functions. This will include the Executive Officer, a Project Manager as well as relevant Directors (or their proxies) with expertise in the subject matter to be considered by the Expert Panel at the meeting.

16. Advice to the Minister

The Presiding Member, as soon as practical after finalisation of the Panel advice and recommendations to the Minister, will present the Expert Panel's findings to the Minister.

17. Terms of Reference

These Terms of Reference may be amended, varied or modified by the Minister at any time by written notice from the Minister to the Presiding Member (through the nominated Executive Officer of the Expert Panel).

Approval

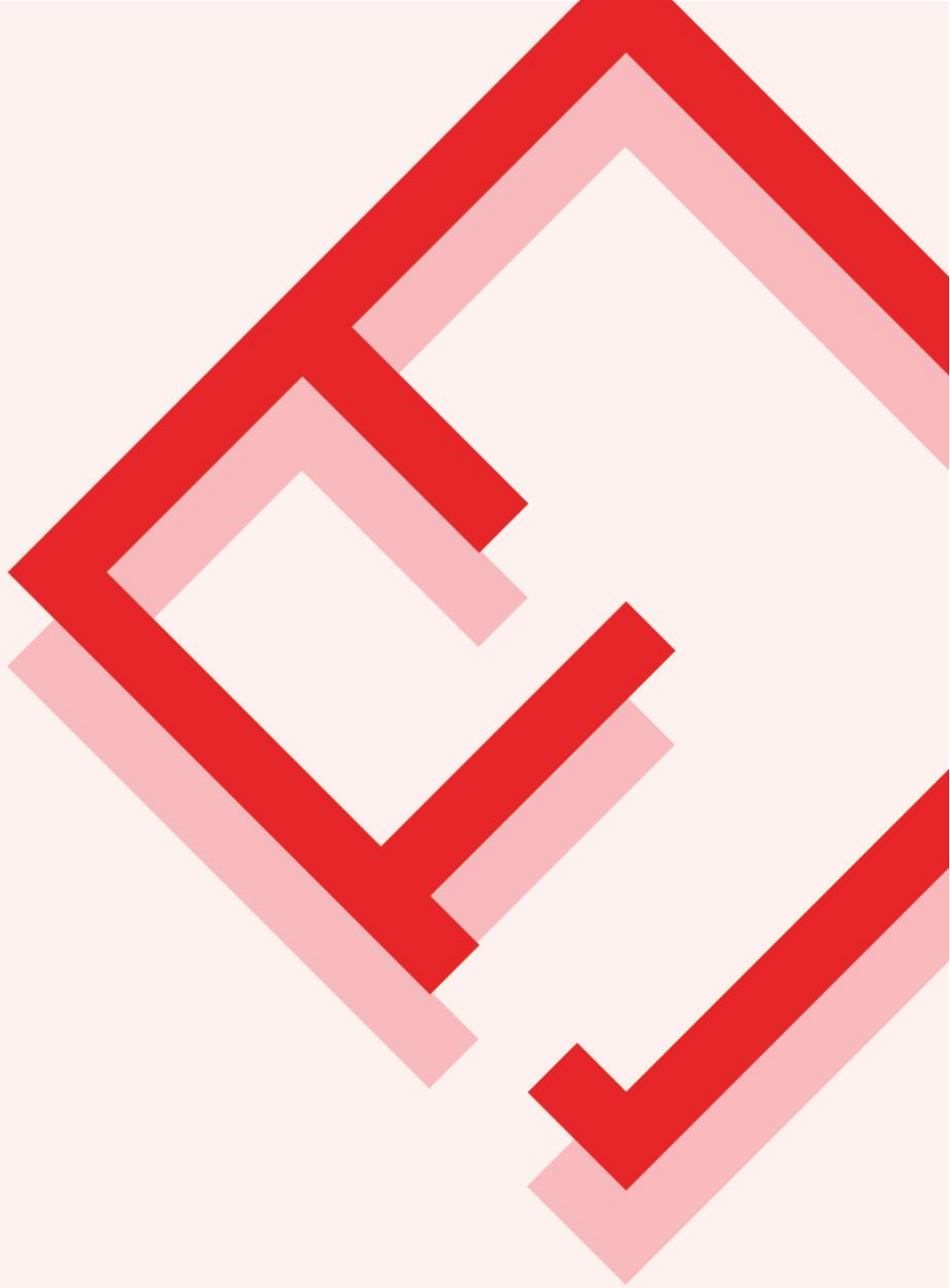


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Date: 21 July 2022

APPROVED by the Minister for Planning

Hon Nick Champion MP



Draft Transparency and Confidentiality Policy

Expert Panel for the Implementation Review

Expert Panel for the Implementation Review

Draft Transparency and Confidentiality Policy

1. Policy Position

- 1.1 The Expert Panel for the Implementation Review (the Panel) is established by Terms of Reference (ToR) approved by the Minister for Planning on 20 May 2022.
- 1.2 Pursuant to clause 15 of the Panel's ToR, the Panel's meetings will not be open to the general public or media to attend.
- 1.3 The ToR are silent as to whether documents considered and/or prepared by the Panel (including but not limited to Agendas, Minutes, Decisions and Agenda Reports) are to be made public or retained in confidence. It is therefore a matter for the Panel's discretion.
- 1.4 The Panel has determined that the starting point for its policy on transparency and confidentiality is for all Agendas, Minutes, Decisions and Agenda Reports (including Attachments) to be made available to the public, except where there are sound reasons for not releasing or for delaying release.
- 1.5 The Panel intends for items which do not come within the specified criteria listed in clause 3 of this Policy to be treated as non-confidential by default and will be released to the public in full.
- 1.6 Publication of the Panel's documents will be made available on its webpage, www.plan.sa.gov.au/planning_review.
- 1.7 It is proposed that all Agenda Items, Agenda Reports, Minutes and Decisions which are published will be maintained on the Panel's webpage, as a record of the Panel's activities and decisions.

2. Procedure for Confidentiality

Prior to the Meeting

- 2.1 The person responsible for preparing an Agenda Report will use this Policy to determine the status of the Agenda Item and supporting Agenda Report (including all Attachments). The formatting of the Agenda Report must provide for its categorisation and the reason for that decision (based on the criteria shown in this Policy).
- 2.2 The categories for all Agenda Reports will be:
 - 2.2.1 **Not Confidential – Release Immediately:** These items are not confidential and will be published in full (including Agenda Report in full, with all Attachments) at the same time as the Panel's Minutes and other meeting papers.
 - 2.2.2 **Not Confidential – Release Delayed:** These items will be treated as not confidential, but release of material will be delayed for a specified period to allow for advice to be considered and a decision to be made. The person responsible for preparing the

Agenda Report will be responsible for identifying the timing for release of the material, and ensuring publication has occurred, once the identified “trigger” has been reached. An anticipated date for the “trigger” should be included in the Agenda Report (where noted above). After the identified trigger date, the Principal Advisor will follow up the Agenda Report author to confirm whether publication can proceed.

2.2.3 **Confidential:** In this case, the criteria for confidentiality must be clearly specified in the Agenda Report. The item documentation should also identify whether (or how much of) the Agenda Item and the Agenda Report (and Attachments) should remain in confidence. The Agenda Report and any documentation identified as confidential are withheld for purposes of publication of the Agenda.

2.3 The Chair and the Principal Advisor will review the proposed confidentiality categorisation for each Agenda Item before the meeting. Any proposed changes to the confidentiality categorisation following the review will be addressed between the Chair and the Principal Advisor.

In the Meeting

2.4 For each Agenda Item, the categorisation for confidentiality will be reviewed at the meeting, allowing any Panel member to question the categorisation noted in the meeting papers. This will be the first order of business in relation to each Agenda Item.

2.5 For Agenda Items that are categorised as *Confidential*, the Panel will consider and resolve to treat the matter as confidential at the meeting.

2.6 For Agenda Items which are categorised as *Not Confidential – Release Delayed*, the Panel should specifically resolve whether (or to what extent) the matter needs to remain confidential, and if so, for how long or identify a trigger that will release the item for publication.

2.7 The consideration and determination of confidentiality status should be the first resolution for every Agenda Item.

2.8 The Agenda Item is then discussed, and any further resolutions made as usual.

After the Meeting

2.9 If the Panel resolves that the Agenda Item is *Not Confidential – Release Immediately*, then the Agenda Item, Agenda Report (in full, including Attachments), Minutes and Decisions will be published by the Principal Advisor after the meeting, at the time the Minutes would ordinarily be published.

2.10 For items which are designated as *Not Confidential – Release Delayed*, the author of the Agenda Report will advise the Principal Advisor when the identified ‘trigger’ for publication has occurred. The Principal Advisor will then arrange for publication of the relevant documents on the Panel’s webpage, against the relevant Agenda Item.

2.11 If the Panel resolves that the Agenda Item is *Confidential*, then the Agenda Item, Agenda Report (in full, including Attachments), Minutes and Decisions will not be published after the meeting and will be retained in confidence indefinitely.

2.12 The obligation of confidentiality on Agenda Items extends to the Members of the Panel and any other persons in attendance at the meeting, including but not limited to, Panel staff and guest presenters.

3. Criteria for Confidential Items

3.1 It is intended that Agenda Items, Agenda Reports, Minutes and Decisions documents falling within the criteria listed below will be maintained as confidential on an ongoing basis:

3.1.1 **Cabinet in Confidence** – matters that have been or are expected to be considered by Cabinet.

3.1.2 **Legal Obligations** - matters which must be considered in confidence to ensure the Panel does not breach any law, order or direction of court or tribunal or other legal obligation or duty.

3.1.3 **Legal Advice or Litigation** - matters involving legal advice, or actual or potential litigation including (without limitation) compliance or enforcement matters.

3.1.4 **Complaints** – matters involving complaints received by the Panel.

3.1.5 **Security and Safety** – matters which, if released publicly, may affect the safety or security of any person or property.

3.1.6 **Personal Information** – matters which would involve the unreasonable disclosure of personal information.

3.1.7 **Commercial in Confidence** – matters which are provided as, marked as or otherwise considered to be commercial in confidence and where there is a public interest in maintaining these documents in confidence.

3.1.8 **Draft Advice or Documents** – matters which involve preliminary, draft, incomplete, work-in-progress or formative reports, advice, plans, presentations or other documents.

3.2 If an item is presented to the Panel for its final approval, but the Panel at its meeting, request it be returned for further consideration, the initial Agenda Report should be determined as confidential under these criteria.

4. Communications on behalf of the Panel

4.1 The Presiding Member of the Panel will be the principal spokesperson of the Panel.

4.2 Panel Members are not to make public statements on behalf of the Panel, or otherwise relating to the work of the Panel, in the absence of the express, written consent of the Presiding Member.

John Stimson

Chair