



## Office of the Commissioner for Kangaroo Island

# Terms of Reference

## Local Advisory Board for Housing on Kangaroo Island

### Background

The functions of the Commissioner for Kangaroo Island, as set out in Section 8 of the *Commissioner for Kangaroo Island Act*<sup>1</sup> (the Act), include improving the management and delivery of services and infrastructure by government agencies, to provide assistance to businesses and residents dealing with government agencies, and to assist in improving the local economy of Kangaroo Island.

In carrying out these functions, the Commissioner may prepare a management plan pursuant to Part 4 of the Act. In addition, Section 16 of the Act states that a Local Advisory Board may be established to:

*“... provide advice to the Commissioner in relation to any matter referred to the board by the Commissioner (and in particular in relation to any management plan or proposed management plan referred to the board).”*

The *Kangaroo Island First Report*, prepared for the Kangaroo Island Futures Authority (KIFA) in 2015 and the *2014 Kangaroo Island Community Housing Strategy* highlighted how access to affordable housing posed a challenge to the Island, particularly for vulnerable sections of the community. In addition, with more than \$171 million of public and private sector projects proposed for the island over the next five years, there will be a need for temporary and ongoing housing for the estimated 300 jobs that these projects will require.

As such, the Commissioner for Kangaroo Island has identified an opportunity to improve the delivery of housing infrastructure and associated services to respond to the multifaceted and complex housing needs on Kangaroo Island, through a Management Plan. The Commissioner will be appointing a Local Advisory Board to provide advice in relation to a proposed Management Plan for Housing in accordance with the Act.

### 1. Functions and responsibilities

The Function of a Local Advisory Board, as set out in Section 16 of the Act is to provide advice to the Commissioner in relation to any matter referred to the board by the Commissioner.

As such, the role of the Local Advisory Board will be to:

- a. Provide advice to the Commissioner on the draft management plan, following approval by the Governor.
- b. Consider and provide feedback on written representations on the draft management plan made.

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<sup>1</sup> Parliament of South Australia (2014) [Commissioner for Kangaroo Island Act 2014](#)

- c. Provide advice to the Commissioner, on any matters relating to housing including current and future housing needs, and the delivery of services on Kangaroo Island.
- d. Be available for consultation on issues referred to the Board during the implementation of proposals included in the draft management plan.
- e. Provide advice on any other housing matters referred to the Board by the Commissioner.
- f. Come together at least every 12 weeks.

## 2. Reporting arrangements

The Local Advisory Board for Housing on Kangaroo Island is required to provide a *Key Outcomes Statement* to the Commissioner following each meeting that includes:

- Recommendations and advice pursuant to the Board's functions and responsibilities;
- Where consensus is unable to be reached on a matter, advice or recommendations an outline of the various views expressed.

## 3. Sunset date

The Local Advisory Board will be appointed for a period of up to 2 years.

## 4. Membership

Section 15 of the Act includes provisions relating to the establishment of a Local Advisory Board :

- 2) *The Commissioner may appoint such members of a local advisory board as the Commissioner thinks fit.*
- 3) *The Commissioner must undertake consultation (in such manner as the Commissioner thinks fit) with the Kangaroo Island Council in relation to any proposed appointment under this section.*
- 4) *The Commissioner must not appoint a person as a member of a local advisory board unless the Commissioner is of the opinion that the person has qualifications, knowledge or experience relevant to the functions of the board.*
- 5) *The Commissioner will determine who will be the presiding member of a local advisory board.*

### 4.1 Board Composition

The Local Advisory Board for Housing on Kangaroo Island will be comprised of representatives from government and community agencies involved in the provision of housing infrastructure and associated services on the Island. In addition up two members of the public will be appointed to the Board.

Agencies that will be approached for nominations include:

- Department of Communities and Social Inclusion
- Department of Education and Child Development
- Department of Health and Ageing
- Renewal SA
- Kangaroo Island Council
- CLASS (Community Living Australia)

- Community Living Options
- Finding Workable Solutions
- Junction Australia
- Kangaroo Island Community Housing Association
- Kangaroo Island Health Service

The Commissioner may appoint additional members to the Local Advisory Board at the Commissioner's discretion and in consideration of the candidate's qualifications, knowledge or experience relevant to the functions of the board. The Commissioner will have regard to the gender composition of the Board in order to ensure a balanced gender mix.

The Commissioner will appoint up to 14 members to the Local Advisory Board for Housing, including representatives from the above-mentioned organisations and up to 2 members of the public.

The Commissioner for Kangaroo Island will hold an ex-officio position on the Board.

#### **4.2 Selection Process**

The selection process for the Local Advisory Board is as follows:

- 1) Nominations will be sought from relevant government and community service agencies involved in the provision of housing infrastructure and associated services on the Island by contacting agencies directly.
- 2) Nominations will be sought from members of the public by placing an advertisement in Kangaroo Island's local paper, *The Islander*.
- 3) The Commissioner will utilise the Kangaroo Island Local Advisory Board Consultation Panel to consult on the appointment of nominees as set out in [4.3](#).
- 4) The list of nominees will be provided in confidence to the Kangaroo Island Council. The Commissioner will consult with Council representatives in relation to proposed appointments of Members of the Local Advisory Board pursuant to Section 15(3) of the Act.
- 5) The Commissioner will appoint board members, and a presiding member from the selection of nominated candidates, based on their suitability for appointment and in consideration of the consultation with the Council. Suitability may be determined by the candidate's qualifications, knowledge or experience relevant to the functions of the board.

#### **4.3 Consultation on Appointment of Local Advisory Board Members**

Section 15(3) requires that the Commissioner "must undertake consultation (in such manner as the Commissioner sees fit) with the Kangaroo island council in relation to any proposed appointment of Advisory Board members. The Commissioner has determined that to satisfy this provision she will form a "Kangaroo Island Council Local Advisory Board Consultation Panel". The Panel will comprise:

- The Mayor
- Deputy Mayor
- One Councillor determined by the Council
- The CEO

The Panel will consider the nominations received by the Commissioner following invitations to the public, State Government agencies, industry and peak bodies on the Island and other relevant sources and provide advice on appointments.

Nomination forms will be provided to the Panel on a confidential basis.

The Commission will determine the final appointments to the boards having regard to the outcomes of the consultation process with the Panel.

#### **4.4 Managing Vacancies**

Should a vacancy arise on the Local Advisory Board, the Commissioner will determine whether the vacancy will be filled. In making this determination consideration will be given to the proximity of the vacancy to the proposed conclusion of the Advisory Board's work. If it is determined to fill the vacancy, a nomination will be sought from the agency that the member represents, or from the public. This nomination will be reviewed by the Commissioner as per the selection process outlined in section 4.2 of these terms of reference.

#### **4.5 Removal of advisory board members**

Removal of advisory board members may occur pursuant to Section 13 of the *Public Sector (Honesty and Accountability) Act 1995*.<sup>2</sup>

In addition, the Commissioner may suspend or remove a member of the Local Advisory Board at the Commissioner's discretion pursuant to Section 36 of the *Acts Interpretation Act 1915*.<sup>3</sup>

Grounds for removal of a member from the Local Advisory Board could include:

- non-attendance at three or more meetings without seeking leave;
- change or termination of a member's professional role if the member is appointed to the Local Advisory Board as a representative of a government or community service agency.

## **5. Meeting procedures**

In regards to meeting procedures, Section 15 of the Act states that:

- (6) The procedures to be observed in relation to the conduct of the business of a local advisory board will be—*
- a) as determined by the board; and*
  - b) insofar as a procedure is not determined under paragraph (a)—as determined by the Commissioner.*

The Local Advisory Board for Housing on Kangaroo Island will determine the procedures of meeting to conduct its business. The Commissioner will prepare a statement of expectations of meeting procedures for the Board's consideration.

## **6. Budget, Resources and support**

### **6.1 Budget**

A budget will be allocated to the Local Advisory Board by the Commissioner for sitting fees, administrative costs and other operational expenses. A report will be provided at each meeting by the Office of the Commissioner for Kangaroo Island. Should an additional budget allocation be

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<sup>2</sup> [Public Sector \(Honesty and Accountability\) Act 1995 \(South Australia\)](#)

<sup>3</sup> [Acts Interpretation Act 1915 \(South Australia\)](#)

required by the Board, a request must be made in writing to the Commissioner outlining the need for additional expenditure.

## 6.2 Sitting Fees

Sitting fees will be provided to Board Members of non-Government agencies and members of the public. Such Members will receive a sitting fee of \$103.00 for each meeting attended.

## 6.3 Resources

An Induction Pack will be provided to Local Advisory Board Members that will include:

- The Terms of Reference for the Local Advisory Board
- Information on any relevant legislation:
  - [Public Sector \(Honesty and Accountability\) Act 1995 \(South Australia\)](#)
  - [Acts Interpretation Act 1915 \(South Australia\)](#)
  - [Independent Commissioner Against Corruption 2012](#) (South Australia)
  - [Criminal Law Consolidation Act 1935](#) (South Australia)
- [Kangaroo Island Plan: A volume of the South Australian Planning Strategy](#) (2011)
- [Submission to South Australian Housing Strategy Green Paper](#), Bec Davis (2012)
- [Housing Strategy for South Australia 2013-2018](#) (2013)
- [Paradise Girt by Sea Report](#), prepared for the Economic Development Board of South Australia (2013)
- [Kangaroo Island Community Housing Strategy](#) (2014)
- [Kangaroo Island First](#), prepared for the Kangaroo Island Futures Authority (2015)
- [Kangaroo Island Development Plan](#) (2015)
- Conflict of Interest Guidance Material
- Guidelines for Procedures of Local Advisory Boards
- Other relevant resources for the Local Advisory Board to conduct their responsibilities.

## 6.4 Support

All administrative support for the conduct of the Local Advisory Board will be provided by the Office of the Commissioner for Kangaroo Island. This will include liaising with stakeholders to obtain information, liaising with guests / presenters at meetings and managing travel arrangements, financial management, organising meeting venues, distributing meeting papers, executive support during meetings, provision of technical equipment.

## 7. Compliance with Legislation Regarding Board Membership

It is necessary that Members of the Local Advisory Board for Housing on Kangaroo Island are aware of their obligations under *Public Sector (Honesty and Accountability) Act 1995*<sup>4</sup> pursuant to Section 15(7) of the *Commissioner for Kangaroo Island Act*.

## 8. Civil liability

It is expected that the members of the Local Advisory Board familiarise themselves with their duties as set out in the *Public Sector (Honesty and Accountability) Act 1995*.<sup>5</sup>

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<sup>4</sup> [Public Sector \(Honesty and Accountability\) Act 1995 \(South Australia\)](#)

<sup>5</sup> [Public Sector \(Honesty and Accountability\) Act 1995 \(South Australia\)](#)

In regards to liability of Local Advisory Board members, section 74 of the *Public Sector Act 2009* applies to all members of the Board and outlines the provisions for immunity from liabilities.<sup>6</sup> However, it should be noted that civil liabilities exist for Division 2 of the *Public Sector (Honesty and Accountability) Act*, which applies to all members of the Local Advisory Board. Should a member breach duties imposed in Part 2, Division 2 of the *Public Sector (Honesty and Accountability) Act* immunity from civil liability under section 74 of the *Public Sector Act 2009* would not be available.

## 9. Conflicts of Interest

Regarding conflicts of interest, section 12 of the *Public Sector (Honesty and Accountability) Act* applies to all members of the Local Advisory Board.

It is recommended that, for operational reasons, Local Advisory Board members disclose any conflicts of interest to the Commissioner pursuant to Section 12 of the *Public Sector (Honesty and Accountability) Act*, who will then make the disclosure to the relevant Minister(s).

## 10. Review of Terms of Reference

The Commissioner will review, and if necessary amend, the Terms of Reference after six months of the Local Advisory Board's formation.

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<sup>6</sup> [Public Sector Act \(South Australia\)](#)