SOUTH WEST JOINT DESIGN REVIEW PANEL
TERMS OF REFERENCE

1. THE ROLE OF DESIGN REVIEW IN THE PLANNING SYSTEM

1.1 Integrating design review into the planning system is a key component of the implementation and operation of State Planning Policy 7.0 Design of the Built Environment (SPP7.0). SPP7.0 includes performance-based design principles, which provide a guide to achieving good design, and the means for evaluating the merit of proposed solutions through design review, which uses professionals with appropriate levels of design expertise.

1.2 Performance-based design principles identify the objectives to be met without prescribing how to achieve them. Design review is an essential component of this approach, as qualitative assessment is required to determine whether the required performance outcomes have been achieved in a given proposal. The South West Joint Design Review Panel (SW DRP) is established to provide design review for the local governments in the South West Region.

1.3 This approach provides flexibility for developers to deliver improved project and site-specific outcomes as well as benefits for the broader community. It provides latitude for skilled and experienced designers to pursue innovative solutions. It also offers the opportunity for efficiency, allowing for solutions to be considered collaboratively, and generally enabling a smoother determination phase following the submission of an application. Skilled and experienced designers, working collaboratively with expert reviewers, typically require fewer design reviews.

2. TEN PRINCIPLES OF EFFECTIVE DESIGN REVIEW

2.1 For design review to be effective, it must be resourced appropriately and conducted in a manner that is fair, robust and credible. The following principles of design review should be used to guide the review process and set an appropriately high standard of conduct from panel members. Design review should be:

Independent – It is conducted by people who are not connected with the proposal's promoters and decision makers and ensures that conflicts of interest do not arise.

Expert – It is carried out by suitably trained people who are experienced in design and know how to critique constructively. Review is usually most respected when it is carried out by professional peers of the project designers, because their standing and expertise will be acknowledged.

Multi-disciplinary – It combines the different perspectives of architects, urban designers, planners, landscape architects, engineers and other specialist experts to provide a complete, rounded assessment.

Accountable – The Design Review Panel, and the advice that it provides to the local government (or other approval authority) must be clearly seen to work for the benefit of the community.

Transparent – The Design Review Panel's remit, membership, governance processes

and funding should always be in the public domain.

Proportionate – It is used on projects whose significance (either at local or State level) warrants the investment needed to provide the service.

Timely – It takes place as early as possible in the design process, because this can avoid a great deal of wasted time. It also costs less to make changes at an early stage.

Advisory – The Design Review Panel does not make decisions, but it offers impartial advice that informs recommendations to the people who do.

Objective – It appraises proposals according to measures that are reasoned and objective, rather than the stylistic tastes of individual panel members.

Accessible – The recommendations arising from design review are clearly expressed in terms that design teams, decision-makers and the community can all understand and make use of.

3. MEANING OF TERMS

3.1 The meaning of other specific words and expressions relevant to this policy are given below:

'Design Review' means an independent and impartial evaluation process in which experts on the built environment assess the design of a proposal.

'Deputy Chair' means an expert selected from the pool who performs the functions of the Panel Chair in their absence.

'Financial Interest' as defined by the *Local Government Act 1995*, including indirect financial interest, or proximity interest.

'Impartiality Interest' has the meaning given to it in the Local Government (Administration) Regulations 1996.

'Panel' means the panel chair, deputy chair and specialist members selected from the Pool who undertake a design review of a proposal (South West Joint Design Review Panel).

'Panel Chair' means an expert selected from the pool who has additional responsibilities as set out in section 13.3.

'Panel Member(s)' means an expert selected from the pool who undertakes a design review of a proposal.

'Parties' means the local governments of Augusta-Margaret River, Bunbury, Busselton and Capel and other south west region local governments added or removed in accordance with the processes set out in the MOU.

'Pool' means a group of experts selected through an expression of interest process, from which the Panel Chair, Deputy Chair and Panel Member(s) will be selected.

'Senior Officers Group' means execute level planning staff or Chief Executive Officers of the local authorities part to the MOU.

'Specialist Members' means a member of the panel selected from the pool who has expertise of specific relevance to a proposal.

4. ROLE DESCRIPTION DESIGN REVIEW PANEL

4.1 The role of the Panel is to provide independent, impartial, expert design advice:

i. to proponents and local government officers on the design quality of proposals;
ii. to decision-makers (State and local governments, Development Assessment Panels, the State Administrative Tribunal) on eligible development applications or other proposals;
iii. to local governments, where requested, on strategic policy, structure plans, precinct structure plans, local development plans, design guidelines, local planning schemes and amendments, local government civil, development and public art projects or other matters.

4.2 Reviews will be undertaken in accordance with the model process outlined in the State's Design WA: Design Review Guide.

4.3 The 10 Design Principles from SPP7.0 will be used as the basis for design review.

5. STATUS OF DESIGN REVIEW ADVICE

5.1 Design Review Panels are advisory only and do not have a decision-making function. The Panel advises on the design quality of proposals with reference to design principles (refer SPP7.0 Part 4) and supporting State Planning Policies, as well as the relevant local planning schemes and policies.

5.2 Decision-makers shall have due regard to the design review advice and recommendations in their deliberations.

5.3 For continuity between design review and local government and Development Assessment Panel assessment procedures, the Panel Chair may be requested to brief decision makers either through preparation of a briefing note or attendance at a meeting. Where a matter is referred to the State Administrative Tribunal for review, the Panel Chair may also be required by the Tribunal to attend proceedings.

6. ESTABLISHMENT AND GOVERNANCE OF DESIGN REVIEW PANEL

6.1 The Panel is appointed by the signatories to the Memorandum of Understanding (MOU) for the SW DRP.

6.2 A Senior Officers Group will comprise local government Chief Executive Officers (or delegate) as signatories to the MOU for the SW DRP.

6.3 The Parties will maintain the arrangements of the Terms of Reference (TOR) on an ongoing basis and may through exchange of letters between all the respective Chief Executive Officers and approval by the Group, modify the TOR.

7. MEMBERSHIP

7.1 Local governments should ensure that the Pool includes members with expertise in one or more of the following disciplines:

- Architecture (essential)
- Urban design (essential)
- Landscape architecture (essential)
- Heritage
- Sustainability and environmental design
- Town planning
- Arts and Culture

7.2 A Panel Chair and Deputy Panel Chair will be selected from the Pool to form part of the Panel for all matters unless they are unable to participate due to a conflict of interest as outlined at part 13. Preference will be given to a local expert for the Panel Chair or Deputy Chair role depending on their experience and expertise.

7.3 The panel will also consist of specialist members selected from the pool to form a quorum. Selection of specialist members will be based on the requirements of the matter being considered by the panel. Selection of the specialist members will be at the discretion of the local government presenting the item.

7.4 While local knowledge is useful, a balance between locals and expertise from outside the local government area for specialist members should be sought in order to optimise the range and calibre of skills available. All Design Review Panel members should be eligible for registration and maintain good standing with their respective professional bodies.

7.5 To be independent and apolitical, decision-makers, elected members or local government officers shall not be appointed to the Panel. Key local government planning (and other) officers should participate in all Design Reviews in an advisory capacity, to observe and to provide administrative and governance support.

8. TIMING AND NUMBER OF DESIGN REVIEWS

8.1 The number of Design Reviews needed will vary depending on the complexity of a proposal; however, for major proposals three (3) reviews are typically needed for the process to be effective.

8.2 Design Reviews should occur before a development application is submitted. It is strongly recommended that the first Design Review takes place during the concept design stage to ensure that proponents can take advantage of the advice offered at a time where the design is flexible enough to accommodate change without impacting on time and cost constraints.

8.3 A subsequent review should typically occur at a stage when the design has been further progressed. Depending on the outcome of the initial meeting, this review session will typically occur during design development or prior to the proposal being submitted for development approval (pre-development application stage).

9. DESIGN REVIEW PANEL MANAGEMENT AND SUPPORT

9.1 Arrangements for the Panel management, administration and support, including cost sharing will be outlined in the MOU for the SW DRP.

9.2 The extent of cost recovery from the applicant/proponent will be at the discretion of the individual local government as established through an adopted Local Planning Policy.

10. DESIGN PRINCIPLES

10.1 SPP 7.0 Design of the Built Environment outlines a set of performance-based design principles. These principles establish a broad definition of 'good design' and form the basis of design review consideration.

Context and character – Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.

Landscape quality – Good design recognises that together landscape and buildings operate as an integrated and sustainable system, within a broader ecological context.

Built form and scale – Good design ensures that the massing and height of development is appropriate to its setting and successfully negotiates between existing built form and the intended future character of the local area.

Functionality and build quality – Good design meets the needs of users efficiently and effectively, balancing functional requirements to perform well and deliver optimum benefit over the full life-cycle.

Community – Good design responds to local community needs as well as the wider social context, providing environments that support a diverse range of people and facilitate social interaction.

Sustainability – Good design optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes.

Amenity – Good design provides successful places that offer a variety of uses and activities while optimising internal and external amenity for occupants, visitors and neighbours, providing environments that are comfortable, productive and healthy.

Legibility – Good design results in buildings and places that are legible, with clear connections and easily identifiable elements to help people find their way around.

Safety – Good design optimises safety and security, minimising the risk of personal harm and supporting safe behaviour and use.

Aesthetics – Good design is the product of a skilled, judicious design process that results in attractive and inviting buildings and places that engage the senses.

10.2 Refer to SPP7.0 for the Design Principles in full.

11. PROPOSALS FOR REVIEW

11.1 Proposals eligible for design review will be at the discretion of the individual local government. Thresholds shall be established through an adopted Local Planning Policy.

12. DESIGN REVIEW PANEL APPOINTMENT

12.1 Suitable design review candidates will be recruited through an appointment process, which includes:

i. public advertising seeking formal Expressions of Interest (EOI);
ii. consideration of EOIs by an appropriate selection panel;
iii. an interview process, if required, to confirm appropriate design review expertise;
iv. a report with recommendation/s for appointment presented to the Senior Officers Group for endorsement.
v. appointment to a panel of pre-qualified suppliers in accordance with Part 4, Division 3 of the *Local Government (Functions and General) Regulations 1996.*

12.2 Following completion of the selection process, all details of the appointment will be confirmed in writing and a member induction and Panel Member training will be scheduled.

12.3 The term of office for a Panel Member shall be two years.

12.4 The Senior Officers Group will appoint a pool of suitable persons to serve on the Panel. Each Panel meeting will generally comprise a of three members, however additional members may be used at the discretion at the relevant local government.

12.5 A person who is currently employed by, or who is an elected member of the local government, is not eligible for appointment as a member of the Panel. All Panel appointments are endorsed by the Senior Officers Group.

13. DESIGN REVIEW PANEL ROLES AND RESPONSIBILITIES

13.1 All Panel members are required to:

i. provide independent, fair and reasonable professional advice relative to the SPP7.0 Design Principles and relevant State and local policies and schemes;
ii. treat all discussions and information about applications with sensitivity and confidentiality;
iii. respond to and comment on material presented, providing clear and constructive feedback; and
iv. disclose any actual or perceived conflicts of interest in writing for the record. Where an interest exists, the member must:
    - disclose the interest to the Chair as soon as possible, and before the meeting to ensure there is a quorum for all items;
    - if the interest is a financial interest, the member must not take part in the consideration or discussion of the matter.

13.2 All disclosures of interest will be recorded in the panel meeting notes.

Roles and Responsibilities

13.3 Chairperson

The Panel Chair will be appointed by the Senior Officers Group. In addition to presiding at the meetings, the Panel Chair will have the following additional responsibilities:

i. Conducting design review meetings;
ii. Ensuring new members have been inducted and are briefed about panel operations;
iii. Liaising with the nominated local government officer about design review planning, advising on expertise required for each review, requesting additional sitting members where required, and advising on additional briefing material that may be required;
iv. Ensuring that the meeting agenda is followed and that allocated timeframes are adhered to;
v. Welcoming and introducing the panel, proponents and any observers present in the meeting — facilitating interactive discussion and participation of all Design Review Panel members, key local government attendees and proponents, enabling solutions to be brokered collaboratively;
vi. Ensuring that discussions remain focused on the application being considered and that advice relates to matters covered by the SPP7.0 Design Principles, relevant State and local policies and schemes;
vii. Summarising the consensus view of the panel at the conclusion of the meeting;
viii. Ensuring consistency of panel advice between reviews;
ix. Ensuring the advice and recommendations developed for each application is confirmed in the meeting for the purposes of minuting to reduce reporting timeframes;
x. Ensuring the panel endorses the minutes;
xi. Liaising with City staff about the operation of the Panel, where required;
xii. Ensuring new members have been inducted and are briefed about Panel operations;
xiii. Briefing decision makers – Local Government, JDAP and SAT members – on Panel advice when required; and
xiv. Assist the local government with preliminary proponent discussions when required.

13.4 Panel Members

Panel members are required to:

i. Treat all discussions and information about applications with sensitivity and confidentiality;
ii. Provide independent, fair and reasonable professional advice relative to the Design Principles as set out in SPP7.0, relevant State and local policies and schemes;
iii. Respond to and comment on material presented, providing constructive feedback to make amendments as required; and
iv. Disclose any financial or impartiality interest for recording in meeting minutes.

Where a financial interest exists, the member must disclose the interest to the Chairperson as soon as practicable, to ensure there is a quorum for all items and must not take part in the consideration or discussion of the matter.

14. REMUNERATION

14.1 Members will receive standard professional rates on a per item basis.

14.2 The Chair will receive an above-standard fee due to the additional responsibility of the role, plus preparation, time spent advising and editing reporting as needed, and time spent on additional briefings.

14.3 Where a member of the panel is requested to appear on the local government's behalf as an expert witness at the State Administrative Tribunal, the member is to be paid at a mutually agreed hourly rate consistent with the qualifications, experience and professional status of the member in consultation with the relevant local government.

14.4 The Panel Chair is to be paid:

- $700 per item (excluding GST), including preparation and review of all proposals prior to the Panel meeting, review of the minutes after the Panel meeting, discussion with Panel Members regarding the minutes and final advice and the provision of the final design advice from that meeting to the participating Local Government;

14.5 The Design Review Panel Members are to be paid:

- $500 per item (excluding GST), including preparation and review of all proposals prior to the Panel meeting, review of the minutes after the Panel meeting and discussion with Panel Chairperson regarding the minutes and final advice.

14.6 Additional renumeration for travel and accommodation will not be provided unless agreed to prior with the relevant local government.

15. DESIGN REVIEW PANEL PROCESS

Preliminary Referrals

15.1 An eligible proposal that is under consideration by a potential applicant and is in the early stages of formulation but has yet to be submitted as a formal application for planning approval may be referred to the Panel.

15.2 A preliminary referral is to be submitted to the local government within which the development is proposed. A preliminary referral shall generally consist of the following:

- Context / Streetscape Analysis which considers the site location and character and considers the desired future character of the area
- Concept/Development Plans
- Artists impressions/Colour Perspectives of proposed development (if possible)
- Assessment against SPP 7.0 Design Principles.

15.3 A preliminary referral is to be submitted three (3) weeks prior to the scheduled meeting date.

15.4 Upon submission the referral will be checked by the assessing officer of the relevant local government to determine if sufficient information has been provided to enable Design Review.

15.5 Where it is determined sufficient information has been provided, the documents will be sent to the local government hosting the design review meeting two (2) weeks prior to the meeting, along with the nominated specialist members and other supporting information to enable agenda formulation.

15.6 Notice of a Design Review meeting and agenda meeting (along with submitted drawings and other relevant documentation) will be circulated to selected panel members and meeting attendees at least one (1) week prior to the meeting.

15.7 It is recommended that relevant members review the proposed agenda and advise the local government as soon as possible of:

i. their ability to attend the meeting; and
ii. any financial or impartiality interest to be declared in any matter listed on the agenda.

15.8 Consideration of preliminary referrals by the Panel will not be forwarded to the Council for discussion as changes may be made prior to a formal application being lodged.

15.9 Proponents will be encouraged to attend the relevant part of the Panel meeting and the formal comments of the Panel will be provided in a qualified form to the proponent through the relevant local government staff.

Formal Referrals

15.10 A formal application for planning approval that has been submitted may be referred to the Panel.

15.11 The requirements of 15.2 - 15.7 apply to formal referrals as they applied to preliminary referrals.

15.12 All formal eligible applications should be referred to the Design Review Panel. These applications will undergo a preliminary assessment by the relevant local government staff having regard to the provisions of the Local Planning Scheme and relevant planning policies prior to consideration by the Panel. Information on compliance with the Scheme and policies will be made available to the Panel to assist in the formulation of the Panel's design advice.

15.13 The decision of the timing of referral, and the number of referrals considered necessary, to the Panel shall be made in accordance with the relevant local government Local Planning Policy. In cases where an application may be incapable of approval under the provisions of the Local Planning Scheme, referral to the Design Review Panel may be denied and the application assessed without this information.

15.14 Where the Panel is considering a formal statutory planning matter, its advice will be included in the planning assessment and notes of the Panel meetings will be included as an attachment to that report. For the purpose of clarity, this also includes Responsible Authority Reports that are provided to the Joint Development Assessment Panel.

15.15 Applicants will be invited to attend at the relevant part of the Panel meeting, however all formal communication with the Panel will be through the relevant local government, or their proxy, who will liaise directly with the Chair. Panel members are strictly prohibited from individual communication with proponents or interested persons on business before the Panel outside of the meeting structure adopted for the Panel.

Advice from the Panel Chair

15.16 Where advice is required from the Panel Chair for tribunal matters, council briefings or similar, this will be arranged by the relevant Local Government.

15.17 Where advice from the Panel Chair is sought, renumeration will be paid directly by the relevant Local Government.

16. MEETING PROCEDURES

Frequency of meetings

16.1 Meetings will generally be held monthly, provided there are matters to be considered, but a meeting can be scheduled at the any time in response to urgent matters.

Quorum and attendance

16.2 A Design Review Panel meeting may not proceed unless a quorum comprising a minimum of three members is present. If a quorum cannot be achieved, the meeting cannot proceed and should be re-scheduled.

16.3 It is important to optimise the consistency of the panel and advice particularly across subsequent reviews for the same proposal. The local government may replace panel members who are regularly unavailable for meetings.

Conflict of Interest

16.4 Where a member of the Design Review Panel has a financial interest (as defined by the *Local Government Act 1995*) in a matter to be considered by the Design Review Panel, the member must disclose the interest to the chair of the meeting (in writing) and must not participate in or be present during any discussion on the matter.

16.5 Where a member of the Design Review Panel has an impartiality interest in a matter to be considered by the Design Review Panel (an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest arising from kinship, friendship or membership of an association), the member must disclose the nature of the interest to the chair of the meeting, prior to any discussion on the matter.

Code of conduct

16.6 All panel members are required to abide by the local government's Code of Conduct for which the item originates.

Confidentiality

16.7 Proceedings of a meeting of the Design Review Panel and details of any proposal before the Design Review Panel are to remain confidential unless such details are disclosed in an authorised manner by a Local Government officer to the applicable applicant or presented in a report which is available to the public.

Observers

16.8 Design review meetings should be closed to members of the public as information discussed can be commercially confidential. A proponent can make a deputation to the Design Review Panel and answer any question but not be present during discussion.

16.9 Local governments are encouraged to allow planning and other officers to attend review sessions as observers, as it can offer valuable training on design quality considerations,

familiarity with the design review process and an understanding of how it can benefit a range of projects.

Site inspection

16.10 Where possible, Panel members should be familiar with sites they are revieing on the agenda prior to the meeting, recognising this may not be relevant for all matters. A site visit may be arranged if considered necessary by the local government or panel Chair, and costs will be borne by the relevant local government in such cases.

Panel member preparation

16.11 Where an application has already been submitted prior to referral to the panel, an initial officer assessment will be undertaken, the results of which will be provided to the panel as part of the agenda preparation process.

16.12 It is expected that panel members will familiarise themselves with all information provided prior to the meeting and prepare comments in advance, to enable effective use of session time. If additional information is required prior to the meeting, a request should be submitted to the local government in accordance with the procedures advised during the induction.

Format of the Meeting

16.13 The Panel will meet at such place and time as notified to the members by the Group. Arrangements will be made for every meeting to include video conferencing in a manner that allows plans and other digital material to be shared during the meeting.

16.14 The appointed Chair will preside as chairperson at every meeting of the Panel, unless due to unavailability the Deputy Chair will act in their role. If the Panel Chair is not present within ten minutes after the time appointed for the commencement of the meeting, then the Deputy Chair will act as the Chair for the purpose of that meeting.

16.15 Where the Panel is considering a proposal, the proponent will be invited to present that proposal to the Panel prior to the Panel considering the matter. This will also include video conferencing. Panel members may ask questions of the proponent relating to the proposal before it but shall not debate the proposal with the proponent. The proponent may remain after the presentation / online and during the design discussion process unless the Panel Chair specifically requests that the proponent not be present.

16.16 Recording of the Meeting Notes will be taken at the meeting, recording its deliberation and attendance. Meeting notes and the advice of the Design Review Panel shall be consistent with the State's Design Review framework.

16.17 The notes will be prepared on behalf of the Design Review Panel by administration staff of the relevant local government and ratified by the Panel Chair within a week of the meeting. The relevant notes for the proposal will be forwarded to the proponent in the format determined by the relevant local government.

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