

19th December 2016

Ms Gail McGowan
Director General
Department of Planning
Locked Bag 2506
Perth WA 6001

Dear Gail

SPP 7: DESIGN OF THE BUILT ENVIRONMENT

The Property Council of Australia congratulates the Government on the release of the Design WA suite of policy documents and guidelines including the draft State Planning Policy 7 (SPP 7) and the new design guidelines for apartments – the first in a series of guidelines to address the design of the built environment.

In preparing this submission the Property Council has consulted with our members which include major residential developers; architectural, urban design and planning consulting firms; as well as our Division Councillors and member representatives who include the leaders of state and national companies across all asset classes of the property industry in WA.

Industry supports good built form design that creates highly functional spaces and makes density more acceptable to the community. The Property Council in principle welcomes Design WA however the industry has major concerns around key provisions in the draft policy.

This submission sets out the key issues with Design WA; makes recommendations for change to the policy or guidelines; as well as, raises questions for further consideration in the finalisation of the suite of documents. The main issues are:

- Design WA has introduced a new level of uncertainty in the development approvals process which has not existed since the introduction of Development Assessment Panels.
- Design WA is overly prescriptive and complex.
- Design WA has the potential to increase the cost of development which would make housing affordability worse.

- Design WA has the potential to stifle innovation and may limit flexible solutions that respond to market demands.

STATEMENT OF PLANNING POLICY 7

1. **Issue: SPP 7 needs to be strengthened to ensure that the proposed design review processes will bring consistency and certainty while stemming the influence of council representatives**

- **Recommendation:** *That the establishment of a Design Review Panel (DRP) operating along clear Terms of Reference is a mandatory requirement of the design review process for a council to apply Design WA.*

In 2016 the Property Council of Australia produced the *Benchmarking Greater Perth Local Governments* report that highlighted a worrying lack of strategic planning across most greater Perth councils. In addition, Development Assessment Panels (DAPs) were introduced to improve the transparency, consistency and independence of decision making in the approvals process for development applications. Industry is now greatly concerned that WA's 130+ councils who already have limited planning approvals processing capability and capacity, are now being given responsibility for design review – another highly technical area of planning and design expertise.

In the absence of everyone in the design review process having either qualified design skills or demonstrable commercial development experience - Design WA will result in more developments being rejected because of a 'tick the box' exercise.

The Property Council supports DRPs but with clear Terms of Reference. DRPs could be shared between councils with limited resources as well as establishing a State Design Review Panel (SDRP) for projects of state significance.

2. **Issue: The reforms must not take responsibility or decision making power from Development Assessment Panels (DAPs) in regards to a Development Applications (DA).**

- **Recommendation:** *SPP7 needs to set out the design review process once a DA is lodged which clearly states a timeframe for the review process; the advisory role of the DRP; and, that responsibility for decision making on design rests with a DAP.*

SPP 7 must set out the design review process to avoid a 'design review loop' as well as provide clear guidance on the role of councils, DRPs and the primacy of independent DAP decision making. The design review process and role of a DRP is to inform a DAP to make independent decisions.

3. Issue: Design WA applies a high standard of design which will reduce affordability

- **Recommendation:** *SPP7 needs to address the ongoing need for flexible design that leads to innovative solutions that will contribute to housing affordability.*

Housing affordability is still a contemporary issue and industry has yet to explore the extent of possible solutions to the factors that create affordable design and buildings. For example, how will Design WA deal with modular design or how might it apply to conversions of older commercial buildings to residential. It will be a challenge but policy makers need to identify how affordability can be included in the Schedule 1 Design Principles.

DESIGN REVIEW GUIDE

4. Issue: Design WA will result in additional compliance costs for development proponents and thus proponents that adhere to Design WA should expect greater certainty of the design being approved.

- **Recommendation:** *Ensure the design review process is streamlined and only adds a reasonable percentage to the cost of the project as well as set a maximum fee that can be applied by councils.*

DRPs and councils will require more documentation and upfront design cost as well as council fees for the design review process. These additional design requirements and design costs must be matched by a streamlined application process. Consideration also needs to be given to setting a maximum fee that councils can charge for applications referred to a DRP. In addition, consideration should be given to the front end of the design review process, where proponents may want access design review advice pre – lodgement of a DA.

5. Issue: The reforms must not take responsibility or power away from Development Assessment Panels (DAPs) in regards to a DA.

- **Recommendation:** *DRPs should have clear Terms of Reference and be comprised of a balance of locally elected members and members with qualified technical skills, and a demonstrated commercial understanding of development and who are appointed by the Department of Planning or Western Australian Planning Commission.*

Once adopted Design WA will become part of the design review process for assessment of development applications by councils. Therefore, it should be a requirement that the design review process for each council must be consistent and transparent. This can only be achieved with some degree of certainty by a DRP established according to clear terms of reference and that has a membership of qualified technical expertise, council representation and demonstrated commercial expertise. The role of a DRP is to provide advice to a DAP and be accountable for that advice i.e. have an independent and technically qualified chair and minuted meetings.

APARTMENT DESIGN POLICY: VOLUME 2 OF SPP 7

6. Issue: Design criteria cannot be so prescriptive that they stifle innovation and affordability, while adding to development costs e.g. deep root zones.

- **Recommendation:** *Include text at Table 1 - Primary Controls Table that explicitly states that these primary controls are not mandatory requirements.*

As already stated at Section 2.1 the rationale for the use of primary controls needs to be clearly articulated to the community, landowners, designers and planners. For example, in the absence of a council scheme or a scheme that is not aligned with State strategic direction, Table 1 can provide a guide for common expectations for future development. The design review process however, should not be so rigid that every DA must adhere to every criterion outlined in the design guide.

- **Recommendation:** *That the Apartment Design Policy explicitly states that the objectives are a guide to good design not a minimum requirement.*

Some of the provisions are highly onerous on developers and if read as a minimum requirement would increase difficulty and cost of development. Cross ventilation on larger floor plates, solar penetration, deep root zones are all fine in principal but can be difficult in practice. How items are applied by design review panels and how commercially realistic they are will be vital.

- **Recommendation:** *That standards must be revised to set minimum room sizes within an apartment and not set minimum apartment sizes.*

Originally this policy was developed to deal with internal rooms with no windows, air conditioners on balconies, bedrooms that are too small to fit a double bed and badly designed smaller multi-unit developments. The ability of WA's major apartment developers to deliver good built form has never been at question. However, while real design issues exist - some of the more "internal" design

matters dealt with by Design WA are perhaps more adequately dealt with by the Building Code of Australia/ or National Construction Code) i.e. regulating natural ventilation and noise mitigation. Other standards in Design WA however stifle innovation. Minimum room sizes for example would be more beneficial than setting minimum apartment sizes. This will enable the market to choose to have a smaller overall apartment floor space at the same time guaranteeing that rooms can accommodate standard furniture.

- **Recommendation:** *That Design WA align with the Livable Housing Australia Design Guidelines.*

While adaptable design is supported, it is questionable what the benefit would be of mandating a minimum of 20% both on the overall design of the building, development cost and affordability. Similarly, Design WA should align with the nationally agreed guidelines rather than the WA Liveable Homes standards.

OTHER ISSUES

7. Issue: Industry needs a transition period for existing projects to be assessed on current system.

- **Recommendation:** *Need to set a clear timeframe for when Design WA applies to approval of a DA such as it applies on the date a DA is lodged.*

Large projects take longer to roll out so the introduction of Design WA could impact what happens when later stages of a project must apply different design criteria that don't deliver the originally intended yield. Similarly, consideration needs to be given to what happens to DAs currently in the system.

8. Issue: Design WA could lead to a boom/ bust market and compromise the validity of the market by creating winners and losers.

- **Recommendation:** *That value modelling be undertaken to determine winners and losers and compensation planning measures be adopted.*

At certain R-Codes developments will see a decrease in yield because of Design WA. Whose values will go up or down needs to be financially modelled by the Department to understand to what extent will there be winners and losers. These landowners need protecting such as invoking a transition period as part of Design WA to alleviate the value loss by allowing those who are going to lose out, to put submit development applications under the current system.

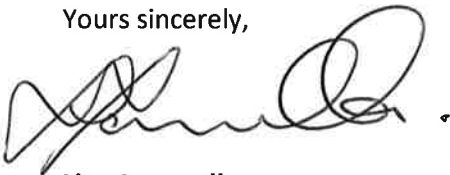
9. Issue: Design WA could lead to design competitions

- ***Recommendation: That design competitions should only be considered for projects of state significance or state strategic locations.***

The idea of design competitions is gaining in popularity in NSW but could lead to further development costs, and inconsistent design processes. Design competitions should be reserved for projects of state significance and hence a part of the State Design Review Panels.

If you require any further input from the Property Council by way of attendance at workshops or meetings our members would welcome the opportunity.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lino Iacomella', with a stylized flourish at the end.

Lino Iacomella
WA Executive Director