



Department of **Planning**
Department of **Finance**
Office of the Government Architect



DESIGN SKILLS

DISCUSSION PAPER

Draft for public comment
October 2016

Disclaimer

This document has been published by the Western Australian Planning Commission. Any representation, statement, opinion or advice expressed or implied in this publication is made in good faith and on the basis that the government, its employees and agents are not liable for any damage or loss whatsoever which may occur as a result of action taken or not taken, as the case may be, in respect of any representation, statement, opinion or advice referred to herein. Professional advice should be obtained before applying the information contained in this document to particular circumstances.

© State of Western Australia

Published by the

Western Australian Planning Commission

Gordon Stephenson House

140 William Street

Perth WA 6000

Locked Bag 2506

Perth WA 6001

Published October 2016

website: www.planning.wa.gov.au

email: corporate@planning.wa.gov.au

tel: 08 6551 9000

fax: 08 6551 9001

TTY: 08 6551 9007

infoline: 1800 626 477

This document is available in alternative formats on application to Communication Services.

Contents

1. Background	4
2. Consultation to date.....	5
3. Accreditation and regulation	6
4. Options for consideration.....	8
5. Your feedback.....	12

1. Background

In August 2014, the Western Australian Planning Commission (WAPC) released *Planning Makes it Happen - Phase 2 Blueprint for Planning Reform*. The blueprint included a number of initiatives relating to design and development with the intention of improving built form and place design outcomes. These initiatives included:

- State Planning Policy for Design of the Built Environment
- Apartment Design
- Model for Design Review
- Design Skills Discussion Paper (this paper)
- Implementation and training program

Specifically, the blueprint identified the following in relation to design skills:

3.11 (c) Preparation of a discussion paper on the policy or legislation provisions to require that development meeting particular criteria (such as multi-unit housing or mixed used development over three storeys in height) must be designed or accredited by a qualified, registered architect or other licensed design professional.

The Department of Planning has progressed these initiatives under the collective heading of Design WA. The Design WA project includes draft *State Planning Policy 7 Design of the Built Environment (SPP 7)*, which proposes three interrelated Design Quality Mechanisms to improve design outcomes:



Design Principles –
performance-based approach to policy

Design Skills –
skilled design expertise

Design Review –
skilled evaluation expertise

The **Design Principles** and **Design Review** mechanisms will be implemented through SPP 7, an associated apartment design guideline, a model for the operation of design review panels and potentially amendments to the *Planning and Development (Local Planning Scheme) Regulations 2015*.

Options to implement the **Design Skills** element of draft SPP 7, including consideration of the requirement for the use of registered architects or accredited designers, consistent with the intent of part 3.11 (c) of the Planning Reform Phase 2 blueprint, are explored in this discussion paper.

2. Consultation to date

To inform the content of this paper, the Department of Planning has engaged representatives from the Australian Institute of Architects (AIA), Building Designers Association of WA (BDWA) and Property Council of Australia. A review has also been undertaken of relevant submissions made on Planning Reform and the Statutory Review of the *Architects Act 2004* that commenced in 2014. In addition to these industry organisations, the Department has also engaged with Government and regulatory agencies with functions relevant to the Design WA project.

This cross-government engagement has included the WA Building Commission, which administers the *Architects Act* and oversees the Architects Board of WA, and the Regulatory Gatekeeping Unit of the Department of Finance regarding the economic impact of policy. The Office of the Government Architect has also provided direction with regard to design quality and policy regimes in other Australian jurisdictions.

There has been strong support for the intent of the Design WA project, recognition of the need for better design guidance for complex developments and the important role skilled designers play in delivering quality outcomes. It has been reported that, in some instances, designers with basic skills and training are designing complex developments, leading to poor-quality built outcomes as well as less-effective review and assessment processes.

However, a number of questions have also emerged regarding the most appropriate and effective way to improve design outcomes through the regulation of design skills. These questions relate to whether:

- a certain qualification or accreditation can be considered the only way to demonstrate the design skill competencies considered necessary to prepare plans for complex developments;
- a certain qualification or accreditation can be considered to offer a greater level of design skill than others;
- the regulation of design services will negatively impact housing affordability or unfairly disadvantage practitioners without a currently-recognised qualification or certification.

One aim of this discussion paper is to seek formal response to these questions from stakeholders. Responses to the discussion paper may also identify issues that have not yet been considered.

3. Accreditation and regulation

Several professional and trade services are already regulated. In most cases this regulation is in response to the need to protect health and safety and ensure that service providers are accountable to standards of skill and care which protect the rights of the consumer. The State Government will consider proposals for the regulation of service providers in the context of the impact on competition and the economy versus the public benefit or level of protection provided.

The importance of the quality, functionality and sustainability of our built environment is acknowledged and its link to the health and well-being of individuals and the community is widely accepted. Recognition of this importance is, in part, the basis of the *Planning and Development Act 2005* which provides the WAPC and local government with the power to manage the use and development of land throughout the State through planning schemes and other instruments.

Contemporary and emerging development types, particularly multi-storey developments in established areas, are inherently more complex in terms of their relationship to established built form, land use and communities. These types of developments often require a site-specific response which balances competing considerations. It is these types of development that have highlighted the need for better design guidance and application.

The acquisition of a new apartment is a significant investment and purchases are often made 'off the plan'. Buyers do not always have the skills necessary to interpret plans and make informed assumptions regarding what it will be like to actually live in the space. Decisions are made mostly based on illustrative representations prepared for marketing purposes.

It is important to ensure that apartments are designed in a way that provides minimum standards of functionality and amenity for occupants, beyond the rudimentary health and safety requirements of the National Construction Code. A well-designed apartment will not only improve living standards but will operate more efficiently and potentially cost less to run. Apartment owners have very little scope to modify their dwelling if it functions poorly as changes to the internal layout or openings to the outside are rarely possible.

The design of new apartment developments is equally important for adjoining property owners and the community. A well-designed building will respond to the context to ensure an appropriate response to existing development and streetscapes to protect the amenity of neighbours and improve urban design outcomes.

What is an architect?

An architect is a professional who has been recognised by the Architect Board of Western Australia, under the provisions of the *Architects Act 2004*, as having met the requirements to practice as an architect, demonstrated by passing the relevant examination. There is a standard and alternative pathway to achieving registration as an architect.

Through the standard pathway, to achieve eligibility to sit the architects' registration examination candidates must first complete a recognised university qualification, usually

resulting in attaining a Master of Architecture (previously Bachelor of Architecture). This entails five years of intensive design-oriented tertiary education provided by architects with experience in practical and theoretical aspects of architectural design and practice.

Following completion of the relevant university qualification, a candidate is also required to gain a minimum of two years' practical experience meeting specific criteria under the supervision of a registered architect prior to sitting the Architectural Practice Examination.

The Architects Board of Western Australia also offers an alternative pathway to accreditation for people without the relevant tertiary qualification in architecture. To obtain registration via this alternate approach, a candidate must have extensive design and professional experience and demonstrate competence at least equivalent to the criteria of the standard pathway.

Once registered, all architects are required to maintain public liability insurance and minimum standards of continuing professional development. The Architects Board of Western Australia has the power to take action where architects do not maintain the required professional insurances, development activities or standards. It can also take action against persons practicing as, or claiming to be, an architect without registration.

Registration as an architect doesn't necessarily ensure expertise in particular project types (eg. apartments), but can give reasonable assurance of an understanding of design process, design principles and ability to formulate and communicate design proposals which respond to a performance-based planning framework based on design principles. Registration is also the only process that currently exists which requires practitioners to achieve minimum standards prior to claiming proficiency in the design of the built environment.

The professional body for architects is the Australian Institute of Architects (AIA). The AIA advocates on behalf of the profession, working to improve the built environment by promoting quality, responsible and sustainable design. As a professional body the AIA is separate from the Architects Board of Western Australia.

What is a building designer?

In Western Australia there is currently no regulation of practitioners using the title of 'building designer', in that there is no equivalent to the Architects Act 2004. Building designers are generally trained in drafting through technical colleges such as TAFE. Typically, the training and experience of a building designer is of an applied nature, with the focus on developing the capacity to design a specific product or dwelling type. Analytical skills focussed on site-specific design responses may be less emphasised in building design training than in architectural education. Notwithstanding this, some practicing building designers have completed the educational requirements for registration as an architect but have decided not to pursue formal registration.

Western Australian building designers are represented by the Building Designers Association of Western Australia (BDAWA). BDAWA offers a number of membership categories which are reflective of the level of a practitioner's experience, but there are less formal methods for ensuring standards are adhered to. The absence of a regulated accreditation regime for building designers would therefore not satisfy the intent of the planning reform consideration to *'require that development meeting particular criteria must*

be designed or accredited by a qualified, registered architect or other licensed design professional’.

Currently (2016) in Western Australia registered architects are the only design professionals accredited through a legislated process. The Planning Reform Phase 2 Blueprint referenced ‘*other licensed design professionals*’ (which do not currently exist) to indicate a discussion paper would be required to explore whether an alternative program of accreditation should be established. Any regulatory changes requiring the use of an accredited building designer for certain work would first need to create and implement a legally recognised accreditation program for the building design industry.

4. Options for consideration

The following options are provided for the purpose of discussion and consultation:

- Option one – threshold-based regulation
- Option two – competency standards
- Option three – no regulation

They are presented in order of the level of intervention required to implement each option, not in order of preference. Following submissions on this discussion paper, the WAPC will consider the options presented and may recommend the implementation of an option, a combination of options or an alternative option.

These options are discussed in general terms to provide an overview of the intent, what policy or legislative change could be required and a summary of the currently understood benefits and constraints of each option.

Option one – threshold-based regulation

This approach entails that plans for multi-residential and mixed use developments above a certain threshold are prepared or certified by a registered architect prior to the lodgement of a development application.

The threshold for a requirement of this nature may be determined by the size of the proposed development in terms of its height and or the number of dwellings it contains. For example, the NSW State Environmental Planning Policy 65 (SEPP 65) requires that proposals for a development containing 10 or more dwellings or reaching a height of three storeys or greater be submitted by a registered architect. A similar approach could be taken in Western Australia with the built form related thresholds tailored to local development types.

Alternatively, the threshold could relate to the value of the development in terms of the estimated construction cost. This mechanism is already commonly used in Western Australia to determine development application fees, delegation of decision-making in local government and what applications can and must be determined by a Development Assessment Panel. If introduced, a value threshold could align with the thresholds which currently apply to Development Assessment Panels.

Threshold regulation could include tiered thresholds for different types of development or different levels of design skill for projects dependent on the level of value or complexity of a project. For example, requiring that proposals for less complex developments are prepared at least by a building designer, while proposals for other more complex developments are to be prepared by a registered architect.

This option would only apply to complex projects, the design of which may have increased potential for impact on future residents of a proposed development and its neighbours. The process for design and approval of single dwellings and grouped dwellings would remain unchanged.

However, the change considered in this option could be interpreted as anti-competitive and a measure that unfairly disadvantages practicing building designers. In addition to this, if a system of tiered thresholds requiring some projects to be designed at least by a building designer were introduced, it would need to be accompanied by a process through which building designers could be accredited.

One solution to issues associated with this approach may be to introduce it concurrently with changes to the architects' registration process. Such changes would need to ensure that the registration process for architects remained suitably rigorous while providing a clear and equitable alternative pathway to registration for suitably skilled and experienced building designers.

This option and introduction of any specified thresholds may require amendment to the *Planning and Development Act 2005*, *Planning Development Local Planning Scheme Regulations* and the draft SPP 7. Changes to the requirements and process for the registration of architects may require amendments to the *Architects Act 2004*, *Architects Regulations 2005* and the operation of the Architects Board of Western Australia.

Option two – competency standards

Introduction of a performance-based requirement for design skills would allow for competency standards to be oriented to project categories and applied equitably to architects and building designers. The application of competency standards could then be more targeted to project risks and less dependent on changes to existing regulatory frameworks. However, to ensure the competency standards are credible and consistently administered would be a significant undertaking to implement and maintain.

A likely implementation approach may be for an industry association to undertake assessment against the performance-based requirements for design skills. Such an approach has been used in other industries whereby the government recognises a qualification provided by accredited training providers, rather than assessing the competence of individual practitioners or mandating the use of a certain professional. One such example is the accreditation of bushfire practitioners by the Fire Protection Association of Australia for the purpose of meeting the requirements of recently implemented bushfire risk management regulations.

A similar system could be implemented with the AIA in collaboration with the BDWA or other associations being recognised by the government for the purpose of accrediting people considered to have design skills necessary to meet specified performance requirement.

Option three – no additional regulation

The introduction of SPP 7, the associated apartment design guide and the application of professional design review are intended to improve design outcomes by the application of design principles and design review through the development approval process.

Without additional regulation of design skills, anyone may prepare and lodge plans as part of a development application for projects of any scale, as is currently the case. The development application would then be assessed on its merits against the requirements of SPP7 and the apartment design guide. It could be argued that compliance with those policy requirements, as determined through the design review, assessment and approvals process, should deliver the desired level of design quality in the projects to which they apply.

A rigorous policy and assessment regime may benefit skilled designers with the experience and competencies to interpret and respond to the design principles in SPP7 and requirements of the apartment design guide. This could be a result of developers naturally favouring consultants with the ability to quickly and successfully navigate the review and approvals process.

This option would not introduce a consistent minimum qualification or experience level for designers so that theoretically anyone could practice building design. Instead, this option relies on market forces to exclude poor practitioners and the quality of the policy setting and review process to achieve optimum design outcomes. However, it does not provide any certainty or protection for users of design services.

This option will be much simpler to implement from a regulatory point of view as it would not require changes to the *Planning and Development Act 2005* or other related regulations. It would also allow for competition between all building design practitioners.

If implemented, this option would still require the responsible designer to prepare a design statement that verifies how the proposal addresses relevant design policy measures.

The effectiveness of this option could be subject to review (say after a period of five years within which the design policy suite will be fully operational), where measures to introduce greater regulation could be assessed based on the outcomes of that review.

Options summary table

	Option 1 Threshold based regulation	Option 2 Competency standards	Option 3 No additional regulation
Pro	<ul style="list-style-type: none"> - Provides certainty on which professionals are required to prepare proposals for multiple residential developments 	<ul style="list-style-type: none"> - Provides certainty on which professionals are required to prepare proposals for multiple residential developments - Allows industry to determine level of competence of practitioners and may provide for a greater level of competition. 	<ul style="list-style-type: none"> - Simple implementation - Allows unrestricted competition as currently exists
Con	<ul style="list-style-type: none"> - May be seen to unfairly disadvantage building designers and reduce market completion without necessarily improving design outcomes 	<ul style="list-style-type: none"> - Private sector accreditation of design skills may not result in outcomes in the public interest in terms of equity and transparency - Private sector accreditor may need to monitor performance of practitioners to ensure standards are maintained - May undermine the intent and application of the Architects Act and cause confusion for consumers of design skills and architectural services - May result in duplication of training that architects have already undertaken. 	<ul style="list-style-type: none"> - Does not introduce a minimum competence standards for people developing proposals for multiple residential developments
Potential regulatory change required	<p>Likely changes to;</p> <ul style="list-style-type: none"> - Planning and Development Act 2005, - Planning Development (Local Planning Scheme) Regulations 2015 - Architects Act 2004, - Architects Regulations 2005 and - The operation of the Architects Registration Board 	<ul style="list-style-type: none"> - Introduction of an industry body possibly with representatives of AIA and BDWA for the purpose of endorsing members with competence in multiple residential design. - Regulatory change would depend on whether the use of endorsed professionals was mandated or highly recommended 	<ul style="list-style-type: none"> - Nil beyond introduction of design principles and design review policy settings

5. Your feedback

The WAPC is seeking feedback on the possible introduction of policy or legislative provisions to require that development meeting particular criteria must be designed or accredited by a qualified, registered architect or other licensed design professional.

A number of potential issues and options for consideration have been presented and are a result of work which has been undertaken as part of the wider Design WA project and policy suite.

Submissions received will be considered in the context the wider Design WA project and policy suite to inform a position on the design skills mechanism. Justification of your feedback through qualitative and quantitative research, or presentation of alternative options (to those identified in this paper) is encouraged.

Comments on this discussion paper can be made online through:

<http://www.planning.wa.gov.au/DesignWA>

Or, in writing to:

**Attention: Design WA
Western Australian Planning Commission
Gordon Stephenson House
140 William Street
Perth WA 6000**