



Standing Committee on Planning, Transport and City Services

Inquiry into Planning Bill 2022 **ANSWER TO QUESTION ON NOTICE**

Asked by Jo Clay MLA:

Reference: Hearing on 7 December 2022

In relation to: Design Review Panel

The Committee invited the Government Architect and Chair of the Design Review Panel to attend a hearing on the Bill, which she attended on 6 December.

The Director-General of EPSDD advised the Committee that he would also appear in that hearing alongside the Government Architect and advised the Committee that he attended at the request of the Minister.

During the hearing on 6 December, the Director-General of EPSDD answered questions about: landscape architecture expertise available in EPSDD and on the Design Review Panel; whether the Chief Planner must consider the advice of the Design Review Panel; how the Chief Planner takes into account key considerations; whether people see reasons for decisions when the Chief Planner does not follow Design Review Panel advice; and what happens for significant developments and territory priority projects.

The Government Architect deferred two questions to the Director-General of EPSDD to answer, both of which related to decision-making by the Chief Planner.

In the hearings on 7 December, the Committee asked the Director-General of EPSDD what role he played on the Design Review Panel, why he had attended the previous day's hearings to answer questions and whether he was at arm's length from the Design Review Panel.

The Director-General of EPSDD said that he played only a secretariat role and provided administrative support to the Design Review Panel. He said he had attended the previous day's hearing in that capacity. He said he did not get involved in any aspect of the deliberations or advice of the Design Review Panel and that he had only attended the hearing to answer questions that related to the administrative side of the Design Review Panel.

1) How is the Chief Planner kept at arms' length from the Design Review Panel?

- 2) The Government Architect advised the committee that Design Review Panels are used in every jurisdiction in Australia and many jurisdictions elsewhere. In other Australian jurisdictions and any comparable jurisdiction elsewhere, does the Design Review Panel hold the same structural relationship to planning decision-makers as it does in the ACT under the Bill?
- 3) The Committee was advised that the Design Review Panel advises on all significant development and all Territory Priority Projects. Can you clarify this is the case?

Mick Gentleman MLA: The answer to the Member's question is as follows:–

- 1) The Planning Bill 2022 (the Bill) does not propose any connection or oversight by the ACT's Chief Planner or the Territory Planning Authority for the Design Review Panel.

The Design Review Panel is established as a distinct entity under the Bill and is chaired by the ACT Government Architect and the Chief Planner of the Australian Government's National Capital Authority. The Design Review Panel is tasked to provide independent, expert and impartial design advice for significant development proposals, prior to lodging a formal development application with the Territory Planning Authority.

The Environment, Planning and Sustainable Development Directorate provides secretariat support to the Design Review Panel. Decisions on scheduling, panel composition and final advice are made by the Chairs, with no involvement from the Chief Planner.

- 2) Similar structural relationships apply for Design Review Panels in other jurisdictions across Australia. For example:
 - a) In South Australia, where design review is voluntary, large-scale development proposals are assessed by the State Commission Assessment Panel (SCAP) and referred to the Government Architect for design advice. When a development proposal is formally lodged for assessment by SCAP, a statutory referral to the Government Architect is undertaken for design advice. The status of the referral is 'for regard'.
 - b) In New South Wales, the requirement for design review is written into the Secretary's Environmental Assessment Requirements (SEARs) that is legislated. If a proponent does not address the requirement, then the development application is considered incomplete and cannot be determined. Where design review has occurred, the assessment officer is to consider the recommendations from design review as part of their assessment.
 - c) In Victoria, where design review is advisory to the planning approvals process, the advice from design review informs assessment officers of the design quality and capacity for improvement of a development proposal.

In each example above, design review advice is provided to proponents to consider improvements to the design and is available to assist decision-makers during the development assessment process.

- 3) Section 98 of the Planning Bill 2022 (the Bill) requires a proponent of a prescribed development proposal to consult the Design Review Panel about the proposal before submitting a development application. A prescribed development is defined in the Regulation. This is the same requirement as in the current *Planning and Development Act 2007* (see Section 138AL).

Section 213 of the Bill defines the meaning of a Territory Priority Project. A Territory Priority Project can also be a significant development where it meets the criteria under section 92 of the Bill.

In addition, under Section 98(2) of the Bill, where the Minister is satisfied that a development proposal is likely to be of economic, social or environmental significance to the Territory, the Minister may require the proponent to consult with the Design Review Panel about the proposal.

Approved for circulation to the Standing Committee on Planning, Transport and City Services

Signature: 

Date: 19/12/2022

By the Minister for Planning and Land Management, Mick Gentleman MLA