State Administrative Tribunal Reconsideration:

Responsible Authority Report

(Regulation 12)

Notes for Author

This template is provided to assist in the formulation of a Responsible Authority Report (RAR) where the Development Assessment Panel (DAP) has been invited by the State Administrative Tribunal (SAT) to reconsider a previous decision.

This template contains guidance to assist the author prepare a report that is comprehensive, succinct and addresses the key issues required for a decision to be made under the relevant Local Planning Scheme and Region Scheme (where applicable). The guidance notes should be deleted once the RAR is prepared and do not form part of the report.

The RAR template also provides for some sections to be deleted if they are not required. Where other sections are not relevant to a particular report and there are no specific notes, please insert either “not relevant” or “not applicable” under those headings.

Where the RAR template is submitted to a Council meeting, please note:

* The officer’s recommendation may be placed either first or last in accordance with the usual requirements of the Council meeting.
* For the submission of the RAR to the DAP Secretariat, the heading “Responsible Authority Recommendation” must contain the Council’s recommendation.
* If the officer recommendation is different from the Council recommendation, this should be shown under the heading “Officer Recommendation”.
* The “Reasons for Responsible Authority Recommendation” section should be completed after the Council meeting and should reflect why the recommendation differs from the reasons as shown in the minutes of the Council meeting.
* Where local government officers have delegation to provide the RAR to the DAP secretariat, only the “Responsible Authority Recommendation” should be completed and the “Officer Recommendation” section can be deleted.

(ITEM XX – to be entered by DAP Secretariat) - LOT NO. (STREET NO.) STREET NAME SUBURB – SAT PROPOSED APPLICATION DESCRIPTION

State Administrative Tribunal Reconsideration –

Responsible Authority Report

(Regulation 12)

|  |  |
| --- | --- |
| **DAP Name:** | Insert DAP Name |
| **Local Government Area:** | LG Name |
| **Summary of Modifications:** | Summary of modifications to application (through SAT process) |
| **Applicant:** | Insert Applicant Name/ Company |
| **Owner:** | Insert Property Owner Name/ Company |
| **Value of Development:** | $Value million |
| **Responsible Authority:** |  Insert local government name OR Western Australian Planning Commission  |
| **Authorising Officer:** | Insert authorising officer title |
| **LG Reference:** | Insert local government reference number |
| **DAP File No:** | Insert DAP reference number |
| **SAT File No (DR reference):** | Insert SAT reference number (DR) |
| **Date of Decision under Review:** | Choose date |
| **Application for Review Lodgement Date:**  | Choose date |
| **Attachment(s):** | Insert UNSECURED attachments as appropriate. Delete those that are not applicable. Hyperlinks are encouraged where possible1. Location/Site Aerial Plan (1a, 1b etc)
2. Development Plans and Elevations (2a, 2b etc)
3. Schedule of Submissions
4. Schedule of referral responses from statutory/public authorities
5. Council Minutes (extract only)
6. Design Review Panel Notes (extract only)
7. Full Planning Assessment (where necessary)
8. Previous Determination Notice/s – decision notice only, not minutes
 |

Responsible Authority Recommendation

Ensure that there is an appropriate delegation for the RAR.

Where there is a Council resolution, this is the Responsible Authority Recommendation. If the Council resolution differs from the Officer Recommendation, the Officer Recommendation section of this report also needs to be completed.

Where local government officers have delegation to provide the RAR to the DAP secretariat, the Officer Recommendation section in the body of the report can be deleted and only the section below needs to be completed.

That the Insert DAP Name Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR SAT Reference Number of Year, resolves to:

**Reconsider** its decision dated Choose date and **Choose decision type** decision for DAP Application reference Insert DAP reference number and Choose plan details plans (Plan No, Rev No - if applicable) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (delete for WAPC applications) and the provisions of Clause no. of the LG Name Choose scheme details Planning Scheme No. no., Choose Conditions/Reasons details:

**Choose Conditions/Reasons** If a refusal, please delete points 1 and 2 below.

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme. Include for LG RARs where land is zoned 'Urban' under the MRS and the conditional Clause 26 of the MRS apply. Delete if a separate decision of the WAPC is needed.
2. This decision constitutes planning approval only and is valid for a period of Number years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

**Advice Notes**

Please consider carefully the need for advice notes and ensure that they are relevant to and amplify the recommended approval. Where advice notes are used, please do not refer to specific condition numbers unless absolutely necessary.

Reasons for Responsible Authority Recommendation

Complete this section where the Council resolution differs from the Officer Recommendation and provide the reasons as shown in the Council minutes here. The Officer Recommendation section below, including reasons, will also need to be completed.

Include a brief summary of key issues and provide clear and succinct reason/s for the recommendation. If the recommendation is for a refusal, this section may be used to emphasise the reasons in the recommendation if required.

Details: outline of development application

|  |  |
| --- | --- |
| Region Scheme | Region Scheme Name or N/A |
| Region Scheme Zone/Reserve  | Region Zone/Reserve Name or N/A |
| Local Planning Scheme | Local Planning Scheme Name or N/A |
|  Local Planning Scheme Zone/Reserve | Local Zone/Reserve Name or N/A  |
| Structure Plan/Precinct Plan | Structure Plan/Precinct Plan Name or N/A |
| Structure Plan/Precinct Plan Land Use Designation | Structure Plan/Precinct Plan Land Use Designation e.g. Commercial/Residential |
|  |  |
| Use Class (proposed) and permissibility: | Insert use class and permissibility or “use not listed" |
| Lot Size: | Insert lot size in square metres or hectares. |
| Net Lettable Area (NLA): | Insert NLA in square metres or N/A |
| Number of Dwellings: | Insert number of dwellings or N/A |
| Existing Land Use: | Insert current use on site or "vacant land" |
| State Heritage Register | Choose Yes/No |
| Local Heritage | [ ]  N/A[ ]  Heritage List[ ]  Heritage Area |
| Design Review | [ ]  N/A[ ]  Local Design Review Panel[ ]  State Design Review Panel[ ]  Other |
| Bushfire Prone Area  | Choose Yes/NoRefer to SPP3.7 for further information |
| Swan River Trust Area | Choose Yes/No |

Proposal:

Insert brief outline of the applicant's proposal including a description of the proposed development and complete the below table where appropriate:

|  |  |
| --- | --- |
| Proposed Land Use | Check land use definition in the scheme text |
| Proposed Net Lettable Area | Insert Net Lettable Area or N/A |
| Proposed No. Storeys | Insert No. Storeys |
| Proposed No. Dwellings | Insert No. Dwellings or N/A |

Background:

History of Application

Outline the site history, previous applications and details of the proposal.

Include summary of previous decision/reasons for deferral (where appropriate).

Include a brief description of the context of the proposal in terms of surrounding development and landscape features.

Application to the State Administrative Tribunal

Summarise the application for review including date of lodgement and specify the matter under review (ie the entire decision, one or more conditions etc).

Provide a summary of relevant Tribunal dates (eg mediation dates, note that matters discussed at mediation may not be disclosed) including relevant orders made by the Tribunal (such as the orders leading to this reconsideration).

The State Administrative Tribunal (SAT) has made orders inviting the decision-maker, under Section 31 of the *State Administrative Tribunal Act 2004* (SAT Act) to reconsider its decision. The decision-maker may:

* affirm the previous decision,
* vary the decision, or
* set aside the decision and substitute a new decision.

Legislation and Policy:

List the legislation and policies that are relevant to the assessment of this application under the headings below along with relevant sections or provisions for aspects of key consideration.

Legislation

List relevant Acts, Regulations and schemes as well as relevant provisions. Provide provision numbers rather than quoting them in full.

State Government Policies

List relevant State Government policies i.e. policy number, name and relevant sections.

Structure Plans/Activity Centre Plans

List relevant Structure Plans or Activity Centre Plans i.e. policy number, name and relevant sections.

Local Policies

List relevant local planning policies i.e. policy number, name and relevant sections.

Consultation:

Public Consultation

Insert consultation details including how proposal was advertised, for how long, how many submissions were received and the submission details.

Populate the following table identifying the key issues/comments raised in submissions and the officer’s comments addressing these issues on planning grounds. Where a matter is not a planning consideration, but was a key issue raised in submissions the comment should clearly stipulate the issue is not a relevant planning consideration and why.

The table should not be used to list individual submissions, but rather a summary of themes and the key issues raised, in addition to the schedule of submissions attachment.

|  |  |
| --- | --- |
| **Issue Raised** | **Officer comments**  |
| Insert Key Issue Raised – e.g. Building Height | State whether the issue raised has subsequently been addressed or resolved through additional information or amended plans. If the issue is not a relevant planning consideration, this should be noted. Note to author - Where a detailed explanation or commentary is required, include this under the relevant heading of the Planning Assessment. The officer comment should provide a clear reference to this section (i.e. refer to the planning assessment of building height for further detail). |

Referrals/consultation with Government/Service Agencies

Insert consultation details, summarise the advice received and note whether this has resulted in amended plans or additional information being submitted. References to attachments may also be provided if appropriate.

Where detailed explanation or commentary is required, include this under the relevant section of the Planning Assessment. This section should include any specialist advice received from the State Heritage Office, Swan River Trust or similar if applicable.

If no referrals were required/received, please state this. Do not delete this section.

Design Review Panel Advice

Note whether a pre-lodgement review was undertaken and summarise the final design review advice received.

Summary may address:

* Major concerns and commentary expressed by the Design Review Panel
* Application amendments to address concerns
* Officer response to amendments

Where detailed commentary is required, include this under the relevant subsection of the Planning Assessment section.

State “not applicable” if design review was not undertaken - do not delete this section.

Swan Valley Planning

This section should be used for applications that are located within the area covered by the Swan Valley Planning Act 1995. Delete section if not relevant.

Summarise the advice received and note whether this requires amended plans, additional information or the imposition of conditions/advice notes. References to attachments may also be provided if appropriate.

Where detailed explanation or commentary is required, include this under the relevant section of the Planning Assessment.

Other Advice

Summarise any other referral advice relevant to the assessment of the application including referrals and technical advice received from other departments within the local government, add sub-headings where appropriate.

Where detailed explanation or commentary is required, include this under the relevant section of the Planning Assessment section below.

Delete this section if it is not applicable.

Planning Assessment:

The report should not include a full assessment. It should only include an assessment of the key considerations for the application. For example, matters:

* that are likely to be determinative
* in which discretion is being sought
* relating to general consultation themes
* that are typically sensitive (e.g. height, setback, traffic/parking, landscaping)
* that are likely to generate a high level of interest for stakeholders and report readers
* that will require a condition

The assessment of these matters should be a consolidated and integrated assessment against all the relevant legislative criteria (scheme/s, state planning policy, local planning policy, structure plans and/or activity centre plans). One sub-heading should be used for each of these considerations/matters.

The full assessment, or specific components of the assessment, may be included as an attachment if considered necessary or appropriate.

A general statement about the assessment listing the key considerations should be included at the beginning of this section. Example text provided below:

*The proposal has been assessed against all the relevant legislative requirements of the Scheme, State and Local Planning Policies, and (Insert name of any relevant structure or activity centre plan if applicable) outlined in the Legislation and Policy section of this report. The following matters have been identified as key considerations for the determination of this application:*

*(List key considerations, for example, land use, height, plot ratio, setbacks, design quality, landscaping.)*

*These matters are outlined and discussed below*

Heading for Key Consideration (e.g. Height)

* Each key consideration should have its own sub heading under the Planning Assessment section.
* The table should include all applicable planning instruments that relate to the matter including reference to relevant clauses/sections/element objectives etc. Add or delete planning instruments as required.
* Where applicable any assessment against Volume 2 of the R Codes should be limited to an assessment of the proposal against the element objective.
* For some matters it may not be appropriate to use the below table (i.e. performance based assessments), in such circumstances any discussion on key considerations should include clear references to applicable planning instruments and the relevant requirements/objective of these instruments.
* Include a brief introductory statement about how the matter is assessed against the planning framework, stating applicable planning instruments and the role of each instrument e.g. *Height requirements for the subject site are included in clause xx of the Scheme. These requirements are supplemented by local planning policy xx, which provides guidance on the application of discretion for the height requirements in the Scheme.*

|  |  |  |  |
| --- | --- | --- | --- |
| **Provision** | **Requirement** | **Proposal**  | **Assessment** |
| Town/Local Planning Scheme/Policy No.xx  | State all applicable requirements contained in the scheme/policy, including the deemed provisions and any discretionary criteria where applicable, and references to the relevant clause/s e.g. Clause 20 – height is not to exceed 4 storeys | State the proposal e.g. 3 storeys | Provide a brief assessment of the proposal against all relevant requirements of each applicable instrument. Detailed explanation/discussion should be included below the table. |

Detailed explanation/discussion of the assessment should be provided here. This discussion should include:

* Clear linkages between the technical assessment, and any relevant statutory or other referrals, and/or matters raised during consultation where relevant.
* If applicable, the scope of discretion available to vary the standard/requirement and whether discretion is appropriate, including a clear explanation of why or why not.
* If condition/s may be required for an approval, including the reasons for the condition/s
* Whether what is being proposed is appropriate having regard to the applicable requirements, including a clear explanation of why or why not.

Conclusion:

This should succinctly summarise:

* the key considerations/aspects of the application
* any significant areas of discretion, scope of discretion available under the planning framework and whether discretion is appropriate
* any other significant and relevant considerations relating to the key aspects of the proposal
* the application’s overall planning merit and consistency with the relevant requirements of the planning framework, including a brief explanation of why or why not

Alternatives

This section should identify whether the proposal is capable of being determined differently to the Officer Recommendation.

If so, discuss the key elements and matters that are required to be considered by the decision-maker in forming that view (if the scheme provides for variations, it may be helpful to refer to criteria under that clause/s).

A summary of the considerations required to exercise discretion should be included. These should refer to the relevant scheme, policy or other provisions and the circumstances where this may be applied. This discussion may refer to the entire decision or, if an approval, to one of more of the recommended conditions.

An alternate recommendation may be sought by a DAP member under Regulation 13. The overview is important to ensure DAP members, along with other stakeholders, are aware of any specific matters that may need to be addressed if an alternative to the recommendation is to be considered.

**Officer Recommendation** Delete section if not required.

It is recommended that the Insert DAP Name Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR SAT Reference Number of Year, resolves to:

**Reconsider** its decision dated Choose date and **Choose decision type** decision for DAP Application reference Insert DAP reference number and Choose plan details plans (Reference Numbers) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (delete for WAPC applications) and the provisions of Clause no. of the LG Name Choose scheme details Planning Scheme No. no., Choose Conditions/Reasons details:

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**Advice Notes**

Please consider carefully the need for advice notes and ensure that they are relevant to, and augment the recommended approval. Where advice notes are used, please do not refer to specific condition numbers unless absolutely necessary.

Reasons for Officer Recommendation

Provide a brief summary of key issues and provide clear and succinct reason(s) for the Officer Recommendation. It should reflect why the recommendation differs from the reasons as shown in the minutes of the Council meeting. If the recommendation is for a refusal, this section could be used to amplify the reasons in the recommendation if required.