

City of Sydney

# Competitive Design Policy



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## Purpose of this Policy

- (1) The City of Sydney Competitive Design Policy, adopted by the Council on 9 December 2013, establishes the processes an applicant is required to undertake to demonstrate that a proposed development is the result of a competitive design process.
- (2) Clause 6.21(5) of the *Sydney Local Environmental Plan 2012* specifies the types of development that are required to undertake a competitive design process.
- (3) Clause 6.21(5) of the *Sydney Local Environmental Plan 2012* states that consent must not be granted to those types of development specified unless the proposed development is the result of a 'competitive design process'.
- (4) Competitive design process means either:
  - (i) An architectural design competition; or
  - (ii) The preparation of design alternatives on a competitive basis;
- (5) A competitive design process must be undertaken in accordance with an approved Design Excellence Strategy.
- (6) Clause 6.21(7) of the *Sydney Local Environmental Plan 2012* allows the consent authority to consider granting an additional amount of height or floor space of up to 10% of the maximum permissible to a development that is the result of a competitive design process.
- (7) If the development is located within Central Sydney, and is the result of an architectural design competition, it is eligible to receive a discount on the amount of Heritage Floor Space that is required to be allocated in accordance with Clause 6.11(2) of the *Sydney Local Environmental Plan 2012* up to a maximum of 1,000sqm.

## Objectives

- (a) Establish the steps an applicant is required to undertake to demonstrate that a proposed development is the result of a competitive design process
- (b) Clarify the timing of a competitive design process in a staged Development Application process
- (c) Ensure that the competitive design process works within the framework of an approved Design Excellence Strategy
- (d) Establish a competitive design process brief that ensures:
  - (i) the Consent Authority's design excellence requirements are balanced with the developer's objectives; and
  - (ii) procedural fairness for competitors.
- (e) Set out the different requirements for architectural design competitions and competitive design alternatives processes

- (f) Detail the approach for assessment, decision-making and dispute resolution within the competitive design process
- (g) Ensure that design excellence integrity is continued into detailed development proposals
- (h) Clarify that the rationale for granting up to 10% additional floor space or building height under Clause 6.21(7) of the *Sydney Local Environmental Plan 2012* is to cover the cost of the competitive design process.

## Provisions

### 1.1 Demonstrating a competitive design process

- (1) An applicant can demonstrate that a competitive design process required by the *Sydney Local Environmental Plan 2012* has been achieved by undertaking an architectural design competition or the preparation of design alternatives on a competitive basis.
- (2) The competitive design process is to be undertaken prior to the detailed development application stage (Stage 2 Development Application).

### 1.2 Design excellence strategy

- (1) The competitive design process is to be undertaken in accordance with a Design Excellence Strategy approved by the Consent Authority as part of an associated site-specific DCP or concepts stage development application (Stage 1 development application).
- (2) The Design Excellence Strategy is to define:
  - (a) The location and extent of each competitive design process;
  - (b) The type of competitive design process(es) to be undertaken:
    - (i) an architectural design competition, open or invited; or
    - (ii) the preparation of design alternatives on a competitive basis.
  - (c) The number of designers involved in the process(es);
  - (d) How architectural design variety is to be achieved across large sites;
  - (e) Options for distributing any additional floor space area or building height which may be granted by the consent authority for demonstrating design excellence through a competitive design process.

### 2.1 Three types of competitive design process

- (1) A developer can undertake:
  - (a) an 'open' architectural design competition; or
  - (b) an 'invited' architectural design competition.
  - (c) an 'invited' competitive design alternatives process.
- (2) In an 'open' competition, the developer is to publicly notify the architectural design competition and call for expressions of interest. All respondents are then supplied with

the competitive design process brief and invited to participate.

- (3) The call for expressions of interest for an 'open' competition is to state:
  - (a) the form and purpose of the competition;
  - (b) any prizes to be awarded; and
  - (c) the minimum submission requirements.
- (4) In an 'invited' architectural design competition, the developer invites a minimum of five (5) competitors to participate in the competition and supplies each with the competitive design process brief.
- (5) In an 'invited' competitive design alternatives process the developer invites a minimum of three (3) competitors to participate in the process and supplies each with the competitive design process brief.
- (6) Each competitor in a competitive process must be a person, corporation or firm registered as an architect in accordance with the *NSW Architects Act 2003* or, in the case of interstate or overseas competitors, eligible for registration with their equivalent association.
- (7) The competitive design process must allow the competitors at least 28 days to complete their designs.

## **2.2 Documentation requirements and costs**

- (1) To ensure probity, the applicant is to ensure that the documentation of the process is sufficient to enable an audit to be carried out by an independent person or body such as the Australian Institute of Architects if required by the consent authority.
- (2) The architectural design competition or competitive design alternative process is to be paid for by the developer. In the event of an architectural design competition, the Consent Authority will convene the competition jury, including the provision of administrative and secretarial services for the recording of the jury proceedings and preparation of the Design Competition Report.

## **2.3 The competitive process brief**

- (1) All details about the conduct of the competitive process brief are to be contained within the competitive design process brief and no other document.
- (2) The competitive design process brief is to be reviewed and endorsed by the consent authority prior to its distribution to competition entrants.
- (3) The competitive process brief is to be in accordance with the Council's Model Competitive Design Process Brief.
- (4) The competitive design process brief is to include a disclaimer stating that the jury's or developer's decision will not fetter the discretion of the Consent Authority since the Consent Authority will not form part of the judging process.
- (5) If the proposed competitive design processes brief is not approved by the consent authority, the consent authority is to give its reasons within 14 days of the lodgement of the brief.

- (6) The competitive design process brief must clearly set out the fees and/or prizes offered to participants in the competition.

Note:

Council's Model Competitive Design Process Brief was prepared by Council in consultation with the Australian Institute of Architects. It aims to ensure procedural fairness for competitors. Proposed variations of the Model Competitive Design Processes Brief must be reviewed and endorsed by the consent authority.

### **3.1 Architectural Design Competitions (Open and Invited)**

#### **3.2 Judging the competition entries – jury establishment**

- (1) The jury is to comprise a minimum of four (4) members and a maximum of six (6) members.
- (2) The jury is to comprise of:
  - (a) half the members nominated by the consent authority, who have no pecuniary interests in the development proposal or involvement in approval processes; and
  - (b) half the members nominated by the developer.
- (3) Jury members are to:
  - (a) represent the public interest;
  - (b) be appropriate to the type of development proposed;
  - (c) include only persons who have expertise and experience in the design and construction professions and industry; and
  - (d) include a majority of registered architects with urban design expertise.

Note:

More detail regarding the jury obligations is contained in the Model Competitive Design Process Brief.

#### **3.3 Heritage-related applications**

- (1) If the proposed development includes a building listed in Schedule 5 of *Sydney Local Environmental Plan 2012* or where a site is located within a conservation area, or in the vicinity of a heritage item, then at least one member of the jury is to be an appropriately qualified heritage consultant.

#### **3.4 Assessment and decision**

- (1) A minimum of five (5) competitive submissions must be considered.
- (2) At least a week prior to the convened jury meeting a copy of the submissions will be distributed to the jury members and a site inspection will be carried out for them-
- (3) The competitors must present their entry to the jury in person. The presentation must be no longer than 30 minutes followed by questions from the jury.
- (4) Each competitor's submission may be graded (i.e. 1st, 2nd, 3rd, etc) by the jury according to the assessment criteria.

- (5) The jury's decision will be via a majority vote. Unanimous agreement is not required.
- (6) The decision of the jury will not fetter the discretion of the consent authority in its determination of any subsequent development application associated with the development site that is the subject of the competition.
- (7) In the event that a winner is not selected, the jury may recommend that further refinements be made to one or more of the submissions. For these submissions they will list the design issues for the first and second ranked scheme and request they redesign their entry and represent the entry within 21 days of the initial presentation. Upon completion of the second presentation to the jury, the jury will rank the competition submissions (first and second).
- (8) The jury may decline to declare a winner of the architectural design competition if none of the entries exhibit design excellence. If the jury declines to declare a winner, the jury may recommend that none of the entries exhibit design excellence and accordingly end the process.

### **3.5 Architectural Design Competition Report**

- (1) Following its determination, the jury is required to prepare a report (to be referred to as the Architectural Design Competition Report) detailing:
  - (a) the competition process and incorporating a copy of the competition brief;
  - (b) the jury's assessment of the design merits of each of the entries;
  - (c) the rationale for the choice of preferred design which must clearly demonstrate how it best exhibits design excellence in accordance with the provisions of Clause 6.21(4) of the *Sydney Local Environmental Plan 2012* and the approved Design Excellence Strategy; and
  - (d) an outline of any further recommended design amendments or proposed conditions of development consent that are relevant to the achievement of design excellence.
- (2) The jury is expected to reach a decision on whether to request a redesign within 14 days and will submit a jury report (referred to as the architectural design competition report) to the developer and the consent authority, within 14 days of its decision.
- (3) Following the jury's decision, the consent authority may require the developer to hold a public exhibition of the design competition entries.

### **3.6 Procedure where there is an outstanding resolution of a preferred design**

- (1) In the event that:
  - (a) the jury does not reach a decision,
  - (b) the developer is not satisfied with the nomination,
  - (c) the developer wishes to make a substantive modification,
  - (d) the consent authority considers the project submitted for approval (or as subsequently modified) to be substantially different, or
  - (e) the Consent Authority indicates it will not grant consent to the design nominated either the developer or the Consent Authority may request that the Jury reconvene and make a recommendation as to what further competitive processes or requirements

would be necessary to permit an alternative or revised design to satisfy the design excellence provisions.

- (2) The jury shall make such recommendations within 28 days of a request.
- (3) The cost of such review is to be borne by the developer.
- (4) In the event that the developer decides not to proceed with the architect of the winning entry. The developer will -
  - (a) provide the consent authority with written reasons for this decision and,
  - (b) restart the Architectural Design Competition

### **3.7 Completion of the architectural design competition process**

- (1) The *Sydney Local Environmental Plan 2012* requirement that an architectural design competition be held in relation to a proposed development is deemed to be satisfied upon:
  - (a) the issue of a report by the competition jury, or
  - (b) the completion of any further competitive processes recommended by the Jury following a requested review, or
  - (c) should the jury make no further recommendations, 28 days after such a request for review is made, in which case the competition requirement is considered discharged.

### **4.1 Competitive Design Alternatives Process**

- (1) The design alternatives are to be prepared in response to a Competitive Design Process Brief by a minimum of three (3) different architectural firms who can demonstrate experience in the design of high quality buildings. Each alternative should provide, at a minimum, an indicative design solution for the site, with sufficient detail to demonstrate that it is a feasible development option and achieves design excellence in accordance with the approved Design Excellence Strategy.
- (2) The consent authority will nominate at least one independent person as observer of the competitive design alternatives selection process. The observer must be provided with reasonable notice to attend all meetings involved with the competitive design alternatives selection process.
- (3) The role of the observer is to verify that the competitive process has been followed appropriately and fairly.
- (4) The developer determines the outcome of the selection process.

### **4.2 Assessment and decision**

- (1) A minimum of three (3) competitive submissions must be considered.
- (2) A presentation of the design alternatives is to be made to the developer's selection panel. A copy of the submissions will be provided to the consent authority a week prior to the convened presentation of alternatives.
- (3) The developer may rank the competition submissions (i.e. 1st, 2nd, 3rd, etc).



- (4) The decision of the developer will not fetter the discretion of the consent authority in its determination of any subsequent development application associated with the development site that is the subject of the competition.
- (5) In the event that a winner is not selected, the developer may recommend that further refinements be made to up to two (2) of the submissions. For these submissions they will list the design issues for the first and second ranked scheme and request they redesign their entry and represent the entry within 21 days of the initial presentation. Upon completion of the second presentation to the developer, the developer will rank the competition submissions (first and second).

### **4.3 Competitive Design Alternatives Report**

- (1) When competitive design alternatives have been prepared and considered, the consent authority requires the applicant to submit a Competitive Design Alternatives Report prior to the submission of the relevant Stage 2 Development Application.
- (2) The Competitive Design Alternatives Report shall:
  - (a) include each of the design alternatives considered;
  - (b) include an assessment of the design merits of each alternative;
  - (c) set out the rationale for the choice of preferred design and clearly demonstrate how this best exhibits design excellence in accordance with the provisions of Clause 6.21(4) of the *Sydney Local Environmental Plan 2012* and the approved Design Excellence Strategy.
  - (d) include a copy of the brief issued to the architectural firms.
- (3) The consent authority will advise the applicant whether it endorses the process and outcome and whether it fulfils the requirements of the competitive design alternatives process in the form of pre-development application advice.
- (4) The consent authority may need to determine whether the resulting development application or subsequent Section 96 modification is equivalent to, or through design development, an improvement upon the design qualities of the endorsed outcome. If necessary, further competitive processes may be required to satisfy the design excellence provisions.

### **5.1 Design Integrity**

- (1) The designer of the winning scheme (as chosen via the 'competitive design process') is to be appointed as the Design Architect to:
  - (a) prepare a Development Application for the preferred design;
  - (b) prepare the design drawings for a construction certificate for the preferred design;
  - (c) prepare the design drawings for the contract documentation; and
  - (d) maintain continuity during the construction phases to the completion of the project.
- (2) The winning architect may work in association with other architectural practices but is to retain a leadership role over design decisions.

## 5.2 Design Integrity Assessment

- (1) Where a competitive design process winning scheme is subsequently developed or modified a Design Integrity Assessment (DIA) will be required to be submitted to the Consent Authority with the application.
- (2) The purpose of the Design Integrity Assessment (DIA) is to inform the consent authority on whether the proposal (development application or Section 96 modification) is equivalent to, or through design development, an improvement upon the design excellence qualities of the winning competition scheme.
- (3) The DIA will be prepared by the jurors or an independent panel appointed by the Consent Authority at the cost of the developer.
- (4) Where a continuation of design integrity has not occurred, the competition jurors appointed by the consent authority or an independent panel established by the consent authority will make a recommendation as to what further competitive processes or requirements would be necessary to permit an alternative, or revised design to satisfy the design excellence provisions.
- (5) The jury shall make such recommendations within 28 days of a request.
- (6) The cost of such review is to be borne by the consent authority.

## 5.3 AMP Circular Quay Precinct

- (1) The objective of this section is to recognise the specific characteristics of the AMP Circular Quay Precinct and its intended redevelopment by setting out a site specific architectural design competition framework which will achieve:
  - (a) an integrated design excellence outcome for the whole precinct,
  - (b) competition winning design excellence for the Bridge and Alfred Block tower, and
  - (c) fine grain design excellence and architectural diversity for the Young and Loftus Block.
- (2) For development subject to the provisions of clause 6.26 AMP Circular Quay Precinct of *Sydney Local Environmental Plan 2012* an architectural design competition, subject to an approved Design Excellence Strategy, may include two components as follows:
  - (a) an initial phase where an international architectural design competition is undertaken for the whole of the site where:
    - i. each competitor must submit a detailed design for the Bridge and Alfred Street Tower and other related development within the Bridge and Alfred Street Block; and
    - ii. each competitor must also submit preliminary design concepts and principles for building projects within the Young and Loftus Street Block;
    - iii. the designer of the winning scheme for the initial phase of the international architectural design competition is to be appointed as Design Architect in accordance with clause 5.1 of this Policy for the Bridge and Alfred Street Block.

(b) a second phase where:

- i. separate design architects are appointed for each building project within the Young and Loftus Street Block, and are to be selected by an Expressions of Interest Process, the terms of which are to be agreed to by the consent authority through an approved Design Excellence Strategy; and
- ii. successful architects selected through the Expressions of Interest Process will be appointed as Design Architect for each building project within the Young and Loftus Street Block and are to carry out the tasks identified in section 5.1 of this Policy for their assigned building project(s).