

Peter Poulet
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31 July 2018

Via email: government.architect@planning.nsw.gov.au

Dear Mr Poulet,

RE: Draft Government Architect's Design Excellence Competition Guidelines

Thank you for the opportunity to comment on the draft Government Architect's Design Excellence Competition Guidelines (the Guidelines). The Property Council of Australia and its members strongly advocate for design excellence and positive design-based policies.

Good design is essential to ensure liveability, quality of life, the creation of place and the achievement of sustainable development in new developments. The Property Council and its members are acutely aware of the benefits that come with good design. For many, it gives them a competitive edge over other players in the development industry. From a broader industry perspective, design done well has the potential to change the narrative when it comes to higher densities by displaying the benefits that come with well-designed developments. Most importantly, good design leads to; better, high amenity precincts and places, integral aspects, appealing and sustainable communities.

Over the past few years, design has become an ever increasingly important consideration when it comes to undertaking a development application. This has been reflected in the recent changes to the Environmental Planning and Assessment Act 1979 (the Act) which added a new objective 'to promote good design'. This addition has elevated the importance of design in the planning system and made it a requirement when assessing applications.

The release of these guidelines is the first revision of the Director General's Design Excellence Guidelines 2011 which were originally drafted to apply to the 6 Cities of Parramatta, Penrith, Liverpool, Wollongong, Newcastle and Gosford. This revision will now seek to apply the guidelines more broadly across NSW.

Following a review of the Guidelines, the Property Council and its members have a number of concerns regarding the proposed direction of these and the future of design competitions in NSW.

Increasing Complexity and Additional Planning Layers

There is an ever-expanding list of policies and guidelines when it comes to design which are adding to the layers and complexities within the planning system. The Government Architect has produced its own design policies together with a subset of guidelines and some councils have

moved to create their own policies and procedures when it comes to design and design excellence. The increase in policies and guidelines is slowing down the planning system at a crucial time when the supply of jobs and housing is critical to the State and there is an overall cooling of the market.

The Guidelines cover more than just the competition process and cover many aspects of the design process including pre-competition and post-competition processes. It appears that this Guideline is therefore more like a 'Design Excellence Process Guideline' of which competitions are a subset. To ensure clarity, the Guidelines should cover only the competition process.

Demonstrated Design Excellence

Design Excellence Competitions are not the only means by which design excellence can be satisfied and they do not always guarantee a design excellence outcome.

Some projects may satisfy design excellence without the need to enter a design excellence competition. This can be the case if a developer has a good scheme that has demonstrated it achieves design excellence and is led by architects and designers with demonstrated experience in this. Similarly, a council may consider that a scheme is of a design standard which meets set design criteria, standards and local policies. In this case, a developer should not have to undertake a design excellence competition.

Ultimately, there should be flexibility in the process and not the assumption that going through a design competition is the only means to achieve design excellence. There needs to be additional criteria added to the instances where a design competition is not required which should add the above points and further outline situations where design excellence competitions are not required. Additionally, the Guidelines should be explicit when specifying the instances where a design excellence process is required.

Costs and Time Delays

Design competitions add a significant cost to a project and the burden is placed solely on the proponent to carry these fees. This is not a reasonable outcome. In short, we do not agree with the statement in the Guidelines which outlines that the full cost of the competition should be borne by the proponent.

Our members have experienced costs of design competitions escalating to levels which threaten the feasibility of individual developments. This is largely due to the costs as set out in the brief being ignored. We would be prepared, on a confidential basis, to further brief you about particular instances. The commercial realities and feasibility of a design need to be acknowledged as this is one of the main areas to be ignored entirely. If the feasibility of a project is not robustly reviewed, then there is a likelihood that the project cannot progress.

One means of ensuring there is sufficient acknowledgement of a project's commercial feasibility is through the use of test fits or reference schemes to assess this aspect. From members' experience, this has been a proven means of achieving both this and better design excellence outcomes. These should be included in the competition brief by the proponent and reviewed by the Government Architect.

Further, it is our view that a design competition run under the control of the proponent could reach the same design quality as would be achieved under the formal competition process.

However, for certain schemes, there would be the added benefit of ensuring that the commercial viability of a project would not be ignored or forgotten in the competition process.

Jury and its Composition

The Property Council is supportive of independent jurors sitting on the jury panel to bring impartial advice and views to the process. However, these jurors should be assessing the design in complete agreement with the brief to ensure it is met. It is our view that in addition to the independent jurors, proponents should be included in the selection and assessment process of the jury on the same basis and to the same standard, as independent jurors.

There has been a clear move to ensure good design with the inclusion of design in the objects of the Act and the growing suite of policy documents and guidance documents by the Office of the Government Architect. It is clear the jury needs to have demonstrated experience in terms of design and achieving positive benefits to the public.

Absent from the jury composition within the Guidelines is the requirement for jurors to have the skills and experience to assess and understand the commercial drivers of a proposed scheme. To ensure that projects remain viable, we advocate for the inclusion of the proponent or its nominated experts to sit as members of the jury. This would mean that the proponent would be permitted at least one position on the jury panel to not only ensure a high-quality development which demonstrates design excellence, but to also meets the commercial drivers of the project.

In addition, the potential impartiality of the jury chair is a significant consideration given the importance of the role they play. They have significant influence over the panel and are responsible for the negotiation process should the jury's decision be split. It is the view of the Property Council that the jury chair should be independent and not a prescribed nomination by the Government Architect. This would remove potential bias from the role of the jury chair and ensure an open and transparent process.

Bonus FSR and Height

For those who undertake design excellence competitions and successfully achieve design excellence through this process, there should be bonus floor space ratio and height awarded to the proponent for attaining a positive outcome for the community. The design excellence competition process is both lengthy and resource intensive and should be undertaken for specific and economically justifiable reasons. There should be specific guidelines or principles stipulated which invoke any bonuses that are applicable in achieving design excellence. It is important that these are outlined in an open and transparent manner to ensure that they can be quantified and measured against the competition process.

Competition Types

There are three types of competition outlined in the Guidelines based upon scale, complexity and impact. While we acknowledge the Government Architect's desire and want to classify competition types, this adds further confusion and impacts on the overall clarity of the process. With such a broad range of criteria, there is little clarity as to how these will be determined or measured which detracts from the overall aim of the Guidelines.

Type B competitions are proposed to be held as an open Expression of Interest (EOI) basis. An open EOI process for projects of this type and scale is less suitable and an invite only EOI process

would be more fitting. This would ensure that architects and/or urban designers of appropriate calibre and experience are prioritised in the process.

Type C competitions are noted as being aimed at projects which are complex and of a large scale. For these large and complex projects, it is essential that architects of a high calibre in both design and delivery are invited to complete. These projects present the highest development risk and are vulnerable to additional complexity and uncertainty in the design competition process. To combat this, only those with true, proven capabilities at delivering large and complex projects should be invited to compete. This will go some way to ensure that these types of projects will not be jeopardised through the pursuit of design excellence.

However, with the complexities involved in this type of competition process, it is recommended that type C competitions be removed from the Guidelines or that their application is scaled back to include only smaller scale government projects. Large scale and complex projects should be subject to a bespoke competition process.

The Property Council is committed to taking an active role in supporting quality design and design excellence in NSW. The proposed Guidelines are a step towards achieving design excellence in NSW, however, as outlined above, there are much needed changes and amendments required to make the current draft more robust and effective. As exhibited, the Guidelines will impact on the commercial viability of proposals. Exclusion of proponents from the process is a principal concern and appropriate amendments should be made to ensure the inclusion of proponents in the process which will guarantee not only design excellence but also financial viability.

We would welcome the opportunity to work with you in refining the draft Guidelines to ensure they meet their intended objectives. Should you have any questions regarding the above, please do not hesitate to contact me on jfitzgerald@propertycouncil.com.au or 02 9033 1906.

Sincerely,



Jane Fitzgerald
NSW Executive Director
The Property Council of Australia

Government Architect's Design Excellence Competition Guidelines

Leone Lorrimer Comments and Suggestions

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Introduction

Thank you for inviting me to comment on the Draft version of the Government Architect's Design Excellence Competition Guidelines.

The document is well written, clear and concise.

I make the following suggestions for clarity and consistency across the document.

I offer:

- A mark-up document.
- Discussion on some themes.
- Tabulated specific suggested changes.

Generally

With regard to the following 3 points, I will suggest ways to address in more detail below.

1. Project Brief vs Competition Brief

We all know that the best outcome from a building, space or place is not only when it is 'good design' as defined, but also when it achieves the vision and suits the purpose for which it is intended. I feel that, whilst the guidelines achieve an excellent discussion around 'design excellence' there is minimal mention of a 'Project Brief'.

Various References:

1.3 lists the pre-competition processes but fails to mention the preparation of a good project brief.

3.2 refers to 'The Proponent is responsible for the procurement of key documentation prior to the commencement of the competition' but key documentation is not defined.

3.6 refers to the Competition Advisor being responsible for the 'Competition Brief and associated documents'.

4.3 refers to 'the brief' but should clarify that this is the Competition Brief that includes a Project Brief.

Step 02 Writing the Competition Brief provides a very long list of inclusions, with a reference to a 'description of the proposed uses within the project, the percentage of each use, the proposed gross floor area (GFA) and FSR'. For clarity this might be called a Project Brief.

Stage 05, third bullet refers to 'Brief'; for clarity, it should refer to the 'Competition Brief'.

5 Post competition refers to 'Brief'; for clarity, it should refer to the 'Competition Brief'.

2. Assessment Criteria

Reference to assessment criteria occurs only at the end, and not in the Competition brief section, despite the assessment criteria being critical.

Various References:

Clause 1.1 refers to a set of 'design related selection criteria'.

Clause 1.2 defines Design Excellence. Achieving the functional/operational requirements should perhaps be added to the last sentence.

Step 04 Compiling the Competition Report refers to 'Submissions must be graded by the Jury against assessment criteria established in the Competition Brief', but the bullet point list refers only to assessment on 'design merits', with no reference to achieving functional or operational criteria. In addition, this section does not deal with compliance in any way – with budget, functional/operational brief.

3. Commercial Criteria

Whilst the GA will not wish to get involved with commercial criteria, the guidelines do not deal with the need to include commercial details. In the list of items to be in the Competition Brief there should be mention of the Commercial Terms, including the terms and conditions of engagement, scope of services, project program with milestone dates, and a request for fee proposal, capability statement and proposed project team etc. By not dealing with this matter, the situation is left open and therefore unclear.

Furthermore, Design Excellence is defined in a way that creates an uninsurable risk for design professionals under their Professional Indemnity Insurance policies through the use of terms that establish standards that are above normal professional expected practice.

Various References:

1.2 defines 'Design Excellence' and a level that is 'above and beyond the usual' and as 'the highest standard of architectural, urban and landscape design'. Professional Indemnity insurers always advise architects against signing up for such criteria as 'the gap' between the level of service normally expected of a qualified professional and 'highest' or 'above the usual' is an uninsurable gap.

By enshrining such an uninsurable gap could create problems down the track for every architect and architectural practice. My suggestion would be to discuss this with Planned Cover's Simon Gray on 02 9957 5700.

Step 02 provides a long list of inclusions within the Competition Brief but does not include any commercial requirements. These would normally include Terms and Conditions of Engagement, Scope of Services, Project Program (Milestone Dates) and a requirement for Fees to be submitted, along with a Capability Statement and proposed Project Team. These would be required in a second envelope and not opened until after the Competition. Without this requirement, it is entirely possible, particularly with international entrants, that a winning scheme is selected, but the winning team has unrealistically high fees or will not accept the terms and conditions of contract.

3.8 deals with Technical Advisors, but it is not clear whether those technical advisors are allowed to consult with the Proponent during the competition process. I would recommend that the Technical Advisor can refer back to the Proponent and that this is explicitly stated in the Guidelines.

4. Competition Jury

The role of specialists outside the design profession as jury members should be clarified.

Various References:

1.1 states that the Competition Jury will only comprise design professionals.

3.4 mentions specialists but limits these to 'design specialists'

For specialist building typologies it is very wise to include on the jury a specialist; for example in difference cases specialists in education, hospitals, sports operations etc.

Table of Recommendations

Reference	Issue	Recommendation
Page 1 Section 1 Para 2 Sentence 3	<p>The sentence starting with 'For public authorities...' is confusing.</p> <p>The term 'public authorities' anywhere else in the document and it is not defined. I would think that competitions can drive good outcomes for both public and private development.</p>	Delete 'For public authorities' and start sentence with 'Competitions can drive neighbourhood....'
Page 1 Section 1.1 Para 1 Sentence 2	The jury panel refers only to 'design professionals'	<p>Add in 'and specialists' after 'design professionals' to read:</p> <p>'An independent panel of design professionals and specialists (a 'Competition Jury')....'</p>
Page 2 Section 1.2 Para 1 Sentences 1 and 3	<p>The level of expectation creates an uninsurable risk for architects and other design professionals under their Professional Indemnity Insurance policies:</p> <p>'above and beyond the usual' and 'the highest standard or architectural, urban and landscape design'</p>	Discuss these definitions with Planned Cover's Simon Gray on 02 9957 5700.
Page 2 Section 1.3 Para 2 Sentence 3	A good Project Brief is not mentioned as a critical pre-competition process.	<p>Insert 'project brief and' before 'reference design' to read:</p> <p>'Pre-competition processes such as preparation of a project brief and reference design'</p>
Page 3 Section 2.4 Number 3.	<p>Which entity is the delegate of the Minister for Planning?</p> <p>In the context of this sentence is the Minister's delegate the Department of Planning & Environment (DP&E)?</p> <p>Should 'State Significant' projects be better defined by reference to the Environmental Planning and Assessment Act either here or in the Definitions at the back of the document?</p>	<p>Consider (if this is the intention – and I may not have understood it) amending the wording to:</p> <p>'The Minister for Planning or the Department of Planning & Environment is the consent authority and a local design excellence competition policy or guideline (or equivalent) does not exist or apply (hereafter referred to as 'State Significant projects' for the purposes of these guidelines).'</p> <p>Follow on here or as a separate definition in the Glossary.</p> <p>'State Significant projects are projects defined as State Significant Development under Part 3A of the NSW Environmental Planning and Assessment Act 1979 and Amendment Act 2017.'</p>

Reference	Issue	Recommendation
Page 3 Section 2.5 Para 1 Sentence 2	Lack of clarity.	Replace 'they' with 'the Proponent' to read: 'Where this is the case, and these guidelines apply and the Proponent wishes to use this condition, the Proponent must demonstrate to GANSW and the consent authority that such a process would be unreasonable and unnecessary in the circumstances...'
Page 3 Section 3.2 Para 2 Sentence 1	The term 'key documentation' is not used anywhere else in the document and is not defined.	Insert after 'for the Competition Brief (refer 4.3 Step 02) after 'procurement of key documentation' to read: 'The Proponent is responsible for the procurement of key documentation for the Competition Brief (refer 4.3 Step 02) prior to the commencement of the competition.' Alternately, define 'Key documentation in the Glossary.
Page 4 Section 3.3 Para 2 Sentence 4	The meaning of the last sentence is unclear. Who is being invited and who is the audience? Is the meaning is to advertise an EOI interstate and/or internationally and/or to invite interstate and/or international entrants?	To clarify the meaning insert 'for the Proponent' after 'appropriate' and replace 'audience' with 'participants' to read: 'Depending on the project, it may be appropriate for the Proponent to either directly invite or promote to interstate or international entrants.'
Page 4 Section 3.4 Para 1 Sentence 5	Limits specialists to design specialists. Juries may include other non-design specialists.	Delete 'design' after 'specialist' to read: 'In some cases, Jury members with relevant specialist skills may be proposed.'
Page 4 Section 3.4 Para 4 Sentence 2	DP&E comment (see above). It is unclear who is the Minister's delegate.	Replace 'their delegate' with 'the Department of Planning & Environment'
Page 5 Section 3.8 Para 2	Suggest that it be made explicit whether or not a Technical Advisor may consult with the Proponent to seek clarification in order to respond correctly to questions from Entrants or the Jury.	Consider adding a sentence: 'For the purpose of clarification, a Technical Advisor may consult with the Proponent during the Competition process providing that such clarifications are provided to all Entrants and Jurors.'
Page 6 Section 4.2 Para 5	Is 'straightforward planning framework' open to interpretation?	Consider a better definition of 'straightforward planning framework'.
Page 7 Type B Para 1	The statement 'a short response to the brief' is open to interpretation. It is intended that this be a written response or sketches?	Consider a better definition of 'a short response to the brief'.
Page 8 Section 4.3 Para 3	Define SEARS	Define SEARS either here or in the Glossary as 'Secretary's Environmental Assessment Requirements' under Part 3A of the Environmental Planning and Assessment Amendment Act'.
Page 8 Section 4.3 Para 5	Define Reference Design	Define Reference Design either here or in the Glossary

Reference	Issue	Recommendation
Page 8 Section 4.3 Second last bullet point	Clarify which brief	Insert 'Competition' after 'brief' to read: 'whether the Competition Brief references a draft EPI or Planning Proposal yet to be determined'
Page 9 Step 02 Bullet list	Does not include Assessment Criteria and Weighting	Add a bullet point: '- assessment criteria and weighting' Add this point high up in the list say bullet point 4 after the criteria for shortlisting of an open competition.
Page 9 Step 02 Bullet list	The bullet list includes: '- description of the proposed uses within the project, the percentage of each use, the proposed gross floor area (GFA) and FSR' When discussing Assessment Criteria it may be useful to give this a name, such as 'Project Brief' (vs Competition Brief) or 'Statement of Requirements'. Project Brief is probably more comprehensive.	Amend bullet point to read: '- Project Brief including a description of the proposed uses within the project, the percentage of each use, the proposed gross floor area (GFA) and floor space ration (FSR)' And Move the bullet point higher in priority say as point 9 after CIV and before heritage.
Sidebar box on Budget	The project budget has been defined as a Capital Investment Value (CIV) and this term should be used to replace the word budget.	In the heading replace 'budget' with 'Capital Investment Value (CIV)' to read: 'Note: Designing to a Capital Investment Value (CIV)' In the box text replace 'budget' with 'CIV' in 4 instances.
Page 10 Step 03 Para 6	What is the status of the Heritage Assessment by the consenting authority of 'the proposal'? Is it 'For information' or has it more weight?	Make 'proposal' plural to read: 'the consent authority's heritage advisor must provide a heritage assessment of each of the proposals to the Jury..' Consider adding another sentence: 'Such assessments should be taken into account by the Jury for information and not direction'.
Page 10 Step 04 Para 2 Bullet list	The opening paragraph refers to assessment criteria, but the bullet list refers only to design criteria.	Consider amending the second bullet point to read: '- outline the assessment of the merits of each of the entries, against the assessment criteria established in the Competition Brief (or a summary of the entries in the case of stage one of an Open Competition)'

Page 10 Step 04 Para 2 Bullet list	This section omits to consider compliance with either budget or project brief requirements or consideration of entries that do not achieve critical requirements such as flood zones.	Consider adding an additional bullet point under 'The Report will:' that reads: 'identify any non-compliances with CIV and / or Project Brief requirements' Consider amending the second bullet point under 'The Report may:' to read: '- indicate the highest graded submission and recommend design quality improvements and/or CIV and/or project brief compliance amendments that could be made to permit its endorsement as a winning submission that has the potential to achieve Design Excellence' Consider adding an additional bullet point under 'The Report may:' that reads: '- decline to endorse any entry to does not comply with the CIV, Project Brief or any other requirement deemed to be critical to the project the subject of the Competition'
Page 11 Stage 05 Bullet list	Reference to 'Brief' is unclear.	Insert 'Competition' before 'Brief' to read: '- completion of any further design excellence process required by the endorsed Design Excellence Competition Strategy, Competition Brief or the Jury...'
Page 11 Stage 05 Table	Reference to 'Brief' in Type A is unclear.	Insert 'Competition' before 'Brief' under Type A to read: 'Prepare a detailed Competition Brief with all required supporting documentation'
Page 11 Stage 05 Table	Use of the word 'proposal' under Invited Design Competition under Types A, B and C is confusing when it really means and Entry in the competition as defined elsewhere in the document.	Replace 'prepare a proposal' with 'participate in the competition and prepare a competition entry' to read: Type A 'An invited list of 3-5 Design Teams are invited to participate in the competition and prepare a competition entry' Type B 'STAGE TWO: 3-5 Design Teams chosen to prepare a more detailed competition entry on the basis of their EOI' Type C 'STAGE TWO: 3-5 Design Teams chosen and invited to prepare a more detailed competition entry on the basis of their Design Concept or Strategy'
Page 11 Note	Clarity	Insert 'or its nominated representative' after 'the Australian Institute of Architects' to read: '....such as the Australian Institute of Architects or its representative...'
Page 12 Section 5.1 Para 1	Clarity	Insert 'Competition' before 'Brief' to read: '...the Competition Strategy and/or Competition Brief...'
Page 12 Section 5.2 Para 3 Bullet list	Clarity and consistency.	Insert 'and prior to lodgement' to read: '- during the Development Application stage and prior to lodgement'
Page 12 Section 5.2 Para 4	Unclear about where the Minutes of Meeting are lodged and held. What are the penalties for not holding DIP meetings or taking on the recommendations?	Insert additional sentences such as: 'The minutes of meetings of the DIP should be lodged with the consent authority, which shall review compliance with recommendations prior to approving the Development Application or Section 96 Application'

Page 12 Section 5.3 Para 4 and 2	Flow of paragraphs. Consistency	Move Para 4 to become last sentence of Para 1. Capitalise Development Application in Para 2.
Glossary	<p>Various questions:</p> <p>No definition for Capital Investment Value.</p> <ul style="list-style-type: none"> - Emerging Practices – introduce typology as well as scale? - Qualified Architect or Architect – most people would look to ‘A’ for architect not ‘Q’. The description of ‘qualified’ is self-evident. The definition does not address architectural practices. - Qualified Designer – this is defined as an architect in accordance with the architect’s act. As the term Designer is not used in the document and the definition is in fact the definition of an architect suggest deletion. 	<p>Consider:</p> <p>Add a definition for Capital Investment Value (CIV) which should define that this is ‘the capital value of the total construction cost of the project with relevance to the Design Excellence Competition.’</p> <p>Emerging Practices: Consider adding ‘or in the specific building typology’ after ‘complex type’ to read: ‘is yet to undertake or is just beginning to undertake work of a larger or more complex type or in the specific building typology’.</p> <p>Qualified Architect: Consider putting this under the letter A not Q as simply Architect. Change text to read: ‘Architect’</p> <p>‘An architect is a person registered as an architect in accordance with the Architects Act 2003. When the word ‘architect’ is used on its own, it implies an architecture professional who is registered with the appropriate professional body. A qualified architect is an architect who is registered as a professional in a given jurisdiction. Architect may also refer to a group of architects trading as a firm that lawfully practices architecture.’</p> <p>Delete ‘Qualified Designer’ definition.</p>

Further annoying typos and grammar

Reference	Issue	Recommendation
Page 3 Section 2.4 Number 2.	Local Council is singular therefore ‘its’ not ‘their’.	Replace ‘their’ with ‘its’
Page 3 Section 2.4 Guidelines not required Number 1.	Use full name of Department of Planning?	Insert ‘& Environment’ after ‘Department of Planning’
Page 3 Section 3.1	In the two bullet point lists different wording is used for: ‘endorse the Jury selection’ ‘endorse the Jury composition’	Select the best and use the same wording for each of the two points. It is likely to be ‘selection’ as this includes both the nature of the people and the names of the people.
Page 3 Section 3.2 Para 2 Sentence 2	Greater clarity perhaps achieved by ‘should’ or ‘shall’ rather than ‘is advised to’	Replace ‘is advised to’ with ‘should’ to read: ‘To achieve this, the Proponent should engage the services of a Competition Advisor..’

Reference	Issue	Recommendation
Page 3 Section 3.2 Bullet list	For strength, consider using a verb rather than a participle to begin each point: eg 'engage' rather than 'engaging'	Consider replacing 'engaging', 'preparing', 'completing', 'developing', 'confirming' and 'providing' with 'engage', 'prepare', 'complete', 'develop', 'confirm' and 'provide'.
Page 4 Section 3.3 Para 1 Sentence 1	Grammar	Replace 'who' with 'that' to read: '...a person or a team that has'
Page 9 Step 02 Bullet list	Inconsistency	Insert 'floor space ratio' before FSR and include FSR in brackets to read: 'proposed gross floor area (GFA) and floor space ratio (FSR)'
Page 11 Stage 05 Heading	Inconsistency 'Steps' 01 – 04, but 'Stage 05'	Change 'Stage 05' to 'Step 05'
Page 12 Section 5.2 Para 2 Sentence 1	Inconsistency	Insert '(DIP)' after Design Integrity Panel to read: '...State Design Review Panel (SDRP) act as the Design Integrity Panel (DIP).'

18 July 2018

Ms Carolyn McNally
Secretary
Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2001

Dear Ms McNally,



Re: Draft Design Competition Guidelines

Thank you for the opportunity to comment on the *Draft Government Architect's Design Excellence Competition Guidelines*. We note these guidelines are intended to revise and update the Director General's Design Excellence Guidelines produced in 2011. Please find our comments below for your consideration.

Overview

The Urban Taskforce supports design excellence as an outcome of the development of new buildings and communities in New South Wales. We believe there are a number of ways to achieve this and that the additional cost for a project to achieve design excellence must be proportional to the significance of the project. Our members have raised concerns that some design competitions can add up to \$1 million to the cost of a residential project, and these costs are passed onto the buyers. Sydney is currently experiencing a housing affordability crisis, and it is important that the design excellence processes does not have excessive costs. This is particularly when the SEPP 65 Apartment Design Guidelines set out many design excellence requirements.

We believe that a Design Excellence Competition should only occur where there is bonus floor space provided to offset the cost of the process. This is how the City of Sydney Council runs its design excellence competition process.

Design Review Panels can add value to a project but the experience of our members is that they often change membership and therefore do not give consistent advice. This is also a growing tendency for panel members to redesign projects which is a misuse of their role.

Where a Design Excellence Competition occurs, it is essential that the proponent, who is taking the financial risk on the project, is fully involved in the process. This includes the selection of architects, jury members, observing the deliberations and ongoing detailed resolution of a winning design.

While proponents will intend to engage the winning architect for full services this may not occur due to excessive fee proposals or with a Design Construct contract. In these circumstances we recommend that the winning architect is engaged to provide a design overview role.

The Urban Taskforce is concerned about the concept of a Design Integrity Panel as the role of ensuring an approved Development Application or Planning Proposal carries through to construction is already covered through council officers or the certifier. We are also concerned about a panel being involved over what could be a 3-year period.

We have provided additional comments below.

General comments

- **Proponent plays a vital role in the development of the project**

The Urban Taskforce believes that the Proponent should have a key role in all aspects of the design excellence process. The project will be financed, developed and constructed by the Proponent and it is only fair that they play a guiding role in how design excellence is achieved. We strongly support the involvement of the Proponent in the process and oppose any attempt to minimise their role and influence in this regard.

- **Impacts upon housing affordability**

The process outlined in this document is very detailed and bureaucratic compared to the *Director General's Design Excellence Guidelines*. It could add hundreds of thousands of dollars of up front cost to a project – which simply result in the end cost of the project being higher and in the case of residential projects, more expensive for end purchasers.

- **Alternatives to competitions**

The Government Architect NSW has a list of prequalified 'Design Excellence' architects. There should be an alternative to the Design Excellence Competition process where engaging a prequalified 'Design Excellence' architect should be sufficient in lieu of holding a competition, which can be a costly and lengthy process.

- **Timeliness is critical**

To ensure the competition does not unreasonably extend the assessment process, and to ensure there is accountability and to provide clarity for proponents to program their development timeframes must be built into all stages of the Design Excellence Competition process. In particular, timeframes are essential for local

authorities and the GANSW to approve certain stages, for example, Design Excellence Competition Strategy and Competition Brief, issuing the report (draft and final). We have heard from members that significant delays are experienced in the City of Sydney Design Competition process at the strategy and brief stages and there is no clear understanding of when these decisions are made and stages completed.

- **Consistency is essential**

A consistent Design Excellence Competition process applicable to all local government areas throughout NSW would be welcomed by the property industry.

Our members have also raised concerns that the councils and GANSW will change Jury members throughout the competition process. We recommend that this practice is not permitted.

- **Where possible, the costs to the proponent should be minimised**

There are a significant number of costs which the Proponent is required to fund, for example, payment of Jury member, entrants etc. An 'upper limit' to fees or predetermined hourly rates to ensure costs can be reasonably anticipated and managed would assist the proponent.

Proponents with projects which include a component of social or affordable housing should have their fees payable to government agencies involved in the competition process discounted.

- **Full Design Excellence Competition only with floor space uplift**

We believe that a Design Excellence Competition should only occur where there is bonus floor space provided to offset the cost of the process. This is how the City of Sydney Council runs its design excellence competition process.

Specific comments

- **Role of Government Architect NSW**

Page 3, Section 3.1. Government Architect NSW, states:

'The Government Architect NSW plays a different role depending on whether the project is state significant or a local council project.'

Comment: A representative of the Government Architect NSW (GANSW) should always chair the jury for both state significant projects and the local council projects to ensure unbiased decision making. The NSW Government should also ensure the GANSW is sufficiently resourced with appropriately qualified staff to take on this

important role and ensure a backlog of projects is not created due to a lack of resources.

- **Requirement for a 'Reference design'**

Page 3, Section 3.2 The Proponent states:

'The Proponent is advised to engage the services of a Competition Adviser who will manage these tasks on their behalf:

- *Engaging a suitably qualified architect, urban design or landscape architect to prepare a 'Reference Design'.*

Comment: A 'reference design' is irrelevant and costly, and merely serves to stifle innovation. The development controls are clear and can be interpreted appropriately by each entrant.

- **Local council representation on the Jury and selection of Chair**

Page 4, Section 3.4 The Jury states:

'Jury members must: not be a staff member or councillor with an approval role in council's or the department's development assessment process.'

Comment: The Urban Taskforce believes that to ensure transparency and integrity of process, no staff member from the relevant council should be permitted to be on the jury. This aligns with the restrictions imposed upon the Proponent.

Page 4, Section 3.4 The Jury also states:

'The GANSW nominee will chair.'

The Urban Taskforce supports the GANSW nominee appointing the chair of the Jury to ensure fairness.

Page 4, The proponent representation on the jury. It is essential that the proponent has fair representation on the jury.

- **Selection of Design Excellence Competition type**

Page 6, Section 4.2 Design Excellence Competition types states:

'Depending on the project type and other considerations, the Proponent may select of the three recommended formats (of competition) in these Guidelines'.

Comment: The Urban Taskforce strongly supports the Proponent selecting one of the three recommended formats in the guideline.

Page 6, Section 4.2 Design Excellence Competition types also states:

'Type A: Invited Single-Stage Design Excellence competition... This is a single stage competition with a minimum of three and maximum of five designers or design teams invited to participate.'

Comment: The teams invited to participate should be selected by the Proponent, and the wording be revised to read: 'This is a single stage competition with a minimum of three and maximum of five designers or design teams invited to participate, selected by the Proponent.'

Page 7, Type B: Invited by EOI Design Excellence Competition states:

'A shortlist of 3-5 Entrants is selected by the Proponent to proceed to Stage Two in accordance with the process and assessment criteria outlined in the EOI and Design Excellence Competition Strategy'

Comment: The Urban Taskforce supports the Proponent's role in selecting the shortlist of Entrants to proceed to Stage Two. It is vitally important that the Proponent is comfortable with all of the entrants in the final stages of the competition.

Page 7, Type C: Open Design Excellence Competition, states:

'A shortlist of Stage One Entrants is selected by the Jury, in accordance with the process and assessment criteria outlined in the Competition Brief.'

Comment: There should be three entrants selected for the shortlist, and these should be chosen by the Proponent, as outlined in Type B – Invited by EOI Design Excellence Competition.

As outlined below, as the competition rules require the Proponent to engage the winning architect (if they wish to proceed with the development) it is vitally important that the proponent is comfortable with all of the entrants in the final stage of the competition. If the winning architect is for some reason not engaged for full services then they should be engaged for a design overview role.

- **The Design Excellence Competition Process**

Page 8, Step 01: Developing the Design Excellence Competition Strategy states:

'The Design Excellence Competition Strategy must include a Reference Design.'

As stated previously, the requirement to include a 'Reference Design' is irrelevant, stifles innovation and individuality. Each entrant should be free to interpret the

development controls as it wishes and should be free of any influence of a reference design.

Page 8, Step 01: Developing the Design Excellence Competition Strategy also states:

'For Design Excellence Competition schemes that seek additional height, floor space or any other bonus incentive that may be available under an EPI, the potential impacts of those incentives must be modelled prior to undertaking the competition, either by the consent authority or the Proponent, through the Reference Design or Concept DA.'

Comment: This requirement seems irrelevant. The best design should emerge from the free-thinking of the entrants.

Page 9, Step 02: Writing the Competition Brief states:

'The Competition Brief must include the following:

- *Details of the capital investment value (CIV) for the project'*

Comment: The Urban Taskforce believes this information should be provided at the discretion of the Proponent.

- *'Where a site includes a heritage item, is located within a conservation area or near a heritage item, include a Heritage Impact Assessment and advise competitors to consider any conservation guidelines set out in the document.'*

Comment: This should be a 'high-level' Heritage Impact Assessment only at this stage. A more detailed Heritage Impact Assessment can be provided later as part of the assessment process.

- *'A statement that the copyright of any entry to the competition remains with the originator of the work'.*

Comment: The Urban Taskforce would like to add: 'until the payment of the competition fee to the entrant by the proponent, following which the copyright rests with the proponent.'

Page 9, Note: Designing to a budget states:

'To assist Entrant teams to meet budget requirements, Proponents may provide the services of a cost consultant to provide advice to entrants during the preparation of their submissions. Any fees for cost consultancy must be covered by the Proponent and may not be included in the fees paid to the Entrant teams'.

Comment: The Urban Taskforce strongly supports the need for Entrant teams to create a scheme that has the potential to be delivered within a specified budget. We believe this section should state:

'At the discretion of the Proponent, each Entrant may be required to provide a feasibility to prove the viability of their design. The Proponent will pay for the preparation of the feasibility and may nominate who is to prepare it.'

Page 10, Step 03: Competition Review and Judging state:

'A representative of the assessment team of the relevant consent authority must be invited to attend the competition jury session as an observer.'

Comment: The Urban Taskforce believes one representative of the Proponent should also be invited to attend the session, as an observer, to ensure fairness and transparency of process.

- **Post competition – Maintaining design integrity**

Page 12 under 5.1. Purpose, states:

'To ensure design quality continues through design development.... As a minimum this will require the designer of the winning submission to be nominated as the Design Architect for the duration of the project.'

Comment: The Urban Taskforce is concerned that this requirement could leave the Proponent in a difficult situation if the Design Architect fails to perform satisfactorily, or the Design Architect leaves the firm, or asks for an unfairly high fee for undertaking the work. The Proponent must have the right to pay for the design (i.e. the competition fee) and, if any of the above (or similar) occurs, to appoint another Design Architect to deliver the winning design. The Design Integrity Panel has many opportunities to review the design and construction to ensure, if a Design Architect is replaced for any of the reasons outlined above, the design is still delivered to the highest quality. The winning architect can be engaged for a design overview role.

Page 12, 5.1. Purpose also states:

'The DIP would typically review the design at the following stages:

- *Prior to lodgement of any Section 96 which modifies the design.*

Comment: The nature of the planning system frequently requires small modifications to be made to development applications and it would be costly and inefficient for the DIP to review insignificant changes which have little impact upon design. We believe this should be changed to read *'prior to lodgement of any Section 96 which materially modifies the design'*.

Page 12, 5.2 Design Integrity phase states:

The DIP would review the design at the following stages:

- *Prior to issue of the Occupation Certificate (or equivalent post approval process for Crown projects).*

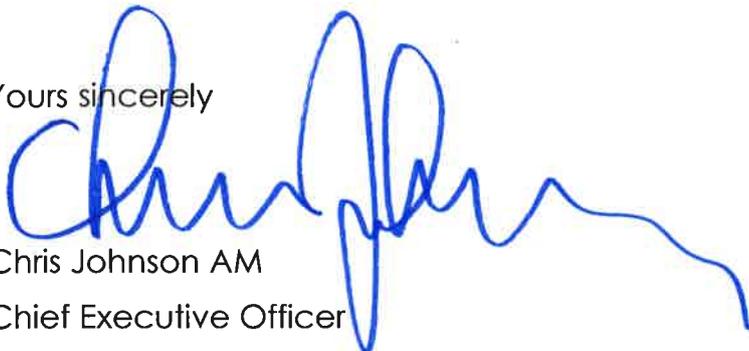
Comment: This requirement seems irrelevant, as at this stage the building has already been constructed.

The DIP has opportunities to ensure design excellence at earlier stages, such as the review required during the Development Application stage and the review prior to issue of the Construction Certificate.

The NSW planning process also has extensive checks and balances to ensure that the final buildings are in keeping with the approved design and additional checks would be duplicating an existing process.

The Urban Taskforce is always willing to work closely with the Government to provide a development industry perspective on these issues. Please feel free to contact me on telephone number 9238 3927 to discuss this further.

Yours sincerely



Chris Johnson AM

Chief Executive Officer

Urban Taskforce Australia



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23 July 2018

Mr Peter Poulet
Government Architect
Government Architect NSW
GPO Box 39
Sydney NSW 2001

Dear Mr Poulet

Draft Design Excellence Competition Guidelines

The Housing Industry Association (HIA) welcomes the opportunity to provide comments on the draft Government Architect's Design Excellence Competition Guidelines (the Draft Guidelines) currently on exhibition until 31 July 2018. The following comments address concerns based on feedback from our members.

As the voice of the industry, HIA represents some 9,000 member businesses throughout New South Wales (NSW). HIA members comprise a diversity of residential builders, including volume builders, small to medium sized builders and renovators, residential developers, trade contractors, major building product manufacturers and suppliers and consultants to the industry.

Within New South Wales a number of Local Environmental Plans (LEPs) have adopted design excellence provisions and several also require a competitive design process. Examples of LEPs where design competitions are required include:

- *Sydney Local Environmental Plan 2012* (clause 6.21),
- *Sydney Local Environmental Plan (Green Square Town Centre) 2013* (clause 6.9)
- *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013* (clause 6.9)
- *Parramatta Local Environmental Plan 2011* (clause 7.10),
- *Liverpool Local Environmental Plan 2008* (clause 7.5),
- *Rockdale Local Environmental Plan 2011* (clause 6.14) and
- *Newcastle Local Environmental Plan 2012* (clause 7.5).

Design competitions are also a requirement for certain types of development at Barangaroo and Sydney Olympic Park under the *State Environmental Planning Policy (State Significant Precincts) 2005*.

Reference to these design excellence provisions are made when councils undertake assessment of development applications identified in the criteria set out in the LEP. In most cases the LEP will specify a set of procedures regarding how a competitive design process is to be carried out.

The Draft Guidelines are intended to replace the Director General's Design Excellence Guidelines issued by the Department of Planning in 2011. The decision to review the guidelines is welcomed to ensure they are fit for purpose and continue to achieve their objectives. It is appropriate for the Government Architect NSW to manage this process.

The Government Architect NSW is well placed to provide technical input to the review of the current guidelines. The Draft Guidelines are very detailed and explain the operation of the different types of competition process. It is important for HIA members using the Draft Guidelines to easily understand when and where they apply and if an architectural design competition is required, to readily understand the costs involved in the process. The introduction section of the Draft Guidelines should be updated to make this clear.

Other matters the Government Architect should consider as part of developing the updated guidelines include weighing up the costs and benefits associated with the design excellence competition process and whether it contributes to better architectural outcomes being delivered. Consideration should also be given to the appropriateness of the current threshold criteria contained in the relevant LEPs to ensure that the mandated design competition process is only triggered for landmark and/or major developments.

Should you have any questions, please contact Troy Loveday, Assistant Director – Residential Development and Planning on (02) 9978 3342 or t.loveday@hia.com.au.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

A handwritten signature in black ink, appearing to read 'David Bare', written in a cursive style.

David Bare
Executive Director



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31 July 2018

14562

Mr Peter Poulet
NSW Government Architect
230 Pitt Street,
Sydney NSW 2000

Dear Peter Poulet

Re: Submission in response to the draft government architects design excellence competition guidelines

This submission has been prepared by The GPT Group (GPT) in response to the Draft Government Architect's Design Excellence Competition Guidelines prepared by the NSW Government Architect and exhibited in 2018 for comment.

In line with many global cities, Greater Sydney's desire for design excellence in the built environment has utilised the competition process as a mechanism for achieving high-quality built form and public domain. In Sydney, the design competition process has resulted in the construction of multiple developments which have become exemplars of contemporary architectural design.

While this commentary has been limited to the design guidelines as presented, GPT believes that any review of the design competition process should be made in the broader context of achieving design excellence as part of an integrated planning, stakeholder engagement and design development framework. In particular, we would like to discuss how this review could provide the opportunity (especially for complicated sites) to;

- Enable design input earlier in the process, maximising the value that is added.
- Reduce the prospects for design competitions to be limited to "look and feel" exercises.
- Allow consultation, stakeholder engagement and planning assessments to be informed by specific proposals rather than abstract concepts (envelopes) that are difficult to specifically analyse without losing flexibility for future design excellence proposals.
- Create a collaborative environment for designers and developers to work together in creating design excellence throughout the planning and design process.
- Align expectations for design competitions with the timeframe and resources required to run them, thus moving;
 - from producing multiple near-final designs on projects, with limited time to cater for all technical issues, and

- towards identification of high quality concepts and proficient and skilled teams that have the best prospect of creating both design excellence and deliverable outcomes over time, and
- providing developers with the confidence that design excellence can and will be awarded for winning design competition outcomes.

1.0 Commentary on draft guidelines

1.1 Master-planning Design Competition

The draft guideline has introduced the concept of a Design Excellence Masterplan Competition. As noted above, GPT considers that early design competitions provide the potential for competitors to add significantly more value and streamline future approval phases than where undertaken later in the process.

We believe that the OGA has a great opportunity to use this device to streamline the development and planning process, increasing the potential to deliver high quality design outcomes. Early competitive designs provide the opportunity to;

- create a distinct pathway for early design input to be included from a variety of sources; and
- increase understanding of project benefits where deviating from existing rules (eg re-zonings), or defining new urban design outcomes (opportunity precincts).

We would encourage the OGA to build on these concepts and clearly define in what circumstances this mechanism can be used, how it could be undertaken, and how these processes can reduce the need for additional competitive processes in later stages.

1.2 Type B – Invited by EOI Design Excellence Process'

GPT understands that the intent of the proposed "open" design competition processes (in part referred to in Type B) is to provide opportunities to previously unknown and unconsidered designers. In general we share the desire to increase the range of outcomes available, however the precise mechanism proposed could;

- a) have the counter effect of deterring viable entrants given the reduced prospect of success, and
- b) reduce the attraction for multiple parties to provide considered and detailed designs.

While the process detailed as 'Type B – Invited by EOI Design Excellence Process' specifies that '*any qualified designer can respond to an open Expressions of Interest for selection.*', elsewhere in the draft guideline (Page 10 – Submission Requirements) it is recognised that entry into multiple stages of competition is a financial burden on designers. Any 'open stage', even if that is a minor response to the brief, adds a burden and can limit the number of entrants as often firms don't wish to compete with an open-ended number of competitors.

An opportunity should be retained for an invited EOI process, that would allow for a more limited number of competitors to be included within the first stage, increasing the likelihood that each competitor selected will take part in the competition.

We further note that the inclusion of a diverse range of participants would be encouraged by:

- owners being part of the jury, as referred to below, and
- being undertaken earlier in the design development process (e.g. initial concept stage)

1.3 Type C – Open Design Excellence Competition

The process detailed as “Type C – Open Design Excellence Competition” allows for a two-stage competition whereby the Jury selects a limited number of submitted concepts from an open preliminary round to compete in a second round. Particularly in the instance that site owners are precluded from serving on the Jury, it is not a reasonable position to exclude the proponent from the selection of second round competitors.

The proponent must have a significant role in selecting the firms that participate in the second stage of this process because, while the Jury is responsible for undertaking a review of the design capability of the entrants before shortlisting, the proponent is able to add broader insight to the process and assist in establishing other criteria.

There are also potential commercial or performance matters that could preclude certain competitors being a viable option for a particular proponent.

1.4 Jury Composition

A key intent of the design competition process is to encourage proponents to deliver projects that are of a high quality design. A key proposal in the guidelines to achieve this outcome is to seek an independent design assessment of competition entries to ensure that the best possible selection is made. In particular, the draft documents propose that Jury members must:

- *not have a pecuniary interest in the development proposal*
- *not be an owner, shareholder or manager associated with the Proponent or Proponent's companies*

It is further proposed that the membership of the Jury contains less than 50% representation from the proponent.

While it is appreciated that the guidelines seek to provide independent assessments of design excellence, we **do not agree** that separating the proponent from this process provides an appropriate balance of decision making powers reflective of both;

- the risks being undertaken in the development process, and
- the detailed understanding and experience of proponents to their market's needs, and the input of stakeholders through the development process.

GPT strongly disagrees with the requirements of Jury members as prescribed by the draft guidelines, that preclude those with pecuniary interest from participating in the Jury and subsequently holding a position to vote on the final outcome. We strongly suggest that these additional requirements are unnecessary and are in fact likely to be detrimental to a good design outcome.

A better process is to balance the jury with representatives of owners and representatives of the approving authority. While this balanced position may mean assessments are occasionally deadlocked, we believe that the need to obtain an outcome will ensure that all parties collaborate to identify pathways for high quality outcomes to arise.

Further we highlight the following:

- One of the roles of the Jury is to assess the extent to which the competition entry has addressed the approved competitive design brief. Under the GA's guideline, the competitive design process brief must be endorsed by the consent authority or GANSW thereby providing independent oversight of the criteria by which the Jury will be required to assess a proposal thereby

providing a clear and balanced assessment criteria, negating the need to exclude proponent's from their own competition Juries;

- A Competitive Process Brief will include planning, design and commercial objectives to achieve a balanced design excellence outcome. To exclude commercial expertise from the deliberations would be counter to balancing the objectives of planning, design and commercial outcomes;
- Excluding site owners and end users prohibits the consideration of insight into how the space will actually be used and the more nuanced commercial analysis of a particular scheme;
- Including representatives from the site owner or project proponent ensures that the design excellence process has an advocate within the proponent's team. Excluding all owner representatives from the process may isolate the process from the proponent and give the impression that a design is being 'imposed' on an owner, who would then be expected to fund its delivery; and
- Importantly, excluding the project proponent from the process decreases the likelihood that a diverse and less experienced architectural field can be considered for selection in the design competition process.

In light of the considerations above, it should be concluded that inclusion of owners and project proponent as part of the Jury does not preclude an outcome delivered through the complete planning process of design excellence, public interest, and improved design outcomes. In fact, it is our strong view that exclusion of such members from the jury would have a detrimental impact on the achievement of design excellence. We therefore suggest that the requirements of a Jury within the GA's guidelines be amended as follows:

Jury members must:

- *represent the public interest;*
- *not be a staff member or councillor with an approval role in council's or the department's development assessment process;*
- *have relevant design, construction or development expertise and experience.*

When selecting Jury members, a summary of the selected Jury's credentials should be provided to the proponent based on an assessment against the above criteria. Further, a process should be established for consensus to be reached between the proponent and the consent authority in relation to the selected Jury members based on their suitability and expertise, rather than their availability.

1.5 Post Competition

The guidelines outline a design integrity phase where an appropriate group is established to ensure that the key design excellence attributes of the project are maintained. This approach requires further clarity, including a clear process and timescales for Jury reviews of post competition changes and escalation procedures for the proponent should the Jury fail to meet these timescales or other obligations.

In more complex projects there is an opportunity to increase the relevance of this phase. Rather than requiring the design competition process to completely solve all issues in a limited window (commercial, technical, design and lettable) it is preferable that the Jury establishes the preferred concepts and design teams from the design competition. These can be further refined and then reviewed by the Jury. This revised process can still award design excellence based on these concepts, but allow the proponent and Jury (or appropriate body) to also work together to create a design outcome that optimises the design and commercial issues in tandem with the parallel consultation and planning processes.

1.6 Architectural fees

Architectural fees need to be established prior to acceptance on any design panel. Without this provision, inflated design fees are likely to occur once Design Excellence has been awarded. These fees will add to the overall cost of the project and potentially reduce the ability to add permanent design quality into the building itself.

1.7 Jury Assessment Timing

More stringent guidelines should be provided for the assessment process and production of reports. Whilst this will vary dependant on complexity, at a minimum, guidance should be provided in relation to:

- indicative timelines for the assessment timing of each Competition Type (A, B & C), which are then finalised in the signed off brief; and
- an escalation process if these timelines are not met.

The inclusion of verification activities throughout the project, including up to the sign-off of Occupation Certificate is also considered to be excessive where an approval authority is in place to assess design variations sought through the ordinary course of events.

2.0 Impact of Draft Guideline on GPT

GPT is one of Australia's largest diversified property groups and a top 50 ASX listed company by market capitalisation. GPT owns and manages a \$21.5 billion portfolio of offices, logistics, business parks and prime shopping centres across Australia. The majority of our assets have been created through development processes and have targeted high quality design outcomes that ensure the long term success of our precincts and assets.

GPT has an extensive portfolio of properties throughout NSW, including both retail and commercial office assets throughout the Sydney CBD, Newcastle, Wollongong, Sydney Olympic Park, Rouse Hill, Campbelltown and Penrith.

In recent years, we have developed a range of award winning places using processes ranging from direct master-planning, voluntary design competitions, and mandated design review processes to create a range of award winning assets and design concepts including;

- 111 Eagle Street, Brisbane
- 161 Castlereagh Street, Sydney (ANZ Tower)
- 32 Smith Street, Parramatta,
- Rouse Hill Town Centre
- Melbourne Central, Melbourne; and
- 100 Queen Street, Melbourne

Changes to the design competition guidelines could increase the risks in developing our NSW assets if design outcomes cannot be carefully managed.

3.0 Summary

GPT commends the formation of the draft Government Architect's Design Excellence Competition Guidelines and values the leadership in achieving design excellence demonstrated by GANSW.

GPT remains a strong advocate for design excellence and design-based policies. Lifting the quality of design is within the interests of the portfolio in contributing

value to both the overall quality of the built environment and the value of individual assets. GPT has to date embraced design-based processes, as in competitive development environments, it is fundamental to produce well designed buildings to attract marquee tenants.

We see the review of the guidelines as a major opportunity to ensure that an integrated design and planning assessment process is created that improves the ability for designers to add true value in the planning process through an integrated planning, stakeholder engagement, design and commercially astute process.

We would be pleased to meet to discuss our concerns further or I can be contacted on greg.mannes@gpt.com.au or 0423647603

Yours sincerely,



Greg Mannes
Project Director
The GPT Group



Jamie Nelson
Head of Development, Office
The GPT Group

31 July 2018

Mr Peter Poulet
Government Architect
Department of Planning and Environment
320 Pitt St
SYDNEY NSW 2000

Dear Mr Poulet,

Government Architect's Design Excellence Competition Guidelines

The Urban Development Institute of Australia (UDIA) NSW is the leading urban development industry group promoting the responsible growth of this State.

UDIA NSW understands the intent of the documents is to

1. Improve the design process in NSW
2. Support a diversity of design practices and diverse use of architects and firms.
3. Ensure design integrity is at the core of the development process

UDIA NSW supports the principle of design excellence we recognise all elements of design aesthetic, liveability, and creating a sense of place; however, a design competition is not the only way design excellence can be satisfied. There must be a level of flexibility when assessing design excellence and not a default assumption that a design competition is the only way to go.

Design excellence competitions are a costly exercise, with the cost to be borne by a proponent. Further, good design must be balanced with commercial and feasibility drivers. Any requirement for a design competition should be clear and also include an increase in GFA/FSR/Height or another reasonable incentive to compensate for the costs of the competition and to enable a potentially costlier design.

We recommend a mandated design excellence competition is limited to state significant development, and optional for other development types with an incentive for GFA/FSR/Height or another reasonable incentive to encourage design excellence competitions.

Section 1: Introduction

UDIA NSW recognises while for certain projects, design competitions may be suitable, for many projects design competitions are costly, slow, and can derail projects. In some instances, there are no winners from a design competition because the winning scheme is impractical and/or unfeasible.

We note the importance of a brief for design excellence. The proponent should be leading the specifications of the brief to the detail they consider necessary, this would help ensure the designs in the competition are reasonable, design excellence is maintained, and provides designers with a strong indication of the vision of the project and the types of designs that would be successful.

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Section 2: Purpose

- Section 2.4 – the competition guidelines should not be required when the developer has demonstrated design excellence, and the design has achieved excellence without going through a design competition requirement.
- Section 2.5 – a design competition should not be required where a scheme is favourably received by council and architects can demonstrate a high level of design.

Section 3: Competition roles

- Section 3.1 lists the role of the Government Architect:
 - There should be an independent chair of the jury, which is nominated by the proponent and agreed by the GA NSW.
 - The jury and GA NSW involvement in the project, 'post competition' is concerning and the role needs further clarification before industry can endorse it.
- Section 3.2 describes the role of the proponent:
 - UDIA NSW considers there needs to be a tempering of the costs, it is unreasonable that all aspects of the Design Excellence Competition are to be funded by the proponent. While proponents can fund reasonable costs, we consider competitions can be costly, especially if there is no consideration of the cost of design on project delivery.
 - UDIA NSW would welcome clarification of the level of detail required for the reference design.
 - There is no definition of marketing cost and no limit, we consider there needs to be consideration of limits on marketing costs.
 - We further recommend the proponent has the opportunity to brief the jury, with equal time as the council.
- Section 3.4 outlines the role of the jury:
 - UDIA NSW considers it is too broad to say the jury must 'represent the public interest'. We consider the jury must make its assessment in line with the project brief, otherwise it is less likely the competition can deliver a desirable outcome.
 - The jury should also have regard for not only the design, but also financial and practical aspects of any proposal to ensure decision making on design submissions can actually be developed.
 - It is critical for the proponent to be included on the jury, therefore it does not make sense that jury members must not have a pecuniary interest or be associated with the proponent or proponent's companies. We recommend the proponent is on the jury.
 - The proponent on the panel helps assess the commerciality of the design, and whether the winning design could actually be delivered.
- Section 3.7 states a probity adviser could be appointed; however, does not define the role of the probity adviser for a design competition.

Section 4: Competition processes

- Section 4.2 outlines types of design competition:
 - UDIA NSW is concerned about the possibility of delays and cost implications of requiring 'Masterplan Competitions' for sites that include multiple buildings, streets and open space. It is particularly concerning that this could be interpreted for greenfield sites.
 - The reference of endorsement by the GA NSW seems to provide GA NSW with power additional to the planning authority.
 - The special scenarios requiring the proponent to contact the Design Excellence Director needs to be further clarified, particularly:
 - What is a very large or complex project?
 - Why must it go through a design competition?
- Section 4.3 provides a step by step guide of the competition process:

Design Excellence Competition Strategy

- We consider it must be clarified that council officers have delegation to endorse the competition strategy and guidelines; otherwise, a competition will have to go to a full council meeting.
- The Design Excellence Competition Strategy include the financial viability required to be achieved, to ensure entrants work to design an achievable scheme.
- The Design Excellence Competition Strategy should note that the ADG and DCP are guides only and cannot be used as compliance schemes.
- We consider both conforming and non-conforming designs should be able to be considered as this would be the type of creativity and innovation that is meant to be promoted through a design competition. This can consider achieving innovation and unique design, and the outcome of the proposals and improvements to the scheme, instead of strict adherence.

Competition Brief

- The Competition brief should include financial metrics which clarify the target budget for the proposal.

Competition Review and Judging

- We consider the reimbursement of costs to GA NSW or Local Council must be capped or otherwise agreed. It is unreasonable that industry pays an uncapped, opaque fee.
- The note in relation to submission requirements highlights the costs and burden to the design community, although has little recognition of the costs to the proponent of the process. Ultimately, the proponent bares the cost of the competition and delivering a design.

Compiling the Competition Report

- UDIA NSW recommends the time for the jury to finalise the Competition Report is defined.
- The competition report should be able to recommend bonuses beyond the maximum available under the provisions, and any bonus beyond the base for design competitions if the design encourages design excellence, possibly including interesting rooftop, activated rooftops.
- There needs to be clarification on what would occur if the approval process changes the winning design.

Completion of a Design Excellence Competition process

- UDIA NSW is concerned about the reference to the Australian Institute of Architects in an independent probity role.

Section 5: Post competition: maintaining design integrity

- UDIA NSW recommends the winning architect be identified as the Design Competition Architect, who can have a lead or a verification role in the project.
- Once the competition is completed and the Design Competition Winning Architect is selected we have great concern about the Design Integrity Panel and Design Integrity Assessment phases. These seem to create red-tape and unnecessary compliance without recognition of the certainty industry needs to move forward from the competition.
- The requirement for frequent reviews by the Design Integrity Panel at the cost of the proponent is fundamentally unreasonable as a cost, but also as it creates significant delays.
- The role of the State Design Review Panel is unclear, and we consider there may be an issue of continuity through the life of the project.
- We recommend the guidelines outline the Design Integrity Assessment would be an open and transparent process.

Section 6: Managing disputes in Design Excellence Competitions

- The disqualification provisions should be expanded to also disqualify entries that do not meet financial metrics for the site or present schemes which are not practical or lead to excessive timeframes for the project.

Other Matters

- UDIA NSW considers that the proponent should be allowed to brief panel members, if the council is also allowed a briefing.
- UDIA NSW also wishes seek clarification to what level panel members can engage with council and the proponent regarding ideas and issues. We do

not want improper influence. We recommend there is also clarification to what level of engagement there should be for entrants.

- We expect entrants should be made to sign confidentiality and statutory declarations in that regard.

UDIA NSW would be pleased to discuss the matters raised in this submission further, please contact Sam Stone, Manager, Policy and Research on 0401 213 899 or sstone@udiansw.com.au to arrange.

Yours sincerely

A handwritten signature in black ink, appearing to read "Steve Mann". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steve Mann
Chief Executive

31 July 2018

Peter Poulet
NSW Government Architect
230 Pitt Street
Sydney NSW 2000

Submission in relation to the Draft Government Architect's Design Excellence Competition Guidelines

Dear Mr. Poulet,

We refer to the Government Architect's draft guidelines for the Design Excellence Competition Guidelines (**GA's Guidelines**). We understand the Government Architect is seeking feedback on the proposed process from the private sectors and this is the purpose of our letter.

Brookfield commends the formation of the GA Guidelines and the underlying leadership of the GA NSW and the NSW State Government in seeking to produce a considered and consistent overarching planning framework and design process. However, we wish to state our objection to some components of the GA's Guidelines.

Firstly, we **strongly object** to the inclusion of selection criteria 2 and 3 as mandatory requirements of Jury members under part 3.4 of the GA's Guidelines. If adopted, these selection criteria will operate to exclude Brookfield as an owner, investor and/or developer from being capable of taking a seat and a voting position on the Jury panel. In Brookfield's view, this is a manifestly unreasonable and unworkable policy outcome for planning and development in NSW. If implemented, it will:

1. exclude Brookfield, and other such developers, from equitable and key decision making consultation through the critical selection of a concept design that will inform outcomes that impact the entire development lifecycle;
2. exclude talent from within a development company with the most directly relevant knowledge of the project from a design, cost, risk, buildability and feasibility perspective as well as informed knowledge of the ongoing operational and design requirements of the end users; and
3. significantly impact on development and investment considerations of large scale or state significant developers.

Secondly, and in conjunction with the points noted above, we object to the general removal of the proponent from critical phases of the competition process defined in part 4.3, Step 03 and Step 04 of the GA's Guidelines. To restrict and exclude the proponent from any part of this process is unreasonable and untenable.

In Brookfield's view, the City of Sydney's current, proponent driven and stakeholder consulted, process achieves design excellence and positive outcomes for development in Sydney which is recognised as a benchmark process within Australia and beyond. We see no reason to steer away from that process in a broader NSW context or to shut out the proponent from aspects that critically relate to and impact on their project in the manner that the GA's Guidelines currently propose to do.

SYDNEY

1. Proposed Design Process - Objection Criteria 2 and 3 of Jury Selection

The GA's Guidelines specifies that Jury members must satisfy the follow criteria:

1. represent the public interest
2. not have a pecuniary interest in the development proposal
3. not be an owner, shareholder or manager associated with the Proponent or Proponent's companies
4. not be a staff member or councillor with an approval role in council's or the department's development assessment process
5. have relevant design expertise and experience.

Selection criteria 2 and 3 above preclude those with a pecuniary interest, or who are 'an owner, shareholder or manager associated with the proponent' from participating in the Jury and subsequently holding a position to vote on the final design outcome. Brookfield question whether having a 'pecuniary interest' would have an adverse or detrimental impact on a nominee from being capable of satisfactorily carrying out their duties as a Jury member. The inclusion of these requirements implies that a potential Jury member would be unable to apply their relevant design experience or expertise, or represent the public interest, in circumstances where they have a financial interest in the company proposing the development, or other 'associated' company. It also implies that having a pecuniary interest necessarily distorts or is at odds to the achievement of design excellence in all instances, The proponent led, City of Sydney competitive design process has delivered over 40 significant projects demonstrating 'design excellence' and clearly demonstrates that pecuniary interest does not preclude design excellence.

2. Jury Independence and Pecuniary Interest

The selection and delivery of an excellent design is essential to meet both the needs of the public interest and the private interests of the developer/owner. In our experience, the long term financial interest of the site owners is dependent on value added during the design phase of the project as such value equates to increased financial returns throughout the life of the development.

In its current form, the GA's Guidelines will effectively silence and exclude those holding the keys to the investment from influencing the selection of the concept design through the competitive design process and consequently how their own investment, with all its significant risks, is then made and executed. It should be recognized by GANSW that a plan that has been determined to exhibit design excellence is not the same thing as a completed building that has been deemed to exhibit design excellence. Restricting the extent to which an owner can influence or contribute to the outcome of a competition will likely have unwanted flow on effects, which may limit the extent to which those plans are translated into excellently designed buildings and places fit for their intended use.

The GA Guidelines do not recognise the ability of companies, such as Brookfield, to provide a pool of in-house urban design and architectural talent within a balanced and objective Jury. The explicit exclusion of internal talent from corporations whose business is the design, planning, delivery and/or management of built forms across NSW (and the world) curtails the ability of a proponent to have any purposeful, consultative role in the design competition selection process. It is, in our view, manifestly unreasonable to suggest an owner doesn't get to select the design of the building they are going to develop.

There are sufficient 'checks and balances' on the terms of reference of a Jury's decision. Core to these requirements are that the members of a Jury 'have relevant design expertise or experience', and that they 'represent the public interest'. A Jury composed of members that are appropriately qualified or experienced, including the proponent, will be in the best position to make a decision that will

enshrine in its outcome not only excellence in design, but will also facilitate the creation of a place that meets the needs of the public, now and into the future.

We note that acting objectively in this circumstances should not have to mean 'without an interest', as long as the members of a jury are motivated and committed to design excellence and are considerate of their duty to the public interest at all times, we view that they will be capable of acting in an appropriate and effective manner.

3. The Competitive Design Process Brief

In addition to the establishment of a balanced and objective Jury, the approval of a robust and outcome-focused design competition brief can ensure that a competitive design process enhances the public good. One of the roles of the Jury is to assess the extent to which the competition entry has addressed the approved competitive design process brief. Under the GA's Guidelines, the competitive design process brief must be endorsed by the consent authority or GANSW. As a representative of the end user, the owner and the developer, Brookfield actively manage and input into the design competition brief.

In judging how respondents have addressed the design competition brief, having members that have actively produced the brief should be considered necessary for effective consideration of the proposed designs. Whilst some level of independence and a diversity of views is useful to challenge existing views and enhance project outcomes, having a detailed understanding of the projects objectives and constraints is vital to achieving design excellence. Often such developments have a long history prior to the design competition process, and whilst a proponent can attempt to capture and summarise this history in a written brief, often such familiarity of knowledge and experience defies translation into the written page. Ensuring there is a mechanism to capture this experience on the voting Jury panel will place the Jury in the best position to make informed assessment on what constitutes design excellence and in choosing best design for each proposal or given location. Such an inclusion will also reduce the time frames for delivery and mitigate against the risk of disputes that may follow from a lack of detailed understanding of the project outcomes (say between a proponent unsatisfied with the nominated design).

The best design outcomes are achieved by having a robust competition brief, which can be endorsed by the consent authority or GANSW, and a balanced Jury who have detailed project specific expertise and experience and also able to act in the public interest.

4. Jury Outcomes and Involvement of Proponent

According to academic research, a criticism of design competitions includes the probability that outcomes will reflect the preferences of jurors rather than clients or users¹. Other research has queried whether, because of the influence of external designers and architects, competition processes are actually able to provide a product capable of meeting the needs of the end user².

Banerje and Loukaitou (1990) even suggest that *"the needs of the users of "substantive" clients become secondary and incidental, since the designers are preoccupied with the judges' tastes and preferences"*.

The ability of a proponent to nominate direct representatives from the site owner or from their own internal talent pool operates to ensure that the design excellence process itself has advocacy from within the proponent's team. Excluding all owner representatives from the process could isolate the

¹ Davison, Freestone, Hu & Barker (2018) *The impacts of mandatory design competitions on urban design quality in Sydney, Australia*.

² Banjeree, T. and Loukaitou-Siderus (1990) 'Competition as a Design Method: an Enquiry' *Journal of Architecture and Planning Research*, 7(2)

process from the proponent and give the impression that a design is being ‘imposed’ on an owner, who would then be expected to fund its delivery, with all its inherent risks, without fair consultation and the ability to select the design.

Should a design be selected that could not be delivered, or was unsuitable to the end user in some manner, the entire design excellence process will be put into question going forward. It follows that the inclusion of balanced representation on behalf of the proponent (such as Brookfield) within the Jury who can offer both objective advice in relation to architecture and built form, and in respect of the end-user while operating in a manner consistent with the public interest would undoubtedly benefit any competitive design process.

5. Global Design Competition Standards

As far as we are aware, no other global city has proposed a governance structure that would preclude a proponent, or professionals who are affiliated with the proponent, from having fair and equitable involvement in the outcome of the competitive process. A summary of domestic and international examples of relevant competitive design policies are detailed below:

Organisation	Publication	Quote	Comment
Royal Australian Institute of Architects	<i>Guidelines for Architectural Design Competitions 2013</i>	<i>“Competition juries may be composed of representatives of the client/and or eventual users”</i>	Specific consideration of the proponent’s involvement in a jury.
	<i>Architectural Competitions Policy (Adopted April 2015)</i> ³	<i>“4.6.1 Jury size and composition – The jury may include a representative of the Client or Sponsor, but not as jury chair.”</i>	Specific consideration of the proponent’s involvement in a jury.
Council of the City of Sydney	<i>The City of Sydney Competitive Design Policy (Adopted December 2013)</i> ⁴		No prohibition of involvement in Jury.
Royal Institute of British Architects	<i>RIBA Competitions Guidance for Competition Entrants</i> ⁵	<i>“Judging Panel – Composition – “as a guide, design professionals should be drawn from the client body and wider stakeholder groups together with other recognised industry specialists”</i>	Specific consideration of the proponent’s involvement in a jury.

³ https://repository.architecture.com.au/download/archive/documents_and_files/national-policy/Architectural-Competitions-Policy-Final-Adopted-17-Apr-2015.pdf

⁴ http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0004/128065/Competitive-design-policy-adopted-09-December-2013.pdf

⁵ <https://www.architecture.com/-/media/files/competitions/riba-competitions-entrant-guide.pdf?la=en>

The above competition procedures have been tried and tested throughout the world and support the inclusion of a mechanism which allows the client body to be present on the Jury panel. It remains unclear to us why the GANSW would exclude the owner/investor from the final decision making process in these circumstances. We also note that such an exclusion should apply equally to projects where a government agency or institution is the proponent.

6. Brookfield as an Asset Owner and Investor

Brookfield is a long-term investor, owner, developer and asset manager both globally and locally. Brookfield views the early phases of the design process as critical to a project's success, and such phases require significant investment and careful planning to ensure an optimal outcome is achieved for all stakeholders, end users and the public.

In our efforts to achieve outstanding quality in the built environment, we often challenge the world's leading architectural firms to provide us with creative, innovative and solution-oriented design services under a competitive process. Having run such competitions in New York, London, Dubai, Calgary, Sydney and Perth, we embrace the competitive process to achieve design excellence for our long-term investments. The result of this market driven approach is that Brookfield has created best in class buildings that deliver public space and positive community outcomes.

Brookfield has a wealth of global experience across the design and delivery of a broad range of asset classes including in particular commercial office space in key CBD locations. The end users of these spaces not only include our tenants, but also include the general public as people visit or simply pass-through our spaces and places. We are committed to ensuring that Brookfield places promote our business as well as the city that we work in and with. As such we have an obligation to our investors and end users to be actively involved throughout the design process and a positive motivation to deliver and maintain design excellence in our built projects.

Brookfield has a significant experience with tenants via our asset and facilities management business, and we are committed to maintaining successful, ongoing, relationships with our valuable tenants, the "end user". Ensuring that we have the ability to have a fair hearing, actively participate in an equitable and fair way, be consulted on the key issues or concerns with a project and be capable of influence where and on what our capital is invested is imperative to satisfying our duty to our investors, and ultimately our business's success.

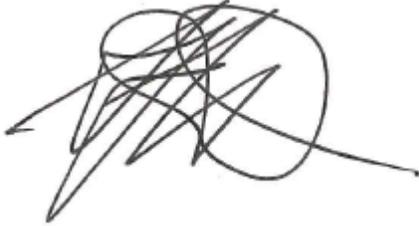
7. Conclusion

Brookfield applauds the Government Architect NSW's leadership in promoting design excellence and values the opportunity to submit feedback in response to the GA's Guideline.

In respect of Jury member requirements Brookfield firmly believes that where a proponent is required to undertake a mandatory design excellence process (be they an owner, shareholder or manager) then they should have a fundamental right to be directly involved in this process. The blanket preclusion of individuals who have pecuniary interests in a project from participating in a Jury unnecessarily and unreasonably restricts the proponents ability to critique the competition entries and to have direct input into the selection of the winning design. Brookfield maintains that the representation of the proponent within the Jury will ensure that the projects response to the competition brief and development criteria is balanced and adequately considered, will positively contribute to achievement of design excellence and will serve the public interest.

We would welcome the opportunity to meet and to discuss this with you further. If you have any questions in relation to the above, please contact me.

Yours sincerely,

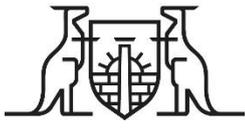
A handwritten signature in black ink, appearing to be 'Stuart Harman', written over a circular scribble.

Stuart Harman

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Australian
Institute of
Architects

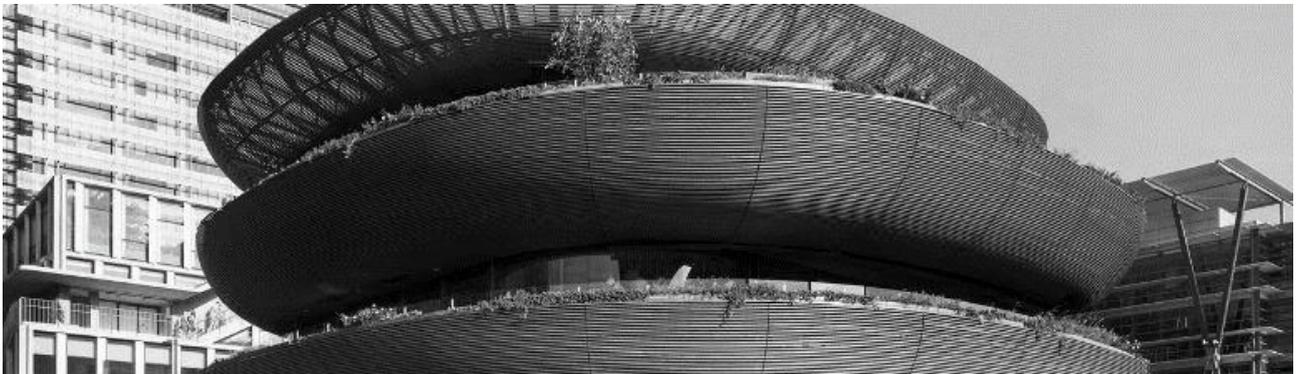
Draft Design Excellence Competition Guidelines

Submission to

Government Architect NSW

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PURPOSE

This submission is made by the NSW Chapter of the Australian Institute of Architects to GANSW in response to the Draft Government Architect's Design Excellence Guidelines.

At the time of the submission the office bearers of the NSW Chapter (Australian Institute of Architects) are: Andrew Nimmo (President), Shaun Carter (Immediate Past-President), Elizabeth Carpenter, Liz Westgarth, Kathlyn Loseby, David Tickle, Gemma Savio, Monica Edwards, Callantha Brigham, Jacqui Connor, Sam Crawford, Michael Tawa, Tricia Helyar, Peter Kemp and Chloe Rayfield. The Executive Director for the NSW Chapter is Joshua Morrin.

This submission was prepared by Kate Concannon and Joshua Morrin for the NSW Chapter Council.

INFORMATION

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 12,000 members across Australia and overseas. More than 3,000 of these are based in NSW.

The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture.

The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

1. Overview

The Australian Institute of Architects (the Institute) appreciates the opportunity to comment on the *Draft Government Architect's Design Excellence Competition Guidelines* (the Guidelines), replacing the Director General's Design Excellence Guidelines, 2011.

With growing use of design competitions as a procurement method, we believe these updated Guidelines will be of increasing value and importance for architects, proponents, consent authorities and the wider public, as well as for the quality and character of the built environment.

We are pleased to see this positive step to support a framework for design excellence competitions that ensures the requirements of consent authorities are balanced with both the objectives of proponents and the needs of entrants for procedural fairness and reasonable compensation.

We are also pleased to see the appropriate emphasis the Guidelines place on design integrity, which is an essential factor in assuring the progression of a proposal's design excellence from winning submission to built outcome.

It is the Institute's firm view that, done well, Design Excellence Competitions can lead to very positive outcomes, in terms of built forms and public interest more generally. However, their success depends up considered preparation and committed implementation that ensures:

- clear and genuine objectives that form the criteria against which entries will be evaluated are articulated in the competition brief;
- procedural fairness, including transparency of the jury's decision;
- submission requirements are proportional to the project and participant fees;
- remuneration for entrants and jurors is fair and clearly outlined in the competition brief;
- design integrity is supported by and throughout the process; and
- emphasis is placed on the ideas presented in submitted designs, rather than a high degree of resolution.

The Institute's feedback on the Guidelines is expressly intended to promote these competition conditions, strengthening provisions already present in some cases and recommending additional provisions in others.

We have arranged this feedback in a sequence consistent with the draft document's order, which we consider reflects a sound and logical structure.

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2. Feedback

1. Introduction

1.2 What is Design Excellence?

Recommendation	1.2.1 Defining design excellence – While we note that the list of references provided in furnishing a description of design excellence is not intended to be comprehensive, we recommend it be extended to include amenity and functionality, which are always critical criteria for design excellence.
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2. Purpose of this document

2.4 When to use these Guidelines?

Recommendation	2.4.1 Use by local councils – We suggest including a recommendation that local councils with their own policy/guidelines (1) compare the provisions of their own with those presented in the Guidelines and (2) consider amendments that stand to create better alignment with the balance of consent authority, proponent and entrant requirements and interests enshrined in the Guidelines.
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3.3 The Entrant

Recommendation	3.3.1 Entrant diversity – We support the stated approach to entrant diversity, which encourages the development of emerging architects and, we believe, results in better design outcomes. However, the clause would benefit from some definition of ‘emerging’. We acknowledge that this is a contested term however propose that a working definition might be characterised by the possession of skill that exceeds experience, rather than by the age of practitioners or the scale of the practice.
	3.3.2 International participation – The Institute recommends that the guidelines stipulate a limit on the proportion of international practices participating in any given competition. We strongly advise that no more than 50% of entrants should be international practices, including Australian practices assisting an international practice. We also advise that, where international entries are permitted, the competition brief

provides an explanation of what value international participation is anticipated to bring.

3. Competition roles

3.4 The Jury

Comment

Juror eligibility – We support the prescribed eligibility criteria for jury members, particularly those requiring that jurors:

- possess appropriate design skills and expertise;
- represent the public interest;
- have no pecuniary interest in the proposal; and
- have no role in the consenting authority’s development assessment process.

Jury size and composition – We support the proposed Jury size(s) and composition, with equal numbers of jurors nominated by the proponent and consent authority, and with a single member nominated by GANSW.

Recommendation

3.4.1 Jury size and composition – We recommend that at least one juror must have demonstrated achievement of design excellence in the building type. Additionally, just as the Guidelines encourage diversity among entrants in order to achieve the best results, so too should they encourage diversity among jurors, particularly diversity in age and gender.

3.4.2 Juror role and responsibilities – We recommend that an additional clause be added describing the role and responsibilities of jurors, and that this reflect the extended role we propose be applied as standard to help ensure both:

- quality of the brief at the front end of the competition, and
- design integrity at the later stages. Such a clause might include the following:

The role of jurors is to provide independent expert advice in preparing the Competition Brief, evaluating submissions, and in developing and ensuring the design integrity of the winning scheme. The role of jurors therefore transitions from brief consultant to impartial judge, and then joint custodian of the vision presented by the selected scheme.

Typically, jurors are expected to:

- review and provide feedback on the competition brief as a critical step in its development*
- review competition submissions*

- *prepare preliminary analysis of competition submissions and review with the proponent and/or consenting authority*
- *attend competitor presentations*
- *evaluate submissions with reference to the objectives and parameters outlined in the brief as well as public interest*
- *participate in jury assessment*
- *contribute to the jury report, which should clearly identify the elements of a scheme that are considered essential components in design excellence, as well as areas requiring additional consideration and/or resolution*
- *participate on the Design Integrity Panel (unless the State Design Review Panel is called upon to act as the Design Integrity Panel, in which case only some members of the jury may be required)*
- *review pre-submission design (for DA or other as required)*
- *coordinate comments on pre-submission to consenting authority.*

In all cases, jurors are required to evaluate submissions impartially and with reference to the objectives and parameters outlined in the brief as well as public interest.

3.4.3 Juror fees – It would be appropriate to provide some guidance around juror fees, and these should be commensurate with the augmented role (and hours involved) we recommend the jury play throughout the process, ie before and after the submission evaluation phase.

3.5 The Jury Chair

Comment

The odd number rule for jury panels together with the appointment of the GANSW nominee to the Chair role provide a sound and logical mechanism for resolving a conflicted jury.

3.8 Technical advisers to the Jury and to Entrants

Comment

Members of the Institute report that access to proponent commissioned consultants is often too limited, necessitating the engagement by entrants of their own consultants. As the upfront costs of this would otherwise be prohibitive, entrants typically rely on securing unpaid services provided by the

consultant with the intention of securing paid work should the entry be successful. This is challenging however when the proponent has its own consultant team and there is minimal likelihood of ongoing work for the entrant-engaged consultant.

Members also report that they have had problems with proponent commissioned technical advisers 'leaking' information among entrants.

Recommendation	<p>3.8.1 The challenges practices experience around obtaining their own consultants would be mitigated if the proponent provided greater access to technical advice. Alternatively, by establishing deliverables that emphasise ideas, rather than requiring highly resolved designs, the need for additional technical advice during the competition submission preparation phase would be reduced.</p> <p>3.8.2 Robust probity in the provision of technical advice to participants is critical to procedural fairness. We recommend including an additional statement within this clause to the effect that Technical Advisers are required to maintain strict vigilance in all dealings with entrants to ensure they do not inadvertently or otherwise transfer confidential information.</p>
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4. Competition processes

4.2 Design Excellence competition types

Comment – type rules	<p>It is appropriate that different competition types should apply depending on factors including the project's size, complexity, public impact, cultural significance and capital investment value. The Guidelines' three proposed types correspond appropriately to the ranges of projects for which competitions are anticipated to be held. However, we consider the following provisions and requirements should also be included in these frameworks.</p>
Recommendation	<p>4.2.1 For Type B and Type C competitions, the Competition Adviser should be required to inform entrants who are unsuccessful in progressing to Stage Two (or other shortlist) of that fact at the time the successful entrants are informed of their progression.</p> <p>4.2.2 Where a shortlist is created from entrants in a single stage competition or Stage Two entrants in any other competition, this shortlist should consist of no more than two entrants. If additional material is required to be submitted by entrants at</p>

this stage, additional fees commensurate with the work should be made payable.

- 4.2.3** A Design Excellence Masterplan Competition should be mandated for proposals over a certain size, which the Guidelines' competition type should specify.

Comment – deliverables

The type descriptions as they stand make no mention of deliverables, but expectations around deliverables are a key problem for entrants across all competition types; the cost burden of deliverables required is significant for practices and pressure to 'over-produce' with fully resolved schemes is high. In addition to the resource waste of several schemes being developed to development application level, the cost burden can limit practices' ability to participate in competitions and can place pressure on design and resourcing through the life of a successful project as the practice works to recover the entry costs – outcomes that are detrimental both to the achievement of design excellence and its realisation in built form.

Recommendation

- 4.2.4** It would be instructive to provide some general guidance in each type description as to what level of submission requirements is appropriate.

Comment – fees

We are pleased to see the Guidelines require that all entrants in a Type A or Stage Two phase of Type B or C are paid. We support the view that some in kind reimbursement of the time and resources invested by entrants not proceeding beyond Stage One should be made, such as publicity or submission exhibition.

Recent research by the Institute shows the cost of competition participation for entrants is typically much higher than the fees earned. This creates significant financial pressure for many practices, especially smaller and emerging practices, which limits their ability to participate and in turn can lead to reduced diversity and poorer design outcomes from competitions.

Recommendation

- 4.2.5** On the matter of publication/exhibition of submissions, we recommend that entrants must not be bound by any confidentiality clause preventing them from publishing their own submissions. This is in the interest of both competition transparency and entrants' fair use of their own work for promotional purposes.
- 4.2.6** There are two ways the fee/participation cost issue can be addressed: by providing clear guidance to proponents on fairer (ie higher) fees; and/or encouraging reduced submission requirements alongside an emphasis on the value of

competitions for eliciting the best concepts and ideas, rather than highly resolved designs.

In either case, we recommend that fee guidelines be included in this section. These guidelines may be developed from any of a number of calculations, eg benchmarking of actual participation costs, a reasonable percentage of expected construction value or proponent uplift, the extent of deliverables or the duration of the submission preparation period (eg \$12,000 per week).

4.3 The Design Excellence Competition Process (step-by-step)

Step 01: Developing the Design Excellence Competition Strategy

Comment Reference designs have in some cases been seen as debasing the profession, as well as the spirit of design competition, by effectively limiting the design outcome to ‘sticking a facade on it’.

Recommendation **4.3.1** We recommend including in this step advice that the reference design must not be utilised to substantively establish or limit the design approach.

Step 02: Writing the Competition Brief

Recommendation – Competition Brief development and inclusions **4.3.21** In addition to the competition brief requiring review and endorsement by GANSW and/or the consent authority, we recommend that the jury be given the opportunity to review the brief and provide feedback before it is finalised and distributed to entrants. The competition brief is critical in setting out the requirements against which the jury is to assess submissions, and jurors can flag potential issues.

4.3.22 In addition to the listed inclusions of the brief, it is the Institute’s view that the brief documentation should include:

- the proponent’s objectives – while the design competition process should encourage new ideas introduced by entrants, it is incumbent upon the Proponent to present entrants with pre-established goals and priorities for the development (eg yield targets, performance aspects, sustainability, material innovation etc) against which the jury will then assess submissions. The Guidelines should address the importance of the proponent having developed clearly considered objectives for the proposed development that can be articulated in design criteria.

- the fee scale – the brief should clearly outline what fees are payable and when, for successful and unsuccessful entrants
- a clear statement on how materials in excess of specified deliverables will be received/treated. We support the position of the Guidelines on this point, which state: *The Competition Advisor should ensure that only the materials requested in the competition brief are included in the judging process to ensure equity for the Entrants and clarity for the Jury. Entrants must not be encouraged to submit more than has been asked for in the submission requirements.* (4.3 Note: Submission requirements)

4.3.23 As part of the Competition Brief development, there should be an independent assessment of the brief versus the budget to ensure that the two are aligned.

Note: Submission requirements

Comment

Members frequently report that submission requirements are often not only excessive in proportion to the fees payable, but that the extent of resolution and documentation required leads to significant wastage, with multiple submissions being developed to DA level and significant opportunity lost by practices while preparing submissions at this level of technical resolution. We support the Guidelines' statement that *'Submission requirements should be the minimum sufficient to explain the design merits of a proposal'*.

4.3.24 This note on submission requirements provides important guidance on several key considerations with significant impact on entrants and the viability of participation. As such, we suggest this content be given greater prominence in the document.

4.3.25 One of these considerations is the relationship between submission requirements and fees – a relationship entrants frequently report as being notably unbalanced. We suggest that the word 'relate' in the phrase *'submission requirements...must relate to the scale of the project and the fee paid to the Entrants'* be replaced with the phrase ***'be properly commensurate'***.

4.3.26 We also recommend that this note explicitly promotes the development of competition briefs that emphasise the value of submissions' ideas, rather than high levels of design resolution.

This creates fairer conditions for entrants, and also leads to better design outcomes.

Step 03: Competition Review and Judging

Comment	We support the Guidelines' position that requests for additional information should be avoided wherever possible and that entrants are to be paid where additional work is required.
Recommendation	4.3.31 We recommend supplementing the phrase ' <i>Entrants must be paid</i> ' with ' <i>additional fees commensurate with the work requested</i> ', as well as adding strong advice that, unless there are exceptional circumstances, only two entrants should be invited to submit additional materials.

Stage 05: Completion of a Design Excellence Competition process

Recommendation	4.3.51 For consistency, this step should be referred to as 'Step 05', rather than 'Stage 05'.
	4.3.52 We recommend including an additional step (Step 6) for ensuring transparency of the completed competitive process. This should include a debrief to entrants as standard and a recommendation, wherever possible, to hold a public exhibition of entries. This promotes transparency and confidence in the competition process and can provide instructive feedback for unsuccessful entrants.
	4.3.53 The matrix of steps and competition types should be amended such that the post competition processes are allocated their own numbered step (Step 7). This gives appropriate emphasis to this stage of proceedings, which is critical in ensuring the initial competitive process is carried through to a realised vision of design excellence.
	4.3.54 We recommend that the Guidelines should also note that all entrants should be free to publish their own submitted work from a suitable time indicated in the competition briefing documents.

5. Post competition: maintaining design integrity

Comment

We are pleased to see the strong emphasis the Guidelines place on this phase of the process, which is critical for ensuring that the elements of a winning design that enshrine design excellence are carried through further developments of the design and into built form.

We strongly support the Guidelines' position that the designer of the winning submission is to be nominated as the Design Architect for the duration of the project (regardless of whether the site is sold). This continuity is also essential for ensuring design integrity.

We also support the Guidelines' requirements that, for consistency, the Design Integrity Panel should consist of competition jurors or, in the case that a State Design Review Panel is established, that this Panel must include some representative(s) from the competition jury.

Recommendation

The Institute recommends strengthening the emphasis on ensuring design integrity by mandating either a design integrity phase or design integrity assessment as part of the requirement for obtaining final statutory recognition that a competition has been fully completed.

6. Managing disputes in Design Excellence Competitions**6.1 Disqualification****Comment**

The conditions for disqualification are fair and appropriate. We particularly support disqualification in the case that an entry is received after a competition's nominated closing date and time. We also support the Guidelines' position that disqualification of entrants for not meeting all submission requirements is not encouraged.

Recommendation

6.1.1 We would add that outstanding materials submitted late should not be accepted nor considered by the jury in evaluating the entry.

Glossary**Reference design****Correction**

Typographical error in Reference Design: two commas after 'floor space and height'.

We thank GANSW for the opportunity to give feedback on the draft Guidelines and look forward to the next iteration.

If any clarification around the feedback we have provided is required, please contact the Institute on 02 9246 4055 or email nsw@architecture.com.au.

Yours faithfully



Andrew Nimmo
NSW Chapter President
Australian Institute of Architects

Reference Documents

The Australian Institute of Architects' *Architectural Competition Policy*
https://repository.architecture.com.au/download/archive/documents_and_files/national-policy/Architectural-Competitions_Policy_Final_Adopted_17_Apr_-2015.pdf

The Australian Institute of Architects' *Guidelines for the Conduct of Architectural Competitions*
https://repository.architecture.com.au/download/archive/documents_and_files/national-policy/Architectural_Competition_Guidelines_Feb_2016.pdf

The Australian Institute of Architects' *Guidelines for the Conduct of Architectural Competitions*
http://sitefinity.architecture.com.au/docs/default-source/policy-advocacy/aia_architectural_competition_model_conditions_feb_2016.pdf?sfvrsn=2

10 July 2018

Our Ref: F16/823
Contact: Alison Phillips – 9562 1634

Director of the NSW Government Architect
Department of Planning and Environment
320 Pitt Street
Sydney NSW 2000

Dear Sir/Madam,

Re: Submission – Government Architects Design Excellence Competition Guidelines

I refer to the *Government Architects Design Excellence Competition Guidelines* (Draft). Council has reviewed the documents and support and commend the exhibited document including: detailed explanation of the design excellence process, the setting of a clear guide and structure for undertaking the competitive process, clarification of the competition roles and ensuring the design integrity phase upholds its standards. The draft document is welcomed by Bayside Council as a best practice document that will guide local government through the design excellence process.

It is noted that Bayside Council officers provided comment on the Draft Design Excellence Competition Guidelines on the 14th December 2017 and that the Guidelines were supported. A series of document specific comments were also provided by Council officers and it is noted that many of those comments have been addressed. Council notes that the following are addressed to ensure a fair and equitable process is adopted across local and state government.

3. Competition Roles

3.2 The Proponent

It should be noted that the proponent payment of administration fees is subject to the consent authorities adopted fees and charges.

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3.3 The Entrant

It is noted that design competitions, at times, place undue pressure on the architectural/landscape architecture/urban design industry in terms of resourcing and overtime commitment to the project. To ensure equity is upheld through design excellence competitions it may be worthwhile outlining minimum payment requirements to and that the GANSW or the consent authority monitor payment.

3.4 The Jury / 3.5 the Jury Chair

Following on from the above comments it may also be worth outlining the payment scale of fees to the Jurors, otherwise it should be noted that this is subject to the consent authorities adopted fees and charges.

3.7 Probity Advisor

Is a probity advisor recommended on projects over a certain amount i.e. \$30 million or should this be determined and outlined by the consent authority?

5. Post competition: Managing Design Integrity

The Rockdale LEP contains Clause 6.14 Design Excellence in which 3. (a) *an architectural design competition that is consistent with the **Design Excellence Guidelines**, defined as the Design Excellence Guidelines adopted by the Council and in force at the commencement of Rockdale LEP 2011.... Or, if none have been adopted, the Design Excellence Guidelines issued by the Secretary.*

Maintaining and managing design integrity through the life cycle of the process can be challenge for Council. It is important that there is a mechanism in place to ensure that the guidelines can be relied upon to ensure integrity is maintained through the entirety of the design excellence process.

A clear reference to the below is required within the *Government Architects Design Excellence Competition Guidelines* to ensure that design integrity can be maintained:

SEPP 65 – Design Quality of Residential Apartment Development – Part 4 Application of Design Principles, Clause 28 Determination of development applications – (5) A consent authority is not required to obtain the advice of a relevant design review panel under subclause (1) if an architectural design competition that is consistent with the Design Excellence Guidelines has been held in relation to the proposed development

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with reference to the definitions;

architectural design competition means a competitive process conducted in accordance with the Design Excellence Guidelines.

Design Excellence Guidelines means the Design Excellence Guidelines issued by the Director-General in October 2010. (To be updated with finalisation)

As discussed with the Government Architect's Office, design integrity can be further managed and ensured through the Jury report detailing and identifying key design features that have led to the scheme being awarded Design Excellence.

If you have any queries regarding this submission do not hesitate to contact Council's Urban Designer, Alison Phillips, on 9562 1634.

Yours faithfully



Clare Harley
Manager Strategic Planning

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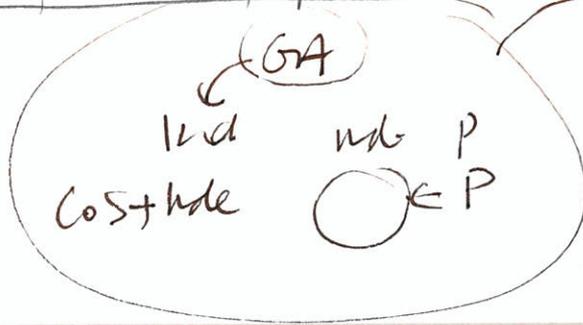
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City of SYDNEY feedback



SDRP. incl. 1 DAP member on the jury for assurance
 → LIA nominee.

DRAFT

Government Architect's Design Excellence Competition Guidelines

ON EXHIBITION MAY 2018

- Plain clarity to the process.
- 3 types of SSD in the city.

Contents

1. Introduction
2. Purpose of this document
3. Competition roles
4. Competition processes
5. Post competition: maintaining design integrity
6. Managing disputes in Design Excellence Competitions

Glossary

WIP - COS Rev04-Comments:

NOTE: The markup comments provided in this document are high level, focused on the highlighted sections only and are not intended to be exhaustive in detail.

Legend of abbreviations:
 COS Policy = City of Sydney Competitive Design Policy (Adopted 9 Dec 2013)
 Guidelines = Draft Government Architect's Design Excellence Competition Guidelines (on exhibition May 2018)
 DEX = Design Excellence

Introduction

- 1 Design competitions are a well-tested and highly successful procurement model; they help prioritise good design and can bring the highest quality of thinking and originality to a project.
- 2
- 3
- 6

12 Competitions generate a range of solutions to each design challenge, allowing for the comparative evaluation of different approaches. A competition also demonstrates a commitment to high quality design to the community and to public funding and other regulatory bodies. For public authorities, competitions can drive neighbourhood, city or regional improvements in public buildings and spaces, private development and regeneration and encourage development that is healthy, responsible, integrated, equitable and resilient.

Comparative evaluation is a key factor in how competitions can achieve better design outcomes. It enables the relative merits of different design responses to a brief to be analysed and evaluated and ensures the chosen design can be verified as the best response.

1.1 What is a design competition?

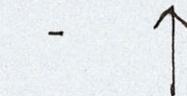
A design competition is a competitive design process in which an organisation, private or public ('The Proponent') invites designers (the 'Entrant') to submit a proposal for a precinct, site or building. An independent panel of design professionals (a 'Competition Jury') will select the successful design based on an agreed set of design-related selection criteria.

Commented [AM1]: It is unclear as to what this means?

Design integrity process

- jury
- DAP
- DIP

Jury is ADVISORY



Important in COS because of the COS jury makeup.

GOVERNMENT ARCHITECT NEW SOUTH WALES



but SSD's are significant by nature.

Comps

PROVE that what you are getting is the best.

(how else do you prove it).

12 What is Design Excellence?

Design Excellence is a term used in Environmental Planning Instruments (EPIs) to refer to the design quality of a building or project and describes an expectation that a project will achieve a level of design quality that is above and beyond the usual. It also describes a variety of requirements and processes that are intended to support this. The description of Design Excellence is broadly consistent across planning legislation where it is often summarised as 'the highest standard of architectural, urban and landscape design.' Design Excellence descriptions vary in their detail but include references to context, accessibility, public domain, streetscape, massing and sustainability.

13 What is a Design Excellence Competition?

The Design Excellence provisions of an EPI may require or provide the opportunity for a project Proponent to hold a design competition for the design of a building, precinct or site. This process is often referred to as a 'competitive design process'. In these guidelines, any competition of this type is referred to as a Design Excellence Competition.

Undertaking a Design Excellence Competition alone does not guarantee the achievement of Design Excellence. A Design Excellence Competition is one stage in a longer overall process intended to lift the design quality of a project to the level of Design Excellence. Pre-competition processes such as preparation of a reference design, and post competition Design Integrity are also critical to the achievement of Design Excellence. Importantly, approval of a scheme remains with the consent authority.

2. Purpose of this document

21 This document and the Director General's Design Excellence Guidelines, 2011

This document, the Government Architect NSW Design Excellence Competition Guidelines replaces the Director General's Design Excellence Guidelines, 2011. These Guidelines will give the agencies, individuals and organisations that use them essential and practical advice on how to plan and deliver a successful Design Excellence Competition to meet statutory requirements.

22 Objectives

The objectives of this document are:

- to establish the steps a proponent is required to undertake to demonstrate that a proposed development is the result of a Design Excellence Competition
- to clarify the timing of a Design Excellence Competition in a staged Concept Proposal or Development Application (DA) process
- to support Proponents to establish a Design Excellence Competition process and brief that ensures the relevant Design Excellence requirements of the consent authority are balanced with the objectives of the Proponent; and procedural fairness for competitors.

23 Who should use these Guidelines?

These Guidelines are intended to support the following groups:

- proponents of a Design Excellence Competition and their consultants, including planners, competition advisors and probity advisors
- competition Entrants undertaking a Design Excellence Competition, such as architects, urban designers and landscape architects
- assessment planners at a state and local level assessing projects that have undertaken a Design Excellence Competition in accordance with these Guidelines.

DRAFT

Commented [AM2]: For consideration this might be reworded :

For the purposes of these Guidelines, Design Excellence means the outstanding design quality achieved by the submission judged to be the winner of a competitive design process carried out in accordance with these Guidelines, and which demonstrates its outstanding design quality in any subsequent Development Application, to the satisfaction of the relevant authority

Commented [AM4]: If the Guidelines are to fulfil this objective it is suggested that it explicitly state in all cases the prerequisite for the achievement of design excellence is a competitive design process.

This statement is missing from the Guidelines.

Commented [AM5]: Suggest deleting this line and later in the document adding 'where a LEP contains or refers to a Design Excellence policy, then the LEP provisions prevail'.

Commented [AM3]:
A Design Excellence Competition forms one part of the planning process, devised to elevate design quality to achieve Design Excellence.

*The process involves:
Preparation of a suitable Design Excellence Strategy and a clear Competition Brief before the start of a Design Excellence Competition.
Maintaining the qualities of the competition winning submission and the winning Entrant as the Lead Architect, through the detailed design development and Development Application phases.*

These are critical to demonstrating to the Consent Authority that Design Excellence has been achieved.

Commented [AM6]: inform

DRAFT

who decider + when? cut out the choice. Only use if you don't have your own. No choice.

24 When to use these Guidelines?

These Guidelines should be used when a Design Excellence Competition is a requirement and:

1. These guidelines, or the Director General's Design Excellence Guidelines, 2011, are referenced
2. A local council, their delegate or a local planning panel, joint regional or Sydney planning panel is the consent authority, and the local authority has chosen to use these Guidelines (hereafter referred as a Local Council project); or
3. The Minister for Planning or their delegate is the consent authority and a local design excellence competition policy or guideline (or equivalent) does not exist or apply (hereafter referred to as 'State Significant projects' for the purposes of these guidelines).

These Guidelines are not required to be used:

1. Where a local government area has its own design excellence competition policy or guidelines (or equivalent) and chooses to use them.

Where the local guidelines are being applied for a proposal where the Minister is the Consent Authority GANSW will assist the Department of Planning in administering the Design Excellence Competition under those local guidelines.

25 Where a competition is not required

In some cases, an EPI may contain specific conditions for when a Design Excellence Competition is not required. Where this is the case, and these guidelines apply and the Proponent wishes to use this condition, they must demonstrate to GANSW and the consent authority that such a process would be unreasonable and unnecessary in the circumstances or that the development:

- involves only alterations or additions to an existing building, and
- does not significantly increase the height or gross floor area of the building, and
- does not have significant adverse impacts on adjoining buildings and the public domain, and
- does not significantly alter any aspect of the building when viewed from public places and
- satisfies the specific conditions of the relevant EPI when considering whether a competition is required.

3. Competition roles

The organisation and delivery of a Design Excellence Competition requires the close collaboration of a range of professionals. It is critical that each party understands its practical and legal obligations in facilitating a Design Excellence Competition.

3.1 Government Architect NSW

The Government Architect NSW (GANSW) plays a different role depending on whether the project is State Significant or a Local Council project.

For **State Significant** projects, the GANSW will, in consultation with the Proponent and the consent authority:

- endorse the proposed competition process, including the competition strategy and brief
- endorse the Jury selection
- chair the Competition Jury (GANSW or their representative)
- host the Competition Jury session
- post competition, endorse that the overall process has met the statutory requirements of a Design Excellence Competition, including any Design Integrity process nominated by the Jury, the Brief or the Strategy.

For **Local Council** projects where these Guidelines apply, the GANSW will, in consultation with the Proponent and the consent authority:

- endorse the proposed competition process, including the competition strategy and brief; and
- endorse the Jury composition; and
- undertake any other role, as agreed with the consent authority.

3.2 The Proponent

The Proponent refers to the party who is undertaking the Design Excellence Competition. The Proponent can be a public or private entity.

The Proponent is responsible for the procurement of key documentation prior to the commencement of the competition. To achieve this, the Proponent is advised to engage the services of a Competition Advisor who will manage these tasks on their behalf:

- engaging a suitably qualified architect, urban designer or landscape architect to prepare a Reference Design
- preparing the Design Excellence Competition Strategy including the selection of the competition type
- completing pre-competition planning, including preparation of the competition program, nomination of Entrants and Jury members and early engagement with the Government Architect NSW and/or the consent authority as required

Commented [AM7]: It is recommended that the words 'and chooses to use them' are deleted from this paragraph.

Reason: These Guidelines do not define the mechanism whereby a local government may exercise this choice.

1. It may not be practical for this choice to be made for each competition in each city that has its own DEX policy.

2. Would the Proponent put a request to Council as part of their DEX Strategy or Brief for the Council to choose to use the GANSW Guidelines?

3. Would the Council or LPP or other Consent Authority have to make a resolution to make this choice for a DEX Comp to be carried out in their local govt area?

Commented [AM8]: If an EPI states where a Design Excellence Competition is not required, then it will specify the relevant person or body that is authorized to make this determination. In the Sydney LEP it is the Consent Authority that makes this determination. In the Newcastle LEP it is the Director-General that certifies that a DEX Competition is not required.

What is the role of the GANSW in this process?

The way this paragraph is currently worded pre-empt's which person/body is authorized to make this determination.

1. Is it intended the pathway to obtaining such a determination involves the GANSW and the Consent Authority as the decision makers?
2. If so how is this pathway proposed to be managed?

Some Environmental Planning Instruments* (EPIs) contain provisions that specify when requiring a Design Excellence Competition would be unreasonable or unnecessary. If a Proponent thinks it would be unreasonable or unnecessary for a Design Excellence Competition to be held for their proposal, it is recommended that the Proponent consult the relevant authority - i.e. it might be the local Consent Authority, the Director-General or other - to discuss the circumstances of their development.

*It is suggested that EPIs are defined in the Glossary: 'Environmental planning instruments' is the collective name for LEPs, and SEPPs, but does not include development control plans (DCPs). The provisions of EPIs are legally binding on both government and developers.



How do we incentivise comp's to get away from this.

should we make a note somewhere that the GA now takes responsibility for DC's? minimise discretion make it rules. SSD specific. (as special note).

- developing the Competition Brief
- confirming fees to be awarded to Entrants
- providing secretariat support to the Jury session and compiling the Competition Report.

The Proponent must undertake the Design Excellence Competition in accordance with these Design Excellence Competition Guidelines.

The Design Excellence Competition is to be fully funded by the Proponent including—but not limited to—all aspects of preparation, remuneration of Entrants, Technical Advisors and Jury, secretariat support and marketing.

33 The Entrant

The Entrant refers to a person or a team who has either been invited or has elected to enter a Design Excellence Competition. As an Entrant, all persons or teams must prepare a submission in accordance with the submission requirements of the Competition Brief. Teams can be made up of qualified architects, urban designers and/or landscape architects with one firm nominated as the team lead, typically the qualified architect. All Entrants must be able to demonstrate experience in the delivery of high quality buildings, landscapes or urban design.

A Design Excellence Competition will deliver the best results where the Entrant group is diverse. Diversity can take the form of variation in the size of the design practices participating, the extent and type of their previous experience, or their location. Design Excellence Competitions can encourage and facilitate emerging firms to compete alongside more established practices, promoting fresh thinking and new approaches. Partnering of smaller practices with larger, more experienced firms can offer a means to support a greater range of design responses, grow industry talent and support diversity. Depending on the project, it may be appropriate to either invite or promote to an interstate or international audience.

Entrant teams may be multi-disciplinary design teams but should not be required to include specialist consultants such as planners, quantity surveyors, ESD consultants, etc. to meet the submission requirements outlined in the Competition Brief.

34 The Jury

Jury members must have appropriate design expertise and should be recognised advocates for Design Excellence. A majority of Jury members must be registered in their profession. The composition of the Jury is critical; it must engender the respect of the community and—in the case of an Open Design Excellence Competition—will play a significant role in generating interest and participation from Entrants. The Jury must be impartial, knowledgeable, and commit sufficient time and energy to the deliberation process. In some cases, Jury members with relevant specialist design skills may be proposed. For instance, for Masterplan Competitions the Jury must include urban design and landscape architecture expertise.

Jury members must:

- represent the public interest
- not have a pecuniary interest in the development proposal
- not be an owner, shareholder or manager associated with the Proponent or Proponent's companies
- not be a staff member or councillor with an approval role in council's or the department's development assessment process
- have relevant design expertise and experience.

The Jury is paid for their participation by the Proponent.

The minimum will be 3 Jury members for standard projects and increase to 5 Jury members for larger, more complex or high profile projects. Where there are 3 jury members, the Jury must include one nominee of each of the following:

- the Proponent; and
- the consent authority; (or the local authority where the consent authority is the Minister or their delegate); and
- the Government Architect NSW (GANSW).

Where the Jury has 5 members, the Jury must include the following nominees:

- the Proponent – 2 nominees; and
- the consent authority; (or the local authority where the consent authority is the Minister or their delegate) – 2 nominees; and
- GANSW – 1 nominee

The GANSW nominee will chair. There must be an odd number of Jury members.

DRAFT

Commented [AM9]: Currently this section does not specify the key duties or overarching role of the Jury.

Clarify the role of the Jury. Is it to:

- make a comparative evaluation of Entrants' submissions?
- select a winning submission?
- recommend design improvements? necessary to achieve design excellence
- decide if there is no winning submission?
- prepare a competition report?

Commented [AM10]:

Add to the list that 'Jury members must:
—Not be a staff, employee or consultant in the employ of the Proponent or the Proponent's companies

Commented [AM11]: to fulfil their role

have negotiated with others to remove this.

Local Government section

— must receive a set of documents.

35 The Jury Chair

The Jury Chair formally convenes the Jury and is responsible for conducting the review process in accordance with the Competition Brief and the Competition terms and conditions. The role of the Jury Chair becomes particularly important if the Jury's decision is split or conflicting. The ability of the Jury Chair to negotiate disagreement and explore acceptable compromises is essential in achieving a positive conclusion.

36 The Competition Adviser

A Competition Adviser is an independent professional with appropriate experience responsible for the smooth running of the competition processes. A Competition Adviser is required for Design Excellence Competitions for State Significant projects and is strongly recommended in other jurisdictions.

The Competition Adviser guides the Proponent through the process and provides advice and/or services in relation to each stage. A good Competition Adviser will balance the interests of the Proponent with the needs of the Entrants.

The role of the Competition Adviser can include assisting the Proponent with:

- preparing a list of the professional appointments (i.e. jurors, technical advisors, etc.) and advising the Proponent on the financial implications of such appointments
- engaging with the consent authority and/or GANSW
- preparing the Design Excellence Competition Strategy
- preparation of the Competition Brief and associated documents
- project management of the design competition process to ensure timeliness, rigour, independence and transparency in the process such as receiving and storing competition entries, checking entries for compliance to submission requirements, liaising with Entrants over issues that may have occurred during the competition process and general issues of probity
- supervising the receipt of entrant questions, preparing answers in consultation with the Proponent and dispatching responses
- organising the Jury selection
- organising the forum through which the Jury will assess entries and formulate their recommendations
- preparing of draft and final Jury reports for the endorsement and signatures of the Jury members.

37 Probity Adviser

The Proponent may choose to appoint a Probity Adviser to oversee the integrity of the process. This is recommended for large, complex or high value projects, especially those involving public funds, or projects that are unusual or contentious.

38 Technical advisers to the Jury and to the Entrants

Technical advisers may be called upon during the Design Excellence Competition process to provide specialist advice either to the Entrants or to the Jury.

Where the advice is being provided to the Entrants, the technical advisers will be selected by the Proponent and must provide the same services to all Entrants.

Where the advice is being provided to the Jury, it must be in written form and the Technical Advisors may undertake a briefing with the Jurors prior to the judging session. Advice is limited to technical and compliance matters and must not include design commentary.

Technical advisers are paid by the Proponent.

39 Observers

The Competition Adviser may allow observers to be present during the jury process. The Competition Adviser must consult with the Jury prior to granting approval to any Observers.

Observers may be part of the Proponent team, stakeholders, representatives from the consent authority, researchers or others that can gain the approval of the Competition Adviser to be present. Observers must not make any comment or participate in any way in the judging of the submissions.

+ local government.

fee scales.
\$50M → \$50k
\$100M → \$100k
etc.
(or more).

Commented [AM13]: Provide guidance as to the role and number of Technical Advisors.

Guidance may include:

1. Technical advice is primarily provided in the form of reports and inclusion in the brief
2. The number of Technical Advisors be commensurate to the scale and complexity of the development.
3. The number of Technical Advisors be limited (in most cases to QS and Planning)
4. Additional Technical Advisors are to be appointed at the discretion of the Jury.

Additional advisors may be beneficial to the competition process where expert advice may not be readily addressed in the competition brief, e.g. a Flood Engineer in the case of a significantly flood affected site or a Vertical Transport Specialist in the case of a very tall tower.

Where expert advice is addressed in the head brief and appended specialist reports, then engaging a Technical Advisor is likely unnecessary.

Commented [AM12]: Clarify the Competition Adviser is appointed by the Proponent.

Commented [AM14]: Clarify the role of Observers:

- Observers nominated by the consent authority is to verify that the competitive process has been followed appropriately and fairly.
- Proponent observers limited to essential personnel

For consideration:

- Limit the total number of observers attending a competition.
- Add a statement that Observers are provided with sufficient notice of all relevant meetings that they are to attend.
- Add a statement that Entrants are to be advised of who will be in attendance during Presentations including Jury members and all Observers.

4. Competition processes

41 Overview

A Design Excellence Competition process can take several forms depending on the project size, its complexity, its Capital Investment Value (CIV) and other factors. It is important to understand the different competition types and select the one that is most suitable for the scope of the project.

42 Design Excellence Competition types

These guidelines outline three types of competition that will satisfy statutory Design Excellence Competition requirements. Depending on the project type and other considerations, the Proponent may select one of the three recommended formats in these Guidelines.

Type A:

Invited single-stage Design Excellence Competition

This is a single stage competition with a minimum of three and maximum of five designers or design teams invited to participate.

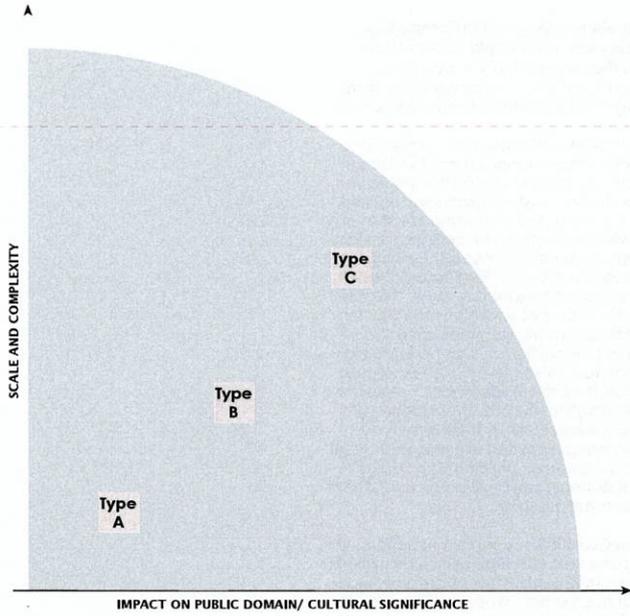
Selection of the Entrants is by direct invitation. The invited design teams should all be of a high standard, demonstrating a past body of work that has been awarded, critically reviewed or by other means able to show a commitment to design excellence. The list should display a diversity of experience and approach across the selected design teams.

The Type A Design Excellence Competition is recommended for projects of a well established type in areas with a straightforward planning framework.

All Entrants are paid.

DRAFT

Choosing the right competition type



Formatted: Section start: New page

Commented [AM15]: This diagram does not sufficiently assist in determining the selection of an appropriate competition type.

What are the criteria for selection or trigger for the undertaking of a specific competition type?

Agree there are issues with the diagram but I don't think we should make a hard + fast rule about which type. It's about giving helpful advice to competition advisors on which type is suitable... ?

↑
opportunities to select things that are not covered by the current model

DRAFT

Type B:

Invited by EOI Design Excellence Competition

This competition type is one which permits any qualified designer to respond to an open Expression of Interest for selection into an invited Design Competition. The Expression of Interest would usually require demonstration of capability, the proposed team and a short response to the brief. This format provides all Entrants with an equal opportunity to be selected based on their capability and to consider design teams not currently known to the proponent. The EOI of a Type B Design Excellence Competition is unpaid.

A shortlist of 3-5 Entrants is selected by the Proponent to proceed to Stage Two in accordance with the process and assessment criteria outlined in the EOI and Design Excellence Competition Strategy.

The Type B Design Excellence Competition format is recommended for projects of any size where the Proponent is seeking to engage with a broader sector of the design industry. Entrants in the invited Design Competition must be paid.

Type C:

Open Design Excellence Competition

This competition type is one which permits any qualified designer to prepare a design response for a first stage, usually to present a Concept or Strategy for the Project. This format provides all Entrants with an equal opportunity to be selected based on the merit of the design proposal, rather than proven capability or prior experience. The first stage of an Open Design Excellence Competition is unpaid and often anonymous.

A shortlist of Stage One Entrants is selected by the Jury in accordance with the process and assessment criteria outlined in the Competition Brief. The shortlisted Entrants are then invited to participate in a second stage. Anonymity can be retained through the second stage or lifted.

This Design Excellence Competition format is recommended for high profile, culturally significant projects or projects of any size where the Proponent is seeking to engage with the public and the design community to lift the profile of the project.

It is not a requirement to pay stage one Entrants however some other form of reimbursement such as publicity or exhibition of submissions is recommended.

Stage two Entrants must be paid.

Design Excellence Masterplan Competition

A Design Excellence Masterplan Competition can follow the terms of a type A, B or C Design Excellence Competition process but it takes the urban design of a larger site or precinct as its subject.

A Design Excellence Masterplan competition can, in certain circumstances, mean that Design Excellence competitions for all the individual buildings within the master plan are not required. However, it is expected that some key sites or buildings within the master planned area are still nominated as competition sites. In these cases, a Design Excellence Competition Strategy (see 4.3 below) would outline the procurement, the brief and a shortlist of proposed design practices for those buildings or public domain elements not proposed as competition sites and nominating the sites that would undergo a Design Excellence Competition. The Design Excellence Competition Strategy would make the case that a higher level of design excellence is likely to be achieved through this format than that of running individual competitions for each building. The Design Excellence Strategy must be endorsed by GANSW and the consent authority.

Masterplan Competitions are recommended for larger sites and precincts that will include multiple buildings and elements of the urban fabric such streets and open space. Proponents considering this type of competition should contact GANSW early in the process to discuss the details of the Design Excellence Strategy.

Payment of entrants is in accordance with the Type A, B and C descriptions above

Special scenarios

For very large or complex projects, the Proponent must contact the Design Excellence Director at GANSW at the commencement of the project to discuss a bespoke Design Excellence Competition Strategy, tailored to the needs of the project.



*if you have
can't strike out
then make the
rules based.*

Commented [AM16]: Special scenario
This **Special Scenario** likely undermines the intent of this Guideline to establish the undertaking of a competition as prerequisite to achieving design excellence.

It is recommended **Special Scenario** is deleted.

Commented [AM17]:
What are the tests, criteria or triggers for a site to be determined as "very large or complex project".

Commented [AM18]: Design Excellence Competition Strategy
In regard to the Strategy:
•How is this "bespoke" process to be managed?
•It may not be practical as there are likely a vast array of "bespoke" strategies.

What are the requirements of Strategy?
It is recommended requirements and a clear framework are established to ensure consistency in process.

43 The Design Excellence Competition process (step-by-step)

This section outlines the steps a Proponent and the competition stakeholders must take when running a Design Excellence Competition to ensure the process will meet statutory requirements and the objectives of these Guidelines.

Step 01: Developing the Design Excellence Competition Strategy

The first step in establishing a Design Excellence Competition is to prepare a Design Excellence Competition Strategy. The Strategy is procured by the Proponent and typically prepared by the Competition Advisor. It outlines the type and format of the Design Excellence Competition to be undertaken.

For **State Significant** projects, the Design Excellence Competition Strategy must be endorsed by GANSW. Engagement with GANSW prior to requesting SEARS for the project is highly recommended.

For **Local Council** projects, the Design Excellence Competition Strategy must be approved by the local authority, with or without the involvement of GANSW depending on the specific guidelines of that local authority. Approval must take place prior to the commencement of any competition process.

The Design Excellence Competition Strategy must include a Reference Design. This can requirement can also be satisfied through provision of a site specific DCP or Concept Development Application (DA).

Note: Studies pertaining to the distribution of additional floorspace, height or other bonus incentive (if applicable)

For Design Excellence Competition schemes that seek additional height, floor space or any other bonus incentive that may be available under an EPI, the potential impacts of these incentives must be modelled prior to undertaking the competition, either by the consent authority or the Proponent, through the Reference Design or Concept DA.

In distributing any additional floorspace or height, the following considerations must be appropriately addressed:

- site and context analysis
- public domain layout, including levels, uses, access and circulation, dedications and hierarchy of spaces

Where a two-stage Development Application (DA) is to be undertaken, the Design Excellence Competition Strategy must be undertaken as part of the first stage / Concept DA.

The Design Excellence Competition Strategy defines:

- the location, context and extent of the Design Excellence Competition site
- the objectives of the Design Excellence Competition
- the type of design excellence competition(s) to be undertaken
- an explanation for the selection of competition type, including how the selected process(es) will meet the objectives of these Guidelines and those of the Proponent
- for a Masterplan Competition, the proposed relationship between the masterplan competition and any future design excellence processes, including potential future competition requirements—for example for individual buildings
- the number of designers involved in the process(es)
- the means for ensuring diversity amongst participating designers
- timelines and programme

- whether the Design Excellence Competition is pursuing additional floor space, height or other incentives that may be available under an Environmental Planning Instrument (EPI)
- where the proposed process differs from that outlined in a relevant LEP, or these Guidelines, a justification for the variation
- whether the brief references a draft EPI or Planning Proposal yet to be determined
- in the case of a Masterplan Competition, whether the competition forms part of a Planning Proposal or similar process.

- built form massing and dimensioned envelopes
- overshadowing analysis
- storm water management strategy
- traffic management and servicing strategy, parking numbers and location
- ecologically sustainable development strategies and benchmark commitments (including connection to green infrastructure); and
- heritage impacts.

In determining whether to award bonus height and/or floor space or other incentive, the consent authority must consider:

- whether the Design Excellence Competition has been undertaken in accordance with these Guidelines; and
- the recommendations of the Competition Report.

done here
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Commented [AM19]: Clarify at the head of this section where the DEX Strategy sits within the planning approvals pathway.

Commented [AM20]: The DEX Strategy is procured and prepared by the proponent. It may involve the services of a Competition Advisor but not necessarily so.

Suggest deleting the reference to the Competition Advisor here. The role of the Competition Advisor is set out elsewhere in these Guidelines

Commented [AM21]: Suggest this is amended to more fully reflect the DEX Strategy as defined in the following these Guidelines.

It is proposed the Strategy best operates in association with a Concept DA/site specific DCP. Together the Strategy and planning requirements set out the foundations to a competition process and serve to mitigate risk in the approvals pathway.

Where there is no approved Concept DA/site specific DCP the site conditions may not be fully understood, hence:

- the proponent bears the risk of undertaking a competition which may not result in achieving design excellence nor development approval
- the public interest may not be appropriately served

Commented [AM22]:

Instead of 'State Significant projects' it should refer to State Significant development, so the terminology is consistent with that recommended for Local Council (see the following note)

In regard to SSDs, the relevant questions are:

1. Is the local authority the delegated Consent Authority?
2. Is the State Significant Project (SSP) subject to the local LEP?
3. Does the local authority have a DEX policy ... [1]

Commented [AM23]: Use of the term 'Local Council projects' suggests development undertaken by and/or for Council.

Suggested re-wording: *For development where a local government body is the Consent Authority and where these Guidelines are to apply, approval of the DEX Strategy must take place prior to that DEX Competition commencing.*

Commented [AM25]: Suggest this is deleted. This provision invites variations which may undermine the intent of this document.

Commented [AM24]: What statutory weight does the Reference Design have?

- In the City's planning approvals process, the Reference Design has no statutory weight;
 1. It is provided by the proponent only as supporting documentation to a Concept DA/site specific DCP to enable a DA to be appropriately assessed. ... [2]

Step 02: Writing the Competition Brief

Following endorsement of the Design Excellence Competition Strategy by the consent authority and/or GANSW, the Proponent must prepare the Competition Brief. All details about the conduct of the Design Excellence Competition are to be contained within the Competition Brief and no other document, including the terms of reference and supporting information contained in the appendices. The Competition Brief is to be reviewed and endorsed by GANSW and/or the consent authority prior to its distribution to competition Entrants.

The Competition Brief must include the following:

- the shortlisted architects, where known
- a description of the type of competition, the role of the Proponent and the competition process
- for an open competition, details of the process and criteria for shortlisting Entrants and clarification on who can and cannot enter
- site details including site dimensions, key adjacencies and any other relevant circumstantial information
- details of the relevant planning controls (SEPP, LEP and DCP) including envelopes and setbacks and any requirements of an adopted concept Plan under Part 3A of the Environmental Planning and Assessment Act (the Act); or SSD Concept Proposal
- details of any prior or relevant planning consents
- details of the estimated Capital Investment Value (CIV) for the project
- where a site includes a heritage item, is located within a conservation area or near a heritage item, include a Heritage Impact Assessment and advise competitors to consider any conservation guidelines set out in the document
- if the site is subject to flooding a Flooding Report and guidance on the flood levels the design teams are required to design to
- description of the proposed uses within the project, the percentage of each use, the proposed gross floor area (GFA) and FSR
- 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 Design Excellence Competition
- the process for ensuring Design Integrity post competition
- the target benchmarks for ecologically sustainable development
- for a Masterplan Competition, maximum GFA, minimum open space, maximum heights and the required or preferred use mix
- level of documentation required for the submissions: the brief shall state the number, nature, scale and dimensions of the documents, plans or models required. (see note on Submission Requirements)
- the terms of reference of the Competition Jury including the nomination of a Jury Chair; names of all Jury members, assessment criteria and weighting of each criteria
- a statement that confirms that the competition

- is a public process and that all Entrants' names must be clearly visible on entries (except where an anonymous competition type is proposed)
- a statement that the copyright of any entry to the competition remains with the originator of the work
- a disclaimer stating that the Jury's decision will not fetter the discretion of the consent authority since the consent authority will not form part of the judging process
- statement of the fees to be paid to each of the Entrants and, as appropriate, the awarding of any prizes, commissions or bonuses to winning Entrants. Fees paid must be appropriately scaled to recompense Entrants for the extent of work undertaken
- a competition program that allows for a minimum period of 28 days for the preparation of submissions by Entrants (noting that some competition types may require significantly longer)
- a clear process to follow for clarifications and questions during the competition period
- a statement noting the name and contact details of the Competition Advisor.

The GANSW and/or consent authority will assess the Competition Brief per the above requirements and may require the Brief be amended prior to its endorsement and issue to the Entrants.

Note: Designing to a budget

Budget is one of the many factors that designers consider in the development of a design response to a brief and site – designing to a budget is a key skill and professional capability. Within a competition environment, Entrants have a responsibility to design a scheme that has the potential to be delivered within the stated budget, whilst acknowledging that competition schemes typically represent a concept level design response. To assist Entrant teams to meet budget requirements, Proponents may provide the services of a cost consultant to provide advice to entrants during the preparation of their submissions. Any fees for cost consultancy must be covered by the Proponent and may not be included in the fees paid to Entrant teams.

Commented [AM26]: Are competition deliverables proposed to be limited commensurate to competition fees paid relative to the scale and complexity of development?

It is suggested competition deliverables are limited

Commented [AM27]: review

make sure
LGA's are
given the opp to
comment on strategies
+ briefs -

Step 03: Competition Review and Judging

A Jury session will be convened to review all submissions according to the criteria set out in the Competition Brief. This session will be held within 2 weeks of the close of the competition.

In preparation for the Jury session, the Jury members must receive a copy of submissions at least one week prior to the Jury session, or longer in the case of large or complex projects.

It is the responsibility of the Jury and Jury Chair to complete their deliberations at the Jury session, however if subsequent meetings are required these must follow as early as possible. Requests for additional information should be avoided wherever possible. Where additional work is required to allow for the completion of deliberations, Entrants must be paid.

In addition to the Jury members, the Competition Advisor and Probity Advisor (where relevant) must be present during deliberations.

A representative of the assessment team of the relevant consent authority must be invited to attend the Competition Jury session as an observer. This enables the assessing planners to better understand design considerations and assists in the provision of consistent advice through the design development and planning consent process.

If the proposed development includes a heritage item or is within a heritage conservation area the consent authority's heritage advisor must provide a heritage assessment of the proposal to the Jury, with costs of advice to be covered by the Proponent.

For **State Significant** projects, the Proponent will be responsible for reimbursing GANSW for administrative services.

For **Local Council** projects, costs will be reimbursed to the local council as a fee to be determined by the council.

Note: Submission requirements

Competitions can put a significant financial burden on the design sector, especially when submission requirements are not well defined or enforced. Submission requirements should be the minimum sufficient to explain the design merits of a proposal and must relate to the scale of the project and the fee paid to the Entrants. They may include elevations, plans, diagrams and digital representations. The submission requirements can also be defined by page or word limits. The Competition Advisor should ensure that only the materials requested in the competition brief are included in the judging process to ensure equity for the Entrants and clarity for the Jury. Entrants must not be encouraged to submit more than has been asked for in the submission requirements. In the first stage of any Competition where this stage is not paid, submission requirements must be kept to a minimum to reduce the financial impact on Entrants.

Step 04: Compiling the Competition Report

Submissions must be graded by the Jury against assessment criteria established in the Competition Brief and its considerations and decision recorded in a Competition Report which is to be prepared by the consent authority or Proponent, as relevant, and signed by all Jury members.

The Report will:

- summarise the competition process and include a copy of the Competition Brief
- outline the assessment of the design merits of each of the entries (or a summary of the entries in the case of stage one of an Open Competition)
- present the Jury's decision, including the rationale for the choice of a nominated design and the design excellence qualities that it exhibits (or a shortlist in the case of stage one of an Open Competition); and
- outline any recommended design amendments that are relevant to the achievement of Design Excellence through subsequent design development (not required for stage 1 of an Open Competition)
- describe the design excellence qualities exhibited in the competition winning submission.

The Report may:

- nominate the winning submission as having the potential to achieve Design Excellence; or
- indicate the highest graded submission and recommend design quality improvements that could be made to permit its endorsement as a winning submission that has the potential to achieve Design Excellence; or
- decline to endorse any entry if the submitted entries do not demonstrate the potential to achieve Design Excellence.

The Jury is expected to reach a decision and finalise the Competition Report in a timely fashion.

Where bonus floor space, height or other incentive as may be allowable under an EPI is sought, the Competition Report can recommend a bonus, up to the maximum available under the provisions of the relevant statutory provision (where applicable); or, recommend a bonus subject to design quality improvements; or not recommend any bonus.

The recommendations of the Jury with regards to any bonus do not represent approval of that bonus. Approval remains with the consent authority and the recommendations of the Jury will not fetter their independence.

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← suggest removal (no bows in an SSP anyway)

Commented [AM28]: How is the jury able to make adequate assessment of a competition proposal to recommend a "bonus"?

Competition submissions are conceptual only and thus provide insufficient information for an assessment to determine awarding a "bonus".

It is the role of the Consent Authority at the detailed design stage to confirm if design excellence has been achieved and consequently determine the awarding of a "bonus" up to the maximum available under the provisions of the relevant EPI.

It is recommended the Jury's role is defined to:

- confirm if a scheme has the potential to achieve design excellence, and
- make any further recommended design amendments relevant to the achievement of design excellence.

← Audit by comp. adviser.

Stage 05: Completion of a Design Excellence Competition process

A statutory requirement that a design competition be held in relation to the proposed development is deemed to be satisfied upon:

- issue of a final Competition Report signed by the competition Jury, and/or
- completion of any further competitive processes recommended by the Jury following a requested review, and/or
- completion of any further design excellence process required by the endorsed Design Excellence Competition Strategy, Brief or the Jury, for example, subsequent building specific Design Excellence Competitions for buildings following a Masterplan Competition.

Completion of the Design Excellence Competition does not alter the status of any required subsequent Design Integrity process.

Note: Documentation requirements and probity

To ensure probity, the Proponent must ensure that the documentation of the Design Excellence Competition 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 Government Architect NSW or the consent authority.

		COMPETITION TYPE		
		TYPE A	TYPE B	TYPE C
STEP 1	DESIGN EXCELLENCE COMPETITION STRATEGY	A Design Excellence Competition Strategy (the Strategy) is required in every instance. The Strategy will nominate the Competition Type, combination of types or in the case of No Competition will outline the process for achieving Design Excellence without the benefit of a competitive design process		
STEP 2	DEVELOPING THE BRIEF	Prepare a detailed Brief with all required supporting documentation	Prepare a Competition Brief AND an EOI document which clearly sets out the aims of each stage of the Type B Competition	Prepare Competition Briefs for each of the Open and Invited Stages of the Type C Competition.
STEP 3 Competition Review and Judging	OPEN CONCEPT DESIGN COMPETITION			STAGE 1: Open National or International Competition for a Design Concept or Strategy, often Anonymous
	OPEN EXPRESSION OF INTEREST (EOI)		An open Expression of Interest asking for a proposed Design Team and demonstration of capability	The Competition Jury should verify the capability of all shortlisted teams before proceeding. Additional information may be requested from some or all teams
	INVITED DESIGN COMPETITION	An invited list of 3-5 Design Teams are asked to prepare a proposal	STAGE TWO: 3-5 Design Teams chosen to present a more detailed proposal on the basis of their EOI	STAGE TWO: 3-5 Design Teams chosen to present a more detailed proposal on the basis of their Design Concept or Strategy
STEP 4	COMPETITION REPORT	The Jury compiles a Competition Report which may: —award a winner and confirm the Design Excellence of that scheme. —award a winner but ask for further development to achieve design Excellence or —declare that Design Excellence has not been achieved and is not possible with the proposed schemes. The Jury's recommended actions to be undertaken from this point should be clear in the Report		
STEP 5	FINAL COMPETITION REPORT	The Jury confirms that Design Excellence has been achieved in a Final report.		
	POST COMPETITION PROCESSES	Asset by the Strategy, ensure Design Excellence is maintained through regular review by the Competition Jury or through a Design Excellence Assessment prior to DA lodgement		

5. Post competition: maintaining design integrity

5.1 Purpose

To ensure that design quality continues through design development, construction drawings and into physical completion of the project (or relevant equivalent stages for a Masterplan project) the Competition Strategy and/or Brief must recommend a process to monitor Design Integrity. As a minimum, this will require the designer of the winning submission to be nominated as the Design Architect for the duration of the project. This requirement is not affected if the site is sold.

In addition, and to ensure Design Integrity is retained through construction, the following detailed information will be required to be submitted with a development application:

- key cross sections, partial plans and partial elevations through external walls, balconies and other key external details. Drawings to be fully annotated at a scale of 1:50, or if necessary 1:20, showing details, materials, finishes and colours, so that the details and materiality of the external facades are clearly documented
- a materials sample board with materials represented proportionally to the extent of their use
- revised 3D photomontages.

5.2 Design integrity phase

The Design Excellence Competition Strategy, Brief or Jury may require that the Competition Jury continue to review the project to ensure the standards of Design Excellence are upheld through the further development of the design. The Competition Jury is sometimes called the Design Integrity Panel during this phase, though the membership of the panel or jury should be consistent.

For State Significant projects, GANSW may recommend that the State Design Review Panel (SDRP) act as the Design Integrity Panel. In this case the SDRP Terms of Reference will apply. To ensure continuity of advice, a minimum of one and maximum of three Jury members must be nominated to attend SDRP sessions. The terms of reference for the SDRP provide guidance on this process.

The DIP would typically review the design at the following stages:

- during the pre-lodgement stage
- during the Development Application stage
- prior to lodgement of any Section 96 which modifies the design

- prior to issue of the Construction Certificate (or equivalent post approval process for Crown projects)
- prior to issue of the Occupation Certificate (or equivalent post approval process for Crown projects).

Each meeting of the DIP should be documented within a report or minutes and should include certification that the design retains or is an improvement upon the design excellence qualities exhibited in the competition winning submission will be required at each stage.

The cost of running a DIP is borne by the Proponent.

5.3 Design Integrity Assessment

Where a Design Excellence Competition-winning scheme is subsequently developed, or modified and the Competition Jury has not been involved through a Design Integrity Phase, a Design Integrity Assessment (DIA) may be required to be submitted to the consent authority with the application.

The DIA will advise 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.

Where a continuation of design integrity has not occurred, the Competition Jury 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.

The DIA must be prepared by the Competition Jury and the cost borne by the Proponent.

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Commented [AM29]:
To avoid conflicting processes:

Where a local authority has its own competition requirements and design integrity provisions, clarify the **Design Integrity phase** outlined here is set apart from and separate to those provisions.

6. Managing disputes in Design Excellence Competitions

6.1 Disqualification

Entrants will be disqualified in the following circumstances:

- if an entry is received after the nominated closing time and date
- if an Entrant discloses their identity (in an anonymous competition)
- if an Entrant attempts to influence the Jury's decision; or
- if the design is found not to be the original work of the declared Entrant.

In other circumstances, for example where Entrants do not meet other submission requirements, disqualification may also be considered but is not encouraged. Recommendations will come from the Competition Advisor or the Probity Advisor. The Jury must review any recommendation for disqualification but may choose not to support it. The decision rests with the Jury.

6.2 Managing disputes

In the event that:

- the Jury does not reach a decision,
- the Proponent is not satisfied with the nomination,
- the Proponent wishes to make a substantive modification,
- the consent authority considers the project submitted for approval (or as subsequently modified) to be substantially different, or
- the consent authority indicates it will not grant consent to the design nominated,

either the Proponent or the consent authority may request that the Competition Jury reconvene and make a recommendation as to what further competitive process or requirements would be necessary to permit an alternative or revised design to satisfy the design excellence provisions of the statutory provision.

The cost of the review will be borne by the Proponent.

Commented [MI30]: What does this even mean? The circumstances under which entrants will be disqualified is outlined above.

If there are any other instances where Entrants do not meet submission requirements these should be outlined above as it will be used by the Proponent to inform the Brief procedures.

Commented [MI31]: The use of the word dispute is quite strong language. Items nominated below are not all disputes.

Commented [MI32]: Clarify what is being substantially modified, the winning scheme?

Commented [MI33]: This point relates to where continuity of design integrity has not occurred

Glossary

C

Competition Brief Detailed information provided to Entrants, which sets out Proponent and project aspirations, site information, budget, functional requirements and any other parameters relevant to development of an effective design concept for the project and the terms for running the competition.

Competition Jury Group of qualified design professionals selected to assess submissions. Jury members must be selected from relevant professions and must have relevant expertise and experience to participate. Jury members must represent the public good and be recognised advocates for Design Excellence.

Competition Report Detailed report containing a summary of the Competition process, the Jury

deliberations and the scoring of each assessed submission against the competition evaluation criteria. It must also contain the determination of the winner, any recommendations of the Jury and be signed and endorsed by the Jury.

D

Design Architect The design architect is the leader of the design team. The winning design team maintain a key role in the design and development of the proposal through the whole process.

Design Competition A design competition is a competitive procurement process in which a Proponent invites designers to submit a proposal for a precinct, site or building. An independent panel of design professionals (a Jury) will select a winning design based on an agreed set of design-related selection criteria.

Design Excellence Design Excellence is a term that exists in statutory planning to refer to the design quality of a building or project and to a

variety of requirements intended to lift design quality. The description of Design Excellence is broadly consistent across planning legislation where it is often summarised as 'the highest standard of architectural, urban and landscape design.'

Design Excellence Competition Strategy Document outlining the proposed approach to delivering a Design Excellence Competition as mandated by and EPI. The Strategy must include key considerations such as the Competition Type, details of

the subject site as well as a program for the delivery of the design competition process.

Design Integrity Post design competition process which ensures that the design intent of the competition winning scheme is maintained or enhanced during subsequent design and development stages, and through to construction.

Design Integrity Assessment Assessment carried out by the Design Integrity Panel which determines the extent to which the design intent and design excellence of the winning concept design has been upheld through subsequent design stages.

Design Integrity Panel Panel of design professionals engaged to review a project as it progresses through design development and construction against the intent of the winning competition entry. Typically the Competition Jury would continue in this role.

Design Review Design Review is peer-review process where a panel of qualified design professionals review the evolution of a project at key design and delivery milestones. Design Review is recognised to be effective in raising design standards and aspirations.

Design Review Panel A panel of qualified design professionals

providing independent, impartial advice on design proposals to lift the design quality of projects.

E

Emerging Practice Refers to a practice in the early stages of establishment or one that whilst well established and with a reputation for design excellence in different, smaller or less complex project types is yet to undertake or is just beginning to undertake work of a larger or more complex type. Emerging practices can provide fresh perspectives and new design ideas.

G

Good Design Good design is a phrase that encapsulates the aspirations of 'Better Placed' including its vision for NSW, its definition of good process and its outline of objectives for the built environment. Good design creates useable, user-friendly, enjoyable and attractive places and spaces, which continue to provide value and benefit to people, the place and the natural environment over extended periods.

L

Landscape Architect For the purposes of these Design Excellence Competition Guidelines, a landscape architect is a professional active

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Commented [M134]: There is inconsistency between definitions here and those defined in Better Placed.

If the intent is to achieve consistency of language in communication of design across NSW, it is recommended that the glossary terms are aligned with the terms in Better Placed.

Commented [M135]: Recommend the definition of Competition Jury aligns with the description of 'Jury' under Section 3.4 of the draft Guidelines. A further recommendation is to include 'Jury members must include a majority of registered architects with urban design expertise.'

Commented [M136]:
The Competition Reports should summarise:

- Competition process and include a copy of the Brief;
- Outline the assessment of the design merits of each scheme;
- The rationale of the choice of preferred design;
- Outline any further recommended design amendments.

Suggested edits to the definition of Competition Report as follows:
Detailed report containing a summary of the Competition process, the jury's evaluation of the design merits of each deliberations and the scoring of each assessed submission, against the competition evaluation criteria. It must also contain the determination of the winner, any design amendments recommended by the Jury, and be signed and endorsed by the Jury.

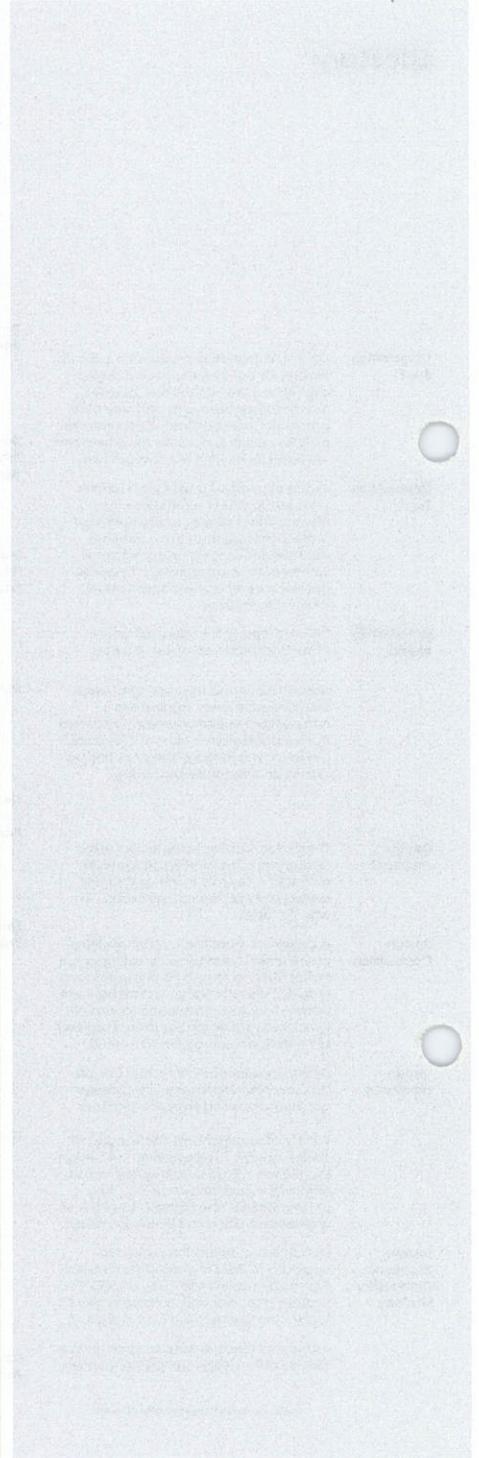
Commented [M137]: To ensure design continuity and leadership of the winning scheme is carried through to the completion of the project, refer to recommended changes to the definition below:

The design architect is the leader of the design team as selected by the Jury. The winning design team maintain a leadership key-role in the design and development of the proposal through to the completion of the development whole process.

in the field of landscape
architecture who has

d
e

monstrated experience of delivering Design
Excellence in their work.



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O

Observer (at a jury session) An observer at a jury session is an individual attending the jury session to observe the process and deliberations only. An observer must in no way be involved with the judging of the submissions. An observer can be a representative of the proponent, the local authority or a project stakeholder.

P

Probity Adviser An appropriately qualified and independent person who advises the Competition Advisor, Proponent and Jury on, and validates, the probity, equity and integrity of the processes of a design competition.

Proponent A person or organisation who initiates and funds a design competition in order to select an architect or design team and a preferred design concept for a specific project. The Proponent is usually the client / landowner.

Q

Qualified Architect or Architect A qualified architect is an architect who is registered as a professional in a given jurisdiction. When the word 'architect' is used on its own, it implies an architecture professional who has been registered with the appropriate professional body.

Qualified Designer A qualified designer is a person registered as an architect in accordance with the Architects Act 2003.

R

Reference Design A preliminary design that tests the capacity of a site to accommodate permissible uses, floor space and height, taking into consideration amenity and environmental impacts. A reference design can also provide useful information on yield targets and performance aspects of the brief.

In the case of a Design Excellence Competition, the Reference Design is a compulsory part of the brief supplied to Entrants and is to be completed by the Proponent prior to the commencement of the Design Excellence Competition.

T

Technical Adviser Technical advisors are suitably qualified professionals who provide specialist advice during the competition process to the Entrants, the Proponent or to the Jury.

U

Urban designer For the purposes of these Design Excellence Competition Guidelines, an urban designer is a professional active in the field of urban design who has demonstrated experience of delivering Design Excellence in their work.

Commented [AM38]: Recommend a change to the definition to ensure the observer is impartial to the process to verify that the process has been followed appropriately and fairly.

Commented [AM39]: This overlaps with the term Qualified Architect above.

Is it intended that this definition capture other professions including urban design and landscape architecture?

Commented [AM40]:

The mandatory requirement for the inclusion of a Reference Design in a Brief may unduly influence and inhibit diversity between competition submissions.

It is suggested the definition is amended:

A preliminary design that tests the capacity of a site to accommodate permissible uses, floor space and height, taking into consideration amenity and environmental impacts. A reference design can also provide useful information on yield targets and performance aspects of the Brief.

In the case of a Design Excellence Competition, the Reference Design is a compulsory part of the brief supplied to Entrants and is to be completed by the Proponent prior to the commencement of the Design Excellence Competition.

Commented [AM41]: Clarify any advice provided is to be strictly limited to the remit of the professional discipline.

Design objectives for NSW

Seven objectives define the key considerations in the design of the built environment.



Better fit
contextual, local
and of its place



Better performance
sustainable, adaptable
and durable



Better for community
inclusive, connected
and diverse



Better for people
safe, comfortable
and liveable



Better working
functional, efficient
and fit for purpose



Better value
creating and
adding value



Better look and feel
engaging, inviting
and attractive

The role of the Government Architect is critical in helping deliver good design and planning outcomes across all projects in NSW. This strategic advisory role provides an opportunity to work across government, the private sector and the community to improve social, environmental and economic outcomes for NSW and its communities.

The Government Architect is charged with championing the Better Placed initiatives and supporting government agencies and local government to create and deliver high quality architecture and design outcomes.

Find out more
ga.nsw.gov.au

**GOVERNMENT
ARCHITECT
NEW SOUTH WALES**

Instead of 'State Significant projects' it should refer to State Significant development, so the terminology is consistent with that recommended for Local Council (see the following note)

In regard to SSDs, the relevant questions are:

1. Is the local authority the delegated Consent Authority?
2. Is the State Significant Project (SSP) subject to the local LEP?
3. Does the local authority have a DEX policy? And
4. Does the local authority choose to apply its own policy rather than the GANSW Guidelines?

If the answers to all of the above (1)-(4) are yes; THEN the GANSW has no role in the process.

If the answer to any of the above (1)-(4) is no; THEN GANSW fulfills its role as specified in the Guidelines i.e. endorser of Strategies, Briefs, when a DEX Competition is demonstrated as unreasonable/unnecessary etc

What statutory weight does the Reference Design have?

- In the City's planning approvals process, the Reference Design has no statutory weight;
 1. It is provided by the proponent only as supporting documentation to a Concept DA/site specific DCP to enable a DA to be appropriately assessed.
 2. A Reference Design does not form part of an approved Design Excellence Strategy as it may unduly influence and inhibit alternative design proposals as outcome of the competition.
- In these Guidelines it is stated the Reference Design must be included in the Design Excellence Strategy. Where the GANSW is proposed to endorse the Reference Design:
 1. What does this mean?
 2. How is the Reference Design assessed as part of the Strategy?

1. Use the SDMP for design integrity.

2. What is the governance model?

does it need a diagram

