



Bayside Design Excellence Guidelines

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Version History

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3	27 June 2017	Wil Robertson	Amended content for adoption by Bayside Council Adopted 12 July 2017
4	20 March 2019	Alison Phillips	Amended content for adoption by Bayside Council
5	16 February 2023	Irene Chan	Amended content to reflect Bayside LEP 2021 and further refinement of the process and criteria with reference to the Local Government Design Review Panel Manual (November 2022) prepared by Government Architect New South Wales.

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1) Explanation

- a. These guidelines provide criteria and procedures for the assessment of design excellence to support *Clause 6.10 Design Excellence* of the *Bayside Local Environmental Plan 2021 (BLEP 2021)*, that requires review by a Design Review Panel (DRP), or a Design Excellence Competition to be held in relation to specific sites before development consent may be granted.
- b. *Clause 6.10* of the *BLEP 2021* prescribes the locations where development must exhibit Design Excellence, generally within the Arncliffe or Banksia precincts, the areas identified in the BLEP Design Excellence Map (DEX) and in certain areas where the height of a building may exceed the maximum height shown for the land on the Height of Buildings Map under additional conditions.
- c. These procedures take reference to the Local Government Design Review Panel Manual (November 2022) prepared by Government Architect NSW. This document informs the assessment process including tasks, responsibilities, and timeframes to ensure that the design excellence assessment process will operate in a manner which is accountable, fair and efficient.
- d. This document should read in conjunction to the Bayside Design Review Panel – Terms of Reference.

2) Design Excellence Criteria

- a. In accordance with *Clause 6.10* of the *BLEP 2021* sub-clause (4), the consent authority must have regard to the following matters:
 - (1) *The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.*
 - (2) *This clause applies to the following development—*
 - (a) *development involving the erection of a new building or external alterations to an existing building within the Arncliffe Precinct or the Banksia Precinct,*
 - (b) *development involving the erection of a new building or external alterations to an existing building on land shown edged heavy black on the Design Excellence Map,*
 - (c) *development that is the subject of a development application that relies on clause 4.3(2A) (a), (f), (g), (h), (i) or (k).*

Note—

In determining an application for a modification of a development consent granted under this clause, the consent authority must again take the requirements of this clause into consideration (see section 4.55 (3) of the Act).

- (3) *Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*
- (4) *In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—*
 - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - (b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*

- (c) *whether the development detrimentally impacts on view corridors,*
- (d) *the requirements of any development control plan made by the Council and as in force at the commencement of this clause,*
- (e) *how the development addresses the following matters—*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity, and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind, and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation, and requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain,*
 - (xi) *achieving appropriate interfaces at ground level between the building and the public domain,*
 - (xii) *excellence and integration of landscape design.*
- (5) *Development consent must not be granted to development to which this clause applies unless—*
 - (a) *if the development is in respect of a building that is, or will be, higher than 12 metres or 3 storeys (or both) but not higher than 40 metres or 12 storeys (or both)—*
 - (i) *a design review panel has reviewed the development, and*
 - (ii) *the consent authority takes into account the findings of the design review panel,*
or
 - (b) *if the development is in respect of a building that is, or will be, higher than 40 metres or 12 storeys (or both)—*
 - (i) *an architectural design competition is held in relation to the development, and*
 - (ii) *the consent authority takes into account the results of the architectural design competition.*
- (6) *Subclause (5)(b) does not apply if—*
 - (a) *the NSW Government Architect certifies in writing that an architectural design competition need not be held but that a design review panel should instead review the development, and*
 - (b) *a design review panel reviews the development, and*
 - (c) *the consent authority takes into account the findings of the design review panel.*
- (7) *An architectural design competition conducted in accordance with the Design Excellence Guidelines that were in force when the competition was conducted is taken to have been conducted in accordance with the Design Excellence Guidelines.*
- (8) *In this clause—*

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

Design Excellence Guidelines means—

- (a) *the Bayside Design Excellence Guidelines adopted by the Bayside Council and in force on the commencement of State Environmental Planning Policy Amendment (Arncliffe and Banksia Precincts) 2018, or*
- (b) *if no guidelines were in force on that commencement—the Design Excellence Guidelines issued by the Planning Secretary, as amended from time to time.*

design review panel means a panel of 3 or more persons established by the consent authority for the purposes of this clause and approved by the NSW Government Architect.

- b. Key criteria to be used as a guide when considering design excellence merit include:
 - i. Capacity to transform existing character and activity within and beyond its context.
 - ii. Creative integration of design and technical requirements.
 - iii. Communication of lateral responses to current planning controls and guidelines.
 - iv. Contribution to amenity and place making through the development of a proposal that is presented as a cohesive place, contributing to civic quality, public realm, systems and paths of movement and activity.
 - v. Comprehensive appreciation of environmental features.
 - vi. New public spaces, frontages to public and communal areas that generate high levels of activation and encourage social interaction.
 - vii. Scale, character, form and siting complement surrounding urban qualities and likely future development.
 - viii. An appropriate balance between resilient materials, embodied energy and resource consumption and dependence.
 - ix. Land uses, activity, building configuration and occupancies that may be adapted in future.
- c. Design Excellence procedures provide a framework in establishing, reviewing and progressing Design Excellence.

3) Objectives for these Guidelines

- a. Provide a detailed explanation of terms and procedures which are provided by Clause 6.10 of BLEP 2021.
- b. Outline the procedures and approach in assessing, decision making and responsibility.
- c. Intended to progress a design proposal which demonstrates that the scheme's Architect has the capacity to deliver design excellence throughout the life of the project.

4) The Guidelines – Design Review Panel (DRP)

- a. Design Excellence
 - i) Objectives for design excellence apply to Independent Design Review and Design Excellence Competitions and require design solutions that are *exemplary* as opposed to solutions which demonstrate a basic level of competence.
 - ii) Design Excellence Guidelines and Criteria shall be considered in the following:
 - (1) Development Applications that require Design Excellence Review under *Clause 6.10* of the *BLEP 2021*;
 - (2) Evaluation and review of Design Excellence for Development Applications; and,
 - (3) Assessment of Development Applications that are subject to *Clause 6.10* of the *BLEP 2021* that consider the Design Excellence Guidelines and Criteria, in addition to statutory requirements of *Section 4.15 Evaluation* in the *Environmental Planning and Assessment Act (EPA Act)*.
 - iii) Design Excellence integrity shall be continued through to detailed development proposals.
- b) Procedures for a Design Review Panel
 - i) The Design Review procedures involve a sequence of tasks which are summarised below. This initially requires the proponent to complete a Design Review Panel Application.
- c) Design Concepts
 - i) Design Review Panel requires the submission of one design concept:
 - (1) Proponents are responsible for selecting the design group;
 - (2) Each of the selected design groups shall be headed by a registered Architect, and may be a single firm or a consortium of complementary design professionals; and,
 - (3) The selected design group should demonstrate a capacity to deliver design excellence have levels of skill and expertise which are broadly-equivalent and meet the conditions and requirements for eligibility, assessment and entry to the NSW Government Architect's Strategy and Design Excellence Prequalification Scheme.
 - ii) Details on specific Design submission requirements are to be set out by the proponent.
- d) Design Excellence Review
 - i) A Design Review Panel will be in accordance with *Clause 6.10* of the *BLEP 2021*:
 - (1) Design Review Panel members will be preselected by the General Manager – Bayside Council through an Expression of Interest (EOI) process and will be rostered to attend DRP meetings;
 - (2) Where required, the Design Review Panel members will be selected for their expert advice depending on the design lodge to Council;
 - (3) Members of a Design Review Panel shall provide a fair and honest appraisal of design concepts; and,
 - (4) If a proposed development includes a building listed in *Clause 5.10 Heritage Conservation* of the *BLEP 2021*, or where a site is located in a

- conservation area, or is in the vicinity of a heritage item, then at least one member of the Jury must be an appropriately qualified heritage consultant or heritage architect.
- ii) The proponent is responsible for remuneration or honorarium costs to members of the Design Review Panel.
 - iii) Review of design submissions by the Design Review Panel requires reference to the following:
 - (1) Primarily, to matters for consideration which are specified by *Clause 6.10* of the *BLEP*;
 - (2) Design Excellence Guidelines and Criteria; and,
 - (3) Any design quality considerations which might be specified by state or local planning controls that are relevant to the subject site or to the development concept.
 - iv) In relation to Design Review Panels, review by the Panel members require the following:
 - (1) A statement that explains how the submission exhibits design excellence;
 - (2) If the submissions does not exhibit design excellence, the Jury may identify amendments to submissions that would guide any amendments to the submission;
- e) In general, the review of design excellence through a Design Review Panel involves the following procedures:
- i) Payment of any required fees to Council, as per the Bayside Fees and Charges
 - ii) Design submissions should be distributed to Panel members at least 7 days prior to a scheduled review meeting.
 - iii) Questions from Panel members to Council staff, discussions and recommendations by the Panel must occur during closed sessions.
 - iv) The minutes of the meeting are prepared on the day that the Design Review Panel is convened to be reviewed and finalised by the Panel for distribution to Council within 7 days after each review meeting.
 - v) Council is to issue minutes and any further direction to the Proponent once in receipt.
 - vi) Requests for reconsideration or clarification of the Jury's final report may be submitted by the proponent or the Council within 14 days after receipt of the Jury's report.
- f) Assessment and Determination
- i) The consent authority shall have regard for relevant considerations under *Section 4.15 Evaluation* of the *EPA Act* and Design Excellence provisions of *Clause 6.10* of the *BLEP 2021*.
 - ii) The outcome of a Design Review Panel does not constitute a Development Application Approval. Any selected design proposal must undergo the Council's DA Process.
 - iii) Council reserves the right to convene an independent panel (at the cost to the developer) to review subsequent modifications to the design outcome and determine if they conform to the design intent of the selected scheme.

5) The Guidelines – Competition

- a) Design Excellence
 - i) Objectives for design excellence apply to Independent Design Review and Design Excellence Competitions, and require design solutions that are *exemplary* as opposed to solutions which demonstrate a basic level of competence.
 - ii) Design Excellence Guidelines and Criteria shall be considered in the following:
 - (1) Competition Entries;
 - (2) Evaluation and review of Design Excellence and Competition Entries; and,
 - (3) Assessment of Development Applications that are affected by *Clause 6.10* of the *BLEP 2021* that consider the Design Excellence Guidelines and Criteria, in addition to statutory requirements of *Section 4.15 Evaluation* in the *Environmental Planning and Assessment Act (EPA Act)*.
 - iii) Design Excellence integrity shall be continued through to detailed development proposals.
- b) Procedures for a Design Excellence Competition
 - i) The Design Excellence Competition procedures involve a sequence of tasks which are summarised below. This initially requires the proponent to complete a Design Excellence Strategy and Design Excellence Competition Brief for consideration, approval and endorsement by Council.
- c) Design Excellence Strategy
 - i) The Design Excellence process is to be undertaken in accordance with a Design Excellence Strategy that defines the following:
 - (1) Location, extent and scope of the design excellence process;
 - (2) Type of Design Excellence process to be undertaken that shall be an “Invited” Design Competition;
 - (3) Number of submissions to be sought;
 - (4) Design Excellence Guidelines and Criteria;
 - (5) Assessment and decision making participants and process;
 - (6) Jury (Design Excellence Panel) composition and financial remuneration/honorarium;
 - (7) Outcome of the Design Excellence Process; and,
 - (8) Fees and charges to be paid to Bayside Council by the proponent to cover management and financial considerations and obligations including remuneration and or honorarium to members of the Jury (Design Excellence Panel).
 - ii) Design Excellence Competition Brief
 - (1) The Design Excellence Brief will identify all of the competing design groups.
 - (a) The same information is to be provided to the competing design groups:
 - (i) Draft competition briefs must be endorsed by Council officers before any competition may commence; and,
 - (ii) If the proponent's draft brief is considered unacceptable, Council's response will confirm reasons and will recommend matters which require further attention.
 - (b) The design brief must provide a comprehensive range of information about the site and its context.
 - (c) A schedule of fees to be charged by each competitive submission.
 - (d) Ongoing role of a selected schemes Architect.

d) Design Concepts

- i) Design competitions require the submission of design concepts by at least three competing design groups:
 - (1) Proponents are responsible for selecting the design groups, and for making an agreed payment to each design group for their completed design submissions;
 - (2) Each of the selected design groups will be independent and shall be headed by a registered Architect, and may be a single firm or a consortium of complementary design professionals, together with project experience that has direct relevance to the competition brief. The nominated Architect may only represent a single Architectural Practice Competing in the Design Excellence Competition; and,
 - (3) All of the selected design groups should demonstrate a capacity to deliver design excellence have levels of skill and expertise which are broadly-equivalent and meet the conditions and requirements for eligibility, assessment and entry to the NSW Government Architect's Strategy and Design Excellence Prequalification Scheme.
- ii) Details on specific Design Excellence submission requirements are to be detailed in the Design Excellence Competition Brief set out by the proponent.

e) Design Excellence Review

- i) A Design Excellence Jury of no less than four, and no more than six members shall be established for each competition and act as a jury:
 - (1) Jury members shall have recognized qualifications and expertise in Architecture, or Landscape Architecture, or Urban Design;
 - (2) The Jury shall consist of an equal number of members who are nominated by the proponent and by Council;
 - (3) The Jury may also include a member who is independently nominated by the Government Architects Office NSW, and consist of a member of a professional body such as the Australian Institute of Architects or similar;
 - (4) Members of a Design Excellence Jury shall provide a fair and honest appraisal of design concepts; and,
 - (5) If a proposed development includes a building listed in *Clause 5.10 Heritage Conservation* of the *BLEP 2021*, or where a site is located in a conservation area, or is in the vicinity of a heritage item, then at least one member of the Jury must be an appropriately qualified heritage consultant or heritage architect.
- ii) Excluding any submissions that are deemed to be disqualified, the Jury shall consider and assess a minimum of three competition entries to determine an outcome.
- iii) The proponent is responsible for remuneration or honorarium costs to members of the Design Excellence Jury.
- iv) Review of design submissions by the Design Excellence Jury requires reference to the following:
 - (1) Primarily, to matters for consideration which are specified by *Clause 6.10* of the *BLEP 2021*;
 - (2) Design Excellence Guidelines and Criteria; and,
 - (3) Any design quality considerations which might be specified by state or local planning controls that are relevant to the subject site or to the development concept.

- v) In relation to design competitions, reviews by the Design Excellence Jury require the following:
 - (1) A majority opinion of the Jury that identifies the preferred design submission that exhibits design excellence;
 - (2) A statement that explains how the preferred submission exhibits design excellence;
 - (3) If none of the submissions exhibit design excellence, the Jury may identify amendments to submissions that would guide a competitor in amending a submission;
 - (4) If amendments are recommended, the responsible competitor should provide the amended submission within 28 days after receipt of the Jury's report, and the Jury should be reconvened to review the amended submissions; and,
 - (5) The competition is terminated without an outcome, winner or awarding design excellence to any submission:
 - (a) If the Jury cannot identify design amendments that would achieve excellence;
 - (b) Any Jury's recommended amendments have not been provided within a reasonable timeframe; and,
 - (c) The Jury finds that none of the submissions achieve design excellence.
- f) In general, the review of design excellence involves the following procedures:
 - i) Payment of any required fees to Council as itemized in the *Bayside 2030 Fees and Charges*.
 - ii) Administrative tasks shall be provided by the Proponent: confirmation of meeting dates, distribution of documents and booking of meeting venues.
 - iii) Preparation of a Design Excellence Strategy and Brief for endorsement by Council.
 - iv) Design submissions should be distributed to Jury members at least 14 days prior to a scheduled review meeting.
 - v) Review meetings should provide for a 30 minute presentation by each competitor followed by questions from Jury members.
 - vi) Discussion and decisions by the Jury should occur during closed sessions that follow presentations.
 - vii) Reports should be drafted by the Jury for distribution to the proponent and the Council within 14 days after each review meeting.
 - viii) Requests for reconsideration or clarification of the Jury's final report may be submitted by the proponent or the Council within 14 days after receipt of the Jury's report.
 - ii) Requirements of *RLEP 2011* to hold a design competition are deemed to have been satisfied:
 - (1) 14 days after final reports by the Design Excellence Jury have been distributed to the proponent and the Council.
- g) Assessment and Determination
 - i) The consent authority shall have regard for relevant considerations under *Section 4.15 Evaluation* of the *EPA Act* and Design Excellence provisions of *clause 6.10 BLEP*.
 - ii) The outcome of a Design Excellence Competition does not constitute a Development Application approval. Any selected design proposal must undergo the Council's DA Process.

Council reserves the right to convene an independent panel (at the cost to the developer) to review subsequent modifications to the design outcome and determine if they conform to the design intent of the selected scheme.