

28 July 2008

Monica Barone
Chief Executive Officer
City of Sydney
PO Box 1591
Sydney NSW 2001

Attention: Evita Lake

Dear Ms Barone,

Re: Review of Standard Conditions of Development Consent

The Urban Taskforce represents Australia's most prominent property developers and equity financiers, so we appreciate the opportunity to comment on the above matter and provide the following information for your consideration. However, please be advised that the Urban Taskforce provides the information included in this correspondence as general advice for the consideration of Council when finalising standard conditions of consent. Council is not to consider this in any way an endorsement of the proposed conditions of consent by the Urban Taskforce.

We note that the proposed standard conditions were altered at the Council meeting of 12 May 2008. These amended conditions do give rise to a number of questions. In particular the condition that relates to "Design Quality Excellence".

While the Urban Taskforce understands that in this instance Council is trying to guarantee design quality, the way that it is seeking to achieve this, via condition of consent, can not be supported by the Urban Taskforce. The Urban Taskforce does not support conditions of consent that if applied by Council, are a vehicle for bureaucratic micromanagement of individual development projects. For this reason, the Urban Taskforce objects to the following condition of consent:

DESIGN QUALITY EXCELLENCE

(a) In order to ensure the design quality excellence of the development is retained:

- (i) The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
- (ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
- (iii) Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

(b) The design architect of the project is not to be changed without prior notice and approval of the Council.

This condition is objectionable on both practical and legal grounds, and with all due respect, it will not in any way guarantee the outcome sought to be achieved.

This condition does not recognise the fact that an architect is commissioned by the applicant and that contractual agreements reached between the applicant and architect are of no proper concern to the Council. Council should not seek to interfere or exert any influence over the way that an applicant may choose to use their employees and/or consultants.

Furthermore, Council cannot assume of the right to require approval prior to change of architect as a regulator – such a role is only appropriate for a joint venture partner in a development. Such a requirement by the City makes no allowance for contractual changes, differing opinion and/or sale of site prior to construction.

Legally there is a problem with the conditions as they are, in essence, anti-competitive. This is likely to breach Commonwealth laws as well as relevant State Government principles. Also Council may not have properly considered the implications of *requiring* a developer to retain the particular original architect through subsequent phases. In Council seeking to dictate who must represent the developer in discussions with it on design amounts to something akin to "third party forcing". Council would, with respect, be better served by concentrating on substance of design issues, rather than the identity of the representative of the developer with whom these are to be discussed.

Design quality is assured by using the best consultants including architects. For certain types of development, applicants must employ a registered architect and this registration and accreditation by the recognised professional body is the assurance of design excellence.

The Urban Taskforce looks forward to continued dialogue with the Council and if I can be of any further assistance, please feel free to contact me on telephone number (02) 9238 3955 or e-mail: admin@urbantaskforce.com.au

Yours sincerely

Urban Taskforce Australia

A handwritten signature in black ink that reads "Aaron Gadiel". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Aaron Gadiel
Chief Executive Officer