



Australian
Institute of
Architects

NSW

ABN 72 000 023 012

The Royal Australian Institute of Architects
trading as Australian Institute of Architects

NSW Chapter
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Thursday 3 November 2022

The Hon. Sarah Mitchell MLC
GPO Box 5341
SYDNEY NSW 2001

Dear Minister Mitchell

The Australian Institute of Architects (the Institute) and its members are dedicated to raising the quality of our communities. We seek to improve the enduring health and wellbeing of all Australians. The design of the built environment and the landscape within which it is situated shapes the places where we live, work and meet. We represent almost 13 000 members nationally, ensuring the design of these places best meets the needs of our communities now and into the future.

The Department of Education and School Infrastructure NSW have recently issued an Invitation for Expression of Interest (EOI) for the delivery of the Macquarie Park Education Campus and mixed-use development at the Lachlan's Line Precinct.

The Invitation requires proponents to submit a design response. This is not in line with the Institute's Guidelines for EOIs and RFT's. It also does not align with the [Government's own 10-point Commitment](#) for the construction sector in terms of reducing bidding costs.

Specifically, while the Process Overview suggests the EOI should commence with little or no design response and then lead to a more detailed response, this becomes unclear in Returnable Schedule 6 which requires:

- project vision
- high-level concept plan
- staging plan and key milestone
- development yield and a description of the various uses; and
- approval requirements

The Institute has a stated position on procurement of architectural services through competitive processes. The Institute believes that government, institutions and private clients benefit from using an appropriate tendering system that matches submission demands with project complexity.



There is a trend emerging whereby institutions and private clients request concept designs as a tender deliverable of Expressions of Interest (EOI) and Requests for Tender (RFT). Clients are expecting the work of preparing concept designs to be unpaid. The Institute welcomes design-based selection processes, but the value of design is best procured when there is an acknowledgement that the best design will not be free. The time required to prepare a concept design for a project is significant and costly.

As well, when requested for EOIs and RFTs, it requires design professionals to donate intellectual property without any certainty that only the donated intellectual property of the successful tenderer will be used. Providing design services for free that may be used by another tenderer has to be a disincentive to participation in this competitive process.

In the case of the Expression of Interest (EOI) for the delivery of the Macquarie Park Education Campus and mixed-use development at the Lachlan's Line Precinct, we strongly advocate that the EOI should limit itself to the Project Vision and broad ideas about uses. Following this, a second stage Request For Proposal can pursue more detail.

Part 3.7 of the Institute's guidelines state

"3.7 DESIGN RESPONSE

3.7.1 Background

*It is important the architect be selected based on the capacity to deliver the project, an ability to work constructively with the client and stakeholders, and an understanding of opportunities and challenges presented by the project. It is appropriate to ask for a written response to the brief and site with the inclusion of benchmark images of the architect's, or others', work. **However, diagrammatic or drawn design responses to the project vision and brief should not be requested as they effectively create a design competition.***

Inclusion of sketches, drawings or an image-based design proposal at the early stage of an EOI or RFT compromises the ability to test assumptions in the project brief and offer alternative approaches that the client has not considered. It also undervalues the key creative input of design services and can infringe intellectual property rights. While the upfront financial cost to the architect providing design responses is significant, it is potentially greater to the client if adequate time and resources have not been allocated to fully exploring all the possibilities for the project.

If the client requires design responses from competing architects, either an RFP process or an architectural design competition should be conducted. Both of these require detailed preliminary work from the client. The Institute's Architectural Competitions Policy is a comprehensive guide to organising an architectural competition".



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The Institute's full policy is available [on our website](#). We are happy to discuss any further aspect of the procurement process and our guidelines with you and your team at any time of your convenience.

Best regards

Laura Cockburn
NSW Chapter President
Australian Institute of Architects

We respectfully acknowledge the Traditional Custodians of the lands on which we work and pay respect to their Elders past, present and emerging.