



Australian
Institute of
Architects

Australian Institute
of Architects,
Victorian Chapter

Melbourne
Planning Scheme
Amendment C308

**Submission to
the City of
Melbourne**

SUBMISSION BY

Australian Institute of Architects
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PURPOSE

- This submission is made by the Australian Institute of Architects, Victorian Chapter (the Institute) to the City of Melbourne on Melbourne Planning Scheme Amendment C308.
- Comments have been prepared with the assistance of the Victorian Chapter Council and the Large Practice Forum Ambassador firms.
- At the time of this submission, the Victorian Chapter President of the Institute is Amy Muir.
- The Victorian Executive Director is Ruth White.

INFORMATION

The Australian Institute of Architects 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 Victoria. 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.

EXECUTIVE SUMMARY

The Institute acknowledges that there is a problem with the design quality of a substantial number of projects delivered in the city and Southbank over the past decade. We support the intent of Amendment C308 to help raise the quality of the built environment and consider it a positive step forward in addressing some of the issues facing Melbourne's built environment. There is little doubt that planning approval is one of the most significant factors in shaping a development and is an ideal hold point to ensure high-quality, well-considered design responses are costed into the project.

The Institute has prepared this submission in consultation with its Large Practice Forum, and in particular our six ambassador firms for large practice in 2018-19: Bates Smart, Cox, Hassell, John Wardle Architects, Lyons and Woods Bagot. Many of the large practices have significant experience working in and shaping Melbourne's CBD particularly in relation to planning controls and how design responses work in relation to these controls. Their experience and our feedback is given in the spirit of achieving a better environment for design excellence whilst also raising the overall quality of new work being delivered in the city.

The Institute regards this amendment as appropriate for raising the quality of projects and believe it will assist in allowing new developers, planners and the public to understand key design principles being sought to make a more successful city for all. However, we also note that these controls can hinder projects at the higher end of the design spectrum, through their specificity and narrow focus, potentially restricting innovation and design excellence. The Institute strongly recommends that provision is made to allow for an alternative path for design solutions that do not meet the intent of these amendments.

While we support the need for, and implementation of the amendment, we do wish to highlight a number of areas we believe need further revision in order to allow for improved outcomes. As such, we would like to address the following items in our response:

- 1.0 Mandatory use of architects on projects three storeys or more above ground**
- 2.0 Mandatory controls**
- 3.0 Design requirements**
- 4.0 Responding to the guidelines and non-mandatory design requirements**
- 5.0 Design Review Panel**
- 6.0 Escalation provision within the amendment for design resolution**
- 7.0 Provision for alternative design solutions for significant sites or unique design solutions of design excellence**
- 8.0 Design competitions**
- 9.0 Activation and design quality**
- 10.0 Post planning verification**
- 11.0 Education for Assessors.**

We look forward to working closely with you to assist in the delivery of a finely drafted amendment.

DISCUSSION

1.0 Mandatory use of architects on projects three storeys or more above ground

The City of Melbourne states as its design objective that it is introducing these amendments ‘to achieve a high standard of urban design, architecture and landscape architecture in all development proposals’. The Institute believes that for the design quality bar to be truly raised, architectural involvement must be mandated on city projects of three storeys or more above ground. We recommend the amendment be altered to include the mandatory use of an Australian/Victorian registered architect, landscape architect and planner for all projects three storeys or more above ground level.

The architectural profession is notable as its members require registration through an independent body, the Architects Registration Board of Victoria (ARBV) and have undertaken significant tertiary studies (a five-year course), followed by a minimum of two years professional experience before they sit examinations to be admitted to the profession. Crucially architects are regulated by the *Architects Act* in each state and territory, which is designed to protect the public, not the profession or industry. Architects carry professional liability insurance and have a requirement to undertake ongoing professional development. Building design professionals are not precluded from becoming registered architects, and there are measures in place to ensure that they don’t need to undertake the five years of extensive education, but they are required to pass the relevant exams and meet the relevant public protections. It is important to understand the protections the Architects Act provide to the community and why this is a significant point of difference – with architects required to be registered and their professional conduct regulated under the Act since 1923.

Only allowing registered design professionals to undertake key civic works would allow for a focussed and direct line of communication between designers and the City of Melbourne, allowing in turn for focussed alignment and refinement of education and design fundamentals between the city and the design profession. We would suggest that landscape architects should also be made mandatory on these projects.

Clearly and strongly supporting registered design professionals would position the City of Melbourne as a leader in this area of design. Through direct engagement with key design professions the level of quality can continue to be raised, not just now but into the future. Under the SEPP 65 legislation in New South Wales, the use of architects is mandated for projects over three storeys, with ‘qualified designer’ defined as “a person registered as an architect in accordance with the *Architects Act 1921*.

Note. A building designer may be able to be registered as an architect in accordance with the *Architects Act 1921* even though the person may have no formal qualifications in architecture.”

We would strongly recommend a similar approach here in Victoria, led by the City of Melbourne, as has been the case with other design-related issues such as sustainability. As the Institute’s then National President David Karotkin said in 2014:

‘The quality of our built environment affects the wellbeing of us all. Planning policies should continue to be implemented which recognise that using designers with the highest level of expertise is an essential ingredient to achieving the best possible design outcomes. Architects’ Acts recognise the unique expertise possessed by registered architects; they include professional obligations; and they are underpinned by disciplinary systems for non-

compliance. Mandating the use of architects for the most complex building designs is in the best interest of the public.”¹

2.0 Mandatory Controls

We understand from discussions with the City of Melbourne the importance of mandatory controls, especially in relation to VCAT and the potential for projects of lower quality to be approved through a legal framework rather than the intended design outcome.

The Institute is typically wary of mandatory controls as they do not allow for design professionals to have discussions with any parties about alternative solutions, often on highly complex urban conditions. But we understand from a City of Melbourne context that having mandatory controls makes the decision processes clear and removes the need for extensive legal debates about the interpretation on the intent of a policy.

2.1 WE SUPPORT

The mandatory control for ‘sleeving’ above-ground carparking with active uses in Southbank. We agree that exposed carparking to the lower levels of buildings is a poor urban outcome and should be prevented.

2.2 WE SUPPORT

The mandatory control for setting a floor-to-floor level of carparking above ground to be set at a floor-to-floor level that allows for future adaption into usable habitable space.

2.3 WE QUESTION

The nominated 3.5 metre height and believe the primary slab height should be set in relation to the active use of the sleeved program slabs, which may be at a higher or lower floor-to-floor than 3.5 metres. We also note that multi-level flat-slab carparks have ramped sections. The DDO may be stating that continuously ramped carparks are not allowed; however, the current wording may prevent flat slab construction with ramped intervals. The ramp may be two half-floor ramps per floor, or one full height ramp per floor. The active use should correspond to one of the slab levels. We recommend that the wording of this mandatory control be amended to the following: ‘Parking structures must be designed with the primary floor-to-floor height being at least 3.2 meters to enable future adaption or as appropriate to ensure the primary carpark slab aligns with the adjacent sleeved active use’.

The mandatory control that states that ‘vehicle parking in the central city must be located within the basement levels of a building’. We would argue that the Southbank mandatory control should also apply to the city as well, rather than the proposed mandatory control of only allowing below-ground parking in the city environments. Amendment C270 already makes above-ground parking difficult to justify commercially and, when paired with the requirement for a veneer of active use, in the vast majority of cases parking above ground will not be feasible due to the reduced available floor area for parking. However, in some circumstances above-ground parking with a veneer of active use will be the correct solution and this option should be available for designers to explore. We would request that the Southbank mandatory ruling be applied to both the city and Southbank. The city ruling should encourage below-ground parking but allow for the above-ground option and suggest the following wording: ‘Vehicle parking in the central city should be located within the basement

¹ <https://www.architectureanddesign.com.au/features/comment/architects-respond-to-building-designers-bid-for-m>

levels of a building. In exceptional circumstances, above-ground podium parking may be accepted if it is located on the first floor or above and is sleeved by active uses to main streets and streets.'

The mandatory requirement that 'the area of any ground floor of a building occupied by building services, including waste, loading and parking must be less than 40% of the total site area.' We support the general intent of a maximum of 40 per cent of ground floor being mandatory for services but are concerned that there may be scenarios not currently envisaged where this mandatory control prevents a suitable design excellence outcome. We believe that further studies are required to determine whether this is an appropriate stance for the design of the centre of Melbourne.

The city is the commercial heart of Victoria and we need to ensure that we allow for design opportunities to be viable. We agree that a façade that is dominated by services is not a positive contribution to the city's street life; however, there may be cases where a building may have greater than 40 per cent of its ground floor given to services whilst also achieving a suitable level of active usages to the frontages – with services concealed behind street-frontage uses.

We query whether this should be mandatory, whilst also acknowledging the concern with substandard designs with more than 40 per cent servicing on the ground floor being put to VCAT and potentially being allowed through. We believe this point requires further work in order to eliminate poor design outcomes whilst allowing for clever, sophisticated design solutions to pass through. This also requires the cooperation of key utilities (water, gas, fire, etc) with the City of Melbourne to achieve this goal.

Designers often strive to remove utilities from the primary faces of buildings but are instructed by the authorities that meters, valves and access points must occupy these ground floor provisions. In addition, placing some equipment above or below ground floor can lead to recessed ground-floor elements to allow for after-hours Gatic access which can be seen to be in conflict with some of the other guidelines (CPTED, minimum setback of façade elements of 500 millimetres).

Further to this, premium commercial projects aiming for LEED Platinum, WELLS, 6 Star Green Star and above require significantly more space for lifting, additional plant and servicing areas than equivalent areas for residential buildings – these commercial projects may not be viable with this control and we believe the control should include the following wording: 'where appropriate, the area of any ground floor of a building occupied by building services, including waste, loading and parking, must be less than 40 per cent of the total site'.

We would be willing to reconsider this position should further information be provided regarding acceptance of this approach from authorities (utility companies, fire brigade etc) and their willingness to allow for alternative locations of their equipment and sizing, along with further documented studies of this working in a variety of different sites in the city and for different typologies.

3.0 Design Requirements

3.1 WE HAVE REVIEWED

The Design Development Overlay has tables that use the wording of 'Design Outcome' and 'Design Requirement'. The use of 'Design Requirement' implies that it is a requirement of granting a permit that these must be met.

3.2 WE RECOMMEND

Given that the intent of the DDO is primarily as a discretionary control (outside the mandatory provisions), we would suggest a different word would be more appropriate here. Possibilities include: 'Design Standard' or 'Design Guideline' in lieu of 'Design Requirement'

4.0 Responding to the guidelines and non-mandatory design requirements

4.1 WE HAVE REVIEWED

The revised Central Melbourne Design Guide has been developed to assist planners, developers, lawyers, and the public to understand the desired design response to a range of situations from urban scale to the fine grain. The intent of the guidelines is to assist, not hinder, design discussion and they are not meant to be viewed as a design response. However, their effect is quite specific and does not allow for more complex understanding of particular site constraints and opportunities.

4.2 WE RECOMMEND

The guidelines are beneficial for many – although not all – projects and we support their use as an initial starting point for projects. However, we strongly request that as part of the amendment there is provision for alternative solutions noted. We would suggest that a Design Review Panel (DRP) is a process through which alternative design solutions could be raised. This DRP would be empowered to overrule the non-mandatory design requirements and replace them with design alternatives.

The Institute has a list of concerns about specifics of the guidelines and design requirements, but we believe these can be addressed with a follow-up submission or at the panel hearing, if required. We believe the guidelines provide a good base-level approach to appropriate solutions and that a DRP could be used to assess more complex planning solutions, which may not meet the intent of the actual provision but could still lead to a design excellence outcome.

4.3 WE HAVE REVIEWED

Throughout the document there are images of 'what to avoid' with accompanying text. The risk with this approach is that there are always exceptions to these outcomes where a constraint actually delivers a better outcome. The Institute is concerned that a simplistic reading of these situations may prevent diversity and design excellence where a designer masters a particular constraint.

4.4 WE RECOMMEND

We do not seek to remove these images from the document; however, we urge the City of Melbourne to educate their planners and assessors to understand the complexity of design outcomes and to support innovative results. In tandem with this, we again stress the need for a DRP where situations like this can be debated with other design professionals to ensure that good solutions are not lost to a simplistic reading of the guidelines.

4.5 WE HAVE REVIEWED

The need for the City of Melbourne to quickly process planning permits and that the guidelines are a means to assist in fast tracking this process. However, we are concerned that this could lead to a passive, box-ticking approach, which fails to understand design complexity and alternative solutions.

4.6 WE RECOMMEND

The Institute would be happy to provide further details of where the guidelines are in conflict with other requirements or may lead to unintended consequences. We would also be happy to provide examples of design excellence that do not meet the guidelines.

5.0 Design Review Panels

5.1 WE RECOMMEND

The inclusion of a DRP is crucial to the Institute's support for these guidelines and the Amendment itself. As outlined above, there are often situations in design where a complex problem needs to be solved. The solution for one area may have an impact on another but, on balance, may result in the best solution for the city. In some circumstances the best solution may, in fact, be in complete conflict with a design requirement simply because the design requirement had never considered the situation being explored. The DRP allows for design professionals to speak with one another openly and in detail – with the sole focus on design. If we want to raise the quality of design in the city, this needs to be a fundamental plank to these amendments.

6.0 Escalation provision within the amendment for design resolution

6.1 WE RECOMMEND

Consideration needs to be given to escalation of a design issue. It may be that a specific planner assigned to a project or a DRP is not open to a particular outcome due to particular design slant or bias. There should be provision for a project or topic to be escalated within the planning process and to be heard from an alternative group within the city or with the state. This should only be available in exceptional circumstances, but there are cases where personalities can affect a good design outcome.

7.0 Provision for alternative design solutions for significant sites or unique design solutions of design excellence

7.1 WE HAVE REVIEWED

We wish to note that there are some fantastic design outcomes in the city, which would not be allowed through the proposed controls. A key example is 140 William Street, a set-back tower with no podium, flat glass and a private-use lobby with no activation. This is one of the most significant modernist buildings in the city.

7.2 WE RECOMMEND

The amendment needs to make provision for design excellence and for new styles of architecture, landscape architecture and urban planning to be explored. These sites may need to go through a different planning process and be heavily conditioned to ensure that design excellence is delivered. However, there is no doubt that the very best work in a city is often in conflict with current planning controls. As well as 140 William Street, other examples include ICI House and 1 Spring Street. We need to support design excellence in our city and recommend this is addressed or referenced in these controls to achieve the stated aims of lifting the design quality of low-quality projects.

8.0 Design competitions

8.1 WE RECOMMEND

The Institute believes the design requirement encouraging the use of a 'competitive design process for the development of large sites with multiple buildings or sites of strategic significance' requires further work and clarification. For example, what constitutes a large site?

We also need to support local design practices. In many cases, design competitions lead to international architects being brought in to assist projects through planning. This can have the effect of diluting the quality of our local practices and our local design industry. There may be alternative

means to ensure that key buildings are of a high quality; a significantly more strenuous planning process could be the answer.

9.0 Activation and design quality

9.1 WE HAVE REVIEWED

There is constant pressure to provide activation to the ground plane through retail, shop front, customer services or other elements that promote pedestrian interest and interaction. Whilst we support the need for ground-plane activation we note that activation does not necessarily equate to a positive design outcome. For example, it is not possible to support a city full of cafés, nor is it necessarily appropriate.

9.2 WE RECOMMEND

That private-use lobbies and indeed even a blank wall can make a positive contribution to a city if they are done well. While the base case may well be that an active use should be sought, planners assessing proposed solutions need to acknowledge and understand successful outcomes of alternative solutions.

9.3 WE HAVE REVIEWED

That the design requirements outlined in Table 6, Schedule 1: Design Quality are deterministic and presuppose that certain types of articulation lead to good design outcomes. Our concerns include the following design requirements and aspects to avoid:

- Encourage the visual expression and sensitive integration of innovative sustainable building technologies to provide legibility and public education.
- Provide for depth and a balance of light and shadow in upper level facade design through the use of balconies, integrated shading, rebates and expression of structural elements.
- Where blank walls are proposed to be visible from the public realm, ensure these are designed as an integrated three-dimensional component of the building
- Employ robust, low maintenance materials in the higher parts of a building, and natural, tactile and visually interesting materials at the lower levels near the public interface to reinforce a human scale.
- Avoid materials that lack tactility and appropriate sense of scale at the public realm interface.
- Avoid building materials and finishes such as painted concrete or ventilation louvres which undermine the visually rich, tactile quality of laneway environments.

While these are guidelines, they can lead to a preferred design response, which practices might start to adopt to help gain planning approval. Because low-quality buildings can have articulation added to them to make them appear interesting, these particular guidelines do not alter the quality of the design and can lead to an architecture of pastiche rather than high-quality design.

9.4 WE RECOMMEND

The importance of Design Review Panels with a wide mandate and a focus on design excellence rather than a particular outcome.

10.0 Post Planning Verification

The Design Architect is often replaced after town planning approval with another architect or documentation service (usually offshore) for lower fees. This leads to a loss of design intent and continuity of project communication and risk management, together with little commitment to design quality as the documentation service does not 'own' the design. Inevitably, Town Planning

documentation is then revised and lodged for endorsement with much of the design intent stripped out. Alternatively, but with the same consequence, a retained Design Architect can be excluded from the 'value management' process where cost – and most notably, the façade quality is stripped out.

Nominating the 'on-going involvement' of the Design Architect as a planning permit condition (as is currently done by a number of RAs in Victoria) is usually not observed by the permit holder, not enforced and is probably not enforceable.

Under SEPP 65 in NSW this is partly addressed by a statutory requirement for the Design Architect to sign off on delivery of design intent (design verification) at key milestones through to completion, which can be withheld by the Design Architect. While this can be partly circumvented, it is significantly more effective than the system in Victoria and is underpinned by a stronger enforcement regime together with other measures that have led to a stronger industry culture around higher quality project delivery. It also increases the control the architect has when novated to the builder.

10.1 WE RECOMMEND

A more holistic regulatory environment that protects against detrimental post planning design changes. We recommend the post-planning verification measures in SEPP 65, which is considered well drafted legislation, are seriously considered to ensure the permit drawings reflect the built product.

11.0 Education for Assessors

In conclusion, we would like to reiterate that these comments should not be construed as not supporting improved design quality in the city.

We congratulate the City of Melbourne for taking the important step of shaping controls aimed at addressing some of the systemic problems facing our built environment.

Design is a very complex area and there is little doubt that it requires sustained commitment through all phases of design and construction to deliver a high-quality outcome.

We believe it would be prudent for planners and others who assess planning permits to also be provided with ongoing education on design locally and internationally. Education should be pluralistic to allow for insight into the fact that a variety of different design solutions are viable and that good solutions can often be quite different from what was anticipated.