

SUBMISSION ON MELBOURNE'S FUTURE PLANNING FRAMEWORK LAND USE FRAMEWORK PLANS



Department of Environment Land Water and Planning



Submission issued October 2021

Melbourne's Future Planning Framework – Land Use Framework Plans



**Australian
Institute of
Architects**

ABOUT THE INSTITUTE

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.

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.

PURPOSE

- This submission is made by the Australian Institute of Architects (the Institute) in response to the Victorian Department of Environment Land Water and Planning's consultation on Melbourne's Future Planning Framework – Land Use Framework Plans.
- At the time of this submission the National President is Tony Giannone FRAIA.
- The Chief Executive Officer is Julia Cabbage.
- The Victorian Chapter President is Bill Krotiris RAIA.
- The Victorian State Manager is Tim Leslie FRAIA.

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1 EXECUTIVE SUMMARY

1.1 Introduction

1.1.1 About the Institute and the Architecture profession

The Australian Institute of Architects (the Institute) is the peak body for the architectural profession in Australia, representing around 12,000 members. The Institute works to improve our built environment by promoting quality, responsible, sustainable design. Architecture influences all aspects of the built environment and brings together the arts, environmental awareness, sciences and technology.

By combining creative design with technical knowledge, architects create the physical environment in which people live, which in turn, influences quality of life. Through its members, the Institute plays a major role in shaping Australia's future.

Architects are a key component of Australia's \$178 billion building construction sector¹ and there are around 13,000 architectural businesses in Australia with more than 43,000 employees. Approximately 25,000 people in the labour force hold architectural qualifications (Bachelor degree or higher) and architectural services in Australia in 2021 had revenue of \$7 billion²

Australian architects have a worldwide reputation for creative and innovative design leadership and Australia is known for producing contemporary and breakthrough architecture. We have a well-recognised, high quality and liveable built environment. To maintain this into the future and support our burgeoning population in both urban and regional centres, we must create buildings and public spaces that are environmentally, economically and socially sustainable and culturally rich.

1.1.2 This submission

The Institute, welcomes the opportunity to make a submission to the Department of Environment, Land, Water and Planning's *Melbourne's Future Planning Framework – Land Use Framework Plans*.

This past twenty-one months has presented the challenge of the Covid-19 pandemic which has had different impacts across the world and between cities and regions across Australia. It has also seen the delivery of a Royal Commission into National Natural Disaster Arrangements.

To face these challenges and capitalise on lessons learnt, governments will require built environment design expertise and master planning to support development of

¹ Combined housing, multi-unit apartments and townhouses, commercial and industrial and institutional building construction as noted in [Construction in Australia](https://www.ibisworld.com/au/construction-sector/) sourced from: <https://www.ibisworld.com/au/construction-sector/>

² [Architectural Services in Australia – Market Research Report updated August 2nd 2021](https://www.ibisworld.com/au/industry/architectural-services/550/) sourced from <https://www.ibisworld.com/au/industry/architectural-services/550/>

effective and enduring solutions. These solutions include those delivered through Melbourne's Future Planning Framework – Land Use Framework Plans and supported at a Federal level through the Commonwealth's Smart Cities and City Deals programs.

The Australian Institute of Architects (the Institute) is pleased to see the many initiatives of the Victorian Government that are already underway and will help create a better natural and built environment for all Victorians well into the future. Examples include:

- Environmentally Sustainable Development Roadmap
- A range of Cooling and Greening Melbourne projects
- A review of Victoria's 30 year infrastructure plan
- Planning for Melbourne's Green Wedges and Agricultural Land
- Victoria's Gas Substitution Roadmap
- Victoria's Building System Review
- Better Apartment Design Standards 2021

We note in particular the seven outcomes being addressed in each plan of

- Outcome 1 - Productivity: Melbourne is a productive city that attracts investment, supports innovation and creates jobs
- Outcome 2 - Housing Choice: Melbourne provides housing choice in locations close to jobs and services
- Outcome 3- Integrated Transport: Melbourne has an integrated transport system that connects people to jobs and services and goods to market
- Outcome 4 - Liveability: Melbourne is a distinctive and liveable city with quality design and amenity
- Outcome 5 - Strong Communities: Melbourne is a city of inclusive, vibrant and healthy neighbourhoods
- Outcome 6 - Sustainability and Resilience: Melbourne is a sustainable and resilient city
- Outcome 7³ - Regional Victoria is productive, sustainable, and supports jobs and economic growth

In addition, the Institute notes the eight principles that appear in the Western, Northern and Southern Plans that underpin the growth corridor plans and are reflected in Plan Melbourne for the future development of Melbourne's three growth corridors – Northern, Western and South Eastern:

Principle 1 - Create diverse and vibrant new urban communities

Principle 2 - Integrate transport and land use planning

Principle 3 - Plan for local employment creation

Principle 4 - Create growth corridors with high amenity and character

Principle 5 - Protect biodiversity, waterways and cultural heritage values

Principle 6 - Create integrated open space networks

³ This outcome is not specifically addressed in the LUPFs in the same manner as the other Outcomes which have dedicated chapters.

Principle 7 – Plan for environmental sustainability

Principle 8 – Stage development to ensure the efficient and orderly provision of infrastructure and services

The purpose in making this submission is not to comment to the specifications given for any one LUPF in a particular region, but to draw attention to wider issues for all LUPFs.

These are:

- Sustainability
- Designing in Country
- Design Review Panels
- Procurement for Building Quality

1.1.3 Adopting the recommendations and advice provided in this submission.

It is noted that the implementation chapter of each LUPF indicates that the LUPF is used to ‘inform’ planning and investment in relation to growth areas and urban renewal precincts, local and regional planning, and infrastructure and servicing projects. This is where the suggestions and recommendations outlined in this submission are likely to have greatest impact.

State and local governments can clearly control good outcomes for land development, buildings and structures that they and their relevant procurement agencies procure through expressions of interest and calls for tender. There is even the possibility for governments to provide some specifications that must be met as a condition of funding or grant to non-government organisations towards the cost of construction of facilities. In respect of private interests, the LUPFs could be used to ensure that local government planning decision-makers acting independently or in regional coalitions can apply additional criteria that improve building quality.

Throughout the discussion and recommendations below there also a number of references to other policies and guidelines documents. Many government policies are mapped for each of the major chapters of the LUPFs in *Appendix O1 Relevant policies, strategies and initiatives*. The guidelines and other key knowledge documents recommended or referred to in our analysis and recommendations, below, could also be included in Appendix O1 of each Land Use Planning Framework.

1.1.4 Institute overall appraisal and our recommendations

The Australian Institute of Architects broadly endorses the approach taken in the Land Use Planning Frameworks and makes the following six recommendations to strengthen the further development and implementation of the six LUPFs:

Recommendation 1: Develop further sustainable building guidelines in each LUPF that:

- establishes a 2030 target for buildings of different typologies and uses such as residential , commercial /retail and community use (including health and education) to be designed and constructed for zero-carbon operation.

- provides specific guidance for sustainable building design and construction practice which addresses issues of:
 - embodied carbon of materials
 - life cycle assessment of materials
 - disclosure of materials' composition
- addresses supply chain responsibility for building materials in relation to broader social and economic outcomes such as the eradication of enforced labour.

Recommendation 2: Ensure that the recommended sustainable building guidelines form part of the Expression of Interest or Tender documents in both State and Local Governments' (or their statutory agencies) for procuring infrastructure and buildings.

Recommendation 3: Work with Aboriginal communities across the various land councils to ascertain the need, and if preferred to develop companion documents and guides to Pupungarli Marnmarnepu that provide practical guidance on Designing in Country.

Recommendation 4: Establish a 2 hours per annum mandatory First Nations CPD requirement in Victoria for all classes of practitioner in scope of the National Registration Framework for Building Practitioners and ensure that government building projects arising from a Land Use Planning Framework are designed and constructed by practitioners who have undertaken this CPD requirement.

Recommendation 5: Establish Design Review Panels in each region covered by a Land Use Planning Framework and at Local Government level to undertake design review for precinct master planning, master plans for single or aggregated sites such as brownfields redevelopment or greenfields subdivision as well as single buildings in order to ensure that design does not stagnate and innovation that meets planning objectives is encouraged.

Recommendation 6: Land Use Planning Frameworks give greater guidance to procurement methods so that the intentions of the LUPFs and subsequent land use, shaped by master planning, and land development are enabled to be fully realised and deliver high quality and sustainable built environment outcomes. This is to be supported by attention to best practice in:

- Expressions of Interest and Requests for Tender
- Architectural Competitions
- Novated design and construct procurement

using resources published by the Australian Institute of Architects and the Office of the Victorian Government Architect and including these resources in the Appendix of each Land Use Planning Framework.

1.2 Detailed appraisal.

1.2.1 Sustainability.

The Institute places a very high value on action to reduce the impacts of climate change. In 2020 the Institute invited all of its 12,000 members in Australia (and our International

Chapter) to take an ambitious step of commitment to a zero-carbon journey⁴. We note that:

- Australia's buildings generate 23 per cent of Australia's carbon emissions.
- Australia's building sector can deliver up to 28% of Australia's 2030 emissions reduction target.
- Architects are uniquely placed to help lead the transition to a carbon neutral future.

The Institute has called on the Australian Government to establish a national plan towards zero carbon buildings by 2030 that can be supported and led where appropriate by state and local government.

Sustainability and resilience are comprehensively addressed in the LUPFs. A clear target needs to be established that buildings of different typologies such as residential , commercial /retail and community use (including health and education) are designed for zero-carbon operation.

Good design, which, in sustainability terms, refers to applying passive design principles, is key to both the performance of the building across its lifecycle as well as the selection of materials that have lower environmental impacts.

Furthermore, embodied carbon and other potentially environmentally damaging materials' composition, that are not always disclosed when used in buildings, should also be considered. The National Construction Code (NCC) does not address these two important aspects, only the energy efficiency of the building itself.

Broader issues of sustainability when procuring building materials should also be understood from the perspective of social and economic sustainability and take into account whether the supply chain for particular materials involves practices such as forced labour or other exploitation of workers or communities.

State and Local Governments, when procuring infrastructure and buildings, have the opportunity to set these sustainability requirements in their Expression of Interest or Tender documents.

Recommendation 1: Develop further sustainable building guidelines in each LUPF that:

- establishes a 2030 target for buildings of different typologies and use such as residential , commercial /retail and community use (including

• ⁴ <https://www.architecture.com.au/about/carbonneutral> Melbourne is a city of inclusive, vibrant and healthy neighbourhoods

health and education) to be designed and constructed for zero-carbon operation.

- provides specific guidance for sustainable building design and construction practice which addresses issues of:
 - embodied carbon of materials
 - Life cycle assessment of materials
 - Disclosure of materials' composition
- addresses supply chain responsibility for building materials in relation to broader social and economic outcomes such as the eradication of enforced labour.

Recommendation 2: Ensure that the recommended sustainable building guidelines form part of the Expression of Interest or Tender documents in both State and Local Governments' for procuring infrastructure and buildings.

1.2.2 Designing with Country.

Each of the LUPFs has recognised the Traditional Custodians of Country in each of the regions, and there are aspects of each LUPF that consider First Nations heritage in the Liveability Chapters. The Institute notes that each of the detailed LUPFs commences with recognition of *Pupangarli Marnmarnepu 'Owning Our Future' Aboriginal Self-Determination Reform Strategy 2020-2025*. This was released in 2020 the by Victorian Government Department of Environment, Land Water and Planning “*as the framework for supporting and enabling Aboriginal self-determination for all DELWP projects*”. Importantly, ongoing we note from reviewing the LUPFs that partnership opportunities with Traditional Owners are currently being explored.

The Institute notes other important documents that have been recently developed in Australia. These documents or local counterparts developed by Aboriginal communities in Victoria might also assist the process of designing with Country. These include the Office of the Government Architect of NSW's draft *Connecting with Country - framework for understanding the value of Aboriginal knowledge in the design and planning of places*⁵ and its companion publication, *Designing with Country - A discussion paper for all stakeholders engaged in built environment projects that impact Aboriginal communities as well as their culture and heritage*.⁶ It is noted that the NSW Government will incorporate a “Connecting

⁵ Download using:

<https://www.governmentarchitect.nsw.gov.au/resources/ga/media/files/ga/discussion-papers/draft-connecting-with-country-framework-2020-11-12.pdf> or via

<https://www.governmentarchitect.nsw.gov.au/projects/designing-with-country>


⁶ <https://www.governmentarchitect.nsw.gov.au/resources/ga/media/files/ga/discussion-papers/discussion-paper-designing-with-country-2020-06-02.pdf>

with Country” element into the Design and Place State Environmental Planning Policy (SEPP) consequent to the recent review of this SEPP.

The Land Use Planning Frameworks could lead by example by working with relevant Traditional Custodians to embed the laws, lores and values of Country into the LUPFs. One approach to augment this would be to develop companion documents and guides to Pupangarli Marnmarnepu that provide practical guidance on Designing with Country.

Each LUPF could also include from each Traditional Owner Group a set of terms/protocols for engagement e.g. when Traditional Owners want/need to be engaged and also guidance/ priorities from Traditional Custodians on priorities for Country for projects that don’t or can’t undergo engagement.

Local Councils could develop agreements with Traditional Owner groups on how projects on their Country are to be managed, and establish local Traditional Owner referral bodies for projects that meet a set of criteria or principles determined by the Traditional Owners and the LGAs. This could vest Traditional Owner decision-making power into the planning system. This would align with the self-determination intent expressed in Pupangarli Marnmarnepu.



Traditional owners have a recognised role as Custodians of waterways and their cultural values. Their unique perspective and knowledge allows them to influence the agenda for waterway management and actively participate in caring for their country.

(Melbourne Water, The Healthy Waterways Strategy 2018-28).

An example are the six principles and seven objectives set out in Melbourne Water’ Healthy Waterways Strategy⁷. Further to this the development of Melbourne Water’s five catchment plans across Melbourne, Mornington Peninsula and Westernport have included Traditional Owners in the co-designed plans.

This underscores the need to ensure that planners, designers, project manager and construction leads strengthen their professional knowledge and practice competency so that that are aware of the place in which a project is occurring and the Custodians and communities with whom the proponents of a project might need to engage when designing and delivering projects.

The National Standard of Competency for Architects, which is governed by the Architects Accreditation Council of Australia, has just introduced its inaugural First Nations competency standard. This is the first such competency standard among built environment and construction professions or practitioner classes in Australia. The Architects

⁷ <https://www.melbournewater.com.au/about/strategies-and-reports/healthy-waterways-strategy>

Accreditation Council of Australia developed the new First Nation competency standard in partnership with the Australian Institute of Architects' First Nations Advisory Working Group.

All builders, design professions and project managers should have a similar competency.

The Institute has just recommended to the Australian Building Codes Board, in response to the ABCB's consultation on Continuing Professional Development on the National Construction Code (NCC), that CPD on First Nations and Sustainability should both also be mandatory in the Australian construction sector. This would apply to all built environment practitioners including Architects, Building Surveyors, Builders and Project Managers.

Even if the Institute's recommendation for compulsory First Nations and sustainability CPD is not adopted by the ABCB, the Victoria government could implement its own mandatory First Nations CPD requirement (e.g. 2 hours per annum) over and above the minimum requirement of 5 hours per annum currently proposed by the ABCB for CPD on the National Construction Code. To do so would strengthen the First Nations co-creation of successful and enduring built environment outcomes.

Recommendation 3: Work with Aboriginal communities across the various land councils to ascertain the need, and if preferred to develop companion documents and guides to Pupangarli Marnmarnepu that provide practical guidance on Designing with Country.

Recommendation 4: Establish a 2 hours per annum mandatory First Nations CPD requirement in Victoria for all classes of practitioner in scope of the National Registration Framework for Building Practitioners and ensure that government building projects arising from a Land Use Planning Framework are designed and constructed by practitioners who have undertaken this CPD requirement.

1.2.3 Design Review Panels

As the Department of Environment Land Water and Planning would be aware, the Victorian Parliament currently has a broad ranging inquiry underway on Apartment Design Standards. Our member consultation in relation to this current inquiry reinforces the positions that we have put forward to DELWP in our submission in 2020 to its Environmentally Sustainable Development of Buildings and Subdivision consultation, and to Infrastructure Victoria in February 2021 in response to their Draft 30-Year Infrastructure Strategy.

Planning approvals processes based on checklists of planning criteria may ensure that 'bad' design outcomes are avoided in the approvals process delivered by local government planning and building departments. A "ticks all boxes" prescriptive method may potentially facilitate fast track approvals. However, innovative designs by their very nature may fail algorithm or prescriptive approaches to planning approvals even if the design meets the objectives set out in the Victorian Planning Provisions (VPP) Guideline or Standard. The risk is that approvals based solely on algorithms or checklist can lead, over time, to repetitive designs of buildings while also significantly stifling design innovation.

A more wholistic and qualitative appraisal of whether innovative designs meet VPP objectives is required. There is an emerging trend of establishing design review panels including the long-standing Victorian Design Review Panel⁸ for the Office of the Victorian Government Architect (OVGA), the new City of Melbourne Design Review Panel and Design Excellence Advisory Committee⁹ and the current expression of interest for members of a new City of Ballarat Design Review Panel¹⁰.

Design Review Panels could be established with different levels of geographic scope. Design Review Panels at the LUPF regional level paying greater attention to precinct and other place-based designs for the purposes of master planning.

DRPs at the local government level would pay greater attention to master plans for single or aggregated sites, such as brownfields redevelopment or greenfields subdivision, as well as single buildings.

Design Review Panels could be established at the level of the six regions for which the Land Use Planning Frameworks or at the level of local governments.

Widespread establishment of Design Review Panels would require consideration of the overall governance and establishment including:

- legal basis and governance (e.g. legislation and ministerial oversight)
- business model – direct user pays, funded from development levies, planning application revenue or state government output expenditure,
- composition, including potential consumer, Traditional Owner and community representation as well as matter experts from architecture, planning, landscape architecture

In their operation, key issues which would need to be addressed are:

- the rules for when a project needs to be reviewed by a Design Review Panel and how this is triggered. At present there are no guidelines that specify this for the Victorian Design Review Panel.
- which Design Review Panel is to be used and when.

Having clear guidelines and rules would help created greater certainty for all stakeholders to a development project.

Both the governance and operational issues potentially raises the question of which overall strategy over the long term would lead to the best outcomes, reduce variance, lead to financial and operational efficiencies. That is, whether a single statewide strategy, a more locally governed strategy or a combination of the two should be established.

⁸ <https://www.ovga.vic.gov.au/victorian-design-review-panel>

⁹ <https://www.melbourne.vic.gov.au/building-and-development/design-excellence/Pages/design-review.aspx>

¹⁰ <https://www.ballarat.vic.gov.au/design-panel-eoi>

Recommendation 5: Establish Design Review Panels in each region covered by a Land Use Planning Framework and at Local Government level to undertake design review for precinct master planning, master plans for single or aggregated sites such as brownfields redevelopment or greenfields subdivision as well as single buildings in order to ensure that design does not stagnate and innovation that meets planning objectives is encouraged.

1.2.4 Procurement for high quality outcomes

The Australian Institute of Architects recognises the way in which the procurement of both design and construction has a significant impact on built outcomes and has undertaken significant work with government bodies and departments in respect of best practice guidelines for procuring design, design competitions and expression of interest and tender processes. Therefore, the Institute has identified the procurement process of Architectural services as a key policy priority in improving the quality of built outcomes.

Design briefs that respond to the outcomes in the LUPFs.

Design briefs used for procuring buildings and other built environment features should ensure that they have appropriately weighted criteria and detailed specifications about how the particular social and economic outcomes are to be achieved through good design. It is critical that the resulting procurement processes simply do not appraise tenders on a lowest cost basis.

The Victoria Office of the Government Architect¹¹ has further qualified the importance for governments of the procurement process in its online procurement guideline, “Government as Smart Client ”,

A key legacy offered by any government is the quality of buildings, infrastructure and the public realm that they produce. Well-designed buildings and places promote community pride and identity and offer an enduring legacy. Over the life of a building, evidence shows that bad design ends up costing money, while good design ends up costing less and, at the same time, adds real value.

Good design does not just happen: it is purposefully and carefully undertaken by skilled practitioners, valued by the client, and needs to be protected through delivery of the project.

The method by which a building project is procured has a significant impact on the quality of the final building. While good design is able to be achieved with all

¹¹ Office of the Victorian Government Architect. (2013). Government as ‘Smart Client’: Guidelines for building procurement processes, the implications for design quality arising from these processes, and the recommendation of strategies to enable good design. August 2013. Office of the Victorian Government Architect, Melbourne.

procurement methods, some make it seriously challenging unless their potential threats to design quality are understood and well managed. (p1, ibid)

Guidelines such as the Office of the Victorian Government Architect's, "Government as Smart Client"¹² need to be carefully understood by procurement bodies and also included in the reference appendices to each LUPF.

Government Expression of Interest and Request for Tender

Government agencies and institutions in Australia have adopted various methods of quality-based selection including Expressions of Interest (EOI), Request for Tenders (RFT), Request for Proposals (RFP) and Design Competitions. Each of these methods has merit and provides agencies with options to suit the burgeoning type of projects commissioned in the public sector. Thoughtful and thorough consideration of consultant procurement, at the early stage, maximises the possibilities for design quality, cost savings, and a productive working relationship between the client and consultant group.

Over time, variance and complexity of these methods has increased, as has the onus on Architectural practices to respond with more detail and take on greater risks associated with changing procurement models. The selection of an Architect through a process that matches submission demands with project complexity is a crucial early step in the delivery of a successful built form outcome.

Our Institute has undertaken research to investigate best practice Expression of Interest (EOI) and Request for Tender (RFT) methods in public sector and educational institutions that commission Architectural services. This has enabled the Institute to develop a set of Guidelines for Expressions of Interest (EOI) and Request for Tender (RFT) for Architectural services (the 'Guidelines')¹³ together with templates for both clients and Architects. The objective of the Guidelines is for potential clients to review their own EOI and RFT methods and documents and align them with best practice to enable an effective and efficient process that maximises the potential for high-quality built outcomes and reduces bidding and assessment costs for all parties. The Guidelines have been endorsed by both the Office of the Victorian Government Architect (OVGA) and the Government Architect NSW.

Architectural competitions

An architectural competition, when conducted appropriately, can generate a broad range and high level of innovation in design solutions. However, if the competition process is flawed, there can be significant negative outcomes for all participants – sponsors/clients, entrants, jurors, advisers with the ultimate impact for consumers and end users. There is therefore a need for clarity, consistency and equity in the conduct of architectural competitions as part of the procurement process.

¹² See: <https://www.ovga.vic.gov.au/government-smart-client>

¹³ Available for free download from https://www.architecture.com.au/archives/policy_campaigns/procurement

The Institute has established a detailed policy on architectural competitions, clearly articulating a set of high-level principles and performance requirements that represent our position on good practice in the conduct of architectural design competitions in Australia.

Copies of the Institute's policy¹⁴, Model Conditions for an Architectural Competition¹⁵, and Guidelines for the Conduct of Architectural Competitions¹⁶ can be downloaded for free and the Institute can be engaged to provide advice to governments and institutions on the conduct of Architectural Competitions.

Novated Design and Construct Procurement

A nationally agreed program of building reform has been underway in each state and territory since 2018. The reform was initiated by the former Building Ministers' forum of the Council of Australian Governments¹⁷, to better protect consumers and end-users of buildings from catastrophic failures such as those seen in the Melbourne Lacrosse Tower fire and the structural failure in the Opal Tower in Sydney.

In April 2018 the Building Ministers' Forum published its expert assessment of the effectiveness of compliance and enforcement systems for the building and construction industry. The report, *Building Confidence*¹⁸, and also eponymously known as the *Shergold-Weir* report, in reference to its authors, acknowledged that in relation to multi-storey residential dwellings that, novated design-and-construct procurement could ultimately lead to *a significant difference between the as-designed building documentation and the as-built building*.

It is particularly in Victoria and NSW where novated design-and-construct procurement has been a long established practice for more than two decades. Novated design-and-construct procurement has embedded itself in the two major capital cities and their surrounds. It is a method that the market has embraced to deliver large scale multi-storeys residential and even commercial buildings. It is even the method now commonly used by governments such as the Victorian Government for much of its building procurement.

From a developer's and a financiers' perspective novated design-and-construct procurement responds to the time and cost pressures necessary to market and deliver owners corporation (multi-owner) off-the-plan developments. This 'certainty' factor also flows through to the constructor who needs to ensure that the building is

¹⁴ Australian Institute of Architects Architectural Competitions Policy: <https://www.architecture.com.au/wp-content/uploads/Architectural-Competitions-Policy.pdf>

¹⁵ Australian Institute of Architects Model Conditions for an Architectural Competition: https://www.architecture.com.au/wp-content/uploads/Architectural_Competition_Model.pdf

¹⁶ Australian Institute of Architects Guidelines for the Conduct of Architectural Competitions: <https://www.architecture.com.au/wp-content/uploads/Architectural-Competition-Guidelines.pdf>

¹⁷ Now the Building Ministers' Meeting under the National Cabinet.

¹⁸ Shergold, P. and Weir, .B. 2018. *Building Confidence. Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia*. Sourced from: https://www.industry.gov.au/sites/default/files/July%202018/document/pdf/building_ministers_forum_expert_assessment_-_building_confidence.pdf

delivered to a specified contracted price that developers and financiers need to have determined as early as possible in a project.

Over the past three years the Institute has also researched and consulted with a range of stakeholders across the building procurement and construction sector to better understand the impact of novated design and construct procurement where consultants¹⁹ agreements are novated from the principal (the owner or developer) to the contractor (builder).

Novation occurs at different stages of design development, and often well before significant design details or much more comprehensive construction documentation has been developed.

While the model addresses some of the financial risks for financiers and developers by engaging the contractor early once planning approval has been gained, the value management process can lead to substantial loss of design intent and the very detailed elements that mean the difference between a high quality and durable building with high levels of performance with respect to emissions can, concerningly, be ‘value-managed’ out of the design at the direction of the contractor.

As part of the NSW implementation of the nationally agreed reforms the NSW Building Commissioner has introduced a regime of designer and builder certifications and declarations which is commencing with Class 2 structures (multi-residential apartment developments). In the NSW Design Declaration scheme²⁰, one of the shortcomings of novated design and construct procurement – the premature commencement of construction prior to the completion of all design – has been addressed.

The NSW scheme of design declarations requires full designs including construction details to be certified by the designer²¹ prior to the commencement of construction. Our Institute has, this year, recommended a similar scheme of design declarations using a staged model to better be able identify early and manage risks throughout the design process and aligned to both planning and building permit approvals. This is detailed in our submission to the Expert Panel overseeing Victoria’s current building reform process²².

In addition, the Institute, later in 2021 will launch an Industry Code of Novation²³ and a reference model Deed of Novation for use in Novated Design and Construct Procurement to improve the practices surrounding novation in its use in design and construct

¹⁹Including architects and non-architect designers, and geotechnical, structural, services, fire and façade engineers and specialists

²⁰ <https://www.fairtrading.nsw.gov.au/trades-and-businesses/construction-and-trade-essentials/design-and-building-practitioners/new-obligations-design-and-declaration>

²¹ All Class 2 buildings of 3 storeys or greater must be designed by an Architect in NSW.

²² See p 13 and p37 in [Submission in Response to Framework for Reform – Modernising Victoria’s Building System \(Discussion Paper\)](https://www.architecture.com.au/wp-content/uploads/Australian-Institute-of-Architects-Submission-on-Framework-for-Reform_20210525_FINAL.pdf). https://www.architecture.com.au/wp-content/uploads/Australian-Institute-of-Architects-Submission-on-Framework-for-Reform_20210525_FINAL.pdf

²³ Currently available in draft upon request to vic@architecture.com.au

procurement. As the Victorian Government also uses the novated design and construct procurement model extensively, it is of important benefit to all Victorians, and communities living in the six regions cover by the Future Melbourne Land Use Planning Frameworks to ensure that where government procurement occurs as part of the frameworks' implementation (e.g. to deliver social housing, education, community and healthcare facilities) that optimal conditions are established for novated design and construct procurement.

Recommendation 6: *Land Use Planning Frameworks give greater guidance to procurement methods so that the intentions of the LUPFs and subsequent land use, shaped by master planning, and land development are enabled to be fully realised and deliver high quality and sustainable built environment outcomes. This is to be supported by attention to best practice in:*

- *Expressions of Interest and Requests for Tender*
- *Architectural Competitions*
- *Novated design and construct procurement*

using resources published by the Australian Institute of Architects and the Office of the Victorian Government Architect and including these resources in the Appendix of each Land Use Planning Framework.
