

Planning and Environment Act 1987

Panel Report

**Melbourne Planning Scheme Amendment C308
Central Melbourne Urban Design**

16 May 2019

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Melbourne Planning Scheme Amendment C308

Central Melbourne Urban Design

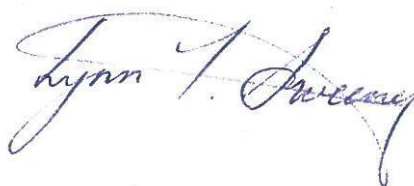
16 May 2019



Lester Townsend, Chair



Lorina Nervegna, Member



Lynn Sweeney, Member

Contents

	Page
1 Introduction.....	1
1.1 The Amendment.....	1
1.2 Summary of issues raised in submissions	3
1.3 Policy support for the Amendment.....	3
1.4 Overall conclusion	5
2 Threshold issues in managing design	7
2.1 What is high quality design?	7
2.2 What needs guidance?	11
2.3 Policy or Design and Development Overlay	13
2.4 The role of the Design outcomes	16
2.5 Requirements or guidelines	18
3 Operational issues in DDO1.....	22
3.1 Fitting with the rest of the Melbourne Planning Scheme	22
3.2 Design objectives.....	27
3.3 Definitions	28
3.4 Detailed issues on the drafting of the Design requirements	30
3.5 Application requirements.....	33
3.6 Decision guidelines.....	36
4 Design issues in DDO1.....	37
4.1 What are the issues?	37
4.2 The pedestrian network	37
4.3 Site layout.....	44
4.4 Building mass.....	50
4.5 Building program	55
4.6 Public interfaces	62
4.7 Public realm projections.....	66
4.8 Design detail	68
4.9 Overall recommendation	71
5 The <i>Design Guide</i>	72
5.1 The need for a <i>Design Guide</i>	72
5.2 Issues with the current draft of the <i>Design Guide</i>	73
5.3 Should the guide be incorporated?.....	76

Appendix A	Submitters to the Amendment
Appendix B	Parties to the Panel Hearing
Appendix C	Document list
Appendix D	Panel preferred version of DDO1
Appendix E	Notes on the images in the <i>Design Guide</i>

List of Tables

	Page
Table 1: Relevant parts of Plan Melbourne	5
Table 2: Panel preferred structure of DDO1	12
Table 3: Performance and quantification in controls	14
Table 4: Performance and measurement in controls	14
Table 5: Elements of a planning scheme (selected elements).....	19
Table 6: Feasibility findings – Residual land values and existing use values	60

List of Figures

	Page
Figure 1: Where the Amendment applies, from the Council's Part C submission.....	26
Figure 2: Extract from MSS showing local area boundaries.....	26
Figure 3: Comparison of optimal walking grid to other typical Melbourne grids	38
Figure 4: An acceptable building with horizontal expression, McPherson's Building.....	53
Figure 5: An acceptable building with vertical expression, Manchester Unity Building.....	54
Figure 6: Monaco House, Ridgway Place (McBride Charles Ryan Architects, 2007).....	64

Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
AILA	Australian Institute of Landscape Architects
building envelope DDOs	This is a reference to the following DDOs: <ul style="list-style-type: none"> - DDO10: General Development Area - Special Character Area DDOs: <ul style="list-style-type: none"> ▪ DDO2: Hoddle Grid Special Character Area ▪ DDO14: Queen Victoria Market Area ▪ DDO40: River Environs Special Character Area ▪ DDO60: Southbank Special Character Area (which also covers the Southbank Arts Precinct) ▪ DDO62: Bourke Hill Special Character Area
CBD	Central Business District
Council	Melbourne City Council
DDO	Design and Development Overlay
DDO1	proposed Schedule 1 to the Design and Development Overlay
the Department	Department of Environment, Water, Land and Planning
<i>Design Guide</i>	draft <i>Central Melbourne Design Guide</i>
ESD	Environmentally Sustainable Development
EUV	Existing Use Value
FAU	Floor Area Uplift
MSS	Municipal Strategic Statement
Part C	Council's Part C submission (Document 70)
Part C version of DDO1	Document 73
planning scheme	Melbourne Planning Scheme
<i>Practitioner's Guide</i>	<i>Practitioner's Guide to Victorian Planning Schemes 2018</i>
[Reference]	This is a reference to the numbering in Council's Part C version of the Amendment
RLV	Residual Land Value
<i>Synthesis Report</i>	<i>Synthesis Report: Promoting High Quality Urban Design Outcomes in the Central City and Southbank, January 2018</i>
UDIA	Urban Development Institute of Australia
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

Overview

Amendment summary

The Amendment	Melbourne Planning Scheme Amendment C308
Common name	Central Melbourne Urban Design
Brief description	The Amendment proposes to replace Schedule 1 to the Design and Development Overlay with a new schedule that consolidates many of the urban design policies and controls into one Design and Development Overlay schedule to guide the delivery of a high standard of urban design, architecture and landscape in Central Melbourne.
Subject land	Central Melbourne and Southbank
Planning Authority	Melbourne City Council
Authorisation	2 May 2018
Exhibition	28 June – 3 August 2018
Submissions	Number of Submissions: 41

Panel process

The Panel	Lester Townsend (Chair), Lorina Nervegna, Lynn Sweeney
Directions Hearing	Planning Panels Victoria, 31 January 2019
Panel Hearing	1, 4, 5, 6, 12, 13 and 14 March 2019
Site inspections	Accompanied, Thursday 28 February 2019
Appearances	See Appendix B
Citation	Melbourne PSA C308 [2019] PPV
Date of this Report	16 May 2019

Executive summary

Melbourne Planning Scheme Amendment C308 has been prepared in response to what are seen by Council and designers as poor urban design outcomes in the city in recent decades.

Urban design affects all of us as we navigate our lives through the built environment and, for more and more people, through our capital city and environs. The quality of Central Melbourne's built environment, public spaces and amenity depends on the delivery of high-quality urban design that is safe, sustainable, enjoyable and accessible for people of all abilities, ages and cultures.

We endorse the work Council has done in preparing this complex Amendment and find that it is sound, warranted and will add value in achieving high urban design standards for Central Melbourne. The large number of positive submissions is testament to this.

The Planning Policy Framework sets out clear policies for high quality design. The *Urban Design Guidelines for Victoria* deliver existing policy, focussing on the design of the public realm including public spaces, streets, parks and paths across Victoria. This Amendment seeks to draw the focus of urban design to Central Melbourne. It specifically deals with the interface between the public and private realm and aims to direct good design outcomes in private developments, recognising the contribution they can make to a high quality public realm.

The Amendment proposes a new schedule to the Design and Development Overlay that consolidates many urban design policies and controls to guide the delivery of a high standard of urban design, architecture and landscape architecture in Central Melbourne.

Specifically, the Amendment proposes to:

- replace the existing Schedule 1 to the Design and Development Overlay (Active Street Frontages) with a revised schedule
- delete the policy at Clause 22.01 'Urban Design in the Capital City Zone' and translate the policies of this clause into requirements in Schedule 1 to the Design and Development Overlay
- delete Schedule 4 (Weather Protection – Capital City Zone) of the Design and Development Overlay and incorporate the provisions of that schedule into Schedule 1.

The Panel recommends that the Amendment also:

- delete the policy at Clause 22.20 'CBD Lanes' and translate the policies of that clause into requirements in Schedule 1 to the Design and Development Overlay
- delete Schedule 3 (Traffic Conflict Frontage – Capital City Zone) of the Design and Development Overlay and incorporate the provisions of that schedule into Schedule 1.

The Panel concludes that the extra weight of a permit trigger in a Design and Development Overlay is warranted to regulate urban design in Central Melbourne, and there is no impediment to a Design and Development Overlay expressing a mix of qualitative and quantitative controls. The Panel finds the proposed mandatory controls justified subject to recommended changes.

Submissions about the design guidance in the Amendment fell under five related themes:

- the quality of design outcomes
- the merits of specific Design requirements and whether they should be mandatory
- how Design and Development Overlay Schedule 1 relates to other provisions in the Melbourne Planning Scheme
- the workability and expression of requirements in Schedule 1 to the Design and Development Overlay
- content and role of the *Design Guide*.

The Panel is clearly persuaded that the Amendment has clear strategic justification and that state, metropolitan and local policy frameworks clearly contemplate controls that require a high level of urban design in Central Melbourne. It is clear that the minimum acceptable threshold for design for Central Melbourne is best characterised as ‘high quality design’ – this being a higher threshold than good design.

The design guidance in the Amendment is generally well founded, strategically justified and appropriate subject to relatively minor refinements. The Panel notes that an application that meets the Design requirements would also need to demonstrate through the design response that a high quality design will be achieved.

The *Synthesis Report: Promoting High Quality Urban Design Outcomes in the Central City and Southbank*, January 2018 that underpins the Amendment clearly states:

Within a performance-based planning context, it is imperative that adequate tests or Design requirements are paired with objectives in order to aid decision making. The two should be clearly linked, and adopt appropriate language and specificity befitting their role.

The exhibited Amendment did not do this, a fact noted in a number of submissions. The Panel proposes that Schedule 1 to the Design and Development Overlay be refined to address this issue.

The Panel recommends further drafting refinement to strengthen the Amendment and reduce the prospect for confusion in applying Schedule 1 to the Design and Development Overlay. The Panel recommends a more conventional approach to drafting that more closely follows published drafting advice.

The Panel notes the general support for the *Design Guide* and applauds Council for its efforts, but is concerned that the *Design Guide* is a missed opportunity to better articulate some of the thinking behind the requirements.

Decision makers and applicants would benefit from further commentary in the *Design Guide* on what is good design in the Good Design Matters section. It should also explain the differences between good design and high quality quality design – emphasising that high quality design is authentic, contextual and site specific and is what is specifically sought by Design and Development Overlay Schedule 1.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Melbourne Planning Scheme Amendment C308 be adopted as exhibited in accordance with the following modifications:

1. Delete Clause 22.20 and include its contents in Design and Development Overlay Schedule 1 to encompass all relevant direction regarding laneways as shown in Appendix D.
2. Delete Design and Development Overlay Schedule 3 and include its contents in Design and Development Overlay Schedule 1 to encompass all relevant direction regarding traffic access and loading as shown in Appendix D.
3. Refine Schedule 1 to the Design and Development Overlay based on Document 73 but revised as shown in Appendix D to:
 - 3.1 Simplify the language of the Design objectives.
 - 3.2 Introduce text explaining the role of Design outcomes and Design requirements based on similar text in Schedule 10 the Design and Development Overlay.
 - 3.3 Clarify the use of geographic descriptions:
 - a) Rename the Schedule 'Urban Design in Central Melbourne'.
 - b) Use the term Hoddle Grid in the Schedule and identify those areas in the Schedule outside the Hoddle Grid or Southbank separately – that is, Western Rail corridor and Jolimont Rail corridor – in the same way the Schedule refers to North Wharf.
 - c) Define Special Character Area in relation to other Design and Development Overlay Schedules to remove any doubt in map interpretation but include a map in the Schedule to assist in interpretation.
 - 3.4 Express Built form outcomes and Design requirements in body text and not in single row tables.
 - 3.5 Revise the Design outcomes to better express the real world conditions that Design and Development Overlay Schedule 1 seeks to achieve, and ensure that there is a clear outcome expressed for all requirements.
 - 3.6 Redraft the Design requirements to:
 - a) Present the requirements as standards using 'should' or 'must'.
 - b) Reduce the use of terms such as 'small', 'narrow', 'deeply recessed', 'low-height', 'lower', 'long', 'limited number', 'large', 'minor'.
 - c) Further apply plain English principles and VPP drafting conventions.
 - d) Refine the design advice.
 - 3.7 Refine the Application requirements.
 - 3.8 Refine the Decision guidelines.
4. Change the *Central Melbourne Design Guide* to:
 - a) Include a typology of pedestrian connections that covers laneways, pedestrian only laneways (open or covered), walkways, arcades – both contemporary and heritage, through-building connections and atria.
 - b) Include the laneway classification information from Clause 22.20.

- c) Include text based on Document 67 to explain the contextual meaning of terms such as 'small', 'narrow', 'deeply recessed', 'low-height', 'lower', 'long', 'limited number', 'large', 'minor' where used.
 - d) Clarify the role of each thematic element.
 - e) Revise the 'Good Design Matters' section to include a clear explanation of what is meant by good design, high quality design and design excellence and the difference in meeting these thresholds in the context of Schedule 1 to the Design and Development Overlay.
 - f) Clarify that while Design Review processes are voluntary, they should be used to review proposals purporting to have achieved a threshold of design excellence.
 - g) Include further text in each section in the form of an introduction or preface for each thematic element to explain and clarify the fundamental principle underpinning it, to assist architects and decision makers to understand the logic behind the requirements and what alternative design solutions could be acceptable.
 - h) Include 'Tips' modelled on tips in the Urban Design Guide for Victoria and highlight synergies with other sections.
 - i) Address the issues with the images identified in Appendix E.
 - j) Make editorial improvements including page number references to all sub headings in the Contents page.
5. Incorporate the *Central Melbourne Design Guide* by listing it in Clause 72.04 of the Melbourne Planning Scheme.

The Panel also recommends that:

- C1** Council address the need for detailed information on shop front design by requiring more detailed plans as part of a permit condition.

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment proposes a new Schedule 1 to the Design and Development Overlay (DDO1) that consolidates many of the urban design policies and controls of the Melbourne Planning Scheme (planning scheme) into one Design and Development Overlay (DDO) schedule to guide the delivery of a high standard of urban design, architecture and landscape architecture in Central Melbourne.

Specifically, the Amendment proposes to:

- replace the existing DDO1 (Active Street Frontages) with a revised schedule
- delete the policy at Clause 22.01 'Urban Design in the Capital City Zone' and translate the policies of this clause into requirements in DDO1
- delete Schedule 4 (Weather Protection – Capital City Zone) of the DDO and incorporate the provisions of that schedule into DDO1.

The Amendment will apply to areas covered by a number of other DDOs identified below (building envelope DDOs) that currently control built form across defined geographic areas:

- DDO10: General Development Area
- Special Character Areas:
 - DDO2 Hoddle Grid Special Character Area
 - DDO14: Queen Victoria Market Area
 - DDO40: River Environs Special Character Area
 - DDO60: Southbank Special Character Area (which also covers the Southbank Arts Precinct)
 - DDO62: Bourke Hill Special Character Area.

This report refers to these DDOs as the 'building envelope DDOs'.

(ii) Background

The purpose of the Amendment is to update and improve urban design requirements for Central Melbourne.

DDO1 is intended to be the companion control to complement the strong built form outcomes sought by building envelope DDOs introduced primarily through Amendment C270 in November 2016. While the building envelope DDOs control built form, DDO1 will more particularly control urban design at the human and pedestrian scale.

The Amendment implements recommendations of the *Synthesis Report: Promoting High Quality Urban Design Outcomes in the Central City and Southbank*, January 2018 (*Synthesis Report*).

The Amendment has been prepared in response to what are seen as poor urban design outcomes in the city in recent decades.

On what characterises poor design, Ms Penn (giving evidence for Council) stated there were many examples clustered in growth pockets in the Hoddle Grid north creating poor public realm outcomes and impacts on the city skyline. She identified:

Examples of poor design outcomes in these places include, for instance:

- lost opportunities to support pedestrian connectivity and safety through creating new linkages or improving the quality of existing laneways
- lack of tower setback from, deference to, or regard for adjacent developments and the resultant imposition on streets and lanes below
- disregard for pedestrian amenity including worsening wind impacts and limiting access to sunlight, aspect and views to the sky
- lack of design authenticity and diversity in architectural language, expression and detail to respond and contribute meaningfully to context
- lack of modulation of form to reduce the perceived scale of large buildings, and to relate well to streetscape rhythm and heritage
- blank or visually impermeable screens concealing podium car parking that therefore limit or prevent passive surveillance, visual connection and building animation
- poor quality glazing and cladding systems that appear to deteriorate quickly
- poorly integrated or dominant vehicle accessways and service facilities that dominate street interfaces
- inactive, visually impermeable street walls that are blank, generic and alienating
- unenduring materials that lack warmth, texture, grain or any inherent quality or beauty.[42]

Some of the many examples include:

- Abode 318 at 318 Russell Street, Melbourne
- A'Beckett Tower at 31 A'Beckett Street, Melbourne
- Aurora at 244 LaTrobe Street, Melbourne
- Shadow Play at 105 Clarendon Street, Southbank
- Platinum at 45 Clarke Street, Southbank
- Southbank Central at 1 Balston Street, Southbank. [43]

(iii) What the Amendment covers

The Amendment applies to a larger area than Clause 22.01 which it replaces. The area has been expanded to match the extent of the building envelope DDOs with minor additions, being the small area of Mixed Use Zone north of La Trobe Street, between Swanston Street, Spring Street and Victoria Street, and part of Queen Victoria Market.

The policy scope includes review of a number of existing provisions in the planning scheme, as well as gaps which have been identified through a 'design review' and a 'policy audit'. The Amendment is intended to complement the provisions of the building envelope DDOs with a greater emphasis on the quality of a building's interface with the public realm. The elements included within the policy scope include:

- permeability and through-block connections
- privately owned publicly accessible plazas and laneways
- building alignment
- building massing and composition including rhythm and grain
- building adaptability
- vehicle parking, loading and waste facilities
- building services where they impact on the public realm
- public realm projections
- weather protection
- active frontages and ground level design

- design detail and building facade materials.

The Amendment does not address:

- built form – building heights, minimum setbacks, tower separation, density, wind impacts and sunlight protection as these are covered in the building envelope DDOs
- recently changed policies to the planning scheme or current projects, namely:
 - residential amenity – this was reviewed through *The Better Apartments Design Standards* in April 2017
 - commercial amenity – this is addressed by industry standards and at building permit stage
 - ESD – this is addressed by Clause 22.19 and Clause 22.23, but will be refreshed through Council's *Greening Our City Action Plan*.

1.2 Summary of issues raised in submissions

(i) Planning Authority (proponent)

The key issues for Council were:

- the failure of the current policy to effectively provide for a high standard of urban design for new development
- the need for a new control with a permit trigger to focus attention on urban design issues
- the need for mandatory controls to:
 - manage car parking location and floor heights within buildings in Central Melbourne
 - limit ground floor buildings services to less than 40 per cent of site area
 - require 80 per cent of the frontage of buildings in Special Character Areas to be entry or display windows to active uses.

(ii) Submitters

The key issues by submitters were:

- overall support for the intent of the Amendment to 'raise the bar' for urban design in Central Melbourne
- the risk of 'codifying' urban design and hampering creativity
- the lack of clarity within the proposed control around Design objectives, Design outcomes, and Design requirements
- drafting of the Amendment
- concerns or support for specific Design requirements
- the impact on the redevelopment potential of existing plazas.

1.3 Policy support for the Amendment

(i) State policy

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has noted below.

The Amendment will assist in implementing State policy objectives by managing the urban design and public interface of development in Central Melbourne.

The Amendment supports:

- Clause 11 – Settlement by contributing toward a high standard of urban design and amenity.
- Clause 15 – Built Environment and Settlement by facilitating improved urban design and building design:
 - ... to create environments that are safe, healthy and enjoyable and that contribute to a sense of place and cultural identity.
 - To create a distinctive and liveable city with quality design and amenity.
- Clause 17 – Economic Development by facilitating good urban design to support tourism.
- Clause 18 – Transport by managing the development of car parking to:
 - Ensure an adequate supply of car parking that is appropriately designed and located.
- Clause 19 – Open Space through the management of the redevelopment of plazas.

(ii) Local Planning Policy Framework

The Amendment supports the Municipal Strategic Statement by facilitating development that contributes to the valued characteristics and primacy of Central Melbourne including Southbank (Clauses 21.02 to 21.13 – Municipal profile, Built environment and heritage, Economic development, Infrastructure, Hoddle Grid and Southbank). Most notably:

- Clause 21.03 – Vision by supporting the delivery of an attractive and liveable built environment
- supporting Clauses 21.03 and 21.04 including respect for heritage places within and outside the Capital City Zone
- reinforcing Clause 21.06 – Urban Design, Built Environment and Heritage to ensure that development positively enhances Melbourne’s public realm and contributes to making it safe and engaging for users
- supporting Clause 21.12 and 21.13 – Hoddle Grid and Southbank by requiring further connections in the Hoddle Grid and Southbank as well as ensuring laneways provide a safe, interesting and distinctly ‘Melbourne’ experience for city users.

The Amendment supports local planning policies by, most notably:

- translating Clause 22.01 – ‘Urban Design within the Capital City Zone’ into DDO1
- supporting Clause 22.20 – ‘CBD lanes’, requiring the provision of through-block connections and that development encourages activity, vitality and maintains the unique and valued character of Melbourne’s lanes.

(iii) Plan Melbourne

Plan Melbourne 2017–2050 sets out strategic directions to guide Melbourne’s development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved.

Plan Melbourne includes a comprehensive range of Outcomes and Policies to support the development of the Central City with a high level of urban design quality (policy 4.3.1).

Other policy areas support the delivery of ‘high quality neighbourhoods’ and acknowledges the Central City as the economic, cultural epicentre of Melbourne.

Table 1: Relevant parts of Plan Melbourne

Outcome	Directions
4 Melbourne is a distinctive and liveable city with quality design and amenity	4.1 Create more great public spaces across Melbourne 4.3 Achieve and promote design excellence
5 Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.2 Create neighbourhoods that support safe communities and healthy lifestyles

(iv) Other Melbourne strategies

The Panel was provided with a range of other Council strategies:

- *Urban Forest Strategy 2012-2032*
- *Draft Transport Strategy*
- *Homes for People, Housing Strategy 2014-2018*
- *Open Space Strategy, City of Melbourne*
- *City of Melbourne Walking Plan 2014-2017*
- *Heritage Strategy 2013*
- *Draft Waste and Resource Recovery Strategy 2030.*

The Amendment is consistent with these strategies.

1.4 Overall conclusion

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in this Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned.

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

Submissions to the Amendment fell under five related themes:

- the quality of design outcomes
- the merits of specific Design requirements and whether they should be mandatory
- how DDO1 relates to other provisions in the scheme
- the workability and expression of requirements in DDO1
- the content and role of the *Design Guide*.

The Panel is convinced that the Amendment has clear strategic justification and that State, metropolitan and local policy frameworks clearly contemplate controls that require a high level of urban design in Central Melbourne. The Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework.

The beloved ‘character’ of Melbourne is not just good to have, it is intrinsic to the functioning of Melbourne, its economics, tourism and most importantly, its liveability. The use of an effective planning tool to prevent poor urban design outcomes is vital.

The design guidance in the Amendment is generally well founded and strategically justified. The Panel does not support all of the proposed requirements and recommends a number of new requirements, but the Panel would characterise these changes as relatively minor refinements.

The Panel has considered the drafting of the control from the users’ point of view – both the applicant and planning authority. In making these considerations the Panel has referred to published drafting advice. Council proposed significant changes to the language of the Amendment post-exhibition. The Panel believes further refinements would strengthen the Amendment, and reduce the prospect for confusion in the use of DDO1.

The Panel notes the general support for the *Design Guide* and applauds Council for its efforts, but is concerned that:

- the *Design Guide* is a missed opportunity to better articulate some of the thinking behind the requirements
- contains many images that could easily (or wilfully) be misinterpreted.

The Amendment should proceed subject to addressing the more specific issues discussed in the following chapters.

This Report deals with the issues under the following headings:

- Threshold issues in managing design
- Operational issues in DDO1
- Design issues in DDO1
- The *Design Guide*.

2 Threshold issues in managing design

2.1 What is high quality design?

(i) The issue

The issue is whether the Amendment should seek to achieve:

- a minimum threshold of ‘good design’, or
- a higher standard of ‘high quality design’.

This distinction matters, because it colours how requirements should be framed, and how they will be interpreted by decision makers.

(ii) Evidence and submissions

Council submitted that the Amendment aims to raise the bar of design in Central Melbourne by converting an outdated twenty year old policy (Clause 22.01) into an overlay control. It was submitted that this would strengthen the planning toolbox for achieving good design in Central Melbourne where design quality had suffered, particularly in recent years of rapid hyperdense development that has led to poor urban design outcomes for the public realm.

Council submitted that this Amendment aims to “*repair and renew the pedestrian experience of the city*” and that “*high quality is the minimum standard of design required in ... [Central Melbourne]*”.¹ One of the five objectives of DDO1 is:

To ensure that development achieves a high standard of urban design, architecture and landscape architecture.

Mr Soussan’s evidence (on behalf of Council) was that there were several references to high quality design in State policy and the planning scheme. For example:

- Clause 11 – *Settlement* states one of the overarching objectives is for:
Planning is to recognise the need for, and as far as practicable contribute towards:
 - A high standard of urban design and amenity.
- Clause 15 – *Built Environment and Heritage*
Planning must support the establishment and maintenance of communities by delivering functional, accessible, safe and diverse physical and social environments, through the appropriate location of use and development and through high quality buildings and urban design ...
Planning should promote excellence in the built environment ...
- Clause 15.01-1R – *Urban Design – Metropolitan Melbourne*, the objective is:
To create a distinctive and liveable city with quality design and amenity.

Expert evidence and submissions during the Hearing mainly focussed on why good design matters, and how poor urban design delivers negative externalities borne by the public.² The *Design Guide* has a section titled ‘Good Design Matters’ outlining how it can be achieved

¹ Council’s Part B submission

² Mr Spencer, Economic evidence

through various procurement methods but does not expressly state what constitutes good or high quality design.

Apart from Ms Penn, no other evidence or submission dealt specifically with what defines good design. Ms Penn's opinion was:

Good urban design supports the health and well-being of individuals, and enriches and supports community engagement and social inclusion. Good urban design is fit-for-purpose and amenable, safe and accessible. It is sustainable, adaptable and enduring in character and quality, ensuring its ability to serve communities as they grow and change over time. Critically, it is also welcoming and enjoyable to occupy and move through. ... [22]

Ms Penn stated that good design was a matter of public interest and should not be seen as an add-on. Her opinion was that there is a vast difference between good design and design excellence and that good design should be regarded as a minimum threshold.

Mr Fergus, on behalf of Council, presented many examples of what he thought were good design outcomes in urban design in Central Melbourne in his presentation and on the walking tour. These examples complied with most, if not all, of the Design requirements of DDO1. This was in contrast to other examples where urban design had resulted in poor public realm activation and design responses, both in the Hoddle Grid and Southbank, consistent with Ms Penn's evidence.

Ms Penn also referred to the seminal work of the Roman architect Vitruvius written over two thousand years ago in *The Ten Books on Architecture*, which defined the fundamental principles of good architecture as 'firmness, commodity and delight'. These principles remain current today, noting that 'firmness' and 'commodity' are generally assessed in terms of durability and fit-for-purpose. Ms Penn highlighted that in the assessing the 'delight' of design or architecture it was not a question of taste:

Whereas taste is a matter for each individual, whose responses to differences in style are subjective and individually valid, the quality of a proposal is quite different from its style. The quality of a proposal refers to how well it meets both measurable and non-measurable aspects.

Ms Penn stated that in her experience the most reliable way of assessing whether a design was 'good' or not was through peer design review processes and that a key to the success of this Amendment was the advocacy role of the Responsible Authority in ensuring Design Review Panels are integral to the planning assessment. Ms Penn also made a recommendation that in the section 'Good Design Matters' in the *Design Guide* could be improved by:

... the inclusion of a short outline of what is meant by 'good design', because this phrase is used repeatedly. At minimum this should make clear that good design is not merely about how things 'look'.

(iii) Discussion

Good design matters

There was a general consensus between all parties, and in submissions, that good design matters. The Panel supports this consensus.

It is widely accepted that high quality urban environments are linked to thriving economies and that the quality of the built environment, particularly urban environments, civic spaces and the public realm affects us all. The proliferation of hyperdense development in Central

Melbourne over the last decade or so³ has not universally delivered good outcomes for the public realm in terms of permeability, activation, environmental (wind and sunlight) effects, or a uniformly high quality skyline. These are matters that go beyond individual subjective taste.

Is good design or high quality design sought by DDO1?

The Panel thinks that it is important to distinguish whether DDO1 should provide as the minimum standard of design required in Central Melbourne:

- ‘good design’, as opined by Ms Penn, or
- ‘high quality design’, as submitted by Council.⁴

As stated earlier, this distinction matters, because it influences how requirements should be framed, and how they will be interpreted by decision makers.

The Panel agrees that a development that meets the Design requirements of DDO1 (with some changes) will deliver good design outcomes when judged by what it will bring to the public realm and experience of the city. However, this is not the threshold that the Panel understands is being sought with this DDO; the Panel understands that the greater threshold of high quality design is sought.

The Panel is unconvinced that if every Design requirement of DDO1 were achieved it would guarantee high quality design – this is more a matter of how high quality design is achieved than DDO1 itself. High quality design will do more than just meet the Design outcomes and Design requirements (mandatory and discretionary) of DDO1; it is contingent upon contextual architectural expression, detail, assemblage and execution.

The Panel agrees that high quality design is the minimum threshold appropriate for Central Melbourne.

When it comes to design excellence, clearly the bar is much higher and requires the skills and talent of highly competent and innovative architects, together with sympathetic clients. This is especially appropriate for strategic sites and civic works. It would be appropriate for Council to advocate for design excellence where any of the following apply:

- the development abuts significant architecture (heritage or contemporary), or
- the development is hyperdense, or
- the development has a complex context, or
- the development is on a strategic site, or
- the development is in an area that has a metropolitan function including the Southbank Arts Precinct.

Can high quality design be required?

Distilling high quality design into words is a vexed and difficult issue or rather, as some submitted, a dark art.

³ Mr Fergus’s presentation (Document 16) showed the changes in the density of development in Melbourne in recent years

⁴ Ms Brennan during Council’s Part B submission, Day 6 Panel Hearing

High quality architecture shows that a conscious decision making process has occurred in how a building hits the ground, turns a corner or rises in tower form above a street wall or podium. High quality architecture also shows rigour of design detail in composition, materials and finishes, and is specifically responsive to its climate, topography, environmental context (such as wind and the seasons) and the people who use it.

The Panel believes that elevating the bar to high quality design (as opposed to good design) requires contextual, expressive and highly resolved architecture derived through a thoughtful interrogation and balancing of all that is sought by DDO1 – in this lies the critical process of the exercise of discretion for both architects during the design process and the assessing planning officers or indeed through review at the Victorian Civil and Administrative Tribunal (VCAT).

No set of Design requirements can substitute for intelligent decision making during the creative design process. This does not mean that Design requirements should be ignored. Rather, there is no escaping the need to integrate the range of relevant requirements and balance objectives in favour of net community benefit and sustainable development. This must be in the context of architecture that is meaningful and authentic for its time and place.

It is not always a simple task to determine whether all qualitative and quantitative elements of a control are met in a way that delivers high quality design. The appropriate place to start the process of appraising architecture (in context of DDO1) is to understand how a proposal will be experienced by the public and building occupants. Indeed, the role of the architect is to understand the sensory implications of what is proposed and how a building will ultimately be experienced both in the public and private realm. Design decisions in architecture influence the dynamic human experiences they engender as people move in and out, around and past buildings, places and spaces.

Sometimes design quality can only be reliably determined through a Design Review Panel process, as proffered in the Quality Based Selection discussion referred to in the *Design Guide* and in evidence by Ms Penn.

The Panel agrees that using Design Review Panels would help deliver oversight and peer review of proposals. However, in Victoria, Design Review Panels do not have statutory weight (as opposed to New South Wales and other national and international jurisdictions). In absence of Design Review Panels, the Panel believes that there needs to be robust and sufficient assistance to guide the exercise of discretion for decision makers where applications are assessed by internal or consultant urban design referrals. This is a potential role of the *Design Guide* and is discussed in detail in Chapter 5.

The need for flexibility

Melbourne has a rich palette of valued precincts, connections and large, medium and small buildings that do not strictly accord with the Design requirements proposed. There are numerous examples in Melbourne where high quality and indeed exemplar architecture delivers prized public spaces without strict adherence to the proposed Design requirements. For example, there are modest narrow laneways that defy the precepts of requirements with little or no facade activation yet are heavily frequented tourist destinations in their own right through art and graffiti. This points to the importance of the exercise of discretion for assessing applications.

(iv) Conclusions

The Panel concludes:

- it is clear that the minimum acceptable threshold for the design for Central Melbourne is best characterised as ‘high quality design’ – this being a higher threshold than good design
- an application that meets the Design requirements must also demonstrate through the design response that a high quality design will be achieved
- design excellence should be pursued where:
 - the development abuts significant architecture (heritage or contemporary), or
 - the development is hyperdense, or
 - the development has a complex context, or
 - the development is on a strategic site, or
 - the development is in an area that has a metropolitan function including the Southbank Arts Precinct.
- decision makers and applicants would benefit from further commentary in the *Design Guide* on what is good design in the Good Design Matters section and an explanation of the differences in thresholds between good design and high quality design, emphasising that high quality design is authentic, contextual and site specific and is specifically sought by DDO1
- Design Review Panels should be considered where an application:
 - is contextually complex, or located in or adjacent to significant sites, environs or architecture (heritage or contemporary), or are large or hyperdense developments or are located in the Southbank Arts Precinct
 - does not meet all the discretionary Design requirements but it is submitted that it meets all the Design outcomes, and provides design excellence in its architectural design response in terms of expression, language and design detail and is innovative in terms of ESD outcomes.

2.2 What needs guidance?

(i) The issue

The issue is whether the Design requirements cover relevant issues.

(ii) Evidence and submissions

The *Synthesis Report* sets out the matters that it considered need to be addressed in DDO1. Submissions and evidence also addressed the need for different elements. Document 66 addressed how existing issues in Clause 22.01 were dealt with.

(iii) Discussion

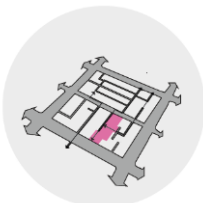
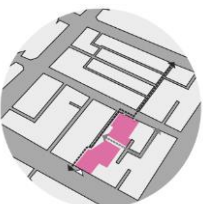
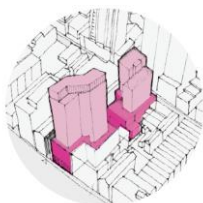
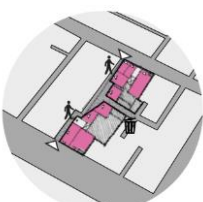

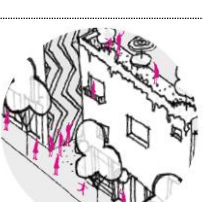
The Panel agrees that the scope of the control is appropriate. The Panel has introduced subheadings to make DDO1 easier to understand and notes that ‘urban structure’ only really addresses one aspect of urban structure, namely pedestrian connection and not the broader concept of urban structure as set out in the *Urban Design Guidelines for Victoria*. The Panel preferred structure of DDO1 is shown in Table 2.

(iv) Conclusion

The Panel concludes:

- the Amendment focuses on appropriate design elements.

Table 2: Panel preferred structure of DDO1

Council DDO1	Illustration of the theme from the <i>Design Guide</i>	Panel preferred version
Urban Structure		Pedestrian network <ul style="list-style-type: none"> - Urban block structure - Pedestrian network - Pedestrian connection standards
Site Layout		Site Layout <ul style="list-style-type: none"> - Street edge - Plaza standards and retention - Vehicle access location - Colonnade, atria and undercroft standards
Building Mass		Building Mass <ul style="list-style-type: none"> - Multiple buildings - Street wall height
Building Program		Building program <ul style="list-style-type: none"> - Internal layout - Services, waste and loading - Car parks
Public Interfaces <ul style="list-style-type: none"> - Active interfaces - Services, waste and loading - Public realm projections and weather protection 		Public Interfaces <ul style="list-style-type: none"> - Active frontages - Levels
Design Detail		Design Detail <ul style="list-style-type: none"> - Facade expression and finishes - Shop fronts and lower levels

2.3 Policy or Design and Development Overlay

(i) The issues

The issues are:

- whether by its nature, design (urban, architectural and landscape architecture) is or is not amendable to being shaped by 'requirements'
- whether urban design should be managed by updating and strengthening Clause 22.01 'Urban Design within the Capital City Zone' or by translating the policies into DDO1.

(ii) Evidence and submissions

Almost all of the submissions supported Council's intention to strengthen the control of urban design, highlighting that the importance of the interface between buildings and the public realm should not be a second order consideration.

Council submitted that a revision and strengthening of Clause 22.01 would not be sufficient to 'raise the bar' and prevent poor urban design, for a number of reasons including:

- examples where little consideration of the policy was evident in VCAT decisions
- the language has been described as "*understandably but unhelpfully vague*"
- there is overlap in policies which creates confusion
- the policy has not had sufficient force to compel the delivery of pedestrian connections
- the policy has been overtaken by the use of building envelope DDOs which guide built form outcomes elsewhere in the Capital City Zone.

Council submitted that:

Requirements within a DDO are not equivalent of policy within the planning scheme; they are not to be balanced or weighed or even disregarded as policy can be. An acceptable outcome must be reached in relation to each permit requirement. In this way, the requirements with a DDO have significantly more force than policy.

In his evidence Mr Soussan stated that the fact that the DDO triggers a permit gives it more weight and is a clearly a preferable tool to achieve better urban design outcomes than a local policy. He concluded that:

Given the relative importance of [Central Melbourne] within the context of the City of Melbourne and State more broadly, the application of a higher 'bar' for the consideration of urban design related matters than can be delivered by a local policy is in my view both justified and appropriate.

In her evidence, Ms Heggen presented the alternative view; that a timely review of the local policy including the Design outcomes and a 'sharpening' of the policy would be the appropriate way to proceed. Ms Heggen stated that the use of a local policy was preferred because it provides more flexibility.

A number of submissions said that by its nature design was not amendable to being shaped by 'requirements'.

Council disputed the assertions that the character of urban design – a largely qualitative discipline which requires an exercise of judgement and an appreciation of creative responses – makes it ill-suited to a DDO. However, Council chose to express DDO1 using language that

suggested the requirements in DDO1 did not operate in the same way as requirements in other DDOs.

Mr Soussan made a number of suggestions in relation to this issue but the Panel was not assisted by these. This could be due to confusion over differing interpretations of what is meant by 'prescriptive'.

(iii) Discussion

The Panel notes Council's comprehensive analysis of the way Clause 22.01 currently functions. Clear policy aspirations such as laneway connections have not been achieved under the existing policy. On the site tour the Panel noted urban design outcomes that have not been adequately regulated by the existing policy.

Panel is convinced that a review and strengthening of Clause 22.01 would not be sufficient to prevent the poor urban design outcomes that have been recently delivered.

Is there a role for qualitative requirements?

The VPP is intended to be a performance-based system. It is important to understand the difference between performance and quantitative controls in planning policies and controls. They are not, as some submissions seemed to suggest, mutually exclusive.

Table 3: Performance and quantification in controls as understood by the Panel

Approach	What it is
Performance-based	A control that is directed at achieving an identified outcome.
Quantitative	A control that quantifies what is to be achieved. A quantitative control leaves no doubt as to the standard that is to be achieved. A quantitative control can also be performance-based.

Quantitative controls can play a valuable role in a performance-based system, provided the metric is justified by analysis, and the objectives or outcomes that are being sought are clearly articulated. For some quantitative controls it can difficult to understand what they are seeking to achieve unless the outcome is spelled out clearly. For example in DDO1: why do pedestrian connections need to be 6 metres wide?

The objective of performance-based controls will generally be obvious from the control – whether or not the control is measurable.

As the Panel sees it, the strengths and weakness of each type of control are summarised in Table 4.

Table 4: Performance and measurement in controls as understood by the Panel

Approach	What it is
Qualitative performance	Though not ideal, they may be the only option for addressing intangible issues: <ul style="list-style-type: none"> - Service cabinets should not dominate street frontages and should use high quality materials
Quantified performance	Usually an effective approach, if the performance can be measured: <ul style="list-style-type: none"> - Development should not overshadow the northern bank of the River at the winter solstice.

Approach	What it is
Specific measure	Can provide clear and simple control but needs to be coupled with an explicit objective or outcome to make the purpose obvious. - Pedestrian connection should be at least 6 metres wide.

A quantitative approach is justified where it is possible to set out clearly what is required to achieve a particular objective.

These controls should not be a substitute for intelligent decision making. Planning decisions involve judgements about the quality of design and how it responds to all the applicable planning provisions. There may be many ways to achieve a particular objective or outcome, and the planning system should allow flexibility and innovation in how objectives are achieved.

Sometimes the measure in a control will be arbitrary, but as the Panel for Yarra C220 observed: just because a choice is arbitrary doesn't mean a choice should not be made:

Some arbitrary choices are important, for example which side of the road to drive on.

Mandatory controls

A mandatory provision is a requirement or control that must be met, with no opportunity to vary the requirement. Clearly these are most effective when the control is drafted as 'quantified performance' or a 'specific measure'.

DDO proposes mandatory controls for Building Program and Public Interfaces.

The advantage of mandatory controls is that they can be more certain (depending on their drafting). Their disadvantage is that they can provide unwelcome restrictions on proposals. An advantage in the Central Melbourne context is that they will ensure that important criteria are maintained during the secondary consent process and important elements such as active frontages are not undermined by revised plans.

Planning Practice Note 59: The Role of Mandatory Provisions in Planning Schemes sets out criteria that should be used to decide whether mandatory provisions may be appropriate:

- Is the mandatory provision strategically supported?
- Is the mandatory provision appropriate to the majority of proposals?
- Does the mandatory provision provide for the preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?
- Will the mandatory provision reduce administrative costs?

Whether there is justification for a particular requirement to be mandatory is addressed in Chapter 4.

(iv) Conclusions

The Panel concludes:

- the extra weight of a permit trigger in a DDO is warranted to regulate urban design in Central Melbourne
- the Victorian planning system is intended to be a performance-based system
- there is no impediment to a DDO expressing a mix of qualitative and quantitative controls

- requirements can be mandatory where justified.

2.4 The role of the Design outcomes

(i) The issue

DDO1 does not provide guidance as to the relationship between the Design objectives, Design outcomes and Design requirements.

(ii) Evidence and submissions

The Council's Part C submission (Part C) version of DDO1 simply states:

A permit cannot be granted to vary the Mandatory Requirements in Tables 4 and 5 to this Schedule.

The following Design outcomes and Design requirements apply to an application to construct a building or construct or carry out works.

Phillip Nominees submitted that DDO1 was clearly deficient to the extent that it fails to provide guidance as to the relationship between the Design objectives, Design outcomes and Design requirements:

Whilst the DDO parent provision outlines the circumstances in which a permit will or will not be required having regard to a schedule to the overlay, it does not assist a reader of DDO1 who is tasked with the challenge of establishing how the Requirements of the Schedule respond to the Design objectives and/or to the Design outcomes. [27]

Indeed, Design outcomes are not mentioned in the DDO parent. [28]

Nor does the parent DDO assist in establishing what relationship, if any, exists between the Design outcomes and the Design requirements of DDO1. [29]

The need for clarification concerning the manner in which DDO1 is proposed to operate was illustrated by the evidence given by Mr Soussan during cross examination and in response to questions from the Panel.

Mr Soussan gave evidence that it is not intended that there be a hierarchy between the Design outcomes and Design requirements but rather that there is no difference between an outcome and a requirement. When challenged as to why DDO1 draws a distinction between the two, Mr Soussan acknowledged that this was a good question – a question to which he did not have an answer.

Mr Soussan was taken to other examples of DDOs in the planning scheme, all of which in a variety of ways, include language designed to assist the reader to understand the relationship between objectives, outcomes, requirements and in some instances, what is required where something other than a preferred outcome was proposed.⁵ However, he did not think that DDO1 would benefit from additional guidance clarifying how the Design objectives, Design outcomes and Design requirements relate to each other.

⁵ DDO2, DDO10 and DDO61.

Council did not support additional wording in DDO1 to provide guidance to the reader as to how it is intended to apply the DDO1. The rationale advanced to substantiate this position⁶ was based in part on the fact that:

Council does not accept that there is a uniform, prescribed or preferred approach either to the structure of outcomes and requirements in a DDO or to the relationship between them. [23]

Phillip Nominees submitted that if DDO1 is to be retained, the Panel ought to recommend that DDO1 be redrafted for clarity and include guidance as to how the Design objectives, Design outcomes and Design requirements are to be understood relative to each other.

Council submitted:

Each Design outcome has been drafted to describe the general condition to be achieved by development individually and cumulatively. Each Design requirement directs a more specific approach which will achieve the general condition sought. Together the Design outcomes and Design requirements are the 'requirements' contemplated by the head clause. [Part B 22]

At the request of the Panel, Council submitted (Document 65) tables showing the relationship between outcomes and requirements.

(iii) Discussion

The Panel agrees with Phillip Nominees that it is important that guidance is provided. This is particularly the case because there is no uniform approach in the planning scheme.

The tables submitted by Council showing the relationship between outcomes and requirements document an overlapping and confusing relationship between requirements and outcomes. Interpreting the relationship is not assisted by the fact that some Design outcomes and Design requirements were expressed using similar language in the exhibition version of DDO1.

It is not clear why Council adopted this approach to drafting when the *Synthesis Report* states (Page 19):

Many objectives are not paired with adequate tests, suggested resolutions or alternate outcomes that could be considered. Further, the risks or low quality outcomes that should be avoided are not specified. Within a performance-based planning context, it is imperative that adequate tests or design requirements are paired with objectives in order to aid decision making. The two should be clearly linked, and adopt appropriate language and specificity befitting their role.

Council has a degree of flexibility on how it conceives of and drafts its DDOs. It is true that there is no explicit guidance on what an 'outcome' in a DDO is, and that the DDO schedules in the planning scheme are not entirely consistent, but it does not help anyone to use a term such as 'Design outcome' in one DDO that serves a different role to other DDOs including the 'companion' DDOs to DDO1, namely the building envelope DDOs.

The VPP are a performance-based system. Setting out the performance (or outcomes) that a control is aimed at delivering assists decision makers in their exercise of discretion.

⁶ Part B submission at [22] to [25]

For reasons discussed later in this Chapter, the Panel thinks that there is more work to be done to provide guidance on the exercise discretion in the assessment and decision making process, particularly to provide a clearer set of Design outcomes.

The Panel agrees with Council that outcomes are best expressed as descriptions of the 'real world' conditions that the control seeks to achieve. The Panel has adopted this approach.

(iv) Recommendations

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Introduce text explaining the role of Design outcomes and Design requirements.**
- **Revise the Design outcomes to better express the real world conditions that Schedule 1 to the Design and Development Overlay seeks to achieve, and ensure that there is a clear outcome expressed for all requirements.**

2.5 Requirements or guidelines

(i) The issue

The issue is whether DDO1 should present 'requirements' or 'guidelines' (or something else).

(ii) Evidence and submissions

The Australian Institute of Architects (Vic) (Submission 17) submitted:

[DDO1] 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.

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'

Ms Lyon submitted that the:

... proposed DDO1 is trying to play two roles, this has resulted in the drafting of DDO1 to appear as unwieldy and unclear in some parts.

Submitter 23 was concerned:

All tables — 'Design requirement'

This could imply that it is a requirement of granting a permit that these *must* be met, which conflicts with the intent that these are discretionary controls.

Suggest revising to state: 'Design standard' or 'Design guideline'.

The Department of Environment, Land, Water and Planning's (DELWP's) authorisation letter of 2 May 2018 advised that the Department is reforming the Victoria Planning Provisions through the Smart Planning program. A key aim of Smart Planning is to ensure simple and concise planning scheme provisions. DELWP officers recommended that Council consider:

- a) Rewording the buildings and works requirements in Tables 1 to 6 of DDO1 to read more like a control, rather than a policy. This involves deleting policy-like language such as 'encourage' and 'ensure', and inserting control-like language such as 'is to' and 'are to'.

- c) Amending the Design objectives (including the heading of the column) in Tables 1 to 6 of DDO1, as Design objectives are already contained in section 1.0 of the control.

Council considered the wording was adequate and that change to more standard 'should' and 'must' language would dilute rather than clarify the control. Mr Soussan concluded that he considers the current form of DDO1 provides the leverage to improve urban design quality.

In his evidence for Council Mr de Keizjer noted that architects are generally assisted by more direction rather than less, on what is sought through controls.

(iii) Discussion

Page 14 of the *Synthesis Report* says:

One of the challenges in implementing an effective urban design policy is the 'performance-based' approach unique to the Victorian Planning Provisions. This comprises many layers of indirect policy statements which are required to be balanced against one another, including high level state provisions and more specific local requirements.

The detailed audit appended to the *Synthesis Report* identified different elements in the existing scheme:

- mandatory or discretionary requirements
- standards
- objectives
- guidelines.

A Practitioner's Guide to Victorian Planning Schemes (Practitioner's Guide), (Table 1 page 13) sets out the main elements of a planning scheme and their function, some of which are described in Table 5.

Table 5: Elements of a planning scheme (selected elements)

Element	Function
Objective	Specifies the outcomes a decision under a provision should seek to achieve. Objectives can be general or specific to a particular class of use or development regulated by a provision.
Requirement	Specifies the limits of a discretion or right under a provision or the conditions under which it must be exercised ...
Standard	Specifies an outcome or level of performance that is considered acceptable having regard to the objectives of a provision. A standard can be quantitative or qualitative. In some cases, a standard can be linked to an objective, so that if the standard is met the objective is deemed to be met.

The difficulty the Panel has is that Council has not specifically articulated what the precise character of the requirements in the DDO are. Council's Part C DDO1 simply asks that they be 'applied' but they are drafted more like policy guidance than requirements.

Chapter 9 of *Using Victoria's Planning System* says: "*Use accepted forms of expression*":

Criteria and **standards** provide a basis for judging whether the objectives have been met.

Criteria or standards are expressed using 'should' where they are not mandatory and 'must' where they are ...

Criteria and standards should stand alone as complete and properly formed sentences and they should be confined to a single issue.

The 'Design requirements' in DDO1 have not been expressed as 'criteria' or 'standards' using 'should'. If they are not intended to be criteria but are intended as some other element in the planning system it is not clear which element they are intended to be. The possibilities would seem to be:

- an existing recognised element:
 - design suggestion
 - technique
- an element defined in the *Urban Design Guidelines for Victoria*:
 - Design Guideline
 - tip
- a new novel element specifically suited to Central Melbourne design issues.

Chapter 9 also identifies other elements in planning schemes:

- Design suggestions provide ideas about how the criteria or standard might be met
- Techniques describe a particular way of achieving criteria and objectives.

Neither 'design suggestion' nor 'technique' would seek to carry the weight required to deliver a better outcome than Clause 22.01.

DDO1 uses similar language to the *Urban Design Guidelines for Victoria*, and so might be thought of as guidelines. If the DDO presents guidelines – in the same way that *Urban Design Guidelines for Victoria* present guidelines – then there would seem to be no coherent reason to shift the guidance out of policy and into a DDO. Expressing the material in the DDO as guidelines would seem to be no real advance on expressing the guidance in a policy.

If the shift is justified – and the Panel has concluded it is – then the shift needs to be more than just moving text from one part of the scheme to another. The shift also needs to encompass changing the role of the text from 'policy' to something else.

The Panel does not accept that DDO1 presents a new type of requirement that is neither a guideline nor a criteria, but something else entirely. If this were the case the Panel would expect to find a coherent explanation of how the new element was intended to work, and would have expected that the requirements would have been expressed with consistent language.

None of this discussion should be a surprise to Council; the *Synthesis Report* states (page 19):

The effectiveness of current urban design provisions within the Melbourne Planning Scheme has been weakened by a lack of clear, direct requirements, and the use of vague language which makes interpretation difficult.

The *Practitioner's Guide* at section 6.1.2 advises to use 'must' or 'must not' if the requirement is mandatory. It goes on to say that 'should' can be used in expressing non-mandatory requirements in schedules to some overlays, and gives the example of the DDO.

The Panel agrees with the observations of the Department at authorisation for the need for DDO1 to read more like a control, rather than a policy. The Panel agrees that this involves deleting policy-like language such as 'encourage' and 'ensure', and inserting control-like language.

The Panel thinks that DDO schedules expressed using 'should' and 'must' for criteria or standards are the best fit with plain English principles. Since the correspondence from the

Department to Council, the *Practitioner's Guide* has been revised and reinforces that the appropriate language for a DDO is 'should' and 'must'. This will not dilute DDO1, it will strengthen it.

(iv) Conclusion and recommendation

The Panel concludes:

- the 'Design requirements' in the DDO are best understood as standards that a development should (or must) meet.

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Redraft the Design requirements as standards using 'should' or 'must'.**

3 Operational issues in DDO1

3.1 Fitting with the rest of the Melbourne Planning Scheme

The issues are:

- the extent to which DDO1 reads as part of a suite of controls for Central Melbourne
- the overlap of DDO1 with Clause 22.20 'CBD Lanes'
- the overlap of DDO1 with DDO3: 'Traffic conflict frontage'.

3.1.1 DDO 1 as part of the suite of controls for Central Melbourne

The Panel earlier recommended that DDO1 be changed to introduce text explaining the role of Design outcomes and Design requirements.

In considering the varying interpretations of the introductory clauses and wording of DDO1 the Panel is concerned with whether there is consistency between the suite of built form controls for Central Melbourne.

The consistency of the controls with the rest of the Planning Scheme has two important functions. Firstly, it presents the applicant with a clear and consistent message about design expectations. The Panel is not convinced that the largely qualitative nature of urban design gives licence to be imprecise with language. Secondly, inconsistencies between the controls may lead to an interpretation that there is a hierarchy in the suite of controls, which was not intended.

Conclusion

The Panel concludes:

- DDO1 should clearly form part of a suite of controls for Central Melbourne through clarity of function and the use of consistent language.

Recommendation

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Base the text explaining the role of Design outcomes and Design requirements on similar text in Schedule 10 the Design and Development Overlay**

3.1.2 DDO1 overlap with Clause 22.20

(i) Evidence and submissions

Clause 22.20 'CBD Lanes' identifies four core "*value characteristics*" that are identified that contribute to the success of a lane as a pedestrian environment:

- Connectivity – the provision of a physical connection through a city block.
- Active frontages – building frontages that provide for visual and physical interaction between the public space of the lane and the ground floors of the buildings.
- Elevational articulation – the architectural character of the buildings adjoining the lane and the degree to which this provides aesthetic and spatial interest to the public realm.
- Views – views from the lane's public realm towards a connecting lane, street or landmark.

Lanes in the Hoddle Grid have been assessed against these characteristics and have been rated and mapped:

- **Class 1 lanes** – these show signs of all four core value characteristics and support a high level of pedestrian activity. The character or function of these lanes are significant and require protection.
- **Class 2 lanes** – these show signs of three out of the four core value characteristics. The character or function of these lanes are significant and require protection.
- **Class 3 lanes** – these show sign of two or fewer of the four core value characteristics. Many of these lanes may benefit from upgrading and enhancement to realise their full potential with regard to pedestrian amenity and urban design. These lanes generally provide vehicular access to the rear of buildings for loading and service requirements or access to car parking areas.

There are:

- Nine Class 1 lanes, namely:
 - Hardware Street, Hardware Lane North and Hardware South
 - The Causeway
 - Bank Place⁷
 - Equitable Place⁷
 - Centre Place⁷
 - Degraes Street
 - Scott Alley⁷
- Thirty one Class 2 lanes
- One hundred and ninety four Class 3 lanes.

The policy sets out ‘general policy’ to (among other things):

- protect the significance of Class 1 lanes
- encourage Class 2 and 3 lanes to show signs of Class 1 lanes
- retain all Class 1 and 2 lanes
- strongly discourage the closure or partial closure of Class 3 lanes unless the lane’s closure will:
 - not obstruct necessary, service and access arrangements
 - result in a replacement lane that improves pedestrian amenity and advances the objectives and design standards of this policy.

The policy sets out policies under the headings of ‘laneway design’ and ‘buildings and works adjoining laneways’ that duplicate some of the material in DDO1.

Council said that Clause 22.20 was no longer relevant because DDO56, which was introduced as part of the same amendment that introduced the policy, had expired.

⁷ The Panel notes that Bank Place connects to Collins Street by a narrow (about 2 metres wide) connection. Equitable Place connects to Collins Street by a thorough-building link. Centre Place connects to an arcade, and until recent Metro tunnel works commenced, so did Scott Alley.

(ii) Discussion

While it is true DDO56 expired on 30 September 2011 – even though it remains in the planning scheme – it is not clear to the Panel that Clause 22.20 has expired. It is still in the planning scheme and has no sunset clause.

It seems to the Panel that the policy may still do useful work in stressing that ‘even’ Class 3 lanes ought to be retained and upgraded. The Panel notes for example that the Department’s ‘Officer Assessment Report’ for 32–34 Flinders Lane (2014/70139, prepared in 2015) discusses the policy at length and Council’s comments to the Department specifically reference the policy.

Laneway classification

The Panel thinks the laneway classification system is important to understanding the hierarchy of lanes in Melbourne and that it should be retained in some form, but the Panel is not convinced that the laneway classification system is needed as part of the Design requirements. This is particularly the case where policy essentially says:

All laneways should be retained and improved unless, both:

- A replacement laneway is provided that improves pedestrian connectivity and amenity.
- The lane is not necessary for service or access. [\[CI22.20\]](#)

The Panel suggests Council may wish to maintain the extensive inventory and classification of all laneways in the Hoddle Grid as a separate document or as part of the *Design Guide*.

Laneway design

The Panel thinks there is merit in carrying forward the following policy – albeit in slightly modified form:

- Require lanes to provide 24 hour public access. [\[CI22.20\]](#)

However, the Panel does not think that other aspects of the policy dealing with laneway design need to be carried forward because:

- they are unclear – “*respect the traditional street pattern*”
- covered already in DDO1
- deal with civil design issues which Council controls such as:
 - Retain bluestone laneways, kerbs and guttering within heritage precincts, whilst encouraging their retention outside heritage precincts.

Buildings and works adjoining lanes

The Panel thinks there is merit in carrying forward the loading bay element from policy – albeit in slightly modified form:

- Discourage developments from locating primary access and loading facilities on Class 1 and Class 2 laneways and carefully consider the design and management of access and loading areas along Class 3 Lanes.

It is not clear whether primary access refers to vehicle access or pedestrian access.

The Panel does not think that other aspects of the policy dealing with buildings and works adjoining lanes need to be carried forward because they are covered already in DDO1.

(iii) Recommendations

The Panel recommends:

Delete Clause 22.20 and include its contents in Design and Development Overlay Schedule 1 to encompass all relevant direction regarding laneways as shown in Appendix D.

In the *Central Melbourne Design Guide* include the laneway classification information from Clause 22.20.

3.1.3 DDO1 overlap with DDO3

DDO1 includes a requirement:

Position vehicle access, loading areas and services so that they are not located on main streets. [T2:DR:2]

This overlaps with DDO3 which has discretionary and mandatory provisions that apply to a number of streets covered by DDO1:

Vehicular ingress or egress points, excluding loading and unloading bays, should not be constructed on a traffic conflict frontage or in a lane leading off a traffic conflict frontage. [DDO3]

Vehicular ingress or egress points must not be constructed on a traffic conflict frontage, or in a lane leading off a traffic conflict frontage within the Retail Core Area – Schedule 2 to the Capital City Zone. [DDO3]

This is likely to be confusing in practice. The Panel can see no real reason why DDO3 cannot be combined with DDO1.

The Panel accepts that this may mean that the DDO3 map with identified relevant street will have to become a plan in the schedule of DDO1.

The Panel notes that DDO1 refers to ‘Vehicle access’ and ‘loading areas’ whereas DDO3 refers to ‘Vehicular ingress or egress points’ and ‘loading and unloading bays’. Consistent language for what appear to be the same thing would assist users of the controls.

Recommendation

The Panel recommends:

Delete Design and Development Overlay Schedule 3 and include its contents in Design and Development Overlay Schedule 1 to encompass all relevant direction regarding traffic access and loading as shown in Appendix D.

3.1.4 Area descriptions and maps in DDO1

(i) The issue

DDO1 uses a number of geographic descriptions differently to how they are defined or used elsewhere in the planning scheme.

(ii) The Panel preferred approach

The Panel’s preferred approach is for the planning scheme to use a consistent set of geographic names and not to use the same name to apply to different geographic areas in different clauses or overlays.

(iii) Evidence and submissions

Geographic references are used in the title of DDO1 and for some requirements.

The Part C definitions sought to define the following areas by way of a map in DDO1:

- Central City
- General Development Area
- North Wharf
- Southbank
- Special Character Area.

Maps in the Melbourne MSS define the area of the Central City and Southbank and these do not correspond to the areas identified in DDO1.

(iv) Discussion

The critical issue from the Panel's point of view is to avoid the confusion that will inevitably arise if different parts of the planning scheme use the same name to refer to different geographical areas.

The area marked as Southbank does not correspond to Southbank as it is defined elsewhere in the planning scheme, but would appear to be wholly within the defined Southbank area.

Council now proposes to call DDO1 'Urban Design in Central Melbourne' and this does not raise any conflicts.

There is a need to identify the areas within DDO1 that various controls apply to. The 'Central City' area does not neatly align with the Hoddle Grid definitions in the MSS. Where DDO1 refers to 'Central City' it includes land in the Hoddle Grid together with land over or adjacent to rail lines. The Panel thinks it would be better to replace references to 'Central City' with the term Hoddle Grid and identify to those areas outside the Hoddle Grid – Western Rail corridor and Jolimont Rail corridor – separately in the same way the DDO refers to North Wharf.

The Panel thinks it would be clearer to define Special Character Area in relation to other DDOs to remove any doubt but include a map in DDO1 to assist in interpretation.

Figure 1: Where the Amendment applies, from the Council's Part C submission

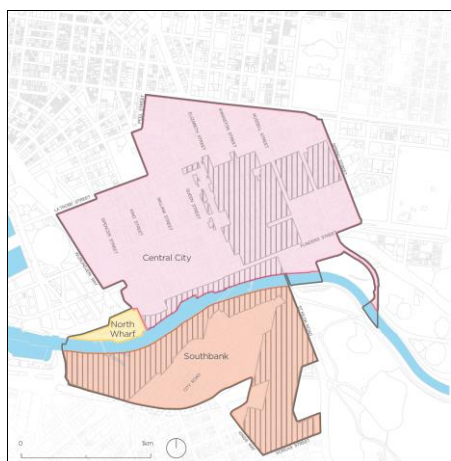
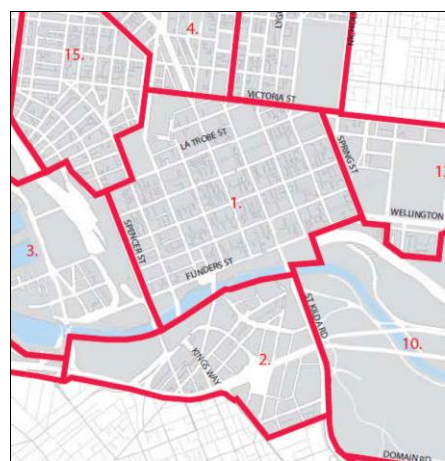


Figure 2: Extract from MSS showing local area boundaries



(v) Recommendations

The Panel recommends:

In Schedule 1 to the Design and Development Overlay clarify the use of geographic descriptions:

- **Rename the Schedule 'Urban Design in Central Melbourne'.**
- **Use the term Hoddle Grid in the Schedule and identify those areas in the Schedule outside the Hoddle Grid or Southbank separately – that is, Western Rail corridor and Jolimont Rail corridor –in the same way the Schedule refers to North Wharf.**
- **Define Special Character Area in relation to other Design and Development Overlay Schedules to remove any doubt in map interpretation but include a map in the Schedule to assist in interpretation.**

3.2 Design objectives

The Council's Part C version includes the following Design objectives:

To achieve a high standard of urban design, architecture and landscape architecture in all development proposals.

To ensure that development integrates with, and makes a positive contribution to its immediate surrounding context through a demonstrated response to Urban Structure, Site Layout, Building Program, Building Mass, Public Interfaces and Design Detail.

To ensure that development responds to the hierarchy of main streets, streets and laneways through the arrangement of fronts and backs of buildings, and promotes a legible, walkable, and attractive pedestrian environment through the introduction of additional connections.

To ensure that the internal layout and program of a building has a strong relationship with the public realm, through the management of parking and services, is adaptable for alternative uses.

To ensure that development provides a high quality human scaled environment through maintaining the City's distinctive vertical rhythm and contributes to a visually interesting, comfortably scaled and safe edge to the public realm.

The Panel has identified a number of concerns with the objectives:

- The first objective should better mirror the language of the Clause 15 of State and regional policy which refers to the 'quality' of design not the 'standard' of design.
- The second, third, fourth and fifth objectives contain the strategy to achieve the objective indicated by the use of 'through'. This text should be deleted.
- The third objective covers two distinct topic: location of building fronts and new pedestrian connections.
- The second and part of the third objectives could be combined as they both deal with context.
- The fifth objective uses 'human scaled' and 'comfortably scaled'. It is not clear what the difference is.
- There is some potentially confusing language:
 - The first objectives refers to development in a slightly different way to the other objectives and does not use the same form of expression.
 - It is not clear why in the second objective 'context' is qualified to 'immediate surrounding context'. This potentially weakens the DDO.

The Panel preferred version makes the following changes:

To ensure that all development achieves a high standard of quality urban design, architecture and landscape architecture ~~in all development proposals~~.

To ensure that development integrates with, and makes a positive contribution to its ~~immediate surrounding context through a demonstrated response to Urban Structure, Site Layout, Building Program, Building Mass, Public Interfaces and Design Detail,~~

~~To ensure that development responds to~~ including the hierarchy of main streets, streets and laneways, ~~through the arrangement of fronts and backs of buildings, and~~

To ensure that development promotes a legible, walkable, and attractive pedestrian environment ~~through the introduction of additional connections.~~

To ensure that the internal layout and ~~program of~~ the layout of uses within a building has a strong relationship with the public realm, ~~through the management of parking and services, is adaptable for alternative uses.~~

To ensure that development provides ~~a high quality human scaled environment through maintaining the City's distinctive vertical rhythm and contributes to~~ a visually interesting, ~~comfortably~~ human scaled and safe edge to the public realm.

Recommendation

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Simplify the language of the Design objectives.**

3.3 Definitions

(i) The issues

The *Practitioner's Guide* (6.1.4) says:

Before a new definition is used, consider why a new definition is needed. The VPP provides a number of definitions and a provision should be drafted on the basis of these definitions.

The Panel is satisfied that some definitions are required in DDO1. These allow the requirements to be expressed more succinctly. Except as discussed in this section, the definitions are:

- clear
- do not repeat or vary VPP definitions
- do not in themselves contain controls.

(ii) The Panel preferred approach

The Panel thinks it would be better for the definitions to be presented in alphabetical order.

The Panel supports the following definitions:

- **Average urban block length** means the average of opposite sides of an urban block measured between laneways, streets or safe and convenient 24 hour pedestrian connections that connects the two opposite sides.
- **Building services** includes areas used for the purposes of loading, waste management, and electrical, communications, gas, water and fire prevention infrastructure.
- **Laneway** means a road reserve of a public highway 9 metres or less wide.
- **Main street** means a road reserve of a public highway more than 20 metres wide.
- **Publicly accessible private plaza** means an open to the sky privately owned space provided and maintained by the property owner for public use.
- **Sleeve** means to position active uses between large floorplate tenancies, carpark or service areas and the public realm to achieve an active and safe street edge.
- **Stationary activity** means activities by pedestrians that involve extended stays within a space, such as sitting and eating, rather than walking through.

- **Street** means a road reserve of a public highway more than 9 metres wide. It includes a Main street.

A reference to a **Special Character Area** is a reference to areas covered by DDO2, DDO40, DDO60, or DDO62, and illustrated at Map 1 to this schedule. A reference to other geographic areas is a reference to an area delineated on Map 1 to this schedule.

For reasons below, the Panel does not support the following definitions:

- **Arcade** means a covered publicly accessible pedestrian connection.
- **Urban block** comprises the area surrounded by streets.

The definition of geographical areas is dealt with in Chapter 3.1.4.

Issues were also raised in respect to:

- use of the term ‘frontage’
- ‘Private plazas’.

(iii) Discussion

Arcade

The Panel does not see the need to define an arcade and, in any case, the definition would include what might otherwise be thought of as through-building connections. The ‘covered publicly accessible pedestrian connection’ that connects Harwood Lane to Bourke Street (near Spring Street) is certainly not what most people would think of as an arcade.

Notwithstanding, the Panel thinks there is merit in articulating a typology of pedestrian connections in the *Design Guide* – this is discussed in Chapter 4.2.

The Panel recommends:

Change the *Design Guide* to include a typology of pedestrian connections that covers laneways, pedestrian only laneways (open or covered), walkways, arcades – both contemporary and heritage, through-building connections and atria.

Frontage

Frontage is defined in the VPP as:

The road alignment at the front of a lot. If a lot abuts two or more roads, the one to which the building, or proposed building, faces.

This suggests that a lot may only have one ‘frontage’. Controls should be drafted on the basis that there is only one frontage to a lot. However the term ‘active frontage’ is well used in planning and the Panel thinks more confusion would be created by replacing ‘active frontages’ with some other term in DDO1.

Private plazas

The Panel agrees that the exhibited definition of publicly accessible private plazas should specify that it is open to the sky. This is not to say that a space under a building might not be well-designed, attractive and a good design solution in the site specific context – just that it would not be a ‘plaza’. If ‘plaza’ is defined as open to the sky then there is no need to further specify this as part of the design standards for a plaza.

Urban block

The Panel agrees that DDO1 would be clearer if it referred to urban block instead of street block. The Panel does not support the Council’s Part C definition for urban block:

- **Urban block** comprises the area surrounded by streets.

Referring to ‘streets’ the definition means that urban blocks cannot be reduced by creating laneways which in turn means no Hoddle Grid block could ever have less than a 200 metre average block length unless it was divided by a street more than 9 metres wide. This is at odds with the map Council presented at the Hearing (Document 49), and DDO1 itself.

In any case the issue is not so much the definition of street block – though clarifying the role of laneways is required – it is the definition of an ‘average urban block length’. The Panel adopts the definition:

- **Average urban block length** means the average of opposite sides of an urban block measured between laneways, streets or safe and convenient 24 hour pedestrian connections that connects the two opposite sides.

3.4 Detailed issues on the drafting of the Design requirements

3.4.1 The ‘long’ and the ‘large’ of the controls

(i) The issue

Following the Directions Hearing the Panel directed:

- 17 It would assist the Panel if Council addresses:

...

- g. Whether the use of the following terms in the DDO will be sufficiently clear in contested situations: ‘small’, ‘narrow’, ‘deeply recessed’, ‘low-height’, ‘lower’, ‘long’, ‘limited number’, ‘large’, ‘minor’.

(ii) Evidence and submissions

Council submitted that its:

General position on the use of metrics is to use them sparingly and precisely, in favour of qualitative terms where context may inform a range of different outcomes.

For example, the requirements call for development to:

Avoid the creation of small, narrow, publicly accessible alcoves and recesses that lack a clear public purpose. [T2:DR:3]

Avoid large setback undercroft spaces for waste or loading where they impact on the safety and continuity of the pedestrian realm. [T5B:DR:6]

Avoid deeply recessed ground floor facades or low-height colonnades. [T2:DR:4]

Council submitted (Document 67) on the use of ‘small’, ‘large’ and ‘deeply recessed’:

Small: In this instance ‘small’ is contextualised with ‘lack of clear public purposes’ and other qualitative terms. Small in this instance would reflect the ratio of width to depth. A space that is deeper than it is wide ... of say 2:1 should be avoided, whilst a more open space that is wider than it is deep, say 1:2. may be appropriate.

Large: This again relates to a proportional relationship of height to depth. A large setback on a narrow lane such as Niagara Lane could be 1 metre, whereas it might be 5 metres on a main street such as Queen Street. In general terms however it might be appropriate for this provision to adopt a maximum depth from the public realm consistent with T5B:DR:1 which suggests a 500 millimetres setback to avoid entrapment.

Deeply recessed here is tied to 'low height'. This relates to a proportional relationship of depth to height. For example, Neapoli⁸ has a 5 metres colonnade height with a 2 metres depth from the title boundary. This is an excellent proportion, however equally a 3 metres depth with a 7 metres height could be effective. A deeply recessed ground floor facade would be greater than a 1:1 height to depth ratio.

Mr Soussan answered questions from the Panel regarding what would guide a planning officer in the use of discretion and interpreting the DDO controls. Mr Soussan did not believe further guidance is necessary as an experienced planning officer would assess the context of the proposal.

(iii) Discussion

The Panel accepts that some terms will be clear by the context but considers that others will be unclear.

The suggestion that the interpretation of a planning control would need to be based around a planning officer's experience appears to fundamentally fail the requirement for planning schemes to be clearly, simply and unambiguously expressed.

Ideally DDO1 would have been drafted in a way that is more specific. The Panel does not see this as a fatal flaw, but it can imagine that the lack of specific language will be a source of debate in the future.

At first glance it might seem that the explanation provided by Council for the terms such as 'narrow', 'lower' and 'large' etc. are exactly the type of information that should form part of the *Design Guide*. Currently the *Design Guide* contains only the text of the DDO with some diagrams and a range of photos. However, a closer examination of the terms and Council's explanation shows that many can be clarified in the Design requirements without undermining the contextual nature of high quality design.

(iv) Recommendations

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Reduce the use of terms such as 'small', 'narrow', 'deeply recessed', 'low-height', 'lower', 'long', 'limited number', 'large', 'minor' in Design requirements.**

In the *Design Guide*, include text based on Document 67 to explain the contextual meaning of terms such as terms such as 'small', 'narrow', 'deeply recessed', 'low-height', 'lower', 'long', 'limited number', 'large', 'minor' where used.

3.4.2 Other drafting issues

A number of submissions commented on the drafting, for example, Submitter 16 observed:

The DDO1 requirements are unnecessarily wordy and repetitive. For example: the Design requirements which relate to 'pedestrian connections' under Table 1, restate the same requirements for the redevelopment of an existing pedestrian connection

⁸ Neapoli Wine bar, 30 Russell Place, Melbourne

and for the development of a new pedestrian connection and repeats those requirements (in slightly different wording) in four other locations.

Council acknowledged that:

Many submissions were critical of the drafting in the exhibited version of the Amendment on the basis that it was vague, poorly structured, confusing, repetitive and in parts inconsistent with the Guide. Council has sought to remedy these deficiencies in the panel version and further drafting improvements suggested by Mr Soussan have been accepted by Council. [Part B, 20]

The Panel has identified a number of areas where drafting could be improved:

- a number of the requirements are expressed using more words than is necessary
- requirements dealing with the same or similar issues are not always presented together
- there is some inconsistency in the terms used
- subheadings could improve readability
- a number of requirements are in two parts specifying more detail with the use of 'through', or an outcome by the use of 'to'.

The Panel observes that the interpretation of qualitative controls is not assisted by the use of jargon and imprecise language. While every industry has its own jargon creating a 'shorthand' for expression of abstract concepts it is not appropriate in planning controls where they may cloud an issue rather than assist. The Panel particularly notes the use in the exhibited version of terms such 'materiality' and 'tactility'. Materiality is literally defined as the quality of being composed of matter. Similarly, tactility is simply defined as the capability of being felt or touched. Clearly the terms were intended to express a broader concepts but planning controls should be drafted in unambiguous terms. The desire for variety in materials and surfaces needs to be expressed more clearly.

The Panel also thinks that clarity would be improved by:

- making it clear when 'fine grain' is used in relation to urban structure as opposed to architecture when discussing how a facade or series of facades are broken up in the public realm.
- avoiding the use of 'fine grain' when referring to land uses.

Ministerial Direction – The Form and Content of Planning Schemes directs that planning control be written in plain English. Chapter 9 of *Using the Victorian Planning System* and the more recent *Practitioner's Guide* explain what this means in the VPP context.

The Panel observes that the post-exhibition redrafting has improved internal consistency of drafting and achieved better compliance with many plain English principles, but it has not achieved consistency with planning scheme drafting conventions.

In considering the issue of whether the drafting changes might be a 'transformation' the Panel adopts the approach of the Melbourne C60 Panel in assessing a revised draft of a policy to better conform to published advice:

The Panel accepts that the draft does achieve its intended objective of delivering greater conformity with the VPP Practice Note 'Writing a Local Planning Policy'. Having compared it with the exhibited draft, the Panel also takes the view that the order of substantive policy change between the two is small and that the [revised] draft does not represent a 'transformation'. In general terms the Panel accepts [the planning consultant's] submission that he sought to make the policy clearer but not tougher:

- It is important not to confuse 'clearer' with 'tougher'. The revised wording makes the policy intent much clearer, but does not alter what the policy seeks to achieve. In the practical assessment of applications, it would not be a more onerous policy. It is likely to be a policy more rigorously and consistently applied.

Recommendation

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Further refine the drafting of Design and Development Overlay Schedule 1 to apply plain English principles and VPP drafting conventions.**

3.4.3 Use of tables

Ratio Consultants (Submission 36) were concerned that the use of a table to structure the information in the current format was confusing:

It is anticipated that each piece of information correlates across each column however the text currently does not align. If the text in each column does not correlate, then the simple listing of the information could be an easier to read format.

The Panel notes that there is no clear relationship between the Design objectives and the Design requirements as demonstrated in Document 65.

The Panel notes that this issue was discussed by the Fishermans Bend Review Panel:

The ... DDOs use a three column table format for controls. These tables serve only a page layout role. They are not used to reduce the amount of text presented, or to make the relationship between the discretionary and mandatory limits clear.

The Review Panel has identified a number of issues with this approach including:

- it makes the text narrower, thereby reducing readability
- it becomes difficult to follow when the rows break across pages
- it misleads the reader by suggesting a relationship between elements that are not related.

...

The Review Panel believes the controls would be easier to use if a more conventional approach to layout were used where requirements are expressed in body text and tables are used to set out information (primarily numerical values) in a concise layout.

The Panel agrees with the Fishermans Bend Review Panel and notes that the version of the controls approved for Fishermans Bend adopts the Review Panel's approach to the use of tables.

Recommendation

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Express Built form outcomes and Design requirements in body text and not in single row tables.**

3.5 Application requirements

(i) The issues

The issue is whether the application requirements are justified and how they relate to application requirements in other DDOs that will apply to an application.

(ii) The Panel preferred approach

The Panel supports the following application requirements:

A written and illustrated urban context report. The urban context report must: [\[AR2\]](#)

- Explain the key planning, design and contextual considerations and influence on the proposed buildings and works. [\[Panel\]](#)
- Describe the existing urban context of the area in which the proposed buildings and works are to be located. [\[Panel\]](#)
- Explain how the proposed buildings and works relate to and respond to their urban context including:
 - Architectural elements and materials in the surrounding streetscape including any heritage elements. [\[AR3\]](#)
 - The relationship between the proposal and adjacent buildings (including likely adjacent development envelopes) and open space. [\[AR5\]](#)
- Identify the key opportunities and constraints supporting the design response, including opportunities for new pedestrian connection.

A design response that explain how the proposed design:

- Addresses the Design requirements. [\[AR1\]](#)
- Will achieve the relevant Design outcomes if a Design requirement is not met. [\[AR1 edited \]](#)
- Achieves a high quality design outcome. [\[Panel\]](#)

Photomontage studies of the proposal within its streetscape context from pedestrian eye level within the street (including relevant proposals and approvals). [\[AR4\]](#)

A 3D digital model of the proposed development and its immediate surrounds, as appropriate, in accordance with relevant City of Melbourne guidelines for buildings and works above 20 metres in height or the Department of Environment, Land, Water and Planning Advisory Note 3D Digital Modelling, as applicable. [\[AR7\]](#)

A concept landscape plan for any publicly accessible podium and rooftop spaces detailing proposed hard and soft landscape elements, plant schedule, plant container details and maintenance and irrigation systems. [\[AR9\]](#)

Where car parking is proposed at or above ground level, car parking adaptation strategy prepared by a qualified structural engineer or architect to demonstrate the capacity to adapt to alternate uses. [\[AR11\]](#)

Where student housing, residential hotel or serviced apartments are proposed, and adaptation strategy demonstrating the potential for conversion to conventional apartments that would meet the requirements of Clause 58, or other alternative uses. [\[AR12\]](#)

(iii) Discussion

Introductory text

Council's Part C version added:

If in the opinion of the responsible authority an application requirement listed below is not relevant to the assessment of the application, the responsible authority may waive or reduce the requirement.

The Panel does not support this. The next paragraph adequately covers off on this where it says:

... and must accompany an application, as appropriate, to the satisfaction of the responsible authority.

Addressing Design outcomes

Council's Part C version called for:

Written and diagrammatic demonstration of how the development addresses the Design outcomes and Design requirements [\[AR1\]](#)

The Panel does not see the need for Design outcomes to be addressed unless the development does not meet the Design requirements. The Panel recommends that this is

addressed in the section of DDO1 that explains the role of Design outcomes and Design requirements, but it could be repeated here for completeness.

Urban context report

Council's Part C version called for:

- A comprehensive site analysis and urban context report documenting the contextual influences on the development. [\[AR2\]](#)

DDO10 (as an example of a complementary building envelope DDO) calls for:

An application for permit must be accompanied by a written and illustrated urban context report.

It then goes on to list what an urban context report must address.

The Panel thinks that there would be merit in adopting the same language as DDO10 to make it clear that one report can address DDO10 and DDO1 issues. This report could address the architectural elements and materials in the surrounding streetscape.

Urban block elevations

The Panel does not support the requirement for elevations of the urban block within which a development is proposed showing the contribution to its context. These elevations are likely to be too large at any scale that is useful from an assessment point of view.

Detailed plans

The Panel agrees that detailed plans, elevations and section drawings (1:50 or 1:20) and a written statement describing the design of the lower levels of the building including entries, shop front design, service doors or cabinets, weather protection canopies and integrated signage elements (proposed in AR8) may be appropriate. At the Hearing and on the site inspection the Panel's attention was drawn to examples of tenants installing more detailed and pedestrian friendly shop fronts than originally built. The Panel thinks that part of the issue in poor quality lower levels is that the details are designed too early in the process when the developer's and architects' attention is likely to be on issues of floor space yield, massing and access. The Panel thinks that shop front design might be better addressed through secondary consent.

Adaptation strategies

The Panel thinks that the adaptability of car parks and student housing is better addressed through a broader concept of an 'adaptation strategy' that might include annotated sections and the like if these are relevant to the issues. This strategy could be produced by an architect as well as an engineer.

(iv) Recommendations

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Refine the Application requirements.**

Council address the need for detailed information on shop front design by requiring more detailed plans as part of a permit condition.

3.6 Decision guidelines

(i) The issues

The issue is whether the Decision guidelines in DDO1 are appropriate.

(ii) The Panel preferred approach

The Panel supports the following application requirements:

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The *Central Melbourne Design Guide*, 2019.

(iii) Discussion

The introductory text should follow the *Ministerial Direction – The Form and Content of Planning Schemes*.

Council's Part C version listed:

- Whether the development is consistent with the Design objectives, Design outcomes and Design requirements of this Schedule.

Clause 43.02 – the parent provision of DDO1 – already includes:

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The Design objectives of the relevant schedule to this overlay.
- The provisions of any relevant policies and urban Design Guidelines.

(iv) Recommendation

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Refine the Decision guidelines.**

4 Design issues in DDO1

4.1 What are the issues?

This chapter reviews the proposed Design outcomes and Design requirements in DDO1. For each requirement the Panel has considered whether the requirement:

- is justified
- will support quality design outcomes
- is sufficiently clear to provide genuine guidance to architects and decision makers
- will not rule out alternative acceptable design solutions.

In determining whether a requirement is justified it is not sufficient to only give examples of 'poor' buildings that do not meet the requirement: the critical test is that there are not 'good' buildings that fail it. Development that delivers a good design but does not meet a requirement shows that the requirement is not universally applicable and that other factors need to be considered.

4.2 The pedestrian network

The pedestrian network is the network of main streets, streets, laneways and open spaces that define urban blocks, together with arcades and through-building connections.

The DDO as exhibited refers to this section or theme as Urban Structure. The Panel recommends rewording this to 'Pedestrian network' to avoid confusion with the first chapter of the *Urban Design Guidelines for Victoria* where Element 1: Urban Structure, is broader in scope and is applicable across all municipalities in Victoria.

4.2.1 Submissions and discussion on the requirements

The Panel thinks that the outcomes and requirements for the pedestrian network need to address three concepts:

- the need for an urban block structure with an average block length less than 100 metres
- support for a fine grain of pedestrian connections
- the qualities of good connections, relating to that specific type of connection.

(i) 100 metre urban block structure

The Panel supports the following revised requirements for the urban block structure:⁹

Where the average urban block length is greater than 100 metres, development should provide a new through-block pedestrian connection. In Southbank these pedestrian connections should be provided as laneways. [T1:DR:1]

Note: Urban blocks with an average length of more than 100 metres are identified on Map [REF] in the Central Melbourne Design Guide.

Where a development could deliver part of a pedestrian connection that is able to reduce the average urban block length to less than 100 metres, but does not extend the full depth of the block, the

⁹ Where the Panel presents preferred text for DDO1 the reference number – [shown like this] – is to Council's Part C version but the text will have been updated by the Panel.

development should include a connection that can be completed when a connection is provided through an adjoining site. [T1:DR:10.2]

General issues raised in submissions about the requirements

There was broad support for a finer grained pedestrian network, including *“an urgent need for more pedestrian connections that are open to the sky in Southbank”* (Submitter 28).

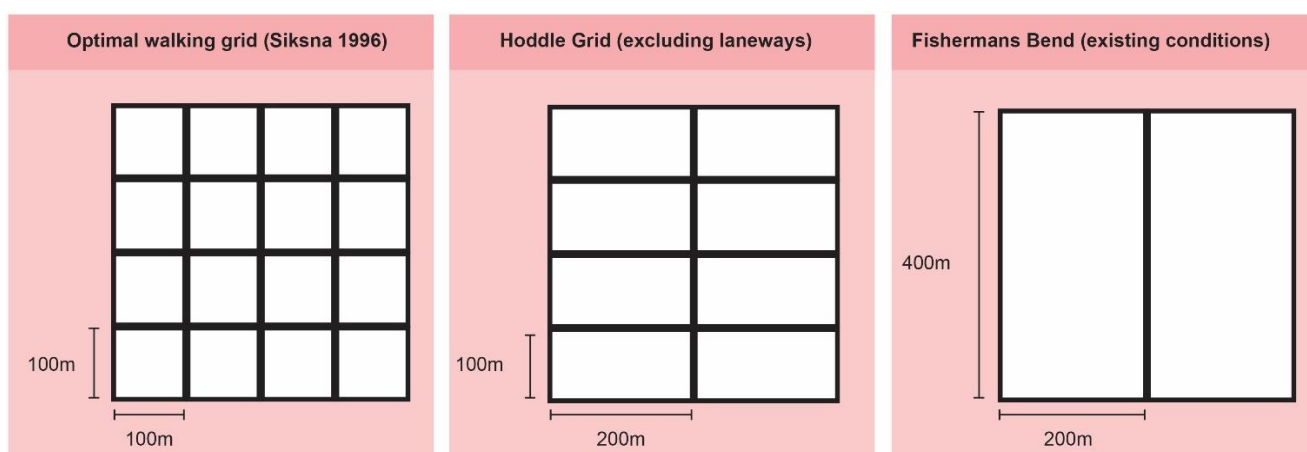
The Panel notes that a number of submissions expressed concerns over the detailed workability of the proposed requirements, including:

- implementation challenges including constraints such as heritage buildings
- uncertainty where street blocks comprise multiple lots in different ownership
- uncertainty in deciding where ‘open to the sky’ connections are not possible
- unfair imposition on smaller sites
- whether the link would be eligible for a Floor Area Uplift (FAU), or be considered part of the public open space
- who is responsible for creating a connection – does the requirement fall on the first site to be developed or will this be imposed where Council believes the best connections are located?
- whether a connection be publicly or privately owned
- maintenance of the connection.

The Panel notes the commentary under the heading ‘A connected walking network’ in the Walking Background paper to Council’s transport strategy refresh:¹⁰

Interventions for improving the connectivity of the walking network include a range of tools, from statutory planning tools for improving connectivity as part of private developments to infrastructure interventions such as new street crossing points. In general, tools for connectivity need to support a highly permeable grid of appropriately-scaled blocks and opportunities for street crossings that allow for easy walking circulation (see Figure 3 for guidance on optimal block size for walkability and comparison with conditions across the municipality).

Figure 3: Comparison of optimal walking grid to other typical Melbourne grids



Source: Siksna 1996 and analysis of existing street grid in Melbourne.

¹⁰ Page 33, Transport Strategy refresh – Background paper: Walking (City of Melbourne, March 2008)

The Panel supports the need for a fine grained urban block structure (and fine grained architectural treatments of this) and notes that earlier panels have also supported this outcome (even in those cases where panels have not supported mapping specific connections). For example the C171 Southbank Structure Plan panel said:

It not in dispute that pedestrian accessways and laneways are an admirable idea in any inner urban environment. They add interest and variety to the settlement pattern as well as providing functional links through and around sites. Such lanes and links are a strong and celebrated part of the CBD and are also evident in more recent urban renewal projects such as Forrest Hill. In that context, the Panel strongly supports Council's ambition to provide such links throughout Southbank.

The map prepared by the Council (Document 49) showing which blocks do not meet the proposed requirements allows the Panel to test the impact of the requirements on the city. The Panel is surprised that Council did not already have such a map given the existing policy at Clause 22.01 calls for new connections.

The Panel agrees that the starting point for this analysis should be that laneways are delivered when the block length is more than 100 metres. There are obvious issues of equity when a relatively small site can provide the opportunity to complete a through-block link, but the impost on the development might be significant – examples here are developments that complete Coromandel Place and Bennetts Lane as through-block connections.

The Panel thinks that quality and functionality are related: a poor quality link may not attract pedestrians and become so obscure, unsavoury or unsafe that no one chooses to use the link – for example it is possible to use Harwood Place as a connection between Little Bourke Street and Bourke Street, but it is hardly obvious or attractive.

Ultimately it will be for decision makers to decide whether it is fair to require a particular standard of link within a small site.

Why not two connections for 200 metre blocks?

The Panel does not support the requirement:

Provide at least two pedestrian connections for urban blocks exceeding 200 metres in length. [T1:DR:2]

The Panel agrees that where a block is greater than 200 metres two connections ought to be provided, but this is already implied by the requirements for block lengths to provide a connection if they exceed 100 metres.

Centrally located

The Panel does not support the requirement:

Locate pedestrian connections centrally within the urban block and where possible, less than 70 metres from the next intersection or pedestrian connection. [T1:DR:3]

The Panel does not dispute that a centrally located connection will be more useful, but thinks that this requirement will be used to justify not providing connections that are not centrally located. The location of the new connections will, in the main, have to respond to opportunities as they arise.

(ii) Finer grain pedestrian network

The Panel supports the following revised requirements for pedestrian connections below block structure:

Where a development has the potential to achieve a through-block connection by extending an existing or proposed connection on an adjoining site, the development should provide for the completion of the through-block connection. [T1:DR:10.1]

Development with an abuttal to two or more streets or laneways should provide a pedestrian connection between those abuttals where this improves the walkability of the urban block. [T1:DR:9]

General issues raised in submissions about the requirements

There was broad support for a fine grained pedestrian network, though there were some specific concerns:

Further, creating new connections will necessitate thorough consideration of future-proofing at the design stage, and the likelihood that connections may need to be expanded or altered. (Submission 16)

The Panel thinks that it is important to support connections at a level below that required for a walkable urban block structure (that is the 100 metre grid): this is a valued characteristic of Melbourne. The Panel accepts that the delivery of these connections will depend on the context of the development.

(iii) Standards for pedestrian connections

There is a variety of pedestrian connections in Melbourne: not everything is a laneway or an arcade. It would be useful if the Guidelines articulated a typology, if only to make discussion about what type of connection is appropriate in different circumstances. It is also important to recognise the quality of the design, detailing and materials and finishes have a defining impact on the public realm.

This typology could include:

- Laneways many of which are narrower than 6 metres
- Pedestrian only laneways (open or covered)
- Walkways – those narrow connections only about 2.5–3 metres wide such as the pedestrian-only connection end at the north of Cohen Place
- Arcades – both contemporary and heritage
- Through-building connections – which can be distinguished from arcades because they are open 24 hours and may not include retail uses – examples include the connection under Monash University City Campus (30 Collins Street) to Ridgway Place, or the connection on the southeast corner of Collins Place
- Atria – which often define left over spaces between taller forms and create oversized covered spaces that might otherwise be inhospitable as a public connection – examples include Collins Square (747 Collins Street, built in 2012), Collins Place (45 Collins Street, 1981), and the six storey Rialto Atrium (500 Collins Street, adjoining the 1890 heritage building).

The Panel supports the following revised requirements for the design of pedestrian connections:

Pedestrian connections that reduce (or when completed will reduce) an average urban block length to less than 100 metres should be:

- Open 24 hours a day. [C122.20]
- Open to the sky or a through-building connection. [T1:DR:4, Panel]

Pedestrian connections should be:

- Usable by people of all abilities. [Panel]
- Direct, attractive, well-lit and provide a line of sight from one end to the other. [T1:DR:6.1]

- Safe and free of entrapment spaces and areas with limited passive surveillance. [T1:DR:8]
- Publicly accessible at ground level and appropriately secured by legal agreement. [T1:DR:6.2]
- Lined by active frontages. [T1:DR:6.5]

Laneways should be:

- At least six metres wide. [T1:DR:6.3] Laneways may be less than 6 metres wide where, either:
 - The laneway is the same width or wider than an existing laneway that it continues. [Panel]
 - The laneway does not provide for vehicle access. [Panel]
- Lined by buildings that provide spatial and aesthetic interest to the public realm. [CI22.20]

Arcades should:

- Be a minimum of two storeys high. [T1:DR:7.1]
- Incorporate high quality design detail to all visible planes and surfaces. [T1:DR:7.2]
- Have highly legible entries including any doors or gates. [T1:DR:7.3]

Through-building connections should:

- Provide a clear line of sight to the connection beyond. [Panel]
- Be a minimum of 3.2 metres high. [Panel]
- Be no more than 15 metres long. [Panel]

General issues raised in submissions about the requirements

There was general, but not universal, support for design standards for pedestrian connections though a number of submission about particular metrics.

UDIA submitted:

Delete the overly prescriptive Design requirements associated with the Design outcomes for pedestrian connections to allow discretion to be applied when deciding whether the Design outcomes have been met.

The Panel thinks there is merit in articulating clear design standards – as long as those standards are appropriate – as this will remove uncertainty.

It is useful to set out standards for the design of specific connections. For example, arcades with low ceilings and hard to find entrances don't make the same contribution to the quality of the urban realm as more generous arcades with recognisable entrances. The Panel has generally accepted Council's proposed standards with some changes as noted below.

The Panel agrees with the Australian Institute of Landscape Architects (AILA) that:

Renovated or new connections should be designed to improve public accessibility by remaining open 24/7 and avoiding stepped level changes where possible.

Reflecting on the various patterns of development in Melbourne the Panel would conclude that for the basic pedestrian network it is important they be:

- open 24 hour
- embody a sense of openness over the length of the connection – this allows for some through-building lengths as part of the connection.

These qualities may not be required in all connections but all connections should be:

- usable by people of all abilities, to the greatest extent possible, without the need for adaptation or specialised design¹¹
- direct and attractive
- safe
- publicly accessible and secured with a legal agreement
- lined by active frontages.

With respect to arcades, it is worth noting that as Melbourne is home to some of the most valued heritage arcades in Australia; there are clearly examples of what works spatially in this typology such as the Royal Arcade and Block Arcade.

Active frontages

A number of submissions questioned whether lanes need to have active frontages:

A requirement to keep space active is not always feasible (or possible) where very little foot traffic exists. (Submission 16)

There may be a lack of commercial viability to these spaces with lower pedestrian foot traffic expected. (Submission 19)

There are two aspects to the feasibility of the active spaces:

- whether the space can be leased to recover its development cost
- whether the resultant tenancy can be viable.

It is not clear to the Panel that the requirement to deliver active frontages would affect development viability, and if it did whether this would depress residual land value. While not directly assessed in his evidence Mr Spencer stated that:

... the Amendment is likely to provide a range benefits. These include: improved public realm quality, increased floor space capacity in the CBD and adaptable floor space Southbank. These matters should be taken into consideration when assessing whether the Amendment will generate a net community benefit.

Melbourne has a vibrant laneway culture, and all cities need a range of floor spaces. The Panel does not see that the requirement for active frontages runs a long-term risk of creating undesirable lanes because of shuttered shop fronts. For example, the Panel notes that vacant shops can be activated by a range of programs such as Renew Australia's work with The District Docklands to activate vacant space on Wharf Street Docklands with creative enterprises.

Open to the sky

The Panel does not support the requirements:

Provide new pedestrian connections which are open to the sky. [T1:DR:4]

Provide new high quality arcades in the Central City [~~only~~¹²] where open to the sky pedestrian connections are not possible [T1:DR:5]

The Panel agrees that a redevelopment that did not deliver the 100 metre urban block structure when it was practical to do so would be unacceptable. Having said this, it is not

¹¹ This is referred to as 'universal design'

¹² The exhibited version included 'only'.

clear how new connections could be delivered as an open to the sky connection in some blocks.

A number of submissions commented on the requirement for connections to be open to the sky:

In our view, not all covered pedestrian connections are inappropriate. Covered pedestrian connections that are lined with active frontages and provide direct connections can be attractive and provide good pedestrian connections and protection from the elements. It also adds diversity/travel choice and creates visually stimulating points of interest for pedestrians. (Submission 8)

Publicly accessible pedestrian links, which are safe, direct and attractive can be achieved without being required to be 'open to the sky'. The proposed DDO1 fails to acknowledge that great pedestrian links can be achieved in covered spaces, with the use of skylights, lighting strategies and increased volume ceilings. Melbourne's great arcades are a prime example of successful urban fabric (Submission 11)

For example, the requirement for pedestrian connections to be open to the sky will significantly inhibit the development potential of sites which must provide these connections as they will lose 6 metres of their land and the air rights above. (Submission 19)

The Panel agrees with these submissions – there are many positive examples of connections that are not open to the sky, notably the link at the southern end of Equitable Place. The Panel notes that the successful through-building connection at the southern end of Bell Place seems to deliver a better pedestrian outcome than the laneway it connects to at its north which is open to the sky.

Laneway width

A number of submissions observed that:

... some of Melbourne's greatest laneways such as Equitable Place, Central Place and The Causeway are four metres wide. (Submission 24)

A very narrow but straight and open to the sky connection can work – examples here include Union Lane, and the walkway to the north of Cohen Place which is only 1.8 metres wide.

In some case it may not be necessary to deliver a 6 metre wide lane. This is particularly the case if the lane is edged by colonnades or cantilevered buildings so that the ground plane has additional width. Examples include Russell Place and Rose Alley.

The Panel also notes that the width of the lane is dependent on its intended traffic function:

We believe that the requirement to achieve at least six-metre wide laneways in the redevelopment of pedestrian connections will allow for two-way vehicle movements, which could create rat-runs through pedestrianised areas. (Submission 26)

Integrate effective lighting

The Panel does not dispute areas need to be well-lit, but the Panel is not sure what it means for lighting to be 'integrated' – surely all lighting, apart from portable lighting, is in some sense integrated in the whole design.

Through-building connections

Through-building connections play an important role in some existing connections and may be the only feasible way to add new connections in some locations. The connection to Equitable Place appears to function well, partly because it is the same width as Equitable Place, is a straight connection and is lined by a shop and office foyer. It is about 3.2 metres

high and 10 metres long, but the Panel thinks that it would still be an acceptable outcome if it were longer. The connection to Ridgway Place is not as attractive – it is not a straight connection and is not as well activated. It is also 3.2 metres at its lowest point, but is about 4 metres at Collins Street.

4.2.2 What outcomes are needed?

The Panel earlier recommended that the outcomes be refined and redrafted. Based on submissions and discussions at the Hearing the Panel supports the following Design outcomes to underpin recommended Design requirements for the pedestrian network:

An urban block structure that:

- Is sufficiently fine grained to support walking as the primary mode of transport.
- Is legible.

A pedestrian network that:

- Is fine grained.
- Reduces walking distances.
- Completes existing links and laneways.
- Provides opportunities for stationary activities.

Pedestrian connections that are:

- High quality.
- Safe and attractive.
- Usable by people of all abilities.
- Easily identified and legible.

4.3 Site layout

Site Layout refers to the arrangement of buildings and spaces, including the position of pedestrian and services entries, and circulation cores and how these elements respond to and reinforce the character of streets and laneways.

4.3.1 Submissions and discussion on the requirements

The Panel thinks that the outcomes and requirements for site layout need to address four concepts:

- street edge
- plaza retention and standards
- Building entry location and vehicle access
- colonnade design standards.

(i) Street edge

The Panel supports the following revised requirements for street edge and plaza retention:

Building should be aligned to the street at ground level unless they provide for a plaza or a garden edge. [T2:DR:5]

Development should avoid narrow publicly accessible alcoves and recesses that lack a clear public purpose. [T2:DR:3]

General issues raised in submissions about the requirements

The Panel agrees that an attractive and defined street edge is part of the valued character of Melbourne. However, there are also examples where this is not the case and the street interface offers a positive contribution to the public realm such as the stepped back street

facade of 52 Collins Street. While this example is a heritage building that lacks any street activation it shows that, even historically, Melbourne streets adopted flexibility in defining the street edge. The Panel notes evidence for other panels (such as C245 Queen Victoria Market) where wind experts have stated that at times a variable street edge can assist in mitigating wind tunnels for pedestrians where tower forms dominate above and nearby. As Mr McPherson stated:

Maintaining a consistent building alignment to the street edge is also appropriate, as a foundation principle, although there will be circumstances where varying the building alignment in response to the context may be appropriate.

The Panel also notes that a number of buildings in the Hoddle Grid and Southbank have a garden edge to the street. There is no reason why this condition should be ruled out in future buildings provided it is purposefully designed.

‘Small’ and ‘narrow’

Council’s Part C version included:

Avoid the creation of small, narrow, publicly accessible alcoves and recesses that lack a clear public purpose. [T2:DR:3]

Council submitted (Document 67):

In this instance ‘small’ is contextualised with ‘lack a clear public purposes’ and other qualitative terms. Small in this instance would reflect the ratio of width to depth. A space that is deeper than it is wide (measured from the street interface) of say 2:1 (depth to width) should be avoided, whilst a more open space that is wider than it is deep say 1:2 (depth to width) may be appropriate.

The ratio of depth to width clarifies narrow but not ‘small’. The Panel agrees that it is potentially unsafe to create avoid narrow, publicly accessible alcoves. An example of where neither of these condition is met is the facade of the former power station on Little Bourke Street near Spencer Street. The Panel is sure no one would claim this to be an acceptable outcome, and it is not clear to the Panel that there would be good design reasons to create similar conditions in a new building. It is not clear to the Panel that ‘small’ adds anything to the requirement.

(ii) Plaza standards and retention

The Panel supports the following revised requirements for street edge and plaza retention:

Plazas should:

- Be open to the sky. [T2:DR:7.1]
- Be accessible to people of all abilities. [T2:DR:7.2]
- Provide opportunities for stationary activity. [T2:DR:7.3]
- Incorporate active frontages. [T2:DR:7.4]
- Incorporate soft and hard landscaping elements. [T2:DR:7.5]
- Have access to sunlight. [T2:DR:7.6]

Development should retain at least 50 per cent of any existing publicly accessible private plaza where:

- It is oriented to a main street or street.
- It helps reduce pedestrian congestion.
- There is good potential to achieve a high quality space with opportunities for stationary activity.

Where a plaza contributes to the significance of a heritage place, retention of more than 50 per cent of the plaza may be required to conserve the heritage values of the place. [T2:DR:6]

Plaza standards

The issue of plaza standards was discussed at the Hearing.

Ms Heggen challenged the need for plazas to be exclusively open to the sky, and highlighted through her evidence plazas that display the sought after attribute of 'publicness' but which also offer weather protection for at least some portion of it.

Philip Nominees submitted that it is neither appropriate nor necessary for all plazas or for the entirety of any one plaza to be open to the sky in order to achieve high quality urban design which is inviting, stimulating and practical.

The Panel notes that the 'plaza' in Urban Workshop (50 Lonsdale Street) is not open to the sky, but is an attractive and successful space. However, on balance, the Panel thinks that it is better to specify that plazas be open to the sky recognising that undercroft, colonnade or atrium spaces may also be a good design response, but it is confusing to refer to these types of spaces as 'plazas'.

Plaza retention

Phillip Nominees owns Shell House at 1 Spring Street and Milton House 21–25 Flinders Lane. Part of their submission raised issues around plaza retention. Both buildings are on the Victorian Heritage Register.

Council's Part C version of DDO1 proposed that a permit is not required to:

- Develop a heritage place which is included on the Victorian Heritage Register if either:
 - A permit for the development has been granted under the Heritage Act 2017.
 - The development is exempt under Section 66 of the Heritage Act 2017.

In her evidence Ms Heggen highlighted what she said were the inadequacies of DDO1 in relation to the requirement to retain 50 per cent of any publicly accessible privately owned plazas within future development. Those inadequacies include:

- it is inequitable
- it is a failing to undertake strategic analysis of the quality and locational merits of the retained area
- it has the potential to require the retention of areas which are token in size
- it conflicts with other Design objectives.

Part of Council's argument for the retention of plazas was that they were a public benefit delivered as part of the original planning permission and that benefit should be carried forward.

Council provided a detailed analysis of the redevelopment of plazas in recent years and the location of remaining privately owned plazas (Document 12).

The Panel supports the retention of plazas. They add to the richness and vitality of the urban fabric. However, the Panel agrees that the quality of some plazas is low and redevelopment of part of the plaza to add active uses can improve their quality.

The Panel has reviewed the detailed material presented by Council and agrees that 50 per cent retention would appear to be a proportion that appropriately balances the benefits of retention with the benefits that can flow from redevelopment of part of the plaza.

(iii) Building entry location and vehicle access

The Panel has discussed the interaction with DDO3 and Clause 22.20 in Chapter 3.1 and recommended that the requirements of DDO3 and Clause 22.20 be incorporated into DDO1.

The Panel supports the following revised requirements for building entries and vehicle access:

Vehicle access, excluding loading bays:

- In the Retail Core Area – Schedule 2 to the Capital City Zone must not be constructed on a traffic conflict frontage shown on Map 2, or in a lane leading off a traffic conflict frontage. [\[DDO3\]](#)
- Should not be located on main streets. [\[T2:DR:2\]](#)
- Should not be constructed on a traffic conflict frontage or in a lane leading off a traffic conflict frontage shown on Map 2. [\[DDO3\]](#)

The location and width of car park entries should minimise the impacts on the pedestrian network. [\[T4:DR:5\]](#)

Loading bays:

- In the Retail Core Area – Schedule 2 to the Capital City Zone must not be constructed on a traffic conflict frontage shown on Map 2, or in a lane leading off a traffic conflict frontage. [\[DDO3\]](#)
- Should not be located on main streets. [\[T2:DR:2\]](#)
- Should not be located on lanes that demonstrate at least three of the following characteristics:
 - A connection through a city block.
 - Active frontages.
 - An architectural character that provides aesthetic and spatial interest to the public realm.
 - Views from the lane's public realm towards a connecting lane, street or landmark. [\[CI22.20\]](#)

General issues raised in submissions about the requirements

These controls deal with vehicle access, loading bay access and services. The Panel thinks that these elements should be separated out to make the controls clearer.

When the control from DDO3 and the policy from Clause 22.20 are brought together the Panel is not sure that a coherent picture is produced as to the preferred location for vehicle access and loading. It would have been better if the Amendment had reconciled these exiting controls with new requirements, but it has not, and the Panel is reluctant to recommend changes the substance of DDO3 and Clause 22.20 without the benefit of submissions that deal with traffic and urban design issues. The Panel has no issue with Council deleting some of these requirements if they are no longer relevant.

The Panel notes that incorporating the policy from Clause 22.20 requires an assessment of whether architectural character provides aesthetic and spatial interest to the public realm. The Panel accepts that is potentially subjective to apply.

Submissions expressed concerns that vehicle access, loading areas and services should not be located on main streets:

- it is not always possible for vehicle access, loading areas and services to be positioned off main street frontages (Submission 11)
- in some cases, it is more appropriate for vehicles to come off a main road rather than the laneway, which may be better utilised to promote pedestrian or similar activities (Submission 11)

- there are likely to be conflicts between private vehicle movements and service vehicle movements, and there is potential for significant safety issues if a consolidated access is provided (Submission 26).

Submission 26 noted that:

The Waste management guidelines require fewer larger vehicles including twin compactor for residential developments over 250 apartments. As a result, this demands for larger vehicles (usually 7 to 10 metres long) as well as access off small/narrow laneways requiring double width opening to access compactors. Compactors take up more room than bins between 250 and 350 apartments. Compactors need 5 metre height clearance compared to 4 metre for standard waste fleet.

Submission 14 stated:

The requirement to avoid service areas on main streets is laudable but a complex city like Melbourne sometimes cannot accommodate access and loading areas anywhere but street frontages.

On balance, the Panel supports the requirement that vehicle access, loading areas and services should not be located on main streets. The Panel's observation is that access off streets and laneways has the potential to deliver better outcomes by way of reducing conflicts between pedestrians and vehicles and minimising impacts on the pedestrian experience.

The Panel notes that following a retrofit, the T&G Building (161 Collins Street) now has car access off Russell Street rather than Flinders Lane. The retrofit of the T&G Building reduced the number of car park entries and allowed for improvements in pedestrian connectivity, even if it did duplicate an existing main street vehicle entry. Loading remains on Flinders Lane.

The Panel also notes Council is in the process of finalising a new transport strategy and it may wish to review the requirements in this section to ensure they are still relevant, particularly if the CBD little streets are to have an increased pedestrian role.

Position of entries

The Panel does not support:

Position building entries to contribute to and enhance adjoining main streets, streets and laneways, through activation, pedestrian movement and passive surveillance opportunities. [\[T2:DR:8\]](#)

Development with an abuttal to two or more streets or laneways should position entries, circulation and services to respond to the function of the abutting streets and laneways. [\[T2:DR:1\]](#)

The Panel considers the following requirements would be best expressed as a tip in the *Design Guide*:

Tip: Position building entries away from busy intersections or points of congestion near tram stops. [\[T2:DR:9\]](#)

The Panel does not accept that it is universally true that building entries should be positioned away from busy intersections or points of congestion near tram stops. It is possible that a building entry could be combined with a colonnade – such as at Casselden Place, 2 Lonsdale Street – and provide relief from the congestion. Mr McPherson states:

I consider pedestrian capacity and congestion issues to be primarily a public realm concern, relating to streetscape design, footpath width and street infrastructure, rather than a matter for individual developments to seek to address. I therefore recommend removing or revising this Design outcome ... While aligning buildings to the street is the default preference, the provisions allow for well-designed recessed spaces or colonnades at ground floor, where there is a clear purpose.

It is simply not clear to the Panel what it actually means to ask a development “*to respond to the function of the abutting streets and laneways*”. At the most fundamental level should development respond to the current function or some future function? Good planning would suggest the future function, but how is anyone to know what this will be for a particular laneway or street. And how does this add to the requirement to design for the context?

(iv) Colonnade and undercroft design standards

Panel preferred requirements

The Panel supports the following revised requirements for colonnade and undercroft design standards:

Colonnades and undercrofts should:

- Incorporate high quality design detail to all publicly visible planes and surfaces.
- Provide ground level spaces that are accessible to people of all abilities.
- Have a clear public purpose.
- Be well-lit and provide clear lines of sight.
- Be safe and free of entrapment spaces and areas with limited passive surveillance. [\[Panel\]](#)

General issues raised in submissions about the requirements

Undercrofts are a feature of a number of new buildings. Council’s Part C version included:

Avoid deeply recessed ground floor facades or low-height colonnades. [\[T2:DR:4\]](#)

Council explained (Document 67) that a deeply recessed ground floor facade would be greater than a 1:1 height to depth ratio. The Panel thinks that if this requirement were to be retained it would be clearer simply to specify the ratio:

Colonnades should be higher than they are deep.

However, the Panel is not convinced that it is always necessary to meet this requirement to deliver good design. The exhibited DDO1 did not address colonnade and undercroft design but requirements similar to arcades are appropriate.

4.3.2 What outcomes are needed?

The Panel has previously recommended that the outcomes be refined and redrafted. Based on submissions and discussions at the Hearing the Panel supports the following Design outcomes to underpin recommended Design requirements for the site layout:

Site layout that:

- Reinforces the valued characteristics of streets and laneways.
- Delivers a well-defined public realm.
- Avoids entrapment areas and areas with limited passive surveillance.
- Can cater for anticipated pedestrian volumes.

Plazas that:

- Are accessible to people of all abilities.
- Are safe and attractive.
- Deliver opportunities for stationary activity.
- Help alleviate pedestrian congestion.

Vehicle entries that:

- Do not create traffic conflict.

- Do not undermine the attractiveness or safety of the pedestrian experience.

Colonnades and undercrofts that:

- Are safe and attractive.
- Are accessible to people of all abilities.

4.4 Building mass

Building mass relates to the three dimensional form of a building, including its scale, height, proportions and composition.

4.4.1 Submissions and discussion on the requirements

The Panel thinks that the requirements for building mass need to address two concepts:

- multiple forms
- street wall height.

The Panel also comments on the issues of:

- visual recessiveness and vertical rhythm.

(i) Multiple forms

The Panel supports the following revised requirements for multiple building forms:

Development that comprises multiple buildings should deliver fine grain development within a cohesive architectural design framework. This may include a diversity of forms, typologies and architectural language and expression. [T3:DR:1]

General issues raised in submissions about the requirements

The Panel does not support the requirement for a diversity of forms, typologies and architectural language in T3:DR:1.

The Panel was shown an image of 883 to 889 Collins Street, Docklands as an example of the purported unacceptable outcomes of a development with multiple buildings with the same design language. Having inspected this site it is not clear to the Panel why it is an unacceptable outcome. Other examples include Collins Place where ‘twin’ towers have been consciously assembled as multiple buildings on large sites and regardless of the architectural expression, is successful in breaking up large forms on the one site. The Panel thinks this is an issue of taste rather than a question of good design.

In the absence of some evidence as to what is the effect of such developments on the functioning or attractions of Melbourne, rather than a person’s or a Panel’s opinion, the Panel does not support inclusion of this Design requirement – rather, urban grain is the central issue to be supported. The Panel thinks issues around detailed design, a fine grain of uses and active frontages will be more relevant than whether the buildings adopt the same architectural language or idiom or not.

The Panel agrees that where multiple buildings are proposed and diversity is sought, a good design strategy may be to encourage a number of architectural firms where. This is not something that a planning scheme can or should require. The Panel thinks that this could be a ‘tip’ in the *Design Guide*:

- TIP: Employ multiple architectural firms, where a development comprises more than one building, and a diversity of forms, typologies and architectural language is appropriate. [T3:DR1:2]

(ii) Street wall height

The Panel supports the following revised requirements for street wall height:

Street wall heights should be lower along laneways and streets less than 10 metres wide or where streets have reduced daylight. [T3:DR:3]

Development should reinforce fine grain ground levels and existing street walls in Special Character Areas. [T3:DR:5]

Street wall heights, upper level setbacks and building separation should respond to the scale of adjacent heritage buildings. [T3:DR:4]

Transitions in height, scale or prominence to a heritage place should avoid relying solely on surface treatments or decorative effects. [T3:DR:10]

General issues raised in submissions about the requirements

Some submissions raised concerns that these provisions duplicated the building envelope DDOs:

The built form controls for were only recently established under Amendment C270 and DDO10 and we feel that including such built form controls within DDO1 provides unnecessary. (Submission 19)

Other submissions took a different view:

We are very pleased to see the introduction of this policy. (Submission 39)

The Panel sees these requirements as a useful addition to the building envelope DDO controls. In the Panel's mind the building envelope DDO controls set the outer limits of the built form envelope and DDO1 addresses how building mass could be distributed within this envelope.

Lower street walls and stepping down buildings

The building envelope DDOs will determine the built form envelope and floorspace for a site. A potential role for DDO1 is to set out how the allowable floorspace ought to be distributed within that envelope.

The Panel agrees that it makes sense for development:

- to be lower where it fronts narrow cross sections or would have reduced daylight conditions
- to reinforce the ground floor and existing street walls in Special Character Areas
- to respond to the scale of adjacent heritage buildings
- to avoid relying solely on surface treatments or decorative effects where a transition to a heritage place is appropriate. [T3:DR:10]

Council's Part C version says:

Adopt lower street wall heights along streets and laneways where appropriate to respond to their characteristic narrow cross section and reduced daylight conditions. [T3:DR:3]

Council submitted (document 67):

Narrow is used here as a comparative term, relative to 'main streets' which are greater than 20 metres in width. This would suggest that narrow applies to streets and laneways generally of 10 metres or less (Hoddle Grid little streets).

The Panel thinks including a metric will reduce difficulties in interpretation. The intended application of this requirement is clear – Hoddle Grid little streets, and narrower streets and lanes.

There will still be the question of ‘lower than what?’ – it is unfortunate that DDO1 is not clearer on this. As Submission 36 observed:

It would be clearer to provide an example of an acceptable street depth to building height ratio here to clarify an acceptable response.

If the intent is that street walls in these locations should be lower than what is required in the building envelope DDOs, then this should be stated plainly in the Design requirement and Design outcome should elaborate what is being sought: if it is a greater openness to the sky then this should be spelt out.

The Panel does not support the requirement:

Step down both the street wall and overall building height to respond to adjacent lower built form within the Special Character Area. [\[T3:DR:6\]](#)

The Panel thinks that this does not add any real guidance to the Design requirements that the Panel does support or are in other DDOs.

(iii) Visual recessiveness and vertical rhythm

Use of ‘visually recessive’

Council’s Part C version says:

Reinforce the ground floor and street wall as the dominant component within the Special Character Area through visually recessive upper level built form. [\[T3:DR:3\]](#)

The Panel does not support the use of the term ‘visually recessive’ in this context.

The Panel broadly accepts the idea that if additional levels are sufficiently recessive, they won’t unacceptably detract from valued streetscape character generated by lower forms. The issue is whether the recessiveness is to be delivered:

- by setbacks
- by the architectural treatment of the upper levels, such as the a high proportion of openings such as windows or recessed balconies, segmented rather than monolithic materials
- by the use of colour or materials.

The Panel observes that the requirement embodies two concepts joined by the use of ‘through’: requirements tend to be clearer when this form of expression is avoided as the first part of the requirement starts to take on the form of an outcome or an objective. The issue then becomes whether visual recessiveness the key part of the requirement to be pursued in its own right.

The Panel does not think that it always follows that the upper levels have to be recessive for the street wall to emphasised. What is important is the relationship of the upper levels to the site specific context: calling for the relationship to default to visual recessiveness doesn’t seem to add to the usability or clarity of the requirements. There is a danger that this requirement will devolve into discussion over the colour treatment of the upper levels, or a requirement that the upper levels of a development be ‘plain’ which not always be appropriate.

Vertical rhythm

The Panel does not accept that vertical rhythm is necessary for good design and does not support the requirement to:

Break up buildings with a wide street frontage into smaller vertical sections, with a range of parapet heights and rebates of sufficient depth to provide modulation in the street facade. [T3:DR:7]

Leaving aside the uncertainty around the term ‘wide street frontages’ the Panel does not support this requirement because the Panel thinks there are existing quality buildings in Melbourne that show successful vertical and horizontal rhythms. Two iconic Melbourne Art Deco examples stand out – the horizontally banded McPherson’s Building at 546–566 Collins Street, which does not meet this requirement and the fine grain vertical rhythm of the Manchester Unity Building at 220 Collins Street, which arguably does. On this basis the Panel concludes that a failure to meet this requirement would not necessarily generate an unacceptable outcome.

Figure 4: An acceptable building with horizontal expression, McPherson’s Building



Source: Victorian Heritage Database

Figure 5: An acceptable building with a vertical expression, Manchester Unity Building



Source: Victorian Heritage Database

4.4.2 What outcomes are needed?

The Panel does not support the following outcome for tall buildings:

Tall buildings are designed to maintain a diverse and interesting skyline which carefully considers relationships to adjacent tall buildings. [\[T3:DO:5\]](#)

The Panel notes that there was support in submissions for including a requirement for tall buildings, for example Submission 6:

Requiring high-rise developers to demonstrate how the silhouette of their proposal will contribute to and enhance the city's skyline from a distance ...

The exhibited version and Council's Part C version did not include any specific requirement for tall buildings. The issue of overall height is a matter for the building envelope DDOs.

Mr McPherson stated that:

Designing tall buildings to support a diverse and interesting skyline, and in relation to other tall buildings, is a valid direction. However, I recommend removing this Design outcome, because:

- I understand skyline effects are predominantly addressed through Amendment C270 (building heights, floor area ratios, setbacks).
- The skyline affects more distant, remote views, rather than direct public realm outcomes, which this Amendment is focussed on.

- Tall buildings will generally achieve a varied skyline naturally, through individual design initiative for each project, and varied site sizes and shapes, and the complexity of existing tall buildings in the Central City and Southbank.
- There are no specific Design requirements associated with this Design outcome.

The Panel agrees with Mr McPherson.

The Panel has previously recommended that the outcomes be refined and redrafted. Based on submissions and discussions at the Hearing the Panel supports the following Design outcomes to underpin recommended Design requirements for the building mass:

Building mass that:

- Distinguishes between different buildings where a development comprises multiple buildings.
- Respects the height, scale and proportions of adjoining heritage places or buildings within a Special Character Area.
- Reinforces the fine grain and visual interest of streetscapes.

Street walls that:

- Provide aesthetic interest to the public realm.
- Frame comfortable and attractive streets.

4.5 Building program

Building program relates to the position and configuration of uses internal to a building. This is a key urban design consideration due to the direct relationship of internal areas to the public realm.

4.5.1 Submissions and discussion on the requirements

The Panel thinks that the requirements for the building program need to address three concepts:

- internal layout of uses
- services, waste and loading areas
- car park location sleeving and adaptability.

The Panel notes that services are dealt with in three separate places –Table T2, Table T4 and Table 5B – this should be rationalised.

(i) Internal layout of uses

The Panel supports the following revised requirements for internal layout of uses:

Development should position active uses to address the public realm. [T4:DR:1]

Back of house areas should be located away from plazas and streets, or within basements or upper levels. [T4:DR:2]

Development should:

- Maximise the number of pedestrian building entries. [T4:DR:8]
- Avoid long expanses of frontage without a building entry. [T4:DR:9]

Large floorplate tenancies should be sleeved with smaller tenancies at ground level at a boundary to a street, laneway or pedestrian connection. [T4:DR:10]

Ceiling heights should be a minimum floor to floor of:

- 4.0 metres at ground level. [Panel]
- 3.8 metres for levels two and three. [Panel]
- 3.5 metres above level three in the lower 20 metres. [T4:DR:12]

General issues raised in submissions about the requirements

Submissions generally supported these requirements and the Panel agrees that active and engaging public realm is undermined by blank wall and services. Having said this, the Panel notes that some active uses – such as rooftop bars – add to the experience of the city but do not front the public realm.

Council's Part C version included:

Provide ceiling heights of at least 3.5 metres floor to floor within the lower 20 metres of a building.
[T4:DR:12]

There is a general issue with respect to ceiling heights as to whether a minimum of 3.5 metres floor to floor heights would be sufficient in the lower 20 metres of a building. This requirement is consistent with the proposed controls for the Southbank Arts Precinct (C323 Interim Report December 2018), but in contrast to other schemes. For example the Panel for Amendment C172 Chapel Street Activity Centre proposed that the minimum floor to floor in the lower floors of a building of 4.0 metres for the first level (ground floor) and 3.8 metres for the subsequent lower floors to cater for future building adaptability; this was in response to the suitability of heights for commercial floors at lower levels. That Panel noted that:

Non residential uses such as offices and community uses require high enough ceilings to install a suspended ceiling fitout that conceal services (mechanical and electrical) ... lower ceilings in these uses are possible but below industry standard ...

This Panel would encourage a higher floor to floor height where possible to ensure future adaptation can cater for a range of uses, and be consistent with the location of these spaces in Central Melbourne; 3.5 metres must be seen as an absolute minimum.

Publicly accessible areas

The Panel does not support:

Locate new publicly accessible areas in the lower levels of a building so that they have a direct visual and physical connection to the public realm. [T4:DR:6]

Co-locate any publicly accessible parts of a building with adjacent public space or pedestrian connections. [T4:DR:7]

'Publicly accessible parts of a building' covers such a wide range of potential uses – including lift foyers in many buildings – that the Panel cannot be sure that meeting this requirement is necessary to achieve good design. Other Design requirements address similar topics and will address these concerns.

Long expanses

Concerns were raised by the Panel that the use of 'long' and 'limited' in the following requirement may be unclear:

- Avoid long expanses of frontage with a limited number of building entries. [T4:DR:9]

Council explained (Document 67):

Within a main street such as Russell Street, a long frontage might be 18 metres in width (equivalent to 3 traditional shop front widths), whereas a long frontage in Degraes Street would be in excess of 12 metres where a tighter grain is characteristic. Generally 'long' or 'short' in street elevation can be reduced to metrics tied to traditional shop front widths, which have a base unit of measurement of between 5 and 6 metres

This concept again is relative to context; limited in number would differ depending on the context, comprising street width and prevailing grain. A preferred grain would be

at 6-12 metres intervals in most instances, however Crossley Street would demonstrate distances of 3-4 metres whereas the QV development might have entries up to 18 metres apart.

The Panel does not see it necessary to refer to both long expanses and a limited number. The Panel thinks it would be clearer (though still not entirely clear) simply to refer to long expanses without an entry. This is a situation where the *Design Guide* should provide some guidance.

Car parking on small sites

The Panel thinks the following requirements would be best expressed as tips in the *Design Guide*:

- TIP: Waive car parking on small sites where the entries impact on the activation and safety of the public realm. [\[T4:DR:11\]](#)

The Panel notes that the Parking Overlays that apply in the Capital City Zone – which set maximum rates – have decision guidelines that address pedestrian amenity.

Internal amenity

The Panel does not support:

The internal configuration of development secures a high level of wellbeing for building occupants, through natural light, ventilation, outlook and thermal comfort

Maximise privacy, daylight and outlook through the arrangement of spaces within a building.
[\[T4:DR:11\]](#)

The Panel notes Mr McPherson's evidence:

... internal amenity is not a public realm issue, I consider it to be superfluous in this context.

The Panel does not think DDO1 should address internal amenity issues and finds the requirement to simultaneously maximise 'outlook' and 'privacy' potentially confusing.

Queueing in the public realm

The Panel does not support:

Configure tenancies so that they do not rely upon queueing within the public realm, except where this occurs on a pedestrian only laneway where this is the established character. [\[T4:DR:14\]](#)

Submission 28, AILA, pointed out that:

... some congestion on main street footpaths can be considered desirable where it contributes to a sense of liveliness, and small-scale 'hole in the wall' food and beverage outlets are some of the city's most popular institutions.

The requirement acknowledges that this is an established character in some areas and does not seek to limit it in those areas. If this is not a universally bad urban condition, why do we stop new manifestations? The Panel cannot be sure that meeting this requirement is necessary to achieve a good urban design outcome. As Mr McPherson stated:

The requirement to configure tenancies to not rely on queueing in the public realm is difficult to assess, because it would depend on the nature and popularity of the tenancy. Providing space before the entrance for queueing outside of the public realm, is likely to impact on the frontage and activation conditions of the tenancy and building. The uncertainty of this Requirement and how it would be assessed leads me to suggest it be reviewed or removed.

As submitter 36 pointed out:

... it ultimately depends on the popularity of an individual venue. We consider it would be more appropriately addressed through a local law than the planning process.

(ii) Services, waste and loading areas

The Panel supports the following revised requirements for services:

Ground floor building services, including waste, loading and parking access:

- Should be minimised. [Panel]
- Must occupy less than 40 per cent of the ground floor area of the building. [T4:MR:4]

Internal waste collection areas should be sleeved. [T5B:DR:4]

Service and back of house areas should be located away from streets and public spaces, or within basements or upper levels. [T4:DR:2]

Service cabinets should be located internally with loading, waste or parking areas where possible. [T4:DR:3]

The location and access for waste should comply with the requirements specified in the relevant City of Melbourne Waste Management Guidelines. [T5B:DR:2]

Undercroft spaces for waste or loading should not adversely impact safety and continuity of the public realm. [T5B:DR:6]

Access doors to any waste, parking or loading area should:

- Be positioned no more than 500 millimetres from the street edge.
- Be designed as an integrated element of the building. [T5B:DR:1]

Rooftop plant, services and antennae should be integrated into the overall building form. [T6:DR:14]

General issues raised in submissions about the requirements

Some submissions were concerned that the requirement to located services away from streets and public spaces, or within basements or upper levels ignored the fact that it is a mandatory requirement to locate the fire booster at the main building entry, which is typically at the main street. The Panel accepts that services – especially boosters and fire hydrant systems – are subject to a range of other requirements but does not accept qualifying these requirements with ‘where appropriate’ or ‘where possible’. This will open up a range of considerations beyond the service authority’s requirements. The Panel notes the requirements refers to ‘service area’ and thinks that distinction from ‘service cabinets’, covered in the next requirement will be clear.

The Panel does not support the following requirements in this section:

Services should not be located on main streets. [T2:DR:2]

Configure and design service rooms and entries so that they do not create alcoves and recessed areas of entrapment. [T5B:DR:7]

The issue of service location is dealt with by T4:DR:2 and so T2:DR:2 is not required. The issue of entrapment areas is dealt with in ‘Street edge and plaza retention’ and may not need to be repeated.

Are mandatory controls justified?

A number of submissions were concerned that the mandatory requirement associated with building services occupying less than 40 per cent of the total site area at ground level is not always achievable, particularly on small sites.

Submitter 19 explained:

... we are currently working on a development on Lonsdale Street where our client would prefer to put the substation underground. However, due to the stringent requirements of CitiPower, we have been forced to locate the substation at ground level.

In his evidence for Council Mr Adams recommended that the Amendment be changed:

... to include a process whereby approval may be considered where the development does not meet 40 per cent requirement, where a letter is provided from a relevant Authority (either power, water, gas, or fire). The letter should be site specific and explain that the relevant utility connection must be located at ground level in order to comply with the Authority guidelines, due to the particular site constraints.

Council did not support this and neither does the Panel. Aside from a range of procedural issues on who has the authority to write such a letter and how such a letter could be interpreted in a statutory planning regime the Panel does not support the principle that this requirement can be made discretionary (albeit with a letter from an authority).

The Panel agrees that a mandatory control over the percentage of ground floor areas given over to servicing is warranted. The Panel observed instances of where what were shown as tenancies on application drawing were ultimately developed as service areas. The Panel agrees that mandatory controls are required to guard against this. Specifically the Panel thinks:

- Council has strategically supported the mandatory nature of this control with its analysis of existing buildings and the impact of services of the public realm
- the requirement is appropriate for the majority of, if not all, proposals
- the requirement is directly related to achieving a preferred outcome
- proposals that do not meet the requirement will be clearly unacceptable.

(iii) Car park location sleeving and adaptability

The Panel supports the following revised requirements for car parks:

Car park ramps should be capable of removal for future adaptation. [T4:DR:13]

In the Hoddle Grid, all car parking must be located in a basement unless it is part of a development that removes existing at grade car parking. [T4:MR:1, Panel]

Above ground car parking:

- Should be located on the first floor or above. [T4:MR2.1]
- Should have a floor to floor heights of at least 3.5 metres. [T4:MR:3]
- Must be sleeved to streets. [T4:MR:2.2]

The cost of the requirements

Mr Spencer gave evidence for Council on the cost of the mandatory car parking provisions, namely:

- parking in buildings in the CBD to be positioned underground
- parking in buildings in Southbank to be sleeved with active uses and configured with higher ceilings so as to be adaptable for other uses in the future.

Based on his analysis he concluded:

The Amendment is likely to result in higher construction costs as a result of the requirements to locate parking in basements in the CBD or in sleeved arrangements in Southbank. The cost increases will be more significant for developments in the CBD.
[7]

The parking requirements of the Amendment will reduce residual land values (RLVs) of potential development sites compared to those that might be achieved under the existing Planning Scheme requirements. [8]

In comparing these reduced RLVs with indicative existing use values for potential development sites, I find that the RLVs still generally exceed the EUV estimates. [9]

Table 6: Feasibility findings – Residual land values and existing use values – Mr Spencer’s evidence

Scenario	Existing use value for development sites (per sqm site)	RLV – C270 (per sqm)	RLV – C308 (per sqm)	RLV – C308 reduced on-site parking (per sqm)	RLV – C308 no on-site parking (per sqm)
CBD Residential	\$5,000 to \$10,000	\$19,747	\$16,782	\$19,352	\$24,480
Southbank Residential	\$2,000 to \$7,000	\$19,810	\$18,640	Not tested	Not tested
CBD Commercial	\$5,000 to \$10,000	\$12,522	\$8,244	\$10,302	\$13,565
Southbank Commercial	\$2,000 to \$7,000	\$18,174	\$17,681	Not tested	Not tested

My analysis of scenarios with lower rates of on-site parking in the CBD suggests that the Amendment will incentivise developers to minimise the provision of parking. The lower parking rate scenarios result in higher RLVs than the 'full' parking rate scenarios. This effect is seen for both the residential and commercial development scenarios. [12]

Based on this analysis I do not believe that the parking elements of the Amendment will be so detrimental to the RLV of development sites that it will prevent new development from occurring. [13]

Furthermore, the impact of the Amendment on the flow of new development will be softened by the significant 'pipeline' of approved planning applications and applications under consideration in the CBD and Southbank. These existing development opportunities will not be impacted by the Amendment. [14]

Although not examined in my evidence, I note that the Amendment is likely to provide a range benefits. These include: improved public realm quality, increased floor space capacity in the CBD and adaptable floor space Southbank. These matters should be taken into consideration when assessing whether the Amendment would generate a net community benefit. [15]

The Panel notes the evidence.

General issues raised in submissions about the requirements

A number of submissions raised concerns over the mandatory requirements.

These submissions typically thought what was proposed was a laudable approach, but that it would not always be feasible. Others (for example Submission 17) expressed unqualified support:

We agree that exposed carparking to the lower levels of buildings is a poor urban outcome and should be prevented.

AILA (Submission 28) submitted that:

... this is one of the more important Design requirements in the DDO. We agree the best streets and lanes are ones not marred by podium parking and understand that there is a surplus of off-street space in ... [Central Melbourne] ...

Submission 17 noted that the building envelope DDOs 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. The submitter thought that in some circumstances above-ground parking with a veneer of active use would be the correct solution and this option should be available for designers to explore.

As Submission 23 pointed out:

This Mandatory Requirement ignores appropriate sleeved outcomes such as 35 Spring Street, which is identified at page 49 of the *Design Guide*. Prohibiting appropriate sleeved outcomes will increase development costs in the CBD which will result in the loss of overall design quality (akin to outcomes in the Sydney CBD).

The alternative to sleeving above ground car parking is some form of screen. There are enough examples of this approach to conclude that it rarely, if ever, delivers a high quality design outcome.

3.5 metres floor to floor heights for car parks

Concerns were expressed on the one hand that this height was too low for commercial use and, on the other, too high for a car park.

Submitter 40 pointed out that:

Each of the six design entries submitted to the recent design competition incorporated automated car parking solutions, which clearly indicates the use of this technology as being the future trend for car parking in new developments. Such solutions require reduced floor to floor heights and can be dismantled to provide for future adaptability

On balance the Panel accepts 3.5 metres as a discretionary minimum that will allow for the future adaptation of the floors.

Situations where requiring basement parking is not appropriate

Submission 11 raised concerns that the mandatory requirement for basement car parking is not always suitable for sites that have high water tables, contaminated fill or other. The Part C version of the control address this submitter's specific site.

The Panel would add that if the space over rail lines is ever to be developed then parking above the rail lines, but below a new ground plane might not technically be in a 'basement'. Only referring to the Hoddle Grid in the control would exclude the rail corridor and the North Wharf.

The Panel has concerns that a development proposal that is replacing current at grade car parking in the CBD but where there is a need to maintain car parking numbers might be prohibited by this requirement. The Queen Victoria Market redevelopment is an obvious example of this issue.

Are mandatory controls justified?

The Panel agrees that mandatory control over car parking (in the form recommended by the Panel) is warranted. Specifically the Panel thinks:

- Council has strategically supported the mandatory nature of this control with its analysis of the cost implications and its identification of the impacts of unsleeved above ground car parks
- the requirement is appropriate to the majority of proposals
- the requirement is directly related to achieving a preferred outcome
- proposals that do not meet the requirement are likely to be unacceptable and the ability to judge an acceptable outcome at the planning stage especially in relation to above ground car parking screen would appear extremely limited.

4.5.2 What outcomes are needed?

The Panel has previously recommended that the outcomes be refined and redrafted. Based on submissions and discussions at the Hearing the Panel supports the following Design outcomes to underpin recommended Design requirements for the building program:

A building program that:

- Delivers safe and high quality interfaces between the public and private realm.
- Delivers internal common areas or podium-rooftop spaces that maximise passive surveillance and interaction with the public realm.
- Maximises activation of the public realm.
- Can accommodate a range of tenancy sizes, including smaller tenancies in the lower levels of the building.
- Allows for adaptation to other uses over time.

Building services that:

- Minimise the impact of building services on the public realm.
- Maximise the quality and activation of the public realm.
- Do not dominate the pedestrian experience and are designed as an integrated design element of the ground level facade.
- Provide waste collection facilities as an integral part of the building design

Car parking that:

- Minimises the impact of car parking on the public realm.

4.6 Public interfaces

Public interfaces relates to the boundary between a building and the public realm in main streets, streets, laneways and open spaces.

4.6.1 Submissions and discussion on the requirements

The Panel thinks that the outcomes and requirements for the public interface need to address two concepts:

- active frontages
- street connection where there are level differences.

(i) Active frontages

The Panel supports the following revised requirements for active frontages:

Development in:

- General development areas and laneways in Special character areas, should meet the following ground level frontages requirement. [\[T5A:DR:1\]](#)
- Streets in Special character areas, must meet the following ground level frontages requirement. [\[T5A:MR:1\]](#)

The ground floor frontage requirement does not apply to the development of a heritage building. Development of a heritage building should maintain or increase compliance with the following ground level frontages requirement. [T5A:DR:1.4, T5A:MR:1.4]

Table 1: Ground level frontages requirement

Ground level frontages requirement
<ul style="list-style-type: none"> At least 80 per cent of the combined length of the ground level abutments of a building to streets and laneways are an entry or window. [T5A:DR:1.1, T5A:MR:1] This measurement excludes: <ul style="list-style-type: none"> Stall-risers to a height of 700mm. [T5A:DR:1.1, T5A:MR:1] Pilasters. [T5A:DR:1.1, T5A:MR:1] Window and door frames. [T5A:DR:1.1, T5A:MR:1] Windows that have clear glazing without stickers or paint that obscures views. [T5A:DR:1.2, T5A:MR:1.2, Panel] <p>Security grills or mesh should:</p> <ul style="list-style-type: none"> Be transparent. [T5A:DR:1.2, T5A:MR:1.2] Not block views into tenancies at night. [T5A:DR:4] Be mounted internally to the shop windows. [T5A:DR:1.2, T5A:MR:1.2]

General issues raised in submissions about the requirements

The existing DDO1 requires:

Area 1 – Retail Core

Buildings with ground-level street frontages in the retail core must contribute to the appearance and retail function of the area to the satisfaction of the responsible authority, by providing:

- At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises.

Area 2 – Major Pedestrian Areas and Key Pedestrian Routes within CCZ1

Buildings with ground-level street frontages to major pedestrian areas must present an attractive pedestrian oriented frontage to the satisfaction of the responsible authority, by providing:

- At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or
- At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.

Council's Part C version of the controls said:

Provide the following in buildings with a ground level abuttal to a main street, street or laneway to ensure they present an active and attractive pedestrian-oriented ground level facade:

- At least 80 per cent of the combined length of the ground level abuttal of a building to a main street, street or laneway total frontage length as an entry, window or display window.

While the existing DDO distinguishes between the retail core and non retail core, the new DDO1 applies (almost) the same standard but makes it mandatory in Special Character Areas.¹³ Submission 25 noted:

¹³ The mandatory version is not identical but it is not clear that the differences are intentional.

We generally support the objectives within the Building Program section of the [*Design Guide*]. There seems to be an assumption within this section that all street-level program is commercially oriented. A broader definition of non-commercial programs that contribute to the streetscape would be beneficial

The Panel agrees with deleting the 5 metre minimum as this will not necessarily be appropriate or achievable on frontages less than 6.25 metres where it applies.

There was some discussion at the Hearing as to how this would be measured if the building fronted a plaza. The Panel notes that this requirement does not apply to buildings that abut plazas.

The Panel also notes examples where this requirement has not been achieved but design excellence has, for example at Monaco House in Ridgway Place. This award winning building by notable architects (McBride Charles Ryan, 2007) transformed Rutledge Place from a largely un-activated public realm to a vibrant well patronised day time cafe. This is an example of where a building does not meet the requirement but adds a dynamic highly resolved façade that contributes greatly through its unique, intriguing architectural language.¹⁴ As stated earlier the test for many of the requirements is not where poor outcomes have not met the requirements but rather where good outcomes have not met the requirements. This should be noted in the *Design Guide*.

Figure 6: Monaco House, Ridgway Place (McBride Charles Ryan Architects, 2007)



Views through window displays into retail areas

The Panel does not support the requirement that:

Any signage or product display maintains views to and from the tenancy interior to the public realm.
[T5A:DR:1.3, T5A:MR:1.3]

The Panel does not doubt that views into shops are a valued feature of urban life. However it is reluctant to set a requirement for this as there may be good reasons for a particular use

¹⁴ The development arguably does not activate Brabham Lane, and has a balcony that projects more than 300mm into Ridgway Place.

or layout to adopt a different approach. Is DDO1 saying that high end fashion tenancies, jewellers, Myer, and David Jones are undermining the liveliness of the city?

The Panel does think there is a potential issue with windows being obscured by paint or stickers. This seems to be the standard operating approach of some supermarkets, and high end fashion stores may theme a display at particular seasons with displays or sale banners that obscure viewing into their tenancy. Di Stasio Citta on Spring Street has incorporated artwork into a designed presentation to the street in place of glazing. The Panel sees this as an issue and thinks that there might be a need to condition against obscuring windows, but that equally, there needs to be flexibility in the exercise of discretion.

Are mandatory controls justified?

The Panel agrees that mandatory control over active frontages (in the form recommended by the Panel) is warranted. Specifically the Panel thinks:

- Council has strategically supported the mandatory nature of this control with its analysis of existing buildings
- the requirement is appropriate to the majority of proposals, and the control specifically excludes heritage buildings from achieving a specific percentage
- the requirement is directly related to achieving a preferred outcome
- proposals that do not meet the requirement will be clearly unacceptable.

(ii) Street connection

The Panel supports the following revised requirements for street connection:

In flood prone areas and on sloping sites, the transition from street level to usable space within the ground level of the building should be integrated with the overall design program and provide dignified access to people of all abilities. [Panel]

General issues raised in submissions about the requirements

The Panel notes that level transitions are an issue for sloping sites as well as for flood prone sites.

External stair lifts

The Panel thinks the following issue would be best dealt with as a tip in the *Design Guide*:

- TIP: Avoid external stair lifts that have no weather protection.

The Panel accepts that external stair lifts present a number of issues but thinks that this can be managed by focussing on the concept of dignified access for people of all abilities.

External stairs or ramps

The Panel does not support the following requirements:

Ensure in flood prone areas, a direct connection at grade to usable space within ground level tenancies, with level transitions contained within the building envelope. [T5A:DR:5]

Ensure in flood prone areas, transitions in floor levels between exterior and interior spaces do not rely on external stairs or ramps. [T5A:DR:6]

There are any number of successful buildings in the city that have external stairs or ramps. It is simply not the case that internal transitions always produce an acceptable outcome and external transition never do. Indeed the Panel was taken to Little Hero in Russell Place as example of good design: this building manages a level difference by way of an external colonnade. It is not clear to the Panel why it is good design to manage an interface with a

slope in this fashion, but it would be clearly unacceptable to manage an interface with a flood prone street in a similar fashion.

4.6.2 What outcomes are needed?

The Panel has previously recommended that the outcomes be refined and redrafted. Based on submissions and discussions at the Hearing the Panel supports the following Design outcomes to underpin recommended Design requirements for the public interfaces:

Public interfaces that:

- Contribute to the use, activity, safety and interest of the public realm.
- Provide continuity of ground floor activity along streets and laneways within the Special Character Areas.
- Allow unobstructed views through openings into the ground floor of buildings.

4.7 Public realm projections

Public realm projections relates to balconies and weather protection canopies.

4.7.1 Submissions and discussion on the requirements

The Panel thinks that the outcomes and requirements for site layout need to address two issues:

- weather protection
- balconies.

(i) Weather protection

The Panel supports the following revised requirements for weather protection:

Development should include continuous weather protection along main streets except where a heritage place warrants an alternative approach. [\[T5C:DR:1\]](#)

Weather protection canopies should:

- Be between 3.5 metres and 5 metres above ground measured to the underside of the soffit. [\[T5C:DR:2.1\]](#)
- Provide for exposure to winter sun and shelter from summer sun. [\[T5C:DR:2.2\]](#)
- Not enclose more than one third of the width of a laneway. [\[T5C:DR:3\]](#)
- Display a high design standard including material selection in the appearance of the soffit and fascia. [\[T5C:DR:2.4\]](#) [\[EDIT\]](#)

General issues raised in submissions about the requirements

Central Melbourne has become a tall, dense city over the last several decades. It is also a 'windy city located in the Roaring Forties' as noted by Dr Eaddy in evidence to the C245 Queen Victoria Redevelopment Panel. This Panel defers to the outcomes prescribed in the suite of DDOs from the C270 Central City Built Form Review to achieve certain wind exposure criteria but notes that continuous weather protection is an accepted wind mitigation strategy and should be included as a Design requirement, consistent with other DDOs for built form.

Rhythm

The Panel does not support:

- To provide rhythm that reflects the fine grain of ground floor shop fronts. [\[T5C:DR:2.3\]](#)

When a person is under the weather protection it is not clear that any rhythm in the weather protection will add meaningfully to the experience of the shop fronts – what is important is the shop fronts themselves. Viewed from across the road, what is important is the overall composition of the lower level facade.

There would seem to be numerous examples of acceptable buildings that do not meet this requirement, for example, the Little Collins Street elevation of 118 Russell Street.

Upward views

The Panel does not support:

- Allow upward views to the facade of a building. [\[T5C:DR:2.5\]](#)

There may be instances where this requirement is counter-intuitive in terms of providing shade where warranted, but may be more suited to due south facing facades where the concern for summer shading or winter sunlight is unaffected. Further guidance or ‘tips’ should be included in the *Design Guide*.

(ii) Balconies

The Panel supports the following revised requirements for balconies:

Upper level projections such as Juliet balconies, adjustable screens or windows, cornices or other architectural features may project into streets or laneways:

- On main streets up to 600 mm. [\[T5C:DR:6.2\]](#)
- On streets and laneways up to 300 mm. [\[T5C:DR:7.1\]](#)

On main streets, balconies associated with an active commercial use may project up to 1.6 metres from the facade or 800 mm from the back of kerb. [\[T5C:DR:6.1\]](#)

Balcony projections should be at least 5 metres above any public space measured from ground level. [\[T5C:DR:5\]](#)

Upper level projections and canopies should allow for the growth of existing and planned street trees. [\[T5C:DR:11\]](#)

General issues raised in submissions about the requirements

The requirement for a Juliet balcony to be light weight is not supported; there are many examples of successful balconies across Melbourne that are not.

The Panel agrees it is appropriate to put parameters around the extent of projection and the height above ground level. This should be from the finished ground level not the ‘natural’ ground level in the event that these levels are different.

Enclosed balconies and projecting habitable floor space

The Panel does not support the following requirements:

Ensure that development does not include enclosed balconies or habitable floor space projecting over the public realm. [\[T5C:DR:8\]](#)

The Panel observes that there are many buildings – often built in the 1920s – that include bay windows over the public realm that add a rich visually texture to streets and the pedestrian experience. The Panel does not think that this is automatically an unacceptable outcome.

Full width projections

The Panel does not support the following requirements:

Ensure that public realm projections at the upper levels do not extend the full width of a building frontage. [\[T5C:DR:10\]](#)

It is unclear what is being sought by this requirement. Full width public realm projections could be an important strategy for shade control on facades (for example a continuous *brise-soleil*) and could also be part of a wind mitigation strategy. The Panel thinks that this requirement may have its genesis in a number of poor design examples as opposed to a fundamental flaw as a specific design element.

Primary design features

The Panel does not support the following requirements:

Development should not rely projections into streets or laneways as the primary design feature. [\[T5C:DR:9\]](#)

It is not clear what a 'primary design feature' might be and whether such projections would be acceptable if they were a 'secondary' feature. The Panel thinks that this requirement may have its genesis in a number of poor design examples – one example was pointed out on the site tour – as opposed to a fundamental flaw as a specific design element.

4.7.2 What outcomes are needed?

The Panel has earlier recommended that the outcomes be refined and redrafted. Based on submissions and discussions at the Hearing the Panel supports the following Design outcomes to underpin recommended Design requirements for the public realm projections:

Facade projections that:

- Do not adversely impact the levels of daylight or views to the sky from a street or laneway.
- Do not obstruct the service functions of a street or laneway through adequate clearance heights.

Balconies that:

- Add activity the public realm.
- Form part of a cohesive architectural response to the public realm.

Weather protection that:

- Delivers pedestrian comfort in the public realm and protection from rain, wind and summer sun.
- Uses canopies that are functional, of high design quality, and contribute to the human scale of the street.

Architectural projections are dealt with in Chapter 4.8.

4.8 Design detail

Design detail in DDO1 refers to the resolution of a contextually responsive building exterior that contributes to the quality of the public realm through its architectural expression, materials and finishes.

4.8.1 Submissions and discussion on the requirements

The Panel thinks that the requirements for design detail should address two key concepts:

- the way in which a building is detailed in terms of facade elements, projections, materials and finishes
- the treatment of shop fronts.

(i) Facade expression and projections

The Panel supports the following revised requirements for facade expression and projections:

Lower level facades near the public interfaces should use visually rich details. [\[Replaces T6:DR:11\]](#)

Minor building projections above ground level should contribute to the depth and visual interest of building facades. [T5C:DO:5]

Service cabinets should not dominate street frontages and should use high quality materials. [T5B:DR:5]

Facades should provide for depth and a balance of light and shadow in street wall and avoid curtain walls or treatments with little or no visual relief unless they employ a double or triple skinned facades with high ESD outcomes. [Part T6:DR:6, Panel, T6:DR:8]

Facades should avoid unacceptable glare to the public realm. [T6:DR:15]

All parts of a building visible from the public realm should form part of the overall design composition of the building. [T6:DR:9 reworded]

Buildings should use durable, robust, low maintenance materials and finishes and avoid surface finishes and materials that deteriorate over time at the public realm interface. [T6:DR:10]. [T6:DR:12]

General issues raised in submissions about the requirements

This element is critical to achieving the high quality urban design outcomes sought – the way a building is detailed can be the difference between a high quality outcome and poor one. This element also refers to the overall architectural expression or language of a proposal. The requirements must give clear unambiguous direction specifically to architects, who are ultimately charged with the execution of a design while also allowing for design innovation and flexibility in achieving outcomes.

Visually rich facades can be executed through a highly complex assembly of forms, surfaces and materials or equally, in a stripped back, minimalist expression. Either approach can make a strong and visually engaging contribution to the public realm.

The key is how these scenarios are detailed and specified. As stated earlier high quality design depends on an assessment of the distinguishing elements of the design: how a building hits the ground, turns a corner, addresses the visual reading of a soffit or entrance, or how a building rises above in tower form.

These requirements are appropriate in preventing a proliferation of ground level design responses that create a public realm flanked by large expanses of glazing.

Facade modulation

The Panel does not support the requirement that street wall facades should, as a rule, be modulated but understands that the genesis for this requirement is likely to be the proliferation of glazed curtain wall podiums and facades in recent decades, particularly in hyperdense tower developments.

The Panel could envision a glazed tower for example that proposes a double skin ventilated facade that would achieve a high energy performance (such as the 6-star *GreenStar* rated 31-storey tower at 1 Bligh Street Sydney). While ESD considerations are noted as not being addressed in this Amendment (but are in Clause 22.19 and Clause 22.23 of the planning scheme), it would be remiss to not acknowledge the strong nexus between design and ESD outcomes, particularly with the Design detail element of DDO1. Where an applicant could demonstrate that glare and permeability issues in the public realm meet requirements, there should not be a blanket rule that would preclude a high ESD performing design response, even if it were to contain an unmodulated facade.

Use of balconies, integrated shading, rebates or expression of structural elements

The Panel does not support the requirements (in T6:DR:6) that:

- provide for depth and a balance of light and shadow in upper level facade design

- specify the use of balconies, integrated shading, rebates or expression of structural elements.

The Panel thinks the following concepts would be best expressed as tips in the *Design Guide*:

- TIP: Use balconies, integrated shading, projections, *brise-soleil* to provide visual relief and where possible be climate responsive
- TIP: Surface treatments of blank walls could include off form textures and patterning.

It is not clear to the Panel that principles for upper level facade design are the same as for street walls which are viewed from a shorter distance. Adding 'balconies, integrated shading, rebates or expression of structural elements' to the requirements seem to suggest that these are the only acceptable way of achieving the requirement.

Thickness and balance of openness and transparency with solidity

The Panel does not support the following requirements:

Ground floor facades should have thickness, depth and articulation. [T5A:DR:1.5]

Establish a balance of openness and transparency with solidity in the surface of street walls. [T6:DR:7]

The Panel does not think that 'thickness, depth and articulation' are necessary to achieve visual richness – though they are certainly one way of doing this – and so are not essential to achieving an acceptable outcome.

The Panel agrees that managing the relationship between openness and solidity is an important design decision but does not agree that this always needs to be 'balanced'. The Panel can envisage an acceptable design outcome that has a relatively solid wall with punched openings on the one hand or, on the other, a relatively transparent facade supported by a clearly delineated frame.

Materials

Council's part C version included:

Employ natural, tactile and visually interesting materials at the lower levels near the public interface to reinforce a human scale [T6:DR:11]

The Panel thinks the following requirement T6:DR:13 would be best expressed as a tip in the Design Guide, together with other tips:

- TIP: Consider using brick, stone, durable timbers, tiles
- TIP: Avoid building materials and finishes such as painted concrete which that undermine the visually rich, tactile quality of laneway environments [T6:DR:13]
- TIP: Include a facade management strategy.

The Panel thinks that 'tactile' might be a confusing descriptor for architects as it means literally something that can be touched. The Panel would prefer advice that uses language more readily understood by the architectural design profession.

(ii) Shop fronts and ground level tenancies

The Panel supports the following revised requirements for shop fronts and ground level tenancies:

Shop fronts and ground level tenancies should:

- Avoid long expanses of floor to ceiling glazing. T5A:DR:2]

- Avoid tinted, opaque or high reflectivity glass which obscures views between the public realm and building interior. [T5A:DR:3]

General issues raised in submissions about the requirements

The critical issue for shop fronts is probably not to over regulate their design or lock in simplistic treatments with the planning permit. The Panel thinks allowing flexibility for tenant to deliver variety and interest is a better strategy. This probably requires:

- a physical design that can be refitted to tenant requirements
- a planning approval that does not lock in a particular shop front treatment.

Integrated seating

The Panel thinks the following requirements would be best expressed as tips in the *Design Guide*:

- TIP: Integrate seating perches into street facades, where narrow footpaths or laneways preclude on-street dining.

The Panel accepts that integrated seating can add to city life, but it is simply not the case that a failure to provide it delivers an unacceptable outcome.

4.8.2 What outcomes are needed?

The Panel has earlier recommended that the outcomes be refined and redrafted. Based on submissions and discussions at the Hearing the Panel supports the following Design outcomes to underpin recommended Design requirements for the design detail:

Facade expression that:

- Establishes a positive relationship between their appearance and the valued characteristics of their context.
- Is visually interesting when viewed up close and from a distance.
- Incorporates sufficient design detail in the lower levels of a building to deliver a visually rich and engaging pedestrian experience.
- Delivers high quality design on all visible sides of a building.

Shop fronts and ground level tenancies that:

- Provide visual connection between the public realm and interior spaces.

4.9 Overall recommendation

The Panel recommends:

In Schedule 1 to the Design and Development Overlay:

- **Refine the design advice as shown in Appendix D.**

5 The *Design Guide*

5.1 The need for a *Design Guide*

(i) The issue

The issue is whether the *Design Guide* provides sufficient guidance to architects, applicants and decision makers to deliver high quality design.

(ii) Evidence and submissions

The Guide mainly consists of text from DDO1 supplemented with captioned images and figures.

Council submitted that the *Design Guide* would be a companion to DDO1 and its role is to graphically illustrate and give guidance on qualitative outcomes; the *Design Guide* would also play an important role in the exercise of discretion.

Many submissions supported the *Design Guide*. For example, the Master Builders submitted that:

The [*Design Guide*], used correctly, may help improve performance-based outcomes. Ultimately, the success of the proposed Guide will be its use as a tool for discussion, guidance and reflection between all parties to the urban development process.

Ms Penn's evidence was that:

- The Guide also plays an important advocacy role that will help strengthen awareness of the importance of, and investment in, urban design quality.

Mr Soussan stated that, in his opinion, the *Design Guide* was similar to ResCode where diagrams provided useful guidance. Mr Soussan's view was that it was doing a similar job as the *Urban Design Guidelines for Victoria*, but with a focus on Melbourne.

Ms Heggen felt the *Design Guide* was a useful document.

Mr McPherson supported the inclusion of the *Design Guide* stating that:

The provision of an illustrative *Design Guide* which aligns with the planning policy is also supported, in that it provides additional guidance, examples and visual references to enhance understanding of the proposed controls.

(iii) Discussion

The Panel thinks that the *Design Guide* has an important role to play.

The *Design Guide* must necessarily, as its title implies, provide clear, germane, unambiguous guidance for architects, applicants and decision makers – particularly in relation to the discretionary Design requirements of DDO1. The Panel notes that it is called up in the decision guidelines in DDO1 so an important purpose is to assist decision makers in how to consider alternative design solutions where discretionary Design requirements cannot be met and how to identify if a high quality design has been achieved.

As a guideline document, the *Design Guide* needs to be as clear as possible as a communication tool, easily navigable and offer examples and commentary on where the guidelines have been met and where they haven't but are still successful. It should also provide sufficient commentary to outline why Design outcomes are being sought and why they are fundamentally warranted and important. This would give valuable insight to

architects in understanding the broad principles underpinning a particular Design outcome and invite innovative responses rather than prescriptive formulaic responses that would in effect ‘tick a box’.

(iv) Conclusion

The Panel concludes:

- the *Design Guide* has an important role to provide further assistance, direction and guidance to architects, applicants and decision makers and support what is sought by DDO1.

5.2 Issues with the current draft of the *Design Guide*

(i) The issue

The issue is whether the current draft of the *Design Guide* is suitable as an effective communication tool for its intended role.

(ii) Evidence and submissions

Ms Penn made a recommendation that “*a small number of minor refinements to the introductory comments within the Guide*” be inserted. These included a short outline on what is meant by good design, an additional paragraph on the role of design reviews and clarification on the importance of pre application design negotiations.

Mr McPherson provided a holistic review of the *Design Guide* and prefaced his recommendations with the following:

The *Design Guide* content is closely aligned to that of DDO1, and this alignment supports clarity, consistency and accessibility of the content. However, while the Guide provides a range of illustrations to explain and demonstrate the Design outcomes and [Design] requirements, it does not provide significant additional content beyond that of DDO1. [76, emphasis added]

Mr McPherson’s also made a detailed review of the *Design Guide* and this forms the basis of Appendix E.

(iii) Discussion

The Panel thinks that the *Design Guide* should do more than simply replicate the text of DDO1.

The key purpose of the *Design Guide* is to support and supplement the DDO. It’s an important communication tool and needs to be drafted as such.

Further text should be added and more images and illustrations added to provide insight as to how acceptable alternative solutions can be arrived at where discretionary requirements will not be met.

Additionally the *Design Guide* needs to inform users where examples of high quality design has been achieved in text, images or figures as this underpins the success of the Amendment.

Role of elements

The *Design Guide* contains an ‘introduction’ that sets out the purpose, target audience and that the intent is to provide illustrations and photos in an “*easy to use and simple graphic*

format” to illustrate the desired Design outcomes and Design requirements of DDO1. The Panel finds this section clear and unambiguous.

Include tips

The *Urban Design Guide for Victoria* includes tips. The Panel supports this approach in the design Guide and has identified a number of requirements that would be better expressed as tips.

How to use this guide

The ‘how to use this guide’ section outlines the structure of the *Design Guide* (the thematic elements) as graphically cascading from ‘big’ to ‘small’ and states that the *Design Guide* mirrors the Objectives, Design outcomes and design requirements in thDDO1 and that it “*will continue to be supported by robust Design Review processes*”.

The Panel finds that the first two paragraphs in this section could arguably be inserted in the ‘introduction’ section as they explain the purpose of the *Design Guide* and not how it is intended to be used. The Panel finds that the remaining text in this section does little to assist a user how to navigate through the following sections.

There is a need to clarify the role of the various element; the Panel supports the text proposed by Council (in Document 74) to do this with some changes. Council proposed:

The Guide should be read in conjunction with the Objectives, Outcomes and Requirements contained in DDO1 and is to be used to guide the exercise of discretion in assessing applications against DDO1. The following sections of the Guide: Message from the City of Melbourne, Introduction, How to use this Guide and Good design matters and the headings in pink commencing on page 11 are all designed to provide information and are not intended to be used in the exercise of discretion. The map indicating street blocks where pedestrian connections are required has been included to provide a visual aid. It is a map that will change over time as pedestrian connections are provided.

The Panel thinks that the section ‘Good design matters’ should have a role in guiding discretion, namely: clearly articulating that the minimum threshold for DDO1 is high quality design and explain what is meant by this threshold.

Good design matters

The ‘good design matters’ section reiterates that the DDO and the *Design Guide* are “*just one part of the equation*” and operates with “*investment in design review*” and “*a rigorous collaborative planning and design process*”. It explains that where design excellence is sought, for example on strategic sites, design competitions or design review by the Office of the Office of the Victorian Government Architect.

The Panel has no issue with was it said but rather with what is not. As pointed out in expert evidence, this section lacks a clear explanation of what is meant by good design, high quality design and design excellence and the difference in meeting these thresholds in context of this DDO.

Importantly this section should also direct the user to the contents page to assist in locating a particular Design outcome or Design requirement under a thematic section heading. This would assist architects and applicants in familiarising themselves with the scope and extent of DDO1.

Preface to all thematic sections or chapter

The Panel recommends that each thematic section (chapter) contain an explanatory preface at the beginning of the text that sets out the fundamental principles underpinning each theme (as recommended by the Panel: pedestrian network, site layout, building mass, building program, public interfaces, public realm projections and design detail). This is consistent with Mr McPherson's evidence and the Panel finds that without this the *Design Guide* is merely replicating the DDO text verbatim.

Images

The Panel shares Mr McPherson's concerns that:

Utilising case studies and built examples to demonstrate particular points through photographic images can be problematic and somewhat misleading. I support the *Design Guide's* use of captions to explain what aspects of the image are being put forward as good (or poor) examples. However, some aspects of these images remain questionable in relation to the outcomes they are showing, and what they are seeking to demonstrate.

The illustrated diagrams effectively demonstrate the intent of the requirements and the benefits of new connections for pedestrian accessibility. I understand these diagrams, such as Figure 3, to be hypothetical rather than real places, although Figure 3 reflects a block structure like ... [Central Melbourne].

The danger is that the images have in some cases been selected to illustrate one issue but that other elements in the image could be used to justify design approaches that are not supported.

Images and illustrations need to be carefully reviewed to ensure that everything in the image reflects the Design outcomes and Design requirements being sought, or the caption should make it clear which elements in the image ought not serve as a model.

The Panel also thinks that images should show public connections that are accessible to people of all abilities in addition to the public realm activation and connections sought and if not note that dignified access is provided adjacent to a staircase for people with disabilities.

Editorial improvements

The Panel has identified the following possible editorial improvements to the *Design Guide*:

- include a detailed contents page with subheadings related back to the subheadings in DDO1
- revise the 'contents' and numbering format to include numbered sub headings and page numbers
- number all the images (including full-page photographs) and provide a list of images at the beginning or end of the document
- check the numbering sequence of the images
- where images clearly show the work or copyright of a specific architect this should be attributed in the image caption
- include image or copyright attribution to photographers.

(iv) Recommendations

The Panel recommends:

Changes to the *Central Melbourne Design Guide* to:

- **Clarify the role of each thematic element.**

- Revise the ‘Good Design Matters’ section to include a clear explanation of what is meant by good design, high quality design and design excellence and the difference in meeting these thresholds in the context of Schedule 1 to the Design and Development Overlay.
- Clarify that while Design Review processes are voluntary, they should be used to review proposals purporting to have achieved a threshold of design excellence.
- Include further text in each section in the form of an introduction or preface for each thematic element to explain and clarify the fundamental principle underpinning it, to assist architects and decision makers to understand the logic behind the requirements and what alternative design solutions could be acceptable.
- Include ‘Tips’ modelled on tips in the *Urban Design Guide for Victoria* and highlight synergies with other sections.
- Address the issues with the images identified in Appendix E.
- Make editorial improvements including page number references to all sub headings in the Contents page.

5.3 Should the guide be incorporated?

(i) The issue

The issue is whether the *Design Guide* needs to be a document incorporated into the planning scheme.

(ii) Evidence and submissions

Mr Soussan stated that in his opinion, the *Design Guide* should be an incorporated document and that it was similar to ResCode, where diagrams provided useful guidance. Mr Soussan’s view was that it was doing a similar job as the *Urban Design Guidelines for Victoria*, but with a focus on Melbourne.

Asset 1 WTC Pty Ltd were concerned that if the *Design Guide* were to be incorporated, this, coupled with the Design requirements in the DDO, would “lead to design by programmatic formula and take away from the subjective consideration which has allowed the city to develop and evolve organically and responsively in most instances”. It also submitted that it remained in question as to whether the *Urban Design Guide for Victoria* remained relevant in context of Central Melbourne and the *Design Guide*.

(iii) Discussion

The *Practitioner’s Guide* says in relation to decision guidelines:

References to local policies and unincorporated studies, statements of significance or strategies should generally be avoided as they may unintentionally broaden the scope of matters for consideration.

It also says:

An incorporated or background document can be used in a schedule where:

- Decision guidelines refer to a strategy document where the document is clearly relevant to the implementation of the provision. The document should be an incorporated document, publicly available and preferably subject to an approval process that takes public comments into consideration.

A document must be incorporated if the document is:

- To be used to guide the exercise of discretion by the responsible authority (except for a development plan under the Development Plan Overlay, which does not need to be incorporated).

Published advice seem to make it clear that the *Design Guide* needs to be incorporated. The *Design Guide* has been exhibited as part of the Amendment and the Panel does not see any need for further notice if the Amendment were to incorporate the *Design Guide*.

(iv) Recommendations

The Panel recommends:

Incorporate the *Central Melbourne Design Guide* by listing it in Clause 72.04.

Appendix A Submitters to the Amendment

No.	Submitter
1	Peter Mondy
2	Amruta Pandhe
3	Paul Anderson
4	Matthew Pearse
5	Timothy Bracher
6	Justin Flanagan
7	Pamela Lloyd
8	Mecone Town Planning
9	Hansen Partnership
10	Phillip Nominees Pty Ltd
11	Asset 1 WTC Pty Ltd
12	City West Water
13	Urban Development Institute of Australia (Vic)
14	Master Builders Victoria
15	Outdoor Media Association
16	Property Council of Australia
17	Australian Institute of Architects (Vic)
18	MGS Architects
19	Urbis Pty Ltd
20	Justin Kelly
21	Southbank Residents Association
22	Ian Wilcock
23	Shesh Ghale (Spencer)
24	Shesh Ghale (La Trobe)
25	Mihaly Slocombe Architects
26	Irwinconsult
27	Mai Luu
28	Australian Institute of Landscape Architects
29	Central Equity Limited
30	BPM Development
31	Nicola Smith
32	Victorian Young Planners Committee (PIA)
33	Urban Design Forum Incorporated
34	Friends of the Royal Exhibition Building & Carlton Gardens Group
35	Bruce Echberg
36	Ratio Consultants
37	Justin Kelly
38	Peter Barrett
39	Melbourne Heritage Action
40	Beulah International
41	City of Port Phillip

Appendix B Parties to the Panel Hearing

Submitter	Represented by
City of Melbourne	<p>Susan Brennan SC and Jennifer Trehwella of Counsel on direct instruction, with a presentation from Andy Fergus of the City of Melbourne and calling the following expert evidence:</p> <ul style="list-style-type: none"> - Simon McPherson of Global South on Urban Design - Daniel Soussan of Tract Consultants Pty Ltd on Planning - Nick Adams of Arup on Service Engineering - Koos De Keijzer of DKO on Architecture - Shelley Penn of Shelley Penn Architecture on Architecture - Andrew Spencer of SGS Economics and Planning on Economics.
Phillip Nominees Pty Ltd	<p>Joanne Lardner of Counsel instructed by Norton Rose Fulbright, calling the following expert evidence:</p> <ul style="list-style-type: none"> - Catherine Heggen on Planning/Design
Asset 1 WTC Pty Ltd	Rebecca Lyons of Urbis

Appendix C Document list

No.	Date	Description	Provided by
1	1.3.19	DDO1 Panel Version Track changes	Panel
2	1.3.19	DDO1 Panel Version	Panel
3	1.3.19	List of Council file contents	Ms Brennan
4	1.3.19	C308 Exhibition and Authorisation material	—"
5	1.3.19	C308 Future Melbourne Committee docs	—"
6	1.3.19	C308 background reports	—"
7	1.3.19	C308 State planning policy material	—"
8	1.3.19	Table of example city and Southbank sites	Panel
9	28.2.19	Southbank tour notes	City of Melbourne
10	28.2.19	Central city tour notes	—"
11	28.2.19	Planning Scheme Notes – Central City and Southbank	—"
12	1.3.19	A3 &A4 Publicly Accessible Private Plazas analysis	Mr Fergus
13	1.3.19	A3&A4 Active Frontages and Building Services	—"
14	1.3.19	A3&A4 Preferred pedestrian connections	—"
15	1.3.19	City of Melbourne Part A submission	Ms Brennan
16	1.3.19	Urban Design presentation	Mr Fergus
17	1.3.19	Central City Built Form Review	Ms Brennan
18	1.3.19	Design Review submission	Ms Penn
19	4.3.19	Urban Design Evidence	Mr McPherson
20	4.3.19	Urban Design slide presentation	—"
21	4.3.19	Melbourne Planning Scheme Clause 22.03 Floor Area uplift and delivery of public benefits	Ms Lardner
22	4.3.19	Melbourne Planning Scheme DDO2 Special Character Areas	Ms Lardner
23	4.3.19	Melbourne Planning Scheme DDO10 General Development Areas Built Form	—"
24	5.3.19	Building Services evidence	Mr Adams
25	5.3.19	Citipower email 1.3.19	Mr Adams
26	5.3.19	Design evidence	Mr De Keijzer
27	5.3.19	A3 images – part of design evidence	—"
28	5.3.19	Melbourne Central City Development Manual	Ms Brennan
29	5.3.19	Urban Economics evidence statement	Mr Spencer

No.	Date	Description	Provided by
30	6.3.19	Town Planning evidence	Mr Sousson
31	6.3.19	DDO1 Track changes - Mr Sousson track changes version	—"—
32	6.3.19	Melbourne Planning Scheme DDO61	Ms Lardner
33	12.3.19	Council Part B submission	Ms Brennan
34	12.3.19	Clause 43.02 DDO	—"—
35	12.3.19	Melbourne Planning Scheme DDO67	—"—
36	12.3.19	Melbourne Planning Scheme DDO63	—"—
37	12.3.19	Melbourne Planning Scheme DDO33	—"—
38	12.3.19	Melbourne Planning Scheme DDO44	—"—
39	12.3.19	<i>PPN08: Writing a Local Planning Policy</i>	—"—
40	12.3.19	Melbourne New Format Planning Scheme Panel Report April 1998	—"—
41	12.3.19	C308 Examples of Innovation	—"—
42	12.3.19	Heritage Overlays Status of Plazas	—"—
43	12.3.19	Explanatory Report C186 Pt 2 (2017)	—"—
44	12.3.19	Yuncken Freeman heritage building heritage citation	—"—
45	12.3.19	DDO15 Glenferrie Activity Centre	—"—
46	12.3.19	C171 Southbank Structure Plan (2012)	—"—
47	12.3.19	C196 City North Structure Plan (2013)	—"—
48	12.3.19	C190 Arden Macaulay Structure Plan Implementation	—"—
49	12.3.19	Pedestrian connection map	—"—
50	12.3.19	Council response DDO1	—"—
51	12.3.19	Council response <i>Design Guide</i>	—"—
52	12.3.19	Calculating FAU (2016)	—"—
53	13.3.19	Planning and Urban Design evidence	Ms Heggen
54	13.3.19	Plans 1 Spring Street	—"—
55	13.3.19	Shell House, 1 Spring Street Statement of Significance	—"—
56	13.3.19	Extract <i>Heritage Act</i> s56	Ms Brennan
57	13.3.19	MLC Redevelopment Project	Ms Brennan
58	13.3.19	Dexus article: Australia Square	Ms Brennan
59	13.3.19	Phillip Nominees submission	Ms Lardner
60	13.3.19	Milton House Statement of Significance	—"—
61	13.3.19	Melbourne Planning Scheme Clause 43.01	—"—
62	13.3.19	<i>PPN59: Role of Mandatory Provisions</i>	—"—

No.	Date	Description	Provided by
63	13.3.19	Asset 1 WTC submission	Ms Lyons
64	13.3.19	Unlocking Melbourne's CBD 2018 Urbis	—"
65	13.3.19	Relationship between Outcomes and Requirements DDO1	Ms Brennan
66	13.3.19	Council analysis of Clause 22.01 and DDO1	—"
67	13.3.19	Council response to para 17g of C308 Direction letter	—"
68	13.3.19	Options for DDO1 mapping	—"
69	13.3.19	Council preferred map within DDO1	—"
70	14.3.19	Council Part C submission	—"
71	14.3.19	The Age article 28 December 2018	—"
72	14.3.19	Office snapshot in Central City and Southbank	—"
73	14.3.19	Council DDO1 Part C version 14.3.19	—"
74	14.3.19	Council additional text for <i>Central Melbourne Design Guide</i>	—"

Appendix D Panel preferred version of DDO1

SCHEDULE 1 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

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PANEL C308

Shown on the planning scheme map as **DDO1**.

URBAN DESIGN IN CENTRAL MELBOURNE

1.0 DESIGN OBJECTIVES

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PANEL C308

To ensure that all development achieves high quality urban design, architecture and landscape architecture.

To ensure that development integrates with, and makes a positive contribution to its context, including the hierarchy of main streets, streets and laneways.

To ensure that development promotes a legible, walkable, and attractive pedestrian environment.

To ensure that the internal layout including the layout of uses within a building has a strong relationship with the public realm

To ensure that development provides a visually interesting, human scaled and safe edge to the public realm.

2.0 BUILDINGS AND WORKS

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PANEL C308

2.1 No permit required

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PANEL C308

A permit is not required to:

- Construct a building or construct or carry out works to provide access for persons with disabilities that comply with all legislative requirements to the satisfaction of the responsible authority.
- Develop a heritage place which is included on the Victorian Heritage Register if either:
 - A permit for the development has been granted under the *Heritage Act 2017*.
 - The development is exempt under Section 66 of the *Heritage Act 2017*.
- Construct a building or construct or carry out works by or on behalf of Melbourne Parks and Waterways or Parks Victoria under the *Water Industry Act 1994*, the *Water Act 1989*, the *Marine Act 1988*, the *Port of Melbourne Authority Act 1958*, the *Parks Victoria Act 1998* or the *Crown Land (Reserves) Act 1978*.
- Construct a building or construct or carry out works for Railway purposes.
- Construct a building or construct or carry out works for bus and tram shelters required for public purposes by or for the Crown or a public authority in accordance with plans and siting to the satisfaction of the responsible authority.
- Construct a building or construct or carry out works for information booths and kiosks required for public purposes by or for the Crown, a public authority or the City of Melbourne.
- Externally alter a building by making changes to the glazing of an existing window to not more than 15 per cent reflectivity.

2.2 Definitions

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PANEL C308

For the purpose of this schedule:

- **Average urban block length** means the average of opposite sides of an urban block measured between laneways, streets or safe and convenient 24 hour pedestrian connections that connects the two opposite sides.
- **Building services** includes areas used for the purposes of loading, waste management, and electrical, communications, gas, water and fire prevention infrastructure.

- **Laneway** means a road reserve of a public highway 9 metres or less wide.
- **Main street** means a road reserve of a public highway more than 20 metres wide.
- **Publicly accessible private plaza** means an open to the sky privately owned space provided and maintained by the property owner for public use.
- **Sleeve** means to position active uses between large floorplate tenancies, carpark or service areas and the public realm to achieve an active and safe street edge.
- **Stationary activity** means activities by pedestrians that involve extended stays within a space, such as sitting and eating, rather than walking through.
- **Street** means a road reserve of a public highway more than 9 metres wide. It includes a Main street.

A reference to a **Special Character Area** is a reference to areas covered by DDO2, DDO40, DDO60, or DDO62, and illustrated at Map 1 to this schedule. A reference to other geographic areas is a reference to an area delineated on Map 1 to this schedule.

2.3 Requirements

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PANEL C308

Buildings and works:

- Must meet the Design objectives specified in this schedule.
- Must satisfy the Design outcomes specified for each relevant Design element.

A permit may be granted to vary a discretionary Design requirement expressed with the term 'should'.

A permit cannot be granted to vary a Design requirement expressed with the term 'must'.

An application that does not meet a Design requirement must document how the development will achieve the relevant Design outcomes.

A permit must not be amended (unless the amendment does not increase the extent of non-compliance) for buildings and works that do not meet a Design requirement expressed with the term 'must'.

2.4 Pedestrian network

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PANEL C308

The pedestrian network is to the network of main streets, streets, laneways and open spaces that define urban blocks, together with arcades and through-building connections.

Design outcomes

An urban block structure that:

- Is sufficiently fine grained to support walking as the primary mode of transport.
- Is legible.

A pedestrian network that:

- Is fine grained.
- Reduces walking distances.
- Completes existing links and laneways.
- Provides opportunities for stationary activities.

Pedestrian connections that are:

- High quality.
- Safe and attractive.
- Usable by people of all abilities.
- Easily identified and legible.

Design requirements

Urban block structure

Where the average urban block length is greater than 100 metres, development should provide a new through-block pedestrian connection. In Southbank these pedestrian connections should be provided as laneways. [T1:DR:1]

Note: Urban blocks with an average length of more than 100 metres are identified on Map [REF] in the Central Melbourne Design Guide.

Where a development could deliver part of a pedestrian connection that is able to reduce the average urban block length to less than 100 metres, but does not extend the full depth of the block, the development should include a connection that can be completed when a connection is provided through an adjoining site. [T1:DR:10.2]

Pedestrian network

Where a development has the potential to achieve a through-block connection by extending an existing or proposed connection on an adjoining site, the development should provide for the completion of the through-block connection. [T1:DR:10.1]

Development with an abuttal to two or more streets or laneways should provide a pedestrian connection between those abuttals where this improves the walkability of the urban block. [T1:DR:9]

Pedestrian connection standards

Pedestrian connections that reduce (or when completed will reduce) an average urban block length to less than 100 metres should be:

- Open 24 hours a day. [CI22.20]
- Open to the sky or a through-building connection. [T1:DR:4, Panel]

Pedestrian connections should be:

- Usable by people of all abilities. [Panel]
- Direct, attractive, well-lit and provide a line of sight from one end to the other. [T1:DR:6.1]
- Safe and free of entrapment spaces and areas with limited passive surveillance. [T1:DR:8]
- Publicly accessible at ground level and appropriately secured by legal agreement. [T1:DR:6.2]
- Lined by active frontages. [T1:DR:6.5]

Laneways should be:

- At least six metres wide. [T1:DR:6.3] Laneways may be less than 6 metres wide where, either:
 - The laneway is the same width or wider than an existing laneway that it continues. [Panel]
 - The laneway does not provide for vehicle access. [Panel]
- Lined by buildings that provide spatial and aesthetic interest to the public realm. [CI22.20]

Arcades should:

- Be a minimum of two storeys high. [T1:DR:7.1]
- Incorporate high quality design detail to all visible planes and surfaces. [T1:DR:7.2]
- Have highly legible entries including any doors or gates. [T1:DR:7.3]

Through-building connections should:

- Provide a clear line of sight to the connection beyond. [Panel]
- Be a minimum of 3.2 metres high. [Panel]
- Be no more than 15 metres long. [Panel]

2.5 Site layout

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PANEL C308

Site layout refers to the arrangement of buildings and spaces, including the position of entries and servicing, and circulation cores and how these elements respond to and reinforce the character of streets and laneways.

Design outcomes

Site layout that:

- Reinforces the valued characteristics of streets and laneways.
- Delivers a well-defined public realm.
- Avoids entrapment areas and areas with limited passive surveillance.
- Can cater for anticipated pedestrian volumes.

Plazas that:

- Are accessible to people of all abilities.
- Are safe and attractive.
- Deliver opportunities for stationary activity.
- Help alleviate pedestrian congestion.

Vehicle entries that:

- Do not create traffic conflict.
- Do not undermine the attractiveness or safety of the pedestrian experience.

Colonnades and undercrofts that:

- Are safe and attractive.
- Are accessible to people of all abilities.

Design requirements

Street edge

Building should be aligned to the street at ground level unless they provide for a plaza or a garden edge. [T2:DR:5]

Development should avoid narrow publicly accessible alcoves and recesses that lack a clear public purpose. [T2:DR:3]

Plaza standards and retention

Plazas should:

- Be open to the sky. [T2:DR:7.1]
- Be accessible to people of all abilities. [T2:DR:7.2]
- Provide opportunities for stationary activity. [T2:DR:7.3]
- Incorporate active frontages. [T2:DR:7.4]
- Incorporate soft and hard landscaping elements. [T2:DR:7.5]
- Have access to sunlight. [T2:DR:7.6]

Development should retain at least 50 per cent of any existing publicly accessible private plaza where:

- It is oriented to a main street or street.
- It helps reduce pedestrian congestion.
- There is good potential to achieve a high quality space with opportunities for stationary activity.

Where a plaza contributes to the significance of a heritage place, retention of more than 50 per cent of the plaza may be required to conserve the heritage values of the place. [T2:DR:6]

Vehicle access location

Vehicle access, excluding loading bays:

- In the Retail Core Area – Schedule 2 to the Capital City Zone must not be constructed on a traffic conflict frontage shown on Map 2, or in a lane leading off a traffic conflict frontage. [DDO3]
- Should not be located on main streets. [T2:DR:2]
- Should not be constructed on a traffic conflict frontage or in a lane leading off a traffic conflict frontage shown on Map 2. [DDO3]

The location and width of car park entries should minimise the impacts on the pedestrian network. [T4:DR:5]

Loading bays:

- In the Retail Core Area – Schedule 2 to the Capital City Zone must not be constructed on a traffic conflict frontage shown on Map 2, or in a lane leading off a traffic conflict frontage. [DDO3]
- Should not be located on main streets. [T2:DR:2]
- Should not be located on lanes that demonstrate at least three of the following characteristics:
 - A connection through a city block.
 - Active frontages.

- An architectural character that provides aesthetic and spatial interest to the public realm.
- Views from the lane's public realm towards a connecting lane, street or landmark. [\[C122.20\]](#)

Colonnade and undercroft standards

Colonnades and undercrofts should:

- Incorporate high quality design detail to all publicly visible planes and surfaces.
- Provide ground level spaces that are accessible to people of all abilities.
- Have a clear public purpose.
- Be well-lit and provide clear lines of sight.
- Be safe and free of entrapment spaces and areas with limited passive surveillance. [\[Panel\]](#)

2.6 Building mass

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PANEL C308

Building mass relates to the three dimensional form of a building, including its scale, height, proportions and composition.

Design outcomes

Building mass that:

- Distinguishes between different buildings where a development comprises multiple buildings.
- Respects the height, scale and proportions of adjoining heritage places or buildings within a Special Character Area.
- Reinforces the fine grain and visual interest of streetscapes.

Street walls that:

- Provide aesthetic interest to the public realm.
- Frame comfortable and attractive streets.

Design requirement

Multiple buildings

Development that comprises multiple buildings should deliver fine grain development within a cohesive architectural design framework. This may include a diversity of forms, typologies and architectural language and expression. [\[T3:DR:1\]](#)

Street wall height

Street wall heights should be lower along laneways and streets less than 10 metres wide or where streets have reduced daylight. [\[T3:DR:3\]](#)

Development should reinforce fine grain ground levels and existing street walls in Special Character Areas. [\[T3:DR:5\]](#)

Street wall heights, upper level setbacks and building separation should respond to the scale of adjacent heritage buildings. [\[T3:DR:4\]](#)

Transitions in height, scale or prominence to a heritage place should avoid relying solely on surface treatments or decorative effects. [\[T3:DR:10\]](#)

2.7 Building program

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PANEL C308

Building program relates to the position and configuration of uses internal to a building. This is a key urban design consideration due to the direct relationship of internal areas to the public realm.

Design outcomes

A building program that:

- Delivers safe and high quality interfaces between the public and private realm.
- Delivers internal common areas or podium-rooftop spaces that maximise passive surveillance and interaction with the public realm.
- Maximises activation of the public realm.
- Can accommodate a range of tenancy sizes, including smaller tenancies in the lower levels of the building.

- Allows for adaptation to other uses over time.

Building services that:

- Minimise the impact of building services on the public realm.
- Maximise the quality and activation of the public realm.
- Do not dominate the pedestrian experience and are designed as an integrated design element of the ground level facade.
- Provide waste collection facilities as an integral part of the building design

Car parking that:

- Minimises the impact of car parking on the public realm.

Design requirements

Internal layout

Development should position active uses to address the public realm. [T4:DR:1]

Back of house areas should be located away from plazas and streets, or within basements or upper levels. [T4:DR:2]

Development should:

- Maximise the number of pedestrian building entries. [T4:DR:8]
- Avoid long expanses of frontage without a building entry. [T4:DR:9]

Large floorplate tenancies should be sleeved with smaller tenancies at ground level at a boundary to a street, laneway or pedestrian connection. [T4:DR:10]

Ceiling heights should be a minimum floor to floor of:

- 4.0 metres at ground level. [Panel]
- 3.8 metres for levels two and three. [Panel]
- 3.5 metres above level three in the lower 20 metres. [T4:DR:12]

Services, waste and loading areas

Ground floor building services, including waste, loading and parking access:

- Should be minimised. [Panel]
- Must occupy less than 40 per cent of the ground floor area of the building. [T4:MR:4]

Internal waste collection areas should be sleeved. [T5B:DR:4]

Service and back of house areas should be located away from streets and public spaces, or within basements or upper levels. [T4:DR:2]

Service cabinets should be located internally with loading, waste or parking areas where possible. [T4:DR:3]

The location and access for waste should comply with the requirements specified in the relevant City of Melbourne Waste Management Guidelines. [T5B:DR:2]

Undercroft spaces for waste or loading should not adversely impact safety and continuity of the public realm. [T5B:DR:6]

Access doors to any waste, parking or loading area should:

- Be positioned no more than 500 millimetres from the street edge.
- Be designed as an integrated element of the building. [T5B:DR:1]

Rooftop plant, services and antennae should be integrated into the overall building form. [T6:DR:14]

Car parks

Car park ramps should be capable of removal for future adaptation. [T4:DR:13]

In the Hoddle Grid, all car parking must be located in a basement unless it is part of a development that removes existing at grade car parking. [T4:MR:1, Panel]

Above ground car parking:

- Should be located on the first floor or above. [T4:MR2.1]
- Should have a floor to floor heights of at least 3.5 metres. [T4:MR:3]

- Must be sleeved to streets. [\[T4:MR:2.2\]](#)

2.8 Public interfaces

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PANEL C308

Public interfaces relates to the boundary between a building and the public realm in main streets, streets, laneways and open spaces.

Design outcomes

Public interfaces that:

- Contribute to the use, activity, safety and interest of the public realm.
- Provide continuity of ground floor activity along streets and laneways within the Special Character Areas.
- Allow unobstructed views through openings into the ground floor of buildings.

Design requirements

Active frontages

Development in:

- General development areas and laneways in Special character areas, should meet the following ground level frontages requirement. [\[T5A:DR:1\]](#)
- Streets in Special character areas, must meet the following ground level frontages requirement. [\[T5A:MR:1\]](#)

The ground floor frontage requirement does not apply to the development of a heritage building. Development of a heritage building should maintain or increase compliance with the following ground level frontages requirement. [\[T5A:DR:1.4, T5A:MR:1.4\]](#)

Table 1: Ground level frontages requirement

Ground level frontages requirement
<ul style="list-style-type: none"> • At least 80 per cent of the combined length of the ground level abutments of a building to streets and laneways are an entry or window. [T5A:DR:1.1, T5A:MR:1] • This measurement excludes: <ul style="list-style-type: none"> ▪ Stall-risers to a height of 700mm. [T5A:DR:1.1, T5A:MR:1] ▪ Pilasters. [T5A:DR:1.1, T5A:MR:1] ▪ Window and door frames. [T5A:DR:1.1, T5A:MR:1] • Windows that have clear glazing without stickers or paint that obscures views. [T5A:DR:1.2, T5A:MR:1.2, Panel]
Security grills or mesh should:
<ul style="list-style-type: none"> ▪ Be transparent. [T5A:DR:1.2, T5A:MR:1.2] ▪ Not block views into tenancies at night. [T5A:DR:4] ▪ Be mounted internally to the shop windows. [T5A:DR:1.2, T5A:MR:1.2]

Levels

In flood prone areas and on sloping sites, the transition from street level to usable space within the ground level of the building should be integrated with the overall design program and provide dignified access to people of all abilities.

2.9 Public realm projections

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PANEL C308

Public realm projections relates to balconies and weather protection canopies.

Design outcomes

Facade projections that:

- Do not adversely impact the levels of daylight or views to the sky from a street or laneway.
- Do not obstruct the service functions of a street or laneway through adequate clearance heights.

Balconies that:

- Add activity to the public realm.
- Form part of a cohesive architectural response to the public realm.

Weather protection that:

- Delivers pedestrian comfort in the public realm and protection from rain, wind and summer sun.
- Uses canopies that are functional, of high design quality, and contribute to the human scale of the street.

Design requirements

Weather protection

Development should include continuous weather protection along main streets except where a heritage place warrants an alternative approach. [\[T5C:DR:1\]](#)

Weather protection canopies should:

- Be between 3.5 metres and 5 metres above ground measured to the underside of the soffit. [\[T5C:DR:2.1\]](#)
- Provide for exposure to winter sun and shelter from summer sun. [\[T5C:DR:2.2\]](#)
- Not enclose more than one third of the width of a laneway. [\[T5C:DR:3\]](#)
- Display a high design standard including material selection in the appearance of the soffit and fascia. [\[T5C:DR:2.4\]](#) [\[EDIT\]](#)

Balconies

Upper level projections such as Juliet balconies, adjustable screens or windows, cornices or other architectural features may project into streets or laneways:

- On main streets up to 600 mm. [\[T5C:DR:6.2\]](#)
- On streets and laneways up to 300 mm. [\[T5C:DR:7.1\]](#)

On main streets, balconies associated with an active commercial use may project up to 1.6 metres from the facade or 800 mm from the back of kerb. [\[T5C:DR:6.1\]](#)

Balcony projections should be at least 5 metres above any public space measured from ground level. [\[T5C:DR:5\]](#)

Upper level projections and canopies should allow for the growth of existing and planned street trees. [\[T5C:DR:11\]](#)

2.10

Design detail

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PANEL C308

Design detail refers to the resolution of a contextually responsive building exterior that contributes to the quality of the public realm through its architectural expression, materials and finishes.

Design outcomes

Facade expression that:

- Establishes a positive relationship between their appearance and the valued characteristics of their context.
- Is visually interesting when viewed up close and from a distance.
- Incorporates sufficient design detail in the lower levels of a building to deliver a visually rich and engaging pedestrian experience.
- Delivers high quality design on all visible sides of a building

Shop fronts and ground level tenancies that:

- Provide visual connection between the public realm and interior spaces.

Design requirements

Facade expression and finishes

Lower level facades near the public interfaces should use visually rich details. [\[Replaces T6:DR:11\]](#)

Minor building projections above ground level should contribute to the depth and visual interest of building facades. [\[T5C:DO:5\]](#)

Service cabinets should not dominate street frontages and should use high quality materials. [\[T5B:DR:5\]](#)

Facades should provide for depth and a balance of light and shadow in street wall and avoid curtain walls or treatments with little or no visual relief unless they employ a double or triple skinned facades with high ESD outcomes. [Part T6:DR:6, Panel, T6:DR:8]

Facades should avoid unacceptable glare to the public realm. [T6:DR:15]

All parts of a building visible from the public realm should form part of the overall design composition of the building. [T6:DR:9 reworded]

Buildings should use durable, robust, low maintenance materials and finishes and avoid surface finishes and materials that deteriorate over time at the public realm interface. [T6:DR:10]. [T6:DR:12]

Shop fronts and lower level facades

Shop fronts and ground level tenancies should:

- Avoid long expanses of floor to ceiling glazing. [T5A:DR:2]
- Avoid tinted, opaque or high reflectivity glass which obscures views between the public realm and building interior. [T5A:DR:3]

2.11 Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

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PANEL C308

No permit is required to subdivide land.

4.0 Advertising signs

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PANEL C308

None specified.

5.0 Application requirements

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PANEL C308

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme, and must accompany an application, as appropriate, to the satisfaction of the responsible authority.

A written and illustrated urban context report. The urban context report must: [AR2].

- Explain the key planning, design and contextual considerations and influence on the proposed buildings and works. [Panel].
- Describe the existing urban context of the area in which the proposed buildings and works are to be located. [Panel].
- Explain how the proposed buildings and works relate to and respond to their urban context including:
 - Architectural elements and materials in the surrounding streetscape including any heritage elements. [AR3].
 - The relationship between the proposal and adjacent buildings (including likely adjacent development envelopes) and open space. [AR5].
- Identify the key opportunities and constraints supporting the design response, including opportunities for new pedestrian connection.

A design response that explain how the proposed design:

- Addresses the Design requirements. [AR1]
- Will achieve the relevant Design outcomes if a Design requirement is not met. [AR1 edited]
- Achieves a high quality design outcome. [Panel]

Photomontage studies of the proposal within its streetscape context from pedestrian eye level within the street (including relevant proposals and approvals). [AR4]

A 3D digital model of the proposed development and its immediate surrounds, as appropriate, in accordance with relevant City of Melbourne guidelines for buildings and works above 20 metres in

height or the Department of Environment, Land, Water and Planning Advisory Note *3D Digital Modelling*, as applicable. [\[AR7\]](#)

A concept landscape plan for any publicly accessible podium and rooftop spaces detailing proposed hard and soft landscape elements, plant schedule, plant container details and maintenance and irrigation systems. [\[AR9\]](#)

Where car parking is proposed at or above ground level, car parking adaptation strategy prepared by a qualified structural engineer or architect to demonstrate the capacity to adapt to alternate uses. [\[AR11\]](#)

Where student housing, residential hotel or serviced apartments are proposed, and adaptation strategy demonstrating the potential for conversion to conventional apartments that would meet the requirements of Clause 58, or other alternative uses. [\[AR12\]](#)

6.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- *The Central Melbourne Design Guide*, 2019.

Map 1 to Schedule 1 to the Design and Development Overlay: Areas referred to in the Schedule

[Based on Document 69 but identifying the Hoddle Grid and naming areas outside of the Hoddle Grid]

Map 2 Schedule 1 to the Design and Development Overlay: Traffic conflict frontages

[Based on DDO3]



Appendix E Notes on the images in the *Design Guide*

This Appendix records issues identified with the images in the *Design Guide* that the Panel thinks should be addressed.

Urban Structure

- Include photographs of a range of arcades and through-building connections illustrating the variety of different connections. Photographs of examples of high quality contemporary arcades and Melbourne's prized arcades should be inserted (such as Royal Arcade or Block Arcade).
- Include a Framework Plan that indicates the localities or street blocks where new connections may be beneficial.
- Replace the image on page 15 (RMIT New Academic Street) with an image showing an alternative pedestrian connection that is accessible for people of all abilities.
- Insert another image between figures 6 and 7 of blank walls in narrow laneways that exist in Melbourne that challenge this Design requirement such as the graffiti laden laneways of Union Lane, Rutledge Lane or Hosier Lane with commentary of how public art often makes an unforeseen contribution and still achieves high activation and pedestrian connectivity which cannot be ignored altogether or dismissed.

Site Layout

- Consider a map identifying particular spaces of identified public value or benefit.
- Figure 10 (page 24) shows an area that is crossed through at the centre of the urban block but this is not defined in the legend (or key) and should be explained.
- The image on page 25 of the EY Centre (Sydney) requires review. The caption discusses minimising disruption to the main street frontage (not shown) and balancing activation and servicing to the rear lane. However the image appears to show a complete lack of ground level activation, quite dominant vehicular access, accessibility challenges caused by stairs in the arcade, and narrow (or non-existent) footpaths. This image should be replaced with a design solution that shows an accessible pedestrian connection for people of all abilities.
- The image on page 29 (500 Bourke Street) focuses on the plaza space (as captioned), but the dark-tinted glass and limited activation appears to restrict passive surveillance or visual interaction opportunities.

Building Mass

- The explanatory diagrams are generally effective and useful, such as at Figures 19, 23, 24, 24, 25.
- The case study images at pages 35 and 37 are effective and useful in communicating good practice outcomes in relation to the Design requirements for design coherence and complexity on large sites, and relationships between heritage and contemporary buildings.
- The image on page 41 appears to be less effective in demonstrating the breakdown of building mass. While this Brisbane building has a clear vertical division between two distinct components, it still appears quite bulky and appears to 'stand out' above its 'mid-rise, fine grain context', as noted in the image caption, including the adjacent building to the left.

- Figure 23 showing where street wall height may need to be lowered should be checked for consistency with C270 and the relevant DDOs. If what is being suggested is that street walls should be lower than what is prescribed in other DDOs then this should be spelt out and commentary given on where a design solution may be acceptable if this 'requirement' is not met.
- In Figure 24, page 38, it is unclear which is the new development mentioned in the caption. A streetscape elevation drawing is somewhat ineffective in communicating recessive upper levels. A 3-dimensional perspective sketch (such as at Figure 55, page 64) or streetscape photograph would potentially communicate the required outcomes more effectively.
- Figure 25 shows a notional transition line that is confusing as it cuts through a built form. This should be explained in terms of where the building breaches a notional transition line; an acceptable design solution can be supported if there is design merit and is a high quality design response.
- Image on page 41 is confusing as it is not clear from the caption if the broken tower form is on one site or if there are two abutting towers with no separation. This image needs explained in the caption or should be substituted for another clearer example.
- The two 'avoid' figures at Figures 28 and 29 require review. Figure 28 is unconvincing (in that the 'balustrades are unsuccessful') and Figure 29 has vegetation obscuring what the Panel was taken to on the walking tour as an unsuccessful surface treatment. Any replacement images should be bigger and squarer in proportion so that more of the case study is visible, especially for Figures 29 and 31. Consider a good example alongside the four bad examples.
- Figures 30 and 31 do not explain why the later developments are unsuccessful (minor cantilever balconies and scale, mass adjacent to a heritage building). It would be difficult for an architect or applicant to understand what has gone wrong in these images and what the user is being drawn to. In contrast to Figure 30, the image on the following page says that in this case the balcony projection is successful. Consider further explanation in the body text to explain what in the view of the author has gone awry and where it hasn't, referenced to a relevant image or figure number.
- The image at page 44 refers to the Building Program chapter, but it raises the question of the relationship between contemporary and older built form. The buildings shown are within a Heritage Overlay, but it is not clear if the older buildings have identified heritage value, and this location is not within a Special Character Area.

Building Program

- The diagram at Figure 33 is very small and so the intent is not clearly visible. A photographic example may be more effective, instead of or in addition to a larger diagram.
- The diagrams at Figures 36 and 37 are also quite small, and so the distinction between them is not immediately apparent. A review of these diagrams is recommended.
- The image on page 51 showing a positive example of sleeved podium parking is in the Hoddle Grid, and would not be allowable under the proposed controls, but would be applicable to Southbank. This should be clarified in the caption.

- The image captions on page 53 could be clarified to confirm that these are 'before' and 'after' images of a converted car park.
- Revise the image at Figure 47, as this shows an access ramp, rather than a ramped parking floorplate on which cars would be parked.
- Revise the image at Figure 48, as it appears to show a ground floor parking entrance, rather than an upper level interface to the public realm.
- The image at page 55 does not show equitable access for all members of the public. It is unclear in this image how a wheelchair user or a person of limited mobility would access the upper level. Consider revising the image or including a note that dignified access is provided adjacent to the staircase.

Public interfaces

- The diagram at Figure 63 appropriately advises against deep recesses which can create entrapment spaces. However, this suggests review of Figure 58, which appears to show quite a deeply recessed entrance (noting it is generally open and visible).
- The diagram at Figure 67 appears to show discontinuous weather protection, with gaps between canopy elements, in contrast to the Design requirement.

Design Detail

- Figure 82 shows 'deep window reveals and external frames' that provide depth within a facade which is supported by '47. *Create depth within a facade*'. However, this illustration is comparative to Figure 80 (page 81) which shows an image of a facade with projecting balconies. The Panel finds Figures 82 and 80 confusing where one is to be avoided and the other encouraged yet they both portray similar facade treatments. These require review and possible deletion.
- At Figure 83 which addresses the principle of providing greater detail in parts of the building that will be viewed from a closer distance, the actual dimensions indicated are not referenced in the Design requirements, and not explained in terms of what these suggest. Remove these dimensions to avoid confusion.
- The image caption on page 87 is unclear in relation to the 'exaggerated brass finish'. This may refer to the window frames, or the reveals to the side wall and should be explained in the caption.