



1 October 2019

Tim Westcott

Project Manager, Building Better Apartments Program

Planning Implementation

Department of Planning, Environment, Land, Water and Planning

By email: tim.westcott@delwp.vic.gov.au

Dear Tim

**BUILDING BETTER APARTMENTS IN NEIGHBOURHOODS CONSULTATION
RESPONSE TO DISCUSSION PAPER**

The Urban Development Institute of Australia – Victoria (UDIA Victoria) welcomes the opportunity to respond to the Building Better Apartments in Neighbourhoods Discussion Paper and consultation process.

We commend the Victorian Government's commitment to ongoing engagement with the urban development industry as part of the development of policy, guidelines and standards impacting the design and delivery of apartments in Victoria. We also acknowledge that the Department for Land, Environment, Water and Planning (DELWP) has incorporated some of the industry's feedback received to date into the policy proposals.

However, UDIA Victoria reiterates our view that the Better Apartments Design Standards (the Standards) have not been in place for enough time for industry or government to appropriately assess the outcomes and make subsequent amendments. We urge the Victorian Government to afford the Standards more time to enable proper monitoring and reviewing of the outcomes of the before increasing their scope.

We noted in our previous submission (dated 3 May 2019) that the proposed amendments appear to be aimed at lifting the standards of the lowest common denominator without considering the impact of additional regulation on innovation in design. We consider that this remains the case, and we remain concerned that the proposals will constrain innovation and encourage monotonous outcomes.

We consider that the substance of our previous submission remains relevant. On this basis, responses to the Discussion Paper are provided below where the issue has not already been addressed by our previous submission, and a copy of the previous submission is attached.

Green Space

Landscaping Standard

UDIA Victoria acknowledges that DELWP has included some of our feedback regarding Green Space in the latest proposal. On this basis, we welcome the clarification of landscaping standards set out in Table D2 with respect to the planter soil volume and the acknowledgement that planter pits that accommodate canopy trees can be included as part of the percentage of deep soil areas for the purposes of Table D2.

However, we consider the increased focus on canopy trees - rather than allowing for a diversity of landscaping responses - is too prescriptive. We consider that the number of canopy trees and amount of landscaping should be more contextual depending on the site coverage, existence of street trees and neighbourhood character.

Communal Open Space

UDIA Victoria does not support the requirement that all apartment development include landscaped communal open space. We consider this unnecessary and an additional cost burden while also limiting diversity in the provision of new housing. Further, we don't support the assumption that everyone who lives in an apartment wants associated communal space. As we noted, one of our members has surveyed residents in their apartment buildings and found that residents who didn't want communal space chose to live in buildings without it.

Member feedback suggests that the cost of delivering 25 square metres of landscaped communal open space for ten apartments will cost a minimum of \$18,000 per dwelling, in addition to the ongoing maintenance cost of \$1000 per year. Where there are fewer than ten apartments, the cost per apartment will increase because the base cost of 25 square metres of communal space will remain the same.

We urge the State Government to avoid introducing policy changes that will directly increase the cost of new housing given the existing concern with housing affordability in Melbourne.

We refer you to our May submission for further commentary regarding Green Space and we reiterate our concern that the proposals appear to be aimed at the lowest common denominator, ignoring high quality outcomes that come about from innovative projects that would not comply with the proposed reforms.

Appearance of the Building

UDIA Victoria previously noted the evidence base for the proposal relating to exterior materials – referred to as the external walls and materials standard in the Discussion Paper – to be weak. We consider this remains the case and we do not support the creation of a new standard within Clause 58 to address the issues relating to exterior materials and walls.

UDIA Victoria supports the amendment to the design response which requires that it must include a design rationale for the external walls and the selection of the external materials. We are also supportive of the amendments to the Apartment Design Guidelines for Victoria to include

information about how the external walls will be maintained.

However, beyond these points, our position outlined under “External Materials” in our May Submission remains, refer to pages 3-5.

The proposed amendment to the standard and the additional information requested as outlined in the Discussion Paper requires appropriately skilled planners to assess the information. In our experience, the required skills are not available across all metropolitan councils.

For example, feedback from one of our members notes that, in their experience, the City of Melbourne competently deals with urban design relates issues as they have the in-house skills and expertise to assess design. The development industry understands this and responds by lodging planning permit applications for designs with appropriately documented buildings in terms of design resolution.

We reiterate our concern that the proposals appear to be aimed at the lowest common denominator, ignoring high quality outcomes that come about from innovative projects that would not comply with the proposed reforms.

Wind Impacts

The proposed changes require that all apartment buildings of five or more storeys consider the effects of wind. As we previously noted, we request that more evidence is provided to determine the threshold height of buildings that have significant impacts on wind movements in the vicinity, especially on the safety of pedestrians. Member feedback indicates that standards relating to wind should not apply to building six storeys or less.

As we previously indicated, if evidence is provided of this threshold height, we may support amending the Apartment Design Guidelines for Victoria to include guidance under “Design response” for the applicant to discuss how wind effects have been considered.

While the Discussion Paper notes the proposed changes to the Apartment Design Guidelines for Victoria will clarify the situations where a full wind tunnel study is required over and above a desk-top analysis, there is no indication of what the trigger will be. We request further information about this threshold between a desk-top analysis and a full wind tunnel test.

We also reiterate that, to provide a meaningful response, a wind engineer will need to be engaged and wind tunnel testing carried out which is an expensive and time consuming process.

We understand that DELWP has considered the proposed new standard in the context of existing local policies and overlays that require proposals to be designed to consider wind effects to ensure they do not conflict.

Street Interface

UDIA Victoria supports the general approach outlined in the Discussion Paper for delivering better streetscape quality. Overall, we consider that frontages should be encouraged which reflect the established or preferred neighbourhood character.

To this end, UDIA Victoria considers that preferred design responses are more appropriate to achieve the stated outcomes, which is reflected in the proposed integration with the street standard. We consider that the prescriptive requirements for the access standard are more appropriately framed as preferred design responses that directly relate to the urban context. We refer you to our May submission for further commentary regarding vehicle access.

Further, we note that the proposed changes to site services as currently drafted are unlikely to be achieved on the basis that the referral authorities for these services often determine their size and location therefore they cannot be concealed from direct views from the public realm. In our experience, developers do not deliberately include services in the site frontage but do so as a requirement of council or referral authorities.

We suggest an education program is required with both referral authorities and local government to change the existing requirements, in addition to providing guidance in Section 1 of the Apartment Design Guidelines for Victoria which will allow flexibility for project teams to respond to individual site context.

We further suggest that the concept of active street frontages be clearly defined because feedback from members indicates that councils often take the view that this implies retail use.

Construction Impacts

UDIA Victoria supports the inclusion of a suggested planning permit condition requiring the submission of a Construction Management Plan (CMP) only where the draft permit conditions allow for CMPs to be considered as part of the demolition and early works separate to the base building. This will allow developers to clear the site early in advance of main contractor appointment.

To be clear, we do not support the requirement of a CMP as part of the planning permit application process on the basis that it is too early in the process to know what is required in the CMP. However, it is common for a condition on a planning permit for use and development to include a requirement for a CMP prior to construction starting on site.

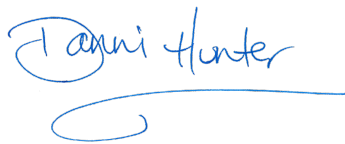
We note, however, that this will require enforcement under the planning permit and shift the responsibility to the Statutory Planning team's enforcement resources. On this basis we query whether a planning permit is the appropriate mechanism for requiring a CMP.

Overall, in terms of progressing this initiative, UDIA Victoria does not support the introduction of new mandatory requirements at this stage. However, a number of the policy proposals can be included in the Apartment Design Guidelines for Victoria to provide clarity around the interpretation and application of the existing provisions of Clause 58 of the Victoria Planning Provisions, as we continue to monitor and review its operation and effects.

In our view, the Apartment Design Guidelines for Victoria should provide guidance during the design process, and act as a supporting assessment tool to expedite the processing of applications. We also consider that many of the issues identified can be addressed through comprehensive upskilling of Council planning staff, rather than adding further complexity and regulation to planning provisions for apartments.

Should you wish to discuss any of the matters raised in this response, please contact Caroline Speed, Director of Policy and Research, on caroline@udiavic.com.au.

Yours sincerely

A handwritten signature in blue ink that reads 'Danni Hunter'. The signature is stylized with a large, sweeping underline.

Danni Hunter

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3 May 2019

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Dear Tim

BUILDING BETTER APARTMENTS PROGRAM CONSULTATION

RESPONSE TO POLICY PROPOSALS

The Urban Development Institute of Australia – Victoria (UDIA Victoria) welcomes the opportunity to respond to the policy proposal for confidential discussion (the Proposal) presented as part of the Building Better Apartments Program consultation process.

We commend the Victorian Government's commitment to ongoing engagement with the urban development industry as part of the development of policy, guidelines and standards impacting the design and delivery of apartments in Victoria. We also acknowledge that the Department for Land, Environment, Water and Planning (DELWP) has incorporated some of the industry's feedback received to date into the policy proposals.

However, UDIA Victoria reiterates that we consider that the Better Apartments Design Standards have not been in place for a enough time for industry or government to appropriately assess the outcomes and make subsequent amendments. We urge the Victorian Government to afford the Standards more time to enable proper monitoring and reviewing of the outcomes of the apartment standards before increasing their scope.

It is the view of UDIA Victoria that the Proposal appears to be aimed at lifting the standards of the lowest common denominator without considering the impact of additional regulation on innovation in design. We are concerned that the proposals will constrain innovation and encourage monotonous outcomes rather than an eclectic mix of built form outcomes that would make the public realm far more interesting and visually appealing.

We urge DELWP to deeply consider how the Proposal would interact with existing local policies and overlays. It is our view that the Proposal will in fact duplicate a range of existing measures and planning controls.

The Proposal puts forward a range of solutions that are in fact in search of a problem. Further, where evidence has been provided, it is considered insufficient to justify amending the existing provisions set out in Clause 58 of the Victorian Planning Provisions.

Detailed responses to the Proposal are set out below.

Green Space

Problem

- Landscaping is treated as an after-thought in the design process.
- A review of permitted applications suggests deep soil, tree size or equivalent canopy proposed for apartment development are not meeting the policy targets.

Evidence

- Site plans from planning permit applications for nine projects assessed under the provisions of Clause 58.
- Assessment of the application against the requirements of Clause 58.03-5.

UDIA Victoria Response

UDIA Victoria considers that the requirements to achieve the preferred landscaping outcome as described by DELWP as part of the Proposal are already articulated within Clause 58.03-5 and any change would be duplication of existing controls.

One of the key issues identified in the Proposal, is that landscape design is an afterthought and is only carried out and a landscape plan provided as a result of a condition on the permit.

Instead, this issue should be addressed by requiring a landscape plan as part of the application documentation.

The schedule to the zone includes application requirements in addition to those stipulated in the zone provisions. We suggest that this is the appropriate location to require a landscape plan as part of the application documentation, noting that some Councils already include this requirement in their Planning Schemes.

Alternatively, guidance could be included in Section 1 of the Apartment Design Guidelines for Victoria stating that a landscape plan should be provided as part of the application documentation.

Option A

We caution DELWP against assuming that greenery on facades always makes them look better. Feedback from our members indicates that many architects would argue that plants belong on the ground, not on the façade. Further, requiring green facades will add to the cost of construction, add to the cost of maintenance, and reduce affordability.

Option B

We support the proposal to make it clearer what soil volume is required to support trees of different sizes, however we believe this could be included in the Apartment Design Guidelines for Victoria rather than amending Table D2 of Clause 58.03.

We request clarification of the term “deep soil” and a nominated depth of soil that is considered “deep soil”. For example, a site may have the opportunity to plant a number of trees at ground level with a soil depth of six metres. This is reasonably characterized as more substantial than a “planter

pit” but does it qualify as “deep soil”?

We also request clarification of what constitutes a “canopy tree”. Examples of how this may be defined include specifying the trunk circumference of a mature tree at 1.4 metres above ground level, specifying a minimum height of the mature tree or a minimum canopy spread of the mature tree.

We do not support the suggestion that a landscaping response prioritise canopy trees unless there is greater clarity as to what is meant by a canopy tree and an acknowledgement that planter pits that accommodate canopy trees can be included as part of the percentage of deep soil areas for the purposes of Table D2.

Option C

We don’t support the assumption that everyone who lives in an apartment wants associated communal space. One of our members has surveyed residents in their apartment buildings and found that residents who didn’t want communal space chose to live in buildings without it.

Further, communal facilities increase the cost of owners’ corporation fees, require ongoing maintenance, and can cause management issues.

Overall, we consider that training of Council planning staff is the most effective tool in addressing the identified problems. It is stated in Clause 58 that a development must meet all of the objectives and should meet all of the standards. This puts the responsibility on the planner assessing the application to use their discretion in deciding whether an application sufficiently meets the standards. Staff with more sophisticated skills will be in a better position to make this assessment.

We reiterate our concern that the proposals appear to be aimed at the lowest common denominator, ignoring high quality outcomes that come about from innovative projects that would not comply with the proposed reforms.

External Materials

Problem

- Appearance of buildings do not match marketing advertised designs.
- Buildings clad in glazing that results in glare.
- Building designs leads issues with access for maintenance.

Evidence

DELWP commissioned architectural consultants Hayball, to provide advice in 2018 regrading key design issues related to the external amenity impacts of apartment buildings. Potential interventions were then identified by the consultants to address these issues. The report identified most of the issues currently being considered under the Street Interface and External Materials proposals, including:

- Poor design responses to wind conditions

- Ground level facades dominated by unsightly services and car parking
- Use of overly reflective glazing
- Contributions of façade design and building form towards maintenance issues

The broad set of ideas identified by Hayball were shared and tested with local government and industry reference groups in August 2018. Feedback from the experience of practitioners from both local government and industry has helped identify which elements from the Hayball work most resonated due to current deficiencies in design outcomes or planning processes.

Advice from planners, architects and designers has also identified concerns about changes to façade designs and detailing between the planning process and construction. The department has identified that local planning controls which address these impacts are sporadic and do not apply to all zoned land where apartment buildings are permitted.

UDIA Victoria Response

UDIA Victoria considers the evidence base for the Proposal relating to exterior materials to be weak and we do not support the creation of a new standard within Clause 58 to address the issues relating to exterior materials.

We caution DELWP against including a requirement for “durable” materials on the basis that it is difficult to sufficiently define this term without excluding the potential for the use of innovative materials. Likewise, we consider it problematic to require that lower levels have external materials that are natural, tactile and visually interesting because these are difficult to sufficiently define and open to interpretation.

Further, we caution against requiring that the materials must last for the lifespan of the building. Who will determine what the lifespan of the building will be? If it is an apartment building with a single owner, they may wish to update the exterior cladding every 15 years. However an apartment building with multiple owners may only update the exterior as necessary.

We propose that Clause 58.01-3 Design Response is the appropriate existing provision that should trigger the Applicant to provide an explanation of the selection of exterior finishes and materials. On this basis, the Apartment Design Guidelines for Victoria should be amended to include guidance under “Design Response” (page 8) regarding the rationale for the selection of the exterior materials.

We support the requirement to provide a list and illustration of the proposed exterior materials, however we note that several inner and middle ring Councils already require this as part of the planning permit application or as part of a Request for Further Information. Rather than amending Clause 58, we suggest that a checklist for applicants is included in the Apartment Design Guidelines for Victoria, or that this specific requirement be included under “Design Response” as noted above.

The proposal to include a measure to limit the incidence of glare should be considered in the context of existing local policies and overlays. In our view, where Council considers there to be an issue, it has been addressed in their Planning Scheme. Again, we suggest this is appropriately located in the Apartment Design Guidelines for Victoria.

A key concern conveyed by DELWP was that exterior materials and designs are being amended as part of a Secondary Consent process or an Application to Amend a Permit and that this

fundamentally changes the quality or design of the proposal. We consider that this is most appropriately addressed by training of Council planners to review the application documentation from the initial planning permit application to understand the original rationale for the material selection or design. Ultimately, the Council planner decides whether the proposed amendment is appropriate therefore it is their skills that will have the greatest impact on the outcome.

We reiterate our concern that the proposals appear to be aimed at the lowest common denominator, ignoring high quality outcomes that come about from innovative projects that would not comply with the proposed reforms.

Street Interface

Problem

- Unattractive buildings at street level due to car parking, vehicle entries air grilles and service enclosures.
- Wind effects create uncomfortable pedestrian experience.
- Building designs do not support pedestrian safety.

Evidence

As noted above under “External Materials”.

UDIA Victoria Response

A: Wind effects

We request that more evidence is provided to determine the threshold height of buildings that have significant impacts on wind movements in the vicinity, especially on the safety of pedestrians. Member feedback indicates that standards relating to wind should not apply to building six storeys or less.

If evidence is provided of this threshold height, we may support amending the Apartment Design Guidelines for Victoria to include guidance under “Design response” for the applicant to discuss how wind effects have been considered. However, we reiterate that, to provide a meaningful response, a wind engineer will need to be engaged and wind tunnel testing carried out which is an expensive process.

We also note that requirements for proposals to be designed to consider wind effects are already included in local policies and in overlays for some Councils. Any policy proposals should not conflict with the existing provisions.

B: Site Services

UDIA Victoria considers that the policy proposals are most appropriately described as a preferred design response rather than as a standard or mandatory measure. We also note that referral authorities for these services often determine their size and location therefore they cannot be concealed from direct views from the public realm. On this basis, the guidance should be included in

Section 1 of the Apartment Design Guidelines for Victoria which will allow flexibility for project teams to respond to individual site context.

C: Vehicle Access

We caution against requiring car parking entrances to be consolidated on the basis that this may not represent the optimum outcome for the urban context of the site. For example, a site with multiple street frontages offers the opportunity to split the entry and exit, thereby reducing the extent of a street frontage with a vehicle crossover and car park entry or exit which supports the policy proposal to minimize the size and appearance.

We also note that VicRoads may be a determining referral authority which will impact on the locations of the vehicle entry and exit, and that the relevant Australian Standards will also determine the size of the vehicle entry and exit.

For these reasons, and to provide for flexibility to respond to individual contexts, we suggest these policy proposals are most appropriate as guidance which should be included in Section 1 of the Apartment Design Guidelines for Victoria.

Further, a requirement to sleeve all carparks will render some potential development sites unviable therefore we do not support it.

Managing Construction Noise

Problem

- Noise pollution from construction activity.
- Construction Management Plans (CMP) can be problematic to enforce.
- Poor quality CMPs – difficult for assessors and builders.
- Limited State Government guidance.

Evidence

According to the EPA, approximately 400,000 Victorians are disturbed annually mainly due to early starts, loud radios, insufficient notification and excessive hours of operation to be the main reasons for community concern.

UDIA Victoria Response

UDIA Victoria broadly supports the following policy options:

- DELWP website to provide information about CMPs and advice from the EPA for managing construction noise.
- DELWP website to provide best practice examples of CMPs, to provide a template CMP and guidelines for completing the CMP.
- Require on-site signage to include the permitted hours for construction work.

Should DELWP pursue mandatory CMPs, we suggest the most appropriate legislation for the trigger and enforcement of CMPs is the Local Laws of each Council for the following reasons:

1. The Victorian Planning Provisions could include the permit trigger but do not reasonably provide scope require the ongoing enforcement of CMPs.
2. To include this as a requirement of the Victorian Planning Provisions will require a time-consuming planning scheme amendment without achieving the overall goal of permit trigger and enforcement.

We consider training is the key to preparing more effective CMPs and enforcing CMPs. On this basis, we suggest Council staff should be provided with training to assist in preparing and enforcing CMPs, and builders should be provided with training to prepare more effective CMPs. The best practice examples and template of CMPs will support this process.

Overall, in terms of progressing this initiative, UDIA Victoria does not support the introduction of new mandatory requirements at this stage. However, a number of the policy proposals can be included in the Apartment Design Guidelines for Victoria to provide clarity around the interpretation and application of the existing provisions of Clause 58 of the Victoria Planning Provisions, as we continue to monitor and review its operation and effects.

In our view, the Apartment Design Guidelines for Victoria should provide guidance during the design process, and act as a supporting assessment tool to expedite the processing of applications. We also consider that many of the issues identified can be addressed through comprehensive upskilling of Council planning staff, rather than adding further complexity and regulation to planning provisions for apartments.

Should you wish to discuss any of the matters raised in this response, please contact Caroline Speed, Director of Policy and Research, on caroline@udiavic.com.au.

Yours sincerely

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Danni Hunter

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