Submission No 27

INQUIRY INTO APARTMENT DESIGN STANDARDS

Organisation: Municipal Association of Victoria

Date Received: 29 October 2021

MUNICIPAL ASSOCIATION OF VICTORIA

Inquiry into Apartment Design Standards

Submission

October 2021

© *Copyright Municipal Association of Victoria, 2021*

The Municipal Association of Victoria (MAV) is the owner of the copyright in the publication MAV submission – Inquiry into Apartment Design Standards.

No part of this publication may be reproduced, stored or transmitted in any form or by any means without the prior permission in writing from the Municipal Association of Victoria.

The MAV does not guarantee the accuracy of this document's contents if retrieved from sources other than its official websites or directly from a MAV employee.

The MAV can provide this publication in an alternative format upon request, including large print, Braille and audio.

This document has been prepared by the MAV executive as a working draft for discussion on the While this paper aims to broadly reflect the views of local government in Victoria, it does not purport to reflect the exact views of individual councils.

MUNICIPAL ASSOCIATION OF VICTORIA

Table of contents

1 Executive summary 4
2 Introduction 5
3 Planning controls for apartment development 6
Policy and precinct approaches to new apartment development 7
4 The pandemic and apartment living 8
Affordable housing 8
Apartments designed for wellbeing 9
Apartment location and improving local amenity 10
5 Climate change, sustainability and apartment design 10
6 Planning regulation and housing affordability 12
7 Ongoing engagement and working with councils 12
8 Additional Key Feedback 13
Intersection with planning and building regulations 13
Compliance and enforcement 13
Circular economy and apartment design 14

1 Executive summary

The Municipal Association of Victoria (MAV) welcomes the opportunity to provide a submission to the Environment and Planning Standing Committee's Inquiry into Apartment Design Standards.

The MAV is the peak representative and advocacy body for Victoria's 79 councils. The MAV was formed in 1879 and the *Municipal Association Act 1907* appointed the MAV the official voice of local government in Victoria.

Today, the MAV is a driving and influential force behind a strong and strategically positioned local government sector. Our role is to represent and advocate the interests of local government; raise the sector's profile; ensure its long-term security; facilitate effective networks; support councillors; provide policy and strategic advice; capacity building programs; and insurance services to local government.

The MAV has been involved in several initiatives that interact with this inquiry. These include:

- In March 2016 the MAV and a number of councils took part in a Local Government Working Group to help test potential implementation measures for the Better Apartments project. We also prepared a submission on behalf of councils to the subsequent 2017 public consultation process. The MAV and councils encouraged the Victorian Government to introduce apartment design standards that reflected leading practice.
- Environmentally Sustainable Development (ESD) policy and provisions developed by the Council Alliance for the Sustainable Built Environment (CASBE) CASBE is a driving force for ESD considerations in the planning system and is hosted by the MAV. Of relevance to this inquiry, a key aspect of CASBE's work has been to facilitate the introduction of twenty local planning policies which require applicants to respond to ESD in the design of new buildings, including apartments. The objectives articulated throughout each of these ESD policies are identical across councils that have pursued ESD requirements in their planning schemes.

The MAV benefited from the operational expertise of CASBE staff in preparing our submission. We are grateful for their contribution. The MAV commends the CASBE submission to this Inquiry, as well as their member council submissions.

This submission does not seek to provide technical detail on apartment design standards. It is anticipated councils will make their own submissions in relation to these aspects. The focus of this submission is primarily on broader policy themes that we believe the Inquiry should consider as part of its reporting.

2 Introduction

Apartment living continues to be a popular housing choice. Apartments are more affordable compared to other types of residential development, are easier to maintain and are often found in amenity-rich locations close to jobs, open spaces and public transport. As housing affordability worsens, it is expected that apartment living will increase in popularity. As the popularity of apartment living increases, councils and the State must continually work to improve apartment living standards. Councils have undertaken significant research into housing demand, supply and affordability.

Despite the attractions of apartment living, design standards in their current form are a recent addition to Victoria's planning system. Prior to 2017, Victoria had been lagging behind other States and jurisdictions in the regulation of apartment design. A policy vacuum existed despite high demand and growing community expectations for high quality apartment developments.

The *Higher Density Residential Development Guidelines* was the key policy document which underpinned planning assessment of proposed apartment developments. These guidelines were not successful at achieving appropriate amenity standards. As guidelines, they carried minimum statutory weight. The guidelines did not adequately address:

- Small apartment sizes and inefficient layouts
- Best-practice ESD standards such as ventilation and air quality
- Access to natural light in living rooms and bedrooms
- All-abilities access

The Better Apartment Design Standards (BADS) were introduced into the Victoria Planning Provisions in 2017 to address many of these longstanding complaints.

As part of its 2018 election commitments, the Victorian Government released the *Better Apartments in Neighbourhoods* discussion paper. It proposed changes to the BADS that relate to the relationship between new apartment developments and the amenity of existing neighbourhoods. The Victoria Planning Provisions are yet to be amended to implement the outcomes of this review. Despite gaps around tree canopy coverage, access to daylight as well as separation between buildings, the proposed changes are welcome.

The MAV and councils are strong supporters of best-practice standards in apartment design, and generally support the intention of the BADS. Victorian councils have led the way in developing improved apartment design standards.

The pandemic has brought into sharp focus the need for quality housing for all. Long periods in lockdown have served as a critical reminder of the importance of apartment design for health and wellbeing. While the BADS have sought to deliver well designed, more spacious, light-filled and well-ventilated apartments, there remains scope for further consideration of how planning policy can deliver even better apartment development.

3 Planning controls for apartment development

Councils are broadly satisfied with the current performance-based system for apartment design. We continue to support the approach of assessing apartment design against the objectives and standards of Clause 58 – Apartment Developments. This approach is consistent with the overall performance-based nature of the Victoria Planning Provisions. It aligns with provisions for other types of residential development such as Clause 54 – One Dwelling on a Lot and Clause 55 – Two or more Dwellings on a lot and Residential Buildings.

Feedback from councils has indicated that the BADS have generally delivered improved apartment amenity and has lifted the overall design of new apartment development. Despite the BADS not mandating minimum apartment sizes, councils have reported that apartment floor-areas have generally increased, with new development providing larger bedrooms and living spaces. Internal layouts have also improved in line with increased apartment size. More apartments have improved cross-flow ventilation and better access to natural light.

The 2021 updates to apartment standards have sought to address the following:

- Additional requirements to provide quality materials and colours to external walls
- Clarification on wind impact standards
- Updates to communal open space, landscaping, integration with the street, access, site services and the private open space standards

The 2021 updates align with ongoing council concerns in relation to poor integration with surrounding development, quality communal space, and tree canopy cover. There is still work to be done around canopy coverage, with a lack of guidance on alternative responses to canopy tree planting such as green roofs or green walls. The updates also improve urban design at the street level such as reducing over-exposed services along frontages. Councils also support the inclusion of a new standard requiring a wind assessment when considering buildings at five storeys or more. We acknowledge that there is a lack of expertise to assess wind tunnel impacts in many councils.

Councils have invested significantly in the development of local planning and design policies. A number of these have crossover with the BADS. A key example of council leadership in this space is Moreland City Council's Moreland Apartment Design Code which set a benchmark for apartment design and planning policy. Moreland City Council developed the code and planning scheme changes following internal and community feedback that new development resulted in lacklustre apartment products. We encourage the inquiry to investigate how the Moreland code could be applied more broadly to Victoria's apartment design standards.

While it is accepted that a State-wide performance-based system is the best way to ensure quality apartments for all Victorians, local planning policies remain necessary to meet local community expectations. Councils must retain the right to strive for higher standards for apartment developments. Councils would similarly welcome application processes that can be modified to improve design quality and ensure compliance.

There has been a recent significant population shift to rural and regional Victoria, particularly to regional cities. This shift has been occurring for some time but has accelerated during the pandemic. Regional cities offer highly paid jobs, a cosmopolitan experience, and a range of health and education services. Housing in regional cities is more affordable, with ease of access to rural areas and open space. As regional Victoria sees rapid growth and the resulting pressure for new homes and diverse housing types, regional councils report that there is increased demand for apartment development, particularly in Ballarat and Bendigo. Given these trends education and training will likely be needed for regional developers and planners who are not skilled in apartment development assessment.

Policy and precinct approaches to new apartment development

While performance-based objectives and standards are a key method of assessing new development, policy drives the Victorian planning system. It is critical that high-quality apartment design standards have a strong policy basis. For example, the Housing theme in the Planning Policy Framework includes diversity and accessibility targets as well as linking to the Apartment Standards and the associated Design Guidelines. Council policy has tended to focus on improving internal amenity, external design and raising environmental performance. It also identifies appropriate locations for higher density development. These considerations have become only more important during the pandemic.

Urban planning policy and Plan Melbourne directs most higher density development to amenity and transport-rich areas. Many of these developments are subsequently located in inner-urban areas or well-established localities. Melbourne is fortunate to have a relative abundance of large “brownfield’’ development sites close to the inner city. These sites are ideal for new apartment development. Brownfield redevelopment precincts include Fishermans Bend, the former Defense site in Maribyrnong, the Alphington Paper Mills on Yarra Bend and the former Sidney Cooke nail manufacturing site in Brunswick East, now known as East Brunswick Village. While such large former industrial sites allow for significant new apartment development, they offer only finite land. There is pressure in established commercial and residential areas to accommodate higher densities.

Key arterial transport routes in the inner-city suburbs are popular for apartment developments but are tightly held by owners and subdivided into small and narrow lots, reflecting a fine-grain urban character. These small and narrow sites present difficulties for new apartment development to accommodate appropriate levels of internal amenity, communal areas and tree canopy coverage. There are limited mechanisms in the planning system to encourage consolidation of small, irregular shaped or narrow sites that enable larger apartment developments that deliver better overall urban and streetscape design, and improved communal space and better internal amenity for residents. Councils are already undertaking pilot projects to address this issue.

Maroondah City Council has worked in partnership with Swinburne University’s Centre for Urban Transitions to develop the “Greening the Greyfields” project. This pilot project seeks to improve local and resident amenity in new projects through land consolidation. Greyfields are residential areas where homes are aging, yet land values remain high. Greyfields sites are often

located in the middle and outer suburban areas. Council had identified that the redevelopment of these areas generally consisted of demolishing single dwellings and sub-dividing lots into smaller sizes or undertaking multi-dwelling development on smaller sites. The nature of this redevelopment often resulted in:

- over development of smaller lots
- less open space
- unattractive buildings with minimal landscaping

Working with property owners, developers, and the broader community, the project identified possible areas for lot consolidation. Landowners are encouraged to work with their neighbours to consolidate individual lots into one larger parcel of land or "precinct". This "precinct" approach is a shift from individual site responses to neighbourhood-scale thinking that delivers more open space, internal amenity and more thoughtful architectural outcomes. These are more vibrant, active, healthy places to live. To implement the project into the Maroondah Planning Scheme, two planning scheme amendments, C134 and C136, are currently with the Minister for Planning for approval. If successful, this approach could be extended to other urban areas where infill development would benefit from precinct-scale thinking.

4 The pandemic and apartment living

We recognise that this Inquiry is taking place during a pandemic that has forced many people to stay home more often to protect the community from the spread of COVID-19. Stay-at-home orders have driven cultural shifts to more people working from home and undertaking home schooling. This has shed light on the need to plan for more liveable homes with more space for relaxation, ventilation and everyday living. With this in mind, we support the Inquiry's examination into how apartment standards could be further improved.

Affordable housing

Demand for affordable housing outstrips supply across metropolitan Melbourne and throughout rural and regional Victoria. This gap between supply and demand is growing. The $5.4 billion Big Housing Build program has sought to help address this shortfall, however ongoing funding for social and affordable housing is required. Numerous councils have undertaken strategic analysis to identify current and future need for affordable housing in their areas.

The planning system is not doing enough to support supply of safe, affordable, liveable and well-located homes for the community's most vulnerable members. The MAV calls for the state government to include mandatory affordable housing contributions. These contributions should provide for land, dwelling, and/or cash contributions and allow councils to specify the preferred contribution form. We also support the introduction of inclusionary zoning into the VPP.

The 2019 Ministerial Advisory Committee on Planning Mechanisms for Affordable Housing was tasked with identifying how to sustain a social and affordable housing system over the next decade through the planning system. The MAV provided a submission to the advisory

committee. Our submission explored a number of possible planning system reforms that would incentivise more social and affordable housing development. The report of the Ministerial Advisory Committee has not been released.

The recent *Ten-Year Social and Affordable Housing Strategy for Victoria* discussion paper released by Homes Victoria provided no further information as to the role of the planning system in meeting social and affordable housing. The planning reforms introduced to expediate Big Housing Build projects have largely sidelined the views of council planners. Councils have established technical knowledge of assessing social and affordable housing developments which will often take the form of apartments.

Apartments designed for wellbeing

With market-based responses to apartment design and amenity having led to many unacceptable outcomes, councils support regulation of apartment building development to deliver liveable and sustainable homes.

While the BADS appears to be delivering larger apartments off the back of minimum dimensions for bedrooms, living rooms and balconies, there is no mandated overall minimum apartment size. We understand that there was considerable push-back from the development industry on this issue. Consumer desire for larger apartments, particularly space for a study, has only grown during the pandemic. We expect this will have an impact on the kind of new apartment product being offered by developers, including larger apartments. Better outcomes would be achieved if the VPPs specified minimum apartment sizes.

New South Wales currently mandates minimum apartment sizes. The NSW Apartment Design Guide sets out minimum apartment sizes for studios, one, two and three bedroom apartments as generally:

- Studios 35m²
- 1 bedroom apartments 50m²
- 2 bedroom apartments 70m²
- 3 bedroom apartments 90m²

The NSW standards have been founded on 18 years of experience with wide industry acceptance. These standards could guide ongoing best-practice improvement here in Victoria. We understand that the Moreland Design Code is similar to the NSW standards.

Amenity and ESD principles should be reflected in the Planning Policy Framework. Many are already included and referenced in State-level planning policies, as well as the local ESD policies in a growing number of municipal planning schemes. Greater detail and higher standards are required to ensure not just livability, but also regeneration of the places in which we live. Issues such as access to daylight, waste, water, cooling and greening and energy should be more comprehensively addressed for all development through state-wide ESD policy and provisions. The Department of Environment, Land, Water and Planning (DELWP) is currently developing a state-wide ESD policy and associated planning provisions.

A sense of wellbeing in apartment living extends beyond the individual apartment itself. Consideration should be given to communal spaces which enhance a sense of belonging and community within larger developments. Fostering connected communities avoids common perceptions that new developments are 'soulless' and can be isolating places to live. These matters are not considered in detail through the BADS. Further investigation into how modern apartment developments could successfully foster connection between residents and surrounding communities would be of great benefit and could be part of future reform.

Apartment location and improving local amenity

Planning policy and Plan Melbourne seeks to direct more housing to existing residential areas and activity centres. Apartment developments are an important to meeting these policy requirements. As apartment living becomes more popular through planning policy as well as an affordable alternative to the detached family home, the importance of easy and close access to open space and key services increases.

We support the notion that compact urban forms and an integrated transport system contributes to the improved sustainability of our towns and cities. Further to this, there has been an increase in walking and riding and a greater reliance on active transport infrastructure during the pandemic. It is well established that access to parks has significant wellbeing benefits for communities. If higher density living remains a popular choice, it must be underpinned by convenient and quality local community infrastructure.

Plan Melbourne and the Planning Policy Framework seek to create 20-minute neighborhoods to give people the ability to meet most of their daily needs within a 20-minute walk from home. The need for 20-minute neighborhoods has been amplified by the pandemic, with people forced to work and recreate much closer to home. Those residing in areas without access to quality open spaces and services were isolated compared to more well-serviced suburbs.

There is a need for better policy at the metropolitan and indeed Victorian scale to increase access to more and diverse types of open spaces, community facilities and essential services. While inner-urban areas benefit from large and expansive parklands as well as local open spaces, community hubs and diverse services, outer suburban residents mostly have access to only small pocket parks, some larger sport grounds and a limited range of other services. By ensuring access to a diversity of open space types and community services, wellbeing is prioritised.

5 Climate change, sustainability and apartment design

The impacts of climate change make it imperative to improve regulation about how and where we construct new apartments. Much of the existing apartment stock in Victoria has not been designed for a hotter climate and the need for greater resilience, yet alone emissions reduction. These problems go beyond apartment design standards, and highlight the urgent need for reforms to planning and building systems to address climate change. Strong State leadership is needed to achieve these required transformative changes.

Broad amenity and ESD principles should be reflected throughout the Planning Policy Framework and include all types of development. Policy must encourage the retrofit of existing building stock to ensure adaptability and durability in a hotter and drier climate. CASBE has long advocated that dwelling design standards (including apartments) must go beyond a minimum 7-star NatHERS rating to provide:

- All electric homes (no gas connection) with solar photovoltaic systems
- Heat pump hot water systems and efficient split system heating and cooling
- Effective cross ventilation and shading strategies
- Principal living areas oriented to the north
- Minimisation of west-facing glazing
- Protection of windows from direct summer sun
- Efficient insulation & construction systems
- Building air tightness measures
- Quality glazing and framing systems

New development must deliver housing that has ESD outcomes such as:

- Aiming for zero carbon housing
- Water efficient systems and services with rainwater capture and re-use
- Green infrastructure, including green rooftops and urban agriculture, to help reduce peak summer temperatures around buildings and reduce food miles
- Access to active and public transport, as well as EV charging

Beyond apartment design, the MAV and councils are calling for reform of the Victorian planning system to make climate change considerations binding. Councils continue to push for greater consideration of climate change and protection of the environment within their own planning schemes. For example, a group of 31 councils lead by CASBE are already intending to pursue planning scheme amendments with revised ESD policies which aim to ensure net-zero carbon development in their communities.

While the Victorian Government is working on some changes, such as the ESD roadmap, we require planning reform that readies and enables the planning system to deeply integrate climate thinking into decision-making. We require ESD policy and planning provisions with strong targets and performance measures that mandate whole-of-government thinking on climate change.

We see opportunities to support and facilitate the transition to net-zero emissions and increase resilience to climate change impacts. This will align our planning system with the *Climate Change Act 2017's* legislated net-zero emissions target. Changes to the planning system must include:

- Listing some decisions (such as planning scheme amendments) under the *Planning and Environment Act 1987* in Schedule 1 of the Climate Change Act 2017,
- Mandating net-zero emission buildings
- Planning for increased environmental hazard risk.

6 Planning regulation and housing affordability

Housing affordability is one of the key arguments development industry players rely on to deter policy makers from introducing standards that will lead to more sustainable, liveable apartments. There has been increased commentary in the community and media on this particular topic.

The development industry frequently claims that every planning permit required, every infrastructure contribution levied, and every building inspection conducted results in direct costs passed on to homebuyers. While a convenient narrative, this is inconsistent with the economics of development.

Developers are ultimately price takers, not price makers. If the costs of implementing better apartment standards were to be passed directly to homebuyers, the inverse should also hold. If apartment design standards were wound back tomorrow, developers would not discount apartment prices by tens of thousands of dollars below market value. Yet it is exactly this logic that these claims rely on.

Developer flexibility in the current regulatory system is underplayed. Developers often push the envelope in terms of building form and internal amenity that complies with the requirements of planning schemes. This means a greater level of scrutiny must be applied, as the potential environmental, social, and economic impacts for the local area and new residents may be greater. Instead of viewing the planning system as a red-tape process that must be cut through, developers should respect and apply the strategic planning work done by councils to improve the quality of their builds. Developers often call for both flexibility in design and certainty of approval, when the reality of a well-functioning planning system is that these goals are largely opposed to one another.

The MAV provided a detailed submission to the Federal Parliamentary Inquiry into Housing Affordability and Supply. Our submission interrogates these issues in greater detail.

7 Ongoing engagement and working with councils

It is up to all levels of government and industry to ensure that high-quality apartments are constructed in Victoria as our population grows. Future changes to Victoria's planning system to facilitate improved apartment design should be delivered through collaboration and partnership with councils. Councils possess detailed technical knowledge on how planning and design for better apartments can deliver better homes.

Victoria's planning system is well known for incorporating consultation in planning decisions. It is a component of our system that is enshrined in legislation and gives social license to planning decisions. Retaining councils' autonomy as a planning and responsible authority has long been supported by communities. The community voice in local planning must not be diminished through over-reliance on code-based systems that reduce discretion and input into new development, or development of urban renewal and strategic sites. Code-based decisions should only be pursued where there is existing community support.

It is in the State Government's interest to meaningfully engage and work with local government to ensure that:

- New apartments are well designed internally and externally
- New apartment development meets ESD policy and responds to climate change and emerging sustainability issues
- New apartment design reflects the broad needs of society, including different demographics, accessibility, family make-up, relationship status, and the ability to age-in-place
- New apartment development is located in the right areas, with access to open space, transport, and essential and community facilities

8 Additional Key Feedback

Intersection with planning and building regulations

The planning and building systems in Victoria interact to regulate building standards in Victoria. There are ongoing questions and tensions within these two systems as to which is best to regulate better design outcomes.

To be effective, ESD policy in particular must be addressed through both the planning and building control systems. Many ESD initiatives can be implemented at minimal additional construction cost, provided they are considered from the design stage. Considering this, Victoria should not be hamstrung in its objectives to improve apartment standards, implement ESD, and seriously address the threat of climate change by current or future National Construction Code (NCC) provisions.

The building control system implements the NCC through state-based building regulations, while allowing for state-based additions or variations. Victoria has already adopted numerous variations, including those necessary to complement planning policy. We are encouraged by the Victorian Government's recent announcement that they are prepared to implement greater energy efficiency requirements in building regulation unilaterally if the NCC process fails to deliver.

Compliance and enforcement

Sustainable and liveable design is one thing, the resulting built product can often differ substantially.

Compliance and enforcement, ensuring that what is constructed matches what was required by the regulatory framework, is a critical challenge for both the planning and building control systems.

In planning, the central challenges are the capacity of councils to resource planning enforcement, the fitness for purpose of the legislative tools available, and the difficulty of establishing breaches of some requirements.

Resourcing in building control is also a critical factor. There are not enough registered building surveyors in Victoria to implement a functioning building control system. Many councils face an enormous challenge in recruiting and retaining even a skeleton crew of building surveyors.

In both planning and building, some pro-active inspection programs occur but most compliance activity is driven by notifications from the public. In many of the issues that arise with apartment buildings, faults and non-compliance may only be apparent to owners and occupiers of the apartments. Where rectification is required, these costs will generally be borne by the owners. High-profile cases have highlighted the difficulty owners can face in recovering costs from other parties such as architects, designers, and builders. This can provide a disincentive for owners to notify councils or other regulators.

Problems in building control are exacerbated by the privatisation of several regulatory functions. Developers are able to pick their own building surveyor to approve plans, inspect work, and certify their building. This creates a significant conflict of interest where building surveyors may feel they must choose between enforcing the law and being able to secure future business. The MAV has advocated at length on the need to restore the independence of the building regulatory system from developers, including in our submission to the expert panel review of Victoria's building system.

These issues in compliance and enforcement are key challenges to the liveability and sustainability of apartments in Victoria. There is a segment of the construction industry that, through lack of capability or deliberate intent, fails to deliver what is required by law. The current state of our compliance systems is such that we are not just ill equipped to address these failures, we cannot even accurately measure their true cost.

Circular economy and apartment design

The MAV strongly supports the need for Victoria to transition to a circular economy. For this to occur, apartment design standards must implement circular economy principles.

The most obvious example of this is that apartment design should allow residents to effectively separate waste to promote recycling. Victoria is in the process of moving to a state-wide four stream system (glass, food and garden organics, co-mingled recyclables, and residual waste) for household waste and resource recovery. This will be achieved through a mix of kerbside bins and local collection points. The planning system must be fit to enact these changes going forward. Retrofitting compatibility with new collection systems is far more complicated for apartment buildings than finding space to put an additional bin on the kerbside.

Just as important is the need to minimise construction waste. Good design can reduce the amount of waste created both in construction and in the lifecycle of a building. Re-use of existing building elements, and the ability for both new and existing building elements to be re-

used in the future should be encouraged. This will minimise the amount of virgin materials required, and the amount of waste generated through demolitions. Where possible, buildings should be designed to be suitable for a range of uses with only minor alterations, particularly commercial and industrial buildings.

Design and materials should be durable and where possible modular. Modularity will increase the potential for refitting to a different use, and minimise unnecessary waste if an individual building element wears out or needs replacing.