

MELBOURNE PLANNING SCHEME AMENDMENT C323

FURTHER PART A SUBMISSION ON BEHALF OF MELBOURNE CITY COUNCIL AND CREATIVE VICTORIA

Introduction and summary

1. I make this submission on behalf of the planning authority, Melbourne City Council (**MCC**), and Melbourne Planning Scheme (**Scheme**) Amendment C323 (**Amendment**) proponent, Creative Victoria (**CV**). This Part A submission is made in accordance with the Panel's Directions dated 23 September 2019.
2. The Amendment applies to the land shown at Appendix A to this submission.
3. Following publication of the panel's interim report¹ MCC and CV have revised the exhibited version of the Amendment and re-notified affected parties. These revisions improve the Amendment. It remains strategically supported and is responsive to the concerns and recommendations of the panel and submitters.
4. This Part A submission provides a chronology of events since publication of the Interim Report and an overview of:
 - a. the issues raised in submissions and responses to these issues;
 - b. the changes to Amendment proposed as a result of the issues raised in submissions; and
 - c. the Melbourne Arts Precinct Transformation Project (**Transformation Project**), Amendment C308 to the Scheme (**Amendment C308**), current planning permit approvals and key public works.
5. In addition to this Part A submission, MCC and CV will, on the first day of the hearing:
 - a. provide a short presentation on the Transformation Project and Amendment C308

¹ Melbourne Planning Scheme Amendment C323 Melbourne Arts Precinct Interim Report dated 3 December 2018 (**Interim Report**).

- b. present a Part B submission addressing the recommendations in the Interim Report;
- c. call evidence from Catherine Heggen from Message Consultants.

Panel directions

6. Following a directions hearing on 19 September 2019, on 23 September 2019 the panel made directions for this matter. This submission responds to the directions by including the following:
 - a. issues identified in submissions following re-notification;
 - b. any suggested changes to the Amendment in response to submissions;
 - c. relevant documentation about the content and progress of the 'Melbourne Arts Precinct Transformation Project' and its potential relationship with concerning the Amendment including potential implementation mechanisms for proposed development;
 - d. an update on the progress of Amendment C308 following MCC's receipt of the panel report for that amendment as to potential interactions with the Amendment, including, in particular, the proposal to introduce a replacement Schedule 1 to the Design and Development Overlay (**DDO1**) and to remove Local Planning Policy at clause 22.01 from the Scheme (when these are proposed to be amended as part of the Amendment);
 - e. an update on relevant approvals and commencement of construction within the Melbourne Arts Precinct (**Precinct**) from the date of the last hearing; and
 - f. a summary of public works approved for or being constructed within or adjacent to the Precinct.

MCC and CV rely on previous Part A submissions

7. The Part A submissions of both MCC and CV explain in detail how the Amendment in its previous form:
 - a. implements the objectives of planning in Victoria;

- b. addresses environmental, social and economic effects;
 - c. complies with the requirements of the relevant Ministerial Directions; and
 - d. is consistent with Plan Melbourne.
8. The revisions to the Amendment do not alter this position. Moreover, the Interim Report explains the Panel's conclusion that the Amendment is strategically justified. For these reasons, MCC and CV rely upon their previous Part A submission as to the strategic justification of the Amendment.
9. The balance of this Part A submission therefore responds directly to each of the issues identified by the panel in their directions.

Revisions to the Amendment

10. MCC and CV considered that receipt of the Interim Report offered an opportunity to work together to agree on the proposed text of the Amendment before submitting it to the public consultation and assessment process recommended by the panel.
11. MCC and CV accepted the panel's recommendation to revise and to re-exhibit the Amendment. The Amendment has been redrafted in response to the Interim Report, and in light of Ms Heggen's evidence and advice from the Department of Environment, Land, Water and Planning.
12. The Amendment in its exhibited form proposes to:
- a. amend clause 21.01 (Urban Design in the Capital City Zone) to include a reference to Schedule 7 to the Capital City Zone (CCZ7);
 - b. insert Schedule 1 to Clause 43.02 (Design and Development Overlay) to include a reference to the CCZ7;
 - c. insert the CCZ7 on a permanent basis;
 - d. delete Schedule 12 to the Parking Overlay and apply Schedule 1 to the Parking Overlay) to land rezoned from General Residential Zone-Schedule 1.

13. No further changes are proposed to the exhibited version of Clause 21.01, Clause 43.02 and Schedule 1 to the Parking Overlay.
14. The revised Amendment proposes to revise the CCZ7 and make changes to:
 - a. the Municipal Strategic Statement (**MSS**) clauses 21.04 (Settlement), 21.08 (Economic Development), 21.10 (Infrastructure) and 21.13 (Urban Renewal Areas) in order to strengthen the strategic base for the new planning controls; and
 - b. the Schedule to Clause 66.04 (Referral of Permit Applications under Local Provision) to include CV as a recommending referral authority.
15. The revised text of CCZ7 retains the Amendment's purpose to deliver arts, cultural and creative industry uses within the first four levels of new developments but has been amended to include:
 - a. wording and format changes to comply with requirements recently introduced through Ministerial Amendment VC148;
 - b. a list of arts, cultural and creative industry uses such as media, screen, design, writing and publishing, literature, fashion, performing arts, digital games development, broadcasting, music, cultural heritage and arts education and craft, that will be encouraged;
 - c. an additional purpose to achieve design excellence and a process to seek the views of the Office of the Victorian Government Architect (**OVGA**) to achieve design excellence;
 - d. permit triggers for shop, food and drink premises and places of worship over a specified floor area to encourage these uses on a limited scale only;
 - e. noise attenuation requirements for new residential development to attenuate against noise from existing noise sources; and
 - f. CV as a recommending referral authority for planning permit applications within the first four storeys of a new development.

Issues identified in submissions following re-notification and any changes in response to submissions

16. Amendment C323 was exhibited from 19 April 2018 to 21 May 2018.
17. In accordance with the letter of Planning Panels Victoria dated 25 February 2019, MCC sent letters and a notice to all landowners and occupiers in the Precinct, prescribed ministers administering five Acts of Parliament, previous submitters and relevant arts, cultural and creative industry organisations on 18 June 2019 advising them of the revised text of the Amendment and offering the opportunity to make a submission. A notice was also placed in the Victoria Government Gazette on 20 June 2019 and all documents relevant to the Amendment were made available on MCC's *Participate Melbourne* website.
18. This list of organisations includes arts, cultural and creative industry bodies that occupy land in the Precinct. CV manages the development of the Transformation Project with the assistance of an activation group comprising the following members:
 - a. Victorian College of the Arts;
 - b. National Gallery of Victoria;
 - c. Australian Centre for Contemporary Art;
 - d. Melbourne Symphony Orchestra;
 - e. Opera Australia;
 - f. University of Melbourne;
 - g. Melbourne Theatre Company;
 - h. Melbourne Recital Centre;
 - i. Orchestra Victoria;
 - j. Australian Broadcasting Corporation;
 - k. Australian Centre for the Moving Image;

- l. Arts Centre Melbourne;
 - m. Chunky Move;
 - n. The Australian Ballet; and
 - o. Malthouse Theatre.
19. Twelve submissions were received in response to re-notification. MCC's and CV's detailed response to each is at Appendix B to this submission. Most submissions supported the Amendment in principle. Four key issues of concern, broadly, arose from the submissions:
- a. overdevelopment of the Precinct;
 - b. specific textual changes to clarify the interpretation and application of specific provisions;
 - c. concern about the inclusion of facilitation of arts, cultural and creative industry uses in the first four floors of a building in the purpose and decision guidelines of the CCZ7; and
 - d. opposition to the role of CV as a referral authority.
20. In summary, MCC and CV's response to each issue is, respectively, as follows:
- a. the Amendment would not affect the development capacity of the Precinct. That is governed by Schedule 60 to the Design and Development Overlay (**DDO60**);
 - b. no textual changes are supported as they do not assist in the interpretation of the revised Amendment;
 - c. the reference in the purpose and hence the decision guidelines of the CCZ7 to facilitation of arts, cultural and creative industry uses within the first four storeys of a building is central to realisation of the objectives of the Amendment and will provide appropriate guidance to decision makers; and
 - d. CV's role as a referral authority is critical because they are the expert agency for the arts, cultural and creative industries.

21. No changes are proposed to the Amendment in response to submissions,

Relevant documentation about the content and progress of the ‘Melbourne Arts Precinct Transformation Project’ and its potential relationship with concerning the Amendment including potential implementation mechanisms for proposed development

22. *Creative State*, released in 2016, establishes Victoria’s policy strategy for the creative industries. The object of the strategy is to:²

... address major challenges to the sustainability and growth of creative industries, like fundraising, building skills and reaching overseas audiences and markets. It will help to increase our pool of creative practitioners and their capacity to be ambitious, to experiment and to collaborate. It will increase cultural production and stimulate engagement and participation for more people in more places across the state.

23. Strategies include:

- a. the integration of government functions concerning the creative industries into one portfolio. CV administers this portfolio under the authority of the *Creative Victoria Act 2017*; and
- b. the activation of co-working spaces and hubs across Victoria.

24. The Precinct plays an important role in realising the vision in *Creative State* as a significant and centrally-located hub of creative production. This role has its fullest expression in the Transformation Project.

25. The Transformation Project is a State government initiative to re-imagine the north extent of the Precinct. CV is the government agency responsible for the Transformation Plan.

26. It is anticipated that the Transformation Project would include the following:

- a. construction of a new art gallery, to be called National Gallery of Victoria Contemporary (**NGV Contemporary**), at 77 Southbank Boulevard;
- b. an upgrade for the Arts Centre Melbourne Theatres Building;

² *Creative State*, Creative Victoria (2016) at 7.

- c. the creation of a new hub at 1 City Road, including a new Australian Performing Arts Gallery to display the Australian Performing Arts Collection, an expanded Australian Music Vault, and new flexible and multipurpose studio and workshop spaces for the small-to-medium and independent arts sector;
 - d. 18,000 sqm of new and renewed pedestrian space that better connects the precinct's many cultural institutions from St Kilda Road along Sturt Street to Kings Way. It is expected that the proposed pedestrian mall over Sturt Street from City Road to Southbank Boulevard would offer:
 - i. elevated pedestrian and garden areas;
 - ii. event spaces;
 - iii. restaurants and bars; and
 - iv. a seamless connection from St Kilda Road to Sturt Street and the surrounding cultural institutions.
27. Planning for this ambitious project of public works is at an early stage. Specifically:
- a. design work for the new NGV Contemporary is likely to be completed in 2020;
 - b. schematic designs for the upgrade to the Arts Centre Melbourne Theatres Building is underway and likely to be completed in 2020;
 - c. procurement and design for the new hub at 1 City Road is being prepared and is likely to be completed in 2020;
 - d. master plan and design guidelines are being developed for the proposed public realm works. The design for these works will then be informed by the designs for the other three components of the Transformation Project.
28. MCC and CV anticipate that the Amendment would complement the Transformation Project by:
- a. creating usable space for arts, cultural and creative industries in land earmarked for mixed use development;

- b. entrenching CV's role in guiding use outcomes for land subject to the Amendment; and
 - c. involving the OVGA in consideration of the acceptability of built form outcomes for such land.
29. Both the Amendment and the Transformation Project have the same objective: to strengthen the role of the Precinct as Victoria's pre-eminent arts, culture and creative industry hub, to encourage greater contact and collaboration between bodies within the Precinct, and to enhance its connections to the balance of Southbank, the Yarra River and the CBD.
30. It follows the Amendment would not hinder achievement of the Transformation Project and nor would the Transformation Project undermine the Amendment. Rather, the Transformation Project would spur precisely the activity and amenity that would encourage arts, cultural and creative industries to take up space in new mixed use development sites.

An update on the progress of Amendment C308 following MCC's receipt of the panel report for that amendment as to potential interactions with the Amendment, including, in particular, the proposal to introduce a replacement DDO1 and to remove Local Planning Policy at clause 22.01 from the Scheme (when these are proposed to be amended as part of the Amendment)

31. Amendment C308 proposes to introduce a revised urban design policy for the central city and Southbank in the form of DDO1 into the Scheme with a complementary illustrative guide, the Central Melbourne Design Guide.
32. Amendment C308 would apply to all of the land in the Precinct. It would, in summary, require every new development subject to the proposed DDO1 to have a minimum acceptable design threshold of 'high quality design'.
33. The Amendment and Amendment C308 both seek to lift the quality of urban design in the Precinct. This outcome would, primarily, be achieved by Amendment C308, with the Amendment impacting upon urban design outcomes by adding a role for the OVGA to ensure that the design standard in the Precinct goes beyond that in the rest of the C308 areas and achieves 'design excellence'.

34. Were Amendment C308 to be approved before the Amendment (and assuming both remained in their current form) the Amendment would no longer need to amend clause 22.01 of the Scheme as that clause would be deleted. Alternatively, if the Amendment were to be approved first then the translation of the policies in clause 22.01 of the Scheme into the revised DDO1 would need to take account of the changes made to clause 22.01 by the Amendment.
35. A panel has recently considered Amendment C308.³ MCC is considering the panel's report on Amendment C308 and is not in a position to say when it will have formulated its response. MCC and CV consider that even if Amendment C308 were to be revised in accordance with all of the panel's recommendations it would have no more impact upon the Amendment than if none of the recommendations were followed.
36. Given the panel's support for Amendment C308, the broad spectrum of potential revisions to Amendment C308 following the panel's report would not affect Amendment C308's intrinsically complementary relationship with the Amendment. The former is the proper and principal tool for achieving better design consistent with the objectives for the Precinct, the latter is the tool for achieving the promotion and protection of the Precinct for arts, cultural and creative uses.

Update on relevant approvals and commencement of construction within the Precinct from the date of the last hearing

37. There have been six permit applications for land in the Precinct since 2014. What follows is a summary of the content and status of each of those permit applications:

³ MCC has published the report on its website (via an external link):
<https://participate.melbourne.vic.gov.au/amendmentc308/panel-report-available>.

Permit number	Address	Status	Details
1	TPM 2018-12 264-274 Sturt St, Southbank	Applied (awaiting decision)	Floors above ground: 20 Office (sqm): 29,440 Arts space: Preliminary drawings include arts uses on 4 levels of approximately 13,000 sqm
2	TPM 2014-15 248-250 Sturt Street, Southbank	Permit issued 11/3/2016 Now lapsed	Floors above ground: Dwellings: Arts space: none
3	TP 2016-596 175-187 Sturt Street, Southbank	Permit issued 4/1/2019	Floor above ground: 13 Dwellings: 159 Arts spaces: 307sqm
4	TP 2017-548 153-159 Sturt Street, Southbank	Permit issued 8/8/2018	Floors above ground: 19 Dwellings: 164 Arts space: 1,629m2 over levels 1, 2, and 3 No endorsed plans
5	TPM 2016-17 131-139 Sturt Street, Southbank	Permit issued 30/11/2017	Floors above ground: 18 Dwellings: 206 Arts space: none
6	TP 2016-665 33-43 Sturt Street, Southbank	Permit issued 16/10/2016	Facility of Fine Arts, Conservatorium on Music, University of Melbourne Floors above ground: 10 Arts education: 5,079 sqm Retail: 244 sqm



A summary of public works approved for or being constructed within or adjacent to the Precinct

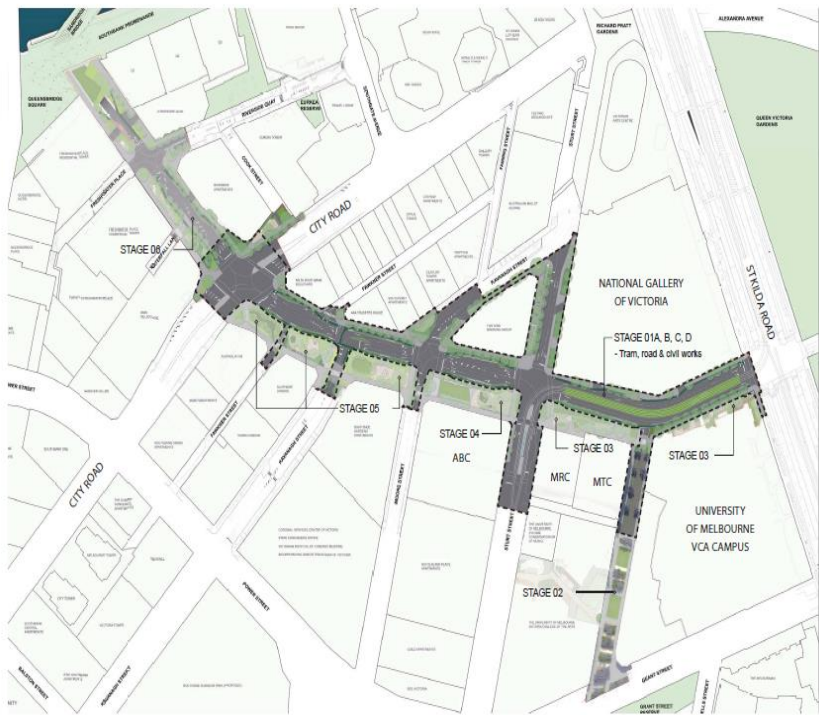
38. MCC is currently creating public spaces and delivering public realm works on Southbank Boulevard/Dodds Street and is soon to start work on the Southbank Promenade.
39. The transformation of Southbank Boulevard and Dodds Street will create 2.5 hectares of new public space. The *Southbank Boulevard and Dodds Street Concept Plan*, adopted by Council in 2017, outlines a new vision for Southbank to:
 - a. create 2.5 hectares of new public open space;
 - b. prioritise pedestrians, public transport and cyclists;
 - c. deliver a new, accessible tram stop on Sturt Street;
 - d. enhance the gateway into the Precinct;
 - e. connect the Domain Parklands to the Yarra River;

- f. build a new civic square for the Precinct;
 - g. deliver a series of new neighbourhood parks.
40. Due to its size, scale and complexity, construction of the Southbank Boulevard and Dodds Street project will be undertaken in several stages. Several stages of work have already been completed as part of this project. Construction is currently underway on Southbank Boulevard between Sturt Street and City Road (March to December 2019).
41. The *Southbank Boulevard and Dodds Street Concept Plan*, and the status of the works in it, is shown in the graphics that follow:

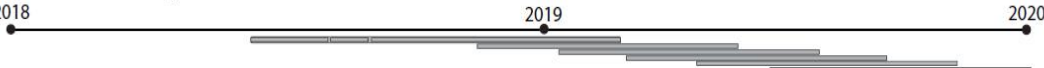
TRANSFORMING SOUTHBANK BOULEVARD AND DODDS STREET

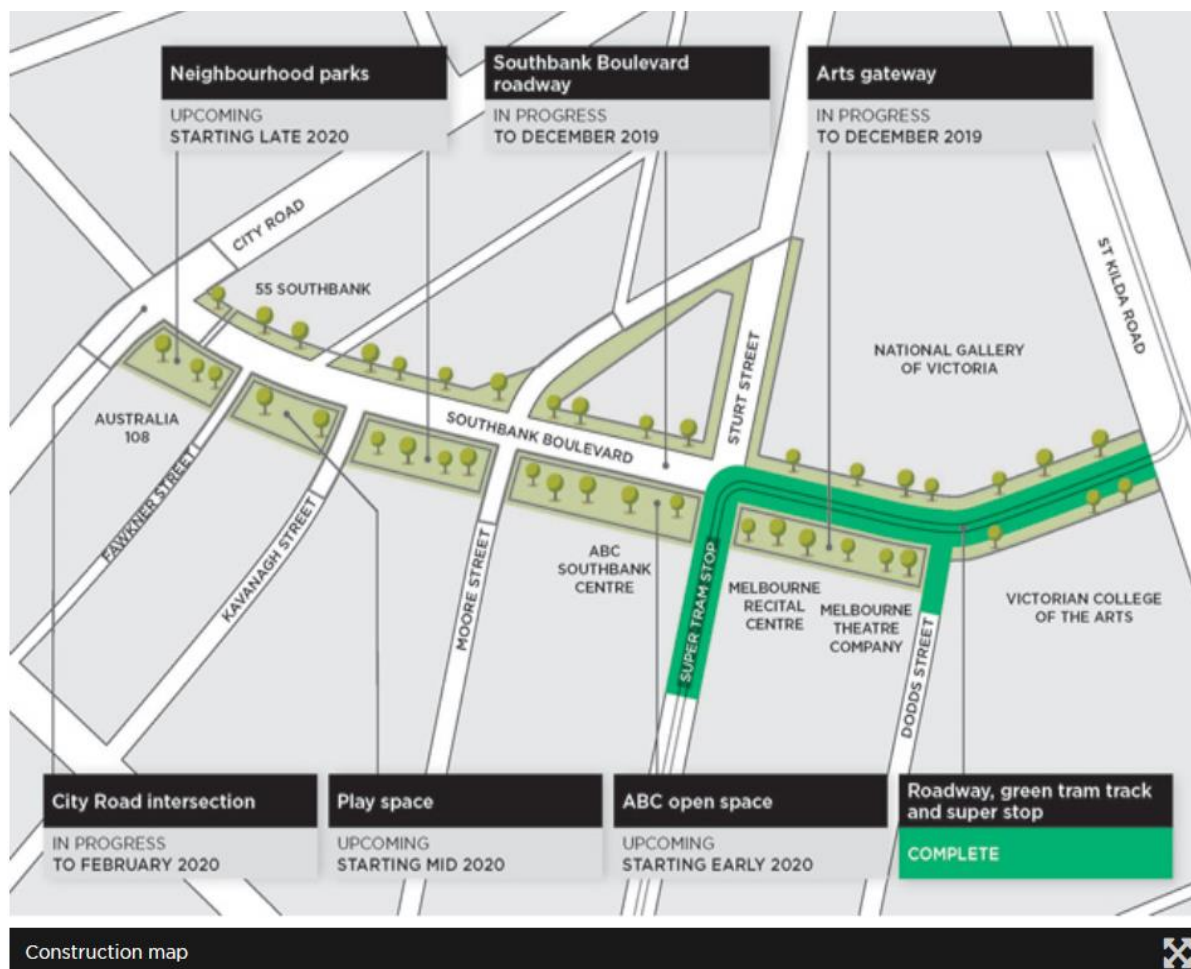
Packages of work

- Stage 01 A
- Early Works
- Stage 01 B
- Occupation (Tram Works)
- Stage 01 C
- Post Occupation works
- Stage 01 D
- Southbank Boulevard Civil Works
- Stage 02
- Dodds Street Linear Park
- Stage 03
- Public open space St Kilda Road to Sturt Street
- Stage 04
- Public open space Sturt street to Moore Street
- Stage 05 - Public Realm
- Public open space Moore Street to City Road
- Stage 06 (future funding)
- Public open space & Civil Works City Road to Southbank Promenade



Construction Programme
2018





42. MCC will carry out the following works to the 300 m stretch of Southbank Promenade from Princes Bridge to Evan Walker Bridge:
- replacing bluestone paving;
 - lighting upgrades;
 - new seating;
 - reconfigured stairs and ramps between promenade levels; and
 - planting more trees, including replacing dying trees and planting new native trees.
43. These works will commence in 2020 and are likely to be completed in 2022.

Conclusion

44. The Amendment, in its revised form, is strategically supported and responds appropriately both to the concerns and recommendations of the panel in the Interim Report and of submitters.

IAN MUNT

Castan Chambers

14 October 2019

For and on behalf of MCC and CV

APPENDIX A

LAND SUBJECT TO THE AMENDMENT



APPENDIX B

RESPONSE TO SUBMISSIONS

Submitter 1	Dr Jacqui Young
Key Issue	Concerned with construction noise being undertaken during the night.
Response	Outside of the Amendment scope. This issue ought to be addressed by way of planning permit conditions.
Recommendation	No change to the Amendment is required.
Submitter 2	Margaret Bernard
Key Issues	Concerned with increasing traffic noise created from new high rise apartment towers and considers that the value of being able to see green space has been underestimated through overdevelopment and overpopulation of the area.
Response	The Amendment does not propose to increase the development potential of the Precinct because Design and Development Overlay, Schedule 60 governs development potential.
Recommendation	No change to the Amendment is required.

Submitter 3**Libby Christie, The Australian Ballet****Key Issues**

- Supports the additional wording in clause 21.08;
- supports of the intent of the Amendment to strengthen the Precinct as an arts, cultural and creative industries Precinct;
- is concerned with the impact of the Transformation Project on any future development of the Primrose Potter Australian Ballet Centre and the relationship between the Transformation Project and the proposed controls in the Amendment; and
- requests an exemption for institutions in the core area from the Amendment controls and a reverse amenity provision to apply to all non-creative industry uses recognising the 24/7 nature of the Precinct's arts, cultural and creative uses.

Response

MCC and CV consider that the Amendment would support the Transformation Project by strengthening the role of the Precinct as Victoria's pre-eminent arts, cultural and creative industries hub. The Amendment would not impact upon the Ballet's capacity to develop the centre; indeed, it would, for the reasons given earlier in this submission, complement it. It is for that reason that MCC and CV do not support an exemption for institutions from the Amendment.

MCC and CV acknowledge the Ballet's concerns about current and future sensitive uses impacting upon future plans to expand or alter the Ballet's activities. It is for this reason that new dwellings should include appropriate acoustic protection as required in the Amendment. They consider that the clear support in policy and the CCZ7 for the location of arts, cultural and creative industries in the Precinct provides appropriate support for the Ballet and other such users whilst recognising that the nature of the Capital City Zone is one that accommodates a mix of differing uses that must co-exist.

Recommendation

No change to the Amendment is required.

Submitter 4	Claire Spencer, Arts Centre Melbourne
--------------------	--

- | | |
|-------------------|---|
| Key Issues | <ul style="list-style-type: none"> • Offers support for the changes and tighter controls, considers that new planning controls will assist in the public realm's transformation of the Precinct's spine; • supports the inclusion of CV as a responsible authority to assist in accommodating the future needs and growth of existing institutions and to ensure new tenancies are complementary to existing institutions; • is pleased to see further clarification around the types of creative uses expected in the Precinct; and • supports the inclusion of the 'agent of change' provisions based on the lessons from the music industry's issues with noise attenuation. |
|-------------------|---|

Response	Submission noted.
-----------------	-------------------

Recommendation	No change to the Amendment is required.
-----------------------	---

Submitter 5	Timothy Bracher, Yarra River Business Association
--------------------	--

- | | |
|-------------------|--|
| Key Issues | <ul style="list-style-type: none"> • Supports the endeavour to enhance the cultural precinct in Southbank and an arts related plaza particularly along Sturts Street to provide a strengthened cultural tourism product; • is concerned that the Precinct is being threatened by inappropriate residential and commercial development; and • supports height and setback and ground level activation requirements as appropriate tools to assist in creating a cultural arts plaza. |
|-------------------|--|

Response	Submission noted
-----------------	------------------

Recommendation	No change to the Amendment is required.
-----------------------	---

Submitter 6	Peter Cox
Key Issues	Fully supports the Amendment, considers that the Amendment will safeguard the area and encourage appropriate development in the precinct, supports the future thinking change to foster art, cultural and creative developments in the precinct and to direct further development of arts institutions and facilities along the spine and supports the boundary of the Precinct.
Response	No response required.
Recommendation	No change to the Amendment is required.
Submitter 7	Arie Rain Glorie, Testing Ground, Tenant at 1 City Road, Southbank
Key Issues	Strongly supports the permanent application of CCZ7 and considers that the planning controls will support the development of a range of creative industry spaces which will respond to the demand for experimental, small exhibition, performance and event spaces for a diverse range of people at all levels of practice.
Response	No response required.
Recommendation	No change to the Amendment is required.

Submitter 8**Stefanie Pearce****Key Issues**

- Supports the strengthening of the Precinct;
- is concerned about the implications on existing low rise residential development which have no capacity to incorporate creative areas;
- outlines what gives Southbank Village its amenity which is low rise medium density developments which create communities clustered around communal gardens; and
- is concerned that high rise towers threaten the village character.

Response

Taken together, the proposed CCZ7 and DDO60 address Ms Pearce's concerns because:

- the proposed CCZ7 will allow discretion to approve an application that provides for fewer than four storeys of arts, cultural and creative industries uses when buildings are subject to height restrictions; and
- the development potential of the Precinct is governed by DDO60.

Recommendation

No change to the Amendment is required.

Submitter 9	Wendy Lasica
Key Issues	<ul style="list-style-type: none"> • Supports the inclusion of a broader definition of creative industries; • considers that the MSS clauses 21.04, 21.08, 21.10, and 21.13 should include reference to arts, cultural and creative industries; • considers that clause 21.08 would benefit from additional text detailing geo/spatial data, or an outline of the impact of potential economic value for creative industries in Plan Melbourne, Southbank Structure Plan and <i>Melbourne Arts Precinct Blueprint</i>; • considers this would strengthen the objectives and strategies to clarify the intentions of the Precinct; • supports the changes to clause 21.08 recommended by Ms Heggen, suggests a review of the Amendment boundary beyond the Sturt Street spine; • encourages changes to governance to deliver the Amendment; and • encourages other mechanisms outside of the planning scheme to assist in delivering Amendment objectives.
Response	<p>MCC and CV agree with the object sought to be achieved by the submitter by way of policy changes proposed to the Local Planning Policy Framework and have accepted the wording changes recommended by Ms Heggen and included them in the revised Amendment.</p> <p>Given the boundaries of the Amendment align with the Precinct boundary in the MSS at clause 21.13, no change to the Amendment boundary is required.</p>
Recommendation	No change to the Amendment is required.

Submitter 10

Johan Moylan, Planning & Property Partners, representing LSH Group (Australia), owner of 268 Sturt Street, Southbank

Key Issues

Supports the Amendment and seeks refinement of the wording of CCZ7 in order to ensure that its interpretation and application is clear as per the tracked changes version provided:

- ❖ Office use not associated with **or making provision for arts**, cultural and creative industry uses must not be located within the first four storeys of a building. Any frontage at ground floor level to the tenancy must not exceed 2 metres.
- ❖ The leasable floor area must not exceed ~~200~~ **250** square metres
- ❖ Whether the building is designed to accommodate or **make provision for** arts, cultural and creative industry uses as part of the overall development and over time.
- ~~❖ The intended arts, cultural and creative industry uses, including the floor areas and any specification requirements.~~
- ~~❖ Whether the development contributes to the legibility of the Melbourne Arts Precinct as an arts precinct.~~
- ❖ Questions how is the maximum permissible noise from nearby noise sources to be measured?
- ❖ Questions how is the extent of arts, cultural and creative industry floor spaces relative to the height and overall floor space of the building to be applied/measures?

Response

MCC and CV consider (responding to each tracked change suggestion in order) that:

- The additional text does not assist in the interpretation of the controls and is therefore not supported.
- The leasable floor area condition of 250 sqm is an appropriate size for a Shop use without requiring permission given the objective of the Amendment.
- The deletion of the text relating to the legibility is the precinct is not supported as it is important to distinguish the Precinct from the rest of Southbank.

Submitter 10**Johan Moylan, Planning & Property Partners, representing LSH Group (Australia), owner of 268 Sturt Street, Southbank**

- A report identifying the intended arts, cultural and creative industry uses of a proposal would accompany the planning permit application and provide important information on the extent to which the proposed building and works would further the purpose of the proposed CCZ7.
- Noise from nearby sources would be measured by determining the maximum noise levels permissible under the Scheme.
- The relative extent of arts, cultural and creative industry floor space would be measured against the height and overall floor space of a building. These would provide two measurements of the proportion of the building devoted to arts, cultural and creative industries.
- A report identifying the intended arts, cultural and creative industry uses of a proposal would accompany the planning permit application and provide important information on the extent to which the proposed building and works would further the purpose of the proposed CCZ7.

Recommendation MCC and CV do not support any of the amendments suggested by the submitter.

No change to the Amendment is required.

Submitter 11	David Passerella, Mils Oakley, representing Pacific Asia Express P/L, owner of 102 Dodds Street, Southbank
---------------------	---

Key Issues

- Generally supportive of the Amendment;
- considers it unlikely that the submitter's site could be redeveloped as DDO60 prescribes mandatory height limit of 14 m and the Amendment which encourages the provision of commercial and residential uses above the first four storeys of a building;
- supports CV's version of CCZ7 proposed at a directions hearing of the panel in 2018 which removed the reference to the 'first four storeys' from the purpose and the decision guidelines and replaced with those references with 'upper storeys' and added a guideline 'to consider the extent of creative industries floor space relative to the height of the building';
- is disappointed that the reference to 'first four storeys of a building' has been reinstated;
- opposes CV as a referral authority as they are the proponent for the Amendment and unlikely to support a section 2 use on the site;
- requests exploring increasing the height limits particularly in Area 4B under DDO60 which is currently affected by a mandatory 14 m height limit;
- recognises that this request sits outside of the Amendment scope but invites the panel to consider a further amendment to the Scheme.

Response

MCC and CV consider that the reference in the purpose and hence the decision guidelines to facilitation of arts, cultural and creative industry uses within the first four storeys of a building is central to realisation of the objectives of the Amendment and will provide appropriate guidance to decision makers. The CCZ7 will allow discretion to approve an application that provides for fewer than four storeys of

Submitter 11	David Passerella, Mils Oakley, representing Pacific Asia Express P/L, owner of 102 Dodds Street, Southbank
---------------------	---

arts, cultural and creative industry uses when buildings are subject to height restrictions.

CV's role as a referral authority is critical because they are the expert agency for the arts, cultural and creative industries.

Recommendation	No change to the Amendment is required.
-----------------------	---

Submitter 12

James Permezel. Hansen Partnership, representing Manoa, owner of 152-160 Sturt Street, Southbank

Key Issues

- Considers that the provisions relating to the use of the first four storeys (or 16 m) of a building for arts, cultural and creative industry uses is likely to negatively impact leasing ability, future rent return, and development potential;
- is concerned that the proposed controls are too restrictive in relation to the lower four floors of buildings and that prospective tenants, particularly those not considered a 'creative industry', may be deterred by the proposed controls;
- is concerned that the proposed controls will result in increased limitation on future mixed-use developments in the Precinct and, when paired with the proposed land use controls, will stagnate the development sector in Southbank; and
- is concerned that including CV as a recommending referral authority adds a high level of uncertainty in relation to future planning permit applications.

Response

Tailored land use controls are required to foster a mix of uses that complements the existing arts facilities and reinforces the Precinct as the arts, cultural and creative industries centre of Victoria.

MCC and CV consider that the reference in the purpose, the discretionary controls and the decision guidelines to CCZ7 to facilitate arts, cultural and creative industry uses within the first four storeys of a building is central to realisation of the objectives of the Amendment.

This position was supported by Ms Heggen in her expert witness report. She considered that 'the preference for arts related activities at the ground level and next three storeys had a sound rationale to it based on the ability for direct eye contact with occupiers of the first four storeys. From around the fifth storey, the pedestrian's view line

Submitter 12	James Permezel. Hansen Partnership, representing Manoa, owner of 152-160 Sturt Street, Southbank
---------------------	---

cannot be directly sustained other than with the lower levels of the building'.

The evidence of John Hensall discussed the likely impacts in development terms and concluded that there an underlying growth in creative industries within the Precinct is evident, along with continued growth in the inner Melbourne office market and the inner city residential apartment market.

Finally, CV's role as a referral authority is critical because they are the expert agency for the arts, cultural and creative industries.

Recommendation	No change to the Amendment is required.
-----------------------	---
