




OFFICE OF
THE VICTORIAN
GOVERNMENT
ARCHITECT

Government as Smart Client

<Edition 03, 2024>

2.0 Government as Informed Client



'Good Design is not just about the aesthetic improvement of our environment, it is as much about the improved quality of life, equality of opportunity and economic growth'.

The Value of Good Design, Commission for Architecture and the Built Environment (CABE).



Cover

Project: Parliament House Member's Annexe
Architects: Peter Elliott Architecture + Urban Design
Landscape Architect: Taylor Cullity Lethlean
Photographer: John Gollings

Authorised and published by the Office of the Victorian Government Architect, Melbourne
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Foreword

An important legacy for any government can be seen in the quality and design of the public projects they deliver. Well-designed buildings, infrastructure and public places work well and feel good, promoting community pride, identity and adding a valuable long-term asset to their locale. Over the life of a building, evidence shows us that bad design will cost money; whether in maintenance, running costs, poor user experience, lost opportunity, refit or even replacement. In contrast, good design, purposefully and carefully undertaken by skilled practitioners, ends up costing less. Good design continues to grow in value and worth for its client and community of users.

Good design does not just happen; it needs processes that support a quality outcome and it needs to be protected throughout all stages of delivery of a project. The process of procurement of a well-designed building includes starting with a good brief, a design vision that defines performance/outcomes-based principles and the appointment of a skilled, capable, design team.

From there, management of the construction of a building through to completion involves not just progressing a selected contractual method, but realising the project vision from idea, through delivery, to operation. The method by which a building project is procured can have significant impact on the quality of the final building. While it is possible to achieve a good design outcome with all procurement methods, some make it seriously challenging unless their potential threats to design quality are understood and well managed.

This document describes the various methods used in Victoria for the procurement of buildings. Each procurement method is overlaid with recommended strategies to assist in getting to a good design outcome. These strategies can assist Government to be a smart, informed client and deliver projects that leave a design legacy.



Jill Garner AM
Victorian Government Architect



Executive summary

The Victorian State Government is the largest procurer of design services in the state, having an enormous impact on the construction industry and on Victoria's standing as a state with which to do business.¹ The government's legacy from this role is the quality of buildings and public realm it delivers together with Victoria's reputation for innovation and liveability. It is important, therefore, that government and its agencies are informed appropriately to enable them to deliver and support well-designed outcomes for all Victorian projects.

The Office of Victorian Government Architect (OVGA) considers that there is substantial opportunity to improve design outcomes by improving design procurement practices that impact on design quality. The procurement of a quality project relies upon the engagement of a quality design team. It involves not just the contractual method used, but also the implementation of a built project from idea to delivery and on to operation. It is important to distinguish between the procurement of buildings and infrastructure and the procurement of design services.

Key Steps for Improving Procurement of Design Services that impact on Design Quality

1. Develop the Vision Statement for the project at its inception, including the high level design outcomes to be achieved;
2. Appoint a Design Champion to help guide the project and procurement of design services;
3. Appoint a Client Team and Project Managers who understand that good design is fundamental to achieving high-quality buildings and infrastructure;
4. Create a quality design team brief that clearly articulates the design ambitions;
5. Ensure a realistic project budget based on initial design testing and benchmarking as part of any business case;
6. Encourage the use of Expressions of Interest (EOI) and Requests for Proposal (RFP) to procure design teams;
7. When using Competitions to procure design teams, ensure a two-stage submission is used for larger projects, a reasonable budget that reflects the brief and pay bidders for work in stage two;
8. In assessing bids for architectural services, separate the design fees from the assessment criteria and utilise Quality Based Selection. When the preferred design team is identified, evaluate their design fees to determine the value for money each bid represents;
9. Engage the design team early;
10. When using Reference Designs ensure that they are developed to set a qualitative benchmark, integrate the design ambition and establish a commitment to design excellence; and
11. Ensure design teams value the whole-of-life impact and the social, cultural, economic and environmental performance of a development.

Key Steps for Improving the Procurement of Buildings and Infrastructure that impact on Design Quality

1. Design quality needs to be prioritised and embedded early in a project – regardless of the procurement method. If the risks to design quality are understood all procurement methods can be effective;
2. When selecting the preferred procurement methodology for a project, ensure design quality is considered as part of the procurement analysis and included as part of the selection criteria;
3. Ensure there is a clear, well-articulated vision for the project that includes expectations in relation to design and architectural quality;
4. Allow adequate time and resources in earlier stages of the project to develop a clear design intent and project design brief. This should explain the design outcome to be achieved and form an important part of the tender documents to help protect the design quality;
5. Seek design advice from a Design Champion, Design Quality Team (DQT) or the OVGA to assist with quality management in the Expression of Interest (EOI), contract and project brief;
6. Involve stakeholders, facility managers and users in the design process;
7. Consult the design team for advice in the appointment and selection of the head contractor;
8. Provide a realistic contingency for design and construction to ensure design quality can be delivered;
9. Ensure provision for independent design advice (DQT) or design review at key project milestones; and
10. Undertake Post Occupancy Evaluation to capture key lessons and to inform future projects.



All current procurement methods have the capacity to enable good design outcomes. However, with improvements to both the client culture and the procurement processes, higher standards can be achieved to the benefit of all those who use public buildings, infrastructure and places.

Victoria's future reputation for good design and the quality of its built environment relies upon recognising the value that design adds over the lifetime of the building. Well-designed buildings have a direct impact on the standard of public services provided and the quality of life of those who use them.² If we accept that the quality of architecture affects the quality of lives – and considerable evidence now demonstrates that this is the case – then it makes sense and is responsible to put in place steps that enable such quality to be achieved.³

Through discussions with government agencies and industry participants, it was identified that to support good design in public projects further initiatives should be pursued. The following list highlights the key recommendations that will support effective procurement and strategies to enable good design.

Key Recommendations from 'Government as Smart Client'

1. Ensure that the importance of design quality as a project selection criterion is established from the outset of the selection process through the documentation, in the weighting given to design and design capability in the bid evaluation criteria, and finally in the development of contractual documentation and sign-off procedures;
2. Allow enough design time for projects of real quality and innovation to emerge with realistic budgets that consider whole-of-life costs;
3. Develop flexible but consistent procurement processes for engaging architects and other designers to protect design quality;
4. The OVGA will help identify and support the role of Design Champions within Departments and Agencies;
5. The OVGA, in association with the Department of Treasury and Finance (DTF), support best practice in the establishment of consistent and fair Government contracts to protect design quality;
6. When appropriate utilise the OVGA's expertise to assist the Gateway process of a project to ensure design quality. Eg. Review of Briefs and EOIs, Selection Panels, Design Review, Internal Peer Review, Design Quality Teams; and
7. Establish a mechanism for OVGA design advice at a project's inception.

These guidelines provide practical steps to ensure that government, as a 'smart client', delivers excellence in the procurement of design, buildings and infrastructure. The guidelines are not mandatory and do not represent a new layer of process; rather they integrate essential design quality measures within the existing planning and delivery framework of government. They aim to influence design quality for public buildings to ensure an enduring legacy for future generations of Victorians.

PAGE 5

Project: Melbourne Convention and Exhibition Centre

Architect: NH Architecture

Landscape Architects: Aspect Studios

Photographer: Peter Bennetts

PAGE 7

Project: South Melbourne Life Saving Club

Architect: JCB

Photographer: John Gollings

2.0 Government as Informed Client

A good client is an informed client and makes for a good building or infrastructure. If appropriate initiatives are considered early in the design process then this will enable a quality design outcome.

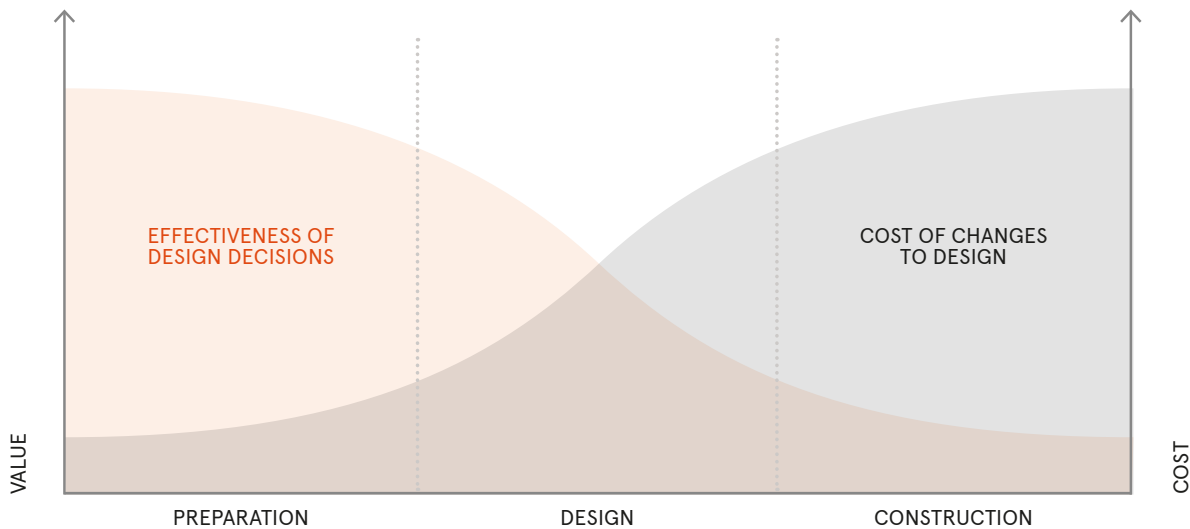
Procurement of the design is the first and most significant part of an extended process that affects the design outcomes of a project. The diagram on the next page illustrates the diminishing ability to affect the quality of design outcomes as the project progresses through its stages of delivery.

“Any required design changes are best implemented in the early stages of a project as they will be more effective, less costly and result in less down time on site.”

Peter Mould, NSW Government Architect and General Manager 2005–2012.

Project: Parliament of Victoria Members' Annexe
Architects: Peter Elliott Architecture
Landscape Architect: Taylor Cullity Lethlean
Photographer: John Gollings





As the above diagram indicates, during a project's initial scoping and design phase it is possible to have a very substantial impact on the design quality. However as the project continues it is dominated by the process rigours of procurement and the contractual and commercial demands of construction. Thus the ability to impact and improve the design quality becomes more difficult and expensive as the project progresses. When key design initiatives are put in place at the early stages of a project then there is greater opportunity for design to be realised.

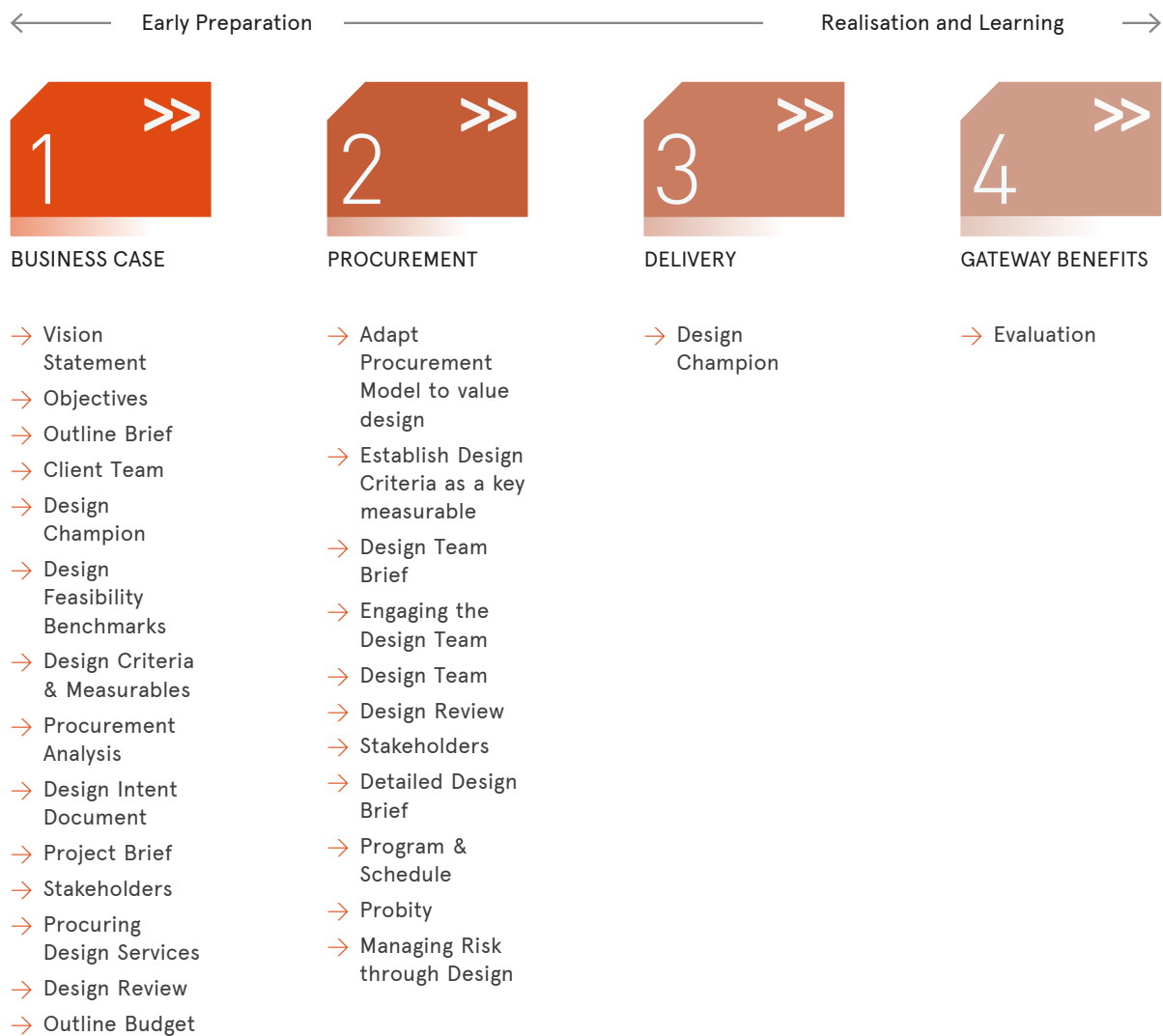
Factors which can have a significant impact on design outcomes include:

- » development of a Vision Statement;
- » quality of the Brief;
- » adequacy of the Budget;
- » adequacy of the Program;
- » need for Design Review;
- » experience and quality of the Management of the process; and
- » ability of the Design Team.

A good client with a mission to deliver a quality project needs, at the earliest possible stages of a project, to be fully aware of the risks to design quality that can arise. It also needs to be understood that, if it is not there from the outset, it is extremely difficult to add good design later in the project. Good design should underscore all decisions in the process of delivering a quality outcome.

A number of simple actions can be put in place during the client preparation of a project, which will have a significant impact on the final outcome.

The Department of Treasury and Finance's Investment Lifecycle and High Value/High Risk Guidelines, provide an example of clear, integrated guidance to promote better practice in delivering infrastructure investments. Across three stages they help shape proposals, inform investment decisions, monitor project delivery and track the benefits that investments achieve.



Equally, there is an opportunity to embed design tools in the key steps of a project strategy. The above diagram indicates to departments and agencies when there is an opportunity to use design tools within the procurement processes such as those as set out within the Investment Lifecycle Guidelines.

Subject to the complexity of the project, the tools may be used at alternative stages to that above or may even repeat. However, as the above suggests, they are best undertaken earlier in the process to determine the best outcomes.

The following sections outline key design tools to enable quality design outcomes in built projects.

What's good about a Vision Statement?

The Vision Statement can be used to assess whether the objectives are being delivered as the building design takes shape. It gives everyone a central reference that will measure how well the project meets its aims.

Without a Vision Statement, a building project can easily become unfocussed and wasteful.

2.1 Vision Statement & Objectives

The Vision Statement is the high level statement in which the client outlines the overarching objectives of the project. It identifies at the inception the project values and outcomes for the local stakeholders and wider community. It is a mechanism for immediately establishing the role for design in the project.

The defined aims and objectives of the Vision provide a key point of reference for the overall project ambitions. It must be capable of holding true for the project duration as a constant litmus test of achievement. It needs to be agreed upon early to enable feasibility and budget checks. The Vision should be stated with clarity and provide a good understanding of the shared goals of the project.

It provides an outline of the strategy for delivering the outcomes and quality, and an overview of the context, be it policy or social, cultural and physical environment. It should be developed in conjunction with those with design expertise, who can assist in establishing the design ambitions for the project and have the capacity to understand the project within a broader context of policy and state intended outcomes.

In the case of government delivery this statement should be developed within the Investment Logic Mapping (ILM) process, thereby placing the project within its policy context



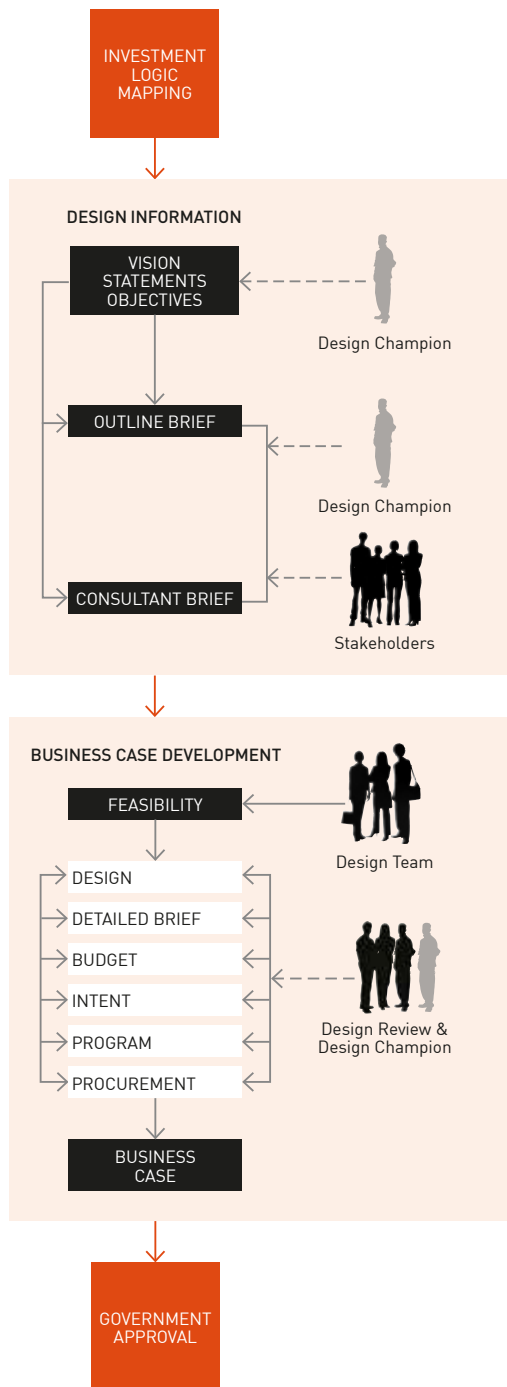
RECOMMENDATIONS

- » Develop the Vision Statement of the project at its inception.
- » Provide a Vision Statement that is positive and engaging and with clear objectives.
- » Ensure the objectives of the Vision Statement are relevant to State and other policies.
- » Communicate the intended ambition for design in the project.
- » Seek consensus for the Vision Statement with key government agencies.
- » Consider the use of a design specialist to assist in determining the Vision Statement.
- » Include the Vision Statement and objectives in every document issued as part of the project.

Project: Darebin Yarra Trail
Designer: Vic Roads Urban Design
Photographer: Emma Cross



DEVELOPING A BUSINESS CASE



2.2 Business Case as Feasibility Study

The Department of Treasury and Finance defines a business case as “a document that forms the basis of advice for executive decision-making for an investment. It is a documented proposal to meet a clearly established service requirement and the proposed delivery approach.”⁹

The business case needs to articulate the main aim of the project, the reasons for it, the revenue sources, and how it will be funded. The business case considers the viability of the investment across the whole of its lifecycle, not just implementing a solution but operating and maintaining it until its end-of-life. It should be prepared to evaluate the economic relationship between the site cost, building cost, whole-of-life costs, the project brief and a project schedule while remaining focussed on the intended outcome for the project. Whole-of-life costs should ensure appropriate consideration for future demand, later stage expansion, alternative uses, maintenance, operational and decommissioning costs.¹⁰

The inclusion of a feasibility design study, as part of the business case provides an opportunity for evaluation and analysis of the proposed project, based on extensive investigation and research. It can use design as a tool to develop and test the client’s vision, objectives and brief, and explore options to suggest how the project may best be delivered. The designed options are then evaluated against the project objectives, and assist in the determination of the most appropriate value for money outcome.

In order to allow a full appreciation of the intended outcome for the project, it is beneficial that the business case, in addition to the Treasury & Finance requirements, include the:

- » Vision Statement;
- » feasibility design study;
- » Design Intent Document;
- » demonstrated policy context; and
- » whole-of-life assessment.

The business case is not a static document. It forms the basis of the brief. Therefore, the business case should be a working feasibility document that is refined and monitored in association with the project budget.

RECOMMENDATIONS

- » Require that the role of the project in the broader context is tested as part of the business case.
- » Undertake a design feasibility study as part of the business case process.
- » Test a range of design options in the development of the business case.
- » Establish which design aspects of the project need special consideration in order to assess their impact on the business case.
- » Test the robustness of assumptions in the business case that may impact design quality.
- » Allow flexibility within the business case to respond to design changes that may occur as the project evolves.
- » Provide the statement of design intent in the Business Case.

Project: The Royal Children's Hospital
Architects: Billard Leece Partnership and Bates Smart
Photographer: Peter Bennetts



Possible client team members

Depending on the size and complexity of the project, the client team may comprise of one or many people. It may commence initially with one member responsible for the whole project, which develops into a wider team as the project develops and specialist experience is required.

Roles for the client team may include:

- » Project Director
- » Project Manager
- » Design Manager
- » Operational Manager
- » Stakeholder Manager
- » Project Steering Committee
- » Sustainability Manager
- » Universal Access Manager
- » Design Champion

High Value High Risk Projects

Department of Treasury & Finances, Investment Lifecycle & HVHR Guidelines provide further information relating to the client team.

2.3 Client Team

The in-house client team or working group represents the client owner and ultimate users. The client team will inform and guide the process and lead the outcomes for the project.

As responsible purchaser of the design process the skills and experience of people on the client team are critical. An appropriately skilled client team will have a background in construction and/or design, a detailed understanding of the design process, relevant experience for the project type, and an awareness of the policies and strategic issues that relate to it.

An experienced client team with the ability to adapt to the various procurement procedures, and to form close links with stakeholders and the design team, will ensure that the key issues of cost, time and quality can be addressed.

RECOMMENDATIONS

- » **Ensure the in-house client team includes members who understand the implications of the chosen procurement method on the design outcomes.**
- » **Seek assistance from the Office of the Victorian Government Architect with strategies to enable good design outcomes. This may involve advice on preparing EOI and RFP briefs, appointment to project and/or working groups, and the use of design review.**
- » **Ensure the client manager has a good understanding of the design process.**
- » **Ensure it is clearly articulated which member/s of the client team is/are responsible for the project brief and the primary contact/s for the design team.**
- » **Engage with the client department or the Office of the Victorian Government Architect who can assist the client team in understanding the means by which good design may be achieved.**

2.4 Design Champion

Experience in other governments and institutions has demonstrated the value of a Design Champion who is able to safeguard the design quality on behalf of the client. In the case of state projects, this may be a suitably experienced design member within the government client department, the Office of the Victorian Government Architect, or a separately appointed adviser.

The Design Champion can assist in articulating the vision and the client's desire for a high quality design outcome, and ensure that these ambitions are clearly stated in the outline brief. The Design Champion can assist in developing the selection criteria and the evaluation of bidding design teams, and further develop the criteria and provide assessment as the design process continues.

It is important that the Design Champion is appointed as early as possible in the process as part of the governance structure, with direct communication to the project director. Early signalling of the nature of the design ambition being sought will help ensure that the appropriate design teams bid for the project.

The retention of the Design Champion as an integral member of the client team throughout the project will help ensure that the design quality sought in the Vision Statement is embedded and safeguarded throughout the design process, and will support a successful outcome for the project.

RECOMMENDATIONS

- » Appoint the Design Champion early in the process, during the Business Case development, as part of the Client Team.
- » Provide opportunities for the Design Champion to comment on and endorse Business Cases.
- » Retain the Design Champion for the duration of the project to ensure design quality is maintained.
- » Allow a process for the Design Champion to identify risks to quality design outcomes and the means by which they can introduce changes, which support good design.

'The purpose of a design champion is to promote good design in every area of the business, ensuring that design issues play a central role in corporate strategy and deliver demonstrable commercial benefits.'

Design Champions,
Commission for
Architecture and the Built
Environment (CABE)

Project: Birrale Primary School
Architect: Kerstin Thompson Architects
Landscape Architect: Simon Ellis
Photographer: Derek Swalwell



Possible Stakeholders

- » Local authority
- » Other State Government departments and agencies
- » Local community groups
- » Funding organisations
- » Indigenous communities
- » Users and operators
- » Service delivery partners

2.5 Design Value of Stakeholders

It is important to identify, early in the project process, both the direct and indirect project stakeholders. Stakeholders may be users or operators who have a direct role in the project. Other stakeholders, such as the local authority and community may be indirectly affected but can offer insights of benefit to the project. To achieve the desired outcomes, it is critical to ensure all expectations are managed and all issues considered in the development of a design. Therefore, the needs and insight of stakeholders must be recognised, understood and incorporated from the very beginning of the project.

There can be many stakeholders with diverse needs who should be engaged. It is one of the very important elements of project leadership and management to identify those who are key to the project success. Equally it is important to achieve the right level of engagement with stakeholders and to manage their aspirations. Each project will be different and will have its own unique requirements.

Managing the expectations of stakeholders is often a requirement of the design team, but ideally, is controlled by the client to manage their various and sometimes conflicting requirements. Subject to the number of stakeholders engaged, the capacity to determine the nature of meetings and the time required to undertake the consultation process can be difficult to quantify, and thus can impact on the project program, budget and design.

RECOMMENDATIONS

- » **Identify and engage the key stakeholders early in the process.**
- » **Appoint a client representative to establish and manage the stakeholder requirements.**
- » **Include stakeholder requirements as a component of the project brief.**
- » **Agree priority of the differing stakeholder requirements prior to instructing design team.**
- » **Retain stakeholder representation during the process of the project so they can understand how key decisions have been made.**
- » **Engender stakeholder ownership of the project and ensure they understand the intent of the project outcomes through clear communication.**
- » **Recognise past, contemporary and shared Indigenous & historic cultural values.**
- » **Partner with Traditional Owners and First Peoples to develop strategies and processes to enable a respectful and sincere process for embedding Indigenous culture and values into the project.**
- » **Consider engagement with Traditional Owners and First Peoples as a professional fee-for-service and not as a community engagement exercise.**

2.6 Design Team

The composition of the design team will largely depend upon the type of project proposed, whether infrastructure, built form or public space. The design team comprises architects, urban designers and landscape architects, focussed on the design outcomes for the project. It may also include the structural and services engineers, quantity surveyors, planners, building surveyors, interior designers, specialist environmental, access, health and sustainability consultants.

By focussing on the design outcomes for the project a design-led team will pursue the ambitions and quality outcomes outlined in the brief. In many projects the architect is the lead consultant of the design team, not only designing the building but also co-ordinating the consultant team, client requirements, budgets and construction. In others, the architect may be part of a collaborative design team, providing design thinking, which encompasses the broad context and public realm, in addition to the immediate functional requirements of the project itself. They can also ensure the design intent is carried through the construction process and recommend strategies to enable good design regardless of the procurement method chosen.

An architect brings professional training, vision and experience to inform the entire design and construction process. Their expertise can ensure that sustainability, urban design and site responsive building design are embedded in the design process. Through good design, an architect can enhance the value of a building and offer significant savings especially when it comes to operating, staffing and/or tenating the building. They provide strategic thinking that looks at broader and long-term issues, balanced against the time and cost issues. They are crucial to the long-term success of the project, directly influencing the project experience by the users and greater community.

The project brief will assist in determining the extent and type of design team required, whether a specific architecture and landscape architecture team or an extensive team with many specialists.





2.7 Architects, Project Management & Project Managers

Project management encompasses the planning, organising, securing, and managing of resources to achieve specific goals. A project manager is the person accountable for accomplishing the stated project objectives. In many cases a project manager may be an architect. Key project management responsibilities include creating clear and attainable project objectives, building the project requirements, and managing the triple constraint for projects, cost, time, and scope.

A project manager is the client representative and determines the exact needs of the client based on knowledge of the client they are representing. The ability to adapt to the various internal procedures of the contracting party and to form close links with the nominated representatives is essential in ensuring that the key issues of cost, time, quality and client satisfaction, can be reconciled.

When well-managed, the appointment of a separate project manager can allow the architect the opportunity to focus on the client brief and the design outcomes for the project. When taking this approach, it is important that both the architect and project manager are engaged at the inception of a project to advise the client of the most appropriate design and procurement process.

Where this is the case, it is important that the architect maintains a senior role in the project, retaining:

- » design lead, orchestrating the strategic decisions that will impact on the design outcomes.
- » clear access to the client throughout the course of the project.
- » input to the appointment of an appropriate sub-consultant team and unimpeded access to the sub-consultants.
- » a clearly defined scope of services, particularly in regard to the responsibilities for approvals, coordination of documents and the extent of services during construction.
- » clearly defined responsibilities and liabilities.

SUGGESTED ACTIONS TO BENEFIT GOOD DESIGN

- » **Value good design and recognise that the architect is the best person to manage the design.**
- » **Ensure the architect has direct access to the client so that design quality ambitions are met.**
- » **The project manager assumes the key role of creating a collaborative environment to support the architect (along with other consultants and contractors) to deliver design quality and an enduring legacy for the built environment.**
- » **Engage the architect concurrently with the project manager to explain, monitor and protect the design intent.**

'Project management is defined as management of a construction project by an independent primary consultant, whose principal task is management and does not include design or construction but does include co-ordination of design and construction as agent of the owner.'

D. Standen Construction Industry Terminology, RAI A Practice Division, 1993.

'The fees charged by an architect for design and documentation rarely exceed one per cent of the total cost of constructing and operating the building throughout its useful life.'

You and Your Architect, RAI A Practice Services

There is broad industry agreement that there is a need for good architects and good project managers and the specialist skills they bring to a project. The following diagram outlines the roles and skills of the architect and the project manager and where they overlap with the management of the project.

ARCHITECT

- » **Adviser to the client**, as a professional expert with specialist knowledge in the design and construction of buildings.
- » Develop the client's **design vision** and provide a **design response to the client's brief** to a detailed design solution that meets the client brief.
- » **Lead and coordinate** the design team and facilitate the design process.
- » **Formulate the brief** including the details of the site, regulatory requirements and other issues which impact upon the project.
- » **Consult** with **users** and **stakeholders** for functional and building related performance requirements.
- » Document and **oversee the procurement** and **implementation of the design solution** seeking client approval for each phase of the design and construction process.
- » Skilled to design buildings that **work efficiently**, solve problems of space and function, and **fit comfortably** into the environment.
- » Skilled to offer **innovation** in designing buildings that are **energy efficient**, cheaper to operate and easier to maintain.

PROJECT ARCHITECT/PROJECT MANAGEMENT

- » **Agent for the client** when dealing with third parties eg. builder or other contractors.
- » **Independent certifier acting** with the agreement of the builder and client to determine clauses and functions within the chosen building contract.
- » Capacity to create a **collaborative environment** to ensure the design team **deliver the best design outcomes** for the project.
- » **Assisting the client** to provide clear and concise direction to the project team.
- » **Coordinates and controls**, on behalf of the client, **the work of all consultants**, contractors and specialist contractors.
- » Skilled to understand the **interrelationship of time, cost and quality** in a project and that each element is considered of equal importance.
- » Skilled to **facilitate, educate** and **advise** the client about the **procurement process**.
- » Skilled with a **background in construction** and/or **design** in many cases a project manager may be an architect.

PROJECT MANAGER

- » **Advising** on finance, site selection, acquisition, cost benefit studies, different methods of contracting, taxation advice, legal matters such as leasing and conveyancing, lettings and tenancies, programming, budgeting and insurance.
- » Offer an **appreciation of the design process** and the imperative to **protect the design intent**.

2.8 Procuring Design Services

Choosing the design team is critical to the project and its long-term success. Time and attention given to this aspect of procurement will enable the selection of a team that clearly understands the client objectives, is capable of delivering the project ambitions, and which promises a good working relationship with the client.

Clients should investigate a range of designers, capable of working with stakeholders, with demonstrated good urban design thinking and an understanding of the client's objectives. It is also beneficial that they have prior experience in the design of projects of a similar scale and complexity. No matter which method is chosen when procuring the design services, it is essential that key criteria be established for the selection, focussed on design capability and capacity, giving significant weighting to these criteria. This will assist in determining an appropriate shortlist of proponents. It is equally important that those judging the submissions be qualified to do so. To build a working relationship between the client and the design team, it is strongly recommended that the design team selection process should include an interview.

RECOMMENDATIONS

- » **Seek design services on a quality based selection process.**
- » **Ensure the capacity to deliver 'good design' is a key component of the selection process.**
- » **Establish selection criteria, which also recognise demonstrated capacity for good urban design and which value peer recognition through design awards and/or publications.**
- » **Include the Vision Statement as part of all the request documents.**
- » **Provide a clear and succinct outline brief which states the required outcomes, opportunities and constraints.**
- » **Select proponents with experience of high quality design capacity in buildings or infrastructure of a similar scale and complexity.**
- » **Interview proponents as part of the assessment process.**
- » **Ensure the assessment panel includes members with design expertise and who are qualified to select the design team.**
- » **Use standard contracts to reduce the need for costly legal review or negotiations and ensure that risk and reward is allocated fairly (e.g. AS4122-2010).**
- » **Special conditions and variations to standard contracts should be avoided, especially when there is no clear reason for their inclusion.**

Architectural services may be generally selected by several methods such as:

- » Quality Based Selection
- » Expression of Interest
- » Request for Proposal
- » Fee Tender
- » Architectural Competition
- » Indirectly as part of a wider consortia

'A good brief will set aims and objectives for the project against which proposals can be tested. It will signal to the design team the quality of the organisation and level of services expected.'

Creating excellent buildings; A guide for clients,' Commission for Architecture and the Built Environment, (CABE).

'A design brief is a written statement which details the client's expectations and the functions of a proposed building. It should describe the facilities to be provided and the activities to be performed. It should also clearly identify the broad policies within which these are to be achieved in respect of the time, cost and quality. The brief should not propose specific design solutions.'

Acumen Practice Notes

2.9 Design Team Brief

The design team brief sets out the extent and stages of the services required, including any specialist requirements. It explains the scope of the project and the ambitions that need to be met by a designer or design team. It should focus on outcomes of the design process and the business objectives of the design project, without prescribing the design solution or how the design team may approach the project.

It includes an outline project description and ambitions. Its primary focus is on the role and services required of the design team outlining:

- » the function, quality and intended life, details of approvals obtained or required;
- » the project procurement method, project budget, project schedule;
- » the means of appointing the design team such as terms of engagement, evaluation criteria, and number of design teams to be short listed;
- » the scope and extent of the services, and the role within the delivery of the project, inclusive of stakeholder engagement; and
- » the role with respect to the project team and collaboration with other consultants.

The design team brief requires an understanding of the significance of the project and the qualities sought in the consultants. The more clear and holistic the design team brief, the more appropriate the potential proponents.

RECOMMENDATIONS

- » **Ensure the Vision Statement is highlighted in Expression of Interest (EOI) and Request for Proposal (RFP) documents.**
- » **Ensure good design is highlighted as a key criterion in EOI/RFP documents.**
- » **Outline the stages required and expected level of design service including any specialist services.**
- » **Identify stakeholder engagement and requirements.**
- » **Avoid prescriptive descriptions and outputs of design team services, instead outline the outcomes required.**
- » **Arrange peer review of design briefs prior to issuing; for State Government projects, review may be conducted by the OVGA.**

2.10 Project Brief

Of all of the drivers that are most likely to lead to a high quality design, a carefully conceived, documented and thoroughly reviewed brief is the most critical. Ideally it outlines the objectives and needs of the project, setting the ambitions without prescribing a solution or aesthetic.

It is also important to understand the capacity for the brief to develop in stages. The initial project brief will establish the outcomes and ambitions for the project at a broad level. Research and analysis and more detailed requirements will add further information as the design progresses from the broader high level to the more detailed finer scale. As each of the requirements, opportunities and constraints become apparent it should be reflected in the brief, capturing a more detailed story of the project ambitions. An effective brief is 'live' and 'dynamic', responding to the project as it develops.

THE STAGES OF A PROJECT BRIEF:

Brief format	Traditional Process	High Value High Risk Process	Responsibility
Vision	Preparation	Business Case	Client
Outline Brief			
Detailed/Return Brief	Design	Procurement	Developed by Design Team and Consultants with the Client
Design Intent Document			
Schedules			
Specification	Construct	Delivery	Design Team & Consultants
Operation & Maintenance Manual	Use	Gateway Benefits evaluation	Design Team, Contractor & Client

OUTLINE BRIEF

The Outline Brief is the initial project brief, which will inform the early design phase and ultimately inform the end-users of the project. Prepared by the client, it includes the Vision Statement and project objectives, and provides further details about the measures for success in a physical, social, environmental and economic context. It can also include an outline of potential spaces required, expectation of design quality, lifecycle issues, and other relevant background information.

The expectation of design quality should be included in the brief as a key outcome in addition to encompassing all of the objectives of stakeholders and ultimate users, so that the design team is clear about the overall requirements. In this respect, qualitative benchmarks can be a valuable tool in forming the brief and establishing the budget as a part of that brief. Citing examples of previous related and successful projects also supports government in a review process, allowing client teams to learn from each other.

A thoroughly scoped brief will assist in ensuring the budget is well-informed and represents value for money.

It is important to understand that the development of the outline brief needs to continue into the detailed brief and contribute to the Design Intent Document.

Contents of an outline brief

- » The Vision Statement and project objectives
- » Policy and environmental context
- » High quality design ambitions
- » Succinct summary of outcomes, not outputs
- » Sustainable design outcomes
- » Universal design outcomes
- » Whole-of-life ambitions

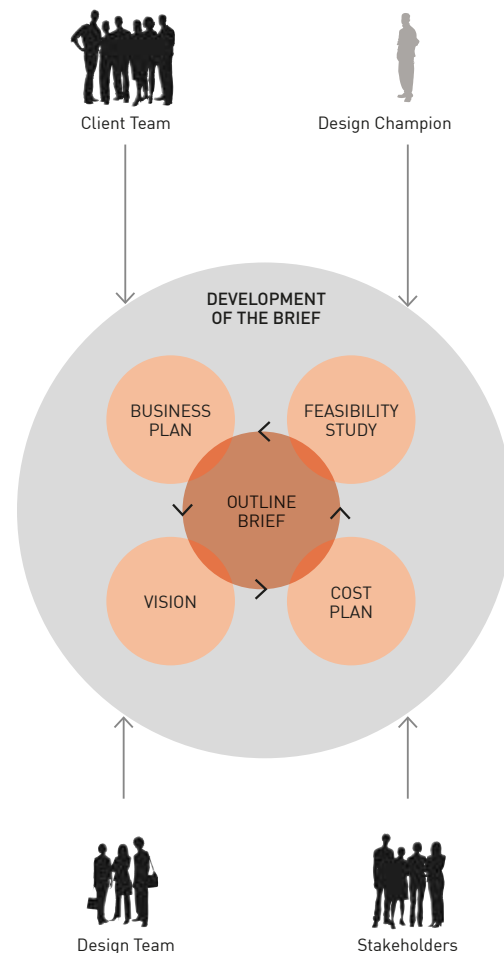
'The reward for a client of investing effort in a well-developed brief is a project that can achieve outstanding results for both the client and the end-users. A procurement process may be premature if key information is unavailable, or funding unsecured.'

Australian Institute of Architects Guidelines for EOI & RFTs 2019, p. 6.

RECOMMENDATIONS

- » Ensure the Vision Statement and objectives of the project are included in the outline brief.
- » Compile a clear and holistic brief that outlines all the requirements of the project, both functional and qualitative.
- » Use benchmarks to assist in identifying quality and success.
- » Ensure the brief includes a background and policy context.
- » Ensure the brief includes reference to all stakeholders and their identified needs whether directly or potentially impacted by the project.
- » Ensure the brief includes business objectives, desired outcomes and the expectation of design quality.
- » Stipulate the assessment criteria for Post Occupancy Evaluation in the project brief.
- » Ensure the brief is targeted to the project and is not a standard or generic type of brief.
- » Establish if the budget and program are components of the brief, advise accordingly and ensure the brief is realistic in relation to the budget and site available.
- » Allow adequate time to develop the outline brief.
- » Arrange peer review of briefs prior to issuing; for State Government projects, review may be conducted by the OVGA.
- » Understand that the outline brief will inform and direct the Detailed Brief and Design Intent Document to be developed by the design team.

INPUTS TO THE BRIEF



DETAILED DESIGN BRIEF

The detailed brief is a development of the outline brief, prepared by the design team in conjunction with the client and stakeholders, and sometimes referred to as the 'return brief.' It captures all the necessary information, the Vision Statement, and the specific activities and operational requirements of the project.

Subject to the complexity of the project, the detailed brief will require the input of many varied pieces of information. It will include details about local authority and stakeholder requirements, universal access and design, and measurable sustainability outcomes. As per the outline brief, it should include the expectation of design quality as a key outcome.

It is important that the client sign-off the detailed brief, once fully developed, as it becomes the reference against which the proposal can be tested as the design process continues. The detailed brief should retain a level of flexibility which allows it to be updated regularly as more details informing the design become available.

The detailed brief will not predetermine the form of the design and will not prescribe the solution to the design team. Instead it provides a clear framework, milestones and measurable criteria that allows the design team to translate it into a design solution that meets, and ideally, exceeds the client's needs and aspirations.

The development of this brief should not be confused with the Design Intent Document as outlined further.

RECOMMENDATIONS – HOW TO DEVELOP THE DETAILED DESIGN BRIEF

- » **Ensure the Vision Statement and objectives of the project are retained in the brief.**
- » **Develop further the use of benchmarks to assist in identifying design quality and success.**
- » **Engage all stakeholders and end users to develop the brief.**
- » **Allow adequate time to develop the brief as a key part of the project.**
- » **Review and obtain client sign-off on the brief at regular intervals during the design process, updating to reflect all agreed outcomes and ensure all issues are addressed and revisions are incorporated.**
- » **Ensure the brief includes the business objectives, desired outcomes and a clearly articulated design ambition.**
- » **Ensure the brief includes sustainability and whole-of-life expectations.**
- » **Ensure the budget and the program can realistically support the design ambitions.**
- » **Establish measurable criteria as part of the brief including key criteria for design quality.**

'The extent to which innovation can be introduced into a project will be determined by the consultant's review of the scope of works, risk management process, contract terms and conditions, and the delivery model. A scope with clearly defined parameters for innovation, as well as delivery models that share risk and support collaboration, is more likely to result in innovation.'

Procurement in WA; Government as 'model client' Submission to the WA Commission of Inquiry into Government Programs and Projects June 2018 (Deloitte Access Economics report -Better Buying, Better Outcomes), p. 20.

"The Design Intent Document is often referred to by the design-architect as a way of maintaining quality during the documentation completion and construction process.

The better, and more sophisticated novated construction contracts, include such statements. These become very useful to design-architects who retain certain obligations to their original client but also to the contractor to whom they have been novated."

Paul Katsieris, Katsieris Origami, Architecture and Urbanism

2.11 Design Intent Document

The Design Intent Document captures the initial architectural and urban design ambitions. This document is a key step for the client in ensuring that their vision is delivered and that the design quality is protected. The Design Intent Document is a working document that embeds the key design decisions through each stage of the project and the qualitative aspects that have been agreed. It provides an agreed level of assurance to the client that the intent of the design is deliverable.

Subject to the stage and nature of the project, the format of the Design Intent Document includes a written description, masterplan and diagrams that set out the key architectural intentions. The written description outlines the response to stakeholder requirements and key decisions made as part of the design process. The Design Intent Document may also include photographs that establish qualitative benchmarks. In the case of a more developed scheme, the format may include indicative images, diagrams or sketches. The diagrams could include building sections that reflect the key details that need to be protected as part of the design process. This may include floor-to-ceiling heights, specialised environmentally sustainable design initiatives, materials, finishes, colours or junction details.

The Design Intent Document outlines the key responses to the Vision Statement and objectives of the project. It is approved by the client, to form part of the contract between the client and the party delivering the project. Including it as part of the contract allows for its use in procurement processes where the design team is no longer directly appointed by the client. This can be particularly useful in procurement processes where the design team is in-directly engaged through a contractor, such as Public Private Partnerships and Design and Construct. It is also of use where there is an infrastructure project that is led by an engineer as opposed to a design professional.

The Design Intent Document can give the client confidence that the architectural design intent has been clearly established, agreed upon and can be delivered despite the challenges to design quality associated with the procurement process being used.

RECOMMENDATIONS

- » **Ensure the Design Intent Document embeds the Vision Statement and addresses the project objectives.**
- » **Ensure the Design Intent Document develops in conjunction with the design proposal as early as possible.**
- » **Ensure the Design Intent Document forms part of the contract between the client and the party delivering the project.**
- » **Ensure the Design Intent Document is prepared by the design team and approved by the client.**
- » **Consider penalties for non-compliance with the Design Intent Document.**

2.12 Program & Time for Design

The program establishes dates, sometimes referred to as milestones, for the completion of stages in the process of a project, including that of the design stages. It is an important part of the process, as many decisions, including those related to design and finance, will be made based on the project schedule.

The program will first be initiated at the commencement of the project feasibility stage. It is important to understand the program not as a series of dates but as a series of development stages, each requiring adequate time to complete the task. To achieve the best design outcome, the schedule must allocate adequate time to undertake design tasks and allow adequate flexibility to accommodate time delays should they arise.

In this regard, an important factor affecting design quality is time. It stands to reason that a quality outcome, irrespective of the brief or the budget, will take time to develop. It is important to recognise that the time taken to develop a design is a sound investment in the context of the construction time and the life cycle of the built outcome. The time allowed to research, analyse, brief, review and develop a design proposal must be adequate to ensure all needs are met.

The use of fast tracked and shortened design processes are a risk and consequently compromise the quality of a project. Sufficient time must be allocated for the preparation of concept design, design development, tender and construction documents that deliver full design resolution, and to enable builders to offer competitive tenders.

RECOMMENDATIONS

- » **Recognise the design time required within the context of the life of the built outcome.**
- » **Allow adequate time for detailed design development, contract documentation and review.**
- » **Allow adequate time for the selection of consultants and their appointment.**
- » **Provide realistic provision for client and authority approvals.**
- » **Allow opportunity for the design team to contribute to the program schedule.**
- » **Establish a program with realistic allowances for potential delays.**
- » **Establish a program based on previous benchmarks and real delivery times.**

“An artificial deadline was created [for Federation Square] and that had to be met. In our view that deadline was set months earlier than it should’ve been and so there was a sense of it doesn’t matter how it happens as long as it happens and that meant inevitably that the quality of certain things was lost at the end.”

Peter Davidson Director
Lab Architecture Studio,
ABC documentary ‘Inside
the Square’

Establishing a benchmark rate

Building and construction rates are variable based on a number of factors including, location, timing, market conditions, quality, and complexity of services.

Rather than determining a fixed rate per square metre, the outline budget should allow a range of rates to provide some flexibility in meeting the desired outcomes.

2.13 Outline Budget

The budget is the cost estimate of allocated funds to deliver the final project outcome. It will include immediate cost items such as cost of land, capital costs of construction, professional fees, staff costs, contingencies for design and construction, as well as whole-of-life costs, fit out and equipment, and financing.

The allocation of the budget is related to a comprehensive understanding of the project stakeholders' needs as expressed in the brief. Detailed articulation of project outcomes at the briefing stage and a thorough scoping process will assist in determining an adequate budget.

In arriving at this determination, it is important to understand the benefit of the feasibility or masterplan process. A masterplan prepared as a first step in the design process can assist in making strategic decisions about staging in order to meet the budget while achieving the overall goals of the project.

The adequacy of budget is a critical ingredient in the achievement of a quality design outcome. It is important to make the point that quality design need not be expensive and can deliver value for money.

It is also important to understand that the cost of good design is a very small percentage of the capital and on-going running costs of a project. Adequate upfront time given to design will allow due consideration of all the budget items calculated for the whole life of the building. These can include the on-going running and operational costs, management and even disposal. The application of a good design development stage can ensure cost effectiveness through coordination and consideration of value for money.

RECOMMENDATIONS

- » **Use Feasibility and Concept Design as an interactive process integral with determining the budget.**
- » **Provide contingencies for design and construction.**
- » **Allow time to develop a realistic budget that tests the design.**
- » **Reference policies to ensure all are adequately covered in the design response.**
- » **Use recent benchmark projects to determine realistic budgets based on a range of rates and the appropriate design quality.**
- » **Determine value for money by consideration of social, environmental and economic factors of the design proposal, and not only the capital cost.**
- » **Use rigorous design and value engineering methods to establish the value of the project capital cost and operational and life cycle costs.**

2.14 Design Review

Design review is an essential part of a good design process.

Design review involves the expert independent assessment of design proposals at key stages in a project to help guide, inform and deliver high quality outcomes. Design review is most effective when sought early in the stages of a project before design decisions are locked in place. However, it can have a different focus and impact at later project stages. It can assess if the proposal meets the project vision, the brief, the needs of the community and users, to ensure design integrity is maintained.¹¹

Design review offers objectivity and an external perspective to a project drawing from the experience of built environment professionals and specialists. It adds a layer of expertise that builds on the skills of the design team and other advice provided by the local authority. Design review enables broader debate and a challenge to ensure all opportunities are achievable.

The key features of a good design review process are that it:

- » is carried out using a robust and defensible process, offering high standards in the quality of advice;
- » occurs at an early stage in the design process when changes can be implemented more easily and avoid cost implications if changed;
- » is conducted by an independent expert(s) with a high level of experience in design or its evaluation, and the skills to appraise schemes objectively. It offers specialised input on issues that may include sustainability, universal access, heritage or urban design;
- » includes professionals from across the built environment professions;
- » advises and empowers decision makers on how to improve design quality so as to meet the needs of their stakeholders, client and community;
- » allows challenges to the project brief once the initial design phase has revealed problems or unforeseen opportunities;
- » can support decision makers in resisting poorly designed schemes;
- » builds client confidence in key design decisions; and
- » protects the design intent through procurement process.

'...value is measured not only by the creation of new physical assets but by such factors as return on investment, extra value from capital, supplier margins, quality of life factors (including health), extra services provided to end-users, improved operator morale, and lower maintenance and operating costs.'

Projects as Wealth Creators, Property Council of Australia, 2001, p7.

'10 Principles of Design Review

1. Independent
2. Accountable
3. Expert
4. Advisory
5. Accessible
6. Proportionate
7. Timely
8. Objective
9. For Public Benefit
10. Improves Quality'

CABE Design Review: principles and practice

The Office of the Victorian Government Architect (OVGA) offers design advice through design review using the Victorian Design Review Panel (VDRP), Design Quality Teams (DQT), Urban Design Advisory Panels (UDAP) and Internal Peer Review. The OVGA works with stakeholders as well as project teams to establish the most suitable form of review.

Design review should occur for projects of all types and scales including strategies, masterplans, buildings, major infrastructure, streets and public spaces. Frequency will depend upon the complexity and scale of the project but should commence prior to sign-off at early stages of a project, including Feasibility, Concept Design and Design Development.

A design champion can assist with review prior to sign-off at Contract Documentation and Contract Administration.

There is also opportunity for Design Review by the OVGA as part of Post Occupancy Review.

Design review can ensure that the project meets its full potential and that the vision and brief are met. It creates a forum to generate a discourse that can help solve problems or unlock blockages in thinking or briefing.

Design review delivers public benefit by prioritising the quality of architecture, landscape architecture and urban design, including the design of streets and public spaces. It is an internationally tried and tested method of promoting good design, a cost effective and efficient way to improve quality and is applicable to any procurement type.

RECOMMENDATIONS

- » **Embed design review in the overall project program.**
- » **Undertake design review early and regularly in the process.**
- » **Utilise independent experts with demonstrated appraisal skills.**
- » **Support design review with experts from a broad range of professional disciplines.**
- » **Retain the same panel members in a Design Quality Team (DQT), throughout the project's delivery.**
- » **Ensure that there are a balance of independent experts and stakeholders in Urban Design Advisory Panels (UDAP's)**
- » **Ensure design review is open and constructive.**
- » **Ensure design review feedback is timely, considered, consistent and constructive.**

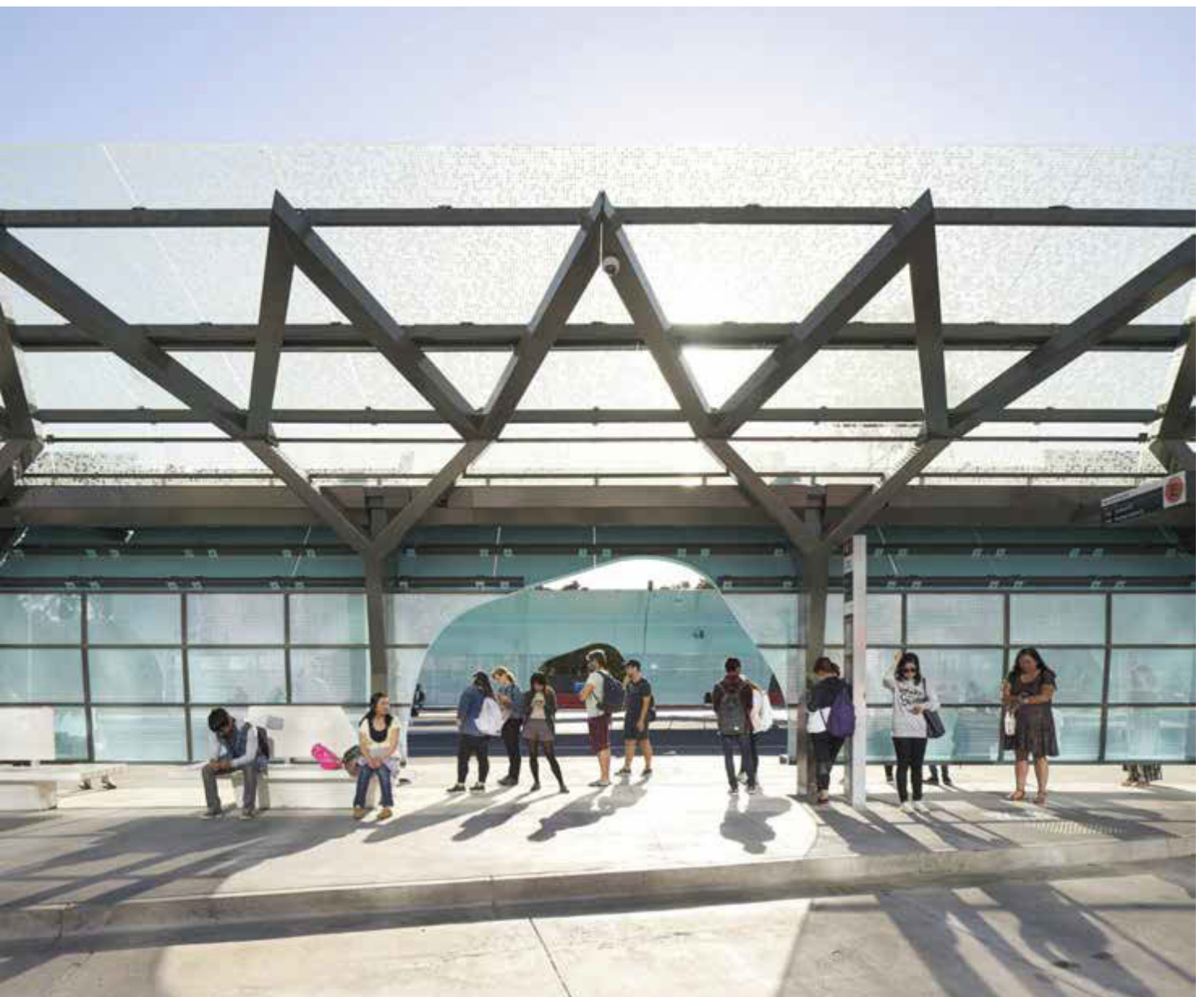
2.15 Probity

A mandatory requirement of all government procurement is to maintain transparency and probity.¹² Probity can be defined as "complete and proper ethical conduct and propriety in dealings with the market".¹³ It requires Government to act with complete and confirmed integrity, fairness and honesty. It is demonstrated by transparency of actions, equity, confidentiality and managing actual and perceived conflicts of interest. Good procurement practices are competitive and provide equal opportunity to all parties supported by appropriately skilled and experienced probity advisors.

Where design is an integrated component of a bid process, for example as part of an Interactive Tender Workshop, the market engagement strategy will often require an open dialogue between a design team, the client and a designated stakeholder group. Undertaken in alignment with the agency's probity requirements, a rigorous but flexible probity process can assist in allowing frank dialogue and constructive critique to the benefit of better design outcomes.

RECOMMENDATIONS

- » Ensure design quality is published in the evaluation criteria and fairly represented in the tender assessment.
- » Ensure each tender bid remains confidential and appropriately manage tenderer's design innovations and intellectual property.
- » Include state government representatives with design expertise as part of assessment panels as appropriate.
- » Understand that probity is a tool to support fair competition and should not compromise the success of the design quality.
- » Establish a safe probity environment that supports interactive design workshops and reviews which enable the best outcome of each proposal.
- » Provide a safe probity environment which allows stakeholder representatives to participate in review of the design proposals.



'Over-sensitivity to risk can have a profound effect on the quality of public space. It can restrict innovation, leading to more standardised designs and less interesting places.

Good design can help manage risk, rather than being compelled to eliminate it. Design can help people to be risk aware rather than risk averse.'

Living with Risk: Promoting better public space design', Commission for Architecture and the Built Environment, (CABE), May 2007.

2.16 Managing risk through design

All construction projects contain physical risk, both in construction and eventual use of the building, and there are also time-related and financial risks inherent in the construction process. To maintain commitment to a quality result, the client should acknowledge that risk is an accepted part of the design process and needs to be set out and assessed.

An astutely structured design process can help minimise risks to a project. The key is not only to anticipate what the problems might be, but also to understand the level of risk and how that will inform realistic decisions. The risks can also be considered as opportunities for innovation that might be brought to the project through strategic design thinking. Therefore, the drive should not be to design out the risks but allow contingencies that can cater for cost or time potentially associated with these risks.

Architectural design is not a subjective or aesthetic activity, unrelated to risk management. Instead it can be evaluated in quantitative or qualitative terms. The architect's understanding of the design intent helps to anticipate a number of risks early in a project. To protect design quality an architect can assist the contractor to avoid risk related to the project's budget, constructability, services coordination and regulatory approvals as well as the time and cost risks associated with ongoing design changes.

RECOMMENDATIONS

- » Understand design as a research and development activity offering innovation, rather than simply a problem-solving activity.
- » Protect quality by allocating each risk to the party best able to manage it.
- » Ensure that the risk management plan for an investment includes procurement risks that may impact on design quality.
- » Manage the risks to the project with design advice to ensure the quality and legacy of the project is retained.
- » Use design review to mitigate unforeseen design issues and to provide confidence to the client team that the proposal is robust.
- » Provide a contingency for both design and construction to effectively manage risk.
- » Ensure that the decision-making tools needed to assess value for money in a project design also assess the fitness for purpose requirements.
- » Ensure that the design and construction process is interactive and that the design team are part of the risk management process.

2.17 Building Procurement Choices

It is important to understand that the type of procurement chosen will determine the relationship of the client to the design and construction teams.

The main difference between procurement methods is the involvement of 'direct' procurement of design or 'indirect' procurement of design. Using a 'direct' procurement method ensures that the client retains a direct relationship with the design team and that both retain greater control of the design process and therefore design quality. When implementing the 'indirect' approach the client relationship to the design team is separated and the design outcomes fall within the jurisdiction of the head contractor.

It is important to obtain comprehensive advice about the most suitable building procurement models to use from those with experience in the different forms of delivery and with a balanced view of the related issues of cost, time and quality.

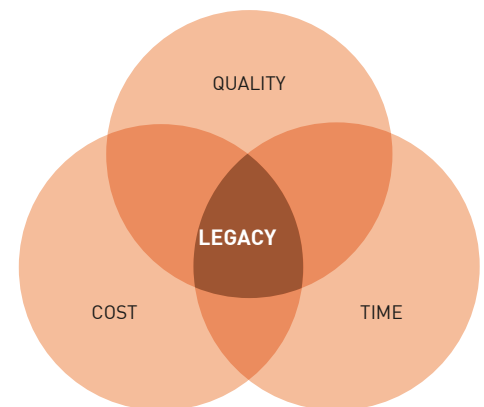
The decision about the most appropriate procurement model for delivering the project will generally be made during the business case and reconfirmed at the commencement of the procurement process. Procurement analysis will consider how a number of different procurement methodologies will treat and manage the important elements, or key evaluation criteria, of the project. To ensure that design quality is considered in the procurement methodology selection process, it is important that it is included as a key evaluation criterion. The procurement strategy will also outline how the preferred procurement methodology will be adapted to suit the specific project, including the delivery of design requirements.

RECOMMENDATIONS

- » **Ensure that design quality is embedded within the business case and will apply in whichever model of procurement is selected.**
- » **Seek advice from those experienced in procurement methodologies and with a balanced view of the related issues of time, cost and design quality.**
- » **Allow adaptations to procurement methods where they will ensure that quality and good design are embedded in the process.**

In the context of these guidelines building procurement means the management of and stewardship for the construction of a building or infrastructure. Procurement involves not just the contractual method but also the execution of a built project from idea to delivery and on to operation and audit.

For further information on how to develop a procurement plan, see Stage 2 Procurement of DTF's Investment Lifecycle and HVHR Guidelines 2019.



'Post-occupancy evaluations can include some or all of the following:

- » building technical performance measured against specified standards
- » user satisfaction
- » fitness for purpose
- » satisfaction or adequacy of the brief
- » achievement of expected financial or investment outcomes
- » process for project delivery
- » effectiveness of the architect/client management procedures, and
- » ongoing or lifecycle performance'

Acumen AIA Practice Services

'As few as 3% of architects undertake regular POE (for clients) despite the serious benefits that it can bring.'

Procurement in the UK – Flora Samuel, NSW Architecture Bulletin March 2019.

2.18 Post Occupancy Evaluation

Post Occupancy Evaluation (POE) is a structured and systematic analysis of the performance of a built outcome measured against specified objectives. It can be undertaken as a detailed study by architects and specialist consultants, or as a series of surveys at regular intervals seeking feedback from operators and users. A POE should not be confused with DTF's Gate Six Benefits Realisation review.

Post Occupancy Evaluation is crucial to encouraging good project outcomes by allowing others to learn from the experience of previous projects. It is a way of reliably finding out whether a project was a success and can inform future projects. It can identify the success and weaknesses and can provide a resource of relevant benchmarks.

It is important that any evaluation outlines the purpose and the objectives of the review. It may be focussed on specific issues regarding the delivery outcomes of the project, safety and comfort, operational performance data, or even to inform future procurement methods for project delivery and their impact on design outcomes. Evaluation of the procurement method can identify what worked best or what can be improved in the project delivery approach. Such Post Occupancy Evaluations are best conducted reasonably soon after occupation, while events are still remembered and the project team is still together.

While Post Occupancy Evaluation may be focussed specifically on providing particular information through the investigation process, it may also highlight other factors impacting upon the specific issues being assessed. By undertaking a formal evaluation process, information is accurately recorded avoiding a false impression of the project and its design outcomes.

RECOMMENDATIONS

- » **Stipulate the assessment criteria for POE in the project brief.**
- » **The design team or architect undertakes the POE at least 12 months after occupation.**
- » **Ensure the evaluation is a constructive process such that the design or consultant teams need not be defensive about identified problems in the finished product.**
- » **Seek feedback from users/occupants.**
- » **Provide satisfactory resources, time and access to all relevant information and personnel to inform the POE.**
- » **Ensure a well-considered presentation of the findings.**
- » **Ensure a commitment to apply the knowledge to future projects.**

2.19 Government Policy Obligations

A significant influencer on procurement methodologies and approaches, is meeting government policy.

Key policies that may have to be considered by the private sector include:

- » the Local Jobs First Policy (LJF Policy) which supports local businesses and workers by ensuring that small and medium size enterprises are given a full and fair opportunity to compete for both large and small government contracts. The LJF Policy comprises the Victorian Industry Participation Policy (VIPP) and depending on the type and scale of project, the Major Projects Skills Guarantee (MPSG).
- » the Social Procurement Framework and the Value Creation and Capture Framework are also requirements under government policy, while public construction is subject to the Ministerial Directions and Instructions under the Project Development and Construction Management Act 1994 (Vic).
- » the Modern Slavery Act 2018 which requires reporting on any modern slavery risk and providing information on the Principal Consultant's supply chain and that of its subconsultants and suppliers.
- » the Working for Victoria initiative used by the Victorian Government to assist businesses to employ Victorian jobseekers.

The appointment of a head contractor effectively transfers compliance with policy obligations to the private sector with the advantage that it reduces the administrative burden on the government agency. The challenge is that compliance with policy can add to the cost of the project and requires sufficient time during procurement for compliance, which can lead to delays. Policy compliance must also be considered in the design brief to accommodate the requirement for at least 90% local content which may limit the range of materials, finishes fixtures, fittings and other building systems that can be specified.

A key initiative to help government to be a better client is the Victorian Digital Asset Strategy. The VDAS aims to capture the valuable data generated at each stage of an asset's lifecycle, recognising that this data can and should be used for the public good.

'Decisions for public good demand quality information. Quality information needs fit-for purpose data. Any break in this chain erodes quality decision making.'

Victorian Digital Asset Strategy 2020, Office of Projects Victoria



2.20 Standard Contracts

The use of standard contracts fairly negotiated between industry and government reduces the need for costly legal review or negotiations. Such contracts give all parties the comfort of knowing that risk and reward is allocated fairly.

The Victorian Public Sector Consultancy Agreements – Long and Short Form – are the two forms of consultancy agreements approved by the Secretary to the Department of Treasury and Finance. The Victorian Public Sector Consultancy Agreements reflect the government's preferred commercial position and avoid the need to issue Special Conditions of Contract.

Nationally, the Australian Standard 4122-2010 General Conditions of Contract for Consultants for all professional services, was developed by government and industry representatives to agree a fair and balanced contract that would reduce the need for bespoke contracts and achieve significant cost savings by reducing the need for protracted contract negotiations.¹⁴ Unnecessarily onerous contracts will result in less desirable project outcomes, higher costs and less certainty.

The decision to attach special conditions, undermines the benefit of using a standard contract, as further negotiation is often required like in the case of using a bespoke contract. Any special condition needs to have a clear reason for inclusion.

'In most cases, Project IP should be owned by the contracting party, and the State should seek a licence to use it.'

Intellectual Property in Procurement – Fact sheet for departments and agencies, Department of Treasury and Finance, 2016.

2.21 Intellectual Property

Procurement by the State often involves intellectual property (IP) rights. The State's IP Policy provides guidance to departments and agencies about how to deal with IP in procurement. Intellectual Property covers both copyright and moral rights.

The design the architect creates for the client is considered an 'artistic work' that can attract copyright under the Copyright Act. The Architect is the 'author' of the 'artistic work' or 'design' under the Copyright Act. The Design is defined as all the architect's services, the design concepts, drawings and documents the architect produces for the client's project.

The client architect agreement should give the client a licence right to use the design only for their project and only on the site. This means the right to use the design cannot be given to another party and the client cannot use the design on another site unless the architect has first given the client permission to do so. The client may pass on the licence to whoever needs to construct and maintain the building. The client never owns the copyright in the design, unless this is specifically agreed to by the architect and client.

Moral rights are an intellectual property right of an author to protect the integrity and ownership of their work. These rights are protected by the Copyright Act. An architect has moral rights and, as the author of the design, is entitled to be correctly recognised (attributed) as the author of the design. The architect must be attributed in any information containing a 2D or 3D representation of the project.

The Copyright Act moral rights provisions make it mandatory for everyone, including the client, to attribute the architect as the author of the design, even if the design doesn't get built or is not completed. The moral rights provisions also give the architect a right to photograph or record the built design. It is in the best interests of the community and the profession for the views of the original designer to be considered, where possible, in the design of proposed alterations or demolition.

Project: Dandenong Mental Health Facility
Architects: Bates Smart and Irwin Alsop Architects
Landscape architect: LBA Design
Photographer: Grant Cutelli



Accessibility

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