



Agenda

Council Meeting

7.00pm, Tuesday 2 August 2022

Richmond Town Hall

Council Meetings

Council Meetings are public forums where Councillors come together to meet as a Council and make decisions about important, strategic and other matters. The Mayor presides over all Council Meetings, and they are conducted in accordance with the City of Yarra Governance Rules 2020 and the Council Meetings Operations Policy.

Council meetings are decision-making forums and only Councillors have a formal role. However, Council is committed to transparent governance and to ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered before the decision is made.

There are two ways you can participate in the meeting.

Public Question Time

Yarra City Council welcomes questions from members of the community.

Ideally, questions should be submitted to Council in writing by midday on the day of the meeting via the form available on our website. Submitting your question in advance helps us to provide a more comprehensive answer. Questions that have been submitted in advance will be answered first.

Public question time is an opportunity to ask questions about issues for which you have not been able to gain a satisfactory response on a matter. As such, public question time is not:

- a time to make statements or engage in debate with Councillors;
- a forum to be used in relation to planning application matters which are required to be submitted and considered as part of the formal planning submission;
- a forum for initially raising operational matters, which should be directed to the administration in the first instance;

If you wish to raise matters in relation to an item on this meeting agenda, Council will consider submissions on these items in conjunction with and prior to debate on that agenda item.

When you are invited by the Mayor to ask your question, please come forward, take a seat at the microphone, state your name clearly for the record and:

- direct your question to the Mayor;
- refrain from making statements or engaging in debate
- don't raise operational matters which have not previously been raised with the Council administration;
- not ask questions about matter listed on the agenda for the current meeting.
- refrain from repeating questions that have been previously asked; and
- if asking a question on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have asked your question, please remain silent unless called upon by the Mayor to make further comment or to clarify any aspects.

Public submissions

Before each item is considered, the meeting chair will ask people in attendance if they wish to make submission. If you want to make a submission, simply raise your hand and the Mayor will invite you to come forward, take a seat at the microphone, state your name clearly for the record and:

- Speak for a maximum of five minutes;
- direct your submission to the Mayor;
- confine your submission to the subject under consideration;
- avoid repetition and restating previous submitters;
- refrain from asking questions or seeking comments from the Councillors or other submitters;
- if speaking on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have made your submission, please remain silent unless called upon by the Mayor to make further comment or to clarify any aspects.

Once all submissions have been received, the formal debate may commence. Once the debate has commenced, no further submissions, questions or comments from submitters can be received.

Arrangements to ensure our meetings are accessible to the public

Council meetings are held at either the Richmond Town Hall or the Fitzroy Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (off Moor Street at Fitzroy, entry foyer at Richmond).
- Interpreting assistance is available by arrangement (tel. 9205 5110).
- Auslan interpreting is available by arrangement (tel. 9205 5110).
- A hearing loop is available at Richmond only and the receiver accessory is available by arrangement (tel. 9205 5110).
- Proposed resolutions are displayed on large screen.
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available at each venue.

Recording and Publication of Meetings

An audio recording is made of all public Council Meetings and then published on Council's website. By participating in proceedings (including during Public Question Time or in making a submission regarding an item before Council), you agree to this publication. You should be aware that any private information volunteered by you during your participation in a meeting is subject to recording and publication.

Order of business

1. **Acknowledgement of Country**
2. **Attendance, apologies and requests for leave of absence**
3. **Announcements**
4. **Declarations of conflict of interest**
5. **Confidential business reports**
6. **Confirmation of minutes**
7. **Public question time**
8. **Council business reports**
9. **Notices of motion**
10. **Petitions and joint letters**
11. **Questions without notice**
12. **Delegates' reports**
13. **General business**
14. **Urgent business**

1. Acknowledgment of Country

“Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.

We acknowledge their creator spirit Bunjil, their ancestors and their Elders.

We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.

We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.

We pay our respects to Elders from all nations here today—and to their Elders past, present and future.”

2. Attendance, apologies and requests for leave of absence

Attendance

Councillors

- Cr Edward Crossland Deputy Mayor
- Cr Gabrielle de Vietri Councillor
- Cr Stephen Jolly Councillor
- Cr Herschel Landes Councillor
- Cr Anab Mohamud Councillor
- Cr Bridgid O’Brien Councillor
- Cr Amanda Stone Councillor

Council officers

- Sue Wilkinson Chief Executive Officer
- Brooke Colbert Group Manager Advocacy and Engagement
- Malcolm Foard Director Community Wellbeing
- Ivan Gilbert Group Manager Chief Executive’s Office
- Gracie Karabinis Group Manager People and Culture
- Chris Leivers Director City Works and Assets
- Diarmuid McAlary Director Corporate, Business and Finance
- Bruce Phillips Director Planning and Place Making
- Rhys Thomas Senior Governance Advisor
- Mel Nikou Governance Officer

Municipal Monitor

- Yehudi Blacher Municipal Monitor

Leave of absence

- Cr Claudia Nguyen Councillor
- Cr Sophie Wade Mayor

3. Announcements

An opportunity is provided for the Mayor to make any necessary announcements.

4. Declarations of conflict of interest (Councillors and staff)

Any Councillor who has a conflict of interest in a matter being considered at this meeting is required to disclose that interest either by explaining the nature of the conflict of interest to those present or advising that they have disclosed the nature of the interest in writing to the Chief Executive Officer before the meeting commenced.

5. Confidential business reports

Nil

6. Confirmation of minutes

RECOMMENDATION

That the minutes of the Council Meeting held on Tuesday 12 July 2022 be confirmed.

7. Public question time

An opportunity is provided for questions from members of the public.

8. Council business reports

Item	Page	Rec. Page	Report Presenter
8.1 Draft Planning Scheme Amendment C291yara - Bridge Road and Victoria Street Built Form Provisions	8	32	Leonie Kirkwood – Project and Policy Coordinator Strategic Planning

9. Notices of motion

Nil

10. Petitions and joint letters

An opportunity exists for any Councillor to table a petition or joint letter for Council's consideration.

11. Questions without notice

An opportunity is provided for Councillors to ask questions of the Mayor or Chief Executive Officer.

12. Delegate's reports

An opportunity is provided for Councillors to table or present a Delegate's Report.

13. General business

An opportunity is provided for Councillors to raise items of General Business for Council's consideration.

14. Urgent business

An opportunity is provided for the Chief Executive Officer to introduce items of Urgent Business.

8.1 Draft Planning Scheme Amendment C291yara - Bridge Road and Victoria Street Built Form Provisions

Executive Summary

Conflict of interest

The Chief Executive Officer has previously disclosed a conflict of interest in relation to this matter by virtue of her ownership of a residential property immediately outside the area subject to the amendment. She has not participated in any discussions or provided advice regarding the amendment and has delegated the Director City Works and Assets to act on her behalf in this regard. She intends to leave the meeting while this matter is considered.

Purpose

The purpose of this item is to consider:

- (a) the report of the independent *Yarra Activity Centres Standing Advisory Committee* concerning draft Amendment C291yara – Bridge Road and Victoria Street Major Activity Centres.
- (b) the officer recommendations in respect of the Standing Advisory Committee report.

Key Issues

The report from the *Yarra Activity Centre Standing Advisory Committee* (the Committee), appointed to consider Amendment C291yara has been received.

Council prepared draft Amendment C291yara (the Amendment) to apply built form planning provisions to Bridge Road and Victoria Street to manage built form change in these two centres.

In summary, the Amendment proposes to:

- (a) apply ten permanent schedules to Clause 43.02 *Design and Development Overlay* which replace the two interim DDOs – DDO21 and DDO22; and
- (b) add new local policy.

The Advisory Committee supported the Amendment with changes.

These changes are largely as advocated by Council in the ‘preferred version’ of the Amendment endorsed by Council at its meeting on 21 December 2021, following the consideration of submissions.

Council now has the opportunity to form a final position on the Amendment which would be considered by the Minister for Planning (the Minister) before making a decision on Amendment C291yara.

Financial Implications

Costs associated with the Committee process have been met through the City Strategy Branch and Governance budgets.

PROPOSAL

Council could adopt the amendment, with or without changes, and provide its adopted version to the Minister for approval. Alternatively, it could request the Minister not pursue the amendment.

The officer recommendation is to adopt the Amendment with changes based on the justification outlined in this report, and request the Minister for Planning prepare, adopt and approve a formal planning scheme amendment in the same form as the draft Amendment using powers under Section 20(4) of the Planning and Environment 1987 Act (the Act).

8.1 Draft Planning Scheme Amendment C291yara - Bridge Road and Victoria Street Built Form Provisions

Reference	D22/103662
Author	Leonie Kirkwood - Project and Planning Coordinator
Authoriser	Manager Statutory Planning

Purpose

1. The purpose of this item is for Council to:
 - (a) note the report of the *Yarra Activity Centres Standing Advisory Committee* (the Committee) concerning draft Amendment C291yara regarding Bridge Road and Victoria Street Built Form Provisions; and
 - (b) consider the officer recommendations in respect of the Committee Report.

Critical analysis

History and background

2. Council prepared draft Amendment C291yara (the Amendment) to introduce permanent built form provisions to manage built form change within the Bridge Road and Victoria Street Major Activity Centres.
3. Council resolved at its meeting on 20 April 2021 to progress permanent planning controls for Bridge Road and Victoria Street Major Activity Centres via *Yarra Activity Centres Standing Advisory Committee* established under Part 7 Section 151 of the *Planning and Environment Act 1987*.

Amendment C291yara

4. The draft amendment aims to strike a balance between ensuring new buildings respond sensitively to heritage buildings, minimise their impacts on footpaths, parks and neighbouring residential areas whilst allowing commercial and mixed-use development.
5. Amendment C291yara implements the findings of strategic work in urban design (MGS Architects), heritage (GJM Heritage) and traffic (Traffix Consultants) to provide advice to form the basis of the Amendment.
6. The Amendment:
 - (a) seeks to replace the interim 'Design and Development Overlay' provisions for Bridge Road - DDO21 and Victoria Street - DDO22 with ten (10) separate DDOs (Bridge Road DDO41- DDO45 and Victoria Street DDO46 – DDO50) within the Yarra Planning Scheme with permanent planning scheme provisions;
 - (b) adds new local planning policy covering built form, heritage, access and movement and public realm;
 - (c) adds new reference / background documents; and
 - (d) updates the planning scheme maps to map the ten new DDOs.
7. As the Interim DDO provisions expire on 31 March 2023, Council continues to progress the proposed permanent DDO provisions. Permanent provisions are essential to manage change and provide greater certainty about future development outcomes in the Victoria Street and Bridge Road Major Activity Centres.

Figure 1 - Areas affected by the Amendment - Bridge Road and Victoria Street



The Amendment Process

8. The Minister for Planning gave consent to exhibit draft Amendment C291yara in August 2021. The Amendment was publicly exhibited from 14 September to 27 October 2021 (six weeks). See Community and stakeholder engagement for the details of the exhibition.
9. A total of 122 submissions were received, including one submission with 36 signatures. Submissions came from a broad spectrum of the community ranging from community groups, residents and landholders/developers.
10. On 21 December 2021, Council considered the submissions and resolved to request the Minister refer the amendment and submissions to the *Yarra Activity Centres Standing Advisory Committee*.
11. At the December 2021 Council meeting, Council adopted a set of proposed changes to the Amendment in response to submissions to advocate for at the Hearing.
12. Following the Council meeting, additional notice (in the form of letters) was sent out to submitters and land owners affected by any recommended changes to the draft amendment to advise them of proposed changes.
13. In response to notice, Council received 11 additional submissions - eight from existing submitters and three from new submitters. The 11 additional submissions were sent to DELWP and referred to the Committee.

Standing Advisory Committee

14. The Standing Advisory Committee (SAC) appointed by the Minister consisted of three members with experience in strategic and statutory planning, built form and heritage, retail and economics and planning law.
15. The hearing was held over 12 days commencing on 4 April 2022 and concluded on 22 April 2022.
16. Council's Part A and B submissions to the Committee were based on the position endorsed at the Council meeting on 21 December 2021.
17. At the close of the hearing, Council was directed to submit final versions of DDO41-50 and Clause 11.03-1L indicating the changes suggested by submitters and experts which officers support (Post hearing – Part C version). The Post hearing versions were circulated to the Committee and all parties.

18. Together with the Part A, B and C submissions, Council provided evidence from the following expert witnesses:
 - (a) Rob McGauran from MGS Architects on urban design;
 - (b) Jim Gard'ner from GJM Heritage on heritage;
 - (c) David Barnes from Hansen Partnership on planning;
 - (d) Charmaine Dunstan from Traffix Consultant on traffic; and
 - (e) Julian Szafraniec from SGS Economics and Planning on capacity analysis.
19. Nine residents, two resident groups and 14 landowners participated in the hearing.
20. The Committee considered all submissions and amendment documentation, including Council's preferred DDOs, endorsed by Council at its ordinary meeting on 21 December 2021.

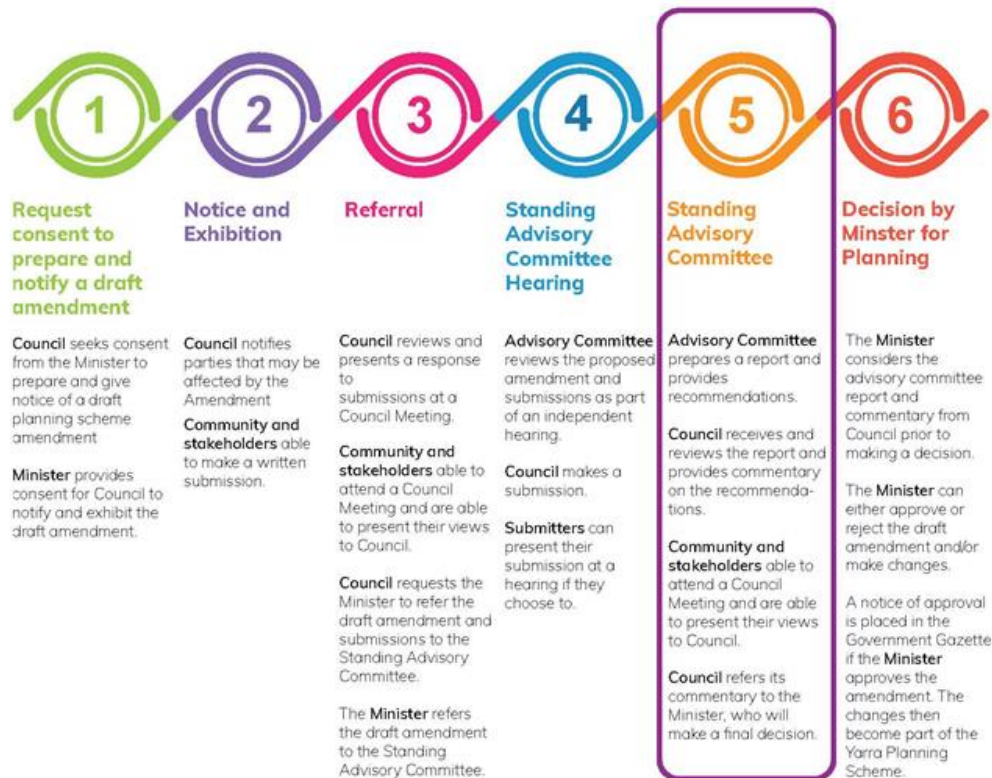
Standing Advisory Committee Report

21. The Committee Report was received by Council on 27 June 2022 and publicly released on 7 July 2022. A copy of the Amendment C291yara Committee Report can be viewed at Attachment 1.
22. NOTE - The 'Overarching Report' which provides the policy context for both amendments considered by the Committee (i.e. this Amendment C291yara and also C293yara – Collingwood South Mixed Use Precinct) is not attached to this report; but is available on Council's website.
23. The Committee:
 - (a) commends Council for integrating built form, heritage, access and movement through a single strategic approach. This approach ensures that development is enabled without compromising existing identified heritage or negatively impacting on access and the surrounding traffic network;
 - (b) considers the background studies form a sound basis for the Amendment. The Built Form Report and the heritage studies have comprehensively explored the built form opportunities, while also better understanding the two activity centres' heritage;
 - (c) considers the Amendment will contribute towards Yarra providing sufficient residential and commercial capacity across its municipality to meet future demand;
 - (d) supports most of the changes Council adopted in its preferred version of the Amendment; and
 - (e) supports Council's approach to mandatory controls, however, has made a few recommended changes to specific sites.
24. The Committee recommended that the Amendment should be approved subject to recommended changes as shown in Appendices E and F to the Committee Report.
25. The '*Committee preferred version of the planning provisions*', set out in Appendices E and F, show the Committee's mark-ups of Council's exhibited DDOs and Local Policy in Clause 11.03-1L.
26. Officers note that the Committee has not provided marked-up versions of all ten DDOs in its Appendix F - only DDO41, DDO43, DDO44, DDO48, DDO49 and DDO50. Officers contacted Planning Panels Victoria to confirm the approach to be taken to the other DDOs. It confirmed that not all DDO schedules are appended and that the drafting changes recommended by the Committee should be replicated throughout all schedules.

Next steps in the process

27. The current step in the process is the final step for Council (Figure 2).

Figure 2 - Steps in the Standing Advisory Committee amendment process



28. Council needs to now consider the Committee Report and form a final position on the Amendment so the Minister for Planning can consider it before making a decision on Amendment C291yara.
29. Following Council's consideration of the final form of the amendment, and in order to progress the amendment, Council would need to request the Minister for Planning prepare, adopt and approve a formal planning scheme amendment in the same form as the draft Amendment using powers under section 20(4) of the Act.
30. A request for a Ministerial or section 20(4) (which would take place without further consultation) is considered appropriate as the Amendment has been exhibited, submissions received and a public hearing held.

Discussion

Committee Recommendations and officer response

31. The Committee Report supported the Amendment, with changes largely as advocated for by Council during the hearing, and recommended it be approved with changes.
32. The officer response to the Committee's recommendations is provided at Attachment 2. It outlines all the changes recommended by the Committee and provides the officer response to each recommended change and should be read in conjunction with this report.
33. Attachment 2 also includes some minor 'Officer recommended changes' identified on final review of the wording of the DDOs. The changes include further improvements and clarifications to the wording and made corrections to some minor mapping errors. These changes do not alter the outcome or intent of the DDOs.
34. Attachment 3 provides a marked-up version of the exhibited Amendment showing the recommended officer changes.
35. Attachment 4 provides a clean version of the Amendment for adoption.

36. Officers agree with most of the recommendations made by the Committee, except the following four issues:
- (a) the proposed deletion of two criteria for assessing preferred (discretionary) building heights - the BESS (Built Environment Sustainability Scorecard) standard requirement and private / communal open space requirement (in DDO41-50);
 - (b) the application of a discretionary height of 15m to 35-47 Lithgow Street, replacing the mandatory 15m height (in DDO49);
 - (c) the application of discretionary heights instead of mandatory heights to the south side of Victoria Street, between Church and Lambert Streets (except for land subject to the Heritage Overlay) and between McKay and Johnson Streets (in DDO50); and
 - (d) the retention of a 6m rather than an 8m landscape setback on the eastern boundary of 566 Bridge Road - the Officeworks site (in DDO44).
37. Most of the Committee’s proposed changes to the preferred DDOs and Clause 11.03-1L are minor in nature. These changes are supported by officers and reflect the Post-hearing – Part C version of the Amendment submitted to the Committee.

Issues outside the scope of the amendment

38. The Committee noted it received or heard submissions that raised several issues that are beyond the scope of the Amendment (see Table 1).

Table 1 - Issues outside the scope of the amendment

Issues	Comments from the Committee
Specific permit applications or development proposals	The Committee has used this information for context and to understand current or expected development activity. Issues associated with development proposals are considered during the planning permit application process.
Requests to rezone properties or remove the Public Acquisition Overlay	The Committee could only consider the exhibited Amendment which proposes to apply built form provisions, therefore requests to rezone land or issues associated with the Public Acquisition Overlay are outside the scope of the Amendment.
Transport issues including car parking, public transport, and bicycle infrastructure	Potential impacts associated with vehicular, pedestrian and bicycle traffic and parking may be relevant during the planning permit application stage when development proposal details are known.
Public open space or improvements to public realm	These are matters for Council to consider through either the planning permit application stage or a separate planning scheme amendment process.
Amenity issues relating to views from within private property, noise and construction activity	The Amendment does not regulate views from private property. Other amenity issues may be relevant at the planning permit application stage.
Waste collection and emergency vehicles	Similar to transport issues, these impacts may be relevant during the planning permit application stage when development proposal details are known.
Environmentally sustainable development	Environmentally sustainable development (ESD) is managed through existing Clause 22.17 provisions in the Planning Scheme.
Effects on property values and compensation	The Act requires the planning authority (Council) to consider any economic effects of the Amendment on the broader community. Council responded to this through the Amendment’s explanatory report. Economic effects, as contemplated by the Act, does not extend to private individual financial impact or compensation or property value.

Issues	Comments from the Committee
Community consultation	Council publicly exhibited the Amendment to owners and occupiers for six weeks, which exceeds the minimum timeframe specified in the Act. Based on available information, Council has satisfactorily met its statutory obligations regarding community consultation.

Centre-wide issues

39. The following provides a summary of the centre-wide issues and findings of the Committee.
40. Key precinct or DDO-specific recommendations are addressed in Tables 3 to 10 or in Attachment 2.

Table 2 – Centre-wide issues

Key issues	Committee findings / recommendations
Building Heights	<ul style="list-style-type: none"> • The Committee considered the proposed building heights strike an appropriate balance between development opportunity, heritage and public and private amenity outcomes. • The building heights are based on sound strategic planning which has considered a variety of competing issues to achieve a well-balanced outcome. • The Committee supports all heights proposed, except heights which apply to the rear of 146-148 Bridge Road. Here the Committee recommended an increase from 18m to 21m. (See Precinct-specific issues – Table 3 - DDO41 for the officer response.)
Mandatory controls	<ul style="list-style-type: none"> • The Committee found the proposed combination of discretionary and mandatory built form provisions are appropriate and based on comprehensive strategic work. • While discretionary provisions are the tool preferred by the State Government in the Victorian planning system, the Committee concluded that Council had made an appropriate case for introducing mandatory controls, consistent with <i>Planning Practice Notes 59: The Role of Mandatory Provisions in Planning Schemes (PPN59)</i> and <i>60: Height and Setback Controls for Activity Centres (PPN60)</i>. • Their view was that the mandatory controls are not aimed at restricting development. Rather, they are aimed at facilitating good design and heritage outcomes. • The Committee supports applying mandatory controls to protect and manage: <ul style="list-style-type: none"> – the existing heritage qualities of the centres generally; – the heritage qualities of stand-alone heritage buildings; – the protection of views to landmarks, namely the Pelaco sign, Richmond Town Hall, St Ignatius Church and Skipping Girl sign, and – the protection of solar access to designated streets and areas. • However, it recommends the removal of mandatory heights for: <ul style="list-style-type: none"> – 393-395 Bridge Road (mandatory 18m height to discretionary); – 35-47 Lithgow Street (mandatory 15m height to discretionary); – South side of Victoria Street between Church and Lambert Streets, excluding sites in the Heritage Overlay (mandatory height to discretionary), and

Key issues	Committee findings / recommendations
	<ul style="list-style-type: none"> - South side of Victoria Street between McKay and Johnston Streets (various mandatory heights to discretionary). (See Precinct-specific issues for the officer responses.)
Criteria for varying discretionary maximum building heights	<ul style="list-style-type: none"> • The Amendment proposes performance-based criteria which should be considered where development proposals seek to exceed preferred (discretionary) maximum building heights. • As part of the consent to prepare and exhibit C291, the Minister specifically requested the Committee investigate the appropriateness of performance-based measures which are not directly built form related. • The Committee took the same approach as in Amendment C293 – (Collingwood South) and recommends the removal of the following criteria: <ul style="list-style-type: none"> - BESS score of 70% (ESD); - Housing diversity; - Accessibility provisions; - End of trip facilities and bike parking, and - Communal and private open space. • The Committee considers the criteria must have a clear and direct relationship between the height and design and amenity objectives sought to be achieved. • In terms of the two additional criteria proposed by Council at its 21 December meeting for the Committee to consider, the Committee does not support the use of: <ul style="list-style-type: none"> - non-statutory processes - this includes referring permit applications to an external design review body (e.g. Office of the Victorian Government Architect). - housing affordability, commenting this warrants a more appropriate and certain implementation framework. • See detailed officer response below.
Heritage	<ul style="list-style-type: none"> • The Committee commended Council for its integrated approach to assessing the relationship between existing heritage precincts and planning provisions which seek to ensure that any new development sensitively responds to the existing fabric. • The Committee found heritage reports for each activity centre form a robust foundation justifying the built form provisions, including the use of mandatory maximum building heights and minimum upper-level setbacks. • On the issue of upper level setbacks and facadism, the Committee noted <i>'the Amendment does not propose to require a minimum proportion of the building to be retained to avoid facadism. Specifically, the mandatory six metre upper-level setback does not require the heritage building beneath to be retained. However, the Heritage Overlay requires a planning permit to demolish part of the building. This provides Council with the ability to assess such a proposal on a case-by-case basis and when design details are known.'</i> (Page 14)
Views to the landmarks	<ul style="list-style-type: none"> • The Committee supports the provisions that seek to protect views to significant landmarks underpinned by background work. • The views that attracted the most discussion in the hearing were the two views from Wellington Parade to the Pelaco sign.

Key issues	Committee findings / recommendations
	<ul style="list-style-type: none"> • The Committee considers that the two views to the Pelaco sign from Wellington Parade are significant and allow a heroic experience of the Pelaco sign when entering Richmond. • It recommends Council check the accuracy of the location of landmarks in the relevant DDOs. • The Committee commented that Council should consider separate DDO schedules which show landmarks, viewlines and the properties affected. They did not consider this essential at this stage, but noted it would simplify provisions for the end user.
Residential Interfaces	<ul style="list-style-type: none"> • The Committee supports the proposed interfaces to residential areas and between commercial and mixed use areas. • In response to submissions seeking consistency with the interface provisions in the Swan Street Activity Centre, it found no strategic reason to adopt this approach. It considered the interfaces for each activity centre should be assessed based on their own context. • The Committee supports changes to improve amenity outcomes proposed by Council (in December 2021) in response to submissions: <ul style="list-style-type: none"> – the increased upper level setbacks proposed in Little Hoddle Street; – the revised rear interface for properties to the south of Bridge Road and Victoria Street – Interface J, and – additional landscape setbacks proposed for the southern boundaries of a large development site at 198-242 Burnley Street. • However, it did not support Council’s proposed 8m landscape setback on the eastern side of 566 Bridge Road (the Officeworks site) - increased from 6m following exhibition. (See Precinct-specific issues Table 6 - DDO44 for the officer response)
Overshadowing of the public realm	<ul style="list-style-type: none"> • The Committee supports the protection of solar access to key pedestrian footpaths and public open space at the September Equinox. • It supports mandatory controls for Bridge Road and Victoria Street footpaths and discretionary provisions for other specified streets and public open spaces. • The Committee supports minor corrections to the overshadowing provisions to provide clarity of intent.
Building separation and design quality	<ul style="list-style-type: none"> • Building separation provisions - The Committee acknowledged Clause 58 Apartment Developments in the Planning Scheme regulates some similar amenity outcomes, but considers the proposed provisions provide additional guidance and metrics. • Opportunities for lot consolidation provisions – It noted the policy is not mandatory and does not consider it would force fine grain heritage sites to redevelop.
Access and movement	<ul style="list-style-type: none"> • The Committee supports Council’s proposed changes to the access and movement provisions in the DDOs in response to submissions (adopted in December 2021). It supports: <ul style="list-style-type: none"> – the requirements which clarify the role of the main streets in the two centres and limits vehicular access off those roads; – changes to the ‘Access and Movement Plans’ to remove the access notations for streets excepting main roads and ‘Green Streets’. (Noting the DDOs still require development to provide vehicular

Key issues	Committee findings / recommendations
	<p>access from rear lanes or from side streets, however this will be 'where appropriate'.);</p> <ul style="list-style-type: none"> - a requirement which seeks to improve the amenity and safety of laneways for vehicles and pedestrians, and - in DDO44, adding an annotation indicating access to Burnley Street may be considered depending on the size of carpark and support from the Department of Transport.

Criteria for varying discretionary maximum building heights

41. Officers do not support the Committee's recommendation to delete two of the criteria shown below, and propose to retain them in Amendment C291:
 - (a) the environmentally sustainable design requirements ("*excellence for environmentally sustainable design measured as a minimum BESS project score of 70%*"); and
 - (b) the requirement for buildings which exceed preferred heights in DDO41-50 to provide private/communal open space in excess of the minimum standards of Clause 55.07 and/or 55.08, as relevant.
42. Officers consider that both of these requirements are built form related, as a taller proposals can lead to increased impacts on the environment and demand on open space. Considering these matters at an early stage of the proposal is important as they can have an impact on the external built form of the proposal. Retaining these two requirements would ensure that the impacts of proposal are being mitigated.
43. Officers agree with the Committee that the other requirements it recommended to be deleted are not directly built form or amenity related. They mainly relate to the internal layout of a proposal and have less of an impact on the external form of a building.
44. Officers do not support the Committee's recommendation to delete the BESS requirement for the following reasons:
 - (a) the implementation of the requirement for a *minimum BESS project score of 70%* seeks to help mitigate the environmental impact of intensified development that proposes to exceed the preferred height;
 - (b) the minimum 70% BESS project score requirement aligns with Council's strategic objectives, including the *Council Plan 2021-2025* is 'Climate and Environment' objectives, which under Initiative (e) seeks to '*Complete work to introduce zero carbon standards into the planning scheme for new commercial and residential developments and seek change to the Victorian Planning Provisions via Ministerial approval*';
 - (c) the requirement is also consistent with Amendment C269yara (the 'policy' amendment adopted by Council on 19 April 2022) which includes a strategic direction under Clause 02.03-3 *Environmental risks and amenity* seeking to (amongst other things):

Embed sustainable environmental practices to Yarra's buildings, infrastructure, places, and spaces, including a framework for early consideration of environmental sustainability at the early building design stage; and
 - (d) the requirement was recently approved and is included in DDO25-28 which apply to the Swan Street Major Activity Centre.
45. Officers do not support the Committee's recommendation to delete the requirement to provide additional private/communal open space for the following reasons:

- (a) the two activity centres have limited public open space areas. Council received many submissions which raised concerns in relation to increased population and demand upon the public open spaces in the two activity centres;
- (b) a building which exceeds the preferred height in DDO41-50 is likely to contain more residents / workers and place more demand on already constrained public open spaces. Provision of additional private open space and communal open space within private property would alleviate some pressure on the limited public open spaces;
- (c) Council’s expert evidence on capacity projections (from Julian Szafraniec of SGS) noted “*post-pandemic, it is likely many workers (who are able to) will shift to a hybrid working model (i.e., not always in the office nor always working from home). This means work location will still be important to many, but it will be balanced against the quality and size of their home and the amenity and services in their local area. [...] these trends are also likely to shift dwelling type preferences toward larger forms, in terms of additional bedrooms/space*”;
- (d) the requirement is consistent with policy in Amendment C269yara (adopted by Council on 19 April 2022) which includes a strategic direction under Clause 02.03-4 Built environment and heritage to ‘*Design development and locate land uses to create people-oriented places with high standard of amenity on-site.*’; and
- (e) the requirement was recently approved and is included in DDO25-28 which apply to the Swan Street Major Activity Centre.

Precinct and DDO specific issues

46. The following summarises the Precinct and DDO-specific findings and recommendations of the Committee. Issues (such as residential interfaces) which apply to all precincts / DDOs are covered in Table 2 and Attachment 2 to this report.

Precinct 1 – Bridge Road West (DDO41)

- 47. A large number of written submissions relating to DDO41 were received during the exhibition of the Amendment from residents and representatives of landowners. Generally, residents raised concern with the height permitted under proposed DDO41 and other impacts of development such as noise, traffic and overlooking, while developers submitted that heights were too low, and that controls should not be mandatory.
- 48. Consequently, the precinct also attracted a large number of written and oral submissions during the hearing, mainly from landowners.

Table 3 – Committee recommendations and officer response – DDO41

DDO41 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<ul style="list-style-type: none"> • Proposed building heights and the application of mandatory and preferred heights in DDO41, except for height of the rear of 146 and 148 Bridge Road (see below). • Street wall heights and upper level setbacks. • Retention of View 1 (from Tram Stop 13 on Wellington Street immediately west of Simpson Street) and View 2 (from the footpath on the north west corner of Wellington Parade) to the Pelaco sign. <p style="text-align: center;"><i>The Committee considered the views are strategically justified and appropriate to include in DDO41. They are significant and allow a heroic experience of the Pelaco sign when entering Richmond.</i></p>
Committee recommendations – proposed changes	<ul style="list-style-type: none"> • Increase the mandatory building heights for the rear of 146 and 148 Bridge Road from 18m to 21m. <p style="text-align: center;"><i>The Committee considered these sites could support taller built form without impacting the heritage streetscape.</i></p>

DDO41 - Key committee findings / recommendations and officer response	
	<ul style="list-style-type: none"> • Include a definition of building heights which clarifies that mandatory height for 2-70 Bridge Road is measured horizontally from street level. <i>The Committee considered this necessary to ensure the mandatory maximum building height for 2-70 Bridge Road can be applied as intended to protect views to the Pelaco sign (i.e. horizontally rather than following natural ground level).</i>
Officer response to Committee recommendations	<p><i>146 to 148 Bridge Road</i></p> <ul style="list-style-type: none"> • Officers support the Committee’s recommendation to increase the heights of the rear portion of 146 to 148 Bridge Road. Higher built form at the rear of 146 and 148 Bridge Road would have no significant impact on the heritage streetscape or public realm due to the large setback from the Bridge Road frontage. In addition, it would not impact the views of the Pelaco sign. A mandatory control would ensure that development taller than 21m is not permitted. <p><i>2 to 70 Bridge Road</i></p> <ul style="list-style-type: none"> • Officers support the Committee’s recommendation. Surveying evidence produced at the hearing and additional modelling illustrated that the height to protect views did not require a development to follow the topography of the land. The Committee recommends a specific building height definition is applied for these properties measuring height horizontally rather than following natural ground level. (Council officers suggested this change in Council’s end of hearing version of DDO41.) The change will ensure that development is not unnecessarily restricted while protecting views to the Pelaco Sign. The rear interface controls will address the impacts of overall building heights to residential properties to the rear.

Precinct 2 – Bridge Road South (DDO42)

49. Submissions in relation to this precinct received during exhibition of the Amendment concerned the heritage streetscape, building heights and rear interfaces.
50. Representatives of the landowner of 300-306 Bridge Road appeared at the hearing and made submissions. They were concerned about mandatory controls and height.
51. Submissions were also made at the hearing by heritage groups and residents in relation to the heritage character of this precinct. Upper level setbacks and potential facadism were of concern.

Table 4 - Committee recommendations and officer response – DDO42

DDO42 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<ul style="list-style-type: none"> • Proposed 18m mandatory height, including for 300-306 Bridge Road. <i>The Committee considered the mandatory building height adequately justified to ensure future development is subservient to the heritage fabric. Changing the height for 300-306 Bridge Road based on optimising site potential would result in an anomaly that cannot be justified.</i> • Street wall heights and upper level setbacks. <i>The Committee found the 6m mandatory upper-level setback should be applied consistently along Bridge Road to maintain the prominence of this significant heritage streetscape. It also supported the preferred 9</i>

DDO42 - Key committee findings / recommendations and officer response	
	<i>metre setback for buildings over 15 metres.</i>
Committee recommendations	<ul style="list-style-type: none"> No specific recommendations.

Precinct 3 – Bridge Road Central (DDO43)

52. A representative of the owners of 393-395 Bridge Road made submissions at the hearing seeking a higher and discretionary building height of 24m and reduced upper level setbacks to Coppin Street and to the rear.
53. *Lets Enhance Gleadell Street* also presented a submission at the hearing discussing the protection and improvement of open space in and around the Bridge Road Activity Centre.

Table 5 - Committee recommendations and officer response – DDO43

DDO43 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<ul style="list-style-type: none"> Proposed maximum building heights and the application of mandatory and preferred heights in DDO43, except for 393-395 Bridge Road (see below). Mandatory street wall heights and upper-level setbacks along Bridge Road to ensure the prominence of the heritage streetscape character. Proposed street wall heights and upper level setbacks (Interface C) in specified side streets, including for 393-395 Bridge Road. <p style="text-align: center;"><i>The Committee agreed mandatory provisions were necessary to ensure the prominence of the heritage fabric and ensure that new development does not overwhelm the heritage streetscape.</i></p>
Committee recommendations – proposed changes	<ul style="list-style-type: none"> Apply a discretionary (rather than mandatory) maximum building height of 18 metres to 393-395 Bridge Road. <p style="text-align: center;"><i>The Committee acknowledged that 393-395 Bridge Road is a larger site. In the context of mandatory street wall and upper level setback provisions, allowing discretion in the building height of 393-395 Bridge Road would not compromise objectives for Precinct 3. It did not support 24 metres as sought by the landowner.</i></p>
Officer response to Committee recommendations	<ul style="list-style-type: none"> Officers support the recommendation for 393-395 Bridge Road. <p>Officers accept the Committee’s position that with the application of mandatory street wall and upper-level setback provisions along Bridge Road, a discretionary 18m height would not compromise objectives for Precinct 3 which seek to maintain its heritage and civic character and views to significant landmarks.</p>

Precinct 4 – Bridge Road South (DDO44)

54. A large number of written submissions were received during the exhibition period from residents in Neptune and Burnley Street, the Racecourse Heritage Precinct and Dickens Street. A submission was also received from the owner of 566 Bridge Road – the Officeworks site.
55. Residents were concerned about the impacts of potential development on large development sites in the precinct. Submitters in properties behind Bridge Road also expressed concerns about development. Concerns included vehicle access and impacts to residential amenity and on heritage values.

56. In response to submissions, Council at its 21 December 2021 meeting proposed a number of changes, including additional / increased landscape setbacks on the boundaries of 566 Bridge Road and 198-242 Burnley Street, applying Interface J to improve residential amenity outcomes; and including a specific annotation for 188-242 Burnley Street around traffic access to Burnley Street.
57. Four submitters (three residents and a representative of the landowner of the Officeworks site), focussed on this precinct, participated in the hearing.

Table 6 - Committee recommendations and officer response – DDO44

DDO44 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<p><i>188 to 242 Burnley Street and 21 & 23 Neptune Street</i></p> <ul style="list-style-type: none"> • Proposed maximum building height of 21m. <i>The Committee considered the 21m discretionary height appropriate when combined with other requirements in the DDO and would provide an appropriate transition to lower scale residential areas.</i> • Proposed interfaces and setbacks to Burnley and Neptune Streets. • Post-exhibition proposal to improve amenity outcomes by applying Interface J and landscape setbacks applied to 198-242 Burnley Street to improve residential amenity outcomes. • Annotation indicating access to Burnley Street may be considered depending on the size of carpark and support from the Department of Transport. • Retention of the potential pedestrian link which connects to Strafford Street on Plan 2 (Access and movement). • Removal the potential pedestrian link from 566 Bridge Road south on Plan 2 (Access and movement) as it would not allow for the creation of a public thoroughfare. <p><i>566 Bridge Road (Officeworks)</i></p> <ul style="list-style-type: none"> • Proposed maximum building height of 18m. <i>The Committee did not consider a mandatory maximum height limit was necessary given the proposed landscape setbacks, interface provisions and other policy objectives.</i> • Interface J to the south and eastern boundaries of 566 Bridge Road to improve residential amenity outcomes. • Level of guidance around design for 566 Bridge Road. <i>The Committee considered DDO44 includes sufficient design quality provisions to ensure that materiality will be considered as part of a future planning permit application.</i>
Committee recommendations – proposed changes	<p><i>566 Bridge Road (Officeworks)</i></p> <ul style="list-style-type: none"> • Apply the exhibited landscape setbacks of 6m to the eastern boundary of 566 Bridge Road – not Council’s proposed increase to 8m. <i>The Committee considered potential overshadowing will be addressed through the combination of Interface J and the 6m landscape setback and could be mitigated through greater upper-level setbacks without requiring an 8m ground level setback.</i> <p><i>660-662 Bridge Road</i></p> <ul style="list-style-type: none"> • Consider a landscape setback of 3m for 660-662 Bridge Road through a separate future amendment. <i>The Committee considered a landscape setback has merits but did not</i>

DDO44 - Key committee findings / recommendations and officer response	
	<i>recommend inclusion in the Amendment as it was not exhibited and the landowner has not had an opportunity to consider the proposal.</i>
Officer response to Committee recommendations	<p><i>566 Bridge Road (Officeworks)</i></p> <ul style="list-style-type: none"> Officers do not support the 6m landscape setback (as exhibited) on the eastern boundary of the Officeworks site as recommended by the Committee. Instead, officers recommend the retention of the 8m landscape setback to this boundary as adopted by Council on 21 December 2021 in response to submissions. The 8m setback is necessary to ensure the protection of sunlight to the properties to the east. <p><i>660-662 Bridge Road</i></p> <ul style="list-style-type: none"> Officers do not support the application of 3m landscape setback to 662 Bridge Road as it has not been investigated and does not align with the location of a 'Green Street'. Officers do not consider it necessary to pursue this setback in a future planning scheme amendment. Any planning permit application for the site would need to respond to the Yarra River environs.

Precinct 5 – Bridge Road East North (DDO45)

58. No written or oral submissions were made to the Committee specifically referring to DDO45.
59. The Committee made no specific comments or recommendations about this precinct.

Precinct 1 – Victoria Street West (DDO46)

60. One submission was received during the exhibition period on behalf of the landowner for 231 Victoria Street (north-east corner of Victoria and Hoddle Streets) specifically referencing this precinct. The submitter also presented to the Committee. The submitter opposed the mandatory height and upper level setbacks proposed for the site.

Table 7- Committee recommendations and officer response – DDO46

DDO46 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<ul style="list-style-type: none"> Proposed building heights in DDO46, including a mandatory maximum building height for 231 Victoria Street (former State Savings Bank building). <ul style="list-style-type: none"> <i>The Committee considered the 18m mandatory height appropriate as it will not detract from the significance of the former State Savings Bank and adjoining heritage shops. Considered the widened intersection and Gateway feature has weakened the relationship with the south-east corner of Victoria Street and Hoddle Street where higher heights are permitted.</i> Street wall heights and upper level setbacks – including the proposed mandatory upper-level setback for 231 Victoria Street. <ul style="list-style-type: none"> <i>The Committee considered the corner gateway location of the former State Savings Bank building and its two significant heritage facades, justify protection through appropriate upper level setbacks.</i> 6.5m upper level setback which applies in Little Hoddle Street to 1-13 Hoddle Street (proposed by Council in its preferred version adopted on 21 December 2021.)
Committee recommendations	<ul style="list-style-type: none"> No specific recommendations.

Precinct 2 – Victoria Street Central (DDO47)

61. Two landowners made submissions to the Committee concerning land in Butler Street and a property in Victoria Street.

Table 8 - Committee recommendations and officer response – DDO47

DDO47 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<ul style="list-style-type: none"> Proposed building heights in DDO46, including mandatory heights for 297 Victoria Street and discretionary heights for the north side of Butler Street and east side of Little Charles Street. Street wall heights and upper level setbacks.
Committee recommendations	<ul style="list-style-type: none"> No specific recommendations.

Precinct 3 – North Richmond Station (DDO48)

62. Ten submissions were received from the area surrounding Regent Street and Little Hoddle Street, including from local residents and representatives of landowners during exhibition of the Amendment. A submission was also received from a landowner in Garfield Street.
63. Generally, residents raised concern with the height permitted under proposed DDO48, amenity impacts and concerns around the use of Little Hoddle Street for access to development, while landowners submitted that heights and setbacks were too limited.
64. In response to submissions, Council at its 21 December 2021 meeting proposed to increase upper level setbacks from the property boundaries on the eastern and western sides of Little Hoddle Street from 4.5m measured from the centreline of the laneway to 6.5 metres measured from the property boundary. (An additional 3 metre setback would apply to the upper most level of properties to the west.) The intent of this change was to increase sunlight to Little Hoddle Street between 11am-1pm at the Equinox. Little Hoddle Street has a unique character including a number of creative industries, cafes and residences at street level. It has also been identified as a potential shared zone where pedestrians and vehicles would share the space.
65. Submissions at the hearing were focussed on two large properties south of Elizabeth Street: 35-41 Hoddle Street and 6-8 Elizabeth Street; and 67-81 Hoddle Street and 84 Regent Street.

Table 9 - Committee recommendations and officer response – DDO48

DDO48 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<ul style="list-style-type: none"> Maximum building height requirements. <i>The Committee considered the maximum building heights were consistent with the design objectives for Precinct 3. The combination of other requirements in the DDO will appropriately protect the amenity of nearby residents.</i> 2m street wall setback requirement in Little Hoddle Street, on the basis it remains discretionary. <i>The Committee considered the 2m setback justified as it can be attributed to the considerable development growth which is enabled.</i> 6.5m upper level setback in Little Hoddle Street. <i>The Committee agreed that solar access, even if only for 1 hour between 12 and 1pm is worth the trade off in development potential.</i> Vehicle and pedestrian access requirements along Little Hoddle Street in Precinct 3.

DDO48 - Key committee findings / recommendations and officer response	
	<ul style="list-style-type: none"> • ‘Proposed Pedestrian Links’ in DDO48 Plan 2 (Access and movement plan). <i>The Committee noted they are ‘proposed’ and can be considered at the permit application stage.</i>
Committee recommendations – proposed changes	<ul style="list-style-type: none"> • Reduce the upper-level setback along: <ul style="list-style-type: none"> – Hoddle Street, south of Elizabeth Street from 4.5m to 3m, except within 5m of a heritage property where a 6m setback would apply. – Elizabeth Street between Hoddle Street and Little Hoddle Street from 6m to 3m. <i>Considers 3m is adequate to achieve the separation between the street wall and upper levels.</i> • Replace Interface A (which applies a mandatory 6m upper level setback) with Interface C (a preferred 6 metre upper-level setback) to 46-60 Regent Street. <i>The Committee commented that 46-50 Regent Street has a plain parapet building form compared with the northern part of the former Boot Factories buildings. 52-60 Regent Street is not subject to the Heritage Overlay and does not warrant the application of mandatory provisions.</i>
Officer response to Committee recommendations	<p><i>Hoddle and Elizabeth Streets</i></p> <ul style="list-style-type: none"> • Officers support the reduction of the preferred upper-level setback (Interface D) along Hoddle Street, south of Elizabeth Street and Elizabeth Street, between Hoddle and Little Hoddle Streets, to 3 metres. However, officers do not support the specific setback for heritage buildings as there are no heritage buildings in this area. <p>The 3m upper level setback would replace the proposed 4.5m setback which was applied to provide a transition to the 6m upper level setback required for heritage buildings on Hoddle Street. It would also replace the proposed 6m upper level setback on Elizabeth Street.</p> <p>3m is consistent with interim DDO22 and also reflects upper level setbacks of existing development on the south side of Elizabeth Street.</p> <p>While a consistent approach along Hoddle Street is important, this part of Hoddle Street can accommodate a 3 metre upper-level setback without disrupting a consistent built form – given a break in built form is created by the Elizabeth and York Streets.</p> <p><i>Regent Street</i></p> <ul style="list-style-type: none"> • Officers support replacing Interface A (a mandatory 6m upper level setback) with Interface C (a preferred 6 metre upper-level setback) to the Regent Street boundary of 46-60 Regent Street. <p>This aligns with a recommendation of Council’s heritage expert.</p>

Precinct 4 – Victoria Street East (DDO49)

66. A small number of submissions were received in this precinct at exhibition. Only landowners were represented at the hearing.

Table 10 - Committee recommendations and officer response – DDO49

DDO49 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<ul style="list-style-type: none"> Heights proposed for 367 and 401-407 Victoria Street. <i>The Committee considered 401-407 Victoria Street did not warrant mandatory controls given the properties have no heritage significance, do not impact on views to landmarks views or designated overshadowing requirements. Amenity impacts can be addressed at the permit application stage.</i> <i>For 367 Victoria Street, they acknowledged the property is not contributory however the proposed mandatory height is justified given the site's location abutting the Heritage Overlay and the intact heritage hinterland.</i> Upper-level setback, side and rear setback requirements proposed for 35-47 Lithgow Street. <i>The Committee considered a 6 metre mandatory upper-level setback is appropriate given the heritage significance of the building and the surrounding environs. It would ensure that the front of the building reads in three dimensions and will not restrict development.</i>
Committee recommendations – proposed changes	<ul style="list-style-type: none"> Application of a discretionary height of 15m for the former Cordial Factory at 35-47 Lithgow – rather than a mandatory 15m height. <i>The Committee considered some flexibility is warranted given the unique requirements of the industrial heritage building, and because it differs to many of the other heritage buildings in the Victoria Street Activity Centre.</i>
Officer response to Committee recommendations	<ul style="list-style-type: none"> Officers do not support the Committee's recommendation to apply a discretionary 15m height to 35-47 Lithgow Street. The proposed controls have been guided by PPN59 and PPN60 and mandatory controls have been applied where they can be strategically justified and are necessary to achieve acceptable heritage outcomes. Mandatory maximum heights were proposed where there are consistent heritage streetscapes and recommended to reduce the visual impact of new development and better respect the heritage significance of the heritage forms. <i>Council's heritage expert considered that 'the proposed 15m (4-storey) mandatory height control proposed for this site within DDO49 and the upper-level setback from the Lithgow Street façade will ensure that the historic façade and roof form of the Former Cordial Factory remain prominent elements within the streetscape.'</i>

Precinct 5 – Victoria Street East End (DDO50)

67. Eleven submissions were received during exhibition from the area surrounding Wells Street, Baker Street and McKay Street, including one from the representative of a landowner of a site. The remainder were from residents.
68. Concerns raised by residents included access arrangements and traffic impacts, as well as the impact that building heights proposed in DDO50 will have on properties in this area, while the landowner submitted that provisions should be discretionary rather than mandatory.
69. No submitters presented on DDO50 at the hearing.

Table 11 - Committee recommendations and officer response – DDO50

DDO48 - Key committee findings / recommendations and officer response	
Key elements of the DDO supported by the Committee	<ul style="list-style-type: none"> • Proposed building heights. • Mandatory building height provisions for the south side of Victoria Street between Lambert and McKay Streets <i>The Committee supported the use of a mandatory height provision. While the properties are not subject to the Heritage Overlay, they generally abut or are near the Wells Street heritage precinct and this very intact heritage area.</i> • Street wall heights and upper level setbacks.
Committee recommendations – proposed changes	<ul style="list-style-type: none"> • Apply discretionary height provisions to the south side of Victoria Street, between Church and Lambert Streets, except for land subject to the Heritage Overlay; and between McKay and Johnson Streets. <i>The Committee considered mandatory provisions were not justified – properties do not have heritage significance, do not impact on views to landmarks or overshadow designated footpaths or reserves. Amenity impacts could be addressed through the planning permit process.</i>
Officer response to Committee recommendations	<ul style="list-style-type: none"> • Officers do not support the Committee's recommendation to apply discretionary heights to the south side of Victoria Street, between Church and Lambert Streets (except for land subject to the Heritage Overlay) and between McKay and Johnson Streets. Officers support mandatory heights in this location: <ul style="list-style-type: none"> • as it is consistent with the principles applied elsewhere within Bridge Road and Victoria Street • proposed building heights range from 18 to 21 metres (5/6 storeys) in this area represent a significant level of change in built form from the current one and two storey development.

Other issues

Transitional provisions

70. Several submitters with development interests submitted that the DDO schedules should include a transitional provision to exempt existing planning permits, applications to amend existing permits, and 'live' planning applications from the permanent provisions.

71. There are no transitional provisions proposed as part of the Amendment.

72. The Committee was not convinced transitional provisions are justified. They found:

'The purpose of each DDO schedule is to introduce built form controls and specific planning objectives which will shape how the BRAC and VSAC are developed moving forward. The Committee has ultimately determined that the proposed DDO schedules strike the right balance between allowing development within the activity centres and limiting that development to preserve appropriate levels of amenity, character and heritage in the municipality. The Committee considers the introduction of transitional provisions might allow inconsistent built form that would prejudice the intent and balance sought to be achieved through the Amendment.' (Page 33)

Clause 22.12 and Clause 11.03-1L

73. The Committee in Recommendation 2 recommends the following:

Amend Clause 21.12 and translate the content of Clause 21.12 into a new Clause 11.03-1L, as shown in Appendix E.

74. Officers support this recommendation in part.

75. A translation of Clause 21.12 – Local Areas into the new Planning Policy format was undertaken in response to a requirement in the letter of consent from the Department of Environment, Land, Water and Planning.
76. Clause 11.03-1L - Activity Centres is a condensed version of the proposed policy at Clause 21.12 with the context and vision removed and the preferred character statements converted into policy statements. It was considered by Council on 21 December 2021 and provided to the Committee as part of the amendment documentation along with Clause 21.12.
77. At the request of the Committee, Council officers provided the Committee with an updated version of Clause 11.03-1L following the conclusion of the hearing. This was distributed to all parties.
78. The updated version makes minor clarifications and corrects typographical errors in Council's preferred version of the policy (see Attachment 2). The version of Clause 11.03-1L recommended by the Committee in Appendix E is generally consistent with this.
79. Council's recently adopted Amendment C269yara – Rewrite of Local Policies will delete policy at Clause 21.12 and relocate policy to Clause 11.03-1L. It is awaiting approval by the Minister for Planning.
80. Given that Amendment C269yara has not yet been approved and the timing is unclear, officers recommend Council adopts proposed policy in both:
 - (a) Clause 21.12 Local Areas; and
 - (b) Clause 11.031L Activity Centres.
81. Depending on timing of the approval of either amendment, the relevant policy could be included in whichever clause is more appropriate.

Reference and background documents

82. The Committee made three recommendations in relation to reference and background documents:
 - (a) *Recommendation 1 - Amend Clause 21.11 to no longer list the three reference documents relevant to draft Yarra Planning Scheme Amendment C291yara;*
 - (b) *Recommendation 4a) - Amend Design and Development Overlay Schedules 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50, as shown in Appendix F, to a) no longer list the three reference documents relevant to draft Yarra Planning Scheme Amendment C291yara;*
 - (c) *Recommendation 5 - Reference the following documents in Clause 72.08 (Background documents):*
 - (i) *Bridge Road & Victoria Street Activity Centres - Review of Interim Built Form Controls – Analysis and Recommendations (MGS Architects and Urban Circus, April 2021);*
 - (ii) *Built Form Review: Bridge Road – Heritage Analysis and Recommendations (GJM Heritage, April 2021);*
 - (iii) *Built Form Review: Victoria Street – Heritage Analysis and Recommendations (GJM Heritage, April 2021); and*
 - (iv) *Traffic Engineering Assessment, Victoria Street and Bridge Road Activity Centres, Richmond (Traffix Group, April 2021).*
83. Officers support:
 - (a) Recommendation (4a) which recommends deleting the reference documents from the DDOs. The change is consistent with Council's preferred version of the Amendment adopted on 21 December 2021. In the preferred version of the amendment, considered by Council in December 2021, reference documents were deleted from the DDOs to comply with the Ministerial Direction on 'Form and Content'; and

- (b) Recommendations 1 and 5 which recommend relocating the list of reference documents from Clause 21.11 – Reference Documents to Clause 72.08 – Background Documents. Yarra reference / background documents are currently listed in Clause 21.11 of the Yarra Planning Scheme. Clause 21.11 will be deleted as part of the approval of Amendment C269yara – Rewrite of Local Policies. Officers support the inclusion of the reference documents in Clause 72.08.

Options

- 84. In line with the Committee's Terms of Reference, the report from the Committee that considered Amendment C291yara has been received by Council and the Minister for Planning.
- 85. Council has the opportunity to form a final position on the amendment which would be considered by the Minister for Planning before making a decision on Amendment C291yara.
- 86. Council could:
 - (a) endorse the amendment with or without changes and request the Minister for Planning prepare and approve a 20(4) amendment; or
 - (b) alternatively, it could request the Minister not pursue the amendment. This option is not supported.
- 87. With the expiry of the interim DDOs in March 2023, abandoning the amendment would mean there would be no built form provisions, as the Minister for Planning has indicated that a further extension to the interim controls without substantial progress on permanent provisions would be unlikely.
- 88. The Committee supported the Amendment, with changes largely as advocated for by Council during the public hearing.
- 89. If a 20(4) Ministerial amendment was to occur there would be no further public notice, unless directed by the Minister. Officers support this approach considering the extensive notification held across September and October 2021 and the public Committee Hearing held in April 2022.

Community and stakeholder engagement

Exhibition of the amendment

- 90. Notice of Amendment C291yara included:
 - (a) letter notification to all owners and occupiers in the DDO boundary and within 200m of land within the DDO41-50 boundary (approximately 20,000 letters);
(NOTE – 3,000 owners and occupiers, south of Bridge Road, between Coppin Street and the Yarra River were renotified during the process to clarify an error in a map which was included in the original notice);
 - (b) letter notification of 300 owners and occupiers in the City of Melbourne on Punt Road / Hoddle Street (also within 200m of the proposed DDO's);
 - (c) notice in *The Age* (14 September 2021);
 - (d) notification of Ministers prescribed by the *Planning and Environment Act 1987* and other statutory bodies;
 - (e) webpages on:
 - (i) Standing Advisory Committee process;
 - (ii) Draft Amendment C291yara;
 - (f) posts on social media (between 7 -12 October);
 - (g) article in *Yarra Life e-newsletter* and *Yarra Business news*;
 - (h) direct emails to all of Yarra's Advisory Committees (including an invitation to meet); and

- (i) direct emails to the community, resident and trader groups (including an invitation to meet).
- 91. COVID 19 and the resulting lockdowns of the Richmond Housing Estates meant that officers could not place posters in the buildings or use the DFFH Newsletter to communicate the amendment to residents in the Richmond Housing Estates as it was delayed.
- 92. To notify residents of the Estates, material translated into five languages was sent to Council's CALD Whatsapp group (48 recipients) and the Yarra Multicultural Services Network which has 184 members / organisations across Yarra) and by the Department of Families, Fairness and Housing to approximately 170 residents in Richmond/Abbotsford.
- 93. Letters were also sent to the owners and occupiers of the following properties to advise them of changes to the amendment prior to the exhibition. These changes were necessary to fix errors in the version of the amendment presented to Council on 21 April 2021. The exhibited version of the amendment included the changes. Properties that were notified were 3 Rotherwood Street, corner properties in DDO42 (Bridge Road South) and 25-33 Lithgow Street (see 21 December 2021 Council Report for further details).

Submissions

- 94. A total of 122 submissions were received, including one submission with 36 signatures.
- 95. Submissions came from a broad spectrum of the community. Submissions were received from seven interest and community groups. 22 submissions were received from land owners/developers (development interests). The remainder of the submissions were received from individual residents / community members (including some from outside of the Bridge Road / Victoria Street area, other suburbs, or from submitters who did not provide an address).

Further notification following 21 December 2021 Council Meeting

- 96. Council gave notice of its preferred DDO41-50 on 12 January 2022 by sending a letter to owners, occupiers and neighbouring properties of land affected by the proposed changes to the Amendment resulting from the Council resolution. An email was also sent to submitters advising of the outcome of the Council meeting and information was made available on Council's Amendment C291yara webpage.
- 97. This further notification comprised sending specific letters to approximately 2,900 properties. The nine letters related to properties:
 - (a) bound by McKay St, Baker St, Johnston St and Victoria St – to notify of the proposed changes to the residential interface and the Access and Movement Plans;
 - (b) along Elizabeth Street between Hoddle and Regent Streets to notify of proposed changes to Interface I along Little Hoddle Street and to the Access and Movement Plans;
 - (c) on the corner of Bridge Road and Church Street – to notify of proposed changes to the Access and Movement Plan;
 - (d) adjacent to the Richmond Quarter laneway behind Bank Street – to notify of proposed changes to rear interface within the Height and Setback Plan;
 - (e) where a new residential interface, Interface J is proposed to be applied (NB – These excluded properties notified in other letters);
 - (f) including and surrounding the Officeworks site – to notify of proposed changes to the residential interface (new Interface J) and setback controls within the Height and Setback Plan;
 - (g) including and surrounding 188-242 Burnley Street – to notify of proposed changes to the residential interface (proposed Interface J) and setback controls within the Height and Setback Plan;

- (h) along Little Hoddle Street – to notify of changes to Interface I along Little Hoddle Street to increase upper level setbacks; and
- (i) adjacent to Interface I in DDO48 – to acknowledge a drafting error in relation to Interface I.

98. In response to notice of the preferred DDOs, Council received 11 additional submissions - eight from existing submitters and three from new submitters. The 11 additional submissions were sent to DELWP and referred to the Committee.

Policy analysis

Alignment to Community Vision and Council Plan

99. The Amendment supports the following themes in the Yarra 2036 Community Vision:

- (a) Priority 8.1 – Growing Sustainably – Advocate for development and planning design that shaped by and meets our community’s future needs; and
- (b) Priority 8.2 – Growing Sustainably – Keep our heritage visible while we encourage innovative and sustainable growth.

100. The Amendment supports the following strategies in the Council Plan 2021-2025:

- (a) Strategic Objective 3 – Local economy – ‘Manage access, safety and amenity to enhance people’s experience when visiting Yarra’; and
- (b) Strategic Objective 4 – Place and nature – ‘Protect, promote and maintain our unique heritage and ensure development is sustainable’

Climate emergency and sustainability implications

101. The Amendment will help facilitate sustainable communities at a local level that have good access to employment, public transport and other amenities.

102. Policy and provisions elsewhere in the Yarra Planning Scheme respond to the climate emergency, namely the *Planning Policy Framework* and Council’s *Environmentally Sustainable Design Policy at Clause 22.17* and in the proposed *Local Policy Clause 15.02* (through Amendment C269) *Environmentally Sustainable Development (ESD)*.

103. Particular developments would need to meet the objectives contained in Clause 22.17.

Community and social implications

104. The recommended changes being considered respond to community submissions and aim to achieve a high-quality urban design outcome for the two Major Activity Centres while providing added certainty in relation to their future development potential.

Economic development implications

105. The Amendment may provide further stimulus to the economic development for the two Major Activity centres.

Human rights and gender equality implications

106. There are no known human rights and gender equality implications.

107. The Amendment complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

Operational analysis

Financial and resource impacts

108. Financial costs in the order of \$750,000 are associated with the draft amendment process, including the Standing Advisory Committee process, legal representation and the engagement of experts such as urban design and heritage who were required to provide evidence on behalf of Council.

109. A statutory fee of \$4,128 is required to request a ministerial 20(4) amendment.

Legal Implications

110. The Amendment has been progressed in accordance with the *Yarra Activity Centres Standing Advisory Committee Terms of Reference* issued by the Minister for Planning on 10 June 2021.

111. Council must ensure natural justice to all parties and to maintain the integrity of the Amendment process per Section 32 of the *Terms of Reference*.

Conclusion

112. Council has received the Committee Report in relation to Amendment C291yara.

113. The Committee broadly supports the Amendment. It found that Amendment C291yara is well founded and strategically justified. It commended Council for its integrated built form, heritage, access and movement approach. This approach ensures that development is enabled without compromising existing identified heritage or negatively impacting on access and the surrounding traffic network.

114. Based on the reasons set out in its report, the Committee recommended that Amendment C291yara be approved as exhibited, subject to recommended changes.

115. Officers generally support all but four of the Committee's recommendations. Specifically:

- (a) the proposed deletion of two criteria for assessing preferred (discretionary) building heights - the BESS (Built Environment Sustainability Scorecard) standard requirement and private / communal open space requirement (in DDO41-50);
- (b) the application of a discretionary height of 15m to 35-47 Lithgow Street, replacing the mandatory 15m height (in DDO49);
- (c) the application of discretionary heights instead of mandatory heights to the south side of Victoria Street, between Church and Lambert Streets (except for land subject to the Heritage Overlay) and between McKay and Johnson Streets (in DDO50); and
- (d) the retention of a 6m rather than an 8m landscape setback on the eastern boundary of 566 Bridge Road - the Officeworks site (in DDO44).

116. At this meeting, Council has the opportunity to form a final position on the Amendment for the Minister for Planning to consider it before making a decision on Amendment C291yara.

117. The next step in the process, should Council choose to progress the Amendment, would be to adopt a final version of the amendment (with or without changes) and request the Minister for Planning prepare, adopt and approve the draft amendment using her powers under 20(4) of the Act.

118. Officers consider that the implementation of built form provisions and controls through Amendment C291yara provides added certainty and clarity for development within the Bridge Road and Victoria Street Activity Centres.

RECOMMENDATION

1. That Council:
 - (a) notes the officer report regarding draft Amendment C291yara (the Amendment), officer recommendations and Attachments 1, 2, 3 and 4;
 - (b) notes the public release of the Committee Report for the Amendment under Section 40 of the *Yarra Activity Centres Standing Advisory Committee Terms of Reference*;
 - (c) having considered the Standing Advisory Committee report, adopts the Amendment with the changes as set out in Attachments 3 and 4 to this report;
 - (d) delegates to the Director Planning and Placemaking the authority to finalise the Amendment in accordance with Council's resolution (1)(c), and to make any administrative or formatting changes to the Amendment documentation and maps required to give effect to Council's resolution;
 - (e) submits the Amendment to the Minister for Planning and requests she prepare, adopt, and approve a formal planning scheme amendment in the same form as the Amendment adopted under resolution (1)(c) and (d), in accordance with section 20(4) of the *Planning and Environment Act 1987*; and
 - (f) notifies all submitters of this Council resolution.

Attachments

- 1 Attachment 1 - Standing Advisory Committee Report - Bridge Road and Victoria Street Activity Centres - Draft Amendment C291yara
- 2 Attachment 2 - C291yara - Committee Recommendations and officer responses
- 3 Attachment 3 - C291yara - Marked-up version of provisions
- 4 Attachment 4 - C291yara - Clean version of the Amendment for adoption