

# Draft Amendment C293yara to the Yarra Planning Scheme

## Officers responses to commonly raised issues in submissions

In relation to the Responses to Submissions Table below, it is also noted that it was not possible to repeat every issue or statement made by the Submitters verbatim. In cases where submissions raised overlapping or similar issues based on a specific theme, officers have summarised the issues raised and provided a thorough, consolidated response.

Note: Amendment or C293 means draft Amendment C293

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## **1. Overshadowing of public open space**

### **Recommended position**

Change to the Amendment.

#### **Issue**

Numerous submissions raised concerns about future development unreasonably overshadowing public open space. Numerous submitters also call for overshadowing requirements to be measured against the winter solstice rather than the September equinox, as per the *Urban Design Guidelines for Victoria*.

#### **Response**

The *Collingwood Built Form Framework*, June 2018 (prepared by Hansen Partnership) highlights the importance of solar access to Public Open Space as follows:

*"In inner urban areas such as Collingwood, access to sunlight is an important element. Therefore, the need to provide sufficient solar access to the public realm is vital to the 'life' of the street." (18)*

There are various controls in the exhibited DDO23 which assist to minimise the amount of overshadowing of public open space. Next to the requirements for street wall heights, upper level setbacks and overall heights, Clause 2.6 states:

*"Development should be designed to minimise overshadowing of the following areas of open space and/or public realm between 10am and 2pm on 22 September, to the satisfaction of the Responsible Authority:*

- Cambridge Street Reserve (incl. any future extension of the reserve);
- Oxford Street Reserve
- The outdoor space of Collingwood English Language School
- Any kerb outstands, seating or planting areas on the opposite side of the street, as applicable."

Further analysis was undertaken to understand the amount of overshadowing caused by the potential built form of exhibited DDO23, measured at the equinox and the winter solstice.

#### *Peel Street Reserve context*

This reserve was not assessed for impacts from potential form in DDO23 as its northern and western boundaries are outside of the DDO and the eastern boundary is a road (Oxford Street).

#### *Cambridge Street Reserve context*

The current Cambridge Street Reserve is surrounded to the north and east by new development that is either constructed or under construction. Currently the reserve is subject to expansion over the road reserve to the west. Properties on the western side of Cambridge Street adjacent to the potential reserve extension are subject to the heritage overlay and have a mandatory upper level setback of 6 metres above the street wall and an overall height of 11 metres in the exhibited DDO23.

### *Oxford Street Reserve context*

The reserve is located between Langridge Street and Derby Street, with Oxford Street extending to its north and south. A double storey heritage place is located to its west (22 Derby Street) and a double storey office building to the east (30-34 Oxford Street).

### **Winter Solstice Assessment**

Applying the *Urban Design Guidelines for Victoria* or the local policy as in proposed Clause 22.12-4 as part of C286yara:

The *Urban Design Guidelines for Victoria* contain the following relevant Objective and associated guideline:

*"Objective 5.1.3 To ensure buildings in activity centres provide equitable access to daylight and sunlight", and*

*"5.1.3a Locate and arrange the building to allow daylight and winter sun access to key public spaces and key established street spaces." (18)*

Neither the exhibited DDO23 nor Council's Yarra Open Space Strategy as in Amendment C286yara identify certain open spaces as 'key'. The public open spaces in Yarra are treated as being of equal importance.

The proposed policy in Clause 22.12-4 as part of C286yara states that built form:

*"Must have no additional overshadowing beyond any 9 metre built form height between 10am and 3pm on June 21."*

This is applicable to new public open spaces only.

Overshadowing of reserves:

#### *Cambridge Street Reserve*

The assessment concluded that the existing conditions cause overshadowing to the reserve at the winter solstice between 10AM-2PM, which is unlikely to change in the near future given the recent nature of the constructed buildings to the east, north and north east. Minimising the overshadowing at the winter solstice would require to demolish existing buildings.

#### *Oxford Street Reserve*

Overshadowing of public open space from the existing conditions in Collingwood South is very significant at the winter solstice, particularly between 10-11AM (see Figure 1, solid purple line). The analysis demonstrated that additional overshadowing from potential form of DDO23 is minimal at 10AM (dashed purple line), as it is the existing buildings overshadow most of the park already. Minimising the relatively small amount of additional overshadowing caused by the potential form of DDO23 would mean to make significant changes to parts of DDO23, including to confine new development to the existing built form.



Figure 1: 10AM Shadow comparison for Oxford Street Reserve

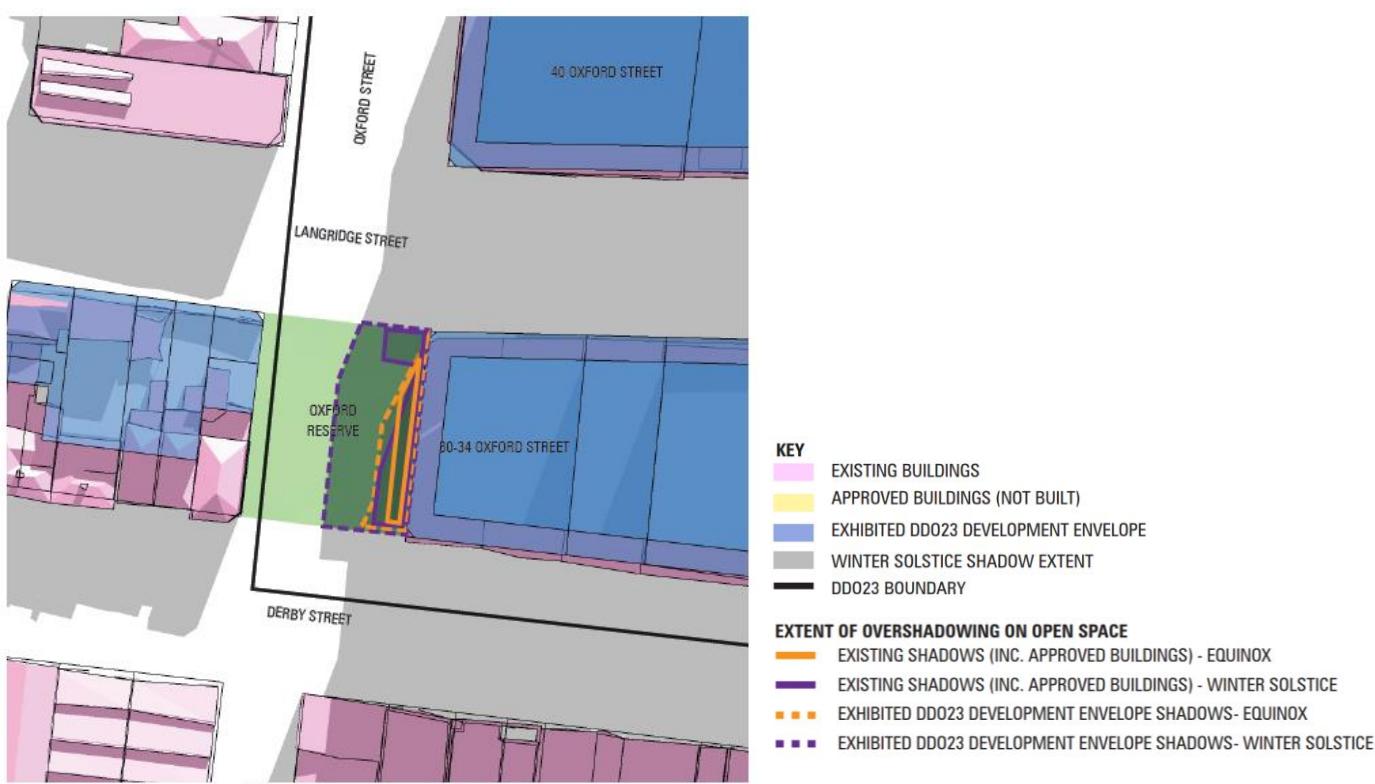


Figure 2: 11AM Shadow comparison for Oxford Street Reserve

Given that:

- The Yarra Open Space Strategy does not distinguish between ‘key’ and other public open spaces;
- The proposed policy in Clause 22.12-4 of C286yara applies to new public open spaces only;
- Overshadowing from existing conditions is already very significant;
- Changes to DDO23 would have to be significant and/or require the demolition of existing structures to minimise overshadowing of Cambridge Street and Oxford Street Reserve, which would achieve minimal improvement to the overshadowing outcome; and
- the September equinox is the common measure used in the Victorian Planning system to assess overshadowing;

it is not practicable to apply the winter solstice as a measure for assessing overshadowing of public open spaces in the proposed DDO23.

## **Equinox Assessment**

### *Cambridge Street Reserve*

The potential for increase in overshadowing due to potential built form from the exhibited DDO23 practically does not need to be assessed. Buildings surrounding the reserve to the east and north are either constructed or under construction. The buildings to the western edge of the potential Cambridge Street Reserve extension are double storey heritage places. Development of mandatory maximum of 11 metres would not add additional overshadowing, likely due to the upper level setback.

### *Oxford Street Reserve*

For the property at No. 30 – 34 Oxford Street (adjoining Oxford Street Reserve to the east) the exhibited DDO23 indicates a preferred maximum street wall height of 14 metres (four storeys), a preferred minimum upper level setback of 3 metres and an overall building height of 27 metres (8 storeys).

The property fronting 22 Derby Street (adjoining Oxford Street Reserve to the west) is subject to the heritage overlay. For the northern part of the 22 Derby Street, DDO23 indicates an 11 metre (3 storeys) street wall and mandatory overall building height of 11 metres.

Oxford Street Reserve has the highest potential for an increase in overshadowing in comparison to existing conditions. Particularly between 10AM-12PM new development could cast additional overshadowing to the reserve (see Figures 1 and 2, dashed orange line). The additional overshadowing is likely to affect seating areas in the reserve which located to the eastern half.

Testing indicates that the following changes to DDO23 would minimise overshadowing to the level of existing conditions at the equinox:

- Reduction of the street wall height from 14m to 11m along the eastern boundary of the reserve;
- Minor adjustments to the upper level form (various options likely).

As such, it is recommended to reduce the street wall height along the eastern edge of Oxford Street Reserve and to amend the requirement in Clause 2.6 of exhibited DDO23 that ensures that overshadowing to Oxford Street Reserve remains as per existing conditions, measured at the equinox.

## **Conclusion**

It is recommended to make the following changes to the exhibited DDO23:

- reduce the street wall height along the eastern boundary of Oxford Street Reserve from 14 metres to 11 metres; and to
- amend the overshadowing requirement for public open spaces in Clause 2.6 of DDO23 as follows (track changes shown):

*"Development should ~~be designed to minimise~~ not increase the amount of overshadowing ~~as caused by existing conditions, measured between 10am and 2pm on 22 September~~ for the following areas of open space and/or public realm ~~between 10am and 2pm on 22 September~~, to the satisfaction of the Responsible Authority:*

- Cambridge Street Reserve (incl. any future extension of the reserve);
- Oxford Street Reserve
- The outdoor space of Collingwood English Language School
- Any kerb outstands, seating or planting areas on the opposite side of the street, as applicable."

## **2. Need for more public open space**

### **Recommended position**

No change to the Amendment. This issue is outside the scope of the amendment.

### **Issue**

A majority of submissions raise issue with the lack of public open space in the Collingwood South, and many submit that future developments will exacerbate this.

### **Response**

This issue is highlighted by Council's Open Space Strategy which states:

*"Given the historical lack of provision of open space in Fitzroy, Collingwood and parts of Richmond, the smaller network of spaces is highly valued and well used in the high density areas. As urban densities continue to increase in these areas, these smaller spaces will become increasingly important to the resident and worker community living and working there, and the Strategy has identified opportunities to increase this network to better meet the existing and particularly forecast community open space needs. (36)"*

The purpose of a design and development overlay, however, is to guide future development to ensure good design, amenity and public realm outcomes. It is not the appropriate planning tool to seek new or increase public open space. The correct planning tool is instead a public open space contribution requirement, which is at Clause 53.01 of the Yarra Planning Scheme. Pursuant to the schedule of this Clause, Yarra's current public open space contribution requirement is set at 4.5% for all subdivision applications.

Council is currently pursuing Planning Scheme Amendment C286yara (Public Open Space Contributions) which seeks to increase the rate of public open space contribution from the current rate of 4.5% to 10.1%. This will assist in providing increased public open space across the municipality, especially in under-serviced, former-industrial areas such as Collingwood South. Planning Scheme Amendment was recently exhibited to the community

and Council is currently considering submissions. For more information about the amendment, see the following link:

<https://www.yarracity.vic.gov.au/the-area/planning-for-yarras-future/yarra-planning-scheme-and-amendments/current-amendments/amendment-c286-public-open-space-contributions>

In addition, Council is proposing a substantial extension to the Cambridge Street Reserve which will include new landscaping and play equipment.

### **Conclusion**

This issue is outside the scope of the draft amendment. Amendment C286yara will assist to address the issue.

## **3. Landscaping**

### **3.1. Landscaping within private property**

#### **Recommended position**

Change to the Amendment.

#### **Issue**

Some submissions suggested that a landscaping requirement be included through landscape setbacks (for deep tree planting), green frontages and roof tops.

#### **Response**

Council is updating the existing local policies in the Yarra Planning Scheme through Amendment C269yara. Amendment C269yara proposes to introduce strategies through Clause 15.01-2L Building Design which relate to *Landscaping*, in particular:

- *Encourage the planting of trees and vegetation to increase their canopies and coverage to contribute to an urban forest;*
- *Facilitate landscaping (including planting in deep soil, planter boxes, green walls and green roofs) that: Promotes the on-going health of trees and vegetation that has been retained on site...*

As Collingwood South's history is predominantly industrial, it lacks areas for landscaping within the private realm. As it is changing towards a mixed-use area it also should provide for landscaping opportunities within the private realm to soften the otherwise harsher built form environment.

### **Conclusion**

Insert the following requirement into Clause 2.8 of DDO23 to ensure landscaping is integrated into the building design and provides for a softening of the building edge to achieve a positive contribution towards the public realm:

*"Development should provide for landscaping that provides a positive contribution to the public realm, such as canopy trees where possible, green walls or planter boxes."*

### **3.2. Landscaping in public realm (trees)**

#### **Recommended position**

No change to the Amendment. The issue is outside the scope of the amendment.

## **Issue**

A number of submissions raised concern about protection of developed trees and suggested giving consideration to planting street trees and other street landscaping opportunities.

## **Response**

The purpose of a DDO is to guide the built form and design of new development. It is not an appropriate planning tool to provide guidance on street tree planting or landscaping in the public realm.

There are other strategies that sit outside the planning scheme (namely the Urban Forest Strategy, Nature Strategy, Yarra Open Space Strategy) that work towards increasing street tree canopy, providing new open spaces and protecting existing trees. Amendment C269 recognises Yarra's Urban Forest Strategy and includes new proposed policy in Clause 02.03 to achieve the vision of the Strategy such as the following policies:

*Create a healthy and growing urban forest that includes all trees and plants in Yarra, by greening open spaces, streetscapes and buildings*

*Encourage the planting of trees and vegetation to increase their canopies and coverage to contribute to an urban forest*

One of the key actions of the Urban Forest Strategy is the Annual Tree Planting Program. As part of the program there were a number of new trees recently planted along Oxford Street, Cambridge Street, Mason Street and Little Oxford Street.

## **Conclusion**

The issue is outside the scope of the amendment.

## **4. Footpaths/public realm**

### **Recommended position**

No change to the Amendment. Specific public realm improvements are outside the scope of the amendment.

## **Issue**

Some submissions have raised concern about the capacity of the footpaths and the need for new developments to provide wider footpaths and prioritise pedestrian oriented design.

Two submissions suggested the inclusion of setbacks from the street to provide landscaping and wider footpaths.

## **Response**

The purpose of a design and development overlay is to guide the built form and design of new development on private land. A DDO can ensure that new development enhances and supports the surrounding public realm and the exhibited DDO23 includes a number of requirements which seek to enhance and support the precinct's public realm, including pedestrian oriented building design requirements.

The exhibited DDO23 includes the following requirement under Clause 2.3 *Street wall height and front setback requirements* to facilitate pedestrian safety and circulation:

*"Development of non-heritage buildings on street corners should provide a corner splay at minimum of 1 x 1 metre at the site's corner boundaries"*

The exhibited DDO23 includes the mandatory requirements under Clause 2.6 *Overshadowing and solar access requirements* to protect opposite footpaths from overshadowing.

The exhibited DDO23 includes the following requirements under Clause 2.8 *Other design requirements* to facilitate setbacks to improve the public realm environment:

*"Lower level of developments: [...]*

- *should on sites abutting narrow footpaths of less than 1.8 metres, provide for front setbacks and/or generous, recessed building entrances to provide space for pedestrian circulation and include space for landscaping, outdoor trading, seating and/or visitor bicycle parking."*

There are further requirements under Clause 2.8 *Other Design Requirements* that aim to ensure that new developments achieve pedestrian-oriented, high quality urban design outcomes at lower and upper levels through street edge activation, and appropriate levels of façade articulation that reflect the character of the area.

## **Conclusion**

Specific public realm improvements are outside the scope of the amendment, however the exhibited DDO23 does includes requirements for development to enhance and support the precinct's public realm.

## **5. Building height**

### **Recommended position**

No change to the Amendment.

### **Issue**

Many submissions have stated that proposed building heights are excessive and should be reduced. Heights in DDO23 were seen as being out of character, causing unreasonable overshadowing and amenity issues. A number of submissions call for reductions in height to a maximum of 14m. A smaller number of submissions recommend a maximum height of 11 metres (3 storeys).

### **Response**

The building height requirements within the exhibited DDO23 are the result of various parameters. This included strong and detailed analysis of, but not limited to:

- the role of the centre within the City of Yarra;
- street widths;
- the role / function of the street, incl. land use;
- existing built form conditions, including heritage places and expert advice and approved permits;
- protection of public open space and footpaths; and
- previous planning scheme amendments.

These are explained in more detail across the following paragraphs. The combination of these parameters has informed the exhibited overall building heights in DDO23.

#### ***The role of the centre within Yarra City Council***

The Collingwood South Mixed Use Zone area forms part of the Smith Street Major Activity Centre (MAC). Its inclusion within a MAC designates it as a key area for various activities and changes in accordance with the objectives of *Plan Melbourne 2017 - 2050*.

The Yarra Spatial Economic and Employment Strategy 2018 seeks to support growth in retail and other employment uses in the two activity centres. The SEES also recognises the role of activity centres in terms of housing.

Council's *Housing Strategy (2018)* seeks to direct new housing to areas within or close to activity centres that have good access to public transport, open space and other services and limit housing growth in established residential areas, consistent with *Plan Melbourne*, State and local policy.

The MAC is further described in Clause 11.03-1L proposed by Amendment C269yara:

*"Encourage development that responds to the different built form conditions in Collingwood South precinct, with taller built form towards Wellington St and south of Peel Street and retain the visual dominance and integrity of the existing industrial warehouse buildings north of Peel Street."*

*"Encourage employment through mixed use and commercial development, including in the mixed-use zoned land behind Smith Street."*

Hence, the Collingwood South precinct has a role in delivering future housing and economic growth.

#### *Street widths*

In its *Collingwood Built Form Framework*, June 2018, Hansen Partnership concluded that a street width / overall height ratio of 1:1 be used as a basis to generally maintain a comfortable street environment. Generally, this means a wider street (i.e. Langridge Street) has a greater building height potential than narrower streets (i.e. Mason Street).

A ratio of 1:1.5 has been adopted for Wellington and Langridge Streets to acknowledge the existing (?) taller forms on these streets. This differentiation acknowledges existing new developments and/or planning permits and assists to define these two streets as the key movement corridors of Collingwood South.

#### *The role / function of the street*

Detailed strategic work has been undertaken to understand the role and function of the streets within Collingwood South. A differentiation solely based on street width should not be made given that most streets within the precinct are of equal or similar width. However, the streets within the Collingwood South do not have an equal role or function. As identified by the *Collingwood Built Form Framework*, June 2018 (prepared by Hansen Partnership), Wellington Street and Langridge Street are important movement corridors, and both are part of the Principal Bicycle Network. Other streets such as Cambridge, Oxford or Derby Street have a more local function. These have been allocated with comparatively lower building heights.

#### *Conditions including heritage places and approved permits*

Heritage places are an important factor that guide the overall height within certain areas of the exhibited DDO23. The *Collingwood Mixed Use Pocket Heritage Analysis and Recommendations*, June 2018 and the *Supplementary Heritage Report Collingwood South Mixed Use Precinct*, May 2021 (both prepared by GJM Heritage) undertook a detailed assessment of the heritage context. The reports also provide built form recommendations for new development, which have been incorporated into the exhibited DDO23. Where the consistency of heritage places and/or their unique form requires it, mandatory maximum heights have been applied (i.e. Cambridge Street, south of Derby Street). Map 1 of the exhibited DDO23 shows that the majority of heritage places have been designated a mandatory maximum overall building height of 11m (three stories). The majority of infill sites adjacent to or surrounded by heritage places have been designated with lower preferred

overall heights of either 14m (four stories) or 20m (six stories) to provide for an adequate transition in height.

In combination with street wall height and upper level setback requirements, DDO23 will ensure the overall height of new development is sensitive towards existing heritage places.

The area has a number of recent developments that are either constructed, under construction or approved. The *Collingwood South Built Form Framework* is reflective of these existing and approved developments, which is most relevant to Area 3.

#### *Protection of public open space, footpaths and residential interfaces*

The *Collingwood South Built Form Framework*, June 2018 highlights the importance of public open space and footpaths. A number of requirements have been recommended which are part of the exhibited DDO23. See the response to *Overshadowing Public Open Space* above for further detail.

The *Collingwood South Built Form Framework*, June 2018 also outlines the need to modify the profile of new development to respond to residential interfaces, particularly the lower-scale dwellings such as on the southern side of Mason Street. Building height controls are not the only controls that guide future development - the exhibited DDO23 also includes a number of controls and provisions to minimise amenity impacts on residential interfaces. Refer to the response to topic no 13 – Amenity (General) and associated subsections for further information on these.

Many submissions refer to potential heights for properties bound by Oxford, Langridge, Cambridge and Derby Streets. This block is located within Area 3 of the exhibited DDO23 and has been designated with a preferred maximum building height of 27m (8 stories). Submitters are concerned about the potential amenity impacts associated with this height and submit that a height of 14m (4 stories) should be adopted instead to minimise amenity impacts and provide a lower-scale response to these streets. A reduction to 14m (4 stories) for these sites would be an adverse outcome for the following reasons:

- A height of 14m for these sites would be contrary to the *Collingwood South Built Form Framework*, June 2018 which calls for Area 3 to be provided with taller built form given that land parcels are larger, heritage fabric in this area is less dominant and Langridge Street is a key movement corridor within Collingwood South;
- A height of 14m would be a substantial departure from the recent taller developments to the north (11 storeys), northeast (10 storeys) and east (15 storeys) despite conditions being very similar;
- The exhibited DDO23 already includes built form and design requirements that minimise amenity impacts to the public realm and existing properties (such as street wall height, upper level setback and overshadowing requirements).

In light of the above, there is no strategic justification to reduce the preferred height to 14m.

The exhibited DDO23 provides a balance between heritage, amenity and guiding change and facilitating development in Collingwood South. The tallest forms would be located within Area 3, infill sites need to provide a transition in height towards adjacent heritage places and consider the amenity of existing residential uses. Height of new development on most heritage places are mandatory and the lowest in the precinct.

A number of submissions also raise concern about the designated maximum building height control and maximum street wall height control for the land at No. 23-25 Derby Street. Submissions raise concerns about these height controls resulting in amenity impacts (such as overshadowing, loss of views and loss of daylight) to the existing apartment building at 27 Oxford Street (also known as the ‘XO building’). The height controls for this site are:

- 20m maximum building height (six stories) and
- 14m maximum street wall height (four stories).

These height requirements are based on extensive strategic work and highlight the lack of heritage places for this site. The height requirements also reference the 'XO building' (on the western side of Oxford Street) which has an overall height of eight storeys and a street wall height of four storeys. However, height requirements are not the only provision that will affect this site. For instance, the exhibited DDO23 has a mandatory control at section 2.6 which requires new development to not overshadow any part of the opposite footpath between 10am and 2pm on the September equinox. This control indirectly protects the amenity of the apartments of the XO building as the lowest of these are located at level 1 of the building, higher than the Oxford Street footpath. Future development at 23-25 Derby Street will need to be massed and designed in a manner that complies with this requirement.

### **Conclusion**

The majority of taller buildings within DDO23 were approved before interim DDO23 was in place. Updated strategic work has already resulted in lowered and strengthened overall height requirements in comparison to the interim DDO23. The exhibited DDO23 provides a balance between heritage, amenity and guiding change and facilitating development in Collingwood South.

## **6. Street wall height**

### **Recommended position**

No change to Amendment (except for response to Overshadowing of Public Open Space for change to Oxford Street Reserve interface).

### **Issue**

Some submissions raised concerns about the street wall heights being too tall and request lowering them from 14m to 11m for the block between the Oxford Street Reserve and Cambridge Street, south of Langridge Street and along the south side of Derby Street, east of Oxford Street.

### **Response**

The *Collingwood Built Form Framework*, June 2018 (prepared by Hansen Partnership) acknowledges that due to the intersection of two key movement corridors and emerging new development, Area 3 can accommodate a comparatively more robust street wall height. As the topography of the Collingwood Slope rises, the street wall heights reduce from 20m to 14m. For the block east of Oxford Street Reserve up to Cambridge Street (south of Langridge Street), a street wall height of 14m (4 storeys) was recommended as appropriate.

Due to overshadowing analysis with regards to Oxford Street Reserve, the street wall adjoining the north eastern boundary of the reserve is proposed to be lowered to 11m (also see response to Overshadowing of Public Open Space).

Infill sites fronting the south side of Derby Street, east of Oxford Street, have very similar conditions to properties along the west side of Oxford Street. Hence, the street wall height of 14m (4 storeys) is the same either side of Oxford Street. The exhibited DDO23 includes a requirement to transition down towards an adjoining heritage street wall and to not exceed the adjoining heritage street wall height for a length of 6m along the frontage.

### **Conclusion**

The street wall heights in the exhibited DDO23 are based on detailed analysis and with respect to infill sites next to heritage places had already been adjusted in comparison to the interim DDO.

## **7. Upper level setbacks**

### **Recommended position**

No change to the Amendment.

### **Issue**

Some submissions raised concerns that the upper level setbacks are not sufficient enough. The suggestion to increase upper level setbacks to 10m was raised.

### **Response**

The setback requirements in Clause 2.4 of the exhibited DDO23 are strong and based on rigorous urban design and heritage analysis. The *Collingwood Built Form Framework*, June 2018 (prepared by Hansen Partnership) recommends applying an upper level setback of 6m minimum above the street wall (see page 19). The *Supplementary Heritage Report Collingwood South Mixed Use Precinct*, May 2021 (prepared by GJM Heritage) recommended to require a mandatory minimum of 6m to heritage places. It further recommended to include requirements that this may need to be exceeded to retain the 3-dimensional built form and/or principle roof form and/or front two rooms of the heritage place.

Due to Area 3 being less constrained by heritage fabric, containing larger allotments and influenced by previous planning permits and/or constructed new development, the area can accommodate a comparatively lesser upper level setback of 3 metres minimum.

A general 10m minimum upper level setback in the Collingwood South precinct would be excessive and is not supported by the strategic work that informed the exhibited DDO23.

### **Conclusion**

The upper level setbacks in the exhibited DDO23 will ensure that a clear distinction between lower and upper levels is achieved and that a sense of openness is retained. Requirements for heritage places had already been strengthened in comparison to the interim DDO.

## **8. Mandatory versus discretionary requirements**

### **Recommended position**

No change to Amendment.

### **Issue**

A number of submissions suggest mandatory requirements for all heritage places and around all open spaces to ensure protection of these places and provides certainty to the community. Submitters raised concerns with discretionary requirements, stating that preferred requirements are often disregarded by developers and variations are approved by VCAT without further benefit or consideration.

Some submitters supported mandatory controls for the whole Collingwood South precinct. Two submissions did not support the provision of mandatory controls.

### **Response**

A mandatory control is one that must be met and where there is no opportunity to vary the requirement with a planning permit. Introduction of any mandatory requirements must be based on robust and comprehensive strategic work.

The application of mandatory requirements in the exhibited DDO23 has been carefully considered and applied selectively. They are not proposed to apply across all areas and/or

to all requirements within the exhibited DDO23. The mandatory requirements included in the exhibited DDO23 are founded on comprehensive strategic work and are considered absolutely necessary to achieve the development outcomes sought for the precinct.

Mandatory controls have not sought to unduly restrict development in Collingwood South. The precinct will continue to provide for Yarra's housing and employment needs with appropriate locations accommodating higher levels of growth.

Council has sought mandatory controls in accordance with the criteria set out in Planning Practice Note 59 (PPN59) *The Role of Mandatory Provisions in the Planning Scheme* and Practice Note 60 (PPN60) *Height and setback controls for activity centres*. Mandatory requirements are applied only when they are seen as '*absolutely necessary*' to achieve the preferred built form outcome or where '*exceptional circumstances*' warrant their introduction.

Based on built form recommendations in the *Supplementary Heritage Report Collingwood South Mixed Use Precinct*, June 2021 (prepared by GJM Heritage), the exhibited DDO23 includes mandatory requirements in response to the below built form parameters:

- Street wall heights to infill sites between low-scale heritage places or on streets with consistent heritage places;
- Upper level setback above heritage fabric to retain the key heritage elements and architectural features and to maintain the legibility of the three-dimensional form of the heritage place;
- Overall height of new development above the heritage place to retain their legibility and to avoid new development dominating their generally modest scale.

Public space in Collingwood South is scarce and highly valued. To ensure the opposite footpath is protected from additional overshadowing at the equinox, a mandatory requirement has been applied to all streets, except for Little Oxford Street.

The approach where to apply mandatory controls in DDO23 is underpinned by recent Yarra planning scheme amendments, including C231yara (Queens Parade), C220yara (Johnston Street) and C191yara (Swan Street).

The Victorian Planning system prefers the use of preferred/discretionary requirements as they provide flexibility to respond to local context and unique urban conditions of a site or an area.

A preferred requirement means a permit can be granted without an application specifically meeting a requirement set out in a DDO. These provide flexibility to respond to local context and unique urban conditions of a site or an area. Most requirements are '*preferred*' as a certain outcome can be reached in numerous ways and/or it is very difficult to be absolute about how a good outcome can be achieved.

The exhibited DDO23 contains preferred built form requirements where conditions do not necessitate a mandatory control. With some exceptions, this generally applies to infill sites and design requirements. Noting developments in these areas are required to achieve design outcomes that will ensure that heritage places, the precinct's character and amenity of the area is not compromised.

In comparison to the interim DDO23, the exhibited DDO23 has included a number of additional requirements for a development which attempts to exceed the preferred height control. These additional provisions require that the additional height will not result in any additional overshadowing of residentially zoned properties and that the provision of bicycle parking / end of trip facilities exceeds the minimum requirements of Clause 52.34.

### **Conclusion**

Based on detailed analysis, the exhibited DDO23 includes the mandatory requirements that are necessary to minimise impacts on heritage places and the public realm. The exhibited DDO23 includes strengthened requirements for proposals that attempt to exceed the preferred height.

## **9. Recent developments**

### **Recommended position**

No change to the Amendment.

### **Issue**

A number of submissions have cited concerns about taller developments in the area that have either been recently constructed, are under construction or have been approved. Examples of the concerns include loss of neighbourhood character, amenity impacts, overwhelming of the public realm and poor design quality.

### **Response**

The majority of the constructed developments were approved prior to the introduction of the current interim DDO23 and highlight both the development pressure in the area and also the need for permanent built form controls to be introduced.

Recent developments were considered in the *Collingwood Built Form Framework, June 2018* (prepared by Hansen Partnership) which is a key part of the strategic work that underpins Amendment C293yara. It should be noted that Area 3 is the area where most of the recent development has occurred.

### **Conclusion:**

The exhibited DDO23 relates to guiding future potential development and does not intend to achieve the same outcomes as per previously approved developments that often predate the interim DDO23.

## **10. Heritage**

### **10.1 Better protection of the heritage fabric**

### **Recommended position**

No change to the Amendment. This is outside the scope of the Amendment as the Heritage Overlay is responsible for the protection of heritage places.

### **Issue**

Many submissions raised the importance of heritage places and the need to protect all heritage buildings.

### **Response**

There is an important distinction between a Design and Development Overlay (DDO) and Heritage Overlay (HO). Within the Victorian Planning System, it is the role of the Heritage Overlay to protect places and buildings of heritage significance. A Design and Development Overlay (DDO) can only focus on built form and design aspects of future development and cannot act specifically as a heritage protection control.

Amendment C293yara does not propose to make changes to the heritage policy and/or Heritage Overlay.

Based on the *Collingwood Mixed Use Pocket Heritage Analysis and Recommendations, June 2018* (prepared by GJM Heritage), Amendment C261yara introduced interim heritage overlays to new properties from 18-22 and 33-45 Derby Street, Collingwood, which were later made permanent through Amendment C245yara.

### **Conclusion**

The heritage overlay is responsible for the protection of heritage places.

## **10.2 New developments not being sensitive towards heritage places**

### **Recommended position**

No change to the Amendment.

### **Issue**

A number of submissions raised concerns about new development detracting from heritage values, particularly the scale of new development overwhelming the heritage fabric. Some submissions recommended Council provide clearer objectives and mandatory controls to protect the heritage places.

Some submissions recommend areas within the Heritage Overlay to be designated as minimal change in line with the Burra Charter conservation principles and housing growth should be accommodated only in non-heritage areas.

A few submissions comment that new additions to heritage buildings should be carefully and respectfully designed.

Some submissions raise concern about the designated heights in the proposed DDO, particularly along Derby Street and Oxford Street. The submissions recommend a reduction in the overall height of sites along both streets to 14m to make both sides of Derby Street consistent and to ensure new developments respond appropriately to context of mandatory 11m heights along Oxford Street. The submissions also recommend reducing the 14m street wall height to respond to the two storey heritage buildings.

### **Response**

The State Government requires local councils to address population and employment changes to meet their city's needs. Activity centres have been identified as appropriate areas to accommodate growth as they have good access to employment, public transport and other amenities. The Collingwood South precinct is part of the Smith Street Major Activity Centre. There needs to be a balanced approach in determining potential building heights to ensure the precinct can accommodate growth whilst also responding sensitively to heritage fabric.

The Amendment was informed by rigorous analysis and testing of urban design, heritage and traffic matters. The exhibited DDO23 reflects advice prepared by GJM Heritage—*Collingwood Mixed Use Pocket Heritage Analysis and Recommendations 2018* and *Supplementary Heritage Report: Collingwood South (Mixed Use) Precinct*, May 2021. The purpose of the report was to help ensure that the *Collingwood South Built Form Framework*, June 2018, and the subsequent DDO23 appropriately responded to the heritage places and values of the Collingwood South precinct.

GJM's expert advice was prepared in the context of the Yarra Planning Scheme and the relevant Planning Practise Notes (PPNs):

- PPN1: Applying the Heritage Overlay (January 2018);
- PPN59: The role of mandatory provisions in the planning schemes (September 2018);
- PPN60: Height and setback controls for activity centres (September 2018).

The *Collingwood Built Form Framework*, June 2018 (prepared by Hansen Partnership), takes the findings and recommendations of GJM's 2018 heritage report into consideration.

A number of reports from Planning Panels Victoria (Panel) have informed the supplementary heritage advice, including (but not limited to):

- Yarra Planning Scheme Amendment C191 'Swan Street Activity Centre' (October 2020);

- Yarra Planning Scheme Amendment C220 ‘Johnston Street Built Form Controls’ (February 2019);
- Yarra Planning Scheme Amendment C231 ‘Queens Parade Built Form Review’ (October 2019);
- Boroondara Planning Scheme Amendment C108 ‘Neighbourhood Centres and Commercial Corridors’ (26 February 2014).

These panel reports are relevant as they consider the appropriateness of DDOs containing both mandatory controls and discretionary provisions within activity centres, including areas that are subject to a heritage overlay.

In comparison to the interim DDO23, the exhibited DDO23 includes clearer and stronger requirements which aligns with Yarra City Council’s Heritage Advisory Committee’s advice and GJM’s supplementary heritage report from May 2021. The exhibited DDO23 includes mandatory controls for overall building heights, upper level setbacks in areas with more consistent heritage places and/or highly unique heritage forms. Further, the proposed DDO23 includes requirements for new development of heritage places and for infill development adjoining a heritage building to ensure that new buildings will be sensitive towards the heritage character of the area.

The overall building heights recommended in the exhibited DDO23 for *Areas 1 and 2* are lower to moderate overall building heights ranging from 11m-20m. This will ensure new development does not overwhelm the heritage places and transitions down towards them.

The objectives, requirements and decision guidelines of the exhibited DDO23 were informed by the character statement from the detailed built form framework and the built form recommendations from the heritage reports. The exhibited DDO23 includes the following objective which relates to this:

*“To protect the industrial, residential and institutional built heritage of the precinct through maintaining the prominence of the corner heritage buildings on Wellington Street, and respecting both individual and groups of low-scale heritage buildings through recessive upper level development and a transition in scale from taller form towards the interface with heritage buildings.”*

Below are some of the key requirements in the DDO23 that guide development of heritage places:

- Mandatory 6m upper level setbacks for most heritage places;
- Lower heights for most heritage places (majority mandatory 11m and a few preferred 14m) and adjoining infill sites;
- Street wall height of infill sites to be no higher than adjoining heritage parapet for a length of 6m;
- For infill sites match the front setbacks of adjoining heritage building (where relevant).

To ensure new development responds sensitively towards more unique heritage places, DDO23 includes the below requirements:

*“For heritage buildings, upper level setbacks in excess of the minimum upper level setback requirements should be provided where:*

- *it would facilitate the retention of a roof form and/or chimneys that are visible from the public realm, or a roof or any feature that the relevant statement of significance identifies as contributing to the significance of the heritage building or streetscape;*
- *it would maintain the perception of the three-dimensional form and depth of the building;*

- *a lesser setback would detract from the character of the streetscape when viewed directly or obliquely along the street.”*

This is further supported by existing planning policy at Clause 22.02 of the Yarra Planning Scheme applies to all land in the Heritage Overlay and give guidelines for new developments subject to the Heritage Overlay. In addition, local planning policy is in the process of being updated through Amendment C269yara, which proposes Clause 15.01-1L *Heritage*.

## **Conclusion**

In comparison to the interim DDO, the exhibited DDO23 includes reduced mandatory heights, mandatory upper level setbacks and numerous design requirements to ensure new development is sensitive towards heritage places in terms of built form transition and design.

### **10.3 Transition of new development to heritage buildings**

#### **Recommended position**

No change to the Amendment.

#### **Issue**

Some submissions have raised concerns about the taller maximum heights (40m, 30m and 27m), submitting that these would provide a poor transition between future development and heritage buildings.

#### **Response**

In comparison to the interim DDO, the exhibited DDO23 includes clearer and stronger built form requirements which aligns with the supplementary heritage report, May 2021. The supplementary heritage report recommended lower overall heights for heritage places in more consistent heritage settings (mandatory 11m) and adjoining infill sites (ranging between 14-20m).

In addition, the exhibited DDO23 includes a number of design requirements for development on heritage places and infill development adjoining a heritage place to ensure that new development will be sensitive towards the heritage place and character of the area.

The exhibited DDO23 includes the following objective which relates generally to transition to heritage buildings:

*“To protect the industrial, residential and institutional built heritage of the precinct through maintaining the prominence of the corner heritage buildings on Wellington Street, and respecting both individual and groups of low-scale heritage buildings through recessive upper level development and a transition in scale from taller form towards the interface with heritage buildings.”*

Below are some of the key requirements under Clause 2.3 ‘Street wall height and front setback requirements’ that guide street wall height of development adjoining a heritage building:

*“The street wall of infill development adjoining a heritage building should not be higher than the parapet height of the adjoining heritage building to the width of the property boundary or 6m, whichever is the lesser. “*

*“Development should have no front or side street setback, unless an immediately adjoining heritage building is set back from the street, in which case infill development should match the front setback of the adjoining heritage building from the same street, excluding laneway frontages.”*

*“Development should not exceed other street wall heights as shown in Map 1, unless all the following requirements are met, to the satisfaction of the Responsible Authority:*

- *the proposed street wall height provides a transition, scaling down to the interface with a heritage building; and*
- *the proposed street wall height does not overwhelm the adjoining heritage building and provides for an adequate transition towards it.”*

Developments are required to take account of all policy and provisions in the planning scheme. The issue of architectural design will be dealt in detail when a planning application is lodged. Below are some of Decision Guidelines in the exhibited DDO23 which requires developments to respond to this:

*“Whether the proposal responds to the presence of heritage buildings either on, or in close proximity to the site through a suitable transition in scale of street-wall, upper level setbacks and building height;”*

The *Collingwood Built Form Framework*, June 2018 highlights the importance of building design as follows:

*“Larger sites may be able to accommodate for gradual transitions through recessive upper levels and transition in scale in response to abutting heritage forms. In order to avoid undesirable ‘wedding cake’ forms, minimal ‘steps’ in built form massing is encouraged.”*

*“Transitions in scale should as a minimum occur in paired levels. On sites which directly abut single storey heritage forms and existing private open spaces a more tempered built form transition is recommended to ensure new form sensitively responds to the existing abuttal.”*

Council is updating the existing local policies in the Yarra Planning Scheme through Amendment C269. The Amendment proposes strategic directions and policies through 15.01-1L Urban Design which includes a section on *Development adjacent to land in a Heritage Overlay* and strategies to ensure new development are respectful and sympathetic to adjoining heritage buildings.

### **Conclusion**

The exhibited DDO23 includes the necessary requirements to ensure new development responds sensitively towards heritage places.

## **11. Building design / design standards needed**

### **Recommended position**

No change to the Amendment.

### **Issue**

A number of submissions suggest including guidance around the architectural design of future developments including elements such as material, façade design, pedestrian oriented design and local character.

Some submissions suggest provision of verandahs as it contributes in providing a pedestrian oriented and high-quality urban design outcome.

### **Response**

Amendment C293yara deals with these issues comprehensively and is underpinned by extensive strategic work. The exhibited DDO23 includes the following objective which relates generally to design:

*"To promote and encourage pedestrian-oriented, high quality urban design outcomes through street edge activation and the protection of footpaths and public open spaces from loss of amenity through overshadowing."*

The exhibited DDO23 includes several requirements under Clause 2.8 'Other Design Requirements' that aim to ensure that new developments achieve pedestrian-oriented, high quality urban design outcomes through street edge activation, generous entry spaces in areas of narrow footpaths and appropriate levels of façade articulation that reflect the character of the area.

Requirements in Clause 2.9 'Access, parking and loading bay requirements' aim to achieve a pedestrian-oriented outcome by ensuring new developments provide a safe and accessible environment for pedestrians and limit potential conflict between vehicle movements and pedestrian activity.

Below are some of Decision Guidelines in the exhibited DDO23 which developments are required to respond to:

- *"Whether the proposal provides a high-quality public realm interface that either activates the street edge or provides an engaging and well-designed street interface, and contributes positively to the pedestrian environment and other areas of the public realm;"*
- *"Whether the development delivers design excellence, including but not limited to building siting, scale, massing, articulation and materials;"*

The Collingwood Built Form Framework, June 2018 (prepared by Hansen Partnership) highlights the importance of building design as follows:

*"To street frontages expansive blank walls should be avoided and where visible from within the public realm any blank walls need to be visually divided into small elements through architectural treatments to reduce visual mass. Fenestration patterns and facade solid to void proportions need to reflect the prevailing streetscape rhythm and presentation. New forms should 'fit' within the prevailing streetscape character. Avoid overly busy and complex architectural expressions"* (page 31)

The policy support for these elements is in existing Clause 21.05 Built Form and Clause 22.10 Built Form and Design Policy of the Yarra Planning Scheme. It aims to ensure new development makes a positive contribution to the context through high standards in architecture and urban design. In addition, local planning policy is in the process of being updated through Planning Scheme Amendment C269yara, which proposes strategic directions and policies (Clause 15.01-1L Urban Design; Clause 15.01-2L Building Design and Clause 15.03-1L Heritage) for developments to consider and respond to the existing built environment. The proposed Clause 15.03-1L Heritage, includes a section on *Commercial Heritage Places* and number of strategies to protect and provide verandahs where they are part of the heritage streetscape.

## **Conclusion**

The exhibited DDO23 includes building design requirements to ensure new development achieves a high-quality urban design outcome.

## **12. DDO23 does not retain the character**

### **Recommended position**

No change to the Amendment.

### **Issue**

Some submissions raised concerns that the DDO23 would not retain the character of Collingwood South. The need for a neighbourhood character study was also raised. Some submissions referenced to local shops and social/cultural elements as part of the neighbourhood character.

### **Response**

Neighbourhood character studies are generally undertaken for residential precincts and cover larger areas. The heritage and urban design analysis for Collingwood South is comprehensive and focusses on a part of the Smith Street Major Activity Centre.

The detailed strategic work has been undertaken to ensure new development within the exhibited DDO23 area reflects the key character elements of the Collingwood South precinct. The *Collingwood Mixed Use Pocket Heritage Analysis and Recommendations*, June 2018, and the *Supplementary Heritage Report Collingwood South Mixed Use Precinct*, May 2021, (both prepared by GJM Heritage) undertook a detailed assessment of the heritage context. The *Collingwood Built Form Framework*, June 2018 (prepared by Hansen Partnership) undertook a detailed urban design analysis of the existing conditions and was informed by the above heritage reports. The exhibited DDO23 was based on this work and includes design objectives, built form and design requirements and decision guidelines to ensure that new development responds to the main character elements of Collingwood South.

The future character statement in the built form framework on page 16 says:

*“Collingwood embodies Yarra’s eclectic mix of heritage buildings and more contemporary commercial and apartment buildings from different periods, characterising it as a distinctly mixed precinct. From a heritage perspective, it comprises traditional warehouses of magnitude and broad width (side-by-side) with heritage cottages. It is an area that can absorb considerable change and variation in form through careful management of juxtapositions in form and sensitive transition to heritage buildings and streetscapes. The area is clearly divided into a northern precinct, with a robust industrial street presentation and a more granular southern district comprising a mixed domestic character.”*

*“The northern precinct and its predominately north-south oriented streetscapes is defined through Foy & Gibson buildings that establish architecturally impressive street wall and scale that should remain the dominant future character. This precinct can support complementary ‘pop-up’ forms above the traditional warehouse street walls and independent infill on north of Stanley Street.”*

*“The southern precinct is more mixed and can support stronger form to its main thoroughfares. In transition to more delicate street-based infill in the interior that can coexist with abutting remnant stock.”*

*“The entire precinct needs to be enhanced with improved public realm environment that provides a human scale and activated street life.”*

The exhibited DDO23 would apply to the southern precinct in the above statement. For example, two design objectives of the exhibited DDO23 say:

*"To ensure that the overall scale and form of new buildings is low- to mid-rise and responds to the topography of the precinct, by providing a suitable transition in height as the land slopes upwards, whilst minimising amenity impacts on existing residential properties, including visual bulk, overlooking and overshadowing."*

and

*"To protect the industrial, residential and institutional built heritage of the precinct through maintaining the prominence of the corner heritage buildings on Wellington Street, and respecting both individual and groups of low-scale heritage buildings through recessive upper level development and a transition in scale from taller form towards the interface with heritage buildings."*

Built form requirements of exhibited DDO23 will ensure the podium levels maintain a pedestrian scale and that upper level form are distinct from the podium levels below. In Clause 2.8 'Other design requirements' the exhibited DDO23 includes requirements such as:

*"Development should achieve good urban design outcomes and architectural excellence by including, but not being limited to:*

- *achieving active, fine grain design to create a pedestrian-oriented environment and passive surveillance towards the public realm;*
- *creating a suitable ratio of solid and void elements that resemble the industrial past of the area;*
- *creating visual interest through the arrangement of fenestration, balconies and the application of architectural features such as external shading devices, windowsills;*
- *maintaining an appropriate level of design simplicity by avoiding overly busy façades that rely on a multitude of materials and colours; [...]"*

Clause 2.8 includes further design requirements to guide the appearance of lower and upper levels. In its decision guidelines, the exhibited DDO23 it must be considered:

*"[...] whether the requirements in Clauses 2.2-2.9 are met;*

*whether the proposal provides a high-quality public realm interface that either activates the street edge or provides an engaging and well-designed street interface, and contributes positively to the pedestrian environment and other areas of the public realm;*

*whether development retains the prominence of the heritage street wall in the vistas along the main street frontage within the precinct;*

*whether heritage buildings on street corners retain their prominence when viewed from the opposite side of the primary and secondary street;*

*whether heritage buildings retain their three-dimensional form as viewed from the public realm;*

*whether upper level development above the heritage street wall is visually recessive and does not visually overwhelm the heritage buildings;*

*whether a strong sense of separation between upper levels and street walls is achieved when viewed from the opposite side of the street;*

*whether the proposal responds to the presence of heritage buildings either on, or in close proximity to the site through a suitable transition in scale of street-wall, upper level setbacks and building height; [...]”*

Together, these requirements and guidelines will ensure that built form and design of new development responds to the main character elements of Collingwood South.

A DDO cannot make requirements to retain certain shops or land uses, social or cultural elements. It can only guide built form and design of new development.

## **Conclusion**

Detailed built form character elements were identified in the strategic work and were translated into the exhibited DDO23. Social/cultural and land use-related character elements are outside the scope of a DDO.

## **13. Amenity (general)**

### **Recommended position**

No change to the Amendment.

### **Issue**

Strong concerns were expressed by submitters about amenity impacts generated by taller development on occupants in dwellings, both in low-rise single dwellings and existing taller residential developments.

Submitter concerns included:

- loss of daylight / sunlight
- overshadowing of private open space
- wind impacts in the public realm
- overlooking

### **Response**

The exhibited DDO23 includes the following objective which relates to amenity impacts:

*“To ensure that the overall scale and form of new buildings is low- to mid-rise and responds to the topography of the precinct, by providing a suitable transition in height as the land slopes upwards, whilst minimising amenity impacts on existing residential properties, including visual bulk, overlooking and overshadowing.”*

The exhibited DDO23 also includes a number of built form requirements which seek to protect the amenity of existing dwellings, including:

- overshadowing requirements (Clause 2.6 of the exhibited DDO23);
- building separation requirements (Clause 2.7 of the exhibited DDO23);
- the rear interface requirement (Clause 2.8 of the exhibited DDO23) which prescribes a maximum rear boundary wall height of 11m for development abutting a laneway.

The exhibited DDO23 also includes the following decision guidelines which respond to amenity:

*“whether upper side and rear setbacks are sufficient to limit the impact on the amenity of existing dwellings;”*

*“does the design respond to the interface with existing low-scale residential properties, including the overshadowing of secluded private open space;”*

These guidelines encourage a sensitive transition down to lower scale residential areas and limit amenity impacts. They also work in conjunction with more specific built form provisions of the exhibited DDO23 which are outlined in the following paragraphs.

## **Conclusion**

The exhibited DDO23 includes requirements to ensure amenity impacts are limited. The requirement to consider overshadowing impacts on secluded private open spaces had already been strengthened in the exhibited DDO23 in comparison to the interim DDO23.

### **13.1 Loss of sunlight / daylight and overshadowing of private open space**

#### **Recommended position**

No change to the Amendment.

#### **Issue**

There are strong submitter concerns about impacts on overshadowing of private open space and loss of daylight and sunlight to dwellings.

#### **Response**

The exhibited DDO23 responds to this issue with the following requirement at Clause 2.6:

*“Development should meet the objective of Clause 55.04-5 Overshadowing for adjoining land within a residential zone, including where separated by a laneway.”*

This will require future development to satisfy the overshadowing objective of Clause 55, which is an existing provision within the Yarra Planning Scheme. The application of this requirement is a strong measure and will ensure a balanced outcome is achieved.

A number of submitters specifically refer to concerns about overshadowing of balconies within existing apartment buildings. The exhibited DDO23 indirectly protects the solar access of balconies through the following requirements at Clause 2.6 of the DDO:

*“Development must not overshadow any part of the southern side footpath from property boundary to kerb of Peel, Langridge and Derby Streets between 10am and 2pm on 22 September.”*

*“For streets that extend in a north-south direction (except for Little Oxford Street), development must not overshadow any part of the opposite side footpath from property boundary to kerb between 10am and 2pm on 22 September.”*

By protecting the solar access of the opposite footpaths between 10am and 2pm on the equinox, balconies of an existing development would also be protected from overshadowing.

Balconies of existing developments along Little Oxford Street (which is narrower than other north-south streets in the DDO) are also protected with the following requirement:

*“Development along Little Oxford Street should not overshadow parts of building that are above the ground floor between 10am and 2pm on 22 September.”*

In summary, the exhibited DDO includes extensive built form requirements to minimise overshadowing impacts to existing dwellings. These are further supported by existing planning policy at Clause 15.01-2S of the Yarra Planning Scheme which aims to minimise the detrimental impact of development on neighbouring properties, public realm and the natural environment, with potential impacts relating to overshadowing of secluded private open spaces, loss of daylight to windows and overlooking of sensitive areas. In addition, local planning policy is in the process of being updated through Planning Scheme

Amendment C269yara, which includes policy to discourage overshadowing at proposed clause 15.01-2L.

### **Conclusion**

The overshadowing requirements of DDO23 were strengthened since the interim DDO23 and are adequate to minimise negative impacts.

## **13.2 Overlooking**

### **Recommended position**

No change to the Amendment.

### **Issue**

Many submissions highlight overlooking impacts from future development as a key issue. As outlined in the response to Amenity (General), the exhibited DDO includes a key objective which calls for new development to minimise amenity impacts on existing residential properties, including overlooking.

### **Response**

The exhibited DDO23 includes equitable development / building separation requirements at Clause 2.7 which require new development to respond to existing windows on abutting lots.

Specific built form requirements relating to overlooking within the exhibited DDO23 are not necessary as these are addressed by existing provisions in the Yarra Planning Scheme. Specifically, overlooking is addressed by either Clause 54 (One dwelling on a lot), Clause 55 (two or more dwellings on a lot – ResCode) or Clause 58 (Apartment Developments), depending on how many dwellings are proposed.

Local planning policy is in the process of being updated through Planning Scheme Amendment C269yara, which includes policy to discourage overlooking at proposed Clauses 13.07-1L and 15.01-2L.

### **Conclusion**

Overlooking issues are addressed by existing requirements of the Yarra Planning Scheme.

## **13.3 Wind impacts**

### **Recommended position**

No change to the Amendment.

### **Issue**

A number of submissions have concerns regarding wind impacts – both existing wind impacts and potential wind impacts generated by future development.

### **Response**

Expert wind evidence provided to the Johnston Street Panel hearing (Amendment C220yara) identified that it was important to ensure upper levels are sufficient to avoid wind down-draughts. Officers consider that proposed upper level setbacks will assist in the management of wind effects. Furthermore, the exhibited DDO23 includes an application requirement (under Clause 5.0 of the DDO) for:

*"A desktop wind assessment for a proposed development to assess the impact of wind on the:*

- *safety and comfort of the pedestrian environment on footpaths and other public spaces while walking, sitting and standing, and;*
- *the safety of and effects on cyclists travelling along bicycle routes that are next to the development."*

This application requirement will ensure that planning applications for future developments are provided with sufficient wind impact information. This will ensure that the developments are designed to avoid negative wind impacts to both the public realm and to cyclists using bicycle routes. This application requirement will also ensure that wind impacts are assessed on a case by case basis.

The exhibited DDO23 includes a decision guideline (under Clause 6.0 of the DDO), which requires consideration of "*whether the development mitigates negative wind effects created by the development*".

Furthermore, existing local policy at clause 22.10 and proposed local policy at proposed Clause 15.01-1L (proposed as part of Planning Scheme Amendment C269yara) both encourage new development to minimise adverse wind impacts.

### **Conclusion**

The exhibited DDO23 includes an application requirement for a desktop wind impact assessment to ensure new development does not result in adverse wind impacts.

## **13.4 Loss of views**

### **Recommended position**

No change to the Amendment. Outside the scope of this amendment.

### **Issue**

Many submissions raise concerns about the designated maximum building heights of certain properties and the associated loss of views, including views of the CBD skyline.

### **Response**

It is a well-established principle that views from a private property are not a planning issue and cannot be considered.

Neither the Planning and Environment Act 1987 (Act) nor the Yarra Planning Scheme seeks to protect views (save for key landmarks sought to be protected under clause 22.03 Landmarks and Tall Structures or views from public areas of landmarks under recent DDOs introduced for activities centres).

The issue was dealt with by the High Court of Victoria in Victoria Park Racing & Recreation Grounds Co Ltd v Taylor [1937] HCA 45. The High Court held that a property owner does not own the views (spectacles) from his or her land. Justice Dixon stated:

*"I find difficulty in attaching any precise meaning to the phrase 'property in a spectacle'. A "spectacle" cannot be "owned" in any ordinary sense of that word."*

This planning principle is also substantiated through numerous VCAT decisions which do not give any weight to a view from a private property.

### **Conclusion**

Outside the scope of this amendment.

## **14. Amenity impacts associated with construction works**

### **Recommended position**

No change to the Amendment. Outside the scope of this amendment.

### **Issue**

Some submissions raised concerns regarding negative amenity impacts due to the construction works.

### **Response**

Planning permits associated with larger-scale projects are required to provide a Construction Management Plan to ensure that the proposed construction methods are in accordance with the requirements set out by Council's Construction Unit.

Noise and air pollution, health impacts and other amenity impacts generated by construction works are outside the scope of this amendment and are also outside of the scope of the planning system more broadly. Notwithstanding this, the concerns around construction-related amenity impacts will be forwarded to Council's Construction Unit for information.

### **Conclusion**

Outside the scope of this amendment.

## **15. Traffic increase**

### **Recommended position**

No change to the Amendment.

### **Issue**

A number of submissions raise concerns about the generation of increased traffic as a result of future development.

### **Response**

The *Traffic Engineering Assessment Brunswick St and Smith St Activity Centres, 2019* (prepared by Traffix Group) analysed traffic conditions and the suitability of roads and laneways across the activity centres in Fitzroy and Collingwood, including Collingwood South.

With regard to future potential traffic generation, Traffix' report found that the Collingwood South precinct (and more broadly across Fitzroy and Collingwood) have capacity for increased traffic. Specifically, at section 6.2 of the report, it is highlighted that the high number of small lots will likely result in lower levels of on-site car parking provision and therefore less impact on future traffic congestion. The report also highlights that most recent developments in the area have provided less car parking than the minimum prescribed by Clause 52.06. It is expected that this will continue into the future which also limits the impact on future traffic congestion.

A number of recommendations for future built form were made which have been incorporated into the exhibited DDO23. These traffic-based controls are at Clause 2.9 of the exhibited DDO23 and generally seek to:

- require developments on laneways, where necessary, to provide setbacks or splays to facilitate vehicle movements and vehicle visibility;
- prioritise pedestrian access to new buildings through well designed entrances;

- provide vehicle access from laneways or secondary streets;
- discourage vehicle access off of Wellington or Langridge Streets;
- provide high standards of car parking and loading to minimise disruptions to the public realm;

These built form provisions will ensure future developments provide well-resolved vehicle access and movements on a site-by-site basis and ensure good outcomes for the public realm and pedestrians.

Furthermore, Planning Panels Victoria have considered future traffic generation for planning scheme amendments for Moreland City Council and acknowledged that “[...] future congestion should not stifle development [...]”<sup>1</sup> and the “[...] challenge of managing the road network should not prevent the Amendment from progressing [...]”<sup>2</sup>. The exhibited DDO23 has included a number of built form provisions to facilitate orderly traffic movements and good design outcomes. Draft Amendment C293yara should not be interrupted due to concerns for future traffic congestion.

<sup>1</sup> Panel report for Moreland Amendment C123

<sup>2</sup> Panel report for Moreland Amendment C134

## **Conclusion**

The exhibited DDO23 includes a number of built form provisions and design guidelines which will ensure the street network (including laneways) enable appropriate vehicle access and circulation.

## **16. Public transport and cyclist infrastructure capacity**

### **Recommended position**

No change to the Amendment. This is outside the scope of the amendment.

### **Issue**

Some submissions stated that public transport services are at capacity and bicycle infrastructure should be increased.

### **Response**

Public transport services cannot be increased through a planning scheme amendment. A DDO is not the correct tool to increase bicycle infrastructure.

Council will continue to advocate for more frequent public transport services as part of its ongoing discussions with Public Transport Victoria. Council frequently advocates State Government for improvements to infrastructure such as transport in areas where increased density is anticipated.

In late 2019, Council completed the Copenhagen-style bike lanes along Wellington Street, which has improved cyclist safety and capacity between Victoria Parade and Johnston Street. Council is also working on a revised Transport Action Plan which will identify key capacity issues and outline how these could be addressed.

### **Conclusion**

This is outside the scope of the amendment. Council continually advocates for improved public transport services and pursues improvements to bicycle infrastructure.

## **17. On-street parking**

### **Recommended position**

No change to the Amendment. This issue is outside the scope of this amendment.

### **Issue**

A number of submissions raise concerns about the impact of future developments on the availability of on-street car parking.

### **Response**

The management of on-street parking cannot be addressed through a DDO. Council manages on-street parking as an area changes. Council has developed a policy for reviewing parking restrictions and avenues for proposing changes to existing restrictions. This is outlined in Council's *Parking Restrictions Guidelines*.

It is noteworthy that all new developments following 2003 are not entitled to on-street car parking permits.

The provision of car parking in new developments is guided by Clause 52.06 as well as local transport policy at Clause 18 of the Yarra Planning Scheme which encourages the prioritisation of sustainable modes of transport including cycling and public transport.

### **Conclusion**

This issue is outside the scope of this amendment.

## **18. Environmental sustainability**

### **Recommended position**

No change to the Amendment. This issue is outside the scope of the amendment.

### **Issue**

Some submissions raised the issue of the amendment not aligning with Council's Climate Emergency Plan (CEP), as increased development exacerbates the heat island effect and increases greenhouse emissions.

### **Response**

An individual DDO is not the right tool to introduce new or generally increase environmental sustainability standards for the municipality.

Other parts of the Yarra Planning Scheme will ensure that new development is built in a more sustainable way, namely the Planning Policy Framework and Council's Environmentally Sustainable Design Policy at Clause 22.17. Environmentally sustainable design (ESD) requirements are addressed when a planning application is lodged.

There are number of other strategies that sit outside the planning scheme (namely the Urban Forest Strategy, Nature Strategy, Yarra Open Space Strategy) that work towards mitigating heat island effect by increasing street tree canopy, providing new open spaces and protecting existing trees. One of the key actions of the Urban Forest Strategy is the Annual Tree Planting Program. As part of the program there were number of new trees planted recently along Oxford Street, Cambridge Street, Mason Street and Little Oxford Street.

At the [Council Meeting on 17 March 2020](#), Council committed to progress a planning scheme amendment to implement a Zero Carbon Local Policy for new developments. This has also been committed to in our [Climate Emergency Plan](#).

## **Conclusion**

This issue is outside the scope of the amendment. No change recommended. There is a current project being pursued by Council to work towards addressing the issue.

## **19. Economic development**

### **Recommended position**

Land use cannot be controlled through a DDO. It is recommended to include a requirement to ensure new development can accommodate various uses over time.

### **Issue**

A few submissions raise concern about loss of economic diversity and small businesses which attracts creative uses and local businesses.

### **Response**

The purpose of a Design and Development Overlay (DDO) is to guide the built form and design of new development. Land use is controlled by planning zones rather than a DDO. The land within the Collingwood South precinct is zoned Mixed Use Zone. One of the purposes of the Mixed Use Zone is '*To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*'

The exhibited DDO23 includes the following requirement in Clause 2.8 'Other Design Requirements' to ensure the new development supports commercial activity in the precinct:

*"Lower levels of development should be designed to accommodate commercial activity at the ground floor, incorporating a suitable commercial floor height of 4 metres floor to floor height."*

At a policy level, a diverse economy is supported in existing planning policy at Clause 21.04 (Land Use) of the Yarra Planning Scheme which aims to achieve diversity of employment, maintain the long-term viability of activity centres and support the arts and arts venues. This is being updated through Planning Scheme Amendment C269yara, which includes Collingwood South precinct is part of the Smith Street Major Activity Centre. Clause 02.03 includes strategic directions to "*support and strengthen the vibrancy and local identity of Yarra's network of activity centres.*" It includes the provision for a mix of uses and supporting opportunities to increase the number of creative industries.

Council's adopted Economic Development Strategy (which sits outside the planning scheme) provides a vision and set of actions to support existing businesses (including small businesses) and the creative industry through different grants, programs and initiatives.

## **Conclusion**

Land use cannot be controlled through a DDO. To ensure new development can accommodate different uses over time, it is recommended to include the following requirement:

*"Building structures, layouts and non-residential unit sizes should be adaptable so as to allow for a variety of uses over time."*

## **20. Community consultation**

### **Recommended position**

No change to the Amendment.

### **Issue**

A few submissions raised concern about the lack of consultation with the local community and Council having followed a ‘top down’ approach in the preparation of the amendment instead of utilising local knowledge to get the best outcome for the future.

### **Response**

The statutory provisions in the Yarra Activity Centre Standing Advisory Committee – Terms of Reference dated 10/6/2021 provide the framework for public exhibition.

The amendment was exhibited for six weeks. Webpages included a non-statutory description of the amendment, its background material and:

- a series of downloadable information brochures (including informal information sheets to describe the DDO23 in non-statutory language);
- an online mapping search tool;
- frequently asked questions (FAQ);
- contact details; and
- information on how to make a submission.

Council sent around 5,000 letters to landowners and occupiers with links to the C293 amendment website and the Yarra Activity Centre Standing Advisory Committee websites. Council also published the notice of preparation of the Amendment in The Age newspaper and distributed a feature in Yarra Life e-newsletter (approximately 12,200 recipients) and Yarra Business news (approximately 10,000 recipients). There were also posts on social media to raise awareness.

In addition, emails were sent to individuals who recently had expressed their interest in DDO’s for the Collingwood South area, known community groups and representatives of all of Yarra’s advisory committees to alert them about the exhibition and offered engagement through phone conversations and online meetings (due to COVID-19).

Through the exhibition period, Council officers engaged with a number of interested parties via phone conversations and had online meetings as requested.

### **Conclusion**

Amendment C293 was publicly exhibited for 6 weeks and notification efforts were extensive.

## **21. Accommodating growth**

### **Recommended position**

No change to the Amendment.

### **Issue**

Some submissions requested that heritage overlay areas should be considered minimal change and that change should be more distributed across the City of Yarra and less concentrated in areas like Collingwood South.

### **Response**

The State Government requires local councils to address population and employment changes to meet their city’s needs. Activity centres have been identified as appropriate

areas to accommodate growth as they have good access to employment, public transport and other amenities.

The Collingwood South Mixed Use Precinct is part of the Smith Street Major Activity Centre within the City of Yarra. Major activity centres are required to play a significant role in achieving the directions of *Plan Melbourne 2017-2050* in relation to both housing and employment. Accordingly, Collingwood South plays an important role in accommodating a proportion of Melbourne's population and employment growth.

Council's Yarra *Housing Strategy* (adopted in 2018) seeks to direct new housing to areas within or close to activity centres that have good access to public transport, open space and other services and limit housing growth in established residential areas, consistent with *Plan Melbourne*, State and local policy. It identifies the Collingwood South precinct to accommodate a mix of 'high change' and 'incremental change', with pockets of heritage places accommodating lesser change.

The *Yarra Spatial Economic and Employment Strategy 2018* seeks to support growth in retail and other employment uses in the two activity centres. The SEES also recognises the role of activity centres in terms of housing.

However, this does not mean that major activity centres are locations for unlimited growth. Both *Plan Melbourne* and the Yarra Planning Scheme make it very clear that distinctive activity centres and the preservation of heritage fabric and public and private amenity are also important in Major Activity Centres.

The exhibited DDO23 provides a balanced approach by guiding different levels of potential development across the precinct. It will ensure that new development will be sensitive towards heritage buildings, minimising impact on sensitive residential interfaces and public spaces such as footpaths, open spaces and expanded street corners. As discussed in the 'Building height' and 'Mandatory vs discretionary' responses, most heritage places in DDO23 are subject to a mandatory maximum building height of 11m.

## **Conclusion**

Collingwood South is part of the Smith Street Major Activity Centre and the exhibited DDO23 achieves a balance between guiding change towards areas of lesser sensitivity/constraints and ensuring new development is sensitive towards heritage places and residential context.

## **22. COVID-19 impacts not considered**

### **Recommended Position**

No change to the Amendment.

### **Issue**

It was raised that due to the impact of the COVID-19 pandemic the need to accommodate housing and economic growth in Collingwood South (and Yarra in general) was lessened.

### **Response**

Council in its Part B Submission to the independent planning panel considering Planning Scheme Amendment C269yara – Rewrite of Local Policies provided commentary on the impacts of COVID-19. Council's submission (on Page 127) noted:

*"The COVID-19 pandemic and its associated restrictions have had a significant impact on Victoria, including impacts on population growth and economic activity. As the pandemic is continuing to unfold, the ultimate short term and long term effects of COVID-19 are still uncertain."*

Council's expert on capacity provided the following comments on the impacts of COVID 19. In terms of housing,

*"It is Mr Szafraniec's opinion that the impacts of COVID-19, while still very uncertain, have likely reduced population and housing levels at 2036 by up to 6 per cent. This reduced demand will be particularly acute for the next 2 to 3 years. He also considers that the nature of housing demand is likely to have shifted, with a greater demand for larger dwellings (i.e. apartments with more bedrooms and space, and a shift to (semi) detached dwellings)."*

In terms of employment growth, he considered:

*"[...] although uncertain, it is also likely that post-COVID, the nature of demand for employment spaces and locations will also change to some degree. However, most trends are likely to be an acceleration of existing patterns and the fundamentals of Yarra's economy and the need for employment space will largely remain; and there will be reduced demand for employment space in the short term (next 2-3 years) as a result of COVID-19, however, it is unclear how these effects from COVID-19 will impact Yarra in the medium to long term."*

Also see the response to "Accommodating Growth".

Given the policy directions, expert advice above and that land use and development planning needs to be undertaken with a long-term view, the directions of C293 do not require to be changed.

## **Conclusion**

Recent expert advice and current policy positions do not indicate that a change to the long-term outcomes that Amendment C293 is trying to achieve is required. Long-term impacts from COVID on housing and economic patterns for activity centres will remain uncertain in the short-term, which is not a basis to change the direction for C293yara.

## **23. Infrastructure capacity**

### **Recommended position**

No change to the Amendment. This is outside the scope of the amendment.

### **Issue**

Concerns were raised about the ability of infrastructure to cater for the increase in activity/population.

### **Response**

In terms of impacts on public transport, cycling, parking and open space, please refer to the responses for:

- Public Transport and Cyclist Infrastructure Capacity;
- Traffic;
- On-Street Parking;
- Need for more Public Open Space.

Population growth is occurring across Melbourne. Growth puts pressure on all services and providers are aware of the greatest pressure points and are planning new services accordingly.

Council delivers a wide range of services and programs. These include childcare, recreation facilities, libraries, arts and cultural initiatives, services for older persons and people living

with a disability. The State Government provides a range of health, housing and education services. Private providers also provide education, childcare and health care services in Yarra.

Council's provision of community facilities and services are guided by the *Council Plan*, *Community Infrastructure Plan*, *Open Space Strategy* and *Municipal Public Health and Wellbeing Plan*. These plans identify community needs, potential partnerships, advocacy opportunities and are reviewed to keep pace with changes in the community. As Council is not directly responsible for the provision of schools, etc, it advocates to the State Government on behalf of the Yarra community.

### **Conclusion**

This is outside the scope of the amendment.

## **24. Property values**

### **Recommended position**

No change to the Amendment. Outside the scope of this amendment.

### **Issue**

Some submissions outline concerns about potential impacts to property values as a result of the exhibited DDO23.

### **Response**

The economic effects relevant to the planning scheme amendment stage are those of a broad community nature rather than individual private property values. On this issue, the Panel for Stonnington Planning Scheme Amendment C270 noted at page 24 of its report:

*"This Panel maintains the consistent view adopted by other panels that broader community effects, rather than private economic effects such as impacts upon land values or the individual financial circumstances of the landowner, are of particular relevance at the Amendment stage. The Melbourne C207 Panel conclusions on social and economic effects maintained that these impacts relate to the broader community, rather than personal impacts. Review by the Supreme Court in *Dustday Investments Pty Ltd v Minister for Planning [2015] VSC101 (Dustday)* did not find that the Melbourne C207 Panel had erred."*

The *Planning and Environment Act 1987* clearly sets out the matters which give rise to claims for compensation. The compensation provisions of Section 98 of the Act do not include compensation for the loss in property values.

### **Conclusion**

Outside the scope of this amendment.