

Draft Amendment C273yara

Response to key issues raised in submissions

Attachment 1

This document provides a response to the key issues raised in submissions to Draft Amendment C273yara. It recommends changes to the amendment to respond to issues raised.

Please see Attachment 2 “**Summary of individual submissions and responses**” for summaries of the individual submissions and individual responses.

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1. Accommodating Growth

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<p><u>The need to accommodate for growth</u></p> <ul style="list-style-type: none"> A number of submissions acknowledged the need to develop the south side of Heidelberg Road in Alphington to reduce urban sprawl. The need for greater densities in the inner suburban areas should not come at the cost of residential amenity. <p><u>Concern that Alphington/Fairfield is not an appropriate location to accommodating growth</u></p> <ul style="list-style-type: none"> Submissions identified the following impacts as concerns: <ul style="list-style-type: none"> More high-rise developments will ruin the reasons for moving to Alphington. Will put pressure on amenities. Will negatively impact access to services. Development of 20m (in Precinct 2) would destroy the existing neighbourhood character which is quiet, low-rise residential surrounded by parks and trees. Heights are out of proportion with the 'landscape of Alphington and the eco-centric values of the community'. Quiet area to raise a family surrounded by parks and trees. There are many apartments that haven't been sold in the Yarra Bend development (former Alphington Papermill). Questions building more homes if they will be unoccupied. Other locations suggested for growth included encouraging housing near railway lines. These areas do not impact on existing streetscape and the well-being of a neighbourhood. <p><u>Neighbourhood Character</u></p> <ul style="list-style-type: none"> Many submissions commented on Alphington and Fairfield's established residential character. The area is a predominately low-rise built form and leafy neighbourhood with many heritage buildings. 	<p>Recommended position:</p> <ul style="list-style-type: none"> No change proposed. <p>Response:</p> <ul style="list-style-type: none"> Land along Heidelberg Road in Fairfield and Alphington is an attractive area for new development due to its good access to Melbourne CBD, proximity to public transport, jobs and services. <i>Plan Melbourne 2017-2050</i>, the <i>Yarra Housing Strategy (2018)</i>, <i>Yarra Spatial Economic and Employment Strategy (2018)</i> and revised local planning policy framework (Amendment C269yara) direct employment and housing growth in Yarra to activity centres. The amendment must consider the projected employment and population forecasts when applying new provisions. However, this does not mean that activity centres or key roads are locations for unlimited growth. Both <i>Plan Melbourne</i> and the Yarra Planning Scheme make it clear that accommodating growth needs to be balanced with the preservation of heritage and public and private amenity. Clause 11.03-1L Activity Centres in Amendment C269yara includes the objective 'to manage a sustainable network of activity centres that facilitate appropriate economic and housing growth and provide attractive places for social and community interaction'. <p><i>Housing Strategy</i></p> <ul style="list-style-type: none"> Council's <i>Housing Strategy (2018)</i> 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 <i>Plan Melbourne</i>, State, and local policy. The Heidelberg Road Neighbourhood Activity Centre (NAC) is expected to deliver a substantial number of new dwellings. The <i>Housing Strategy</i> highlights the majority of these dwellings will be supplied through the redevelopment of the former Alphington Paper Mill (APM) site. The <i>Housing Strategy</i> identifies the Commercial 1 Zone (C1Z) areas within DDO18 (Precincts 1 and 3A and 3B) as 'moderate change' areas. These areas will support increased residential densities and housing diversity through mixed use, infill and shop-top apartment development. <p><i>Yarra Spatial Economic and Employment Strategy (SEES)</i></p> <ul style="list-style-type: none"> The area affected by the amendment includes land zoned Commercial 2 Zone (C2Z) which supports commercial activities and does not allow residential uses. The <i>Yarra Spatial Economic and Employment Strategy (SEES)</i> adopted in 2018 supports the retention of C2Z zoned land to support the growth in retail and other employment uses on Heidelberg Road. It notes that Yarra's C2Z land is not required to support housing. Amendment C273yara seeks to apply stronger planning provisions and provide greater certainty to the community. It seeks to balance the need for development, while retaining a sense of place and protecting adjacent residential amenity. <p><u>Neighbourhood Character</u></p> <ul style="list-style-type: none"> Comprehensive heritage and urban design analysis for the four precincts informed the amendment:

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Concerns the proposed built-form requirements would transform the character of the area and diminish the prominence of heritage buildings. Proposed heights are not in keeping with this character. <p><u>Built form requirements will stifle development</u></p> <ul style="list-style-type: none"> Some submissions were concerned the requirements are unduly restrictive (See Section 7 – Mandatory controls for further discussion.) Concerns were expressed the amendment does not encourage development in a location with good access to shops, services and public transport. They noted the presence of what they identified as mid-rise development on the former APM site and other locations. <p><u>Housing mix and diversity (including affordable housing)</u></p> <ul style="list-style-type: none"> Support low rise three-to four bedroom apartments, instead of one to two bedroom high rise to encourage families to the area. The built form requirements will constrain the delivery of housing, including affordable housing. 	<ul style="list-style-type: none"> The DDO establishes a preferred character along Heidelberg Road for each precinct that responds to the existing context. The exhibited DDO includes a range of requirements to manage future development that responds to the character of the street: Front landscape setbacks to improve pedestrian experience along Heidelberg Road Maintains the prominence of the heritage places and protection of view lines to the former ‘Porta’ chimney and factory Requires new development to transition in height and landscape setbacks to sensitive residential areas to ensure there is no unreasonable loss of amenity through visual bulk, overlooking and overshadowing. <p><u>Housing mix and diversity (including affordable housing)</u></p> <ul style="list-style-type: none"> Recently the Victorian State Government has released the <i>Victoria’s Housing Statement</i> which identifies housing affordability as a key challenge for the State. The delivery of new housing in established areas is one element in assisting housing affordability. Policy in the current MSS and as adopted in Amendment C269 encourages diverse housing types including homes for families. Amendment C269 also includes a requirement for 10 percent affordable housing in developments of 50 or more dwellings. <p>The amendment along with the APM site provides enough potential capacity to ensure that there is a diversity of housing choice and will not constrain housing affordability.</p>

2. Building Heights

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Support for permanent height requirements throughout the precincts but different views on the heights. Most submissions from residents oppose the proposed building height provisions (being too high, particularly in Precinct 2). While most commercial landowners and developers suggest greater heights and more flexibility. <p><u>Impact of building heights on residential areas in Fairfield/Alphington</u></p> <ul style="list-style-type: none"> Concerns outlined in submissions included: 	<p>Recommended position:</p> <ul style="list-style-type: none"> No changes proposed. <p>Response:</p> <ul style="list-style-type: none"> Prior to the introduction of the interim built form provisions (Amendment C272yara), there were no height requirements to manage development. The DDO has been informed by background reports on built form (Hodyl & Co), heritage (RBA Architects), traffic (Traffix) and recent planning scheme amendments and VCAT decisions. Building heights and setbacks in DDO18 respond to the highly varied built form and land use contexts along Heidelberg Road, including the surrounding heritage and built form context, interface conditions and site characteristics (size/depth) within each precinct. The preferred character of each precinct and mitigating impact of upper levels when viewed from residential streets were also considered.

<ul style="list-style-type: none"> - overshadowing of residential properties based on the orientation and topography of the sites (sloping sites) - occurrence of high-rise buildings adjacent to single storey dwellings - impacts on character - inconsistent with existing development - decrease in the quality of life for residents - impacts on wildlife and gardens. <ul style="list-style-type: none"> • Existing development at the APM site should not dictate development in the DDO precincts. • One submitter commented the methodology used in determining appropriate heights in each precinct is inconsistent. • Concerns that mandatory height requirements only apply to Precinct 3A. Other precincts have preferred heights, 'inviting unrestricted development'. • Alternative heights were suggested to apply across all precincts included (see below for Precinct-specific suggestions): <ul style="list-style-type: none"> - A maximum of 14m (3-4 storeys). - A maximum of three storeys. - Reduce the height of new buildings from Heidelberg Road to the rear. <p><u>Precinct 1</u></p> <ul style="list-style-type: none"> • Mixed views: <ul style="list-style-type: none"> - A submitter opposed 'overdevelopment'. - Some specifically opposed the scale of the most recent development proposal for the Porta site. - Suggestions to limit building heights to 4-6 storeys or less instead of 6-8 storeys. - Others support/partially support the proposed heights as the precinct interfaces with parkland and will not impact on residents. • One submission stated the following: <ul style="list-style-type: none"> - Objected to mandatory building heights as unjustified and overly restrictive and should be made preferred provisions. 	<ul style="list-style-type: none"> • DDO18 requires new development to transition down to residential and parkland interfaces. This will protect these areas from an unreasonable loss of amenity. See Section 4 - <i>Impacts on Amenity</i>. • The recommended heights in the DDO were reduced by Council on 4 February 2020 and subsequently approved by the Minister for Planning in considering the interim DDO request. These heights have generally been retained in Amendment C273yara. Combined with the strong requirements for rear interfaces towards residential properties, the preferred maximum heights would achieve a balanced and adequate built form outcome in the relevant context. Additional criteria for proposals that exceed the preferred maximum height apply to assess potential offsite impacts, such as overshadowing and visual bulk. • Proposals that seek to exceed a preferred height need to achieve: <ul style="list-style-type: none"> - Increased separation distances - Higher ESD standards - No additional overshadowing of sensitive interfaces - Increased private and communal open space (where the proposal includes dwellings). <p><i>Submissions requesting lower heights</i></p> <ul style="list-style-type: none"> • State and local planning policy directs growth to activity centres. In Yarra, this helps to reduce development pressure on the surrounding low scale residential areas. • Concerns about the impacts on amenity of low-rise residential interfaces and neighbourhood character were highlighted as reasons to reduce heights. Also see Section 4 – <i>Impacts on Amenity</i> for a response. • Limiting a large proportion of sites within the four precincts to the lower heights as suggested would not demonstrate a balanced and adequate approach to the development opportunities and constraints of each precinct. The proposed DDO is based on detailed analysis and the relevant built form requirements in it achieve an appropriate outcome. <p><i>Submissions requesting increased heights</i></p> <ul style="list-style-type: none"> • Increasing proposed heights on larger sites is not recommended. The proposed building heights are generally preferred (discretionary) requirements and provide flexibility where specified criteria can be met. <p><i>Low-rise and mid-rise development</i></p> <ul style="list-style-type: none"> • DDO18 identifies low-rise and mid-rise development in the four precincts: <ul style="list-style-type: none"> - Low-rise development will occur in Precinct 2 and 3B where there is a fine grain street network, narrow sites with some larger sites and variations in building heights and styles. - Mid-rise development will be encouraged in parts of Precinct 1 and Precinct 3A where there are less constrained. Typically, these precincts that do not directly interface with residential properties. • The DDO or local planning policy does not define 'low-rise' or 'mid-rise'. This is because 'low-rise' or 'mid-rise' is a relative assessment of scale depending on the location of the site, its surrounds and its strategic context. The DDO provides further guidance through building heights and other built form parameters. <p><u>Precinct 1</u></p> <ul style="list-style-type: none"> • DDO18 allows for a maximum preferred building height of up to 24m (approximately 7 storeys) on a larger site. The remainder of Precinct 1 allows for heights of 14.4m to 17.6m (4-5 storeys).
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- Suggest increasing the preferred building height to reflect the site's opportunities and capacity.
- Opposes the preferred maximum building height of 24m given the site's attributes. Suggests increased height, especially for the north-east corner.
- The 2.6m height limit for lift over runs and other rooftop facilities such as communal open space is insufficient. Suggest that it should be raised to 3.6m.

Precinct 2

- Strong opposition to proposed heights of up to 20m. Submitters question the rationale behind the 20m preferred height.
- Heights up to 20m do not match the existing built form and character of this area.
- Alternative heights:
 - Keep the height at 8m
 - A maximum of 11.2m, 12m (3 storeys) and 16m (approximately 4 storeys).
- Heights at the rear of properties are an issue (see also Section 4. Impacts on Amenity). Suggestions to address this included:
 - Reducing heights toward the rear of development adjacent to residential properties to prevent a loss of privacy and lack of sunlight. (See Section 4. Impacts on Amenity)
 - Heights for buildings set back 3m from boundary abutting properties facing Park Crescent should only increase in height by no more than 3m for every 6m horizontally.
- One submitter opposed the 20m height. It restricts development and should be increased to 27m.

Precinct 3A

- Strong opposition to proposed heights and the potential of a 7-8 storey building to be constructed on the site.

- Building heights within this precinct seek to create a mid-rise precinct that frames Heidelberg Road and steps down towards the adjacent parks to maintain the prominence of the landscape setting.
- Careful consideration is also given to maintaining the prominence and visibility of heritage buildings and limiting the impact of overshadowing on public open space.

Precinct 2

- DDO18 allows for maximum preferred heights of 16m to 20m (approximately 4 -5 storeys).
- The building heights within this precinct seek to create a low to mid-rise commercial precinct, which does not visually dominate or unreasonably overshadow private open space in adjacent residential areas.
- As Precinct 2 is in the Commercial 2 Zone which allows on retail and office uses, higher floor to floor heights (of 4m) have been provided for.

Precinct 3A

- DDO18 allows for building heights of up to 27.2m (approximately 8 storeys) for the section of the site at the corner of Heidelberg Road and Chandler Highway to ensure building heights remain subordinate to development on the former Alphington Paper Mill site. Heights transition down to 11.2m (approximately 3 storeys) towards Coate Avenue.
- The building heights within this precinct seek to create a well-designed mid-rise, mixed used building that marks the prominent corner location, without competing with the high-rise development on the east side of Chandler Highway. Building heights transition down in scale to the adjacent low-rise forms to the south and west (Coate Avenue).
- Mandatory maximum building heights have been proposed for this precinct to ensure that any development strikes a balance between providing a response to the very wide road corridors, the site's location in the NAC near the former APM site and the need to transition down towards the sensitive low-rise residential areas to the south and west.

Precinct 3B

- Preferred maximum building heights of 14.4m and 17.6m (4-5 storeys) apply.
- The building heights seek to create a low-rise character for the existing neighbourhood centre which complements the scale and facilities in the former Alphington Paper Mills site.
- Careful consideration is also given to maintaining the prominence and visibility of heritage places and providing a legible transition to the residential areas located to the south and protecting these properties from an unreasonable loss of amenity.
- Officers do not agree with the submission Precinct 3B is characterised by "mid to higher rise commercial" buildings. Currently existing buildings range from 1-2 storey in height. A 'low-rise character' in Precinct 3B is not in conflict with the objectives of the amendment, which allows for a range of building heights.

Height of building services

- Building services such as lift over runs can be accommodated within 2.6m.
- The proposed 2.6m height also avoids the creation of essentially another floor in terms of the height of the building and reduces the visual impacts of rooftop services.
- This aligns with draft Amendments C291yara and C293yara.

Telecommunications Tower

See Attachment 2 – individual submissions – Submission 32

- Concerns the proposed building heights do not match the neighbourhood character.
- Concerns about overshadowing of dwellings to the south, and across Chandler Highway.
- Suggested alternative maximum heights included three, four and five storeys.
- Submitters noted the recent proposal for a six-storey building had been refused. Future development on this site should be below this height.

Precinct 3B

- Objecting to the proposed preferred 17.6m maximum building height.
- Concerns about the amenity impact of the heights - overshadowing and deprivation of sunlight and loss of privacy.
- One submission suggested a lower height of 11.2m.
- Other submitters suggested increased heights:
 - 20m given the need for additional housing in Alphington and the area's excellent access to transport and services.
 - 27m for one site to match the approval from VCAT (submission from the landowner).
- Owner of 700-718 Heidelberg Road submitted:
 - DDO height should be consistent with the 8-storey development approval.
 - Height requirements should align with evolving planning conditions and allow for greater density.
 - The submission stated that VCAT expressed concerns about lower height limits on the site and suggested taller building on transitioning to smaller scale to the east within this precinct. It noted that the approved development benefits the public realm and pedestrians.
 - Considers the objective of creating a 'new low-rise character' in Precinct 3B and the existing

<p>mid to higher-rise commercial conditions along Heidelberg Road inconsistent.</p> <p><u>Telecommunications Towers</u></p> <ul style="list-style-type: none"> • One submitter was concerned about the impacts of the DDO on a telecommunications tower on their property. • Seeking flexibility and a specific exemption in the DDO to accommodate this essential service. 	
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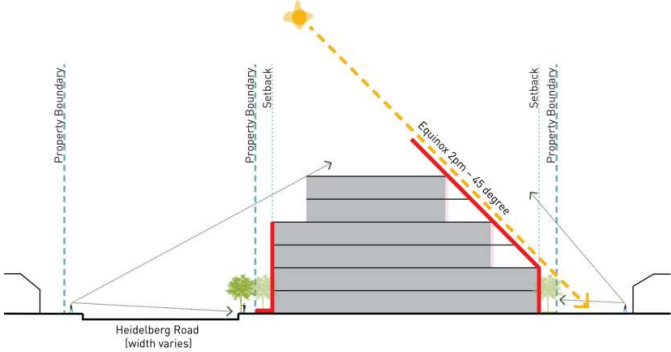
3. Building Setbacks and Separation

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<p><u>Building Separation</u></p> <ul style="list-style-type: none"> • One submission commented building separation provisions would limit development. • Without consolidating with neighbouring properties, many properties would not achieve the requirement. • Remove the provision from narrow properties. This would assist in retaining the fine-grain nature of Heidelberg Road. <p><u>Front / street setbacks</u></p> <ul style="list-style-type: none"> • Submissions from commercial landowners did not support setbacks along Heidelberg Road and Park Crescent. • Street setbacks would restrict development opportunities. • Provision of the setback should allow a development to exceed the proposed height. • Oppose mandatory setbacks. • A submission suggests reducing the front setback of 3m on Park Crescent to 2.4m <p><u>Upper level setbacks</u></p> <ul style="list-style-type: none"> • Submissions from landowners along Heidelberg Road considered the 6m upper-level setback excessive and would limit development. 	<p>Recommended Position</p> <ul style="list-style-type: none"> • No change is recommended to the amendment. <p>Response:</p> <p><u>Building Separation</u></p> <ul style="list-style-type: none"> • Building separation requirements have been proposed in the DDO to enhance privacy, break up building mass and allow sunlight / daylight access to buildings. DDO18 requires upper levels on side boundaries to be set back where a window or balcony is proposed. A 4.5m setback is required for a habitable room window or balcony and a 3m setback is required for a commercial or non-habitable room window. • The requirement is preferred (discretionary). Narrow sites could develop to 4 storeys (street wall height) or in some circumstances may be able to build to the boundary, depending on individual context and the design response. <p><u>Front / street setbacks</u></p> <ul style="list-style-type: none"> • A front / street setback is applied along Heidelberg Road. • The Built Form Framework identified that front setbacks are a characteristic of many of the existing building along Heidelberg Road. It comments that: <ul style="list-style-type: none"> – <i>The footpaths are too narrow considering the scale of development intensification that is anticipated on the street, and the increased pedestrian volumes that this will introduce and the poor pedestrian conditions and environment is exacerbated by the high traffic volumes; and</i> – <i>the lack of on-street parking which means pedestrians are walking immediately adjacent to fast-moving traffic.</i> • The purpose of the 3 metre front setback is to significantly improve pedestrian amenity along Precincts 1, 2, 3A (noting that a 4.5 metre front setback is required to Coate Avenue) and 3B (between Parkview Road and Park Avenue). • Front setbacks along Heidelberg Road support opportunities for street activation and significantly improved pedestrian amenity and access through landscaping, inclusion of outdoor seating and trading space. • The Built Form Framework demonstrates a 3m setback is easily accommodated and would only have a modest impact on development potential while providing the significant positive benefits for the public realm in a changing area.

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> 3m upper level setbacks were proposed as more appropriate. One submitter argued that this would allow for development to be front-loaded to reduce amenity impacts on residential properties at the rear. 	<p><u>Upper level setbacks</u></p> <ul style="list-style-type: none"> Upper level setbacks play an integral role in the design of new buildings. They ensure that there is a clear definition between development at the street from the upper levels, create a comfortable building scale at street level, reduce visual bulk and help to ensure new development does not overwhelm heritage building. The Framework tested a range of built form options and explored the impact of upper-level setbacks in conjunction with overall building and street wall heights. DDO18 proposes upper level setbacks of: <ul style="list-style-type: none"> 6m along Heidelberg Road, Yarra Bend Road, Chandler Highway and Park Crescent 10m from Coate Avenue 3m along other side streets. A 6m upper level setback is applied to retain a sense of openness on wider streets such Heidelberg Road. The 6 metre setback provides a balance with the street wall height to achieve well-proportioned buildings where the upper levels form a recessed, lighter element above a solid base building form. A 6m upper level setback was also considered to provide better outcomes for heritage places and achieve consistency. A 3m setback on these wide streets was found to have a negligible impact on reducing the visual dominance of upper levels and defining the street wall. Instead, it created an uncomfortable space on the street especially when heights were increased. The 3m discretionary setback on side streets minimises overshadowing of opposite footpaths and retains a sense of openness for the side streets.

4. Impacts on Amenity

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Respondents were concerned about the impacts of development on the residential amenity and public realm. The need for greater density to accommodate growth was understood by submitters but reiterated that it should not come at a cost of residential amenity, which has been seen in Box Hill and Doncaster. Strong concerns were expressed about the potential impacts of taller development on the low scale and well-established residential areas and dwellings to the side/rear. 	<p>Recommended position:</p> <ul style="list-style-type: none"> Changes proposed to rear interface requirements. <p>Response:</p> <ul style="list-style-type: none"> The exhibited version of DDO18 includes provisions to address amenity impacts and provide protection to sensitive interfaces. A Design Objective in DDO18 seeks: <p><i>To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a legible transition to low-residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlook and overshadowing.</i></p>

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> In addition, submitters who currently live in apartment buildings also raised amenity concerns. Proposed building heights will have the following impacts on the amenity of the area: <ul style="list-style-type: none"> Development of up to 20m would harm the area's streetscape Development would be visually prominent from backyards residential areas Overshadowing and reducing access to natural sunlight to indoor and outdoor spaces. Negative consequences for solar panels, wildlife, gardens, vegetation and pets Loss of privacy – overlooking of backyards and houses. Stronger provisions are needed Impact on solar access to residential properties Cause more noise and exhaust pollution from more traffic. Some submitters object to the introduction of mandatory setback controls, which they find unjustified and overly restrictive. Suggestions to remove mandatory setback requirements, with these to be shown as preferred requirements. <p><u>Overshadowing/Solar access</u></p> <ul style="list-style-type: none"> It was noted that existing buildings of 8m at the boundary cause significant overshadowing. Potential reductions in solar panel efficiency. Council needs to prioritise protection of solar access to facilitate energy generation. Overshadowing would impact residents' well-being and quality of life and a recent VCAT judgement in Brunswick that recognised sunlight as a fundamental human right. <p><u>Precinct 1</u></p> <ul style="list-style-type: none"> Various views about amenity. Concern about the impact of overshadowing. 	<ul style="list-style-type: none"> The DDO includes rear interface requirements that require a transition in scale to minimise amenity impacts on surrounding areas, including overlooking, overshadowing and visual bulk. The proposed approach balances development outcomes while reducing amenity impacts to residential properties adjacent to commercial properties. The requirements seek to locate bulk away from residential and parkland interfaces to minimise amenity impacts and visibility, mainly through the application of: <ul style="list-style-type: none"> a 3m ground floor setback where existing dwellings are within 15m or less of a rear boundary an 8 metre maximum boundary/rear wall development to be contained within a 45-degree angle above. The rear interface requirements are applied as mandatory requirements to ensure residential properties are protected from overshadowing and overlooking, and visual bulk is minimised when viewed from the residential properties to the south.  <p><u>Overshadowing</u></p> <ul style="list-style-type: none"> Testing of the rear interface provisions demonstrates development that complies with the proposed requirements meets the minimum sunlight access requirements for secluded private open space that apply for residential zones in Clauses 54 and 55 of the Planning Scheme (ResCode) - <i>'at least 75 per cent, or 40 square metres with a minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September'</i>. The requirements were tested in the Built Form Framework and generally are achievable with the building heights specified in the proposed DDO18. Where a development seeks to exceed maximum preferred heights, one of the criteria it is required to meet is <i>'no additional overshadowing impacts on secluded private open space to residentially zoned properties or adjacent parkland or reserves, beyond that which would be generated by a proposal that complies with the preferred building height'</i>. The location of residential properties to the south of development means some solar panels may experience overshadowing, notably during the winter months. Testing in Built Form Framework showed during winter even an 8m and 12m (2-3 storey) building at the boundary would have an impact on southern properties.

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Other submitters were not concerned. Tall buildings on this site will not impact residents' views or overshadow residential areas. <p><u>Precinct 2</u></p> <ul style="list-style-type: none"> A 20m building height would overshadow the rear of the dwellings south of the precinct and the orientation and topography of the sites will exacerbate this. <p><u>Rear interface requirements</u></p> <ul style="list-style-type: none"> One submission from a landowner along Heidelberg Road did not support the 45 degree setback envelope applied to the rear of properties. Containing upper levels in a 45 degree angle should be applied to residential interfaces only. The requirements are unduly restrictive and should provide flexibility for alternate design solutions. They noted the varied size of properties within Precinct 3B and that prescriptive requirements will reduce opportunities for design solutions. One submission raises concerns about the clarity of the proposed wording regarding the 45-degree angle requirement, especially in determining the point from which the angle should be measured. <p><u>Construction Impacts</u></p> <ul style="list-style-type: none"> Development would increase construction and noise pollution to surround residents, particularly within Precinct 3A. Development in construction will impact public access to the green space along the Yarra River. <p><u>Wind</u></p> <ul style="list-style-type: none"> One submission was concerned that taller heights would create wind tunnels or increase impacts from wind. There was specific concern on the impact to the dwellings in the high rise managed by the Department of Families, Fairness and Housing. <p><u>Impacts on parkland</u></p>	<p><u>Visual bulk</u></p> <ul style="list-style-type: none"> Some visual bulk is inevitable where development is taller than the existing dwellings. Various requirements in the DDO, including the residential interface and building separation requirements will assist in managing the impact of taller buildings, minimising visual bulk and retaining views of the sky. <p><u>Overlooking / privacy</u></p> <ul style="list-style-type: none"> Overlooking/privacy is also addressed by other 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. Clause 58.04-1 seeks to: <i>“Limit views into habitable room windows and private open space of new and existing dwellings.” Buildings should be set back from side and rear boundaries to “avoid direct views into habitable room windows and private open space of new and existing dwellings. Developments should avoid relying on screening to reduce views.”</i> Proposed local planning policy at Clauses 13.07-1L and 15.01-2L includes policy to discourage overlooking. The provisions in the draft DDO18 are also supported by policy and provisions elsewhere in the Planning Scheme including numerous state and local planning policy, the Commercial 1 Zone, Clause 58 <i>Better Apartments</i>. <p><u>Proposed changes to rear interface requirements</u></p> <ul style="list-style-type: none"> In response to submissions, an increase to the 3m setback is proposed. A landscape setback of 5m (increased from 3m) would apply where a development site interfaces with the rear boundary of an adjacent residential lot. The trigger of 15m distance to an adjacent house from boundary would be removed. The setback would apply to all rear interfaces regardless of the distance. A 3m landscape setback would continue apply where the development interfaces with a side boundary of an adjacent residential lot. (No change) Increased setbacks provide opportunities for adequate landscaping between the rear of new development and residential boundaries to the rear. This will assist to retain the treed landscape character of this area of Fairfield/Alphington. It would also simplify the requirement by removing the 15m trigger. Increased setbacks also help to reduce the impact of building bulk and will reduce overshadowing impacts. The proposed changes only affect Precincts 2 and 3B as tailored setbacks are proposed to apply in Precincts 1 and 3A. This change would affect four commercial properties in Precincts 2 and 3B. The result would be the sites may not be able to develop to the maximum preferred height provided for in DDO18 (noting two properties could not achieve this height based on the exhibited controls and one has been recently developed). <p><u>Construction Impacts – Noise</u></p> <ul style="list-style-type: none"> Managing noise issues is outside the scope of this amendment and is addressed through State Government legislation elsewhere in the Planning Scheme. Noise is also referenced elsewhere in the Yarra Planning Scheme, including:

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Interface provisions require development adjacent to the parkland in Precinct 1 to have a maximum building height of 14.4m. This will ensure the parkland will not be unduly overshadowed. Suggests the 45-degree upper level containment rule should apply to residential interfaces only, as indicated in Figure 1. 	<ul style="list-style-type: none"> Council's Interface Uses Policy at Clause 22.05 also assists in the management of noises from businesses. It ensures new non-resident uses and developments are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties. Amendment C269yara, which seeks to update local policy in the Yarra Scheme, includes new noise guidelines. The guidelines address noise from road traffic, rail and tram, commercial and industrial plant and equipment, music and patrons and noise from apartment developments. This amendment is currently with Department of Transport and Planning awaiting approval. <p><u>Wind</u></p> <ul style="list-style-type: none"> DDO18 includes an application requirement: <i>A desktop wind effects assessment for proposed development over 16 metres in height to assess the impact of wind on:</i> <ul style="list-style-type: none"> <i>the safety and comfort of the pedestrian environment on footpaths and other public spaces while walking, sitting and standing; and</i> <i>the safety and effects on cyclists travelling along bicycle routes that are adjacent to the development.</i> 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. This application requirement will also ensure that wind impacts are assessed on a case-by-case basis. 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. In addition, standards addressing wind impacts are proposed for inclusion in the State-wide Better Apartments Design Standards. It is anticipated these would be included at Clause 58 of the Planning Scheme. <p><u>Impacts on parkland</u></p> <ul style="list-style-type: none"> Interface provisions require development adjacent to the parkland in Precinct 1 to have a maximum building height of 14.4m. This will ensure the parkland will not be unduly overshadowed. Upper levels above 14.4m must also meet a 45 degree envelope. This requirement is essential to reduce building bulk and ensure development does not inappropriately overshadow and visually dominate when viewed from the parkland.

5. Heritage

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Many submitters highlighted the heritage fabric of Alphington and Fairfield was a defining characteristic of the area. More specifically in the residential hinterland. 	<p>Recommended Position</p> <ul style="list-style-type: none"> No change is recommended to the amendment. Heritage matters have been carefully considered in preparing the proposed DDOs. <p>Response:</p>

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> One submitter noted the finer older mansions had been replaced with multi-unit developments but many of the Victorian-era houses had been retained. A small number specifically commented on and supported the application of new heritage overlays to the properties at 700-734 Heidelberg Road and 760-764 Heidelberg Road, Alphington. No submissions were received from the owners of these properties. One submission supported removing the Heritage Overlay (HO362) from 2 Killop Street Alphington. A submission from a landowner on Heidelberg Road commented that the provisions in the DDO that relate to development adjoining heritage buildings were too prescriptive. <p><u>Porta Site</u></p> <ul style="list-style-type: none"> A submission suggests the views to the Porta Chimney from the south are not essential from a heritage perspective/should be deleted and questions the urban design and character justification for retaining southern views to the chimney. Concerns Clause 2.2.2 upper level setback requirements for heritage buildings are unclear and imprecise and have the potential to cause confusion about how they apply to future proposals. Concerns the third design requirement in Clause 2.3.1 which requires 'strong' separation from the chimney is unclear and confusing. Suggests it should be revised for better clarity regarding the intended separation. 	<ul style="list-style-type: none"> RBA Architects were engaged to provide heritage advice to inform the <i>Heidelberg Road Local Area Plan and Amendment C273yara</i>. This advice also informed the built form framework and ensures DDO18 appropriately responds to heritage places. The heritage reports recommended additional places be included in the Heritage Overlays. Amendment C273yara proposes to apply the HO to these properties: <ul style="list-style-type: none"> HO451 - 730-734 Heidelberg Road, Alphington – three shops HO455 – 760-764 Heidelberg Road, Alphington – former shops. The heritage reports also recommended the removal of the late 20th-century building at 2 Killop Street, Alphington as it is <i>not related to the significance of the precinct (HO362)</i> which is characterised by Victorian, Edwardian and Interwar houses. C273yara proposes to remove the HO from this property. The impacts on heritage places in residential areas were considered in preparing draft Amendment C273yara. Schedule 18 to the Design and Development Overlay (DDO18) includes design objectives, built-form provisions and precinct objectives that ensure new development responds to the character of the surrounding residential areas. Also see Section 1 – <i>Accommodating Growth</i>. For heritage places and adjacent sites within DDO18, mandatory and preferred provisions apply to ensure new development is designed to respect to the heritage fabric. Mandatory controls have been applied to the street wall height and upper-level setback provisions. Also see Section 7 – <i>Mandatory Controls</i>. Officers do not agree that DDO18 is too restrictive and does not provide flexibility. DDO18 has been informed by heritage and urban design advice. Many of the requirements are preferred and would allow for variation if sufficient justification is provided. <p><u>Porta Site</u></p> <ul style="list-style-type: none"> The Porta site includes a significant heritage warehouse building and a brick chimney which is an identifiable landmark in the area. These buildings are important attributes of the existing character, providing a connection to the social and economic history of the area. The park south of the site provides one of three key viewing points. This has been supported through expert evidence in heritage and urban design. Also see Section 12 – <i>Drafting of the DDO</i> regarding drafting changes.

6. Traffic, access, parking and public transport

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Submissions raised the area is experiencing issues with traffic congestion, on-street parking and public transport capacity, particularly during peak times. <p><u>Impacts on the road network</u></p>	<p>Recommended Position</p> <ul style="list-style-type: none"> A minor wording change is recommended in Clause 2.2.10 - <i>Access, parking and loading area requirements</i> to clarify the vehicle access requirements for Heidelberg Road. Requirement to be reworded as follows - <u><i>Where crossovers currently</i></u>

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> • Congestion on arterial roads such as Heidelberg Road and Chandler Highway was noted. • Local streets are also under pressure. Streets such as Park Crescent are used as a bypass by some drivers. • Changes and improvements to infrastructure are also impacting on traffic. This includes parking loss and the new bike lane along Heidelberg Road. • Many felt the current road network would not be able to accommodate the impact from construction and the demand from new residents/workers. The amendment did not properly consider traffic impacts on residents. • The amendment does not consider the need to improve infrastructure and parking to cater for increased resident and worker populations. Some considered no new development should occur until infrastructure is improved. <p><u>Public Transport</u></p> <ul style="list-style-type: none"> • Existing public transport does not meet the needs of the existing population. Bus services are run at minimal timetables and trains aren't frequent enough to move more people. • Concerns development will place further strain on public transport. • One submitter commented they spoke to the Department of Transport and was advised there was no planned changes to services. • The amendment does not include a plan for improving public transport. Improvements are needed if population levels are to increase. Some noted the amendment should not progress until this is addressed. <p><u>On-street parking</u></p> <ul style="list-style-type: none"> • There is a lack of on-street parking. It is already difficult to find a parking space. This is an issue for both visitors and residents in the area. 	<p><i>exist or new crossovers are unavoidable along Heidelberg Road, development should consolidate multiple vehicle access points, where applicable.</i></p> <ul style="list-style-type: none"> • Public transport and on-street parking are outside the scope of this amendment. Council continually advocates for improved public transport services and pursues improvements to bicycle infrastructure. <p>Response:</p> <p><u>Impacts on the road network</u></p> <ul style="list-style-type: none"> • The existing state and future potential traffic generation from future development was reviewed in a report prepared by Traffix Consultants. • The report acknowledges the role of Heidelberg Road and other key roads as arterial roads. It notes that currently there are transport challenges, but not out of the ordinary in an inner-city context. • The report found that the moderate level of development across each precinct would not have a detrimental impact on the road network. It concludes that traffic is manageable for the following reasons: <ul style="list-style-type: none"> – Many of the businesses that are there presently are likely to already generate a moderate amount of traffic. New development would not increase traffic movement too significantly in comparison. – If development were to occur on the scale of the proposed DDO18, each precinct would not generate enough traffic volumes to have a considerable impact. – It is likely that a modal shift in transport choice would likely occur. The development at the former Alphington Paper Mill site would provide services and shops at a local level to support active transport. • While transport impacts are considered, previous conclusions from Planning Panels Victoria have determined possible future transport issues should not prevent an amendment from proceeding. This was outlined in the Planning Panel report for the Merri-bek Planning Scheme Amendment C123 (Page 2) and C134 (Page 107) that said: <p><i>"[...] future congestion should not stifle development [...]"</i> and the <i>"[...] challenge of managing the road network should not prevent the Amendment from progressing [...]"</i>.</p> <p><u>Public Transport</u></p> <ul style="list-style-type: none"> • The amendment directs housing growth to an area that is well serviced by public transport, cycle routes, services and jobs. All land affected by the proposed amendment on the Principal Public Transport Network (PPTN) and included in the PPTN area. The PPTN reflects the routes where high-quality public transport services are or will be provided. • The provision of public transport services is the responsibility of the state government and relevant state-level agencies. Public transport services cannot be increased through a planning scheme amendment. • The City of Yarra communicates changes to the planning scheme to the Department of Transport and Planning (DTP) when it prepares an amendment. DTP consider these amendments in their future service planning. • Council will continue to advocate for more frequent public transport services as part of its ongoing discussions with Public Transport Victoria. This is identified in the draft Heidelberg Road Local Area Plan as an action. Council frequently advocates State Government for improvements to infrastructure such as transport in areas where increased density is anticipated. <p><u>On-street parking</u></p>

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Increased commercial and residential density would accentuate the current problem. One submitter questioned how car parking would be accommodated if development were to occur in line with the proposed heights. <p><u>Access</u></p> <ul style="list-style-type: none"> A submitter notes that Clause 2.2.10 contains conflicting vehicle access requirements. One discourages collocating access points, while another specifically encourages it along Heidelberg Road, leading to inconsistency. 	<ul style="list-style-type: none"> The management of on-street parking is a matter for Council and is outside the planning process. Council manages on-street parking as an area changes. Council has developed a policy for reviewing parking restriction and avenues on how to propose changes to current restrictions. For example, proposing greater levels of permit parking on-streets. Council's Parking Restrictions Guidelines outlined the process to request a review of on-street parking restrictions on their streets. It is also noted that all new developments following 2003 are not entitled to on-street car parking permits. <p><u>Draft Heidelberg Road Local Area Plan</u></p> <ul style="list-style-type: none"> The <i>Draft Heidelberg Road Local Area Plan (2019)</i> includes actions to improve transport and accessibility. These actions include advocating to the Department of Transport, extend the hours of bus route 546, provide a new bus service to Key and Burnley, provide additional crossings and investigating options to limit overflow of car parking from new development into existing residential areas. <p><u>Access</u></p> <ul style="list-style-type: none"> DDO18 includes requirements at Clause 2.2.10 Access, parking and loading area requirements. In particular, it requires development: <ul style="list-style-type: none"> should not provide new vehicular access from Heidelberg Road and avoid disruptions to bicycle lanes. should consolidate multiple vehicle access points along Heidelberg Road, where applicable. Officers agree with the submitter that the two requirements when read together are confusing. The role of Heidelberg Road as an arterial road and part of the Principal Bicycle Network creates an environment which is not conducive to providing direct vehicular access to properties which could create interruptions in the flow of both vehicular and pedestrian traffic along Heidelberg Road. The DDO also provides direction that vehicle access points should be consolidated. Clarity should be provided that this should apply where crossovers currently exist or new crossovers are unavoidable along Heidelberg Road.

7. Mandatory Controls

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Lack of justification for mandatory controls. Suggested that controls for building heights, setback and ground floor setbacks should be discretionary to provide for contextual design. Overly restrictive mandatory controls can hinder development and economic viability for developers. 	<p>Recommended position:</p> <ul style="list-style-type: none"> No changes proposed. <p>Response:</p> <ul style="list-style-type: none"> Draft Amendment C273yara contains a mix of preferred and mandatory requirements. The application of mandatory controls has been carefully considered and applied selectively. They are not proposed to apply across all precincts and/or to all requirements in the proposed DDO18. Mandatory controls are proposed to apply to: <ul style="list-style-type: none"> Building heights in Precincts 3A

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Advocates for the use of a combination of performance based and discretionary planning controls. Provided an example of a more flexible approach in the City of Merri-bek. 	<ul style="list-style-type: none"> Front / street setbacks in Precincts 1, 2 and 3A and parts of 3B – mainly along Heidelberg Road Street wall heights in Precinct 2, 3A on Coate Avenue and 3B towards Heidelberg Road Upper level setbacks in Precinct 3A on Coate Avenue and in Precinct 3B between Parkview Street and Yarralea Street Rear interface controls in all precincts. <ul style="list-style-type: none"> A mandatory requirement is a requirement that must be met. There is no opportunity to vary it. The Victorian Planning system preferences the use of preferred requirements. The introduction of any mandatory requirements should be supported by thorough and comprehensive strategic analysis and is guided by Planning Practice Notes 59 and 60. Planning Practice Note 60 details that mandatory height and setback controls would only be considered in ‘exceptional circumstances’, where they are ‘absolutely necessary’ to achieve the built form objectives or outcome identified within a comprehensive built form analysis. Extensive strategic work has been undertaken and provides sufficient justification for the use of mandatory controls. Amendment C273yara has taken a similar approach to other amendments (C191, C220, C231 and C291) in its approach to the application of selective mandatory controls. The independent planning panels / Standing Advisory Committees considering those amendments supported the approach taken by Council. The application of mandatory controls in Draft Amendment C273yara has been carefully considered and applied selectively and are not proposed to apply across all precincts and/or to all requirements within the proposed DDO schedules. Mandatory controls are proposed in the draft DDO18 where it is considered ‘absolutely necessary’ (in accordance with PPN59) and are necessary to minimise impacts on sensitive residential interfaces and the public realm. Mandatory setback requirements have also been applied to ensure uniform street edge along with street wall height.

8. Infrastructure and Utilities

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Submissions commented there should not be any new developments without an improvement of infrastructure. One submission raised concern that new development would overload power and sewerage services. A further submission sought confirmation that the proposed DDO should not impinge on the existing telecommunication tower and any future modifications would not be impacted as a result of 	<p>Recommended Position</p> <ul style="list-style-type: none"> No change is proposed to the amendment. <p>Response:</p> <ul style="list-style-type: none"> The provision of utilities and their services is the responsibility of the utility provider and relevant state-level agencies. The provision of utility services cannot be increased through a planning scheme amendment. The City of Yarra’s communicates changes to the relevant utility providers when it prepares an amendment. Planning applicants are required to contact utility providers and provide an explanation on how they can connect without disruptions to the existing infrastructure. Also see Section 1. <i>Accommodating Growth</i>.

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<p>the amendment. (See response to individual submission #32 in Attachment 2.)</p>	<ul style="list-style-type: none"> • Council’s provision of community facilities and services which are guided by i.e. 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.

9. Land Use and Zoning

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> • Three submissions commented that the area was better suited to residential development than commercial due to the amenities the area provided. • It was highlighted that there was a need for more residential development rather than commercial. • One submission commented higher density areas should focus on residential rather than commercial spaces, though not without infrastructure improvements. • Conversely one submission commented that removing the commercial zoning would result in greater amounts of high-rise dwellings. This would negatively impact on existing infrastructure. 	<p>Recommended Position</p> <ul style="list-style-type: none"> • No change is proposed to the amendment. <p>Response and Discussion</p> <ul style="list-style-type: none"> • The area affected by the amendment is within two planning zones; the Commercial 1 Zone (C1Z) and the Commercial 2 Zone (C2Z). Precincts 1, 3A and 3B are zoned C1Z and Precinct 2 is zoned C2Z. • No changes to the existing zoning are proposed as part of the amendment. • The purpose of the C2Z is to ‘<i>encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services</i>’. New residential uses are prohibited within the C2Z. • Council’s adopted <i>Spatial Economic and Employment Strategy</i> (SEES) recommends the retention of C2Z land. The SEES highlights the role C2Z precincts provide in employment diversity. The City of Yarra has sufficient capacity in other zones to accommodate growth in residential dwellings. • The C1Z allows for retail, office and residential uses above street level. The market will determine whether residential or commercial development occurs in these locations. • The proposed DDO provides a framework for the design and scale of new development and include built form outcomes, such as the approach to rear interfaces, that apply irrespective of the zoning.

10. Impacts on Climate Change

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> • Some submissions considered the amendment does not consider the need to reduce emissions. • Many submissions noted that taller development would overshadow solar panels on residential 	<p>Recommended Position</p> <ul style="list-style-type: none"> • No change is recommended to the amendment. <p>Response:</p>

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<p>properties. This would reduce the ability of residents to reduce their emissions.</p> <ul style="list-style-type: none"> A submission noted that development on the former Amcor site has damaged the Yarra riverbank. They were concerned that further development would further impact stormwater runoff. <p><u>Melbourne Water</u></p> <ul style="list-style-type: none"> A submission from Melbourne Water noted properties are not subject to flooding from the 1% annual exceedance probability (AEP) flows of the Melbourne Water Drainage System. 	<ul style="list-style-type: none"> Locating new housing and commercial space in neighbourhoods with existing transport networks, services and jobs is a key strategy in responding to the Climate Emergency. 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. Developments are required to take account of all policy and provisions in the planning scheme. Environmentally sustainable design (ESD) requirements are addressed when a planning application is lodged. Typically, Council’s Statutory Planning Unit engages Council’s ESD advisor to be involved in medium to large scale planning applications right from the start of the project. This is to ensure developments demonstrate best practice in ESD performance. Yarra’s Climate Emergency Plan (CEP) recognises the importance of reducing greenhouse gas (net carbon) emissions from buildings and transport. Through the CEP, Council has committed to targets and actions to achieve zero carbon buildings. In addition, Yarra City Council is working with other CASBE member councils to pursue a planning scheme amendment that introduces elevated ESD standards in the Planning Scheme. The Elevating ESD Targets Planning Policy Amendment project aims to deliver revised and elevated ESD targets, including targets for zero carbon development. Planning scheme amendments consider effects at a broad scale. The DDO and other requirements in the planning scheme, including state provisions, provide guidance for the assessment of potential impacts on individual cases, including the potential overshadowing of solar panels of nearby properties. Also see <i>Impacts on amenity</i> for discussion on solar panels. <p><u>Flooding</u></p> <ul style="list-style-type: none"> The Planning Scheme includes requirements to generally consider potential flood impacts. Special Building Overlays (SBOs) affect properties nearby the amendment area but are not located within it.

11. Property Values and Views

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<p><u>Property Values</u></p> <ul style="list-style-type: none"> Submissions commented that the proposed heights and new development would reduce the property values of nearby apartments and houses. One submission questioned whether anyone would want to buy a property that had no privacy or sunlight. <p><u>Views from residential properties</u></p> <ul style="list-style-type: none"> Several submissions (from residents in taller apartment buildings) were concerned development in 	<p>Recommended Position</p> <ul style="list-style-type: none"> Outside the scope of this amendment. No change is recommended. <p>Response:</p> <p><u>Property Values</u></p> <ul style="list-style-type: none"> The consideration of the economic effects of the amendment focus on broad community impacts rather than on individual property values. On this issue, the Panel considering Stonnington Planning Scheme Amendment C270 found (page 24) : <i>“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</i>

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<p>accordance with the proposed DDO would have a negative impact on their views. New development should not obstruct current views. One submission noted that many apartments paid a premium for their view.</p>	<p><i>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.”</i></p> <p><u>Views from residential properties</u></p> <ul style="list-style-type: none"> The planning system does not protect views from private property. The issue was considered 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: <ul style="list-style-type: none"> <i>“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.”</i> This planning principle has been substantiated through numerous VCAT decisions which have not given weight to a view from a private property.

12. Drafting of the DDO

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<p><u>Design Objectives</u></p> <ul style="list-style-type: none"> Delete Design Objective 1 which refers to “design requirements”. <p><u>Requirements</u></p> <ul style="list-style-type: none"> Clause 2.2.5 (Overshadowing and daylight access requirements) lacks actual daylight requirements. Update to clarify if this should be “sunlight” instead of “daylight” or possibly remove altogether. Clause 2.2.8 (Front setback requirements) uses differed language compared to the rest of DDO18, where “street setback requirements” is consistently used. It is recommended that 2.2.8 should align with the same terminology. Clause 2.2.9 (Other design requirements) redundantly restates the content of the Urban Design Guidelines of Victoria and design elements of the PPF and LPPF. Clause 2.2.2 (Upper level setback requirements - Heritage buildings) are unclear and imprecise and have the potential to cause confusion about how they apply to future proposals. 	<p>Recommended position:</p> <ul style="list-style-type: none"> Minor changes are proposed to address improve drafting of the amendment: <ul style="list-style-type: none"> Design Objective 1 – Remove Design Objective 1 ‘<i>To ensure development supports the character, built form and design outcomes, and precinct design requirements.</i>’ and replace with ‘<i>To ensure development responds to the existing surrounding built form and parkland character.</i>’ Clause 2.2.5 – Overshadowing and daylight access requirements - Update heading to read Clause 2.2.5 – Overshadowing and daylight access requirements. Clause 2.2.8 - Front setback design requirements – Update heading and text to refer to ‘street setbacks’ throughout the DDO, unless the requirement is specifically referring to a front setback. Clause 2.3.1 – Precinct 1 – Update the requirement to read ‘<i>create a sense of openness around the heritage factory building and chimney by gradually stepping down towards the factory and creating a strong clear, physical separation from the chimney.</i>’ Decision Guideline 8 – Update to read ‘<i>whether upper side and rear setbacks are sufficient to limit the impact on the amenity of existing dwellings, limit bulk of new development and <u>retain</u> increase a sense of openness;</i>’ Decision Guideline 10 – Update to read ‘<i>whether proposed buildings and works will <u>minimise</u> avoid overshadowing of footpaths and public spaces;</i>’ <p>Response:</p> <p><u>Design objectives</u></p> <ul style="list-style-type: none"> Officers agree with the submitter. The Design Objective as currently drafted refers to requirements within the DDO - ‘<i>To ensure development supports the character, built form and design outcomes, and precinct design requirements.</i>’

SUMMARY OF ISSUES RAISED	RESPONSE AND RECOMMENDED POSITION
<ul style="list-style-type: none"> Clause 2.3.1 (Precinct 1) Concerns the third design requirement in which requires 'strong' separation from the chimney is unclear and confusing. Should be revised to provide more clarity around the intended separation. <p><u>Decision Guidelines</u></p> <ul style="list-style-type: none"> Unclear decision guidelines in Clause 6.0: <ul style="list-style-type: none"> Bullet Point 3 is irrelevant because there are no heritage buildings on corners within amendment. Bullet Point 8's goal to "increase a sense of openness" does not align with DDO18's design requirements, which anticipate more intensive development likely reducing openness. Bullet Point 10 contradicts DDO18 as it aims to "avoid overshadowing" while DDO18 allows for appropriate increase in overshadowing in both private and public areas. 	<ul style="list-style-type: none"> The objective should be updated to provide clearer and more high level design guidance. The following is proposed: <i>'To ensure development responds to the existing built form character in Precinct 2 and Precinct 3B and emerging mid-rise character in Precinct 1 and Precinct 3A.'</i> <p><u>Requirements</u></p> <ul style="list-style-type: none"> Clause 2.2.2 (Upper level setback requirements – Heritage buildings) – Officers disagree the upper level setbacks for heritage buildings are unclear. The requirements in this clause are in addition to the general upper level requirements requiring upper level setbacks of 6m on Heidelberg Road. The clause outline circumstances where greater setbacks may be required for heritage places. Clause 2.2.5 (Overshadowing and daylight access requirements) – Officers agree the requirement does not provide any daylight requirements. It is therefore proposed to remove the words 'daylight access' from the heading. Clause 2.2.8 (Front setback requirements) – Officers agree that different language has been used. Updates are recommended throughout the DDO. The term street setback will be used in most cases. Clause 2.2.9 (Other design requirements) – Officers do not agree that requirements repeat other policy. They provide more place specific and greater detail than the Urban Design Guidelines of Victoria and design elements of the PPF and LPPF. Clause 2.3.1 (Precinct 1) – Officers agree the reference to a 'strong' separation from the chimney is unclear. It is recommended this is updated to read a 'clear, physical separation'. <p><u>Decision Guidelines</u></p> <ul style="list-style-type: none"> Bullet Point 3 – Officers do not agree with the deletion of this decision guideline. is irrelevant because there are no heritage buildings on corners within amendment. Bullet Point 8 - Officers agree the term "increase a sense of openness" is unclear and unachievable. Change the word 'increase' to 'retain'. Bullet Point 10 – Officers agree the term "avoid overshadowing" is inconsistent. Change the word 'avoid' to 'minimise'.