
7.1 Amendment C273yara - Heidelberg Road Permanent Built Form Provisions - Consideration of Submissions

Reference	D23/454172
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Authoriser	General Manager City Sustainability and Strategy
Disclosure	The authoriser, having made enquiries with members of staff involved in the preparation of this report, asserts that they are not aware of any general or material conflicts of interest in relation to the matters presented.

Purpose

1. The purpose of this report is for Council to consider:
 - (a) the 117 submissions received following the exhibition of draft Amendment C273yara;
 - (b) the officer's responses to the issues raised in the submissions;
 - (c) the officers' recommendation to request the Minister for Planning to refer all submissions, response to submissions and Council's preferred draft to the Yarra Activity Centre Standing Advisory Committee as set out in the Terms of Reference;
 - (d) the key officer recommendations for proposed changes to the exhibited draft Amendment C273yara documentation to form the basis of Council's position at a Yarra Activity Centre Standing Advisory Committee; and
 - (e) the next steps for advancing the amendment in accordance with the requirement of the Terms of Reference.

Critical analysis

History and background

2. Draft Amendment C273yara seeks to introduce permanent built form provisions for new development in commercial areas along Heidelberg Road, Fairfield and Alphington.
3. In summary, the draft Amendment would:
 - (a) Insert new policy on the Heidelberg Road Neighbourhood Activity Centre at Clause 11.03-1L Activity Centres to guide built form within the activity centre;
 - (b) Replace interim Design and Development Overlay Schedule 18 (interim DDO18) with permanent Design and Development Overlay Schedule 18 (DDO18) which applies to the land zoned Commercial (C1Z and C2Z) along Heidelberg Road;
 - (c) Apply new Heritage Overlays to properties at 730-734 and 760 Heidelberg Road, Alphington (It also updates the Schedule to the HO and includes new Statements of Significance for the properties Schedule to Clause 72.04 Incorporated Documents.)
 - (d) Delete Heritage Overlay HO362 from 2 Killop Street, Alphington; and
 - (e) Amend the Schedule to Clause 72.08 Background Documents to include the background documents to the amendment.

4. DDO18 applies to four precincts along Heidelberg Road (see Figures 1 and 2 below).

Figure 1 – Extent of DDO18 – Precincts 1 and 2

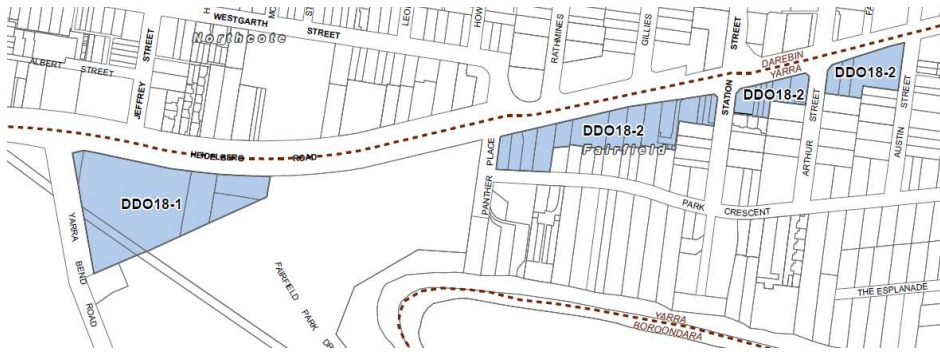
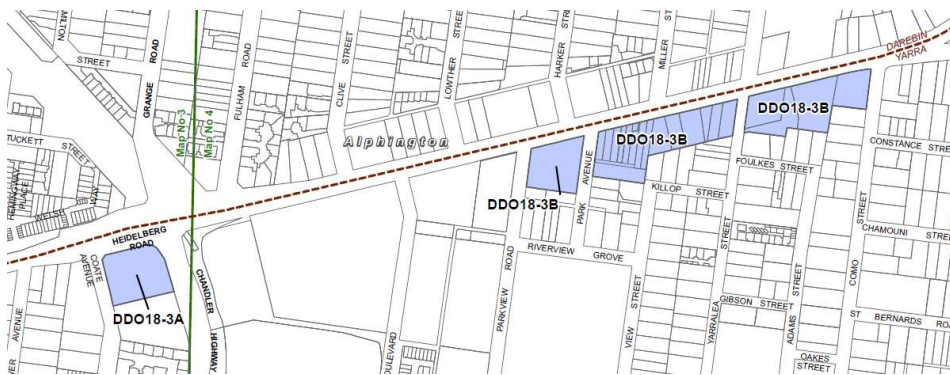


Figure 2 – Extent of DDO18 – Precincts 3A and 3B



Exhibition

5. Conditional consent to exhibit the amendment was obtained from the Department of Transport and Planning (under delegation from the Minister for Planning) on 30 June 2023.
6. The conditional consent required officers to make minor changes to the amendment before exhibition. These changes did not change the intent of the amendment.
7. The draft Amendment was exhibited between 31 July and 28 August 2023.
8. Additional time was provided for owners and occupiers adjoining Precinct 2 to make a submission as some residents raised concerns they were not notified. (See Community and stakeholder engagement for the details of exhibition.)

[Discussion](#)

Submissions received

9. A total of 117 submissions have been received:
 - (a) 112 submissions were received from residents in the surrounding area, including 70 proforma submissions;
 - (b) 3 submissions were received from landowners/developers (development interests); and
 - (c) A submission from Melbourne Water and Darebin City Council.

Issues raised and recommended responses

10. The key issues raised in submissions and responses to the submissions are summarised in Table 1 below.

11. Detailed responses to submissions are provided in two attachments:
 - (a) Attachment 1 provides a summary of the key issues raised in submissions (structured by topic), a response to the key issues and recommended changes to the draft amendment; and
 - (b) Attachment 2 provides the detailed summary of individual submissions.
12. **Note:** The majority of issues identified in the individual submissions are addressed in the key / centre-wide issues table in Attachment 1. Where an issue is very specific or has not been responded to in a key issue, a response and any recommended changes are provided in Attachment 2.
13. Both attachments identify potential changes to draft Amendment C273yara that would respond to the issues raised by submitters. Where changes are not recommended or considered necessary, the rationale for the approach in the amendment is provided in the attachments.
14. A marked-up version of DDO18 showing proposed changes since the public exhibition is provided at Attachment 3.

Table 1: Key issues raised in submissions and recommended changes

Issues raised in submissions	Response and recommended changes
<p>Accommodating Growth</p> <p>Submissions from residents were concerned the amendment would result in development that would change the valued neighbourhood character of Alphington/Fairfield and why they live there - its leafy, family friendly character.</p> <p>Concerns were also expressed about increase pressure on existing services and traffic.</p>	<p>No change proposed.</p> <p>Plan Melbourne, the Yarra Housing Strategy and the revised local planning policy framework direct employment and housing growth in Yarra to activity centres.</p> <p>The Heidelberg Road Neighbourhood Activity Centre (NAC) is expected to deliver a substantial number of new dwellings, primarily through the redevelopment of the former Alphington Paper Mill (APM).</p> <p>The Yarra Spatial Economic and Employment Strategy (2018) seeks to support growth in retail and other employment uses in the Neighbourhood Activity Centre (NAC) and commercial areas along Heidelberg Road.</p> <p>Land along Heidelberg Road in Fairfield and Alphington is an attractive area for new development due to its good access to Melbourne CBD, public transport, jobs and services.</p> <p>Policy in the Planning Scheme seeks to reinforce the importance of the NAC and surrounding commercial areas and to limit changes in established residential areas.</p> <p>Draft Amendment C273 aims to provide a balanced approach by guiding different levels of potential development across the Heidelberg Road precincts. It aims to ensure that new buildings will respond to heritage fabric and minimise impacts on sensitive residential interfaces such as backyards, and public spaces like footpaths, kerb outstands and parklands.</p> <p>Impacts on infrastructure are outside the scope of the amendment. The provision of public transport, schools, utility services, etc cannot be increased through a planning scheme amendment. The City of Yarra communicates potential changes to the relevant infrastructure providers when it exhibits an amendment and regularly advocates for improvements on behalf of the community.</p>
<p>Building Heights</p> <p>Building heights were a core theme raised in submissions.</p> <p>Residents generally considered the proposed building heights too tall and seek a reduction in heights.</p> <p>Concerns included the impact on the character of the area and the quality of life for residents and on</p>	<p>No change proposed.</p> <p>The proposed building heights aim to balance development opportunities, neighbourhood character and public and private amenity.</p> <p>A range of building heights and setbacks are proposed to 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) in each precinct.</p> <p>DDO18 allows for building heights:</p> <ul style="list-style-type: none"> • generally between 4-5 storeys in Precincts 2 and 3B where there is a

Issues raised in submissions	Response and recommended changes
<p>residential amenity through overshadowing, loss of privacy and building bulk.</p> <p>Landowners and development interests commented some of the heights are too low and do not reflect the strategic context they are situated in.</p> <p>Differing views were provided on development sites such as the 700-718 Heidelberg Road site and the Porta site – from residents and development interests.</p>	<p>fine grain street network, narrow sites with some larger sites and variations in building heights and styles.</p> <ul style="list-style-type: none"> up to 7 storeys in Precinct 1 (within the Porta site) and 8 storeys in Precinct 3A (for the section of the site at the corner of Heidelberg Road and Chandler Highway) (ensuring building heights remain subordinate to development on the former APM site). These heights apply where there are less constraints. Typically, these precincts do not directly interface with residential properties or less so. <p>DDO18 requires new development to transition down to residential and parkland interfaces, including mandatory rear ground and upper level setbacks. This will protect these areas from an unreasonable loss of amenity. See 'Impacts on residential amenity' below.</p> <p>Criteria apply to guide where a development seeks to exceed a preferred building height.</p> <p><i>Proposed DDO18 Building Height Requirements:</i></p> <ul style="list-style-type: none"> <i>Precinct 1:</i> 14.4m – 24m (Discretionary) <i>Precinct 2:</i> 16m – 20m (Discretionary) <i>Precinct 3A:</i> 11.2m – 27.2m (Mandatory) <i>Precinct 3B:</i> 14.4m – 17.6m (Discretionary)
<p>Building Setbacks and Separation</p> <p>Commercial landowners and developers opposed building separation and setbacks along Heidelberg Road and Park Crescent, as it would restrict development opportunities.</p> <p>A concern was expressed about the impacts of building separation of new development on narrow sites.</p> <p>They also expressed concerns that the 6m upper level setback towards Heidelberg Road was excessive and would limit development.</p> <p>Submissions from residents were concerned about setbacks at the rear of commercial development (See 'Impacts on residential amenity' below).</p>	<p>No change proposed.</p> <p><u>Building separation</u></p> <p>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.</p> <p>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.</p> <p><i>Proposed DDO18 Building Separation Requirements:</i></p> <ul style="list-style-type: none"> <i>Precinct 1, 2, 3A and 3B</i> – where development shares a common boundary, upper level development for buildings up to 14.4m (or 16m in Commercial 2 Zone) are to be setback: <ul style="list-style-type: none"> 4.5m where a habitable window or balcony is facing the common boundary (Discretionary) 3m where a commercial or non-habitable window is facing the common boundary (Discretionary) <p><u>Front setbacks</u></p> <p>The purpose of the 3 metre front setback 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).</p> <p>Front setbacks along Heidelberg Road also support opportunities for street activation and significantly improved pedestrian amenity and access through landscaping, inclusion of outdoor seating and trading space.</p> <p><i>Proposed DDO18 Front Setback Requirements:</i></p> <ul style="list-style-type: none"> <i>Precinct 1:</i> 3m (Mandatory) <i>Precinct 2:</i> 3m (Mandatory) <i>Precinct 3A:</i> 3m – 4.5m (Mandatory) <i>Precinct 3B:</i> 0m – 3m (Discretionary/Mandatory)

Issues raised in submissions	Response and recommended changes
	<p><u>Upper level setbacks</u></p> <p>Upper level setbacks are crucial for clear definition between lower/podium levels and upper levels, reducing visual bulk and keeping a pedestrian-scale street edge.</p> <p>DDO18 proposes upper level setbacks of:</p> <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. <p>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 street wall height to achieve well-proportioned buildings where the upper levels form a recessed, lighter element above a solid base building form.</p> <p>The 3m discretionary setback on side streets minimises overshadowing of opposite footpaths and retains a sense of openness for the side streets.</p> <p>10m mandatory upper level setbacks on Coate Avenue seek to ensure a development appropriately transitions down towards the residential character.</p> <p><i>Proposed DDO18 Upper Level Setback Requirements:</i></p> <ul style="list-style-type: none"> • <i>Precinct 1:</i> 6m (Discretionary) • <i>Precinct 2:</i> 3m – 6m (Discretionary) • <i>Precinct 3A:</i> 6m – 10m (Discretionary/Mandatory) • <i>Precinct 3B:</i> 3m – 6m (Discretionary/Mandatory)
<p>Impacts on residential amenity (including rear interfaces)</p> <p>Amenity issues and the impacts of future development on access to sunlight, privacy and visual bulk were key themes in submissions.</p> <p>Some residents commented that stronger controls were needed.</p> <p>Some submissions from commercial landowners considered the proposed provisions too onerous.</p> <p>A number of residents submitted concerns about overshadowing and reduced access to natural sunlight for indoor and outdoor spaces, with potential impacts on solar panel efficiency, energy generation and residents' well-being. Impacts on wildlife were also mentioned.</p> <p>There were several locations that attracted a greater number of submissions. These were from residents who live adjacent to Precincts 2, 3A and 3B.</p> <p>Overshadowing of open space was highlighted as an issue in Precinct 1 however submissions noted tall buildings in this area won't impact residents' views or overshadow</p>	<p>Change proposed – Increase the landscape setback between the rear of new development and residential properties from 3m to 5m in Precincts 2 and 3B.</p> <p><u>General amenity issues – overlooking, overshadowing and visual bulk</u></p> <p><i>Exhibited controls</i></p> <p>The DDO includes rear interface controls 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.</p> <p>The controls seek to locate bulk away from residential and parkland interfaces to minimise amenity impacts and visibility, mainly through the application of:</p> <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; and • development to be contained within a 45-degree angle above. <p>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> <p>Testing of the rear interface provisions demonstrates development that complies with the proposed controls 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</i></p>

Issues raised in submissions	Response and recommended changes
<p>residential areas.</p> <p>Concerns about construction noise were also raised.</p> <p>One submission highlighted potential wind impacts due to taller developments.</p>	<p><i>3pm on 22 September'.</i></p> <p><i>Proposed changes</i></p> <p>In response to submissions, an increase to the 3m setback is recommended for Precincts 2 and 3B. A landscape setback of 5m (increased from 3m) would apply where development 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.</p> <p>A 3m landscape setback would continue to apply where the development interfaces with a side boundary of an adjacent residential lot. (No change).</p> <p>Increased setbacks provide opportunities for further landscaping between the rear of new development and existing residences. This will enhance the treed landscape character of this area of Fairfield/Alphington. It would also simplify the control by removing the 15m trigger.</p> <p>Increased setbacks also help to reduce building bulk and will reduce overshadowing impacts to these properties.</p> <p>The proposed changes only affect Precinct 2 and 3B as tailored setbacks are proposed to apply in Precincts 1 and 3A.</p> <p>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> <p><u>Interface to parklands</u></p> <p>Interface provisions require a maximum building height of 14.4m for development adjacent to the parkland in Precinct 1. A 45 degree angle and overshadowing controls measured between 10am and 2pm on 22 September also apply. This will ensure the parkland will not be inadequately overshadowed and visual bulk is minimised. No change proposed.</p> <p><u>Construction impacts</u></p> <p>Managing noise issues is outside the scope of this amendment and is addressed through State Government legislation and elsewhere in the Planning Scheme.</p> <p><u>Wind</u></p> <p>The exhibited DDO includes an application requirement for a desktop wind impact assessment to ensure new development does not result in adverse wind impacts. No change proposed.</p> <p><i>Proposed DDO18 Rear Boundary Setback Requirements:</i></p> <ul style="list-style-type: none"> • <i>Precinct 1: 3m (Mandatory)</i> • <i>Precinct 3A: 4.5m (Mandatory)</i> • <i>Precinct 2 & 3B (PROPOSED CHANGES):</i> <ul style="list-style-type: none"> • <i>5m when development abuts rear boundary of adjacent lot (Mandatory)</i> • <i>3m when development abuts side boundary of adjacent lot (Mandatory)</i> <p><i>Proposed DDO18 Upper Level Setback (Above Rear Interface) Requirements:</i></p> <ul style="list-style-type: none"> • <i>Precinct 1, 2, 3A and 3B: Development to be contained within a 45 degree setback envelope (Mandatory)</i> <p><i>Proposed DDO18 Rear Interface Height Requirements:</i></p> <ul style="list-style-type: none"> • <i>Precinct 1, 3A and 3B: Development to not exceed a maximum boundary/rear wall height of 8m when adjoining a residential</i>

Issues raised in submissions	Response and recommended changes
	<p>property (Mandatory)</p> <ul style="list-style-type: none"> • <i>Precinct 2: 14.4m at park interface (Mandatory)</i>
<p>Heritage</p> <p>Resident submissions identified the heritage fabric and neighbourhood character as particularly important in the residential area.</p> <p>A small number specifically commented on and supported the application of new heritage overlays to the properties at 730-734 Heidelberg Road and 760-764 Heidelberg Road, Alphington. No submissions were received from the owners of these properties.</p> <p>One submitter supported the proposed removal of the HO from 2 McKillop Street.</p> <p>A submitter felt the views to the heritage chimney from the south of Precinct 1 are not essential from a heritage perspective and suggests the deletion of the southern view lines from the DDO. Overall, the landowner considered the proposed planning controls were too prescriptive.</p>	<p>No change proposed.</p> <p>The heritage advice provided by RBA Architects has informed the built form approach and ensured that DDO18 appropriately responds to heritage places. Two additional heritage overlays were recommended by RBA and are included in the amendment.</p> <p>Officers do not agree that DDO18 is too restrictive and does not provide flexibility. The design provisions within DDO18 have been informed by heritage and urban design advice. Many of the controls are preferred and would allow for variation if sufficient justification is provided.</p> <p>Views to the chimney on the Porta site from the parkland were identified as significant in the heritage and built form background reports that informed the amendment.</p>
<p>Traffic, access to properties, public transport and parking</p> <p>Approximately a third of submitters questioned the ability of the road network in Alphington/Fairfield to accommodate the traffic future development would generate. They considered the amendment did not properly consider traffic impacts on residents.</p> <p>A number of submitters commented on the need for improvements to public transport in Alphington/Fairfield. Concerns that accommodating for growth/development will put further strain on public transport.</p> <p>Submitters are concerned that an increase in commercial and residential density would accentuate the current difficulties in finding a parking space and on-street parking.</p>	<p>No change proposed.</p> <p>Traffic Consultants reviewed current and potential traffic generation from future development as guided by the DDO. Their report found that moderate development across precincts is not expected to have a detrimental impact on the road network.</p> <p>The proposed amendment directs housing growth to areas well-served by public transport, cycle routes, services and jobs. The state government and relevant agencies are responsible for providing public transport services. Council continually advocates for improved public transport services and pursues improvements to bicycle infrastructure.</p> <p>The management of on-street parking is outside the planning scheme amendment process. Council has developed a policy for reviewing parking restrictions that outlines how changes to current restrictions would be considered.</p> <p>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 Kew and Burnley, provide additional pedestrian crossings.</p>
<p>Mandatory Controls</p> <p>There was a mix of views around the application of 'mandatory' and 'preferred' planning scheme provisions.</p> <p>Some submissions expressed concerns about the use of preferred provisions. Some supporting the application of 'mandatory' controls.</p> <p>Some explicitly suggested</p>	<p>No change proposed.</p> <p>The DDO contains a mix of 'mandatory' controls and 'preferred' controls. The application of mandatory controls has been carefully considered and applied selectively. They are not proposed to apply across all precincts neither to all requirements in proposed DDO18.</p> <p>Mandatory controls are applied where it is considered 'absolutely necessary' in accordance with <i>Planning Practice Note 59</i>.</p> <p>Mandatory controls are proposed to apply to:</p> <ul style="list-style-type: none"> • Building heights in Precincts 3A

Issues raised in submissions	Response and recommended changes
<p>mandatory controls for building heights and landscape setbacks.</p> <p>Some commercial landowners questioned the application of mandatory controls on their properties. They questioned the strategic justification of their application and argue that they limit the development potential.</p>	<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 on 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. <p>Mandatory controls are necessary to minimise impacts on sensitive residential interfaces and the public realm.</p> <p>Mandatory setback requirements have also been applied to ensure uniform street edge.</p>
<p>Drafting of the DDO</p> <p>A few submissions raised specific issues around the drafting of the DDO. Some submitters have suggested specific drafting and wording changes to the DDO.</p>	<p>Change proposed – minor changes.</p> <p>Minor edits have been made to the wording of the draft DDO18, some in response to submitters, while others were corrections by officers.</p>
<p>Other issues</p> <p><u>Land use and zoning</u></p> <p>Two submissions considered there was enough commercial development in the area and there is a greater need for residential development in the area. A further submission suggested the area is better suited for residential than commercial due to the proximity of amenities.</p> <p><u>Impacts of new development on climate change</u></p> <p>A small number of submissions commented that the proposed new development is not sustainable and conflicts with Council’s objective in addressing the climate emergency.</p> <p>The proposed amendment fails to address the reduction of emissions. Taller development would overshadow residential solar panels.</p> <p><u>Property values</u></p> <p>A small number of resident submissions commented the proposed heights and new development would reduce the property values of nearby apartments and houses.</p> <p><u>Views</u></p> <p>Submissions from residents in the ‘Home’ apartment building, corner of Heidelberg Road and Chandler Highway were concerned about the impacts on views.</p>	<p>No change proposed.</p> <p><u>Land use and zoning</u></p> <p>The area affected by Amendment C273yara consists of two planning zones, the Commercial 1 Zone (C1Z) and Commercial 2 Zone (C2Z).</p> <p>Draft Amendment C273yara does not propose to rezone land.</p> <p>Council’s adopted Spatial Economic and Employment Strategy (SEES) recommends the retention of C2Z land. The SEES highlights the role C2Z precincts provide in employment diversity across various locations in Yarra. The City of Yarra has sufficient capacity in other zones to accommodate growth in residential dwellings, as demonstrated by the Yarra Housing Strategy 2018.</p> <p>The C1Z allows for retail, office and residential uses above street level, allowing for mixed-use developments.</p> <p><u>Climate change</u></p> <p>Officers consider the amendment contributes to addressing climate emergency by supporting development in locations that are well served by shops, community facilities and public transport.</p> <p>An individual DDO is not the right tool to prescribe environmental sustainability standards that should apply equally across the municipality. Other parts of the Yarra Planning Scheme will ensure that new development is built in a more sustainable way - the Planning Policy Framework in C269, Council’s Environmentally Sustainable Design Policy at Clause 22.17 and proposed Planning Scheme Amendment C309yara – Elevating Environmental Standards.</p> <p><u>Property values</u></p> <p>Outside the scope of this amendment.</p> <p><u>Views</u></p> <p>The planning system does not protect views from private property. This planning principle has been substantiated through numerous VCAT decisions which have not given weight to a view from a private property.</p>
<p>Key development sites</p> <p><u>Porta site (224-256 Heidelberg Road - Precinct 1)</u></p>	<p>Change proposed – additional design requirements for the Porta site.</p> <p><u>Porta site (224-256 Heidelberg Road - Precinct 1)</u></p>

Issues raised in submissions	Response and recommended changes
<p>A submission on behalf of the owner suggests the need for a more facilitative approach to change and development for Significant Redevelopment Sites.</p> <p>Concerns about the potential negative impact on housing delivery, including affordable housing, due to these controls.</p> <p>Opposes the preferred maximum building height of 24m given the site's attributes and suggests an increase, especially for the northeast corner.</p> <p>Objects to the introduction of mandatory controls e.g. setbacks. Unjustified and overly restrictive.</p> <p>45-degree angle at rear should apply to residential interfaces only.</p> <p>See 'Heritage' section above regarding further comments.</p> <p><u>700-718 Heidelberg Road - Precinct 3B</u></p> <p>The approved development on this site would not comply with the mandatory controls as proposed in the DDO.</p> <p>There is inconsistency between the objective of creating a 'new low-rise character' in Precinct 3B and the existing mid to higher-rise commercial conditions along Heidelberg Road.</p> <p>C273 does not encourage redevelopment and intensification of existing urban areas.</p> <p>Supports preferred building height requirement. But notes 17.6m is significantly lower than the approved height of 26.97m. (VCAT found the site could support taller building on Heidelberg Road but needed to transition to smaller scale towards the east.)</p> <p>Mandatory built form controls are overly restrictive and will stifle growth.</p>	<p>In Precinct 1, DDO18 seeks to create a mid-rise precinct that frames Heidelberg Road and steps down towards the adjacent park to maintain the prominence of the landscape setting. The Porta heritage building is retained, views to the brick chimney are enabled through adequate guidance in the DDO and a new north-south pedestrian connection links Heidelberg Road to the park.</p> <p>The heights for Precinct 1 are proposed as preferred. Additional criteria are provided for proposals that exceed the preferred maximum height to assess additional offsite impacts, such as visual bulk as perceived from the residentially zoned properties to the south, and any additional overshadowing impacts on their secluded private open space.</p> <p>See comments above on mandatory controls. A mandatory control is necessary to protect parkland from unreasonable overshadowing and adequately reduce visual bulk when viewed from the parkland.</p> <p>Officers have reviewed the proposed requirements for the Porta site and consider the following requirements should be added to guide development:</p> <ul style="list-style-type: none"> • Preference for car parking to be located in basements • Ensure building entrances are designed to be safe and are accessible from a public thoroughfare • The north-south public laneway should be accessible 24 hours a day and is open to the sky. • Development should be located to minimise overshadowing any publicly accessible / communal space provided on the site. • The location of the heritage chimney is shown on the map. <p><u>700-718 Heidelberg Road - Precinct 3B</u></p> <p>Officers have considered the recent VCAT case. The built form parameters in the DDO align with some elements of the VCAT decision, but not all. There is no requirement that a DDO align with an approved permit, which may or may not be acted upon.</p> <p>The heights for Precinct 3B in the DDO are proposed as preferred. Additional criteria are provided for proposals that exceed the preferred maximum height (see above).</p> <p>The DDO proposed different built form outcomes for different precincts based on various factors. The preferred character in Precinct 3B is a low-rise character. A more mid-rise character is sought in Precincts 1 and 3A.</p> <p>See comments above on mandatory controls.</p>

Next steps

15. Officers have analysed the submissions and recommend changes for Council's consideration. If supported, these proposed changes would be requested to be referred to the *Yarra Activity Centres Standing Advisory Committee (SAC)*.
16. It is recommended Council request the Minister for Planning refer the amendment and all submissions to the SAC.

17. Officers also recommend Council notify any landowners and submitters affected by the more substantive recommended changes to the draft amendment. This would advise them of the position Council proposes to take to the SAC and provide them with the opportunity to make a submission or further submission.
18. A Directions Hearing is scheduled to commence in the week of 5 March 2024, with the Hearing to commence in the week of 22 April 2024.
19. The SAC would hear submitters and provide its report and recommendations to Council and the Minister for Planning for consideration.
20. Council would then receive a further report from Council officers and resolve a position about the draft amendment and provide its views to the Minister for Planning.

Options

21. Two options could be considered by Council at this stage of the process:
 - (a) request the Minister for Planning refer Draft Amendment C273yara to the *Yarra Activity Centres Standing Advisory Committee*; or
 - (b) abandon the Draft Amendment.
22. Officers recommend Option 1. A range of views were expressed in relation to built form parameters, in particular the scale and height of development and amenity. The Standing Advisory Committee process will enable these views to be further expressed by submitters and considered by an independent body.

Community and stakeholder engagement

23. Awareness of proposed built form provisions was first raised with an interim DDO request as part of C271 in 2020 and community engagement in 2021.
24. Notice of Amendment C273yara included:
 - (a) Letter notification to all owners and occupiers within DDO18 and within 200m of the area in DDO18 in the City of Yarra (approximately 1,800 letters);
 - (b) Letter notification of approximately 700 owners and occupiers in the City of Darebin (also within 200m of the proposed DDO18);
 - (c) Notice in *The Age* (31 July 2023);
 - (d) Notification of Ministers prescribed by the *Planning and Environment Act 1987* and other statutory bodies;
 - (e) Webpage on the corporate website containing:
 - (i) Formal amendment documents and background reports;
 - (ii) Information sheets to describe the proposals in non-statutory language;
 - (iii) Frequently Asked Questions;
 - (iv) Contact details and information on how to make a submission; and
 - (v) Information on the Standing Advisory Committee process;
 - (f) Your Say Yarra project page which provided the ability to make an online submission (and was linked to the corporate webpage);
 - (g) Article in *Yarra Life e-newsletter* and *Economic Development Newsletter* (approximately 13,000 subscribers);
 - (h) Posts on social media;
 - (i) Direct emails to all of Yarra's Advisory Committees (including an invitation to meet);
 - (j) Direct emails to previous submitters (49 previous submitters); and

- (k) Direct emails to the community, resident and trader groups (including an invitation to meet).
25. It was brought to officers' attention that some owners and occupiers within proximity to Precinct 2 may have not received the original letter notifying them of the exhibition of this amendment. Council records indicated that notification to residents and owners in this area were sent, but to ensure all notifications were received, officers renotified owners and occupiers around Precinct 2 and provided additional four weeks to consider the amendment.

Policy analysis

Alignment to Community Vision and Council Plan

26. The Amendment supports the following themes in the *Yarra 2036 Community Vision*:
- (a) Priority 8.1 – Growing Sustainably – Advocate for development and planning design that is shaped by and meets our community's future needs; and
 - (b) Priority 8.2 – Growing Sustainably – Keep our heritage visible while we encourage innovative and sustainable growth.
27. The Amendment supports the following strategies in the Council Plan 2021-2025:
- (a) Strategic Objective 3 – Local economy – 'Manage access, safety and amenity to enhance people's experience when visiting Yarra'; and
 - (b) Strategic Objective 4 – Place and nature – 'Protect, promote and maintain our unique heritage and ensure development is sustainable'.

Climate emergency and sustainability implications

28. The amendment will help facilitate sustainable development in locations with good access to employment, public transport and other amenities.
29. Policy and provisions elsewhere in the Yarra Planning Scheme respond to the climate emergency, namely the Planning Policy Framework and Council's Environmentally Sustainable Design Policy at Clause 22.17 and Clause 15.02-1L Environmentally Sustainable Development (ESD) in the adopted Local Policy in Amendment C269.

Community and social implications

30. There are no adverse community or social implications resulting from the proposed permanent built form provisions for the Neighbourhood Activity Centre and commercial areas along Heidelberg Road.
31. Improved built form provisions would help provide clarity around the anticipated future development of the centre and commercial areas.

Economic development implications

32. There are no economic development implications for the permanent built form provisions for the centre and surrounding area.
33. An amendment may aid in providing further stimulus to the retail precincts.

Human rights and gender equality implications

34. There are no known human rights implications for requesting the Minister for Planning to progress the permanent DDO and HO controls to the Standing Advisory Committee

Operational analysis

Financial and resource impacts

35. The costs associated with the exhibition of the amendment have been covered within the Strategic Planning budget.
36. Legal costs with regard to the preparation and representation before, during and after the panel or committee hearing would be subject to the Governance budget.

Legal Implications

37. The amendment would be progressed in accordance with the provisions of the *Planning and Environment Act 1987* and *Yarra Activity Centres Standing Advisory Committee Terms of Reference* issued by the Minister for Planning on 10 June 2021.
38. Council must ensure natural justice to all parties and to maintain the integrity of the Amendment process per Section 32 of the Terms of Reference.

Conclusion

39. Council exhibited draft Amendment C273 proposing permanent built form provisions, two new Heritage Overlays and updated local policy and received a total of 117 submissions.
40. Submissions are seeking a variety of changes to the amendment; these include changes in the height of future buildings and better addressing amenity concerns. Many submissions contain different perspectives and suggestions / requests.
41. In response to submissions, officers have analysed the changes sought and propose to recommend certain changes for the Standing Advisory Committee's consideration.
42. Additional notification of owners and occupiers affected by the proposed changes to the amendment is recommended to enable further consideration of C273 and the ability to make a submission to be heard during the SAC process.
43. It is important to progress permanent provisions for the commercial areas along Heidelberg Road to guide potential changes.

RECOMMENDATION

1. That Council:
 - (a) notes the officer report regarding draft Amendment C273yara in relation to the Heidelberg Road area;
 - (b) receives, notes and formally considers all submissions received in response to the public notice of draft Amendment C273yara completed in accordance with Stage 1 of the Yarra Activity Centres Standing Advisory Committee Terms of Reference dated 10/06/2021;
 - (c) notes and adopts the officer response to the issues raised by submissions as outlined in this report and Attachments 1 and 2;
 - (d) adopts the recommended changes to draft Amendment C273yara, as outlined in this report and Attachments 1, 2 and 3 for the purposes of Council's advocacy position before the Yarra Activity Centres Standing Advisory Committee;
 - (e) refers all submissions, response to those submissions and preferred draft Amendment C273yara as outlined in (d) above to the Minister for Planning with a request to refer the draft Amendment to the Standing Advisory Committee in accordance with Clause 28 of the Yarra Activity Centres Standing Advisory Committee Terms of Reference dated 10/06/2021;
 - (f) writes to all landowners and occupiers directly affected by the recommended changes depicted in paragraph (c) and (d) to the DDO schedule and to all submitters to:
 - (i) advise of Council's decision to request the Minister for Planning to refer draft Amendment C273yara to the *Yarra Activity Centres Standing Advisory Committee*;
 - (ii) advise of Council's position as stated in paragraph (c) and (d); and
 - (iii) advise that if they make a submission in relation to the recommended changes depicted in paragraph (c) and (d) prior to the Standing Advisory Committee commencing its hearing into the draft Amendment C273yara, the new or varied submission will be referred to the Minister with a request that it be referred to the Standing Advisory Committee;
 - (g) notes that officers will provide a further report to Council following the receipt of the Standing Advisory Committee Report; and
 - (h) authorise the CEO to make any minor adjustments required to meet the intent of Resolution 1 of this report.

Attachments

- 1 Attachment 1 - Draft Amendment C273yara - Response to Centre Wide Themes
- 2 Attachment 2 - Draft Amendment C273yara - Response to Individual Submissions
- 3 Attachment 3 - Draft Amendment C273yara - Schedule 18 To Clause 43.02 Design and Development Overlay