



Agenda

Council Meeting

7.00pm, Tuesday 21 December 2021

Ms Teams

Council Meetings

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

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

There are two ways you can participate in the meeting.

Public Question Time

Yarra City Council welcomes questions from members of the community.

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

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

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

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

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

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

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

Public submissions

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

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

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

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

Arrangements to ensure our meetings are accessible to the public

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

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

Recording and Publication of Meetings

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

Order of business

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

1. Acknowledgment of Country

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

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

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

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

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

2. Attendance, apologies and requests for leave of absence

Attendance

Councillors

• Cr Sophie Wade	Mayor
• Cr Edward Crossland	Deputy Mayor
• Cr Gabrielle de Vietri	Councillor
• Cr Stephen Jolly	Councillor
• Cr Herschel Landes	Councillor
• Cr Claudia Nguyen	Councillor
• Cr Bridgid O'Brien	Councillor
• Cr Amanda Stone	Councillor

Council officers

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

Leave of absence

• Cr Anab Mohamud	Councillor
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3. Announcements

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

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

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

5. Confidential business reports

The following items were deemed by the Chief Executive Officer to be suitable for consideration in closed session in accordance with section 66(2)(a) of the Local Government Act 2020. In accordance with that Act, Council may resolve to consider these issues in open or closed session.

RECOMMENDATION

1. That the meeting be closed to members of the public, in accordance with section 66(2)(a) of the Local Government Act 2020, to allow consideration of confidential information

Item

5.1 Borrowing from Treasury Corporation of Victoria

This item is to be considered in closed session to allow consideration of private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets or if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

These grounds are applicable because the report contains information that has been submitted on a commercial in confidence basis as part of a tender process.

6. Confirmation of minutes

RECOMMENDATION

That the minutes of the Council Meeting held on Tuesday 7 December 2021 be confirmed.

7. Public question time

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

8. Council business reports

Item		Page	Rec. Page	Report Presenter
8.1	Elizabeth Street Protected Bike Lanes Trial	9	16	Simon Exon - Unit Manager Strategic Transport
8.2	Amendment C291yara - Bridge Road and Victoria Street built form provisions - Consideration of submissions	17	37	Leonie Kirkwood - Project and Policy Coordinator Strategic Planning
8.3	Amendment C293yara - Collingwood South DDO23 - Consideration of Submissions	38	55	Joerg Langeloh - Project and Policy Coordinator Strategic Planning
8.4	Long Term Use of 12 Peel Street, Collingwood	56	62	George Vass - Senior Coordinator Property Services
8.5	Burnley Gardens Cottage - Community Consultation on Review of Future Use of the Premises	63	66	Ivan Gilbert - Group Manager Chief Executive's Office

9. Notices of motion

Item		Page	Rec. Page	Report Presenter
9.1	Notice of Motion No. 16 of 2021 - Requirement for Councillors Attending Council Meetings to be Fully Vaccinated	67	67	Sophie Wade - Mayor
9.2	Notice of Motion No. 17 of 2021 - Burnley Golf Course	69	70	Gabrielle de Vietri - Councillor

10. Petitions and joint letters

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

11. Questions without notice

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

12. Delegate's reports

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

13. General business

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

14. Urgent business

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

8.3 Amendment C293yara - Collingwood South DDO23 - Consideration of Submissions

Executive Summary

Purpose

The purpose of this report is for Council to consider:

- (a) the 102 submissions received following the exhibition of draft Amendment C293yara;
- (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 C293yara 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.

Key Issues

With the expiry of interim Design and Development Overlay Schedule 23 (DDO23) imminent (end June 2022), Council needs to progress permanent provisions as soon as possible to manage change and provide as much certainty as possible about future development outcomes.

Council publicly notified draft Amendment C293yara for six weeks from 14 September to 27 October 2021. A total of 102 submissions were received.

A number of the submissions seek competing changes to the amendment. Council cannot resolve these differences to the satisfaction of all submitters.

Under Stage 2 of the Terms of Reference (ToR) for the *Yarra Activity Centre Standing Advisory Committee* (Advisory Committee), Council needs to consider all submissions and:

"[...] provide a copy of all submissions received in response to notice and a detailed response to those submissions including a copy of council's preferred draft amendment in a request for the Minister to refer the proposal to the Advisory Committee."

The Minister for Planning would then consider the referral request and once a decision is made, send a public letter of referral to the Advisory Committee Chair.

Officers recommend all submissions, response to submissions and *preferred* version of the draft Amendment C293yara be referred to the Advisory Committee.

Financial Implications

There are substantial costs associated with the Advisory Committee.

They include Advisory Committee costs and fees, legal representation and the engagement of experts, for example urban design, heritage, planning and traffic who provide evidence on behalf of Council.

PROPOSAL

In summary, the officers' recommendation is that Council:

- (a) request the Minister for Planning to refer all submissions, response to submissions and Council's preferred draft amendment to the Yarra Activity Centre Standing Advisory Committee as set out in the Terms of Reference;
- (b) adopts a position of support for draft Amendment C293yara in accordance with the officer's response to the submissions as contained in the officer's report and attachments; and
- (c) submits to the Advisory Committee that draft Amendment C293yara should be recommended for approval subject to the recommended changes contained within this report.

8.3 Amendment C293yara - Collingwood South DDO23 - Consideration of Submissions

Reference	D21/199723
Author	Joerg Langeloh - Project and Policy Coordinator
Authoriser	Director Planning and Place Making

Purpose

1. The purpose of this report is for Council to consider:
 - (a) the 102 submissions received following the exhibition of draft Amendment C293yara;
 - (b) the officer's responses to the issues raised in the submissions;
 - (c) the officer's recommendation to request the Minister for Planning to refer all submissions, response to submissions and Council's preferred draft Amendment C293yara 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 C293yara documentation to form the basis of Council's position at the *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. Amendment C250 introduced Interim DDO23 for the mixed-use zone precinct in Collingwood South on 22 November 2018.
3. Following two extensions to the expiry date, the current expiry date for the interim DDO is 30 June 2022.
4. As the interim DDO provisions expire on 30 June 2022, Council needs to continue to progress *permanent* provisions.
5. The *permanent* provisions are essential to put in place for the on-going built form strategy for best managing the growth and change in Collingwood South.
6. Draft Amendment C293yara seeks to:
 - (a) replace the current Interim Design and Development Overlay (known as DDO23) with a new *permanent* DDO23 for the Yarra Planning Scheme to guide built form in the Collingwood South (Mixed-Use) Precinct;
 - (b) delete the existing Design and Development Overlay that applies to Main Roads and Boulevards (DDO2) from the area that would be covered by the permanent DDO23, and
 - (c) amend Clause 21.11 Reference Documents to include the *Brunswick Street and Smith Street Built Form Review: Collingwood Built Form Framework 2018*, *Collingwood Mixed Use Pocket Heritage Analysis and Recommendations 2018* and *Supplementary Heritage Report: Collingwood South (Mixed Use) Precinct, 2021* as reference documents in the planning scheme.

Consideration of the amendment by a Standing Advisory Committee

7. To help speed up the progression of the Council planning scheme amendments, the Minister for Planning, in September 2020, expressed a willingness to consider appointing an Advisory Committee.
8. Council resolved to pursue this new pathway for planning scheme amendments in March 2021.
9. Draft Amendment C293yara was considered at the Council Meeting on 18 May 2021, where Council resolved to request the Minister for Planning refer Amendment C293yara to an Advisory Committee.
10. A Terms of Reference was signed by the Minister for Planning on 10 June 2021 and the *Yarra Activity Centre Standing Advisory Committee* (Advisory Committee) was appointed on 9 August 2021 (**refer to Attachment 4**).

Submissions received

11. In accordance with the Terms of Reference (ToR) the Minister for Planning consented to prepare and exhibit Amendment C293yara on 20 August 2021, subject to a number of administrative conditions.
12. Amendment C293yara was publicly exhibited for six weeks from 14 September to 27 October 2021. A total of 102 submissions were received:
 - (a) two were from a developer or planning consultant on behalf of a landowner;
 - (b) two were group submissions;
 - (c) four were from community groups: *South Smith Street Action Group*, *the 3068 Group*, *Yarra Planning Coalition* and *Queens Parade Heritage Planning and Traders Group*;
 - (d) 46 were proforma submissions; and
 - (e) 48 submissions were from individual community members.
13. The majority of submitters are located within the DDO23 notification area, some are located outside of the area, or did not provide an address.
14. The summary and responses to individual submissions is included at **Attachment 1**. The responses to commonly raised issues are included at **Attachment 2**.

Discussion

Previous changes to interim DDO23

15. In preparing the proposed DDO23 for exhibition, further heritage advice was sought from an external heritage expert. Yarra's Heritage Advisory Committee (HAC) also provided its advice.
16. As a result of the supplementary heritage report (Item 8.1, Attachment 3 to the Council Meeting Report, 18 May 2021), and the advice from the HAC, the exhibited DDO23 included:
 - (a) lowered overall building heights for pockets of consistent heritage and most sites adjoining heritage buildings (infill sites);
 - (b) 'mandatory controls' for upper level setbacks to all heritage places in DDO23; and
 - (c) 'mandatory controls' for overall building heights to pockets of consistent heritage in DDO23.
17. Based on review of recent planning scheme amendments and planning permit applications, the exhibited DDO23 also included improved objectives, requirements and decision guidelines in regards to:
 - (a) the character of the precinct;
 - (b) achieving pedestrian-oriented design at lower levels;

- (c) achieving better building design outcomes; and
- (d) clearer requirements for new development of heritage places.

Considering the submissions to Amendment C293yara

18. In response to submissions received during the exhibition, additional overshadowing testing was undertaken.
19. A key issue raised within the submissions is the impact of future developments unreasonably overshadowing public open spaces. Some submissions also requested that overshadowing impacts be measured at the winter solstice rather than September equinox. Officers worked with Hansen Partnership to test the impact and the modelling has informed responses to submissions.

Issues and submission summaries

20. This report discusses DDO23 in terms of the 'exhibited' version, unless it is specifically noted that another version is being discussed.
21. Below is a summary of key issues raised in submissions. Refer to the key **Attachments 1 and 2** for further summaries of submissions.

Table 1 Summary – 'key issues raised in submissions'

Theme and Sub-Themes	Key Issues raised in submissions
Public Open Space	
<i>Overshadowing Public Open Space</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> the exhibited building height provisions will result in future development unreasonably overshadowing Public Open Space. recommendations for overshadowing requirements should be measured against the winter solstice rather than the September equinox. Developments that have been recently constructed, recently approved or are currently under construction will result in unreasonable overshadowing to Public Open Space.
<i>The Need for More Public Open Space</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> The Collingwood South area has insufficient Public Open Space to accommodate for existing residents/employees. The building height provisions in the exhibited DDO would result in substantial population growth which would exacerbate the shortage of Public Open Space in the area. Council needs to increase the amount of Public Open Space in the Collingwood South area.
Landscaping	
<i>Landscaping within private property</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Future development should include landscaping setbacks to provide for deep soil for tree planting, green frontages and green roofs.
<i>Landscaping with the public realm (trees)</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Existing street trees need to be protected and need to be considered by the exhibited DDO. Other landscaping opportunities need to be considered by the exhibited DDO.

Impacts to Footpaths and the Public Realm	
<i>Footpath Overshadowing</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> The exhibited building height and street wall height controls would result in excessive overshadowing of footpaths.
<i>Wind Impacts</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> The exhibited building height and street wall height controls would result in wind impacts to the public realm, reducing street-level amenity.
<i>Street Tree Overshadowing</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> The exhibited building height and street wall height controls would result in overshadowing of street trees, affecting their health.
<i>Visual Bulk</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> The exhibited building height and street wall height controls would result in visual bulk and a sense of enclosure when viewed from the street level. The exhibited building height and street wall height controls would create an overwhelming experience for pedestrians.
<i>Pedestrian Capacity on Footpaths</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> The exhibited building height controls would result in pressure on the footpaths in the area due to increased pedestrian movements. Many streets in the area have narrow footpaths and cannot handle increased pedestrian activity.
Building Height	<p>A majority of issues raised in submissions under the Building Height theme were linked to multiple sub themes, these include the following examples:</p> <ul style="list-style-type: none"> building heights would be out of character with the Collingwood South area; building heights would unreasonably impact on existing heritage buildings and streetscapes; building heights would result in footpath overshadowing and wind impacts to the public realm; building heights would reduce daylight access; building heights would exacerbate the pressure of the small amount of Public Open Space in the area; building heights would increase population in the area, putting pressure on infrastructure, public transport and cyclist routes. many submissions stated designated building height controls should be lowered across the Collingwood South area. <p>Building height is discussed where relevant throughout this table.</p>
Street Wall Height	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Concerns that the street wall height controls in the exhibited DDO are too tall with requests for them to be lowered.
Upper Level Setbacks	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Concerns that the upper level setback requirements in the exhibited DDO are not sufficient enough, with requests for them to be increased. The term 'upper level' is not clearly defined.

Mandatory Versus Discretionary Requirements	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Concerns that discretionary requirements do not provide enough certainty about development outcomes and that developers use preferred heights (discretionary provisions) to seek additional building height. 'Mandatory controls' have been requested to be applied across all sites. 'Mandatory controls' have also been requested to be applied to all heritage sites and around all Public Open Spaces to ensure that they are protected. 'Mandatory controls' were not supported by two submissions, which stated that preferred provisions (discretionary) are more appropriate so as to enable a flexible design response.
Recent Developments	<p>Numerous submissions have cited concerns about recent constructed development, developments currently under construction and developments which have been approved. Examples of the associated issues include:</p> <ul style="list-style-type: none"> recent developments have negatively changed the neighbourhood character of the area; recent developments are too tall and create impacts such as overshadowing, loss of views, wind impacts and an overwhelming presence for pedestrians; recent developments have increased pressure on infrastructure, public transport, cyclist routes and Public Open Spaces, and recent developments feature poor architectural outcomes and use poor materials.
Heritage	
<i>Better protection of the heritage fabric</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Heritage buildings need to have better protections to ensure that they are retained and enhanced into the future The importance of heritage buildings needs to be recognised.
<i>New developments not being sensitive towards heritage places</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> The building height provisions of the exhibited DDO would result in new development detracting from heritage buildings; Clearer objectives and 'mandatory controls' are needed to ensure new development does not overwhelm heritage buildings. New additions to heritage buildings need to be carefully and respectfully designed.
<i>Transition of new development to heritage buildings</i>	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Taller height controls within the exhibited DDO would result in poor transition towards heritage buildings.
Building Design / Design Standards Needed	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Further guidance is needed on the architectural design of new developments. Requirements for future development to include verandahs is needed to enhance the pedestrian experience.
DDO23 Does Not Retain the Existing Neighbourhood Character	<p>Examples of issues include:</p> <ul style="list-style-type: none"> Building height provisions of the exhibited DDO would result in new development that destroys the existing neighbourhood character of Collingwood South. There is a need for a neighbourhood character study to be undertaken.

Amenity Impacts	<p>Numerous submitters raised concerns with amenity impacts associated with the proposed building heights. Examples of these amenity impacts include:</p> <ul style="list-style-type: none"> • Loss of views, including from existing dwellings and also from communal facilities of apartment buildings. • Loss of daylight / sunlight from existing dwellings; • Overshadowing of balconies and areas of private open space; • Taller buildings would result in increased opportunities for overlooking into existing dwellings; • Amenity impacts would result in impacts to property values.
Amenity Impacts Associated with Construction Works	<p>A number of submissions raised concerns about amenity impacts associated with construction works. Examples of these impacts include:</p> <ul style="list-style-type: none"> • Noise impacts; • Air-borne dust and associated health impacts, and • Disruptions to traffic movements.
Traffic Increase	<p>Examples of issues include:</p> <ul style="list-style-type: none"> • Concerns about the increased traffic generation associated with the taller building heights.
Public Transport and Cyclist Infrastructure Capacity	<p>Examples of issues include:</p> <ul style="list-style-type: none"> • Public transport services are already at capacity and would be further impacted by increases in population or employment in the area. • Bicycle infrastructure would also be impacted by increased population density.
On-Street Parking	<p>Examples of issues include:</p> <ul style="list-style-type: none"> • The impact of future developments on the availability of on-street car parking • On-street car parking is already difficult currently
Environmental Sustainability	<p>Examples of issues include:</p> <ul style="list-style-type: none"> • Concerns that the exhibited DDO is not in alignment with Council's <i>Climate Emergency Plan</i> as increased development exacerbates urban heat island effect and increases greenhouse gas emissions. • The exhibited DDO should include requirements on environmental sustainability.
Economic Development	<p>Examples of issues include:</p> <ul style="list-style-type: none"> • Concerns about new development affecting the economic diversity in the Collingwood South area, pushing out small independent businesses • Concerns that the character of Collingwood South will change over time with corporate businesses taking over independent businesses.
Community Consultation	<p>Examples of issues include:</p> <ul style="list-style-type: none"> • Concerns about the lack of consultation with the local community. • Council using a 'top down' approach in preparing the amendment instead of utilising local knowledge.
Accommodating Growth	<p>Examples of issues include:</p> <ul style="list-style-type: none"> • The areas in Collingwood South that are covered by a Heritage Overlay should be designated as minimal change areas. • The population density being experienced in Collingwood South should be spread more evenly across the municipality.

COVID-19 Impacts not Considered	Examples of issues include: <ul style="list-style-type: none"> The impacts of COVID-19 need to be considered as it has reduced the demand for housing and economic growth in Collingwood South.
Unclear wording	Examples of the issues include: <ul style="list-style-type: none"> Request to add the words “maximum” to the legend of Map1 in regards to the “Mandatory Street Wall Heights” Request to add the words “mandatory maximum” in Clause 2.5 in regards to mandatory building heights to clarify the meaning. Request to add the words “preferred maximum” in Clause 2.5 to “Development should not exceed the building heights shown in Map 1.

Proposed changes to the Amendment C293yara recommended by officers to advocate as Council’s position at panel.

22. In preparing for the Advisory Committee, Council should recommend what changes (if any) should be made to the exhibited amendment. In this regard, officers are seeking the Councils considered opinion on the submissions via this report.
23. It is important to note that the recommended changes arise from the submissions or be in response to the submissions received.
24. Officers are proposing that the Council submission to the Advisory Committee include a number of changes to the exhibited amendment for specific consideration by the Advisory Committee in response to the submissions. The changes are outlined in Table 2.
25. Attachment 3 outlines the preferred version of DDO23 to advocate as Council’s position at the Advisory Committee hearing. NB. DDO23 included at Attachment 3 is marked up to illustrate the ‘post exhibition’ changes.

Table 2: Recommended changes in response to submissions

Issue Theme	Recommended changes in response to submissions
Overshadowing of public open space	<ul style="list-style-type: none"> Reduce the street wall height along the eastern boundary of Oxford Street Reserve from 14 metres to 11 metres (change reflected in Map 1 of preferred DDO23); and Amend the overshadowing requirement for public open spaces in Clause 2.6 as follows (changes in bold and strike through): <i>“Development should be designed to minimise not increase the amount of overshadowing as caused by existing conditions, measured between 10am and 2pm on 22 September of for the following areas of open space and/or public realm between 10am and 2pm on 22 September, to the satisfaction of the Responsible Authority:</i> <ul style="list-style-type: none"> <i>Cambridge Street Reserve (incl. any future extension of the reserve);</i> <i>Oxford Street Reserve;</i> <i>The outdoor space of Collingwood English Language School;</i> <i>Any kerb outstands, seating or planting areas on the opposite side of the street, as applicable.”</i>
Landscaping within private property	<p>Insert the following requirement in Clause 2.8 to ensure landscaping is integrated into the building design and provides for a softening of the building edge towards the public realm:</p> <p><i>“Development should provide for landscaping that provides a positive contribution to the public realm, such as canopy trees where possible, green walls or planter boxes.”</i></p>

Economic Development	<p>Noting that land use cannot be controlled through a DDO, the following requirement is to be inserted into Clause 2.8 to ensure new development can accommodate different uses over time:</p> <p><i>“Building structures, layouts and non-residential unit sizes should be adaptable so as to allow for a variety of uses over time.”</i></p>
Other – Defining the term ‘upper level’	<p>Insert the additional definition at section 2.1:</p> <p><i>“Upper level means development above the height of the street wall.”</i></p>
Other – Insertion of the words ‘mandatory maximum’ ‘preferred maximum’	<p>Insert the words ‘mandatory maximum’ within the first requirement of Clause 2.3. The revised wording is as follows (changes in bold):</p> <p><i>“Development must not exceed the mandatory maximum street wall heights as shown in Map 1.”</i></p> <p>Insert the words ‘mandatory maximum’ within the first requirement of Clause 2.5. The revised wording is as follows (changes in bold):</p> <p><i>“Development on sites shown as hatched on Map 1 must not exceed the mandatory maximum building height shown on Map 1.”</i></p> <p>Insert the words ‘preferred maximum’ within the second requirement of Clause 2.5. The revised wording is as follows (changes in bold):</p> <p><i>“Development should not exceed the preferred maximum building heights shown on Map 1.”</i></p>
Other – Insertion of the word ‘preferred maximum’ and ‘maximum’ to the legend of Map 1	<p>Change legend items of Map 1 in exhibited DDO23 as follows (changes in bold):</p> <ul style="list-style-type: none"> - Preferred Maximum Building Heights; - Mandatory Maximum Building Heights; - Mandatory Maximum Street Wall Heights;

Outside the scope

26. A number of submissions raised issues that are outside of the scope of the amendment and these are addressed in Table 3. The issues are either outside the function of the planning scheme, for example the management of on-street parking, or outside the scope of this amendment. Table 1 sets out those issues with a response explaining why the issue is out of scope. Also refer to Attachment 2.
27. The Design and Development Overlay (DDO) is a planning tool that is applied to areas which need specific requirements relating to the built form and design of new development. They set requirements for the height, form and the general design of buildings.
28. It is important to note that a DDO cannot act as a heritage control, manage land use or address other issues such as shop vacancies or housing affordability. It can only focus on built form and design.

Table 3: Issues outside of the scope of the amendment

Issue	Council response
Better protection of the heritage fabric	The heritage overlay is responsible for the protection of heritage places. Amendment C293yara does not propose to amend the heritage overlay.
Need for more public open space	Council is currently pursuing Amendment C286 which seeks to increase the public open space contributions associated with future developments from 4.5% to 10.1%. This is currently at a Panel Hearing.
Landscaping in public realm (trees)	Council has an Annual Tree Planting Program that work towards increasing street tree canopy within Council. As part of this program Council has planted number of new trees in and around the Collingwood South Precinct. Below are specific statistics for the three streets: <ul style="list-style-type: none"> Cambridge Street – total of approximately 65 new trees planted (2012 and 2019); Oxford Street – total of approximately 50 new trees planted (2009, 2012 and 2020); Derby Street – total of approximately 25 new trees planted (2014 and 2020).
Footpaths/public realm	It is outside the scope of the amendment to require wider public footpaths. DDO23 does, however, includes requirements for development to enhance and support the precinct's public realm.
Loss of views from private properties	It is a well-established principle that views from a private property are not a planning issue and cannot be considered. Neither the Planning and Environment Act 1987 (Act) nor the current Yarra Planning Scheme seeks to protect views (save for key landmarks sought to be protected under clause 22.03 <i>Landmarks and Tall Structures</i> , or views from public areas of landmarks under recent DDOs introduced for activities centres).
Amenity impacts associated with construction works	Planning permits associated with larger-scale projects are required to provide a Construction Management Plan to ensure that the proposed construction methods are in accordance with the requirements set out by Council's Construction Unit. Noise and air pollution, health impacts and other amenity impacts generated by construction works are outside the scope of this amendment and are also outside of the scope of the planning system more broadly. Notwithstanding this, the concerns around construction-related amenity impacts have been forwarded to Council's Construction Unit for information.
Public Transport and Cyclist Infrastructure Capacity	Council continually advocates for improved public transport services and pursues improvements to bicycle infrastructure. Council will continue to advocate for more frequent public transport services as part of its ongoing discussions with DoT. Officers note that in late 2019, Council completed the separated bike lanes (Copenhagen-style bike lanes) along Wellington Street, which has improved cyclist safety and capacity between Victoria Parade and Johnston Street. Council is also working on a revised Transport Action Plan which will identify key capacity issues and outline how these could be addressed.

On-street parking	<p>The management of on-street parking cannot be addressed through a DDO.</p> <p>Council manages on-street parking as an area changes. Council has developed a policy for reviewing parking restrictions and avenues for proposing changes to existing restrictions. This is outlined in Council's <i>Parking Restrictions Guidelines</i>.</p> <p>It is noteworthy that all new developments following 2003 are not entitled to on-street car parking permits.</p> <p>The provision of car parking in new developments is guided by Clause 52.06 as well as Local Transport Policy at Clause 18 of the Yarra Planning Scheme, which encourages the prioritisation of sustainable modes of transport including cycling and public transport.</p>
Environmental Sustainability	<p>An individual DDO is not the right tool to introduce new or generally increase environmental sustainability standards for the municipality.</p> <p>Other parts of the Yarra Planning Scheme ensure that new development is built in a more sustainable way, namely the <i>Planning Policy Framework</i> and <i>Council's Environmentally Sustainable Design Policy at Clause 22.17</i>. Environmentally Sustainable Design (ESD) requirements are addressed when a planning application is lodged.</p> <p>There are number of other strategies that sit outside the planning scheme (namely the Urban Forest Strategy, Nature Strategy, Yarra Open Space Strategy) that work towards mitigating heat island effect by increasing street tree canopy, providing new open spaces and protecting existing trees.</p> <p>One of the key actions of the Urban Forest Strategy is the Annual Tree Planting Program. As part of the program there were number of new trees planted recently along Oxford Street, Cambridge Street, Mason Street and Little Oxford Street.</p> <p>At the Council Meeting on 17 March 2020, Council committed to progress a planning scheme amendment to implement a Zero Carbon Local Policy for new developments. This has also been committed to in our Climate Emergency Plan.</p> <p>As part of this Yarra City Council is working with other CASBE member Councils to pursue a planning scheme amendment that builds on the existing local ESD Policies held by numerous Victorian Councils.</p> <p>The <i>Elevating ESD Targets Planning Policy Amendment</i> project aims to deliver revised and elevated ESD targets, including targets for zero carbon development.</p>

No change to amendment in response to submissions

29. Amendment C293yara is not recommended for change in response to some of the issues raised in submissions as:
 - (a) the exhibited DDO is underpinned by significant strategic work and no further strategic justification was provided to support a change to the amendment;
 - (b) the DDO provisions already include provisions that address the issue;
 - (c) the application of 'mandatory controls' has been appropriately applied in accordance with Planning Practice Notes 59 and 60; and
 - (d) concerns relate to previous planning permits that predate the interim DDO controls.
30. This is summarised in Table 4 below and Attachments 1 and 2.

Table 4: No change to amendment in response to submissions

Issue	Response to submission
Building height	<p>The majority of taller buildings within DDO23 were approved before interim DDO23 was in place.</p> <p>Updated strategic work has already resulted in lowered and strengthened overall height requirements in comparison to the interim DDO23.</p> <p>The exhibited DDO23 provides a balance between heritage, amenity and guiding change and facilitating development in Collingwood South.</p>
Street wall height	<p>No change to Amendment (except for response to Overshadowing of Public Open Space for change to Oxford Street Reserve interface).</p> <p>The street wall heights in the exhibited DDO23 are based on detailed analysis and with respect to infill sites next to heritage places had already been adjusted from the interim DDO.</p>
Upper level setbacks	<p>The upper level setbacks in the exhibited DDO23 would ensure that a clear distinction between lower and upper levels is achieved and that a sense of openness is retained.</p> <p>Requirements for heritage places has already been strengthened from the interim DDO.</p> <p>This will assist to retain the key heritage elements and architectural features and to main the legibility of the three-dimensional form of the heritage place.</p>
Mandatory versus discretionary requirements	<p>Based on detailed analysis, the exhibited DDO23 includes the 'mandatory controls' that are necessary to minimise impacts on heritage places and the public realm.</p>
Recent developments	<p>The exhibited DDO23 relates to guiding future potential development and does not intend to achieve the same outcomes as previously approved developments that often predate the interim DDO23.</p>
New developments not being sensitive towards heritage places	<p>In comparison to the interim DDO, the exhibited DDO23 (proposed permanent provisions) includes reduced mandatory heights, mandatory upper level setbacks and numerous design requirements to ensure new development is sensitive towards heritage places in terms of built form transition and design. This has been based on expert heritage advice (GJM).</p>
Transition of new development to heritage buildings	<p>The exhibited DDO23 includes the necessary requirements to ensure new development responds sensitively towards heritage places. The requirements have been drafted on advice from GJM heritage expert.</p>
Building design / design standards needed	<p>The exhibited DDO23 includes building design requirements to ensure new development achieves a high-quality urban design outcome. The design objectives (clause 1) explicitly include reference to high quality design features and outcomes.</p>
DDO23 does not retain the character	<p>Detailed built form character elements were identified in the strategic work and were translated into the exhibited DDO23.</p> <p>Note: Social/cultural and land use-related character elements are outside the scope of a DDO.</p>

Amenity (general)	<p>The exhibited DDO23 includes requirements to ensure amenity impacts are limited.</p> <p>The requirement to consider overshadowing impacts on secluded private open spaces had already been strengthened in the exhibited DDO23 in comparison to the interim DDO23.</p>
Loss of sunlight / daylight and overshadowing of private open space	<p>The overshadowing requirements of exhibited DDO23 are strengthened since the interim DDO23.</p>
Overlooking	<p>Overlooking issues are addressed by existing requirements of the Yarra Planning Scheme.</p>
Wind impacts	<p>The exhibited DDO23 includes an application requirement for a desktop wind impact assessment to ensure new development does not result in adverse wind impacts.</p>
Traffic increase	<p>The exhibited DDO23 includes a number of built form provisions and design guidelines which would ensure the street network (including laneways) enables appropriate vehicle access and circulation.</p>
Community consultation	<p>Draft Amendment C293yara was publicly exhibited for 6 weeks and notification efforts were extensive.</p>
Accommodating growth	<p>Collingwood South is part of the Smith Street 'Major Activity Centre' and the DDO23 achieves a balance between guiding change towards areas of lesser sensitivity/constraints and ensuring new development is sensitive towards heritage places and residential context.</p>
COVID-19 Impacts not considered	<p>The State Government has not changed planning policy in relation to housing provision as a result of COVID.</p> <p>Despite the long-term impacts from COVID on housing and economic patterns for activity centres being uncertain, it is reasonable to plan as per Council's adopted housing strategy and spatial economic and employment strategy.</p>

DELWP Consent matter enabling exhibition of the Amendment

31. It is noteworthy that the consent letter to prepare and exhibit C293yara included the following for Council to have regard to throughout the draft amendment process:

- (a) *Whether the capacity of the area will be inappropriately compromised due to the mandatory controls in DDO23;*
- (b) *Whether performance-based measures for the variation of discretionary height limits that do not have a nexus to built form outcomes are an appropriate use of planning tools, or result in duplication of material in other locations of the Yarra Planning Scheme; and*
- (c) *Preparation of a copy of where reference documents (Clause 21.11) will be located within the Yarra Planning Scheme when the Planning Policy Framework translation occurs.*

32. These matters will also be subject to the Advisory Committee hearing process.

Options

33. There are two options that Council can consider.

34. **Option 1** – Request the Minister to refer C293 and the submissions to the Advisory Committee:
- (a) This option is recommended. The Committee was appointed by the Minister for Planning on 9 August 2021 to provide timely advice to the Minister and Yarra City Council on referred planning matters. It also provides an opportunity for submitters to be heard if requested by any submitter, including the Council; and
 - (b) It is critical for Council to make best use of the Advisory Committee to help process C293yara in an efficient manner.
35. **Option 2** –Abandon the amendment:
- (a) This approach is not recommended; and
 - (b) With the expiry date of the interim DDOs, abandoning the amendment would mean there would be no built form provisions in place after June 2022, as the Minister for Planning has indicated that he would be unlikely to further extend the interim without substantial progress on permanent provisions.

Next Steps

36. The next steps for this draft amendment are slightly different to the standard amendment process under the Planning and Environment Act. As per the *Yarra Activity Centres Standing Advisory Committee* Terms of Reference the next steps are set out below.
- (a) Council requests the Minister to refer the draft amendment and submissions to the Standing Advisory Committee;
 - (b) The Minister refers the draft amendment to the Standing Advisory Committee;
 - (c) The Committee must conduct a hearing and provide an opportunity for submitters to be heard if requested by any submitter, including Yarra City Council; and
 - (d) The following dates have been pre-set, pending Council's resolution:
 - (i) a Directions Hearing on 15 February 2022; and
 - (ii) the Public Hearing in the week commencing 22 March 2022.
37. Following the conclusion of the hearings, the Committee would forward its report and recommendations to both the Minister for Planning and Council.
38. Council would then consider the report and provide its views to the Minister.

Community and stakeholder engagement

Notification

39. Stage 1 in the Advisory Committee's Terms of Reference provide the framework for preparing and exhibiting a draft amendment.
40. As required, Council liaised with the Department of Environment, Land, Water and Planning (DELWP) and Planning Panels Victoria (PPV) and conducted an extensive exhibition effort.
41. As exhibition occurred during COVID-19 restrictions Council:
- (a) exhibited the draft amendment for six weeks from 14 September to 27 October 2021;
 - (b) published a new page on Council's website to explain the standing advisory committee process;
 - (c) published a specific Amendment C293yara page on Council's website which included Amendment documentation, information sheets in non-statutory language, online mapping search tool to help identify properties impacted by DDO23, frequently asked questions section, guidance on how to access translation service;

- (d) sent around 5,000 letters to all landowners and occupiers within 200 metres of the proposed DDO23 boundary. The letters included links to Council's C293yara website and the *Yarra Activity Centre Standing Advisory Committee* websites of *Planning Panels Victoria* (PPV);
- (e) published the notice of preparation of the Amendment C293yara in *The Age* newspaper on 14 September 2021;
- (f) distributed a feature in *Yarra Life* e-newsletter (approximately 12,200 receipts) and *Yarra Business news* on 6 October 2021 (approximately 10,000 receipts);
- (g) posted on social media platforms between 7 and 12 October to raise awareness, reached to approximately 3,700 subscribers;
- (h) emailed individuals who recently had expressed their interest in the Collingwood South area; community groups; and Yarra's advisory committees;
- (i) offered engagement through phone conversations and online meetings (due to COVID-19 restrictions); and
- (j) sent notifications to the Minister for Planning, DELWP and prescribed Ministers as usually required by the Planning and Environment Act, 1987.

Engagement data

42. Below are the details of the Amendment C293yara website usage:

- (a) between 12 September and 28 October, there were 769 total views, of which 644 were unique views (meaning 125 were repeat visits);
- (b) the average time spent on the website was approx. 10 minutes;
- (c) the main peak was within the first 7 days of the exhibition, coinciding with the sending of letters and newspaper advertisement;
- (d) smaller peaks occurred around the weekends and when a community group meeting was held; and
- (e) the imbedded mapping tool was used 316 times.

43. Below are the details of the posts shared on social media platforms:

- (a) a total of 470 views/clicks on the posts; and
- (b) 20 comments and 2 shares.

44. One-on-one interactions:

- (a) Council officers engaged with approximately 30 interested parties; and
- (b) Council officers received a request for two online meetings. One meeting was held on 14 October 2021 and one on 19 October 2021.

Policy analysis

Alignment to Community Vision and Council Plan

45. The draft amendment supports the following visions 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.

46. The draft amendment supports the following strategies in the *Council Plan 2021-2025*:

- (a) Strategic Objective 3 - Local economy – 'Support Yarra's employment precincts and drive economic development opportunities'; 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

- 47. Amendment C293 will help facilitate sustainable communities at a local level that have good access to employment, public transport and other amenities.
- 48. 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 Environmentally Sustainable Development (ESD)*.
- 49. Particular developments would need to meet the objectives contained in Clause 22.17.

Community and social implications

- 50. The recommended changes being considered respond to community submissions and aim to achieve a high-quality urban design outcome for the precinct while providing more certainty in relation to future development potential of the centre.

Economic development implications

- 51. The amendment may provide further stimulus to the economic development in the precinct. No other economic implications are apparent.

Human rights and gender equality implications

- 52. There are no known human rights and gender equality implications.
- 53. The amendment complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

Operational analysis

Financial and resource impacts

- 54. There are very substantial financial costs associated with the draft amendment process, including the Advisory Committee process, legal representation and the engagement of experts such as urban design and heritage who provide evidence on behalf of Council.
- 55. These costs are accounted for in Council's budget.

Legal Implications

- 56. Amendment C293 was prepared and exhibited in accordance with the Advisory Committee's ToR as issued by the Minister for Planning on 10 June 2021.
- 57. There are no known legal implications of this amendment.

Conclusion

- 58. Amendment C293yara was exhibited for six weeks during which 102 submissions were received.
- 59. All submissions have been carefully considered, summarised and officers have prepared detailed responses (as in **Attachments 1 and 2**).
- 60. The recommended changes to Amendment C293yara as outlined in in this report are based on further investigation and careful consideration.
- 61. The recommended responses to submissions and Council's advocacy position for the Advisory Committee hearing are also outlined in **Attachments 1, 2 and 3**.
- 62. It is recommended to request the Minister for Planning refer Amendment C293yara to the Advisory Committee. This will allow for further consideration of the issues raised in submissions.

RECOMMENDATION

1. That Council:
 - (a) notes the officer report regarding Amendment C293yara in relation to the Collingwood South area;
 - (b) receives, notes and formally considers all submissions received in response to the public notice of draft amendment C293yara completed in accordance with Stage 1 of the Yarra Activity Centres Standing Advisory Committee Terms of Reference dated 10/06/2021;
 - (c) notes and endorses 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 C293yara, 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 C293yara 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) notes that officers will provide a further report to Council following the receipt of the Standing Advisory Committee Report; and
 - (g) authorise the CEO to make any minor adjustments required to meet the intent of Resolution 1 of this report.

Attachments

- 1 C293yara Individual Summaries and Responses to Submissions
- 2 C293yara Responses to Commonly Raised Issues
- 3 C293yara Preferred Design and Development Overlay 23
- 4 Yarra Activity Centres Standing Advisory Committee Terms of Reference