



# **Town Planning Evidence Statement**

Standing Advisory Committee  
Amendment C273yara Yarra Planning Scheme

Statement prepared by John Glossop, Director  
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Date: 30 September 2024



# Table of Contents


1. INTRODUCTION.....	2
2. PLANNING EVIDENCE .....	4
2.1 What is the policy context? .....	4
2.2The proposed DDO18.....	15
2.3The use of mandatory controls.....	16
2.4Is the design and drafting of the requirements appropriate?.....	19
2.4Are the heritage controls acceptable? .....	38
2.5 Are the local policy changes acceptable?.....	39
3. CONCLUSION .....	41
REQUIREMENTS UNDER PLANNING PANEL’S GUIDE TO EXPERT EVIDENCE .....	44
APPENDIX A: INSTRUCTIONS.....	46
APPENDIX B: POLICY CONTEXT .....	47
Plan Melbourne 2017-2050 .....	47
Yarra Planning Scheme .....	47
Municipal Planning Strategy.....	47
Planning Policy Framework.....	50
Zones and Overlays.....	51
APPENDIX C: THE AMENDMENT .....	53
APPENDIX D: SITE INSPECTION PHOTOGRAPHS .....	54





## 1. INTRODUCTION

1. I received instructions from Maddocks Lawyers acting on behalf of the Yarra City Council (Council), to prepare a statement of planning evidence in relation to Amendment C273yara (the Amendment) to the Yarra Planning Scheme (the Planning Scheme).
2. The Amendment seeks to implement permanent built form and heritage controls relating to the Heidelberg Road Activity Centre (the HRAC).
3. I was not involved in the preparation of the Amendment. I was engaged after the exhibition period had concluded but before the Council considered submissions to the amendment. My instructions (respectively dated 13 September 2023 and 19 August 2024) are attached to my evidence at **Appendix A**.
4. My instructions in preparing this statement are (as set out in letter dated 19 August 2024):
  - *review the exhibited Amendment documents, as well as the proposed recommended changes to the DDO18 adopted by Council at the Council meeting on 12 December 2023;*
  - *prepare a statement of evidence and appear as an expert witness at the SAC Hearing, listed to commence in the week of 14 October 2024 (pre-set Panel dates). Your expert witness report should:*
    - *be prepared in accordance with the Guide to Expert Evidence;*
    - *not refer to any submitter by name (please use submission numbers);*
    - *express your opinion on the Amendment insofar as it relates to your area of expertise;*
    - *express your opinion on the key issues, as relevant to your expertise, raised by submissions to the Amendment and the Council position in respect of those matters; and*

- 
- *express your opinion on the any directions issued by the SAC, as relevant to your expertise.*

5. In preparing this statement, I have:

- Read the documents contained in my brief;
- Considered relevant aspects of the Planning Scheme;
- Considered the *Practitioner's Guide to Victorian Planning Schemes*;
- Considered relevant Practice Notes (including PPN01: Applying the Heritage Overlay, PPN17: Urban Design Frameworks, PPN46: Strategic Assessment Guidelines, PPN58 Structure Planning for Activity Centres, PPN59: The Role of Mandatory Provisions in Planning Schemes and PPN60: Height and Setback Controls for Activity Centres and PPN90: Planning for housing);
- Considered relevant Ministerial Directions (including the Ministerial Direction on the Form and Content of Planning Scheme and Ministerial Direction No. 11 – Strategic Assessment of Amendments);
- Read the submissions received by the planning authority to the Amendment; and
- Read a draft version of the urban design evidence of Ms Leanne Hodyl.

6. My evidence is based on the exhibited version of the Amendment and the ordinance which was adopted by Council at the Council meeting on 12 December 2023.

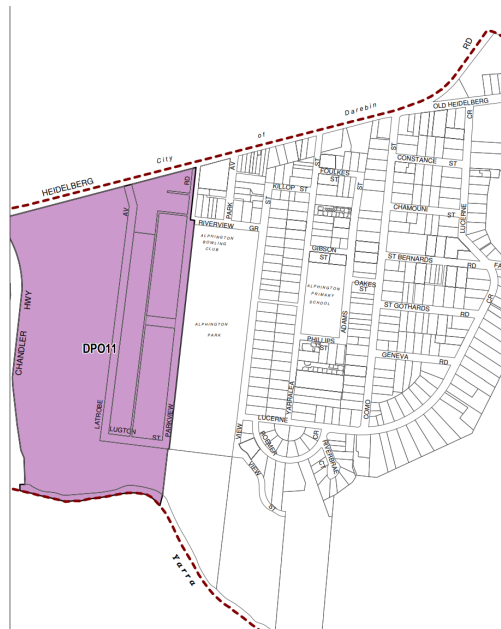
7. I do not propose to respond to each and every submission in turn although I have had regard to them in preparing my statement. I respond where appropriate to some of the themes raised in my evidence.

8. My opinion on the Amendment is in **Section 2** of my statement and my conclusion in **Section 3** summarises my opinion.

**p.3**



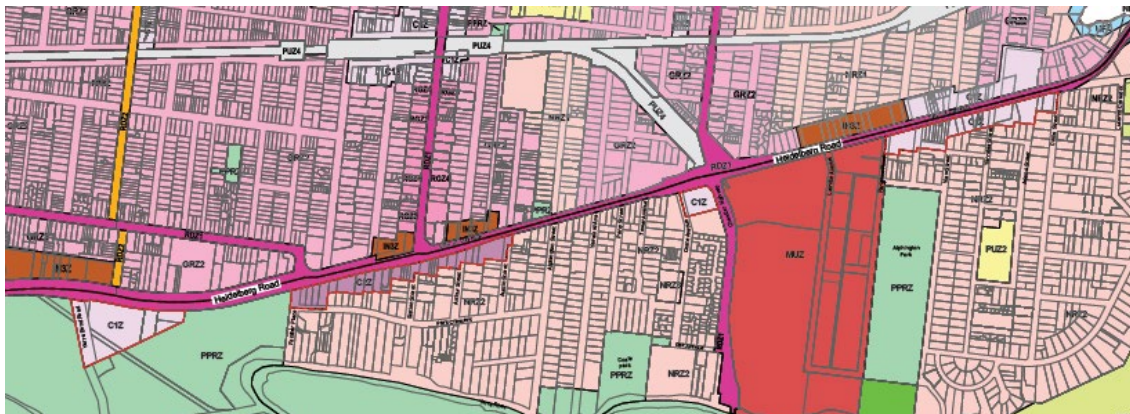
9. The Amendment affects commercially zoned land along the Heidelberg Road corridor within the City of Yarra. Heidelberg Road is a significant arterial road connecting Clifton Hill in the west to Ivanhoe in the east. In some parts, the road corridor carries up to four lanes of traffic in each direction. Recently, bicycle lanes have been added to the western part of the road. Relevantly, the road forms the northern boundary of the City of Yarra, with the municipality of Darebin located to the north. Significantly, the Yarra River and its associated parklands are located to the south.
10. The Amendment area is experiencing development pressure and has recently seen substantial change in the form of the Alphington Paper Mill (APM) site redevelopment. This substantial landholding is subject to Development Plan Overlay – Schedule 11 and accommodates (or has approved) a mix of buildings, the most substantial of which is sited at the intersection of Heidelberg Road and Chandler Highway (see map extract below).



### Extract Map 4DPO Yarra Planning Scheme

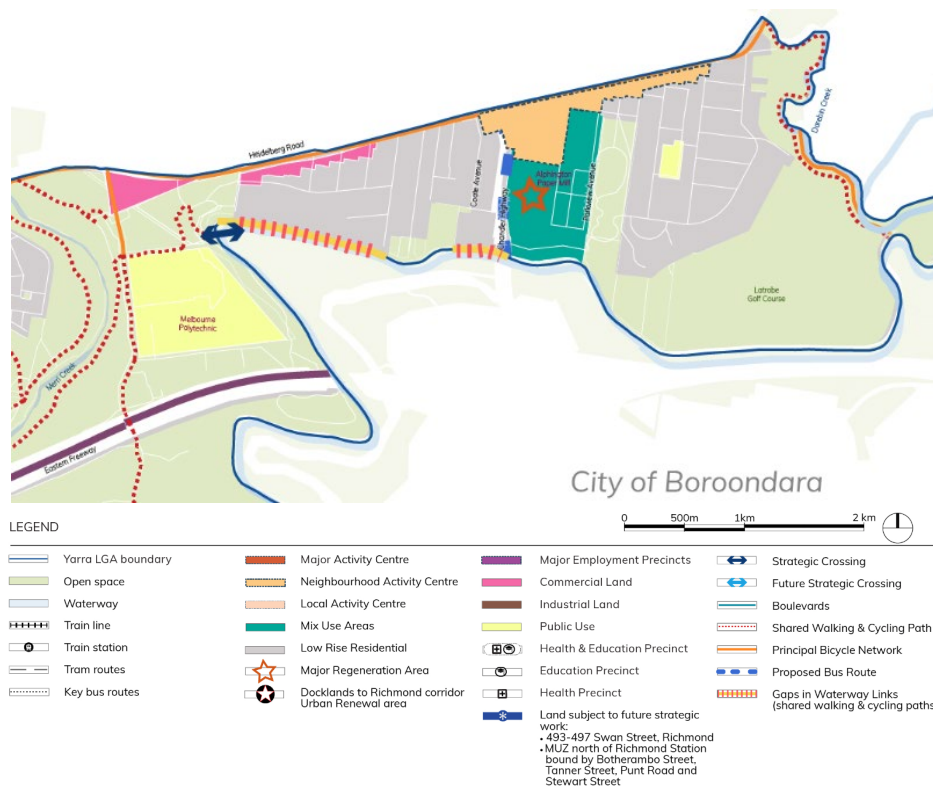


11. The Amendment affects land in the Commercial 1 Zone (C1Z) and Commercial 2 Zone (C2Z) on the southern side of Heidelberg Road. This land abuts residential land (subject to the Neighbourhood Residential Zone (NRZ)) to its south. Land on the northern side of Heidelberg Road is an eclectic mix of commercial (including industrial) and residential zoned land. Built form and land use is also mixed.



**Zone Map (excerpt from Heidelberg Road Built Form Framework Part 1)**

12. Council's Strategic Framework Plan at Clause 02.04 indicates that the C1Z portion of the Amendment area and part of the APM site are a Neighbourhood Activity Centre (NAC), while the C2Z portion of the Amendment area is 'commercial land'. The Strategic Framework Plan also indicates the location of open space and key walking and cycling trails (see extract below).



**Excerpt from Clause 02.04 Strategic Framework Plan (the land coloured orange is the NAC)**

13. State planning policy at Clause 11.03-1S directs a range of land use activities into activity centres that are highly accessible to the community and to create a city of 20 minute neighbourhoods, where people can meet most of their needs within a 20 minute trip from home (Clause 15.01-4R). These objectives align with the Purpose of the C1Z, which seeks to create vibrant mixed use commercial centres, which include residential uses at complementary densities to the role and scale of the centre.
14. Housing policy is particularly relevant to the Amendment and has rightly received renewed emphasis since the release of Victoria's Housing Statement. Clause 16.01-1S (Housing supply) seeks to facilitate well located, integrated and diverse housing while Clause 16.01-1R specifically identifies that NACs are appropriate locations to accommodate housing and mixed-use development.
15. In terms of the broad objectives for the C2Z portion of land, typically this zone accommodates a mix of commercial uses, including manufacturing, industry, bulky good retailing, other retail and associated business and commercial uses. Clause 17.01 makes



it clear that the commerce and employment provided in such areas needs to be protected. This portion of the Amendment land will always play a different role to the C1Z land by allowing different land uses (most notably prohibiting almost all forms of accommodation) and in turn necessitating different built form outcomes.

16. Planning policy seeks to ensure that all urban environments are safe, healthy, functional and enjoyable, create a sense of place (see Clause 15.01-1S) and positively contribute to the local context (see Clause 15.01-2S).
17. Taking these policy objectives collectively, it is fair to say that there is clear support for intensifying development in activity centres and other well located land, but only to a degree which is compatible with its strategic and physical context. In this case, the context of the Amendment land is best expressed in local policy. In this respect, I note:

- Clause 02.03-1 (Settlement) identifies that NACs are intended to provide access to local goods, services and employment opportunities to serve the needs of the surrounding community. It continues that:

*Activity centres are a focus of growth in Yarra with the addition of mid-rise commercial development and apartments. They will continue to accommodate most of the city's growth because of their proximity to transport infrastructure, shops and services making them the most suitable locations for development.*

Council seeks to support and strengthen the vibrancy and local identity of Yarra's network of activity centres.

- Clause 11.03-1L (Activity Centres) continues this theme and seeks to manage a sustainable network of activity centres that facilitate appropriate economic and housing growth and provide attractive places for social and community interaction. Its strategies are:

*Encourage uses and development in activity centres that support the employment areas, health and education precincts shown in clause 02.04 (Strategic Framework Plan).*



*Support development within activity centres that is consistent with the capacity for each centre as identified in clause 16.01-1L (Strategic Housing Framework Plan).*

*Support high quality mid-rise buildings in major and neighbourhood activity centres.*

*Support development that improves the built form character of activity centres, while conserving heritage places, streetscapes and views to identified landmarks.*

*Support use and development which contribute to the night-time economies of activity centres, while limiting adverse amenity impacts within the centres and surrounding residential neighbourhoods.*

*Support development that sensitively transitions to interfaces with low-rise residential neighbourhoods.*

*Promote use and development that support street level activation and passive surveillance of the public realm.*

*Support development that improves the public realm and positively contributes to the streetscape environment within activity centres.*

*Promote the metropolitan and local retail and commercial roles of each activity centre.*

Relevant to the HRAC, strategies are<sup>1</sup>:

*Support the expansion of the activity centre by directing taller development to its western end within the Alphington Paper Mill major regeneration area.*

*Support moderate built form on land outside of the Alphington Paper Mill major regeneration area.*

*Enhance the quality of the public realm at the intersection of Heidelberg Road and the Chandler Highway.*

*Minimise direct vehicle access onto Heidelberg Road.*

*Support development along Heidelberg Road, east of Parkview Avenue that achieves fine grain building frontages and contributes to a positive*

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<sup>1</sup> This clause is proposed to be modified by the Amendment.



*pedestrian street environment, through appropriate street wall height, upper level setbacks and landscaping.*

- Clause 16.01-1L (Location of residential development) includes the municipality's housing framework plan, which is reproduced below. It indicates that the Amendment land within the C1Z is suitable for 'moderate change', while the APM site is designated for 'high' change. The C2Z part of the Amendment land is uncategorised.

**Excerpt from Clause 16.01-1L**

*Support medium density residential and mixed use development that is responsive to heritage significance and streetscape character.*

18. The Amendment seeks to establish the parameters for future growth in the commercial areas south of Heidelberg Road. More specifically, it defines the nature of the 'mid-rise' and 'moderate' change that policy already anticipates for this area. It is evident from the policy context that the role of the subject land is to provide some growth and change but





limited to a degree which also respects the lower order of the activity centre and what is an immediate interface to established, mostly lower scale dwellings.

19. A relevant background document is the Yarra Housing Strategy (2018) which contains a preferred growth strategy for the municipality. The Strategy has four strategic directions:

*Monitor population growth and evolving development trends in Yarra to plan for future housing growth and needs.*

*Direct housing growth to appropriate locations.*

*Plan for more housing choice to support Yarra's diverse community.*

*Facilitate the provision of more affordable housing in Yarra<sup>2</sup>.*

20. The strategy was informed by a capacity analysis and noted that the major activity centres have the greatest capacity. In relation to NACs, it said that:

*It is expected that Queens Parade and Heidelberg Road will supply the most new housing of the neighbourhood centres. These centres include three large SRSs within their centre boundaries, which will accommodate over half of the estimated supply of new dwellings. In Queens Parade, the sites at 111 Queen Street and 433 Smith Street, Fitzroy North (former Gasworks site) and at 26-52 Queens Parade, Fitzroy North will supply approximately 1350 new dwellings. The site at 626 Heidelberg Road, Alphington (former Alphington Paper Mill site) is anticipated to supply approximately 850 new dwellings within the centre boundary. **The supply of new dwellings across the remainder of the two centres is expected to be moderate<sup>3</sup>.***

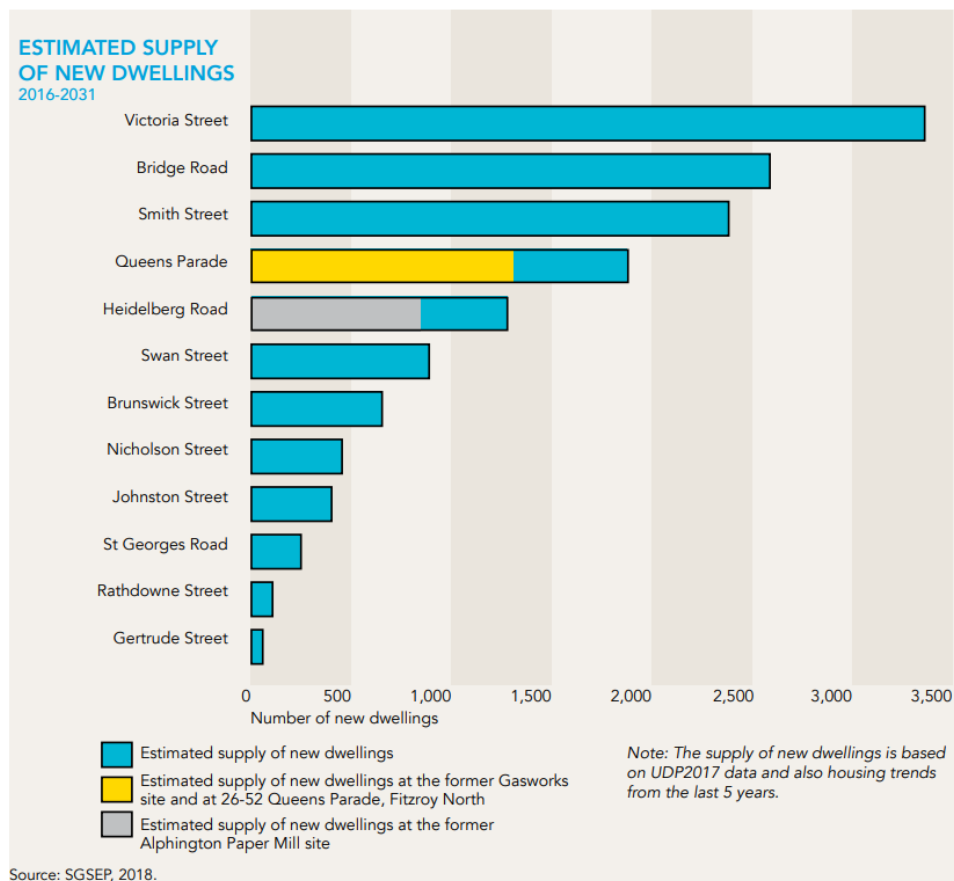
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<sup>2</sup> <https://www.yarracity.vic.gov.au/the-area/planning-for-yarras-future/adopted-strategies-and-plans/housing-strategy> Page 66.

<sup>3</sup> Emphasis added.



21. The following chart shows the estimated supply of new dwellings 2016-2031 and includes Heidelberg Road:



**Estimated supply of new dwellings 2016-2031: Source Yarra housing Strategy, page 65.**

22. Broadly, the document identifies four categories of housing change:

- Minimal
- Incremental
- Moderate
- High change



23. The Strategy includes the C1Z land along Heidelberg Road in a moderate change area.  
The level of growth for these areas is:

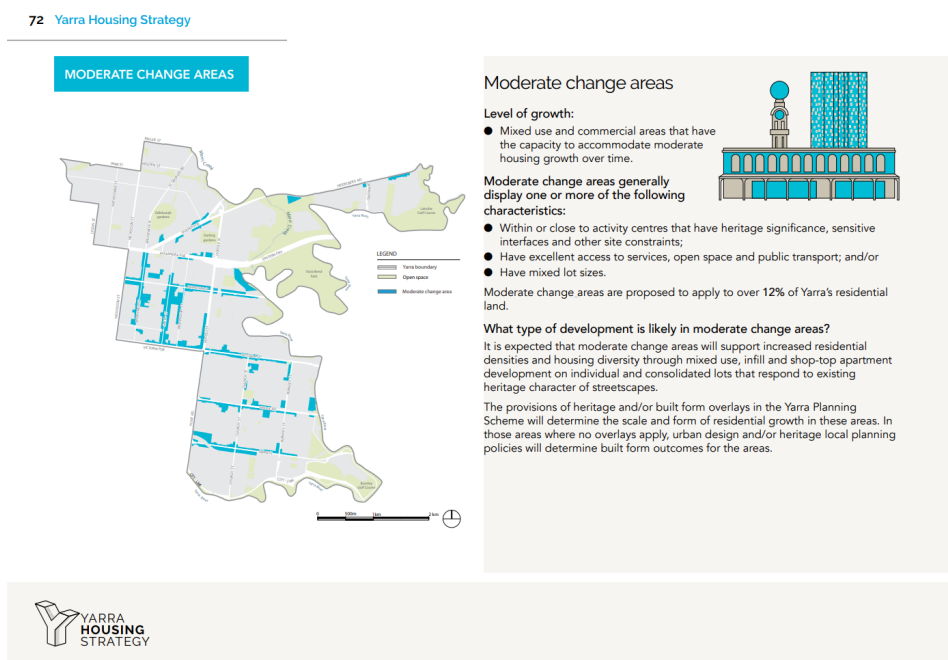
*Mixed use and commercial areas that have the capacity to accommodate moderate housing growth over time.*

24. The type of development expected in these areas is:

*It is expected that moderate change areas will support increased residential densities and housing diversity through mixed use, infill and shop-top apartment development on individual and consolidated lots that respond to existing heritage character of streetscapes.*

*The provisions of heritage and/or built form overlays in the Yarra Planning Scheme will determine the scale and form of residential growth in these areas. In those areas where no overlays apply, urban design and/or heritage local planning policies will determine built form outcomes for the areas<sup>4</sup>.*

25. Moderate change areas are identified on the map below:



<sup>4</sup> Page 72.





26. The Strategy found that:

*There is enough land zoned for residential development in Yarra to meet the forecast housing demand for the next 15 years. There is no need to review land used for open space, community or employment uses to contribute to housing land availability at this time.*

*A large proportion of residential land is in the NRZ and GRZ. These zones do not allow for significant residential growth and should not be expected to contribute substantially to future housing growth. Smaller scale infill development and residential extensions are likely to continue in these areas.*

*Yarra's residential neighbourhoods should be maintained by promoting lower rise development as the preferred character for these areas, directing housing growth to other locations. The current and proposed residential land in Yarra's activity centres, mixed use zone precincts and key development sites are the most appropriate locations for directing future housing growth. They are well serviced by public transport, community services, provide access to jobs, shops and entertainment for residents and can accommodate substantial growth with the least impact. The level of housing growth in these areas will vary depending on a site's context and suitability to accommodate housing growth.*

*Directions for guiding future residential growth in these areas will be informed by the detailed heritage reviews and built form frameworks being undertaken for Yarra's activity centres and will provide guidance on the levels of growth appropriate in each precinct<sup>5</sup>.*


27. I also note that the Council has undertaken a strategic review of its commercial land. The Yarra Spatial Economic and Employment Strategy (SEES) recommends that the majority of C2Z land in Yarra be retained unless further strategic works supports change<sup>6</sup>. The Yarra Housing Strategy found that:

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<sup>5</sup> Page 58.

<sup>6</sup> I also observe that the commercial land in this amendment is shown on Mar 5: Inner Metro Region Commercial Land of the Melbourne Industrial and Commercial Land Use Plan (MICLUP) was introduced via Amendment VC215.





*Yarra has a substantial amount (805 ha) of land zoned for residential use. To accommodate the additional 13,341 dwellings required by 2031, Yarra does not need to rezone employment land (apart from zoning proposals already approved or proposed by Council) at this time to provide additional housing supply. An analysis of Yarra's capacity for future residential growth is discussed further in section 8 of this strategy<sup>7</sup>.*

28. What I take from this is that:

- There is broad strategic support to provide additional housing and to protect areas of existing commercially land zoned land.
- The Commercial 1 Zone land is within a Neighbourhood Activity Centre (NAC). NACs have role to play in providing new housing supply in the municipality.
- This NAC is identified for moderate change.
- There is no strategic justification to rezone C2Z land for a different purpose at this time.
- The Council considers that it has sufficient land supply to accommodate its projected needs until 2031.

29. Amendment C273yara is principally underpinned by a Built Form Framework (the Framework) prepared by Hodyl + Co. The Framework provides the urban design and strategic basis for the proposed Design and Development Overlay and for the amendment more generally<sup>8</sup>.

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<sup>7</sup> Page 58.

<sup>8</sup> The Council has also prepared the Heidelberg Road Corridor Background Issues and Discussion Paper (13 November 2019).




## 2.2 The proposed DDO18

30. The most substantive part of Amendment C273 is the proposed permanent DDO18. The implementation of a DDO to manage development outcomes is an appropriate use of the Victorian Planning Provisions (VPP) and I support the application of that type of control in this amendment in principle. I have some comments on specific aspects of the proposed DDO which I deal with later in my report.
31. The land is already affected by an interim DDO (DDO18). The interim version of DDO18 was introduced by the Minister for Planning via Amendment C272 to the Planning Scheme on 22 October 2021. In doing so, the Minister exempted himself<sup>9</sup> from the usual requirements of Sections 17-19 of the *Planning and Environment Act* (1987). Amendment C272 was one of a series of local amendments that introduced built form controls across the municipality's activity centres. Many of these interim controls have now been made permanent.
32. This suite of Yarra's recently introduced DDOs are similarly drafted. There is some merit in this amendment adopting that approach to drafting for consistency. There are many ways to draft a DDO schedule. In part, the legibility and usability of a DDO schedule is informed by the architecture of the control itself and the Ministerial Direction on the Form and Content of Planning Schemes.
33. There may, of course, be opportunities to explore rewording the schedule to make its requirements clearer or to streamline the text. This could be achieved using tables and additional maps or the relocation of requirements to assist in navigability and understanding. I also believe that the design objectives could be tightened and improved, as well as the language used in the precinct objectives. These changes could be made, but they are not required to achieve my support. This reformatting process could easily be done later as part of a planning scheme review or as part of a review of Yarra's suite of DDOs.

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<sup>9</sup> At that time, Minister Wynne.



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34. The following sections address specific matters in the overlay control itself. I commence this analysis with an assessment of the justification (or otherwise) for mandatory controls.

## **2.3 The use of mandatory controls**

35. DDO18 introduces a series of requirements. Some requirements apply across the whole of the Amendment land, whereas others are precinct based. The Amendment proposes a mix of discretionary and mandatory controls to guide future development. The proposed mandatory controls are:

- Building height controls in Precinct 3A.
- Interface height and rear setback requirements in all precincts.
- Maximum street wall height controls in parts of Precincts 2, 3A and 3B.
- Upper level front and side setback requirements in Precincts 3A and 3B.

36. In considering whether to adopt mandatory controls within a Neighbourhood Activity Centre context, I have reviewed the strategic context of the amendment land, the Framework Plan and the proposed controls in the context of Practice Notes PPN59: The Role of Mandatory Provisions in Planning Schemes and PPN60: Height and Setback Controls for Activity Centres.

37. Another important 'guide' is metropolitan policy on neighbourhood activity centres. Plan Melbourne Policy 5.1.2 'Support a network of vibrant neighbourhood activity centres' says:

*The attributes of and opportunities for neighbourhood activity centres at the local level vary across Melbourne. That is why local communities should lead the planning of their own centres.*

*Where centres are well established or communities are seeking to protect the unique character of their centres (such as protecting heritage buildings or access to public land or open space to achieve community benefit), they should be assisted in determining the desired built form outcomes.*



38. When reading this practice and policy guidance collectively, there are some important observations to be made. Firstly, when drafting planning controls, it is necessary to understand where a provision sits within the broader planning system. The application of mandatory built form controls in the form of DDOs is a typical and unremarkable implementation statutory response in situations where a planning authority wishes to achieve a higher level of certainty and control. That said, the use of mandatory controls must be properly justified.
39. The VPPs have evolved since their advent in the mid-1990s to include the use of mandatory controls in planning schemes more often and in more ways. The VPPs have progressively moved away from a uniformly performance-based approach to a system that where mandatory controls are commonplace. The move towards greater prescription is not confined to 'sensitive' areas, such as heritage precincts, coastal locations or in areas of high landscape value. The use of mandatory controls has become so ubiquitous that we now see the state-wide 'blanket' applications of mandatory controls (e.g. mandatory garden area and height requirements in the lower order residential zones).
40. Mandatory provisions are sometimes found in areas identified for significant growth. Indeed, parts of the Central Business District and other higher order activity centres are subject to mandatory height and setback requirements.
41. In terms of systems design alone, the application of mandatory controls in 2024 is simply no longer the issue it was in 2018<sup>10</sup>. In this planning scheme, mandatory provisions currently apply to the Johnston Street east of Smith Street<sup>11</sup> and Queens Parade<sup>12</sup> NACs. There are other metropolitan examples where NACs contain mandatory height and/ or setback controls including Hawksburn Village NAC (see DDO21 to the Stonnington Planning Scheme) Caulfield Park Neighbourhood Activity Centre (see DDO12 to the Glen Eira planning Scheme).


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<sup>10</sup> Which is the date of the relevant practice note.

<sup>11</sup> Amendment C220yarr (DDO15).

<sup>12</sup> Amendment C231yarr (DDO16).



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42. Changes to the mandatory provisions practice notes in 2018 have broadened the circumstances where mandatory controls can be supported. Within this context, a purely ideological opposition to the use of mandatory controls in activity centres (and particularly lower order centres such as neighbourhood activity centres) cannot be sustained, nor is it a valid interpretation of the practice guidance.
  43. What I take from the practice guidance is that a distinction should be made between the blanket application of a mandatory control at a 'centre-wide' level to a targeted, precinct-level mandatory provision that seeks to respond to the unique features of the land or the precinct.
  44. In a neighbourhood activity centre context like this, there will be circumstances where a mandatory provision may be preferred over a discretionary control. A good example of this is (in my view) is the application of mandatory interface controls. While, ultimately, the urban design evidence may well need to establish the justification in each individual circumstance, there is nothing inherently wrong from a town planning perspective with the principle of applying mandatory controls in lower order centres.
  45. Another relevant consideration is the role played by this centre and the extent of change that is envisaged by policy. While there are examples of mandatory provisions in higher order centres, it is relevant that Heidelberg Road is in a moderate change area; that the extent of change here is limited by other factors (like the presence of small lots) and that the centre has edge conditions and built form characteristics that limit change.
  46. From a town planning perspective, I find that mandatory controls (in concept) can be supported. In this centre That said, I am not qualified to comment on whether the specific design based development controls (such as height limits, front and side setbacks and the like) are justified in terms of the metrics adopted. In this respect, I defer to the urban design evidence of Ms Hodyl.
  47. Broadly speaking, I consider that this is a context where the use of mandatory controls (in a blend with discretionary controls) is supported by the practice guidance. I also consider



that the planning context (a small NAC, that generally abuts minimal change, residential land) is also acceptable.

48. The next part of my assessment concentrates on whether the various requirements are justified by the background strategic work and reflect and implement the strategic objectives and role of the relevant land. In undertaking this assessment, I am conscious that urban design evidence and heritage evidence will be called. It might be that that evidence raises new issues that I have not had the chance to consider and which might affect my conclusions.

## **2.4 Is the design and drafting of the requirements appropriate?**

49. I am generally satisfied with the content of the amendment but make the following observations and recommendations in relation not specific matters.
50. The Amendment identifies four different precincts within the subject land, each of which are physically separate from one another making their boundaries logical. The precincts are numbered 1 to 3 (west to east) along Heidelberg Road.
51. **Precinct 1** comprises C1Z land forming a triangular inset of parkland boarding the Merri Creek and Yarra River. Part of Precinct 1 contains the Porto Factory, which is protected by Heritage Overlay – Schedule 421. The adjoining parkland is also part of a Heritage Overlay, and land adjacent to the Yarra River (i.e. outside Precinct 1) is protected by a Significant Landscape Overlay. Land adjacent to the Merri Creek (southwest of Precinct 1) is located within an Environmental Significance Overlay.





**Porta site. Part of Precinct 1 taken from Jeffrey Street, Northcote looking south.**

52. There is a decision of the Victorian Civil and Administrative Tribunal (VCAT) concerning an application to redevelop the former Porta Factory with four buildings of between 7-12 storeys in height. This application was refused. The most substantial issue with that proposal was its overly robust interface with the adjoining parkland. This is a sensitive interface and warrants protection from the excessive intrusion of new buildings.
53. **Precinct 2** comprises the C2Z land, which has an interface to Fairfield Park to the west. All properties in Precinct 2 have a frontage to Heidelberg Road. To the rear, these properties often have an immediate interface to either the side or rear of residential dwellings in a Neighbourhood Residential Zone. These dwellings are typically one to two storeys in height. The rear of sites at the western end of the precinct also have an abuttal to Park Crescent. The western most of these lots (358 Heidelberg Road) was identified as a potential Heritage Overlay and remains identified as such in the Framework. This Heritage Overlay, however, has not proceeded as part of the Amendment.



**Western edge of Precinct 2 at the corner of Heidelberg Road and Panther Place (taken from intersection of Westgarth Street and Heidelberg Road)**



**Land at the rear of Precinct 2 where it abuts Park Crescent (rear of Nos. 364 and 376 Heidelberg Road)**



54. **Precinct 3A** comprises one large property (582 Heidelberg Road), which is bound by Coate Avenue, Heidelberg Road and Chandler Highway. The land has an immediate interface to dwellings to the south. The land is currently developed with an office building (zoned C1Z). In June 2019, VCAT refused the grant of a permit to redevelop the site with a 13 storey mixed use building, raising issues with its inadequate transition in scale at the residential interface<sup>13</sup>.



**582 Heidelberg Road (Precinct 3A)**

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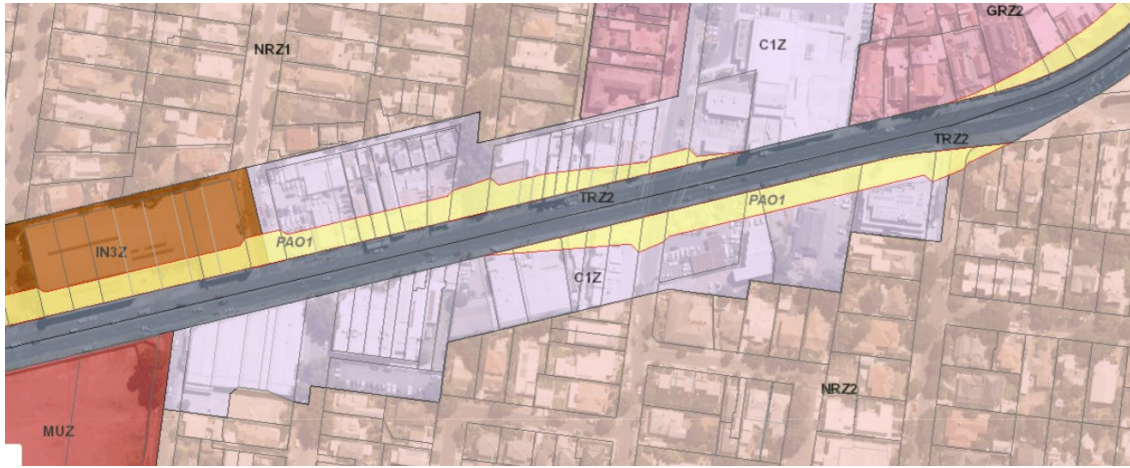
<sup>13</sup> The Churches of Christ Vic Tas v Yarra CC [2019] VCAT 842.



**Precinct 3A. Land to the rear of 582 Heidelberg Road (35 Coate Avenue) looking east towards the former Alphington Paper Mill Site)**

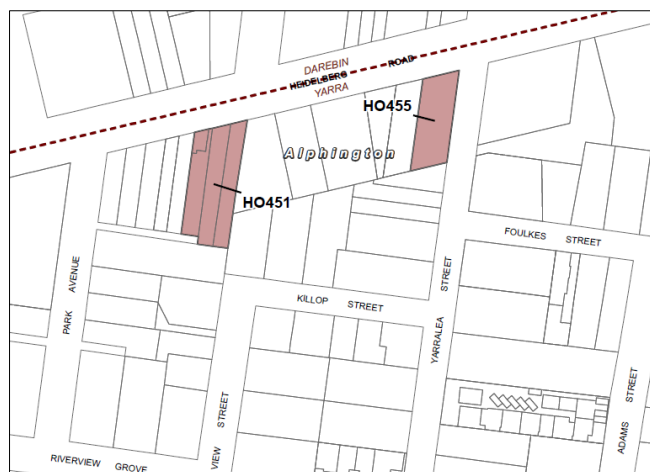
55. Precincts 3A and 3B comprises the HRAC (along with the northern portion of the APM site).
56. **Precinct 3B** includes a mix of lot sizes and configurations although most face Heidelberg Road and back on to residential dwellings to the south. There is a large lot at 700-718 Heidelberg Road at the western end of Precinct 3B, which adjoins the APM site. This property benefits from a planning permit for its redevelopment with an eight storey building<sup>14</sup>. At the eastern end of Precinct 3B (at 806 Heidelberg Road), there is a relatively recently constructed four storey building.
57. Part of Precinct 3B is affected by a Public Acquisition Overlay – Schedule 1 (PAO1). PAO1 has been applied for future road widening in Heidelberg Road.

<sup>14</sup> LX Nominees Pty Ltd v Yarra CC (Corrected) [2021] VCAT 69.



**Precinct 3B, Public Acquisition Overlay and Zoning map**

58. A planning permit is required to demolish a building and to construct a building or carry out works in a PAO. The grant of a permit under the Overlay is at the discretion of the acquiring authority, in this case VicRoads (now the Department of Transport and Planning). Practically, the construction of new buildings is rarely permitted within a PAO. The presence of the PAO will necessarily influence the siting of new buildings in Precinct 3B in the future.
59. The Amendment proposes to apply the following Heritage Overlays in Precinct 3B:
  - Heritage Overlay – Schedule 451 to 730-734 Heidelberg Road (Post office and group of shops); and
  - Heritage Overlay – Schedule 455 to 760-765 Heidelberg Road (former Cooper Knitting Factory).



### Proposed Heritage Overlays

60. I consider the proposed development requirements in turn below.

#### Street wall heights

61. DDO18 introduces a range of street wall heights, most of which are discretionary. The exceptions are Precinct 2 (facing Heidelberg Road and Park Crescent), Precinct 3B (facing Heidelberg Road) and facing Coate Street (Precinct 3A), where mandatory street wall heights are proposed. Clause 2.2.1 of DDO18 contains additional (discretionary) requirements when adjoining a heritage building and when situated at a corner.
62. When I compare the street wall provisions of DDO18 to those described in the Framework, I observe some differences. While the Framework supports *mandatory* street wall heights facing Heidelberg Road in Precinct 2 and in Precinct 3B (except at 700-718 Heidelberg Road), it otherwise recommends *discretionary* requirements.
63. The exhibited amendment does not provide a strategic justification for the mandatory nature of the street wall heights at 700-718 Heidelberg Road facing Coate Street and for the land facing Park Crescent. In the latter two cases, I assume it is due to their residential context. In the case of Coate Street, the earlier VCAT decision supports the view that development needs to sensitively transition into this street, however, the Framework also identified a need to support design flexibility for this property, thereby recommending



discretionary controls for street and overall heights (refer excerpt below) and mandatory street and rear setback requirements.

## H. Proposed built form controls

The proposed building envelope controls are illustrated in the following plans.

Considering the unique site attributes and the need to support design flexibility with certainty that minimum amenity standards are met, a mix of mandatory and discretionary controls are proposed as follows:

### Discretionary

- Overall height limits
- Street wall heights to Heidelberg Road, Chandler Highway and Coote Avenue
- Upper level setbacks from street

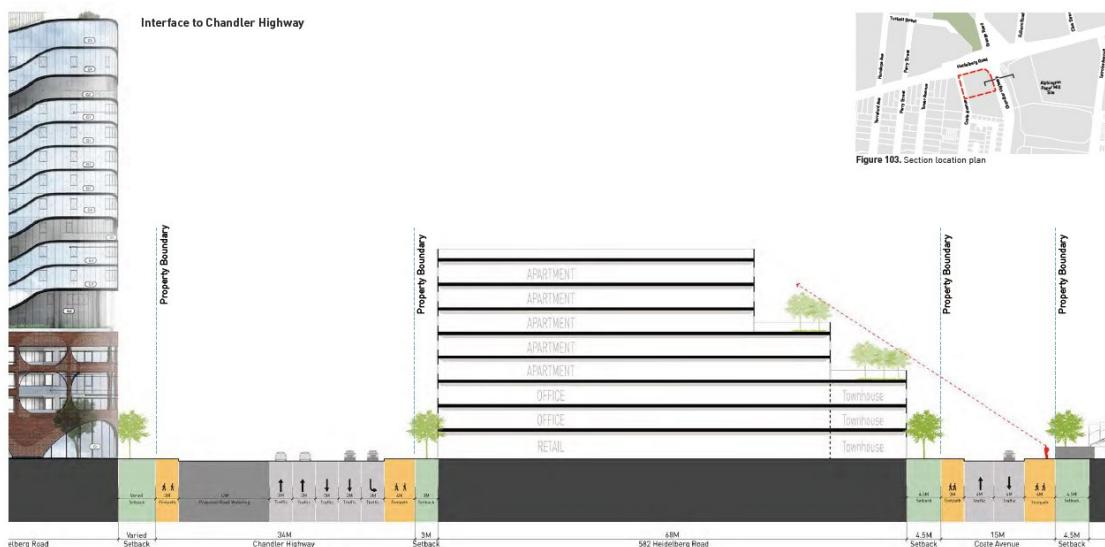
### Mandatory

- Front setbacks to all streets

- Rear interface controls (maximum rear interface heights, ground level and upper level setbacks)

### Excerpt from the Framework – Precinct 3B (Page 56)

64. The approach to provide a mixture of mandatory and discretionary controls for precinct 3A is a sensible one. The application of a mandatory front and rear setback control is also logical from a town planning perspective and consistent with the precinct objective.



### Excerpt from the Framework Precinct 3A (Page 52)

65. While I have not been able to identify a justification for mandatory height controls in Precinct 3A in the amendment documents, I am open to the possibility that an urban design justification for the application of mandatory heights for Precinct 3A could be established.



If that cannot be found, then the controls should match the Framework<sup>15</sup> and be discretionary.

66. I consider the residential interfaces separately under the appropriate heading below.

**Recommendation: Reconsider the mandatory nature of the street wall height, upper level setback and overall height controls in Precinct 3A.**

67. In the case of Park Crescent (Precinct 3B), it seems more logical to have a mandatory street wall height since a building would face and sit wholly within a residential streetscape, where the NRZ has a mandatory 9m building height. I support the use of a mandatory street wall control in this case (particularly noting that the building height (20m) and upper level setback controls (6m) are discretionary).
68. In the case of 700-718 Heidelberg Road, I am not sure why the street wall facing Heidelberg Road needs to be mandatory. It might be for consistency with the remainder of Precinct 3B, although this site also has an interface to the APM site, which I understand does not have a mandatory street wall requirement<sup>16</sup>. It follows that I am not convinced that the mandatory street wall height is warranted in this case. Again, I remain open to the possibility that an urban design justification for these controls to be mandatory.

#### Upper level front and side setback requirements

69. Pursuant to DDO18, mandatory upper level setbacks are specified for parts of Heidelberg Road (Precinct 3B between Parkview Road and Yarralea Street) and in Coate Street (Precinct 3A). In comparing these parameters to the Framework, I note that the latter recommends that the minimum upper level setback be mandatory in Precincts 2 and 3B (outside of 700-718 Heidelberg Road) and otherwise be discretionary.
70. For Coate Street, I do not think the mandatory nature of the setback has been adequately strategically justified. While Coate Street is a sensitive interface (and a transition in built

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<sup>15</sup> I have read Ms Hodyl's evidence and note that she does not support a mandatory height control for this site.

<sup>16</sup> Refer the Framework Part 1 page 14







form is required) I am inclined to support the approach taken in the Framework, which essentially concluded that performance based measures would lead to a better outcome.

71. In terms of Precinct 2, I note that for part of the precinct, the street wall height and the overall height match. Where a taller overall height is anticipated it is only of a single level. In this context, it seems less critical to have a mandatory upper level setback. I also note that C2Z areas are usually fairly robust by virtue of their land uses. I see it as appropriate that less prescription be used in controlling development of such areas and I support DDO18's approach in this regard.
72. The second instance where the parameters for this site have been tightened between the Framework and the DDO18 (also see height discussion below) occurs at 700-718 Heidelberg Road. From the Framework, it is evident that this site is seen as a strategic site, with different opportunities to the remainder of Precinct 3B<sup>17</sup>. I do not believe this is reflected in DDO18, and I am not convinced that the mandatory upper level setback has been strategically supported for this site.

**Recommendation: Reconsider the mandatory nature of the Heidelberg Road street wall height for 700-718 Heidelberg Road.**

73. Finally, while I am unclear on why the upper level setbacks have been made discretionary for sites between Yarralea Street and Como Street (contrary to the Framework), it may be due to the influence of the PAO1 on this land. However, this is not explained in the Amendment material. Further, PAO1 also affects land to the west of Yarralea Street where mandatory upper level setbacks are specified in DDO18.
74. The PAO may have the effect of reducing the depth of these parcels by up to around 12m and in turn substantially widening the road reservation. Should this occur it seems reasonable that a lesser upper level setback could be required although I think this needs to be explained.

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<sup>17</sup> Page 70



### Building height requirements

75. DDO18 proposes mandatory building height limits for Precinct 3A and discretionary building heights elsewhere. This departs from the Framework, which identifies mandatory heights in Precinct 2 and Precinct 3B save for 700-718 Heidelberg Road.
76. Some of the adopted height limits are also different, namely<sup>18</sup>:

Precinct	Site	Framework Plan	DDO18
1	Porto site	8 storeys (27.2 metres)	7 storeys (24 metres)
	Remaining sites	5-6 storeys (17.6 metres to 20.8 metres)	4-5 storeys (14.4 metres to 17.6 metres)
2	432 Heidelberg Rd east to Arthur Street	5-6 storeys (17.6 metres to 20.8 metres)	4 storeys (14.4 metres)
	Remaining sites	5-6 storeys (17.6 metres to 20.8 metres)	5 storeys (17.6 metres)
3A		3 storeys adjoining Coate Street (11.2 metres) 2 storeys to south (8 metres) Intermediate step of 5-6 storeys (17.6 metres to 20.8 metres) 8 storeys at intersection (27.2 metres)	3 storeys (11.2 metres) adjoining Coate Street 2 storeys (8 metres) to south Intermediate step of 5 storeys (17.6 metres) 8 storeys at intersection (27.2 metres)
3B	700-718 Heidelberg Road	7-8 storeys (24 metres to 27.2 metres)	5 storeys (17.6 metres)
	1 Park Avenue / 720 Heidelberg Road	5-6 storeys (17.6 metres to 20.8 metres)	3 storeys (11.2 metres)
	804 Heidelberg Road	5-6 storeys (17.6 metres to 20.8 metres)	4 storeys (14.4 metres)
	Remaining sites	5-6 storeys (17.6 metres to 20.8 metres)	5 storeys (17.6 metres)

### **Building height comparison (shaded boxes are mandatory)**

77. Where the heights are proposed to be discretionary, there is some logic in adopting a slightly lower 'preferred' figure. There is also merit in 'tapering' development down at 1

<sup>18</sup> Given the floor height assumptions provided in the Framework Plan storeys convert to metres as follows: Residential 1s: 4m, 2s: 8m, 3s: 11.2m, 4s: 14.4m, 5s: 17.6m, 6s: 20.8m, 7s: 24m and 8s: 27.2m Commercial each floor = 4m





Park Avenue and possibly at 804 Heidelberg Road (I also understand that the proposed height accords with an existing, relatively new building at this site). I support discretionary controls in Precinct 2 for the reasons already explained. I note that Ms Hodyl has essentially said that she supports also discretionary height limits in Precincts 2 and 3B.

78. It is worth commenting on the proposed heights for 700-718 Heidelberg Road. The Framework describes the land at 700-718 Heidelberg Road as a unique, strategic site, where development is intended to step up to the adjoining APM site<sup>19</sup>. However, there is some inconsistency within the Framework, for instance:

- 700-718 Heidelberg Road – 8 storeys (as the ‘recommendation’ on p. 61) or 7 storeys (as the ‘preferred outcome’ on p. 59).
- Figure 144 of the Framework shows a 7 storey height limit.

79. DDO18 shows this site as having a 17.6 metre discretionary height limit (5 storeys). The discrepancy between the Framework and DDO18 is explained in the Council report of 4 February 2020, where it said:

- 48. In Precinct 3B, the site at 700-718 Heidelberg Road between Parkview Road and Park Avenue was also subject to a recent VCAT decision. The proposed 8 storey development was reduced to 5 storeys by VCAT, with the decision noting that design flaws resulted in a height reduction. The decision indicated that the large site could accommodate a higher form, subject to better design.
- 49. 700-718 Heidelberg Road is a larger site in comparison to others in the precinct, but it is not listed as a strategic site in the Planning Scheme like the Porta site in Precinct 1. It is recommended to make a distinction based on the lack of Planning Scheme designation and the former APM site being able to accommodate sufficient housing growth in Precinct 3B. A maximum of 6 storeys is recommended for the site.

80. There is a logic to this assessment, however, equally, it could be said that the location of this land immediately to the east of the edge of the APM site and its atypically larger land area could justify a higher building. Overall, I am more persuaded by analysis in the Framework. I also note that Ms Hodyl has formed the same view.

**Recommendation: Review the building heights for 700-718 Heidelberg Road.**

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<sup>19</sup> Page 70





81. In terms of Precinct 3A, the difference between DDO18 and the Framework are a) the height of the intermediate step and b) the fact that mandatory controls are proposed in DDO18 (which are not supported by the background work). As I explained above, the Framework highlights the value in allowing flexibility at this site. Given the information currently available, there is an argument that the mandatory height controls be made discretionary. Should this occur, the distinction in the height of the intermediate step is less important.
82. I also recommend that the Map 3A be clarified as follows:
- Dimension the street setback and the building setback separately from Coate Street (i.e. 4.5m and 10m).
  - To dimension the required rear (south) setbacks. It should also be clarified whether these setbacks are to be applied *in addition* to those set out at Clause 2.2.4 (Interface and rear setback requirement) or if they replace these setbacks.

**Recommendation: On Map 3A dimension the required setbacks and clarify the application of Clause 2.2.4.**

Interface and rear setback requirement

83. Clause 2.2.4 Interface and rear setbacks requirement proposes a series of requirements around interfaces of land that sit outside the overlay. The objective is to protect the amenity of the residentially zoned land adjoining the Activity Centre. There is always a tension at such locations and from my review of earlier VCAT decisions within the Amendment land it seems that earlier ‘failures’ in design have been attributed to an overly robust residential interface<sup>20</sup>. The conditions of the Amendment and adjoining land also create a particular tension, given that the abutting land usually comprises dwellings and is in the NRZ.

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<sup>20</sup> See *The Churches of Christ Vic Tas v Yarra CC [2019] VCAT 842* and *Aleks Nominees Pty Ltd v Yarra CC [2018] VCAT 1315*



84. The need for this clause is because Planning Schemes offer little quantifiable assistance in considering an appropriate built form interface between commercial and residential land. The objectives and standards of Clause 55 are listed as Decision Guidelines for development in the C1Z, although they only capture development of up to four storeys.
85. It is sensible (and good practice) that DDOD18 includes provisions that protect the amenity of residential land. This approach is typical of planning controls (either DDOs or in Special Purpose Zones) in other similar contexts that manage this type of interface condition.
86. The Council made a series of changes to Clause 2.2.4 post exhibition (see extract of DDO18 below):

**YARRA PLANNING SCHEME**

**2.2.4 Interface and rear setback requirements**

Development adjoining a residential property outside this overlay must not exceed a maximum boundary rear wall height of:

- 5 metres in Precinct 2
- 8 metres in all other Precincts

Development along the parkland interface in Precinct 1 must not exceed a maximum building height of 14.4 metres (as shown on Map 1).

Upper levels above a rear boundary wall must be set back from the rear boundary and be contained within a 45 degree setback envelope. The envelope's angle is to be measured perpendicular to the applicable development site's boundary or setback taken from the centre of the boundary.

Upper level setbacks above the rear boundary wall should be contained within a maximum of two steps (including the setback above the boundary wall below as one step) or be contained within a sloped façade to avoid repetitive stepping of individual levels.

Development should respond to existing secluded private open spaces by setting back at upper levels to create a sense of separation, minimise overshadowing and reduce building bulk.

Development should not visually dominate adjoining residential sites outside this overlay.

Development must provide minimum landscape ground floor setbacks to the rear boundary as follows:

- Precinct 1: a minimum of 3 metres (as shown on Map 1);
- Precinct 3A: a minimum of 4.5 metres;
- Precinct 2 and Precinct 3B: All other areas: a minimum of 3 metres if the dwelling on the adjacent residential property is located less than 15 metres from the property boundary.
  - 5 metres where a development site directly abuts a rear boundary of an adjacent residential lot.
  - 3 metres where a development site directly abuts a side boundary of an adjacent residential lot.

**Figure 1: Indicative Cross Section and Measurements**

**Comments:**

- Commented [YCC4]:** Officer clarification.
- Commented [YCC5]:** Change as per Council resolution from 12 December 2023.
- Commented [YCC6]:** In response to Submission 31 regarding wording clarification.
- Commented [YCC7]:** In response to Submission 5, 34, 54 and 117 regarding improving the rear interface controls.


**Excerpt from DDO18 adopted by Council on 12 December 2023**



87. The amended rear setback parameters set out in DDO18 do not strike an appropriate balance between facilitating development and protecting amenity. Requiring a 3m (or 5m) setback to only a single or double storey building, and a 45 degree setback after that is substantially more burdensome than required in a residential zone.
88. My reading of the Built Form Framework is that development that meets the exhibited setback requirements will ensure that overshadowing is managed in accordance with Standard B21 in Clause 55. It would be unusual for these residential properties to expect or be able to obtain a 'higher' standard of overshadowing protection.
89. The additional setback requirements made post-exhibition significantly exceed the requirement that would need to be met under Standard B17 (which are in the order of 3.09 metres for an 8 metre rear wall or 1.42 metres for a 5 metre wall).
90. Given that the land subject to the amendment is identified for moderate change and that the properties in the Neighbourhood Residential Zone already abut commercially zoned land, it is difficult to reconcile expectations for higher amenity standards.
91. I am not satisfied that the post-exhibition changes in relation to the increased setback and reduced rear wall heights strike the appropriate balance having regard to the strategic context for the land.
92. In my view, it would be strategically undesirable to require such significant setbacks to be achieved.

**Recommendation: The exhibited interface and post exhibition rear setback requirements should be reviewed.**

93. There are aspects of Clause 2.2.4 that are poorly drafted, in particular:
- The use of the word 'rear' in the context of a rear boundary or interface is problematic. Where a property is on a corner, it could potentially have two frontages, making its 'side' the interface to an abutting residential property. Would the same requirements apply in this case? This is particularly relevant on large lots with potential for subdivision.

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- It is not clear how these clauses operate in conjunction with the building height and setbacks specified for Precinct 3A. While I assume that compliance with Map 3A demonstrates a satisfactory outcome, it might not meet the requirements of Clause 2.2.4. The interface should be controlled by one or the other of these controls, but not both.

#### Overshadowing requirement

94. Proposed DDO18 introduces shadowing requirements for land in the adjoining residential zones and for the public realm. The inclusion of shadowing considerations alone will have an impact on built form and will provide a level of protection for residential land abutting the Amendment land. I support these requirements in general terms.
95. For dwellings in the adjacent residential zones, DDO18 states that the objective of Clause 55.04-5 'should' be achieved. The Framework includes detailed shadowing studies which tested the impact of an 8m wall on the residential / commercial interface<sup>21</sup>. It appears to find most adjacent dwellings would continue to achieve the standard of Clause 55.04-5 however, I am not necessarily convinced of this<sup>22</sup>. Nevertheless, given that the rear interface requirements have been altered since this testing was carried out, shadowing conditions will be reduced. It is perhaps simpler if new overshadowing impacts are managed in the future by reference to Clause 55.04-5, which is what is currently drafted in DDO18.
96. It is a small matter, but I would prefer if the objective of this clause said that the objective 'must' be achieved, rather than should be achieved<sup>23</sup>. That said, I note that this same language (i.e. 'should' not 'must') is used in other DDOs in Yarra.

**Recommendation: The Overshadowing requirement be amended to read: *Development must meet the objective of Clause 55.04-5.***

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<sup>21</sup> Page 39 and 65.

<sup>22</sup> Shadow cast by other buildings does not appear to be accounted for, the three units at 5 Station Street appear omitted and 69 Yarralea Street would seem to achieve less sunlight than required to comply.

<sup>23</sup> Which is consistent with the language used in residential zones.



97. DDO18 identifies that development should not increase shadow across either Yarra Bend Park or TH Westfield Reserve<sup>24</sup> above existing conditions between 10am and 2pm on 22 September. This appears to be at odds with the Framework, which appears to suggest that shadows associated with a four storey interface wall would be acceptable<sup>25</sup>. Relevantly, there is no modelling of the shadow outcomes of what are discretionary 24m building heights within Precinct 1. I generally support the presence of overshadowing controls for public open space, but the apparent differences between the Framework and DDO18 require explanation.

**Recommendation:** The public shadowing implications of the prescribed built form should be clarified.

Building separation and amenity requirements

98. Clause 2.2.6 of DDO18 includes discretionary building separation requirements, which address buildings up to four storeys in height (i.e. 14.4 metres in the Commercial 1 Zone or 16 metres in the Commercial 2 Zone). There are no specified required setbacks for buildings above four storeys, although I note the Framework suggests the following:

Building height	Preferred separation (Suitable if there is a primary living space/balcony facing the boundary)	Minimum separation (Suitable when the use is not a primary living space or balcony facing the boundary)
Up top 4 storeys	4.5m	3m
5-8 storeys	6m	3m

**Excerpt from Framework (page19)**

99. I am unsure why these have been omitted from DDO18.

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<sup>24</sup> Which is located west of Precinct 1

<sup>25</sup> Page 27





**Recommendation:** Consider whether the building separation requirements require additional detail.

Front setback design requirement

100. DDO18 includes a mandatory 3m front setback requirement along the majority of Heidelberg Road, as well as along Yarra Bend Park, Park Crescent and the Chandler Highway<sup>26</sup>. There is a mandatory 4.5m street setback requirement to Coate Avenue.
101. The Framework Plan provides the strategic justification for most of these setbacks. However, I note along the west boundary of Precinct 1 (refer to dashed red line below), there appears to be an existing landscape reserve. I assume this space is in public ownership. I note that the Framework seeks a zero setback in this location<sup>27</sup> however, DDO18 seeks 3m around the whole frontage. On the face of it, this discrepancy needs an explanation.



**Marked up aerial photograph of Precinct 1.**

**Recommendation:** Confirm whether a 3m, northwest corner setback in Precinct 1 is required.

<sup>26</sup> Ms Hodyl considers that the 3 metre setback requirement to the park can be discretionary.

<sup>27</sup> Page 33



102. DDO18 also includes a mandatory street setback of 3m facing Heidelberg Road between Yarralea Street and Como Street. I assume this requirement is not in addition to the setback required by the PAO, although this should be confirmed. I also assume it would apply in the event the PAO is removed at some point in the future.

**Recommendation: Confirm whether the 3m setback to Heidelberg Road in Precinct 3B is inclusive of the PAO.**

103. The final comment I have regards the proposed street setbacks. From my reading, it is not completely clear what is intended for these setback spaces. Firstly, the Framework implies that that upper levels may overhang the setback areas. This is evident from the diagrams<sup>28</sup> and statements such as: *At upper level balconies and other building protections can protrude into this space and still achieve the design objective*. The Overlay does not appear to allow balcony overhangs. This potential could be reflected in DDO18 for clarity.

**Recommendation: Clarify whether upper level balconies can encroach into front setbacks.**


104. Secondly, there appears to be a disconnect between the intended landscape outcomes, which are sought for these new setback areas. The Design Objectives of DDO18 include *'a high quality, landscape interface that incorporates canopy trees (where appropriate), openness and significantly improved pedestrian amenity along Heidelberg Road'*. Clause 2.2.8 states *'front setback design should provide a high quality landscaped interface that significantly enhances the pedestrian experience along Heidelberg Road'*. While in Precincts 2, 3A and 3B, development is to be set behind a landscaped street setback (and in 3B this is to include canopy trees).

105. These statements seem somewhat at odds with the Framework Plan which includes the following guidelines:

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<sup>28</sup> Such as on Pages 26, 38, 51 etc.





### Design guidelines for landscape setback

- External spaces to be at the same grade as the footpath.
- External spaces to be predominantly hard-paved areas with some planting opportunities.
- Paving materials to be complementary to the existing streetscape design.
- Unobstructed access should be provided, avoiding the use of steps and narrow spaces between planting areas.
- The inclusion of small canopy trees is encouraged.

#### Excerpt from Framework

106. Front setback landscaping can be difficult to achieve in C1Z areas particularly if it reduces the visual and functional relationship between tenancies and the footpath. This matter needs more consideration and more specific policy included in DDO18 to resolve this tension.

**Recommendation:** Confirm the built form and landscape outcomes intended for mandatory street setback areas.

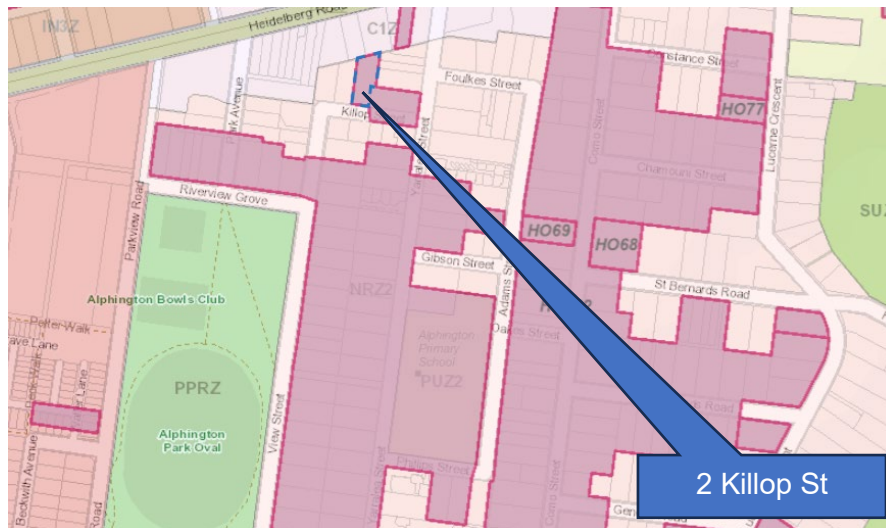
## 2.4 Are the heritage controls acceptable?

107. As I have noted above, the Amendment seeks to apply two Heritage Overlays within Precinct 3B. I am not a heritage expert, so I have not formed a view on the appropriateness of these overlays. My review has considered the proposed Heritage Overlays in terms of practice guidance, including the strategic justification.

108. The Amendment was accompanied by proposed Statements of Significance for the two new Heritage Overlays. It is now a requirement that these Statements be incorporated in to the Planning Scheme, which is what the Amendment proposes.

109. The Statements refer to the recognised heritage criteria which is identified in Planning Practice Note 01 – Applying the Heritage Overlay (PPN01) and follow the format and content required by PPN01. They are in a form suitable for incorporation into the Planning Scheme.

110. The Amendment also proposes to delete the Heritage Overlay from 2 Killop Street.



#### Heritage Overlay – Schedule 362

111. This property is part of the Alphington East Heritage Precinct (Schedule 362). The Explanatory Report for the Amendment identifies:

*The late 20th century house was determined to be an anomaly at the edge of the Alphington East Precinct largely characterised by Victorian, Edwardian and Interwar houses with pitched, gabled or hipped roofs. It varies greatly to the graded building stock in the precinct and it was recommended by the heritage advisor to be removed from the precinct on this basis.*

112. I note that the City of Yarra Database of Heritage Significant Areas is proposed to be updated as part of the Amendment, to reflect the altered Heritage Overlays. This is also an incorporated document. I have reviewed the modifications and support the changes.
113. In matters of heritage significance, I defer to the evidence of others.

## 2.5 Are the local policy changes acceptable?

114. The Amendment proposes to modify Clause 11.03-1L (Activity Centres) as it relates to Heidelberg Road, Alphington (i.e. the HRAC) and to add content concerning the Yarra Bend Development (the APM site). The changes to the content for the HRAC raise no issues and reflect the broader Amendment.



115. I am instructed that the basis for the new content applying to the APM site is because of its status as a NAC in the planning scheme. I have no issue with this in principle.





### 3. CONCLUSION


116. My conclusions are summarised below:


- The proposed introduction of permanent built form controls for the Amendment land is broadly appropriate.
- DDO18 could be redrafted to clarify language, improve navigation and to reduce unnecessary content.
- Practice guidance and existing planning policy allow the application of mandatory controls to this centre.
- I generally support the mix between mandatory and discretionary controls although I note that the exhibited and post exhibition version of the amendment proposed changes that are not supported by the exhibited Built Form Framework. I have identified the parts of DDO18 where this occurs and consider that these changes require further consideration by the Committee.
- The post exhibition proposed rear setback provisions are excessive and not adequately justified.
- The proposed Heritage Overlays and policy changes are appropriately drafted and strategically justified subject to understanding the basis of the introduction of policy around the APM site.

117. I make the following recommendations:

- Reconsider the mandatory street wall height, upper level setback and overall height controls in Precinct 3A .
- Reconsider the mandatory nature of the Heidelberg Road street wall height for 700-718 Heidelberg Road.



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- Review the building heights for 700-718 Heidelberg Road.
  - On Map 3A, dimension the required setbacks and clarify the upper level setbacks in Precinct 3B.
  - The height controls in Precinct 3A should be discretionary.
  - On Map 3A dimension the required setbacks and clarify the application of Clause 2.2.4.
  - The interface and rear setback requirements need to be reviewed.
  - The Overshadowing requirement should be amended to read: *Development must meet the objective of Clause 55.04-5.*
  - The public shadowing implications of the prescribed built form should be modelled and reviewed.
  - Consider whether the building separation requirements require additional detail.
  - Consider the 3m, northwest corner setback in Precinct 1.
  - Confirm whether the 3m setback to Heidelberg Road in Precinct 3B is inclusive of the PAO.
  - Clarify whether upper level balconies can encroach into the front setback.
  - Confirm the built form and landscape outcomes intended for mandatory street setback areas.



118. I have made all inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.



John Glossop FPIA  
Director, Glossop Town Planning Pty Ltd  
30 September 2024



## REQUIREMENTS UNDER PLANNING PANEL'S GUIDE TO EXPERT EVIDENCE

1. This statement is prepared by John Glossop, Glossop Town Planning Pty Ltd, Level 5, 111 Cecil Street, South Melbourne VIC 3205. The firm has been in business since 1997. I am the firm's Director.
2. I have a Bachelor of Arts (Urban Studies) Hons. I have been engaged in the following positions and roles in my career as a planner including:
  - Former planner with the Shire of Newham and Woodend (prior to its amalgamation with the Macedon Ranges Shire).
  - Strategic and Social Planning Manager, Shire of Melton until 1997.
  - Sessional member, Planning Panels Victoria between 1997-2012.
3. I have sat as a Chairman or member on several planning scheme amendments, dealing with a broad range of issues from high-rise housing in Williamstown, the redevelopment of Pentridge Prison and the application of flooding overlays in the Mornington Peninsula Shire.
4. Sessional lecturer and tutor in strategic, statutory planning and urban studies at Victoria University of Technology (1996-99) and lecturer in statutory planning Latrobe University Bendigo (2000- 02).
  - Member of the ResCode Advisory Committee 2000.
  - I have considerable experience in statutory and strategic planning and new format planning schemes.
5. My expertise to make this statement is based on a combination of my experience working in metropolitan Melbourne and regional Victoria, an understanding of the site and my experience as a planner in both the private and public sectors.



6. I have been instructed by Yarra City Council to provide an opinion on the planning merits of Amendment C273yara to the Yarra Planning Scheme.
7. My office was not involved in the preparation of the amendment. I was engaged following the exhibition of the amendment.
8. I have relied on the documents referred to in the introduction section of my statement.
9. There were no tests undertaken in the preparation of this statement.
10. I was assisted in this statement by Edwina Laidlaw of my office.



## **APPENDIX A: INSTRUCTIONS**



**DRAFT AMENDMENT C273yara****PERMANENT BUILT FORM CONTROLS FOR HEIDELBERG ROAD ACTIVITY CENTRE****YARRA CITY COUNCIL**

Planning Authority

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**MEMORANDUM TO EXPERT – PLANNING  
JOHN GLOSSOP, GLOSSOP TOWN PLANNING**

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**INTRODUCTION**

1. We act for Yarra City Council (**Council**).
2. Council has prepared Draft Amendment C273yara (**Amendment**) to the Yarra Planning Scheme (**Scheme**), which proposes to apply permanent built form controls for the commercial areas along the Heidelberg Road corridor within the City of Yarra, including the Heidelberg Road Neighbourhood Activity Centre in Alphington/Fairfield (**HRAC**) (but excluding the Alphington Paper Mill Site), in the form of a permanent Schedule 18 to the Design and Development Overlay (**DDO18**) to replace the interim DDO18 that currently applies. The Amendment also seeks to apply two new permanent Heritage Overlays to land in the HRAC.
3. The interim DDO18 was gazetted into the Yarra Planning Scheme (**Scheme**) via Amendment C272yara on 22 October 2021 and is scheduled to expire in April 2024.
4. On 25 October 2022, Council resolved to request consent from the Minister for Planning to prepare and exhibit the Amendment as per the Terms of Reference for the Yarra Activity Centre Standing Advisory Committee (**SAC**).
5. The Amendment was exhibited between 31 July 2023 and 28 August 2023. Council is currently considering submissions received in respect of the Amendment.
6. In the event the Amendment is referred to the SAC to consider issues raised in submissions, Council has indicated it will seek the following pre-set Panel dates:
  - **Directions Hearing:** Week Starting 5 March 2024;
  - **SAC Hearing:** Week Starting 22 April 2024.
7. While the length of the SAC Hearing will depend on the number of unresolved submissions received, it is anticipated the hearing will run for approximately 1-2 weeks.
8. In the first instance, you are instructed to prepare a preliminary opinion in relation to the Amendment insofar as it relates to your area of expertise, including the exhibited DDO18.
9. Subject to your preliminary opinion and the Amendment being referred to the SAC, you are instructed to prepare a statement of evidence and appear as an expert witness at the SAC Hearing.



## AMENDMENT C273yara

### Summary

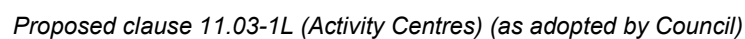
10. The Amendment seeks to implement strategic built form and heritage work undertaken for the commercial zoned land along the south side of the Heidelberg Road corridor (including the HRAC), by:
  - 10.1 applying a permanent DDO18 to the commercial areas along the south side of Heidelberg Road including the HRAC, replacing the interim DDO18 that currently applies; and
  - 10.2 applying the Heritage Overlay to land at 730-734 Heidelberg Road and 760-764 Heidelberg Road, Alphington.
11. The Amendment also proposes to:
  - 11.1 incorporate the Statements of Significance for the new Heritage Overlays into the Scheme and update the *City of Yarra Database of Heritage Significant Areas (April 2022)* to reflect the new Heritage Overlays;
  - 11.2 delete the existing Heritage Overlay from land at 2 Killop Street, Alphington;
  - 11.3 insert the strategic documents underpinning the Amendment as Background Documents in the Schedule to clause 72.08; and
  - 11.4 amend Local Area Policy at Clause 11.03-1L Activity Centres<sup>1</sup> as it relates to the HRAC.
12. The Amendment seeks to implement strategic work undertaken in the Heidelberg Road corridor on a permanent basis. That strategic work comprises a number of documents resulting from analysis of the existing conditions, current built form, heritage fabric and traffic conditions in the Heidelberg Road area.

### Strategic background work

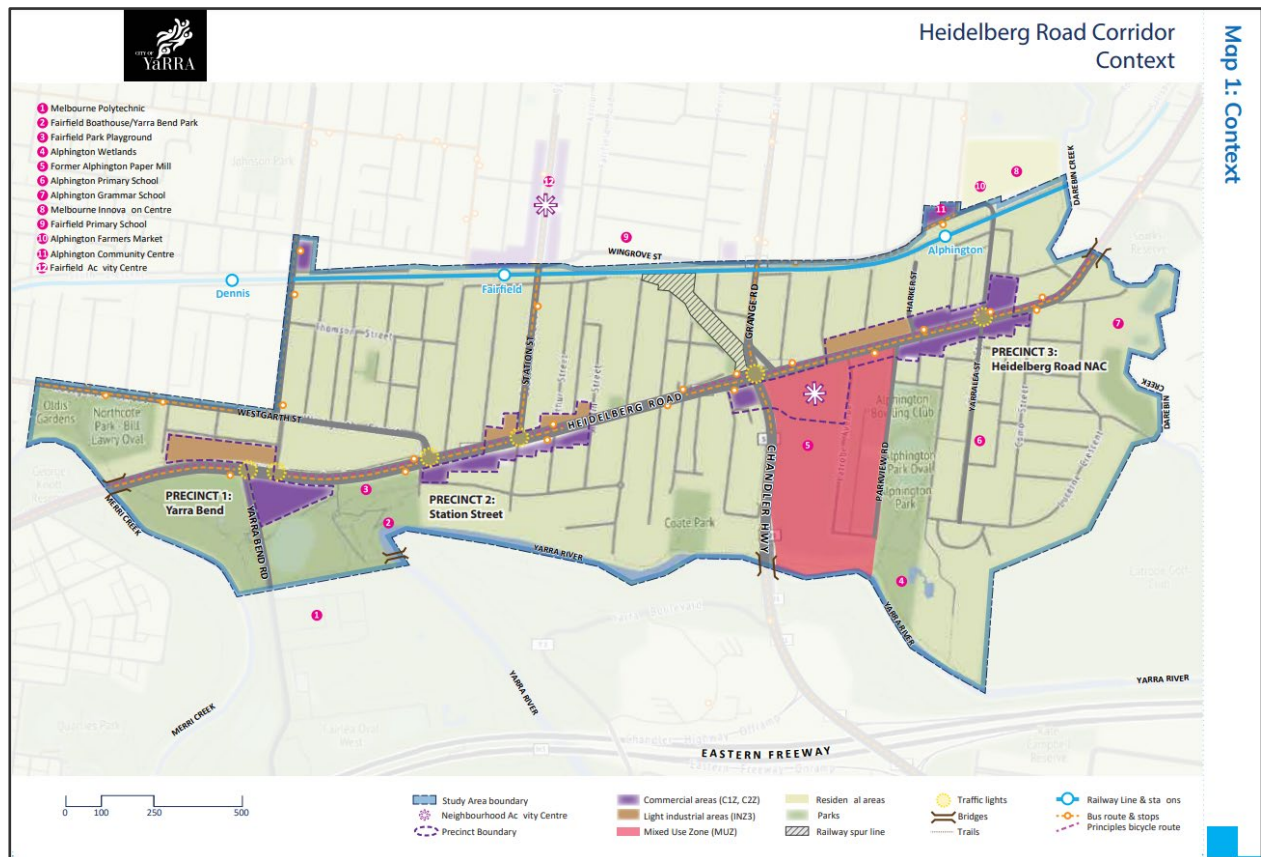
13. As noted above, the Amendment applies to the commercial zoned land within the Heidelberg Road corridor in the City of Yarra including the HRAC (but excluding the Alphington Papermill Site). The HRAC generally comprises the commercial zoned land along the southern side of Heidelberg Road between Coate Avenue and Como Street, and part of the Mixed Use zoned land within the Alphington Papermill Site, as shown on the Heidelberg Road Neighbourhood Activity Centre Plan extracted below from proposed clause 11.03-1L (Activity Centres) (which was adopted by Council in April 2022 as part of Amendment C269yara and currently awaiting approval from the Minister for Planning).
14. The northern side of Heidelberg Road is within the City of Darebin.

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<sup>1</sup> in the event that Amendment C269yara is not gazetted prior to C273, this change will be made to clause 21.08 – Neighbourhoods – Fairfield / Alphington.



15. This area is part of a broader study area that was the subject of the *Draft Heidelberg Road Corridor Local Area Plan (HRCLAP)* prepared by Council in conjunction with Darebin City Council. The HRCLAP was developed for a wider area comprising residential land along the Heidelberg Road Corridor generally between the Merri and Darebin Creeks and the Hurstbridge Railway Line and the Yarra River and seeks to provide a common strategic basis for planning provisions in the area. The HRCLAP was endorsed by Council on 4 February 2020 to help inform interim built form controls for the area and for future public consultation.
16. The area that was the subject of the HRCLAP is shown in the map extracted below:



HRCLAP – Map 1, page 17

17. The Amendment is focused on the commercial zoned land in the three precincts identified in the HRCLAP along the south side of Heidelberg Road.
18. The Amendment has been informed by the following pieces of strategic work undertaken following the development of the HRCLAP:
  - 18.1 *Heidelberg Road Background Issues and Discussion Paper (Discussion Paper)*;
  - 18.2 *Heidelberg Road Heritage Review (Stage 1 and 2) (2019) prepared by RBA Architects, 2019 (Heritage Review)*;
  - 18.3 *Heidelberg Road Built Form Framework Part 1, Urban Context Analysis (July 2019), prepared by Hodyl & Co (Urban Context Analysis)*;
  - 18.4 *Heidelberg Road Built Form Framework Part 2, Design Strategy and Recommendations (November 2019) prepared by Hodyl + Co (Built Form Framework)*; and
  - 18.5 *Heidelberg Road Traffic and Vehicle Access Assessment (November 2019) prepared by Traffix Group (Traffic Assessment)*.
19. This strategic work is discussed in more detail below.

## Background Issues and Discussion Paper

20. The *Discussion Paper* was prepared as a result of workshop discussions between Council and Darebin City Council and submissions received from the Alphington Paper Mills Community Reference Group and Alphington-Fairfield Appropriate Development Association.
21. It discusses a number of key findings in relation to matters affecting the HRAC including economics, population, community facilities and housing, transport and movement, public realm, built form, open space and environment.
22. The *Discussion Paper* identifies three precincts along Heidelberg Road generally described as:
  - 22.1 Precinct 1 – Yarra Bend comprising a small area of light industrial (to the north) and commercial (to the south) bounded by the parkland;
  - 22.2 Precinct 2 – Station Street comprising light industrial (to the north) and commercial (to the south) between Westgarth Street/Panther Place to the west and Austin Street to the east; and
  - 22.3 Precinct 3 – the Heidelberg Road Neighbourhood Activity Centre further to the east on the corridor, comprising land surrounding the intersection of Yarralea Street and Heidelberg Road (Precinct 3B), and includes commercially zoned land to the west of Chandler Highway on the other side of the Alphington Paper Mills (**APM**) site (Precinct 3A).
23. A copy of the *Discussion Paper* is included in your brief.

## Heritage Review

24. In 2019, Council engaged RBA Consultants to undertake a review of heritage values on land in the commercial zones along the south side of Heidelberg Road, including the HRAC and to provide recommendations for built form controls for existing and proposed Heritage Overlays. RBA Consultants were also instructed to review the heritage values of HO71 (756-758 Heidelberg Road, Alphington) and the currency of its citation and determine whether 2 Killop Street, Alphington should be included in HO362 (Alphington East Precinct).
25. As a result of this work, RBA Consultants produced the *Heritage Review*, which comprised two stages:
  - 25.1 Stage 1 involved a preliminary assessment of heritage places and a built form review which provided input into the Built Form Framework; and
  - 25.2 Stage 2 finalised recommended additions to the Heritage Overlay and provided the citations for each of the proposed Heritage Overlays.
26. The *Heritage Review* recommends the Heritage Overlays be applied to land at:
  - 26.1 358 Heidelberg Road, Fairfield comprising a garage and dwelling;
  - 26.2 730-734 Heidelberg Road, Alphington comprising three shops; and
  - 26.3 760-764 Heidelberg Road, Alphington comprising former shops.

27. The *Heritage Review* also makes a number of recommendations and provides built form guidance relating to the recommended overlay areas and two existing Heritage Overlays in the HRAC.<sup>2</sup>
28. The recommendations of the *Heritage Review* informed the preparation of the *Built Form Framework* discussed further below.
29. The Amendment proposes to include the *Heritage Review* as a background document in the Schedule to clause 72.08.
30. A copy of the *Heritage Review* is included in your brief.

## Traffic Assessment

31. In November 2019, Council engaged Traffix Group to undertake an assessment of the future access arrangements in the Amendment area, and make recommendations on the location of preferred vehicle access and movement routes throughout the three Precincts..
32. This work resulted in preparation of the *Traffic Assessment* which informed the development of DDO18.
33. The Amendment proposes to include the *Traffic Assessment* as a background document in the Schedule to clause 72.08.
34. A copy of the *Traffic Assessment* is included in your brief.

## Urban Context Analysis

35. In 2019, Council engaged Hodyl & Co to prepare a built form framework for the Heidelberg Road Corridor.
36. Part 1 of this project resulted in the preparation of the *Urban Context Analysis* which provides an in-depth analysis of the urban context, recognising the parklands, sensitive residential properties, urban design conditions and heritage advice. It covers:
  - 36.1 the existing strategic planning context for the study area;
  - 36.2 the existing local planning context; and
  - 36.3 the existing physical and character attributes of each precinct.
37. The *Urban Context Analysis* informed the preparation of the *Built Form Framework* undertaken in part 2 of the project.
38. A copy of the *Urban Context Analysis* is included in your brief.

## Built Form Framework

39. Part 2 of Hodyl & Co's work involved formulating a design strategy and approach for preparing built form recommendations for each precinct in the Activity Centre which is contained in the *Built Form Framework*.
40. The *Built Form Framework* provides a detailed analysis and strategic basis for the recommended built form provisions in each precinct and has been used to inform the development of DDO18.

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<sup>2</sup> The two existing HOs are HO71 – Former Butcher Shop at 756-785 Heidelberg Road, Alphington and HO421 – Porta Factory, 224 Heidelberg Road, Fairfield.

41. The Amendment proposes to include the *Built Form Framework* as a background document in the Schedule to clause 72.08.
42. A copy of the *Built Form Framework* is included in your brief.

#### **Amendment C272yara – Heidelberg Road interim DDO18**

43. On 4 February 2020, Council resolved to request the Minister for Planning approve interim built form controls (by way of DDO18) for Heidelberg Road in Amendment C272yara (**interim DDO18**).
44. On 12 September 2021, the Minister for Planning approved interim DDO18 with changes (by way of Amendment C272yara), including by making all controls discretionary rather than its previous mix of discretionary and mandatory controls.
45. Interim DDO18 came into effect in the Scheme on 22 October 2021.
46. A copy of interim DDO18 gazetted in Amendment C272yara is included in your brief.

#### **Amendment C203dare – Darebin Heidelberg Road Heritage Amendment**

47. As a result of the development of the HRCLAC, Darebin City Council engaged Context Consultants to undertake a review of heritage values of that part of the activity centre falling within the City of Darebin.
48. As a result of that work, Context prepared the *Heidelberg Road Heritage Assessment – Final Report (September 2020)* (**HRAC Heritage Report**).
49. Darebin City Council subsequently prepared Amendment C203dare to the Darebin Planning Scheme (**C203dare**) which proposes to implement the findings of the HRAC Heritage Report in the Darebin Planning Scheme on a permanent basis by applying the heritage overlay on seven properties within the Heidelberg Road corridor.
50. Amendment C203dare was the subject of a Planning Panel hearing on 20 July 2022.
51. Yarra City Council made a submission to C203dare, in support of the Amendment.
52. The Panel's report was published on 16 August 2022.<sup>3</sup> Relevantly, the Panel recommended that C203dare be adopted as exhibited subject to two minor changes as follows:
  - 52.1 amend 257 Heidelberg Road, Northcote (Residence) Statement of Significance to clarify how the cypresses demonstrate typical garden designs of the 1940s at Criterion D; and
  - 52.2 amend 273-289 Heidelberg Road, Northcote (Church of Jesus Christ of the Latter-day Saints, Northcote) Statement of Significance to acknowledge the landscape contribution of the remaining eucalyptus trees to the overall site at Criterion D.
53. More broadly, the Panel concluded that there is State and local justification for the protection of heritage along Heidelberg Road, and that the *Heidelberg Road Heritage Assessment – Final Report (September 2020)* underpinning Amendment C203dare is rigorous, comprehensive and consistent with Planning Practice Note 1. Ultimately the Panel found the Amendment to be strategically justified, and was supportive of the application of the Heritage Overlay to all seven properties that were included in the exhibited amendment.
54. Amendment C203dare was gazetted into the Darebin Planning Scheme on 20 January 2023.

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<sup>3</sup> available at this [link](#).



## The Amendment

### Summary

55. In summary, the Amendment proposes to:
- 55.1 apply a permanent DDO18 to commercially zoned land along the south side of Heidelberg Road including the HRAC, replacing the interim DDO18 that currently applies;<sup>4</sup> and
  - 55.2 apply the Heritage Overlay to land at 730-734 Heidelberg Road and 760-764 Heidelberg Road, Alphington;
  - 55.3 incorporate the Statements of Significance for the new Heritage Overlays into the Scheme and update the *City of Yarra Database of Heritage Significant Areas (April 2022)* to reflect the new Heritage Overlays;
  - 55.4 delete the existing HO362 from land at 2 Killop Street, Alphington;
  - 55.5 insert the strategic documents underpinning the Amendment as Background Documents in the Schedule to clause 72.08; and
  - 55.6 amend Local Area Policy at Clause 11.03-1L Activity Centres<sup>5</sup> as it relates to Heidelberg Road.
56. These changes are described in further detail below.

### Proposed permanent DDO18 (as exhibited)

57. The Amendment proposes to apply DDO18 to commercially zoned land along the south side of Heidelberg Road, including the HRAC on a permanent basis, to replace the interim DDO18 that currently applies.
58. The DDO18 has been tailored to address the unique typologies, heritage and character of each precinct as informed by the *Heritage Review, Urban Context Analysis, Built Form Framework* and *Traffic Assessment*.
59. The proposed permanent DDO18 contains a combination of mandatory and discretionary controls, whereas the interim DDO18 only contains discretionary controls. While height and setback metrics (i.e. numerical figures) are consistent with the interim DDO18, some of these are proposed to be mandatory in the permanent DDO18, rather than discretionary.
60. The changes to proposed permanent DDO18 (as exhibited) (compared to the interim DDO18) can be broadly described as follows:
- 60.1 refining the wording of the controls to improve the clarity of requirements and alignment with recent Yarra amendments including C191, C291 and C293;
  - 60.2 various changes taking into account relevant recent amendments and VCAT decisions;
  - 60.3 introducing a balance of mandatory and discretionary controls to guide appropriate built form outcomes, particularly towards sensitive residential interfaces, parkland, heritage buildings and the public realm;

<sup>4</sup> that is due to expire on 22 April 2024.

<sup>5</sup> in the event that Amendment C269yara is not gazetted prior to C273, this change will be made to clause 21.08 – Neighbourhoods – Fairfield / Alphington.

- ## Proposed Heritage Overlay Schedules HO451 and HO455

- Proposed updates to Clause 11.03-1L – Activity Centres*

67. The Amendment proposes to update local policy at clause 11.03-1L (Activity Centres) to reflect the guidance in the *Built Form Framework*. In particular, it proposes to change content

under the headings for Heidelberg Road to reinforce expectations for the use and development in the centre.

68. In the event Amendment C269yara is not gazetted at the time the Amendment is gazetted<sup>6</sup>, the changes described above will be made to the current policy at clause 21.12 (Local Areas).

## Preparation of the Amendment

69. On 25 October 2022, Council resolved to (among other things):
- 69.1 adopt the *Heritage Review, Built Form Framework and Traffic Assessment* as the basis for the Amendment;
  - 69.2 adopt the Amendment documentation comprising:
    - 69.2.1 proposed clause 11.03-1L (or, clause 21.12 depending on the status of Amendment C269yara);
    - 69.2.2 proposed permanent DDO18<sup>7</sup>;
    - 69.2.3 proposed Heritage Overlay Schedules 451 and 455 and their associated Statements of Significance;
    - 69.2.4 proposed amended schedule to clause 72.04 (Incorporated Documents) and schedule to clause 72.08 (Background documents);
 as the basis for the Amendment;
  - 69.3 request consent from the Minister to prepare and exhibit the Amendment as per the Terms of Reference for the Yarra Activity Centre SAC appointed under s 151 of the Act;
  - 69.4 determine that should the Minister not provide consent, Council apply to the Minister under s 8A of the Act to prepare and exhibit the Amendment; and
  - 69.5 request the Minister approve Amendment C312yara under s 20(4) of the Act to extend the expiry date of DDO18 for a further 12 months.
70. A copy of the Council meeting minutes (Resolution) and agenda (Officer Report) of 25 October 2022 is included in your brief.

## Exhibition

71. The Amendment was exhibited between 31 July 2023 and 28 August 2023. Council is currently considering submissions received in respect of the Amendment.
72. A copy of the exhibited documents are included in your brief.
73. We will provide you with a copy of all submissions to the Amendment when they are available.

<sup>6</sup> Clause 11.03-1L is proposed to be introduced into the Scheme as part of Amendment C269yara, which proposes to introduce new and revised policy content into the Scheme in the new PPF format. Amendment C269yara was adopted by Council on 19 April 2022 and has been submitted to the Minister for approval, however, it has not yet been approved by the Minister.

<sup>7</sup> Council adopted permanent DDO18 as proposed by Council officers with some changes. These changes are described in Council's resolution at item 1(c).

### SAC Hearing

74. In the event the Amendment is referred to the SAC to consider issues raised in submissions, Council has indicated it will seek the following pre-set Panel dates:
- **Directions Hearing:** Week Starting 5 March 2024;
  - **SAC Hearing:** Week Starting 22 April 2024.
75. We will let you know when these dates have been confirmed.
76. While the length of the SAC Hearing will depend on the number of unresolved submissions received, it is anticipated the hearing will run for approximately 1-2 weeks.

### YOUR INSTRUCTIONS

77. In the first instance, you are instructed to prepare a preliminary opinion in relation to the Amendment insofar as it relates to your area of expertise, including the proposed permanent DDO18 (as exhibited).
78. Subject to your preliminary opinion and the Amendment being referred to the SAC, you are instructed to prepare a statement of evidence and appear as an expert witness at the SAC Hearing, anticipated to commence in April 2024. Your expert witness report should:
- 78.1 be prepared in accordance with the Guide to Expert Evidence;
  - 78.2 not refer to any submitter by name (please use submission numbers);
  - 78.3 express your opinion on the Amendment insofar as it relates to your area of expertise;
  - 78.4 express your opinion on the key issues, as relevant to your expertise, raised by submissions to the Amendment and the Council position in respect of those matters; and
  - 78.5 express your opinion on the any directions issued by the SAC, as relevant to your expertise.
79. Before starting any work, we kindly request you confirm whether there are any conflicts or potential conflicts that would prevent you from appearing for Council at the panel hearing.

### Fee proposal

80. We kindly request you provide us with an electronic copy of your fee proposal for the above scope of works, for Council's consideration.
81. Please also provide a schedule of fees and rates in the event that you are required to perform additional tasks in the future relating to this matter.
82. If your fee proposal is approved, all accounts for this matter should be referred directly to Maddocks (marked to the attention of Kristin Richardson).

### Other matters

83. Please find enclosed an indexed brief of documents. Kindly let us know if you require any further information or documentation.
84. Please contact Kristin Richardson on 9258 3558 should you have any queries.



Maddocks

**Dated: 13 September 2023**

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**Maddocks**

## Index

TAB NO	DESCRIPTION OF DOCUMENT	DATE
<b>A – EXHIBITED DOCUMENTS</b>		
<b>i – Explanatory Documents</b>		
1.	Explanatory Report	
2.	Instruction Sheet	
<b>ii – DDO18</b>		
3.	Schedule 18 to clause 43.02 (DDO18)	
<b>iii – Clauses and Schedules</b>		
4.	Clause 11.03-1L – Activity Centres	
5.	Clause 21.08 – Neighbourhoods	
6.	Schedule to Clause 43.01 – Heritage Overlay	
7.	Schedule to Clause 72.04 – Incorporated Documents	
8.	Schedule to Clause 72.08 – Background Documents	
<b>iv – Incorporated Documents</b>		
9.	Statement of Significance for HO451 – Cooper Knitting Factory (former) at 730-734 Heidelberg Road, Alphington	
10.	Statement of Significance for HO455 – The Post Office and the group of shops at 760-764 Heidelberg Road, Alphington	
11.	Updated pages of <i>City of Yarra Database of Heritage Significant Areas (April 2022)</i>	
<b>v – Planning Scheme Maps</b>		
12.	Planning Scheme maps	
<b>B – INTERIM DDO18 (currently in Scheme)</b>		
13.	Schedule 18 to clause 43.02 (DDO18) – Interim DDO18 gazetted in C272yara	
<b>C – STRATEGIC BACKGROUND WORK</b>		
14.	<i>Heidelberg Road Heritage Review (Stage 1 and 2) (2019)</i> prepared by RBA Architects	2019
15.	<i>Heidelberg Road Built Form Framework Part 1, Urban Context Analysis</i> prepared by Hodyl & Co	July 2019
16.	<i>Heidelberg Road Built Form Framework Part 2, Design Strategy and Recommendations</i> prepared by Hodyl + Co	November 2019



TAB NO	DESCRIPTION OF DOCUMENT	DATE
17.	<i>Heidelberg Road Traffic and Vehicle Access Assessment</i> prepared by Traffix Group	November 2019
<b>D – OTHER RELEVANT DOCUMENTS</b>		
18.	<i>Draft Heidelberg Road Corridor Local Area Plan</i>	
19.	<i>Heidelberg Road Background Issues and Discussion Paper</i>	
<b>E – COUNCIL MEETING MINUTES</b>		
20.	Council Meeting Minutes (Resolution) and Agenda (Officer Report)	25 October 2022
<b>F – AMENDMENT C272yara</b>		
21.	Council Meeting Agenda (Officer Report) and Minutes (Resolution) seeking interim DDO controls	4 February 2020
22.	Explanatory Report – Gazetted	
23.	Minister's Reasons for Intervention	
24.	Interim DDO18 – Gazetted	
<b>G - MISCELLANEOUS</b>		
25.	DDO18 Information Sheet	
26.	Design and Development Overlay general information sheet	
27.	Yarra Activity Centres Terms of Reference	
28.	<i>Planning Panels Guide to Expert Evidence</i>	



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### Email Letter

<b>From</b> Zina Teoh	<b>Date</b> 19 August 2024	
<b>Direct</b> 03 9258 3310	<b>Email</b> zina.teoh@maddocks.com.au	
<b>Partner</b>  Maria Marshall		
<b>To</b> John Glossop	<b>Organisation</b> Glossop Town Planning	<b>Email</b> <a href="mailto:john@glossopco.com.au">mailto:john@glossopco.com.au</a>

Our Ref MYM:ZTEO:9076902

*Confidential and subject to client legal privilege*

Dear John

#### **Heidelberg Road Activity Centre – Draft Amendment C273yara**

We continue to act for Yarra City Council (**Council**) in relation to Draft Amendment C273yara (**Amendment**) and refer to your brief dated 13 September 2023.

The purpose of this letter is to provide you with an update and further instructions in relation to this matter.

#### ***Exhibition and submissions***

As you are aware, the Amendment was exhibited between 31 July 2023 and 28 August 2023.

In response to exhibition Council received 117 submissions.

On 12 December 2023, Council considered the submissions to the Amendment and resolved to refer all submissions to a Standing Advisory Committee (**SAC**).

#### ***Proposed changes to DDO18***

In response to submissions, Council officers recommended some changes be made to Schedule 18 to the Design and Development Overlay (**DDO18**) for the purposes of Council's advocacy position before the SAC. The recommended changes are shown in the DDO18 attached to the Officer Report of 12 December 2023 (Attachment 3). The changes included, but were not limited to, increasing the rear ground level setback for development from 3 to 5 metres in Precincts 2 and 3B.

At the Council meeting on 12 December 2023, Council ultimately resolved to adopt the recommended changes to the Amendment for the purposes of Council's advocacy position before the SAC as shown in Attachment 3 with the following further change:

... at Clause 2.2.4 Interface and rear setback requirements, amend the first requirement relating to the maximum rear wall height from 8 metres to 5 metres for Precinct 2;

### ***Appointment of the SAC***

The SAC has now been appointed and PPV has provided pre-set Panel hearing dates for the week commencing 14 October 2024. A directions hearing was held on 12 August 2024. We will confirm the dates for the hearing when we received the final directions from the Panel in the next couple of days.

### ***Your instructions***

You are kindly instructed to:

- review the exhibited Amendment documents, as well as the proposed recommended changes to the DDO18 adopted by Council at the Council meeting on 12 December 2023;
- prepare a statement of evidence and appear as an expert witness at the SAC Hearing, listed to commence in the week of 14 October 2024 (pre-set Panel dates). Your expert witness report should:
  - be prepared in accordance with the Guide to Expert Evidence;
  - not refer to any submitter by name (please use submission numbers);
  - express your opinion on the Amendment insofar as it relates to your area of expertise;
  - express your opinion on the key issues, as relevant to your expertise, raised by submissions to the Amendment and the Council position in respect of those matters; and
  - express your opinion on the any directions issued by the SAC, as relevant to your expertise.

We would appreciate if you could provide a draft of your evidence at least a week before it is due for circulation to the Panel. We would also like to discuss with you the potential for you to provide your draft earlier than a week before the Panel, to assist Council with its timing for reviewing the evidence.

We will confirm the date that evidence is due for circulation to the Panel when we receive the directions, however we expect it to be around 30 September 2024.

### ***Brief of documents***

A brief of documents (which included the exhibited Amendment documentation) was provided to you on 13 September 2023.

For completeness, we have provided an updated brief of documents that includes all documents in the brief provided to you on 13 September 2023, as well as:

- all submissions to the Amendment;
- the Council Meeting Agenda (Officer Report) and Minutes (Resolution) of 12 December 2023, including the officer recommended changes to DDO18 at Attachment 3;



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- a copy of the DDO18 updated to reflect the recommended changes adopted by Council at the Council meeting on 12 December 2023;
- recent VCAT decisions for sites within the Heidelberg Road NAC and the plans considered by the Tribunal in those decisions;
- recent Panel / SAC reports for other Yarra Activity Centres; and
- *Planning Panel's Guide to Expert Evidence.*

An updated index to the brief is also provided. Please let us know if you require any further information or documentation.

We kindly request you provide us with an electronic copy of your fee proposal for the above scope of works, for Council's consideration.

Before starting any work, we kindly request you confirm whether there are any conflicts or potential conflicts that would prevent you from appearing for Council at the SAC hearing.

Yours faithfully

Maria Marshall  
Partner



## APPENDIX B: POLICY CONTEXT

### Plan Melbourne 2017-2050

11. Relevant outcomes and directions from Plan Melbourne 2017-2050 include:


- *Melbourne is a productive city that attracts investment, supports innovation and creates jobs.*
  - *Improve access to jobs across Melbourne and close to where people live.*
- *Melbourne provides housing choice in locations close to jobs and services.*
  - *Manage the supply of new housing in the right locations to meet population growth and create a sustainable city.*
  - *Deliver more housing closer to jobs and public transport.*
- *Melbourne is a distinctive and liveable city with quality design and amenity.*
  - *Achieve and promote design excellence.*
  - *Respect Melbourne's heritage as we build for the future.*
- *Melbourne is a city of inclusive, vibrant and healthy neighbourhoods.*
  - *Create a city of 20 minute neighbourhoods.*

### Yarra Planning Scheme

#### Municipal Planning Strategy

12. The Municipal Planning Strategy (MPS) is set out at Clause 02 of the Planning Scheme. Clause 02.01-3 (Activity Centres) identifies:

*Yarra's major and neighbourhood activity centres are predominantly along and around the main retail shopping streets. They feature highly*

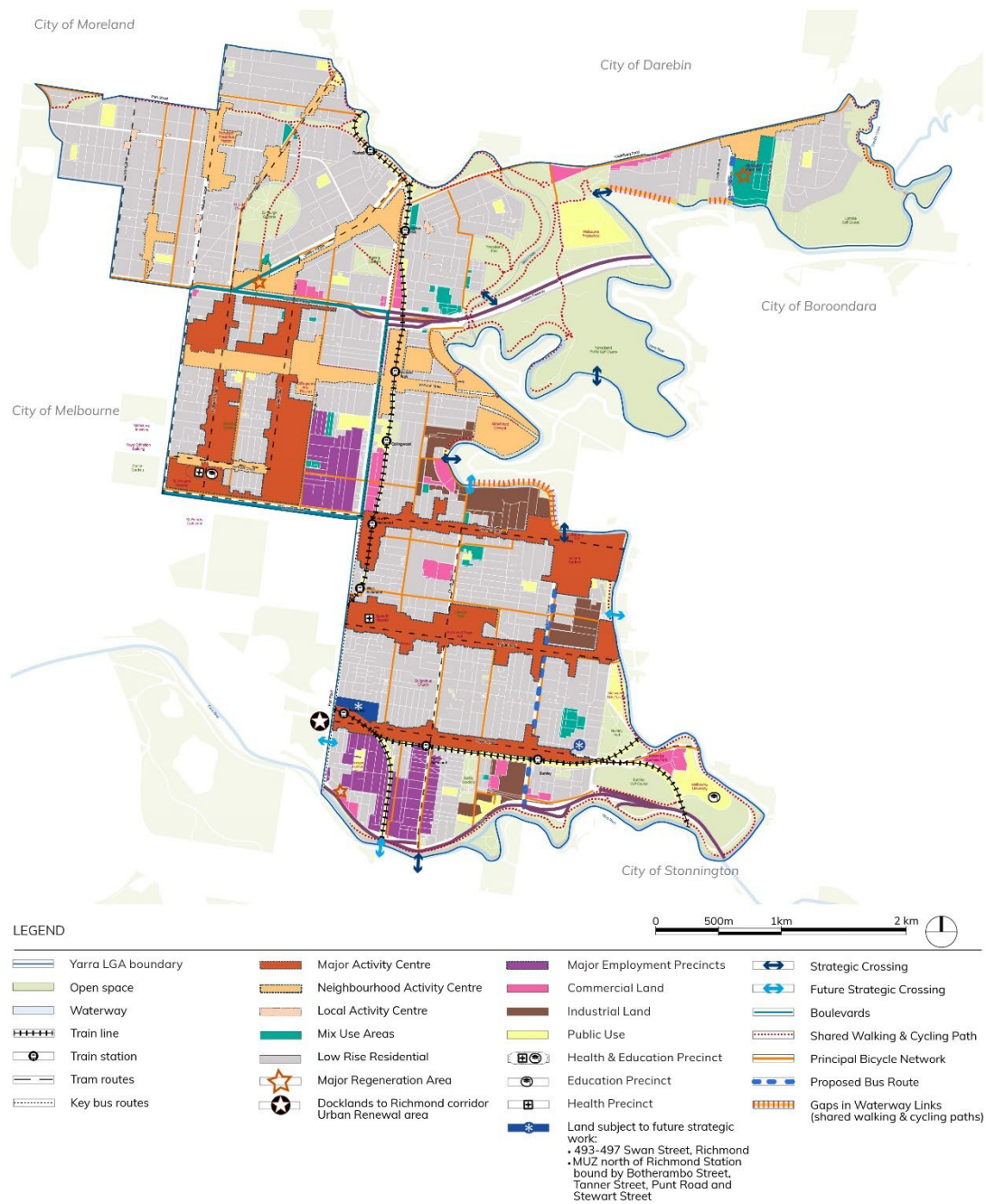


*intact heritage streetscapes and heritage places which are valued by the community.*

*Yarra's major, neighbourhood and local activity centres are shown in clauses 02.04 (Strategic Framework Plan) and 11.03-1L (Activity Centres).*

*With access to services, public transport and a walkable, fine grain street network, Yarra's activity centres will continue to be strengthened so that they remain vibrant and liveable places, capable of serving growing local economies and new and changing communities.*

13. Clause 02.01-6 (Built Environment and Heritage) identifies that heritage contributes significantly to the local identity. It also states that the existing scale of development within the municipality is mostly low to mid rise with some taller buildings. Residential neighbourhoods are mostly single and double storey, while taller buildings are mostly concentrated in pockets within activity centres, along main roads and in areas transitional from industrial to commercial or mixed use.
14. Clause 02.01-7 (Housing) identifies that managing the impact of housing growth is a key local challenge. It states that new housing is predominantly in the form of apartments, mostly through redevelopments in activity centres and former industrial areas, including the APM.
15. Clause 02.01-8 (Economic Development) identifies that Yarra's employment areas include activity centres (largely in retail strips which host a range of retail, commercial, entertainment and residential uses) and other commercial and industrial land outside activity centres as shown in Clause 02.04 Strategic Framework Plan.



## Strategic Framework Plan





## Planning Policy Framework

16. Within the Planning Policy Framework, the following policies are considered particularly relevant to this matter:

- Clause 11.03 'Planning for Places' including:
  - Clause 11.03-1S 'Activity Centres'.
  - Clause 11.03-1R 'Activity Centres – Metropolitan Melbourne'.
  - Clause 11.03-1L 'Activity Centre'.
- Clause 15 'Built Environment and Heritage' including:
  - Clause 15.10-1S 'Urban Design'.
  - Clause 15.01-1R 'Urban Design – Metropolitan Melbourne'.
  - Clause 15.01-1L 'Urban Design'.
  - Clause 15.01-2S 'Building Design'.
  - Clause 15.01-2L 'Building Design'.
- Clause 16 'Housing' including:
  - Clause 16.01-1L 'Location of Residential Development'.
- Clause 17 'Economic Development'.
- Clause 18 'Transport'.





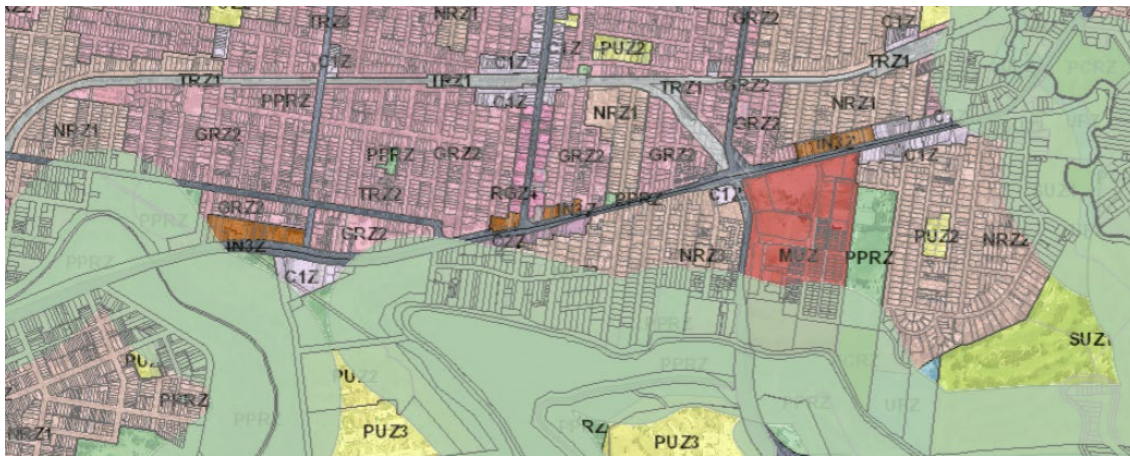
## **Zones and Overlays**

17. The Amendment land is subject to either the Commercial 1 Zone or the Commercial 2 Zone. The Purposes of these zones are detailed below:
18. Commercial 1 Zone, which has the following Purpose:
  - *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
  - *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
  - *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*
19. Commercial 2 Zone, which has the following Purpose:
  - *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
  - *To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
  - *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.*
20. The Amendment land is currently subject to interim Design and Development Overlay – Schedule 18 (Heidelberg Road Precincts). The interim DDO18 is due to expire on 30 June 2025.
21. There are two existing Heritage Overlays in the Amendment land as follows:
  - Schedule 421 affecting the Porta factory at 224 Heidelberg Road; and
  - Schedule 71 affecting shops at 756-758 Heidelberg Road.

22. The Amendment land is also subject to the following:

- Development Contributions Plan Overlay – Schedule 1.
- Public Acquisition Overlay – Schedule 1 (east end of Precinct 3B).
- Environmental Audit Overlay (Precinct 1 and part of Precinct 3B).

23. It is also partly an area of Cultural Heritage Sensitivity and partly within the Principal Public Transport Network.



**Area of cultural heritage sensitivity**



**Principal Public Transport Network**



## APPENDIX C: THE AMENDMENT

24. The Amendment will:

- Insert new policy on the Heidelberg Road Neighbourhood Activity Centre at Clause 11.03-1L Activity Centres.
- Replace interim DDO18 with a permanent DDO18.
- Apply new Heritage Overlays to:
  - 730-734 Heidelberg Road (Port Office and shops) (proposed Schedule 451); and
  - 760 Heidelberg Road (former Cooper Knitting Factory) (proposed Schedule 455).
- Incorporate new Statements of Significance for new Heritage Overlays and a new version of the City of Yarra Database of Heritage Significance Areas (October 2022).
- Delete 2 Killop Street from Heritage Overlay – Schedule 362.
- Amend the Schedule to Clause 72.08 Background Documents.



## **APPENDIX D: SITE INSPECTION PHOTOGRAPHS**







Precinct 1 from Jeffrey Street



Precinct 1





Heidelberg Road looking west from Jeffrey Street



Precinct 1 from Yarra Bend Road





Rear of Precinct 1



Rear Precinct 1





Rear Precinct 1



276 Heidelberg Road Precinct 1





276 Heidelberg Road Precinct 1



272 Heidelberg Road Precinct 1





262 Heidelberg Road Precinct 1



224-256 Heidelberg Road Precinct 1





224-256 Heidelberg Road Precinct 1



Corner Heidelberg Road and Panther Place Precinct 2





Western edge of Precinct 2, with Panther Place



Precinct 2 looking east from Westgarth Street





Park Crescent north side



3 Park Crescent





3 Park Crescent



Park Crescent Precinct 2





14 Park Crescent (abuts Precinct 2 to north and west)



Corner Chandler Highway and Heidelberg Road from Clive Street





852 Heidelberg Road Precinct 3



Station Street looking north towards Heidelberg Road Precinct 2





Coate Avenue Precinct 3



582 Heidelberg Road in foreground





East corner Station Street and Heidelberg Road Precinct 2



10 Station Street to the south of Precinct 2





582 Heidelberg Road



Precinct 2 between Station Street and Arthur Street





Precinct 2 west of Station Street



Rear 582 Heidelberg Road





Rear 582 Heidelberg Road



Intersection Heidelberg Road and Arthur Street Precinct 2





Precinct 2 east of Arthur Street



Intersection Austin Street and Heidelberg Road eastern edge Precinct 2





10 Austin Street boundary with Precinct 2



10 Austin Street boundary with Precinct 2





35 Coate Avenue rear of Precinct 3



Rear 582 Heidelberg Road