



Agenda

Ordinary Council Meeting

6:30 pm, Tuesday 8 April 2025

Richmond Town Hall

Order of Business

1. Acknowledgement of Country	7
2. Attendance, apologies and requests for leave of absence.....	7
3. Announcements	7
4. Declarations of Conflict of Interest	8
5. Confirmation of Minutes	8
6. Question Time	8
7. Council Business Reports	9
7.1. Elizabeth Street Bike Lane Trial Update	9
7.2. Coppin Street Cycling Corridor.....	161
7.3. Urban Renewal of Victoria Street, Richmond and Abbotsford	279
7.4. ERP Business Case.....	324
7.5. Paid Parking Fees Implementation of Richmond Shopping Strip Parking Pilot Program	412
7.6. Property Strategy 2025 - 2030	422
7.7. C247yara - Uses at 21 Northumberland Street and 26 Wellington Street, Collingwood	485
7.8. Draft Planning Scheme Amendment C273yara – Heidelberg Road Permanent Built Form Provisions	560
7.9. Governance Rules Review	1142
7.10. Proposed Discontinuance of Road abutting 99 - 101 Bridge Road Richmond	1207
7.11. Responding to the Notice of Motion 19. 26 November 2024 New Direction for Yarra Part 7 - Celebrating our multicultural community	1233
7.12. Contract award - C1794 Tree Planting and Establishment Services	1267
7.13. Tender Report C1762-Drainage Cleaning and Maintenance Services.....	1272
7.14. Yarra City Council Cash Reserves Policy	1278
7.15. Audit and Risk Committee Charter	1289
7.16. Governance Report - April 2025.....	1317
8. Notices of Motion	1329
8.1. Notice of Motion No.5 of 2025 - Waste Charges	1329
8.2. Notice of Motion No.6 of 2025 - Encouraging Accessibility and Sustainability Improvements in Heritage Overlay Areas	1330
9. Petitions and Joint Letters.....	1331

10. Questions without Notice.....	1331
11. Delegates Reports.....	1331
12. General Business	1331
13. Urgent Business	1331
14. Confidential Business Reports	1331

7.8. Draft Planning Scheme Amendment C273yara – Heidelberg Road Permanent Built Form Provisions

Author	Joerg Langeloh – Project & Policy Coordinator, Strategic Planning
Authoriser	General Manager City Sustainability and Strategy Chief Executive Officer

Executive Summary

The independent Yarra Activity Centre Standing Advisory Committee (SAC) has finalised its recommendations relevant to the draft Planning Scheme Amendment C273yara (C273). This report outlines the officer responses to the suggested changes for Council's endorsement.

Council needs to consider the SAC recommendations and officer responses and form a final position on Amendment C273yara (C273). This report recommends Council adopts C273 with the officer recommended responses.

Officer Recommendation

That Council:

1. Notes the officer report regarding draft Amendment C273yara (the Amendment), officer recommendations and Attachments 1 to 10.
2. Notes the public release of the Standing Advisory Committee Report for the Amendment under Section 40 of the Yarra Activity Centres Standing Advisory Committee Terms of Reference.
3. Having considered the Standing Advisory Committee report and officer recommendations, adopts the Amendment and associated documents with the changes as set out in Attachments 5 to 10 to this report.
4. Delegates to the Manager City Strategy the authority to finalise the Amendment in accordance with Council's resolution on C273yara, and to make any administrative or formatting changes to the Amendment documentation and maps required to give effect to Council's resolution.
5. Submits the Amendment to the Minister for Planning and requests they prepare, adopt, and approve a formal planning scheme amendment in the same form as the adopted Amendment, in accordance with section 20(4) of the Planning and Environment Act 1987 (the Act).
6. Notifies all submitters of this Council resolution.

History and background

Yarra Activity Centre Standing Advisory Committee

1. The Yarra Activity Centre Standing Advisory Committee (SAC) was initiated by the Minister for Planning to speed up the processing of multiple planning scheme amendments in Yarra. The SAC functions similarly to an independent planning panel.

Draft Amendment C273yara

2. Draft Amendment C273yara (C273) proposes to introduce permanent built form provisions within commercially zoned land along Heidelberg Road in Fairfield and Alphington.
3. In summary, the draft Amendment:
 - (a) Inserts updated policy on the Heidelberg Road Neighbourhood Activity Centre at Clause 11.03-1L Activity Centres to guide built form within the activity centre;
 - (b) Replaces interim Design and Development Overlay Schedule 18 (interim DDO18) with permanent Design and Development Overlay Schedule 18 (DDO18 – see Figure 1 and 2) which applies to commercially zoned land (C1Z and C2Z) along Heidelberg Road;
 - (c) Applies two new Heritage Overlays to properties at 730–734 and 760 Heidelberg Road, Alphington, incorporating new Statements of Significance for these properties;
 - (d) Deletes Heritage Overlay HO362 from 2 Killop Street, Alphington; and
 - (e) Amends the Schedule to Clause 72.08 Background Documents to include relevant background documents to the amendment.
4. DDO18 applies to four precincts along Heidelberg Road (see Figures 1 and 2 below).

Figure 1 – Extent of DDO18 – Precincts 1 and 2

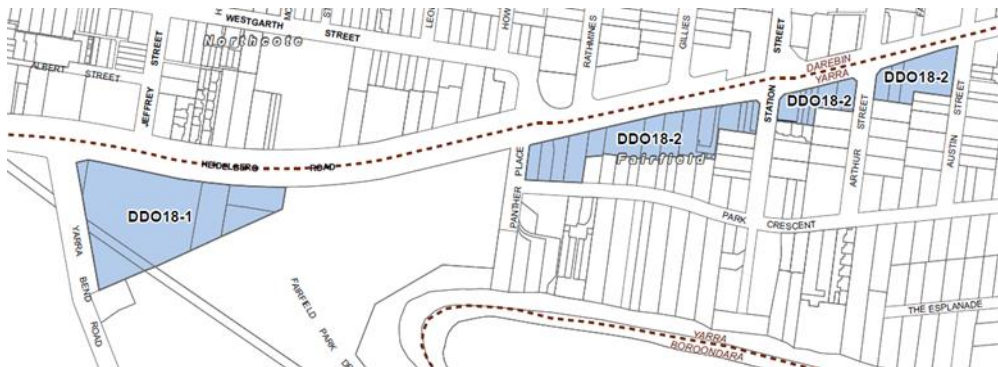
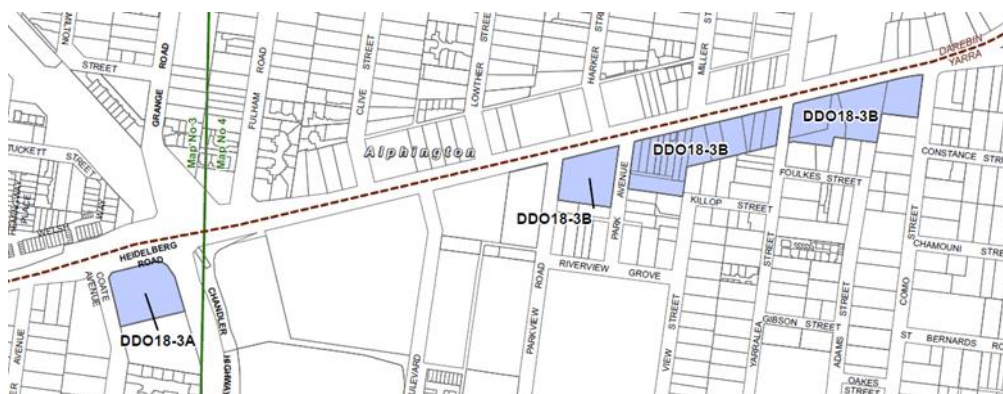


Figure 2 – Extent of DDO18 – Precincts 3A and 3B



5. Amendment C273 was exhibited between 31 July and 28 August 2023, with 4 extra weeks given to the notified community in Precinct 2.

6. On 12 December 2023, Council considered the submissions received, resolved to make some changes and requested the Minister refer the amendment and submissions to the SAC.
7. Additional notice was sent out to submitters and landowners to advise them of proposed changes that Council adopted (i.e. increase in rear ground floor setback from 3 to 5 metres in Precincts 2 and 3B).
8. Council received no further submissions in response to the additional notice.

Standing Advisory Committee hearing

9. The SAC hearing was held over four days between 14 October and 18 October 2024. Two landowners participated in the hearing.
10. Council's submission to the SAC was based on the position adopted by Council on 12 December 2023.
11. Council provided evidence from experts in the field of:
 - (a) Urban design;
 - (b) Heritage architecture;
 - (c) Planning;
 - (d) Traffic; and
 - (e) Floorspace capacity analysis.
12. At the close of the hearing, Council was directed to submit a final version of DDO18, indicating the changes suggested by submitters and experts during the hearing that officers supported.
13. The SAC considered all submissions, amendment documentation, expert statements, Council's position from 12 December 2023 Council meeting and Council's final day of hearing edited version of the DDO after the hearing.

Discussion

Standing Advisory Committee recommendations and officer responses

14. The SAC Report was received by Council on 2 January 2025 and publicly released on 15 January 2025. A copy of the C273 SAC Report can be viewed at Attachment 1.
15. The SAC Report outlines the discussion from the hearing and its recommendations. The report must be read in conjunction with the Yarra Activity Centres Standing Advisory Committee Report 1 (Version 2) – 'Overarching Report' (see Attachment 2).
16. The SAC recommended the Amendment should proceed, subject to changes as outlined in the Report. It concluded that C273:
 - (a) Is well founded, strategically justified;
 - (b) Will deliver a net community benefit and sustainable development; and
 - (c) Supports and responds to local planning policy, provides a framework for coordinating growth while responding to values and opportunities.

17. Appendix D of the SAC Report shows most of the SAC's recommended changes are generally based on the final hearing day version of DDO18. Other changes are outlined in separate recommendations.
18. Attachment 3 shows the officer responses against the SAC Report Appendix D version of DDO18.
19. For detailed officer responses against all SAC recommendations, see Attachment 4.
20. The main SAC recommendations and officers' recommended responses are summarised in Table 1 below.
21. It is noteworthy that the SAC did not make any recommendations to change the exhibited local policy.

Table 1: Summary of SAC Recommendations and Recommended Responses

SAC recommendation summary	Recommended responses and changes to the DDO18
<p>Increasing the building heights in Precincts 1, 2 and 3B to align them with the Built Form Framework from 2019</p>	<p>Officers do not support the SAC's recommendations relating to building height increases.</p> <p>The exhibited building heights in DDO18 were first adopted by Council on 4 February 2020 and the Minister for Planning approved them in the interim DDO request. In the officers' view, the exhibited heights strike a balance between accommodating change and responding to the valued characteristics and sensitive residential context.</p> <p>The heights adopted by Council for the exhibition and its position during SAC hearing align with the design objectives of the Built Form Framework and the DDO18 requirements.</p> <p>Furthermore, the expert who undertook the capacity analysis supports the proposed DDO18 and it is unlikely that the exhibited height would contradict achieving released State Government housing targets. The proposed heights are discretionary (subject to conditions) and will support additional housing on underutilised land.</p>
<p>Change all mandatory DDO18 requirements to be discretionary/preferred</p>	<p>Officers do not support this SAC recommendation.</p> <p>The DDO contains a mix of 'mandatory' controls and 'preferred' controls. The application of mandatory controls has been carefully considered and applied selectively. They are not proposed to apply across all precincts, neither to all requirements in DDO18.</p> <p>Mandatory controls are proposed to apply to:</p> <ul style="list-style-type: none"> • Building heights in Precincts 3A • Front / street setbacks in Precincts 1, 2 and 3A and parts of 3B – mainly along Heidelberg Road

	<ul style="list-style-type: none">• Street wall heights in Precinct 2, 3A on Coate Avenue and 3B on Heidelberg Road• Upper level setbacks in Precinct 3A on Coate Avenue and in Precinct 3B between Parkview Street and Yarralea Street.• Rear interface controls (landscaped ground floor setback and 45 degree angle above the rear boundary wall) in all precincts. <p>Mandatory controls are necessary to minimise impacts on sensitive residential interfaces and the public realm.</p> <p>Their use was supported by Council's experts, albeit not uniformly. The urban design and planning experts supported the use of mandatory controls regarding the 45 degree angle but differed on the ground level setback requirement from the rear boundary (i.e. 3m vs 5m).</p> <p>These proposed controls in DDO18 are not aimed at restricting development but are designed to protect key elements such as sensitive rear interfaces and limiting overshadowing whilst still allowing for appropriate land use and built form outcomes.</p> <p>Therefore, officers are of the view that the inclusion of selective mandatory controls in the DDO18 is appropriate and reflects best practice for achieving balanced built form outcomes.</p>
Remove the proposed two new heritage overlays from C273	<p>Officers do not support the SAC's recommendations relating to the removal of the heritage overlays from C273.</p> <p>The report states that the SAC was unable to establish the importance of interwar shops and factories to the City of Yarra. Further, it stated that the comparative analysis that supports the proposed heritage overlay did not provide any comparable individually significant places within the City of Yarra or elsewhere.</p> <p>The heritage report that informed the preparation of C273 included in-depth analysis to inform the Statement of Significance. During the SAC hearing the heritage expert expressed support for their inclusion in the heritage overlay. Additional comparative analysis has been undertaken to address the SAC's recommendation and further support this element of C273yara.</p> <p>The places identified for inclusion may not represent the majority of heritage places for Yarra but were still found to be of significance.</p>

	<p>No submission questioned the significance or requested their removal from C273.</p> <p>Council officers do not support the removal of the two heritage overlays from C273 and recommend they remain part of C273, as exhibited.</p>
<p>Reducing the rear ground level setback from 5 metres to 3 metres in Precincts 2 and 3B</p>	<p>Officers do not support this recommendation.</p> <p>In response to submissions during the exhibition, Council resolved to increase the ground floor rear setback from 3 to 5 metres. Owners and occupiers along these precincts were notified of this change. No further submissions were received.</p> <p>A 5 metre ground level setback to the rear improves landscaping opportunities between new development and residential boundaries, assists to retain the area's treed character and mitigate visual bulk. The urban design evidence at the SAC hearing supported this change as it improves the rear setback profile, creates a landscape buffer and promotes urban greening.</p>
<p>Increase the rear boundary wall height from 5 metres back to 8 metres in Precinct 2 as exhibited</p>	<p>Officers support this recommendation.</p> <p>In response to submissions from the community around Precinct 2, the rear boundary wall height was reduced from 8 to 5 metres.</p> <p>Commercial buildings require flexibility in floor-to-ceiling heights and a 5-metre rear wall height may restricts this unreasonably. The 5 metre rear ground level setback in combination with the mandatory 45 degree envelope above the rear boundary wall provide a sufficient transition between new development and the adjacent residential properties.</p> <p>During the hearing, the urban design and planning experts did not support the reduction of the rear boundary wall height from 8 to 5 metres.</p>
<p>Make other drafting and structural refinements to DDO18, such as:</p> <ul style="list-style-type: none"> – Relocate precinct specific objectives from the main body of the DDO into the design objectives at Clause 1; – Make mapping clarifications such as stating 'indicative viewline' for the view cone 	<p>Officers partially support these recommendations.</p> <p>Relocating the precinct specific objectives into the design objectives in Clause 1 of DDO18 is not possible due to the form and content requirements from State Government to only include a maximum of 5 objectives.</p> <p>Officers support the recommended mapping clarifications.</p> <p>Officers do not support specifying which size canopy tree should be allowed within the front setback. A case-by-case approach, through detailed design, is sufficient to determine the appropriate tree size. This will retain the</p>

<p>towards the heritage chimney at Precinct 1 and showing setback distances on Map 2</p> <ul style="list-style-type: none">– Specifying ‘small’ canopy trees within front setbacks due to balconies overhanging– Wording clarifications to some requirements and deletion of duplication or unnecessary requirements– Exempting telecommunication facilities from a permit under DDO18	<p>flexibility to accommodate larger canopy trees where possible.</p> <p>Officers generally support the other recommendations relating to simple wording clarifications and deletion of a duplicate design requirement regarding fine grain shop fronts (unless stated otherwise).</p> <p>Officers support the recommendation to exempt telecommunication towers from a planning permit under DDO18 as they are controlled through Clause 52.19.</p>
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22. Attachment 5 shows all officer recommended changes to DDO18 against the version last adopted by Council before the SAC Hearing.
23. Attachment 6 includes a ‘clean’ version of DDO18 (as in Attachment 5 but without track changes).
24. Attachment 7 includes the additional comparative analysis by an independent heritage expert to address the SAC’s recommendation to remove the proposed heritage overlays.
25. Attachment 8 includes the local policy (Clause 11.03-1L Activity Centres), heritage overlay schedule and statements of significance other formal planning scheme amendment documents that are consequential to the proposed changes described above.
26. Attachment 9 includes the strategic heritage and traffic analysis that has informed the amendment and will become part of the background documents to the planning scheme.
27. The built form framework (Attachment 10) has generally informed C273. Due to differences in heights, rear requirements and mandatory vs. preferred requirements between the framework, expert evidence during the hearing and the proposed DDO18, the framework is no longer proposed to be a formal background document.
28. This is consistent with the approach taken in C231 Queens Parade. It would pose potential for confusion if it were included as a background document.

Options

29. Council has three options.

Option 1 – Adopt C273 without changes to the officer's recommendation and request the Minister prepare and approve a Section 20(4) Amendment

Recommended

30. This is recommended as adopting C273 with the officer recommended responses provides greater consistency with the amendment that was exhibited and includes the clarifications that the SAC recommended be made.

Option 2 – Adopt C273 with changes to the officer’s recommendation and request the Minister prepare and approve a Section 20(4) Amendment

Not recommended

31. Depending on the changes made, it could undermine the integrity of C273 due to a lack of strategic justification or contradicting the reasons applied to prepare DDO18.

Option 3 - Abandon C273 and request the Minister to not pursue it

Not recommended

32. Abandoning C273 would mean the interim DDO18 would expire in June 2025. An extension to its expiry date without progressing the amendment is unlikely to be supported by the Minister for Planning. This option is not recommended.

Community and stakeholder engagement

33. Awareness of proposed built form provisions was first raised with an interim DDO18 request as part of C272yara in 2020 and community engagement in 2021.
34. Public exhibition of C273 included a wide-spread engagement effort, including notice in the Age, direct letter to 700 owners and occupiers, contacting previous submitters and community groups, social media posts, e-newsletter articles to 13,000 subscribers and dedicated webpages.

Strategic Analysis

Alignment to Council Plan

Strategic Objective three - Local economy

- 3.5 Manage access, safety and amenity to enhance people’s experience when visiting Yarra

Strategic Objective four - Place and nature

- 4.4 Protect, promote and maintain our unique heritage and ensure development is sustainable
35. C273 would assist in achieving these objectives as it would provide greater built form and design consistency, set clear expectations for new development in terms of built form and design and how to respond to public and residential interfaces.

Climate emergency

36. The amendment will help facilitate sustainable development in locations with good access to employment, public transport and other amenities.
37. Policy and other provisions elsewhere in the Yarra Planning Scheme respond specifically to the climate emergency, namely Clause 15.01-2L-01 Environmentally Sustainable Development (ESD) in the Local Planning Policy section.

Community and social implications

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

Economic development implications

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

Human rights and gender equality implications

- 42. There are no known human rights implications for requesting the Minister for Planning to approve the permanent DDO18 and HO provisions.

Finance and Resource Impacts and Interdependencies

- 43. The fee associated with requesting the Minister for Planning to prepare and approve a Section 20(4) amendment are covered within the Strategic Planning budget.

Legal and Legislative obligations

Conflict of interest disclosure

- 44. Section 130 of the Local Government Act 2020 requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.
- 45. The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.
- 46. The amendment would be progressed in accordance with the provisions of the Planning and Environment Act 1987 and Yarra Activity Centres Standing Advisory Committee Terms of Reference issued by the Minister for Planning on 10 June 2021.
- 47. Council must ensure natural justice to all parties and to maintain the integrity of the Amendment process per Section 32 of the Terms of Reference.

Risks Analysis

- 48. There are no risks associated with adopting C273.
- 49. Abandoning C273 would result in a risk that the interim DDO18 that currently applies to the area would expire and no locally specific built form guidance would exist.

Implementation Strategy

Timeline

- 50. Assuming Council adopts C273, Council would request the Minister for Planning prepare, adopt and approve C273 as adopted under Section 20(4) of the Act.
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Communication

51. Participants to the SAC Hearing would be notified of Councils decision.
52. Should C273 be approved by the Minister for Planning, the amendment would become part of the Yarra Planning Scheme upon notice in the Victorian Government Gazette.

Report attachments

1. 7.8.1 Attachment 1 - C273 Yarra Activity Centres SAC - Report on draft Amendment
2. 7.8.2 Attachment 2 - C273 Yarra Activity Centres SAC - Overarching Report
3. 7.8.3 Attachment 3 - C273 Officer Response to SAC Report Appendix D - DDO18
4. 7.8.4 Attachment 4 - C273 Officer Response to SAC Recommendations
5. 7.8.5 Attachment 5 - C273 DDO18 Track Changes in latest Council Adopted Version
6. 7.8.6 Attachment 6 - C273 DDO18 for Adoption
7. 7.8.7 Attachment 7 - C273 Additional Comparative Heritage Analysis
8. 7.8.8 Attachment 8 - C273 Other Amendment Documents
9. 7.8.9 Attachment 9 - C273 Heritage and Traffic Background Documents
10. 7.8.10 Attachment 10 - C273 Heidelberg Road Built Form Framework