

Report to the Future Melbourne Committee**Agenda item 6.3****Planning Scheme Amendment C407 Arden Structure Plan****20 September 2022****Presenter:** Evan Counsel, General Manager Strategy, Planning and Climate Change**Purpose and background**

1. The purpose of this report is to respond to the gazettal of Melbourne Planning Scheme Amendment C407MELB – Implementation of the Arden Structure Plan July 2022 (Amendment) and to identify the next steps for City of Melbourne (CoM) to ensure State Government commitment to achieving the vision for Arden as a new destination in Melbourne that sets a new standard of urban renewal, at the forefront of sustainable development.
2. Council Plan Major Initiative 17 is to play a lead role in facilitating the delivery of high-quality and climate adapted urban renewal in Arden. Arden is located approximately two kilometres from the central city, centred on the new Arden Metro Station within our North Melbourne and Kensington neighbourhoods.
3. The Amendment establishes the planning framework that will guide Arden's development over the next 30 years. The Amendment includes rezoning much of the land to the Special Use Zone and introducing new schedules to the Design and Development Overlay, Development Contributions Plan Overlay and Parking Overlay.
4. The Amendment was prepared by the Victorian Planning Authority (VPA). The Minister for Planning is the planning authority and approved the Amendment on 22 June 2022 under section 20(4) of the *Planning and Environment Act 1987* (Act). Notice of its approval was published in the Victorian Government Gazette on 28 July 2022. The lead agency for Arden is the Department of Transport (DoT).
5. The VPA consulted on the draft Amendment between 13 September and 11 October 2021. 109 submissions were lodged. CoM's submission was endorsed by FMC on 5 October 2021. The draft Amendment and all submissions were referred by the Minister for Planning to the VPA Projects Standing Advisory Committee (SAC). The SAC hearing was held from 8 February to 25 March 2022. The findings and recommendations of the SAC were published on 2 May 2022 and publicly released on 16 May 2022.
6. In October 2021, the DoT wrote to CoM expressing that, while subject to confirmation within government, a greater proportion of affordable housing within Arden Central is being pursued and is expected to exceed 10 per cent of all housing on government land.

Key issues

7. Council partnered with the VPA to release the Arden Vision in 2018. In endorsing the draft Arden Structure Plan for consultation in June 2020, Council noted that key terms of the June 2018 resolution on the Arden Vision had not been met. In September 2021 the VPA released, for public consultation, the Arden Structure Plan and the draft Amendment 'in consultation' with CoM rather than 'in partnership' as a number of key issues identified by CoM were unresolved.
8. The unresolved issues were prosecuted by CoM in submission to the VPA and through the SAC. They included the high and discretionary density controls, lack of mandatory affordable housing contributions, lack of mandatory Ecologically Sustainable Development (ESD) requirements, lack of commitment to de-coupled and consolidated parking, overshadowing of public open space, land use controls which undermined the vision, no third-party notice and appeal rights (except for limited uses in Arden North and Laurens Street sub-precincts), and deficiencies with the Development Contributions Plan (DCP), including a funding gap.
9. In participating in the SAC, Council sought to resolve these issues in an independent and transparent process that supported equal access for all submitters. Council was represented by a legal team led by Senior Counsel and independent experts in the following disciplines: planning, urban design and development contributions. A number of other parties participated in the SAC.
10. The purpose of the SAC was to provide advice to the VPA and the Minister for Planning. The SAC report addressed all the matters raised making recommendations as to the most appropriate way forward in respect of planning in Arden.
11. The Amendment has resolved a number of Council's issues with the DCP and infrastructure delivery responsibility, eliminating much of the risk associated with Council previously being identified as the Development Agency for the drainage land acquisition projects costed at \$217,200,000. The DCP also assigns responsibility for the funding gap of \$46 million to the Victorian Government. The risk associated with the capping or remediation of the gas pipeline in Arden North has not been resolved and continues to sit with Council as the Development Agency.

12. However the Amendment fails to adopt key recommendations of the SAC, including the following which are of particular interest to Council:

- 12.1. affordable housing should be mandatory (subject to legality)
- 12.2. floor area ratios should be reduced and made mandatory
- 12.3. ESD controls should be discretionary requirements in the Design and Development Overlay
- 12.4. car parking controls should include mandatory maximums for private parking
- 12.5. Third-party notice rights should be retained in the zone and overlays.

These matters are described and their implications expressed in Attachment 2.

13. As the draft Amendment was considered by a SAC (not a Planning Panel) and the Amendment approved under 20(4) of the Act, the planning authority has not been subject to all the statutory requirements of Divisions 1, 2 and 3 of the Act. This includes providing the reasons why any recommendations of the panel were not adopted and a description of, and the reasons for, any changes made to the Amendment. This has meant the reasons for departing from the SAC's recommendations are not known.
14. The Amendment is a primary implementation pathway for achieving the key directions of the *Arden Vision* and the objectives and strategies of the Arden Structure Plan - July 2022. The disconnect between these documents and the gazetted planning controls means that achieving key directions of the vision is at risk, including designing a distinctive place, embedding sustainable change and accommodating diverse communities.
15. To position Arden as a leading renewal precinct, alternative implementation pathways must be established to achieve the shared commitment to the vision for Arden. The State Government must play a leading role, including undertaking a commitment to curate innovation and employment generating land uses, lead ecologically sustainable development to achieve net-zero emissions, and to deliver a greater provision of affordable housing.
16. Robust agreements between CoM and the appropriate government agencies, including 'works in kind' and 'memoranda of understanding' are required to establish a governance structure which will deliver a precinct that meets the key directions of the Arden Vision, ensures the delivery of catalytic infrastructure, and enables a thriving new inner city community to establish.

Recommendation from management

17. That Future Melbourne Committee:
- 17.1. requests the Lord Mayor write to the Minister for Planning and the Minister for Transport Infrastructure:
 - 17.1.1. Advising Council remains committed to the vision for Arden and it will hold the government to account in creating a new destination within Melbourne and a world-class innovation precinct.
 - 17.1.2. Expressing concern that the gazetted Amendment puts the achievement of the vision at risk.
 - 17.1.3. Requesting the State identify delivery pathways and mechanisms to resolve the following matters to ensure Arden realises its vision as a new destination within Melbourne and a world-class innovation precinct:
 - 17.1.3.1. Achieving the delivery of high-quality, accessible, social and affordable housing at scale and the achievement of more than 10 per cent of all housing on government land in Arden as affordable housing.
 - 17.1.3.2. Achieving the sustainability targets established in the Arden Vision, including securing a mechanism for achieving the zero net emissions by 2040 target.
 - 17.1.3.3. Delivering a thriving innovation district through the curation of employment generating uses.
 - 17.1.3.4. Resolving key issues in relation to the integrated storm-water management open space in Arden North, including its delivery and its realisation as an active open space for our community with an established co-design process and governance agreement(s) for the delivery, management and control of the recreation and open space.

- 17.1.3.5. Mechanisms to ensure its buildings and urban design contribute to high quality streets and open spaces.
- 17.1.3.6. Mechanisms to ensure transparency in development, including the delivery of community infrastructure and development staging.
- 17.1.4. Expressing Council's concern that a primary implementation pathway for the Arden Vision and Arden Structure Plan – July 2022, Amendment C407 fails to adopt many of the recommendations of the VPA Projects Standing Advisory Committee (SAC), following extensive consideration of submissions from 109 parties and independent analysis and testing of expert evidence.
- 17.1.5. Requesting, in the interest of transparency for the community, that the Minister for Planning publicly release the reasons why the recommendations of the SAC were not adopted and provide a description of, and the reasons for, any changes made to the Amendment.
- 17.2. Endorses Managements ongoing work with the State Government to prepare robust agreements including a Memorandum of Understanding to secure the delivery and funding of key infrastructure projects which will unlock the development potential of the precinct and act as a catalyst for development.

Attachments:

- 1. Supporting Attachment (Page 4 of 22)
- 2. Comparison of key issues (Page 6 of 22)

Supporting Attachment

Legal

1. Planning Scheme Amendment C407-MELB was approved by the Minister for Planning under Section 20(4) of the Act.
2. Section 20(4) of the Act provides:

The Minister may exempt himself or herself from any of the requirements of sections 17, 18 and 19 of the Act and the regulations under the Act, in respect of an amendment which the Minister prepares, if the Minister considers that compliance with any of those requirements is not warranted or that the interests of Victoria or any part of Victoria make such an exemption appropriate.

Finance

3. Costs for the Council's participation in the VPA SAC were budgeted within the 2021–22 budget.
4. Costs associated with delivery of Major Initiative 17 are budgeted within the 2022-23 budget.
5. The DCP identifies and commits to delivering \$365m worth of projects, out of which \$304m will be funded by Arden DCP revenue over a 25 year period. The DCP assigns \$46m of the funding gap to the Victorian Government. The draft Macaulay DCP proposes \$6m of contribution to Arden projects, to be funded over a 25 year period. Council will fund the remaining \$9m via the Annual Plan and Budget process over the 25 year period.

Conflict of interest

6. A member of Council staff involved in the preparation of this report declared a general conflict of interest to the CEO, owing to a personal relationship with a staff member of the DoT.
7. No other member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

Health and Safety

8. In developing this proposal, no Occupational Health and Safety issues or opportunities have been identified.

Stakeholder consultation

9. In 2016, Council consulted in partnership with the VPA on a draft Arden Vision and Framework, which resulted in the 2018 co-publication of the Arden Vision.
10. In 2019-20, Boon Wurrung, Bunurong and Wurundjeri Traditional Custodians participated in a three-phase consultation to provide an indigenous view of future approaches to water, land, community and employment for Arden and surrounding precincts.
11. From 29 June to 23 August 2020 (eight weeks), CoM and VPA led a broad public consultation process on the draft Arden Structure Plan. This reached 350,000 people. The views of 490 people were collected via a range of platforms. People were interested in a variety of matters including the character and scale of buildings, sustainability, affordable housing, parks and open space, and car parking. CoM and VPA also met with key landowners in the precinct to discuss the draft Plan. A summary of the community engagement process and findings was released in February 2021 and is available on Participate Melbourne.

12. The VPA led public consultation on the Arden Planning Package, including the draft Amendment. Notification was given to residents and businesses within a 1km radius. The VPA received 109 submissions on the draft Amendment. All submissions were referred by the Minister for Planning to the VPA SAC

Relation to Council policy

13. Council Plan 2021–25 Major Initiative 17 is to play a lead role in facilitating the delivery of high-quality and climate-adapted urban renewal and to realise conditions to support globally competitive innovation.

Environmental sustainability

14. In responding to the draft Amendment, CoM officers have advocated for the implementation of Council policy.

Comparison of CoM key issues through the Arden Planning Process

The following tables are a summary of key issues, relevant to City of Melbourne (CoM) through the Arden Planning Process. They compare:

- The ordinance released for consultation by the Victorian Planning Authority (VPA) (13 September to 11 October 2021).
- The CoM position endorsed at FMC on 5 October 2022 and prosecuted at the Standing Advisory Committee (SAC) (8 February to 25 March 2022).
- The recommendations of the SAC (publicly released 16 May 2022).
- The controls approved by the Minister for Planning (22 June 2022) and published in the *Victorian Government Gazette* (28 July 2022).
- The implications of the gazetted controls for CoM and the realisation of the *Arden Vision, 2018*.

The key issues are grouped by theme. In addition to the key issues identified, there are a number of drafting errors which may complicate the administration and implementation of the planning controls, these are considered editorial and have been provided to the VPA.

Table key:

Amber – Some alignment with CoM position and/or SAC recommendations – assessed to be an acceptable outcome.

Red – No alignment with CoM position and/or SAC recommendations.

Infrastructure delivery and development contributions – including the Development Contributions Plan (DCP)

VPA's consultation version (2021)	CoM submission	SAC recommendation	Gazetted version	Gazetted version alignment with CoM position / SAC recommendation	Implication (and relevant Arden Vision Key Direction)
Gap Funding The funding gap was not identified in the DCP and the responsibility for the gap sat with CoM as the Development Agency for all DCP projects.	CoM submitted that the DCP should explicitly identify the funding gap and assign responsibility to the Department of Transport (DoT) and adjust apportionment of projects to account for the gap.	SAC generally supportive of CoM position however lacked specific recommendations. SAC acknowledged external demand for drainage infrastructure and noted the State Government payment	DCP Table 1 includes the estimated DCP revenue of \$304,339,405, therefore explicitly highlighting there is a funding gap of \$46,052,012. DCP section 3.3 includes allocation to the State	The DCP has not adjusted the apportionment of projects to account for the gap, as submitted by CoM and recommended by the SAC.	The acknowledgement of the funding gap and allocation of this gap to the State Government reduces the risk to CoM as the Collecting and Development Agency for the DCP. The failure to assign the gap to specific projects will mean that the apportionment of projects must be managed as part of

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		of the funding gap should cover external benefits.	Government. It does not assign the gap to specific projects.		future infrastructure funding agreements with the State.
<p>DCP Development Agency</p> <p>Council identified as Development Agency for all DCP projects.</p>	CoM submitted that it be removed as the Development Agency responsible for the provision of drainage land acquisition projects DR-01, DR-02, DR-03, DR-04 and DR-05 and for the delivery of gas utility project UT-01.	<p>SAC generally supportive of CoM position on drainage projects however lacked specific recommendations.</p> <p>SAC lacked any recommendations in relation to UT-01.</p>	<p>The DCP identifies the DoT (or equivalent) as the Development Agency for land acquisition projects DR-01, DR-02, DR-03, DR-04 and DR-05.</p> <p>CoM is assigned Development Agency for the delivery of UT-01.</p>	The Gazetted controls generally align with the recommendations of the SAC (where provided) and CoM, with the exception of CoM's position on UT-01 delivery of gas pipeline remediation / capping.	<p>Delivery of drainage projects is considered catalytic infrastructure to enable renewal of the precinct.</p> <p>The Victorian State Government assumes responsibility for the delivery and funding of \$217,200,000 of drainage land acquisition and the associated risk. This risk was previously with CoM.</p> <p>In relation to UT-01 – this risk remains with the CoM. CoM will need to negotiate with Melbourne Water/DoT or equivalent agency to undertake this project as it is part of the delivery of the Integrated Stormwater Management Open Space in Arden North.</p>
<p>Government as Actor</p> <p>Governance structures and implementation agreements deferred to after the finalisation</p>	CoM submitted there is the need for direct government involvement to ensure	The SAC did not provide specific recommendations for State Government, despite the implementation of the	DCP has been amended to include Section 4.8 Acquisition of Land and Public Acquisition Overlay Schedules 8	Matter requires further commitment from CoM and DoT to resolve outside of the planning scheme amendment. The SAC	CoM require robust agreements with a number of State agencies including 'Works in Kind' and Memoranda Of Understanding for the implementation of infrastructure in Arden, including

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of the planning scheme amendment.	the Arden Vision is realised.	Public Acquisition Overlay's (PAO) being subject to a number of submissions at the SAC.	and 9. This section explains that the DoT is responsible for private land acquisition required to deliver road widening and the drainage and flood mitigation strategy.	recommended that the State Government will need to take a hands-on role to deliver the vision.	<p>the land for road widening for the proposed tram route and land for the drainage and flood mitigation strategy.</p> <p>These agreements have not yet been formed and their form and function confirmed. There is a commitment from the DoT to continue to work with CoM to establish a governance structure.</p>
<p>Clause 53.01 Open Space Contributions delivering space for roads</p> <p>Proposed landscaping in road reserves to be delivered by Clause 53.01 Open Space Contributions as credited open space.</p>	CoM did not support crediting projects under Clause 53.01 for open space on encumbered land, such as road reserves.	<p>The VPA approach taken to the categorisation of open space as credited or uncredited is appropriate.</p> <p>This includes crediting the proposed landscaping in road reserves.</p>	Landscaping in road reserves credited under Clause 53.01. Open Space Contributions will be used to deliver infrastructure such as integrated water management and median planting.	Inconsistent with CoM's submission that the proposed landscaping should not be credited open space under CI53.01. Controls generally consistent with the SAC recommendations.	<p>Crediting landscaping in road reserves means money collected under Clause 53.01 will be diverted from its purpose under CoM's Open Space Strategy 2012 of funding unencumbered open space, to delivering infrastructure such as integrated water management and street median planting.</p> <p>CoM will need to closely monitor the design and delivery of these spaces to ensure their open space amenity is maximised and in line with the Open Space Strategy.</p> <p>CoM will be required to pay the State or subsequent developers</p>

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					for the over provision of 7.06% open space contributions i.e. the delivery of a central median within road reserve.

Land use – Special Use Zone Schedule 7 (SUZ7) and Arden Precinct Local Policy

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<p>Affordable housing</p> <p>A strategy dot point to 'encourage the provision of affordable housing'</p> <p>A voluntary policy guideline, to 'consider as relevant' providing a minimum of 6 per cent of dwellings at 50 per cent discount as affordable housing.</p>	<p>Greater ambition than 6 per cent should be achieved.</p> <p>The most equitable solution is to impose a mandatory contribution across all land uses. The contribution should be at least 6 per cent of the floor area of a building, provided at a 50 per cent discount to market value. It can be provided as the sale of dwellings or an equivalent monetary contribution to CoM.</p>	<p>Affordable housing contribution requirements in the zone so they can be made mandatory, subject to establishing that there is a legal power under the <i>Planning and Environment Act 1987</i> to do so.</p> <p>Including in zone means the cost of delivery is factored in to the increase in underlying land value.</p>	<p>Unchanged from the VPA's consultation version, September 2021.</p>	<p>Inconsistent with CoM and SAC recommendation for mandatory requirements. Inconsistent with CoM's submission for a greater ambition than 6% at 50% discount.</p> <p>Inconsistent with CoM's submission that contributions be levied from all land uses, not just residential.</p>	<p>Risks achievement of the following Key Direction of the <i>Arden Vision, 2018</i>:</p> <ul style="list-style-type: none"> Accommodating diverse communities. <p>No statutory requirement to provide affordable housing, or a contribution for its provision.</p> <p>The cost of delivering affordable housing will not be factored into the increase in land value under the rezoning.</p> <p>No mechanism to require a greater contribution on Victorian Government owned land. To date, there has been no further</p>

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	<p>This method provides market certainty for the contribution to be factored into the development of all proposals.</p> <p>Government is a significant landholder, noting correspondence from the DoT as to the government commitment to create opportunities for a greater proportion of affordable housing in Arden Central, which is expected to exceed 10 per cent of all housing on government land (subject to confirmation within government).</p>				<p>information from the DoT about how the government will achieve upwards of 10 per cent affordable housing on government land.</p>
<p>Achieving employment uses</p> <p>A permit requirement for accommodation located in the Arden Central Innovation or Arden North sub-</p>	<p>A percentage rather than storey based control would be more flexible.</p> <p>Deliver the Arden Vision for a predominantly employment focussed</p>	<p>A permit requirement for accommodation where located in the Arden Central Innovation or Arden North sub-precincts when either:</p> <ul style="list-style-type: none"> • Located within the first 6 storeys, or 	<p>A permit requirement for accommodation:</p> <ul style="list-style-type: none"> • Any development located in Arden Central Innovation sub-precinct. • Any accommodation located within the 	<p>Gazetted version differs from CoM submission and SAC recommendation for different permit triggers based on storeys or percentages. The gazetted version</p>	<p>Arden Vision and Arden Structure Plan aspire to a greater number of jobs (two-thirds) than residents.</p> <p>A permit is required for any accommodation in Arden Central Innovation sub-precinct.</p>

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<p>precincts within the first six storeys.</p> <p>Strategies related to employment floorspace and innovative land uses in the local policy.</p>	<p>precinct. Imposing either a mandatory or discretionary requirement with greater guidelines for a development incorporating accommodation (unless in Laurens Street sub-precinct) to provide a minimum 60 per cent of its floor area for a use other than accommodation.</p>	<ul style="list-style-type: none"> Occupying more than 40 per cent of the net floor area above the ground floor. 	<p>first 5 storeys in Arden North sub-precinct.</p> <p>Strategies related to employment floorspace and innovative land uses in the local policy.</p>	<p>introduces a blanket permit requirement for accommodation in Arden Central Innovation.</p>	<p>Under the gazetted controls, a permit may still be applied for and approved for an entirely residential development.</p>

Built form and design – including Design and Development Overlay 80, 81, 82 and 83

VPA's consultation version (2021)	CoM submission	SAC recommendation	Gazetted version	Gazetted version alignment with CoM position / SAC recommendation	Implication (and relevant Arden Vision Key Direction)
<p>Mandatory and Discretionary Floor Area Ratios (FARs)</p> <p>Discretionary FAR controls in:</p> <ul style="list-style-type: none"> All sites in Arden Central Innovation sub-precinct All sites in Arden Central Mixed Use sub-precinct Two blocks of Laurens Street sub-precinct (Lot C and Lot D) <p>Mandatory FARs elsewhere, including all sites in Arden North.</p>	All FAR controls must be mandatory.	<p><i>Setting a maximum FAR provides certainty to the development industry about the development potential of the property and assists in the high level determining of property values. It assists in containing or tempering expectations of developers. This is useful where a strong design imperative applies, and where there are a number of other considerations in developing a building design.</i></p> <p><i>The application of a mandatory floor space cap in a major urban renewal area has the added benefit of enabling accurate estimates of public infrastructure requirements and developer contributions.</i></p>	Unchanged from the VPA's consultation version, September 2021.	Discretionary rather than mandatory FARs were gazetted, contrary to CoM's submission and the SAC recommendation.	<p>Risks achieving the following Key Direction of the <i>Arden Vision, 2018</i>:</p> <ul style="list-style-type: none"> Designing a Distinctive Place <p>The uncapped density prioritises developer yield over 'exemplary urban design'.</p> <p>The two independent urban design experts at the SAC, including the expert appointed by the VPA, supported mandatory FARs across the entire precinct.</p> <p>Due to the way the discretionary controls have been drafted, there are insufficient statutory requirements to provide clear direction on the ultimate form of buildings that exceed the discretionary controls. This may lead to buildings of an inappropriate size and scale. It exacerbates the exclusion of third party notice, as it is unclear what will be delivered in the precinct.</p> <p>'Where discretionary FARs apply:</p>

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					<ul style="list-style-type: none"> • Developers will push to maximise the ill-defined maximum density of each site. • Given the discretionary nature of most other controls, including setbacks and street wall heights, the application process will be contested and difficult for statutory planners. • CoM cannot accurately estimate the future resident and worker population. <p>In addition, discretionary controls allow for a developer to secure approval for higher densities than the range of 6:1-12:1 commonly seen for innovation districts in Melbourne and internationally. FARs greater than 12:1 are more efficiently distributed into podium-tower building typologies, whose smaller tower floorplates are more accommodating of office or residential towers, rather than the desired innovation land uses. This potential yield for lucrative residential uses could crowd out the desired innovation and employment uses from the precinct by their land value.</p>

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<p>Density</p> <p>FARs as high as 17:1 in Arden Central sub-precincts.</p> <p>FARs as high as 9:1 in Arden North sub-precinct.</p> <p>FARs as high as 10:1 in Laurens Street sub-precinct.</p>	<p>The population targets for Arden are based on demographics and trends, not a detailed place analysis.</p> <p>FARs should be reduced to ensure the precinct is not dominated by overly bulky buildings.</p> <p>A lower FAR will allow buildings to be moulded within height and setback controls to better suit their context.</p>	<p>FARs (mandatory) should be reduced to create a desirable 'loose fit' between the floor area control and the larger building envelopes formed by setback and height controls.</p>	<p>Compared to the SAC recommended FARs:</p> <ul style="list-style-type: none"> 9 lots align but were made discretionary 3 lots are greater and were made discretionary 2 lots align 1 lot is lower, however was made discretionary <p>Minor movement of small sites from lot to lot, particularly in Arden North.</p>	<p>The gazetted amendment includes FARs greater than advocated by CoM, and some greater than recommended by the SAC.</p> <p>Discretionary FAR controls will result in higher FARs in practice, contrary to the SAC's recommended mandatory upper limits.</p>	<p>Risks achieving the following Key Direction of the <i>Arden Vision, 2018</i>:</p> <ul style="list-style-type: none"> Designing a Distinctive Place <p>The retention of discretionary FAR controls means it is possible for developers to seek to exceed the discretionary FARs to an undefined limit (due to the drafting of the controls). This undermines the alignment of many of the FARs with the SAC recommendations.</p>
<p>Sustainability</p> <p>ESD provisions are discretionary and almost all are located in the local policy.</p>	<p>Ecologically Sustainable Design (ESD) provisions should include a mix of baseline mandatory standards and discretionary measures, and be in the zone or design and development overlays, not local policy.</p> <p>The content of Melbourne's C376 Sustainable Building</p>	<p>ESD provisions should be discretionary, and be included in the design and development overlays, not in local policy.</p> <p><i>Inclusion of the ESD requirements in the proposed consolidated DDO would reflect the importance of this aspect of the Arden redevelopment as expressed in the</i></p>	<p>Minor changes to the local policy, however ESD provisions are discretionary and almost all remain located in the local policy.</p>	<p>Discretionary policy guidelines to be considered 'as relevant' rather than requirements in the DDO, as per the SAC recommendation and the CoM position that ESD requirements should be in the zone or the overlay (not local policy).</p>	<p>Risks achieving the following Key Directions of the <i>Arden Vision, 2018</i>:</p> <ul style="list-style-type: none"> Embedding Sustainable Change <ul style="list-style-type: none"> Arden as an 'an exemplar of sustainable urban renewal'. <p>Despite the Arden Structure Plan requiring all new buildings to achieve world-leading sustainability performance, statutory planners cannot require</p>

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	Design Amendment should be used as the basis for these requirements, with the performance metrics set at a more ambitious standard, consistent with the Arden Vision.	<i>Structure Plan, and in general reflect the broader community's concern, expressed through submissions and engagement through the Structure Plan development, in achieving a high standard of environmental sustainability within the precinct.</i>			<p>applicants to comply with any Arden-specific sustainability performance measures, including Green Star ratings.</p> <p>No statutory requirements to contribute to CoM's target of net zero emissions by 2040, nor Arden's precinct target of net-zero emissions and a 6 Star Green Star rating.</p> <p>Stronger Green Star rating requirements are in place in Fishermans Bend.</p>
<p>Overshadowing</p> <p>Controls to open spaces predominantly:</p> <ul style="list-style-type: none"> • Discretionary • Measured at 22 September between 11am and 2pm 	<p>Sunlight to public space controls should generally align with Council's Sunlight to Parks amendment (C415), being predominantly:</p> <ul style="list-style-type: none"> • Mandatory • Measured at 22 June between 10am and 3pm. 	<p>Sunlight to public space controls in line with Council policy should not be adopted on the basis that the amendment for C415 was concurrently being considered by the Minister for Planning.</p> <p>Controls for Queensberry Street Linear Park should be deleted.</p>	<p>Minimal change from the VPA's public consultation version, September 2021. Sunlight to public space controls do not align with Council's C415 amendment. The controls remain predominantly:</p> <ul style="list-style-type: none"> • Discretionary • Measured at 22 September between 11am and 2pm. <p>Controls for the Queensberry Street</p>	<p>Inconsistent with CoM's submission that the controls should generally align with C415.</p> <p>Controls generally consistent with the SAC recommendations.</p>	<p>Risks achieving the following Key Directions of the <i>Arden Vision, 2018</i>:</p> <ul style="list-style-type: none"> • Designing a Distinctive Place • Creating Diverse Open Spaces <p>Greater overshadowing of parks and public spaces than allowed in the rest of the municipality under C415, despite the large new population of residents and workers, and imminent development pressure.</p> <p>The Linear Park, running through the centre of Arden Central, will</p>

VPA's consultation version (2021)	CoM submission	SAC recommendation	Gazetted version	Gazetted version alignment with CoM position / SAC recommendation	Implication (and relevant Arden Vision Key Direction)
			Linear Park have been deleted.		be permitted to be overshadowed.
<p>Laneways</p> <p>Shared laneways are to be 8m wide.</p> <p>Pedestrian laneways are to be 9m wide.</p> <p>Through-block links should be 6-9m wide and could be entirely covered.</p>	<p>Generally, laneways should be at least 8m or 9m wide and open to the sky, except for a single covered area one-third of their length or 20m, whichever is shorter.</p> <p>The lanes in Arden Central should be enhanced in status so they cannot be enclosed.</p>	<p>Retain the laneways and through-links map, and apply the controls of DDO1, including the requirement that the distance between through-block links is less than 200m.</p>	<p>The required width of shared laneways pedestrian laneways and through-block links remain unchanged from the VPA public consultation version, September 2021. Through-block links can be entirely covered.</p> <p>A new pedestrian laneway added west of the neighbourhood park in Arden Central.</p> <p>The through-block link between Barwise Street and Arden Street has been enhanced to a shared laneway, meaning it cannot be enclosed.</p>	<p>Inconsistent with CoM's submission seeking to ensure all laneways have maximum enclosure requirements.</p> <p>Controls were generally in accordance with the SAC recommendations.</p>	<p>Risks achieving the following Key Directions of the <i>Arden Vision, 2018</i>:</p> <ul style="list-style-type: none"> Designing a Distinctive Place, Prioritising Active Transport <p>The added and redefined laneways are welcome and support the delivery of the Arden Vision.</p> <p>The failure to require through-block links be open to the sky for most of their length, as submitted by CoM undermines the precinct achieving 'exemplary urban design and built form' as it will create unattractive, unsafe and narrow lanes. These controls will not deliver key high quality connections, including two north-south links in Arden North.</p>
<p>Street wall heights</p> <p>Street wall height controls of 25m (6 storeys) – 33m (8 storeys) in most circumstances.</p>	<p>Street wall heights are too great, overwhelming laneways and narrower streets.</p>	<p>Street wall heights should be reduced generally in accordance with the recommendations of the independent urban design experts.</p>	<p>Street wall heights reduced, but not to the extent recommended by the SAC for:</p> <ul style="list-style-type: none"> Secondary frontages Barwise Street. 	<p>Gazetted controls reduced street wall heights. However, not to the full extent recommended by CoM.</p>	<p>The gazetted controls are a significant improvement on the VPA public consultation version, September 2021.</p> <p>However, where a building is on a corner, the greater street wall</p>

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	On a corner, the higher of the two street wall controls should not extend beyond 50 per cent of the frontage with the lesser control.			General alignment with the SAC recommended controls, except for retaining greater heights to secondary frontages and Barwise Street.	height control is allowed to wrap around the entirety of both frontages, even if one is a laneway. As a result, most of the lower laneway street wall height controls are redundant, resulting in more enclosed and less attractive lanes. Bulkier buildings are possible on Barwise Street, which is intended to be the retail high street and a key east-west street connecting to Arden Station.
<p>Setbacks</p> <p>Setbacks of 5m to the street above the street wall height in most cases.</p> <p>Setbacks of 7.5m-12.5m to the side and rear boundaries, but only above the street wall height in most cases.</p> <p>Separation between buildings on the same site of 12m-18m.</p>	<p>Setback controls will:</p> <ul style="list-style-type: none"> • Result in overly bulky buildings. • Overwhelm streets and laneways. • Provide poor internal amenity. • Insufficiently separate buildings. 	<p>Setbacks should be increased generally in accordance with the recommendations of the independent urban design experts.</p> <p>Setbacks should be introduced below the street wall height to ensure adequate separation between habitable rooms.</p>	Setbacks are in accordance with the SAC recommendations.	Generally in alignment with CoM submission and SAC recommendations, except for the erroneous setback control for habitable rooms to laneways.	<p>The gazetted controls are a significant improvement on the VPA public consultation version, September 2021.</p> <p>The SAC recommended control for habitable room setbacks to laneways has resulted in a poorly drafted control – this must be amended to accord with the urban design experts' recommendation.</p>

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<p>Public realm interface</p> <p>A limited number of public realm interface controls.</p>	<p>CoM submitted that urban design provisions should be subject to a separate DDO.</p> <p>The active street frontage controls and building services requirements would result in long stretches of unappealing ground level frontages to streets and laneways.</p>	<p>Apply DDO1 to Arden (which addresses these matters).</p>	<p>Interface controls generally in accordance with DDO1.</p>	<p>CoM submitted and the SAC supported the application of DDO1 to the Arden precinct. While Amendment C407 does not do this, provisions in DDO1 have been introduced into the Arden DDOs.</p>	<p>The gazetted controls are a significant improvement on the VPA public consultation version, September 2021. Interface controls are now in general alignment with expectations for the central city.</p>
<p>Design excellence</p> <p>All applications are required to submit a report detailing how design excellence is achieved.</p> <p>Design review or a design competition must be undertaken as the pathway to exceed preferred FARs and heights.</p> <p>No requirement for the design review or competition process to be endorsed by CoM.</p>	<p>The requirements should make clear that design excellence is achieved by a design review or a design competition process which has been approved by CoM.</p> <p>Design excellence processes should not be used as the pathway to exceed preferred FARs- this is contradictory.</p> <p>Processes should be required for important sites, identified on a map.</p>	<p>No explicit recommendation was made about design excellence provisions.</p>	<p>A precinct wide requirement to submit a report detailing how an application was designed to a high standard is now labelled 'high quality design'.</p> <p>The requirement to undertake a design review or competition is to the satisfaction of the responsible authority.</p> <p>A design review or competition is required when an application</p>	<p>The gazetted provisions no longer conflate 'high quality design', which is expected everywhere in Arden, with 'design excellence', which CoM submitted should be considered as a benchmark only achieved by design review or competition.</p> <p>Gazetted version does not provide CoM with sign off on design excellence</p>	<p>CoM preferred to have sign off on all design reviews and competitions, including when the Minister is the responsible authority. This would have helped keep design processes, expectations and outcomes consistent in quality, however this has been included to the satisfaction of the relevant responsible authority.</p> <p>While the gazetted DDOs reference the requirement of a design review or competition for mapped sites, the Map has not been included in the DDO. It is understood that the reference to the map has been included in</p>

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			exceeds the preferred FAR. The gazetted DDOs identify that a design review or competition is also required on sites identified in map (noting, the relevant DDO map has not been included in the gazetted controls).	processes, contrary to our submission. No key sites map is included to trigger a design review or competition. Instead, these processes are triggered by exceeding a discretionary FAR. This would not be possible if CoM's submission and the SACs recommendation that FARs should be mandatory was adopted. The SAC did not make explicit recommendations in relation to Design Excellence.	error and the requirement for a design review or competition will only apply where a development exceeds a preferred FAR.
Character Limited reference in the schedules to retaining or enhancing the character of each sub-precinct.	Insufficient requirements to ensure development retains desirable aspects of the sub-precinct's character.	Require development to help to deliver the relevant sub-precinct's preferred character.	Removed the sub-precinct character requirements and re-instated sub-precinct objectives. The requirement for development in Arden	Character requirements, as recommended by both CoM and the SAC, were not included in the gazetted version.	The precinct objectives do not provide explicit requirements to contribute to the character statements recommended by the SAC. Buildings in Arden North will not be required to retain or re-

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			North to retain the industrial character of buildings to street facing elevations has been removed.		interpret the street facing industrial materials, shapes and windows/doors which give the sub-precinct its strong character.

General issues relevant to multiple planning provisions

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<p>Parking</p> <p>Maximum on-site car parking rates were not explicitly mandatory.</p> <p>No requirement for car parking to be retained in single ownership.</p>	<p>Parking rates for on-site car parking must be mandatory to assist in achieving the Arden Vision of 90 per cent non-car modal share target. A requirement in the zone that car parking must be held in single ownership.</p> <p>More explicitly discourage on-site car parks and encourage publicly accessible consolidated car parks.</p>	<p>To ensure the delivery of consolidated parking the SAC supported a mandatory maximum provision of car parking, outside of consolidated parking.</p> <p>If a developer sought to provide more parking on site than a mandatory maximum, parking would have to be provided as consolidated parking.</p>	<p>Substantially revised re-draft, however:</p> <ul style="list-style-type: none"> Maximum on-site car parking rates are included in the Parking Overlay and are not explicitly mandatory. No requirement for car parking to be retained in single ownership. 	<p>Car parking rates are not mandatory, contrary to the CoM submission and SAC recommendation.</p> <p>Encouragement of consolidated car parking, including no requirement for car parking to be in single ownership, contrary to CoM submission.</p>	<p>Risks achieving the following Key Direction of the <i>Arden Vision, 2018</i>:</p> <ul style="list-style-type: none"> Prioritising active transport Designing a distinctive place Embedding sustainable change <p>Due to the drafting of the control in the Parking Overlay rather than the Special Use Zone, there is a pathway to exceeding the maximum on-site car parking rates in C152.06.</p> <p>By not requiring all car parking to be held in single ownership:</p> <ul style="list-style-type: none"> The existing model of attaching car spaces to

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					<p>the sold title of dwellings will likely continue, contributing to the growth of car trips in the precinct and inefficient use of space.</p> <ul style="list-style-type: none"> Adapting the space to a different use in the future is made more difficult due to the fragmentation of lots. <p>Without more explicit encouragement of consolidated car parks open to the public, there is less incentive to provide them.</p>
<p>Third party notice and review rights</p> <p>No third party notice or review rights except for an application to use land in the Arden North and Laurens Street sub-precincts for a:</p> <ul style="list-style-type: none"> Function centre Nightclub Tavern Adult sex bookshop Amusement parlour 	<p>Exemption from notice and review rights should only be applied to subdivision applications.</p> <p>There is insufficient certainty in the planning controls about the future built form to apply notice and appeal exemptions for buildings and works.</p> <p>Sensitive land uses will be located alongside other active uses</p>	<p>The SAC agreed that the potential for third party appeals to VCAT should be avoided, especially given costs, and long delays that this can entail.</p> <p>a) retain notice provisions in the zone and overlays b) exempt third party appeal rights (as proposed).</p>	<p>Minor update to include Bar in place of Tavern, otherwise unchanged from VPA consultation version September 2021.</p>	<p>Most notice rights and all appeal rights are exempted, contrary to CoM submission.</p> <p>Exempting notice provisions is contrary to the SAC recommendation.</p>	<p>While the exemptions do not prevent a person from making an objection, there be will be no obligation for them to be notified.</p> <p>The exemptions in regard to built form are inappropriate given the predominately discretionary suite of controls throughout the Arden Central sub-precincts and part of Laurens Street sub-precinct.</p> <p>As per the September 2021 version, CoM will be notified of applications where the Minister is the Responsible Authority as it is</p>

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<ul style="list-style-type: none"> Hotel 	throughout Arden, and so retaining notice and review rights will add value by allowing for community participation in decisions.				listed as a recommending referral authority.