

URBAN PLANNING SPECIAL COMMITTEE

REVISED AGENDA

6.30pm, Monday 17 September 2012

Council Chamber, 8 Inglesby Road, Camberwell.

Order of business

- 1. Apologies**
- 2. Adoption and confirmation of the minutes of the Urban Planning Special Committee meeting held on 3 September 2012**
- 3. Declaration of conflict of interest of any councillor or council officer**
- 4. Presentation of officer reports**
 1. 735 Glenferrie Road, Hawthorn
 2. 629 Canterbury Road, Canterbury
 3. 291-293 Auburn Road, Hawthorn
 4. August 2012 - VCAT Decisions and Decisions Under Delegation
 5. Boroondara Heritage Action Plan
- 4.01 Supplementary report**
 6. Submission to the State Government's Reformed Zones Review
- 5. General business**
- 6. Urgent business**
- 7. Confidential business**

Close of meeting

13 September 2012
(Date of Issue)

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UPC6 Submission to the State Government's Reformed Zones Review

Abstract

In July this year, the Minister for Planning announced that as part of the Reformed Zones review, the State Government is reviewing the existing suite of business, residential, rural and industrial zones which apply across Victoria.

The review seeks to implement the policy objectives identified in the Victorian *Liberal Nationals Plan for Planning 2010* and is a response to some of the findings of the review into the Victorian Planning System undertaken in 2011 which recommended greater clarity in the zone provisions.

The Minister has released draft provisions for the proposed new Commercial 1, Commercial 2, Residential Growth, General Residential and Neighbourhood Residential zones. These zones seek to replace the existing suite of residential and business zones. The reform also proposes amendments to a range of existing zones including the industrial, rural and green wedge zones.

The Minister is seeking submissions to the reformed zones from local government, stakeholders and the community. Comments are sought by 21 September 2012.

Officers have prepared a submission to the Reformed Zones review on behalf of Council. Also attached is a submission prepared by Maddocks Lawyers on behalf of the Eastern Metropolitan Group of Councils in relation to the review.

Officers' recommendation

That Council resolve to:

1. Adopt the submission to the State Government's Reformed Zones review (as provided in Attachment 1 and annexed to the minutes) and submit it to the State Government before 21 September 2012.
2. Endorse the submission prepared on behalf of the Eastern Metropolitan Group of Councils (as provided in Attachment 2 and annexed to the minutes).

**Responsible director: John Luppino
City Planning**

1. Purpose

In July this year, the Minister for Planning announced that as part of the Reformed Zones review, the State Government is reviewing the existing suite of business, residential, rural and industrial zones which apply across Victoria.

The review seeks to implement the policy objectives identified in the Victorian *Liberal Nationals Plan for Planning 2010* and is a response to some of the findings of the review into the Victorian Planning System undertaken in 2011 which recommended greater clarity in the zone provisions.

The Minister has released draft provisions for the proposed new Commercial 1, Commercial 2, Residential Growth, General Residential and Neighbourhood Residential zones. These zones seek to replace the existing suite of residential and business zones in Victoria. The reform also proposes amendments to a range of existing zones including the industrial, rural and green wedge zones.

The Minister is seeking submissions to the reformed zones from local government, stakeholders and the community. Comments are sought by 21 September 2012.

The purpose of this report is to advise Council of the changes proposed in the Reform, to highlight the issues which officers have raised in Council's submission; and seek Council's adoption of the submission provided in **Attachment 1**.

Having regard to the deadlines for submissions and timing associated with the reform, officers have also attached a copy of the submission prepared by Maddocks Lawyers on behalf of the Eastern Metropolitan Group of Council for Council's endorsement.

2. Policy implications and relevance to council plan

Preparation of a submission to the State Government's Reformed Zones review on behalf of the City of Boroondara implements the Key Direction *Ensuring liveability and amenity - We will protect and improve the character of our neighbourhoods for current and future generations* in the Council Plan (June 2012).

Once finalised, the proposed new zones will be implemented into the Boroondara Planning Scheme via a planning scheme amendment. There may be opportunity to reflect Council's local planning policy objectives via the zone provisions.

It should be noted that officers have identified some conflicts between the draft zone provisions and Council's planning objectives as expressed in the Activity Centres Strategy and structure plans. These are discussed in the report.

3. Background

The Reformed Zones review seeks to implement the State Government's policy objectives as outlined in the Victorian *Liberal Nationals Plan for Planning 2010* and is a response to some of the findings of the review into the Victorian Planning System undertaken in 2011, which has recommended greater clarity in the zone provisions.

A broad review of Victoria's planning framework is being undertaken by the State Government to provide greater certainty for planning outcomes and to promote economic prosperity at a state, regional and local level. The possible introduction of the VicSmart ('code-assess') process for considering straightforward, low-impact planning applications and the Zones Reform review are two key directives in delivering certainty for planning outcomes proposed by the State Government.

The proposed new zones were released for public comment on 17 July 2012 this year. The Minister is seeking feedback from local councils, the community and stakeholders by 21 September 2012. The Department of Planning and Community Development (DPCD) has set up a webpage on the DPCD website which provides links to the draft zone provisions and provides fact sheets summarising key features of the changes. DPCD has undertaken some consultation with local government regarding the new zones however the information provided in these sessions has been limited to clarifying the provisions of the draft zones. How and when the new zones will be translated into planning schemes and what assistance will be provided to councils in the translation is absent and at best unclear. The extent of community consultation regarding the new zones has also been limited and has been restricted to media releases by the Minister and information provided on the DPCD website.

What changes are proposed?

The Minister is proposing to:

- Replace the existing Business 1, Business 2 and Business 5 Zones with a new Commercial 1 Zone.
- Replace the existing Business 3 and Business 4 Zones with a new Commercial 2 Zone.
- Delete the existing Residential 1 Zone, Residential 2 Zone and Residential 3 Zone and replace with the new Residential Growth Zone, General Residential Zone and Neighbourhood Residential Zone.
- Amend the various existing rural and industrial zones.

A copy of the draft zones is provided in **Attachment 3**.

Key features of the new zones include:

- The introduction of three new residential zones that distinguish between areas where medium-density ('go-go'), infill ('slow-go') and existing residential character ('no-go') is to be encouraged.
- Introduction of schedules to the residential zones which allow Council to identify specific neighbourhood character objectives for defined precincts, and the ability to tailor some of the planning provisions within these precincts.
- Introduction of a default mandatory height limit within the proposed Neighbourhood Residential Zone ('no-go') of 9 metres unless a lower or higher height is specified in the schedule to the zone.
- Ability to specify a mandatory height limit within the schedule to the General Residential Zone ('slow-go'). If no height is specified then ResCode provisions apply.
- Ability to specify a mandatory height limit within the schedule to the Residential Growth Zone ('go-go'). If no height is specified then a discretionary height limit of 12.5 metres has been set.
- Allowing certain uses (e.g. office use and retail premises) within the Commercial zones as-of-right to remove 'red tape' in providing uses intended for that zone.
- Allowing small-scale commercial uses within the residential zones to encourage economic investment in neighbourhoods.

Officers have reviewed the revised zone provisions in the context of land use strategies and plans recently completed or currently underway which affect Business and Residential zoned land in Boroondara. These plans include the structure plans prepared for Camberwell Junction Principal Activity Centre, Glenferrie Major Activity Centre, Kew Junction Major Activity Centre, the Activity Centres Strategy (ACS) and the Neighbourhood Character Study (NCS). The key issues identified by officers are discussed below.

4. Outline of key issues/options

Officers recognise that there are limitations in the current residential zone provisions at present for Council to protect residential areas from inappropriate development. Some of the changes proposed in the draft residential zones will assist Council in managing development outcomes and provide greater certainty to the community of development outcomes. These include the ability to apply mandatory height controls in residential areas and the ability to tailor the zone provisions via the zone schedules to meet local neighbourhood character objectives. These are considered to be positive aspects of the zones.

Key issues and feedback based on the implications of changes in the new zones are summarised below and discussed in greater detail in Council's submission at **Attachment 1**. They include:

1. In the absence of clear criteria for applying the new residential zones, the application of the residential zones must be informed by the Neighbourhood Character Study (NCS) and not a 'preferred character' determined by the State Government in order to meet housing targets. Officers have discussed where the new zone provisions could be tailored in order to address some of the character objectives of the NCS.

2. Council is progressing the NCS and is likely to implement the recommendations of the Study via a planning scheme amendment next year. The Minister must confirm the status of the Neighbourhood Character Overlay (NCO) once the new residential zones are finalised. At this stage, implementation of the NCS is likely to occur via introduction of the NCO. If the Minister introduces the new zone provisions after Council has completed exhibition of an amendment to implement neighbourhood controls via the NCO, Council should be provided with the ability to directly translate the NCO provision into the zone schedules without the requirement to re-exhibit the amendment. Re-exhibiting the NCS amendment will have significant resource implications to Council and will further delay implementation of the NCS into the Boroondara Planning Scheme.
3. The timing of the release of the new zones is a concern. Opportunity to make a submission to the draft zones closes on 21 September 2012. The Minister has indicated that the new zones will be finalised in October 2012. This does not allow the Minister adequate time to consider all submissions to the review or to fully appreciate the impacts of the Zone Reform on local areas.
4. The Minister should consult with local communities on the final format of the new zones and its translation. Officers are concerned that the Minister has sought public feedback regarding the new zones until 21 September 2012 and is proposing to release the final form on the zones only a month later in October 2012. Council's draft submission highlights the importance of the State Government undertaking local community information sessions regarding the final zones. There are also significant financial and resource implications if Council was made responsible for undertaking this consultation on behalf of State Government. Officers recommend that Council provide a supporting role in the consultations. This is raised in the submission.
5. It is proposed that office use will be an as-of-right use in the proposed Commercial 1 and Commercial 2 Zone. This change is proposed as an effort to remove 'red-tape' in providing uses intended for that zone. The consolidation of the existing Business 1 and Business 2 zones (as proposed in the Commercial 1 Zone) and removal of the permit-trigger which allows Council to assess planning applications for office use with a frontage greater than 2 metres means that there is no ability to direct office use away from the ground-floor of development. This change conflicts with the directions of Council's activity centre planning policies which encourage office use on upper levels or at the periphery of the retail core of an activity centre. These provisions aim to free up the ground floor for more active uses such as retail. As a result of the removal of this restriction, there is no ability for third party notice and review associated with the location of office use in the commercial zones. As such, this change is only conditionally supported by officers.
6. Retail premise uses are proposed to be as-of-right within the Commercial 1 Zone. This means that a planning permit is not required to use the site as a gaming venue or tavern. A planning permit is required however for building and works but there is no ability to appeal any decision made in relation to an application for this purpose. Whilst this change has limited impact in Boroondara, Council's draft submission highlights this issue as a concern.

7. Office, medical centre and some retail uses are as-of-right in the proposed residential zones. Consequently, the distinction between residential and commercial zoned land is diluted. This proposal conflicts with Council's activity centre planning policies which seek to consolidate Boroondara's existing activity centres and limit encroachment of commercial uses in residential areas.
8. The changes outlined above, in concert with recent changes made to parking provisions will mean that decisions on car parking for the above uses will not be subject to the third party appeal provisions of the Planning and Environment Act. For example, if planning approval is only required for a waiver or reduction of parking requirements for any of the above uses, the decision made by the Responsible Authority cannot be appealed.
9. It is unclear whether the default height limits specified in the Residential Growth Zone (RGZ) apply to non-residential uses. At present a discretionary height limit of 12.5 metres apply to residential development unless a height is specified in the zone schedule (**Attachment 3**). Council's draft submission highlights that the default height provisions specified in all proposed residential zones should apply to all uses and not be restricted to residential development.

The draft submission provided in **Attachment 1** discusses the above issues in greater detail and provides feedback to other aspects of the draft zone provisions. Officers are seeking Council's adoption of the submission so that it may be submitted to DPCD before the 21 September 2012 deadline.

A submission has also been prepared by Maddocks Lawyers on behalf of the Eastern Metropolitan Group of Councils (**Attachment 2**). The submission reflects issues raised in Council's submission at **Attachment 1**, however provides further feedback regarding changes to the industrial zones.

Officers recommend that Council endorse this submission. A statement has been included in Council's submission advising the State Government that Council further supports comments provided in the Eastern Metropolitan Group of Councils submission.

5. Consultation/communication

The Minister is seeking feedback to the proposed new zones by 21 September 2012. The extent of community consultation undertaken by the Minister regarding the Zones Reform has been limited to media releases and information available on the DPCD website where submissions can be uploaded.

Officers attended an information session facilitated by the Municipal Association of Victoria (MAV) and Eastern Metropolitan Group of Councils. DPCD were not clear on how the new zones would be translated, the timing of the translation and extent of consultation that will be undertaken with the community and local councils once the zones are finalised. Council's submission requests that the Minister undertake consultation with the community following the release of the final zones.

Officers have prepared an update for the community on Council's 'Your Say' webpage, informing the community of the release of the new zones and opportunities to provide comments. Links to DPCD's webpage were also provided directing the community to the submissions page. An information Fact Sheet has also been prepared highlighting the key features of the new zones.

6. Financial and resource implications

The financial and resource implications of the introduction of the new zones will not be clear until the Minister for Planning has released the final form of the new zones and indicated how the provisions need to be translated.

7. Governance issues

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities, including Council's Victorian Charter of Human Rights and Responsibilities Compatibility Assessment Matrix (Version 1, August 2011). It is considered that the purpose of the officers' report does not negatively impact on the values identified in the Charter.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

8. Social and environmental issues

The proposed reforms will provide some clarity in the planning outcomes expected for residential and commercial areas. However many aspects of the zone provisions are considered by Officers to not support the social objectives of planning. These issues are raised in the draft submission at **Attachment 1**.

9. Conclusion

The Minister for Planning is proposing to review the existing suite of residential, commercial, rural and industrial zones and is seeking comments to the draft provisions by 21 September 2012 from the community, local councils and stakeholders. Officers have prepared a draft submission on behalf of Council. Once adopted, officers will provide the submission to DPCD before the 21 September 2012 deadline.

Manager: Johann Rajaratnam, Strategic Planning

Report officer: Shiranthi Widan, Team Leader Strategic Planning