

**Submission in response to the
proposed new zones**

Yarra City Council

September 2012

Introduction

Yarra City Council has assessed the new zone proposals and provides the following comments and suggested changes.

The City of Yarra includes the following relevant zones:

- Residential 1 Zone – covering most established residential areas
- Mixed Use Zone – primarily covering former industrial land or redevelopment sites
- Business 1 Zone – primarily covering strip shopping centre retail areas
- Business 2 Zone – primarily covering main road frontage areas outside strip centres
- Business 3 Zone – primarily covering former industrial precincts
- Business 4 Zone – primarily covering peripheral strip centre locations
- Business 5 Zone – covering a small number of former industrial mixed use areas
- Industrial 1 Zone – covering a small number of industrial precincts
- Industrial 3 Zone – covering a small number of interface areas in industrial precincts
- Priority Development Zone – covering some small redevelopment areas

This submission will address some general and strategic issues arising from the new zone proposals. It will then address process and implementation issues, followed by issues and draft response to the different zones.

The pattern of current zones influences the issues arising from the new zone proposals. The City of Yarra has a range of discrete residential precincts with differing character and land use mix. Some residential areas are relatively homogeneous and others quite mixed with former industrial, business and other non-residential activity scattered among housing. Many areas have recognised heritage significance, which are protected by specific heritage overlay controls and local planning policy.

Yarra has a patchwork zoning pattern in some parts of the municipality where strip centres, land zoned for business purposes abut mixed use and residential areas. This patchwork is accentuated by the conversion of former industrial land to facilitate other purposes.

Recent economic analysis undertaken for Council suggests that industry will continue to decline, while demand for office space for business services, health and a range of other employment generating activities will grow substantially. The demand for new and higher density housing seems likely to stay strong and underpin pressure for redevelopment. Retail activity and demand for retail space is also likely to be strong and contribute to employment.

These influences and trends indicate significant change in many parts of the City. Local communities are concerned about how these changes will affect the character of neighbourhoods and the City as a whole. Council requires appropriate planning policies and tools to guide and effectively manage this change.

Strategic issues

1. No sufficient strategic justification for the proposed changes

The new zones bring a number of policy implications which have presented significant challenges in considering the reform. This is due to the lack of an express strategic rationale underpinning the proposed reform, including an assessment of the likely economic, environmental and social implications associated with the introduction of proposed zones. The new zones could fundamentally change the land use mix and character of the inner city yet the implications do not appear to have been assessed.

Draft Response

Further explanation and strategic justification should be provided for the proposals.

2. Provision of appropriate tools to facilitate planning objectives, strategy and local policy

Under the proposed changes to commercial land in the City of Yarra, existing Business 3 land will be impacted by the much wider range of retailing and accommodation allowed in the Commercial 2 Zone. The change will not be policy neutral. Council has expressed a long term commitment to the retention and protection of existing employment precincts through the application of a Business 3 Zone. Council is concerned that industrial and office based activity will be undermined and the nature of these employment precincts destabilized by the introduction of retail and accommodation activities.

Draft Response

Further information explaining the rationale and the economic implications of the removal of any scope for local variations in the Commercial zones should be provided.

3. Implications from the introduction of retailing in commercial zones

The new Commercial 1 Zone and Commercial 2 Zone could result in significant change in the location and impacts from retailing in different parts of the City of Yarra. The policy implications of these changes will be significant in the current Business 2 Zone, Business 3 Zone, Business 4 Zone and Business 5 Zone where shops shift from prohibited to 'permit required' or 'permit required' to 'no permit required'. Council has sought advice on the economic implications and other amenity and special implications of these changes. The changes could see a significant amount of 'out-of-centre' retail activity particularly on main road frontages. This may have economic implications which could be positive and negative. When combined with the proposals for 'no permit required' small supermarkets and shops this could facilitate new retail nodes in locations which are hard to predict.

Of particular concern to Council are the implications for areas where the Yarra Business and Industrial Land Strategy 2012 (BILS) indicates core industrial and business precincts should be a mix of industry and office space. In a number of these areas Council has rezoned the land to a Business 3 Zone to achieve this objective. The proposed Commercial 2 Zone with retail and accommodation activities would not be consistent with these objectives.

The Department of Planning and Community Development website page dealing with the new Commercial zones notes that:

Councils will be given an opportunity to identify any existing business zoned land currently used for industrial purposes that should be excluded from the conversion to the new commercial zones.

Yarra City Council will be pleased to work with DPCD to identify those areas where the current business zone should be changed to either an Industrial 3 or Industrial 1 Zone to protect existing industry.

Draft Response

Yarra City Council will discuss with DPCD the precincts identified in the Yarra Business and Industrial Land Strategy 2012 which should not be translated to a Commercial Zone.

Commercial Zones

A key concern with the Commercial zones is with the reduced number of zones and the resulting reduction in distinctions between clusters of activity. It is accepted that a broader mix of activities may be desirable for flexibility and economic reasons but the serious reduction in regulation and Planning Authority intervention to manage the land use mix may have significant local impacts. This has been discussed above but particularly applies to high value land uses such as retailing and higher density housing. The changes proposed may lead to dispersed retailing which could disrupt employment / service business precincts through changes in local land values and rents.

Commercial 1 Zone

The proposals for this zone raise issues including:

- Loss of discretion to control residential mix in ex-Business 2 Zone areas
- Residential may displace other activities
- Loss of distinction between main street retail activity centre locations and secondary office dominant precincts
- Potentially undermines activity centre policy with retail nodes in Business 2 Zone

Commercial 2 Zone

The proposals for this zone raise issues including:

- Out of centre new retail nodes particularly with new supermarkets
- Removes capacity to develop a Business 3 Zone type office / industry mix
- Could destabilise local employment precincts
- Accommodation (other than dwelling) is not compatible with the industry activities allowed in the zone and poses unacceptable amenity implications

Specific zone issues and requested changes

The following table highlights specific issues and the changes request by Council to the current proposals.

Zone and Provision	Issues	Draft Response
<p>Commercial 1 Shift of most key land uses to Section 1</p>	<p>The reduction in permit requirements means that the capacity to control the mix of activities is largely removed. This is a particularly big change from the Business 2 Zone. This will have implications for structure planning and activity centres with little or no distinction between core retail and other precincts.</p> <p>A major policy implication is that residential activity may displace office and retail activity.</p> <p>Current Business 2 Zone locations may become retail nodes with implications for structure planning and activity centre policy.</p>	<p>Include 'other retail' and 'accommodation' as a Section 2 use.</p> <p>Allow use of schedules to control land use mix.</p>
<p>Commercial 2 Increase in number of activities that are no permit required or permit required.</p> <p>Accommodation other than dwelling changes from 'prohibited' to 'permit required'.</p>	<p>Increase in 'as of right' uses and 'permit required' activities includes a range of activities which may undermine the purpose of the zone for office and industry. These include a wide range of retail and cinema related activities.</p> <p>The distinction between the prohibition of dwelling and allowing other accommodation is difficult to understand. The accommodation proposed to become permit required includes a very wide range of types. There is potential for amenity conflicts for most of these activities with industrial</p>	<p>Limit the retail and cinema activities to either a schedule or main road locations. Alternately limit retail activities to large floor area / bulky goods.</p> <p>Change the zone to make all accommodation prohibited.</p>

Zone and Provision	Issues	Draft Response
<p>Supermarket up to 2000sqm plus 500sqm of shop no permit required</p>	<p>activities.</p> <p>This provision conflicts with the office/industry purpose of the zone. The nature of supermarkets is that they become the 'anchor' for other retailing. This proposal could undermine existing activity centres and stable employment precincts.</p>	<p>Remove the 2000sqm supermarket plus 500sqm of shop from the section 1 part of the zone.</p>

Industrial Zones

The existing industrial zones are modified to remove the limit on office space and in the Industrial 3 Zone to allow Supermarket up to 2000sqm plus 500sqm of shop no permit required. The general change to allow expansion of office space is supported because it is consistent with strategic objectives in the City of Yarra. The supermarket proposal is not supported because it may undermine local industrial precincts.

Zone and Provision	Issues	Draft Response
<p>Industrial 1 Remove restrictions on office floor-space</p>	<p>Supported on strategic grounds.</p>	<p>No change</p>
<p>Industrial 3 Remove restrictions on office floor-space</p> <p>Allow Supermarket up to 2000sqm plus 500sqm of shop no permit required</p>	<p>Supported on strategic grounds.</p> <p>This provision conflicts with the office/industry purpose of the zone. The nature of supermarkets is that they become the 'anchor' for other retailing. This proposal could undermine stable employment precincts.</p>	<p>No change</p> <p>Remove the 2000sqm supermarket plus 500sqm of shop from the section 1 part of the zone.</p>

Residential Zones

Generally the concept of a hierarchy of residential zones graded from minimal change to medium and higher densities is logical. The way the zones work and some of the features of the zones should be refined.

The proposal for a range of small floor-space non-residential land uses being allowed no permit required within 100 metres of a Commercial or Mixed Use Zone is not supported. This is likely to have a range of amenity and traffic impacts, particularly in areas with narrow streets and complex zone boundaries. It also generally conflicts with the logic of having clear zone boundaries and certainty in residential areas.

The logic of a hierarchy of zones could be developed with an associated hierarchy of Rescode provisions which could be used as the default for each of the zones. This has been proposed by the MAV and seems to warrant further attention and could significantly reduce the need for strategic justification and highly varied local provisions.

The following table sets out specific issues and draft responses for each zone.

Zone and Provision	Issues	Draft Response
<p>Applies to all Residential Zones</p> <p>Medical Centre up to 250sqm now a Section 1 use</p> <p>No buildings and works trigger for Section 1 non-residential uses</p> <p>The zone provisions apply height limits to dwellings and residential buildings but not to other development</p>	<p>No strategic rationale has been provided for this change. No explanation has been given for the 250sqm threshold.</p> <p>May result in a clustering of medical centres in residential areas.</p> <p>Need to consider general amenity impacts on existing residential neighbourhoods.</p> <p>Clustering of medical centres may contradict Council's strategic intent for an area.</p> <p>Issues related to siting, character and general amenity impacts associated with buildings and works cannot be considered.</p> <p>The lack of height limit for non-residential development seems inconsistent. Height limits for non-residential development should be included or clarified to ensure that appropriate built outcomes can be achieved.</p>	<p>Include Medical Centre as a Section 2 use</p> <p>Apply consistent consideration of buildings and works for non-residential uses across all residential zones.</p> <p>Add a general height limit provision for all buildings (similar to the Mixed Use Zone).</p>

Zone and Provision	Issues	Draft Response
<p>Neighbourhood Residential Zone</p> <p>Amends conditions for existing Section 1 uses</p> <p>Includes mandatory heights which can be varied through the schedule to the Zone. If no maximum height provided, the default is 9 metres.</p> <p>Schedule to the zone may include objectives to be achieved for the area. Objectives can be broader than neighbourhood character and also include general density of development through limiting the number of dwellings on a lot (not less than 2).</p> <p>Permit trigger established on a lot of 300sqm or less. Can be varied in the schedule to the zone.</p>	<p>The condition for Bed and breakfast has been amended from 6 persons to 10. Reflects general freeing up of provisions without any strategic justification.</p> <p>Lack of detail about the additional strategic work that may be required to apply the neighbourhood residential zone. In particular, no detailed information on the strategic justification required, and process to be followed, to prepare the schedule to the zone (including justification for mandatory heights).</p>	<p>Remove this land use from Section 1 no permit required</p> <p>Prepare practice notes or similar to provide guidance on criteria for the use of the zone and variations in the Schedule such as height limits</p> <p>Agreed</p> <p>Inclusion of a schedule supported</p>
<p>General Residential Zone</p> <p>Increase in the range of Section 1 uses - no permit required activities</p>	<p>The proposed 'as of right' small scale office, shop and café close to existing residential areas is likely to affect a significant proportion of existing residential zones given the 'ragged'</p>	<p>The proposed Section 1 uses for small shop, office and café are not justified and should be removed.</p>

Zone and Provision	Issues	Draft Response
<p>Food and drink premises (must not exceed 100sqm) Must be located within 100m of a commercial zone or mixed use zone The land must have the same street frontage as the land in the in the commercial or mixed use zone</p> <p>Office (must not exceed 250sqm) Must be located within 100m of a commercial zone The land must have the same street frontage as the land in the in the commercial zone</p> <p>Shop (must not exceed 100sqm) Must be located within 100m of a commercial zone or mixed use zone The land must have the same street frontage as the land in the in the commercial or mixed use zone</p>	<p>edges of existing zones in Yarra. This is likely to result in a 'bleeding' of non-residential uses into existing residential areas in an unplanned manner. The proposals provide no scope to manage or mitigate amenity impacts. There is not strategic justification for the proposal.</p> <p>The introduction of less restrictive provisions establishes the pre-conditions for potential clusters and 'leakage' of 'as of right' non-residential activities such as medical centres, offices or shops. Consequently we could see:</p> <ul style="list-style-type: none"> • unplanned precincts of activities that fail to align with Council's strategic intent or directions for land use and activity as expressed in local planning policy and structure plans. • unplanned and incremental creep of non-residential uses into existing residential areas. • No opportunity for community comment on the introduction of Section 1 uses into existing residential areas. • no permit trigger for considering general amenity impacts related to as of right uses. Using café as an example, hours of operation, staff and patron numbers and other general amenity considerations such as noise and odour from cooking fumes could not be considered. • Access issues linked to the location of cafes, shops and offices cannot be considered. Given the prevalence of fine grain street networks in many parts of Yarra, this could present considerable challenges arising from the transport of goods and services and removal of waste associated with these uses. Unplanned increases in 	<p>The amenity impacts of non-residential uses should be treated consistently across all residential zones.</p>

Zone and Provision	Issues	Draft Response
<p>General freeing of provisions. Bed and Breakfast as per Neighbourhood Residential Zone</p> <p>Place of worship gross floor area increased from 180sqm to 250sqm</p> <p>Includes capacity to establish mandatory heights in the schedule to the zone. If no maximum height is specified, will default to provisions of Rescode</p> <p>Permit trigger established on a lot of 200sqm or less. Can be varied in the schedule to the zone</p>	<p>vehicular movements may create traffic and car-parking issues if the capacity to manage change through a planned approach no longer exists.</p> <p>Lack of strategic justification underpinning the distinction in condition between office (located within 100m of commercial zone, mixed use zone not included) and shop and food and drink premises.</p> <p>Reduced capacity to consider general amenity impacts.</p> <p>See comments pertaining to mandatory heights under Neighbourhood Residential zone</p>	<p>Support use of a schedule</p>
<p>Residential Growth Zone</p> <p>Purpose is to provide medium density housing at increased densities.</p>	<p>The use of the term 'medium density' in the objective for the Zone requires further clarification. No qualification offered that clearly differentiates the objective 'medium density' in the Residential Growth Zone from the objective 'higher densities' in the Mixed Use Zone. Therefore achieving preferred densities that are consistent with the objectives of the zone can only be based on</p>	<p>Provide criteria to better define 'medium density'.</p>

Zone and Provision	Issues	Draft Response
<p>Increases number of activities that are now included as of right (as per General Residential Zone).</p> <p>No permit requirement for buildings and works for non-residential uses</p> <p>Can establish mandatory heights in the schedule to the Zone. If no maximum heights established, will default to 12.5m.</p> <p>Permit trigger established on a lot of 80sqm or less. Cannot be varied in the schedule</p>	<p>assumption.</p> <p>Includes office, shop, food and drink premises, medical centre and place of worship. (subject to floor space thresholds) See discussion under General Residential Zone</p> <p>See discussion under General Residential Zone</p> <p>See comments pertaining to mandatory heights under Neighbourhood Residential Zone</p> <p>No strategic justification provided to support this low site area as a trigger</p>	<p>Would support the use of a schedule</p>
<p>Mixed Use Zone</p> <p>New purpose introduced to 'provide for housing at higher densities'</p> <p>Increases the number of uses that are now as of right – no permit required and removes the limits to floor space in the schedule to the zone.</p>	<p>See comments above pertaining to clarification of 'higher densities'. the introduction of higher densities is problematic. It encourages increased densities with no strategic rationale and changes the current purpose of the MUZ and the way it has been applied.</p> <p>The opportunity to consider impacts associated with uses such as shop, medical centre, food and drink premises, place of assembly and offices will not exist as there is no permit trigger for the use (subject to floor area requirements) As previously discussed in the submission, operational matters associated with the use cannot be considered if there is no permit trigger. Therefore, the potential for adverse amenity impacts is significantly raised. These changes</p>	<p>Provide criteria to better define 'higher densities'.</p> <p>The proposed Section 1 uses for small shop, office and café are not justified and should be removed.</p>

Zone and Provision	Issues	Draft Response
<p>Decision Guidelines for the use of industry and warehouse include a number of amenity considerations.</p> <p>Any buildings or works constructed on a lot that abuts land which is in a General Residential Zone, Residential Growth Zone, Neighbourhood Residential Zone or Township Zone must meet the requirements of Clauses 55.04-1, 55.04-2, 55.04-3, 55.04-5 and 55.04-6 residential zone (32.04-9) along that boundary requires clarification.</p> <p>Application requirements to construct a building or carry out works differ from provisions in the 3 new residential zones.</p> <p>Permit trigger established on a lot of 80sqm or less. Cannot be varied in the schedule.</p>	<p>also significantly alter the purpose and function of the zone. In Yarra many Mixed Use Zones have become primarily residential apartment zones.</p> <p>Amenity considerations are limited to industry and warehouse uses even though the range of uses allowed both with and without a permit, has been increased.</p> <p>Unclear as to how the boundary between the Mixed Use zone and other Residential zones is defined Further clarification required.</p> <p>Strategic justification should be provided as to why these are the only provisions of Clause 54 or 55 that should be considered.</p> <p>No strategic justification provided as to why the application requirements differ given the use (residential) is the same.</p> <p>See previous comments under General Residential Zone</p>	<p>Decision guidelines to consider amenity impacts of all non-residential uses.</p> <p>Clarification on how this provision would be applied is required and why only these particular provisions apply.</p> <p>Consistency across all residential zones is required.</p>

Process

The process for the commercial / industrial zones should not be by direct translation but should be integrated with the residential / mixed use zone translation process. The current proposal for direct translation is flawed. There are strong inter-relationships between the zones and how the translation is developed and implemented.

The translation process will also raise issues for the Municipal Strategic Statement and Local Planning Policy Framework including the workability of provisions which relate to activity centres and activity mix where policy discretion has been removed and where references to particular zones are redundant.

There are many areas where the proposed direct translation may adversely impact on existing business and other stakeholders. Existing industry is likely to be effected by the Commercial 2 Zone with the mix of new activities like accommodation and retail. The change may also cause increased land values and rents as a result of retail development. A process which allows for public consultation and review should be considered.

The overall process should be developed and clarified to include the following:

- Clear 'practice notes' to guide the overall process
- Something akin to the main steps in the amendment process
 - Preparation
 - Authorisation
 - Public Exhibition
 - Panel – advisory committee
 - Panel / advisory committee report
 - Adoption
 - Approval

A well managed advisory committee process would help address issues of consistency between Council schemes and to allow for resolution of problems or issues for submitters.

Introduction of Residential and Mixed Use Zones

The process for introducing the residential and amended mixed use zones needs to be developed with more local government input so that it provides for:

- A clear and transparent public process – similar to a planning scheme amendment process
- Capacity to adjust / revise the Municipal Strategic Statement and Local Planning Policy Framework to accommodate and guide the new zones
- Clearer criteria for zone selection and what will provide sufficient strategic justification

Similarly, to feedback regarding the introduction of the commercial and industrial zones, an advisory committee process would help address issues of consistency between Council schemes and to allow for resolution of problems or issues for submitters.