

# **Parking and Planning, City of Yarra**

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## Parking and Planning

### Overview

One issue that has challenged the City of Yarra in recent years is the provision of parking in new or extended developments.

The process is theoretically straightforward, as Rescode has requirements that spell out how many parking spots are required under different situations.

In practice, it doesn't work like that.

The City has the power to approve exemptions from Rescode, and when it doesn't, VCAT has the power to override the City. In addition, developers have a large incentive not to provide adequate parking, as it leaves more room for other development.

The result of these factors is that many new developments are being built with inadequate parking provisions, with the obvious long term consequence to parking congestion in Yarra.

In addition, many businesses are extending their operating hours and numbers of patrons - for which they require a planning permit – with a noticeable impact on parking in their immediate area, as they rarely provide parking.

The current process of evaluation exemption from planning parking requirements is clearly **not** working. As a result, most of the ongoing developments in the City of Yarra are not providing sufficient parking spaces for their occupants. This is not in the interest of current or future residents.

It **should** be a priority issue for the City of Yarra to develop and implement effective policies to manage the ongoing situation.

## Recommendations

1. The current "Town Planning Parking Policy" be immediately revoked. It has completely failed and has only made the situation worse in more easily allowing exemptions.
2. For the "Practice Note VCAT 2- Expert Evidence" to be adopted for all parking and traffic expert reports submitted in planning applications (Note: this would be a good idea for ALL expert reports included with planning applications, however that is outside the scope of this paper).
3. For an official and documented process of evaluating exemptions to be initiated, with the parking strategy area having to sign off (in writing) on all exemptions of 5 or more spaces.
4. For strict criteria to be developed and implemented for the evaluation of exemptions.
5. That statistics be developed on what is happening with exemptions, including all parking exemptions requested and granted, with *at least* the type of development and area noted.
6. That there is a review of the successfulness of the council at VCAT on parking issues, with emphasis on finding ways of improving it.
7. Implement a policy of NO exemptions for new developments or extensions of 4 or more stores in height.
8. For large (>5 exemptions) developments (or changes of use) that receive waivers, immediately review the local parking restrictions with the aim of protecting current occupants. This should happen in the same timeframe as the extra demand generated by the development.

## The current planning parking process.

**Theoretically**, every planning application received by the City is reviewed in light of the relevant laws and polices, and an exemption (if required) is granted or refused on a case by cases. Exemptions of more than 10 (recently dropped to 5) spaces are to be referred to the parking strategy area.

In practice this does not occur, with most applicants automatically receiving any exemptions required, with the applicants reasoning simply copied over to the delegation report containing the decision. Quite often the reasoning can be that 52.06 is too demanding, so the lower Town Planing Parking Policy rates are used. They are then exempted as 'small enough' not to matter. Alternatively, access to public transport is used as the reason for not providing parking, even though no proof is offered to support that it will result in lower car usage.

If the council does not grant an exemption, VCAT normally would, so a permit will still be granted. VCAT often grants an exemption due to –

- 1) public transport is available (again, with no proof it will be used).
- 2) the parking pressure is already so bad that it won't make any difference if this applications is granted,
- 3) the parking pressure isn't really bad so this one application won't make a significant difference if granted.

These are particularly insidious reasons for Yarra, as all of Yarra has access to public transport – even though most people do not use it - and either it's already an area with problems (2) or an area that doesn't yet but will if developments continue (3)!

An additional problem with the current process is how applicants include '**expert**' reports with their application. These are often inadequate, and often deliberately misleading.

Some of the problems with these 'expert' reports are -

- 1) Only **one** data point is used for the 'survey', often on a non busy day (ie raining etc) - with the count of empty spaces justifying the exemption.
- 2) A non-representative time of day is used for the 'survey' ie just before or just after a busy period.
- 3) Statements that visitors/residents will use public transport, ignoring factual data which suggests the opposite.
- 4) Car parking spaces that don't exist are shown to be available for the development.

- 5) Spaces in a much wider area than will actual be the focus for the development are counted.

In general, any facts or evidence that will show the application in a bad light are not presented.

Unfortunately, there is then no independent assessment performed by Yarra,

This problem could be rectified by either

- a) Yarra completely independently evaluating all parking exemption requests. This, while potentially fixing the problem, would be resource intensive.
- b) The submitted expert reports could be substantially upgraded.

## What is the current Law?

There are two main sections of law that cover the parking required under the planning permit process in the City of Yarra, Rescode and the City of Yarra Town Planning Parking Policy.

### **Rescode**

Rescode has three main sections relating to the number of parking spaces a development should contain

54.03-7	one dwelling on a lot, residential,
55.03-11	two or more dwelling on a lot, less than 4 stories, residential,
52.06	everything else

With each section contains and Objective, Standards, and Decision Guidelines.

At a high level, all of the objectives are the same, which is to ensure that car parking is adequate for the needs of occupiers.

They do differ in the amount of spaces they recommend,

54.03-7	Two spaces for the dwelling
55.03-11	One space for each one or two bedroom dwelling, plus visitor spaces.
52.06-5	Specifies a table containing rates dependant on building type. The most common ones are -

Residential:	1 space per lodging room.
Shop:	8 spaces per 100sqm of leasable floor.
Restaurant:	.6 spaces per public seat.
Hotel:	60 spaces per 100sqm of bar, 30 per 100sqm of lounge.

The decision guidelines for each clause are a bit different, but all effectively give a range of possible justifications for exemption from the above numbers.

## **Town Planning Parking Policy**

The City of Yarra currently has a Town Planning Parking Policy, which was ratified in the full council meeting on 3/9/2002 - to be in place until reviewed in the Integrated Parking and Transport Policy.

Its objectives are –

- 1) To provide functional parking at realistic rates that are appropriate to the attributes of the site and the broader neighbourhood.
- 2) To preserve the amenity of residential and commercial areas.
- 3) To provide a consistent framework for the consideration of applications to reduce or waive car parking.

The intent of this policy is to work as a set of additional controls to 52.06. It does this by specifying **lower** required rates for parking, and a more detailed description of when waivers can be granted.

i.e.

Type	52.06	Town planning policy
Residential	1 space per lodging room	1 space per 1 bedroom unit 1.5 per 2 bedroom unit 2 spaces for 3 bedroom unit
Shop	8 spaces per 100sqm of leasable floor	3 to 4 spaces for most types of shops.
Restaurant	0.6 spaces per public seat	0.3 spaces per patron
Hotel	60 spaces per 100sqm of bar, 30 per 100sqm of lounge	.3 spaces per patron.

The detailed description on wavers includes “*Factors that will not be considered in reducing or waiving car parking rates*” which include things like -

“The fact that a site is close to public transport will not always provide sufficient justification to reduce or waive car parking. An applicant will need to provide evidence to justify the extent to which public transport will lead to a reduction in parking demand.”

## Improving the current Process

There are a number of areas that we could look at improving the current process. The first, and most important, is that we could actually implement the current policy a lot better without changing anything in it. **In itself, that would noticeable improve the situation, but possibly not help with VCAT.**

Additional options include –

- 1) For residential applications that still receive waivers, for no parking permits to be issued for residents who live in the development.

The advantage of this is that it hopefully gives developers an economic incentive to provide parking, and if they still don't most of the residents will not be able to own cars without organising other parking.

The main disadvantage is that in the future we could end up with a lot of residents living with the mistakes (or greed) of a developer years ago, who need somewhere to park.

On balance, I believe it is much better not to grant the exemption in the first place, followed by this as a backup position.

- 2) For commercial applications that still receive waivers, tighten the local residential streets parking restrictions so that residents still have a chance to park.

The main disadvantage of this is that while we can do that to protect the residential areas, it does not protect the business in the area from having higher parking pressure i.e. one new restaurant (with no parking) can easily use up 25 parking spaces that other business may have been relying on.

Again, it would be better not to grant the exemption in the first place.

- 3) For developments that can't provide additional parking, and where there are major parking problems in the area, not allowing the development to happen.
- 4) Strengthening the local law/planning policy to the point that it will stand up at VCAT.
- 5) Add detailed guidelines about what expert reports must contain. We should instantly adopt "Practice Note VCAT 2- Expert Evidence" (see appendix A) as a minimum stand, and then develop more specific guidelines related to surveying and parking management – ie a minimum number of survey points, at specified times and days, with guidelines on how the data is to be interpreted.
- 6) Change the current (non) practice of sending plans with exemptions of more than 5 spaces to the parking strategy group, to a much formal process (similar to the heritage process) with guidelines for them to evaluate exemption requests, and a paper checklist and decision result.

- 7) Keep detailed statistics on how many exemptions are being approved, where, and in what type of developments.

The main alternatives that we need to have targeted policies on are –

New development  
Extending an existing development  
Change of use of a current development.

With further subdivision for residential and commercial, with another possible division on size (small and not small).

The relevant policies could then be something like –

- 1) No exemptions.
- 2) No exemptions unless it is **extremely difficult** to add parking due to surrounding environment ie a shop in the middle of Bridge rd with no rear access.
- 3) A small number of exemptions available.
- 4) Larger number of exemptions available, with tightening of local restriction and the non issue of parking permits.

i.e. examples

- 1) A new 8 story apartment/commercial block would NOT be eligible for an exemption.
- 2) Change/Increase of use – say converting a warehouse to apartments, or increasing the numbers limit at a restaurant – exemption only available if parking realistically could not be provided, and then only with a review/modification of the local parking rules, and the denial of future parking permits.
- 3) Adding an extra story to a warehouse, and converting the use to residential – an exemption should not be granted, if required the development should not be adding the extra story.
- 4) House subdivision – where practical, no exemption, otherwise at most 2 exemptions.

## **Appendix**

### ***VCAT practice note – Expert Evidence.***

Practice Note VCAT 2- Expert Evidence

The Rules Committee issues the following Practice Note under s158 of the **Victorian Civil and Administrative Tribunal Act 1998**:

#### **1. Operation**

1.1 This practice note will apply from 1 September 1999 in respect of:

- (a) any evidence given to the Tribunal by an expert witness;
- (b) The retainer by parties to a proceeding, of any expert witness to provide a report for use in evidence before the Tribunal.

#### **2. Expert's Duty to the Tribunal**

- 2.1. An expert witness has a paramount duty to the Tribunal and not to the party retaining the expert.
- 2.2. An expert witness has an overriding duty to assist the Tribunal on matters relevant to the expert's expertise.
- 2.3. An expert witness is not an advocate for a party to a proceeding.

#### **3. Content and form of expert's report**

3.1. The report of an expert must include the following matters-

- 1) the name and address of the expert;
- 2) the expert's qualifications and experience;
- 3) a statement identifying the expert's area of expertise;
- 4) a statement setting out the expert's expertise to make the report;
- 5) all instructions that define the scope of the report (original and supplementary and whether in writing or oral);
- 6) the facts, matters and all assumptions upon which the report proceeds;
- 7) reference to those documents and other materials the expert has been instructed to consider or take into account in preparing his or her report

and the literature or other material used in making the report;

- 8) the identity of the person who carried out any tests or experiments upon which the expert relied in making the report and the qualifications of that person;
- 9) a summary of the opinion or opinions of the expert;
- 10) a statement identifying any provisional opinions that are not fully researched for any reason (identifying the reason why such opinions have not been or cannot be fully researched);
- 11) a statement setting out any questions falling outside the expert's expertise and also a statement indicating whether the report is incomplete or inaccurate in any respect;

**and in Domestic Building List cases only**

- 12)
    - a) if rectification or demolition or other alteration of premises is recommended, the reason(s) for such recommendation and the likely cost(s) involved;
    - b) whether any alternative remedy or remedies are a reasonable alternative.
- 3.2. The expert must declare at the end of the report, "I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Tribunal."
- 3.3. This paragraph does not apply to reports obtained from treating doctors and hospitals.

**4. Where the expert changes his or her opinion on a material matter**

- 4.1. An expert witness who changes an opinion on a material matter on the basis of another expert's report or for any other reason must, after the exchange of reports or at any other stage, communicate that change of opinion in writing to the party retaining the expert and such party shall forthwith file with the Tribunal, notice of such change of opinion.
- 4.2. Such a document must specify reasons why his or her opinion has changed.

**5. Where the Tribunal directs expert witnesses to meet**

- 5.1. If expert witnesses retained by the parties meet at the direction of the Tribunal to narrow any points of difference between them and to identify any remaining points of difference they must each set out in writing by a document filed with the Tribunal any agreed points and all remaining points

of difference.

- 5.2. If any expert witness directed by the Tribunal to meet with any other expert is instructed by a party not to reach agreement in respect of points of difference, the fact of such instructions must be reported in writing to the Tribunal by the expert witness concerned.

## **6. Generally**

- 6.1. Parties to a proceeding must ensure that any expert retained by them to provide a report for use in the proceeding is aware of the contents of this practice note, at the time of such retainer.

**Dated: 1 September 1999. (As amended 2 February 2000)**

**The Hon Justice Kellam**

**President**

## **52.06 CAR PARKING**

### **Purpose**

To ensure that car parking facilities are provided in accordance with:

- The State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies.
- Any parking precinct plan.

To provide the opportunity to use parking precinct plans in appropriate locations.

To promote the efficient use of car spaces through the consolidation of car parking facilities.

To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality.

To ensure that the design and location of car parking areas:

- Does not adversely affect the amenity of the locality, in particular the amenity of pedestrians and other road users.
- Achieves a high standard of urban design.
- Creates a safe environment for users, particularly at night.
- Enables easy and efficient use.
- Protects the role and function of nearby roads.
- Facilitates the use of public transport and the movement and delivery of goods.

## **52.06-1 Car spaces**

### **Provision of car spaces**

A new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land.

Where the floor area occupied by an existing use is increased, the parking requirement only applies to the floor area of any extension of the use or site area provided the existing number of car spaces is not reduced.

### **Number of car spaces required**

The table at Clause 52.06-5 sets out the number of car spaces required for uses not covered by a parking precinct plan or another clause. The requirement for car spaces for a use listed in column 1 of the table is the product of columns 2 and 3 of the table.

A permit may be granted to reduce or to waive the number of car spaces required by the table.

Where a use is not specified in the table at Clause 52.06-5, an adequate number of car spaces must be provided to the satisfaction of the responsible authority.

These requirements do not apply if there is a parking requirement for the particular use under another clause or in a parking precinct plan.

### **Decision guidelines**

Before a requirement for car spaces is reduced or waived, the applicant must satisfy the responsible authority that the reduced provision is justified due to:

- Any relevant parking precinct plan.
- The availability of car parking in the locality.
- The availability of public transport in the locality.
- Any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces. Any car parking deficiency or surplus associated with the existing use of the land.
- Any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement.
- Local traffic management.
- Local amenity including pedestrian amenity.
- An empirical assessment of car parking demand.
- Any other relevant consideration.

## 52.06-5 Car parking table

USE	CAR SPACE MEASURE	RATE
<b>Residential building, other than specified in this table</b>	Car spaces to each lodging room	1
<b>Caretaker's house</b>	Car spaces to each dwelling	1
<b>Dwelling, other than Caretaker's house if at least 2 on a lot</b>	Car spaces to each dwelling	2
<b>Shop other than specified in this table</b>	Car spaces to each 100 sqm of leasable floor area	8
<b>Betting agency Market</b>	Car spaces to each 100 sqm of net floor area	8
<b>Restaurant</b>	Car spaces to each seat available to the public	0.6
<b>Office other than specified in this table</b>	Car spaces to each 100 sqm of net floor area	3.5
<b>Postal agency</b>		
<b>Hotel or Tavern</b>	Car spaces to each 100 sqm of bar floor area available to the public, plus	60
	Car spaces to each 100 sqm of lounge floor area available to the public	30
<b>Motel</b>	Car spaces to each unit, plus	1
	Car spaces to each resident employee, plus	1
	Car spaces to each 100 sqm of motel service floor area not available for use by guests	2
<b>Industry other than specified in this table</b>		2.9
<b>Mail centre</b>	Car spaces to each 100 sq m of net floor area	
<b>Materials recycling</b>	Percentage of site area to be set aside for car spaces and access lanes, but not driveways	10
<b>Fuel depot</b>		
<b>Milk depot</b>		
<b>Motor repairs</b>		
<b>Plant nursery</b>		
<b>Saleyard</b>	Percentage of site area to be set aside for car spaces and access lanes, but not driveways	10
<b>Store other than specified in this table</b>		
<b>Timber yard</b>		
<b>Utility installation</b>		
<b>Freezing and cool storage</b>		1.5
<b>Warehouse other than specified in this table</b>	Car spaces to each 100 sq m of net floor area	
<b>Display home</b>	Car spaces to each dwelling for five or fewer contiguous dwellings, plus	5
	Car spaces to each additional contiguous dwelling	2
<b>Medical centre</b>	Car spaces to each	5
<b>Veterinary centre</b>	practitioner	
<b>Hospital</b>	Car spaces to each bed available for use by patients	1.3
<b>Place of assembly</b>	Car spaces to each seat or to each sq m of net floor area, whichever is greater	0.3
<b>Funeral parlour</b>		
<b>Golf course</b>	Car spaces to each hole	4

### Car parking table (continued)

USE	CAR SPACE MEASURE	RATE
<b>Bowling green</b>	Car spaces to each rink	6
<b>Squash court other than in conjunction with a dwelling</b>	Car spaces to each court	3
<b>Swimming pool other than in conjunction with a dwelling</b>	Car spaces to each 100 sq m of site	5.6
<b>Tennis court other than in conjunction with a dwelling</b>	Car spaces to each court	4
<b>Primary school</b>	Car spaces to each employee	1
<b>Secondary school</b>	Car spaces to each employee	1.2
<b>Tertiary institution</b>	Car spaces to each full-time student and three part-time students	0.6
<b>Convenience shop if the leasable floor area exceeds 80 sq m</b>	Car spaces to each premises	10

### 52.06-6 Parking precinct plan

A parking precinct plan is a strategic plan relating to parking of cars and other vehicles within a defined area which is incorporated into this scheme and listed in the schedule to this clause. A parking precinct plan may form part of a more general land use or other strategic plan or policy.

A parking precinct plan may specify different requirements to those set out in the table at Clause 52.06-5.

The parking precinct plan must include the following information:

- The purpose of the plan.
- The area to which the plan applies.
- The parking outcomes to be achieved by the parking precinct plan.
- An assessment of car parking demand and supply in the precinct.
- Any locational, financial, landscape or other actions or requirements necessary to implement the parking precinct plan.

### **54.03-7 Parking objective**

To ensure that car parking is adequate for the needs of residents.

#### **Standard A9**

- Two car spaces should be provided per dwelling with:
  - One space at least 6 metres long and 3.5 metres wide and covered or capable of being covered.
  - The second space at least 4.9 metres long and 2.6 metres wide.
- If the car spaces are provided in a garage, carport or otherwise constrained by walls, a double space may be 5.5 metres wide measured inside the garage or carport.
- A building may project into a car space if it is at least 2.1 metres above the space.  
The requirements of this standard do not apply to extensions to existing dwellings.
  
- **Decision guidelines**
  - Before deciding on an application, the responsible authority must consider:
    - The likely needs of users.
    - The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.
    - The reduction of on-street car parking spaces resulting from the provision of car parking on the site, particularly for lots of less than 300 square metres.
    - The availability of public transport and on-street parking.
    - Any relevant local planning policy or parking precinct plan.

### **55.03-11 Parking provision objectives**

To ensure that car and bicycle parking for residents and visitors is appropriate to the needs of residents.

To ensure that the design of parking and access areas is practical and attractive and that these areas can be easily maintained.

#### **Standard B16**

Car parking for residents should be provided as follows:

- One space for each one or two bedroom dwelling.
- Two spaces for each three or more bedroom dwelling, with one space under cover.
- Studies or studios that are separate rooms must be counted as bedrooms.
- Developments of five or more dwellings should provide visitor car parking of one space for every five dwellings. The spaces should be clearly marked as visitor parking.
- In developments of five or more dwellings, bicycle parking spaces should be provided.

#### **Decision guidelines**

Before deciding on an application, the responsible authority must consider:

- The reduction in the demand for on-site parking in rental housing, managed by not for profit organisations, intended for residents likely to have a low level of car ownership.
- The number, type and size of dwellings.
- The availability of public transport and on-street parking.
- The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.
- The reduction of on-street car parking spaces associated with the provision of car parking on the site, particularly for lots of less than 300 square metres.
- Local traffic and parking management plans and safety considerations.
- Any relevant local planning policy or parking precinct plan.