

# Supporting Local Business – Streamlining Planning Permits

City of Yarra

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insight.



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# 1. Introduction: Business and planning “red tape”

This report will review the planning framework in Yarra to identify opportunities to reduce regulatory burden on local businesses.

## 1.1 Regulatory impacts on local business

Yarra’s inner-city location - with its vibrant mix of hospitality venues, service businesses, offices and other businesses mixed with housing, and including strong daytime and nighttime economies – makes it a haven for wide range of local businesses.

Given the economic and cultural value of small business it is understandable that reducing obstacles for the establishment and operation of these ventures is a priority for council. Planning is only one of the regulatory regimes that such businesses must navigate, but it is especially important.

Planning’s importance derives from several factors. The planning scheme has a relatively broad scope – covering aspects such as amenity issues, urban design, direction of the degree of urban change, preservation of heritage fabric, and management of car parking. This can be contrasted with other regulatory regimes such as the liquor licensing system that have a narrower and more specific focus.

This breadth of focus simultaneously increases the total volume of matters for which planning permission will be required, while also increasing the complexity of those applications when they are needed. This makes the planning system more challenging for businesses to navigate.

The planning system is also notable in that it may require public notice and can be subject to appeal processes. This introduces levels of delay and uncertainty that have greater regulatory impact than many other regulatory systems. Small businesses also frequently bear greater burden than other kinds of applicants as these processes resolve. For example, in many cases – such as when planning permission is required to commence operation – they may be unable to trade. This is a potentially intolerable burden for small businesses.

For all these reasons there is considerable benefit in pursuing planning reforms that can lighten this load.

The purpose of this report is to identify changes to the planning scheme Council can undertake to reduce the burden that the planning system places upon businesses – and especially small businesses – in Yarra.

## 1.2 Red tape and regulatory reform

The Victorian planning system has long been subject to criticism that it creates excessive regulatory burden. These criticisms have centred on the number of permits triggered by the system, excessive delays in processing those permits, excessive complexity in navigating planning obligations, and lack of clarity in planning guidance.

Multiple waves of reform at state government have not quelled those concerns. In many respects the Victorian system is now more complex than it was when the current system, based on the Victoria Planning Provisions, was introduced in the late 1990s. In particular, layers of ad hoc changes have increased the procedural complexity of planning system, even when these changes are notionally directed at increasing efficiency.

More productive system reform should focus on improved targeting of the system (reducing the regulatory burden of the system) and simplifying provisions wherever possible.

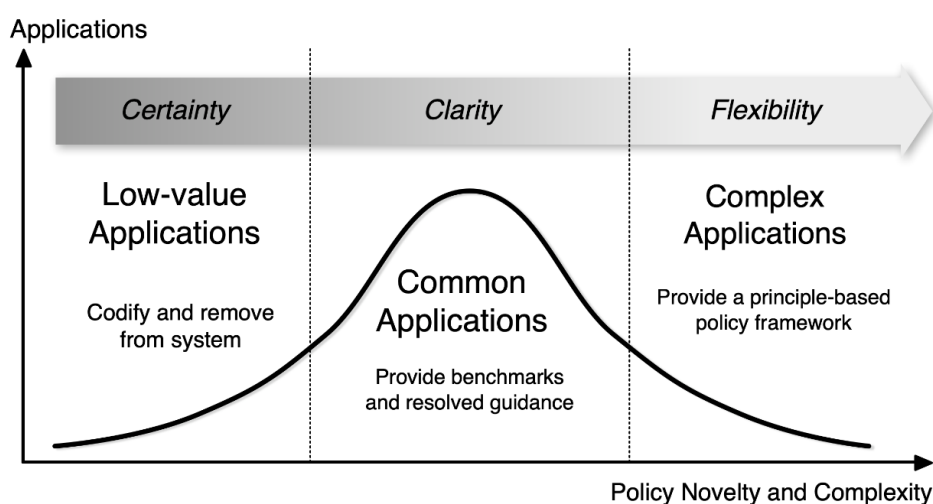
In considering how to lighten the burden of regulation, it is important to distinguish between *regulation* and the notion of *red tape*. While the terms are often used interchangeably, red tape is more usefully understood as regulatory requirements that exceed the minimum amount of intervention necessary to tackle an identified social or economic problem.<sup>1</sup>

While some degree of regulation is required within any advanced society, this definition highlights red tape as those element of the regulatory framework that are unnecessary, more burdensome than needed, or which causes a burden disproportionate to the benefit they achieve.

A proper review of the planning system's impact on local business therefore needs to balance those impacts against the purpose and benefits of the planning controls and the views of other stakeholders.

One model for thinking about where the system can best be improved is shown in Figure 1.

Figure 1: The "shape" of a well-functioning planning system



<sup>1</sup> Arie Freiberg, Monica Pfeffer, and Jeroen van der Heijden, "The 'Forever War' on Red Tape and the Struggle to Improve Regulation," *Australian Journal of Public Administration* 81, no. 3 (2022): 437.

This diagram shows a model for thinking about the “shape” of a planning system that is helpful for conceptualising the best opportunities for reform. It conceives the applications passing through the system as falling into three broad groups:

- *Low value applications*: These are applications where the planning system adds little value and ideally no permit is required. In a well-structured system there should be as few of these applications as possible.
- *Common applications*: These are applications that are not practical to fully codify and remove from the system, and where planning assessment is adding significant value in terms of final outcomes. These should be the bulk of day-to-day work.
- *Complex applications*: These are matters that either raise unexpected issues, or which are consequential enough that they require detailed first principles analysis. The heavily policy oriented and principle-based approach of the Victorian system is essentially tuned for these applications, and these are not a key focus for red tape reduction due to both their importance and inherent complexity.

The planning system needs to respond to these different types of applications in different ways.

A key criticism of the Victorian planning system is that it is poorly targeted – for example through broad buildings and works triggers and an excessive number of permit applications. This means that there are far too many applications on the left-hand side of the diagram, which ideally should not be in the system at all.

These kinds of applications are therefore of particular interest in reducing impacts upon local businesses. They can be removed through better targeting of the system so that permits are not required. Opportunities for removing such applications from the system will be a key focus of this report.

Applications in the middle of the above spectrum are not as readily removed from the system. However, there may be scope to reduce burden on applicants through improved policy and guidance.

There may also be opportunities to reduce the risk associated with these applications for business. For example, some applications in this category of application may be moderately complex to assess and therefore not suitable for complete removal from the system, but not have significant impact on neighbours. Applications of this type may be suitable for exemption from normal public notice and appeal mechanisms. This can considerably reduce the risk associated with the application process for applicants.

### **1.3 Layers of the system and previous reform**

A challenge in reducing the impact of the system at council level is the limited influence local governments have over key levers in the planning system. Permit triggers are consolidated in the standard state provisions of the planning scheme – although council can influence some of these with changes to schedules (notably exemption clauses in overlays).

In addition, some of the classic low-value application categories that previously affected businesses have slowly been addressed by state government, or have reform on the horizon.

For example:

- The commercial zones were heavily liberalised a decade ago, making many more uses as-of-right, reducing the number of permit applications in commercial centres.
- The impact of minimum parking provisions has been eased – although not removed – through the alignment of many standard rates (which reduces the need for a permit when premises change use) and the use of Column B rates close to the Principal Public Transport Network. Further parking reform is mooted in *Plan for Victoria* (Action 5).
- The proposed removal of the permit requirement for licensed premises under cl 52.27 – Licensed Premises will further reduce the planning system’s role in governance of the hospitality sector (previous commercial zone reform already made most of these uses as-of-right in the Commercial 1 Zone).

These reforms have already achieved some benefits for business in Yarra. They have, however, somewhat narrowed the pathway for further reform, especially reform led by council.

## **1.4 Structure of this report**

This report will review opportunities for further system improvements that can reduce burden on local businesses – especially small business – in Yarra.

The report is structured as follows:

- Section 1 is this introduction.
- Section 2 uses a review of permit data to understand the system’s “footprint” upon small business, in particular through understanding those clauses that create the most permits.
- Section 3 reviews key state and local planning scheme provisions to assess where opportunities to reduce regulatory burden may exist.
- Section 4 includes case studies of planning applications to better understand factors that contribute to burden upon business.
- Section 5 discusses the views of internal stakeholders to inform opportunities for reform.
- Section 6 outlines possible system improvements, including those that could be implemented by council and those that might be pursued through advocacy to state government.

## 2. The system's footprint

This section uses permit data to consider the types of application that affect businesses in Yarra. This helps to identify key causes of delay and the best opportunities for reform.

### 2.1 Planning permit data review

Council provided four years of permit data to allow understanding of the impact of the planning system upon local businesses. This data can help to isolate the most useful areas of focus for system improvement.

The data covered applications from April 2021 to April 2025. A total of 1392 applications were made in that time for key categories identified as being entirely or substantially associated with businesses. This is an average of 348 applications a year. This includes both permit applications and amendments to existing permits. The data was sourced from state government Planning Permit Activity Reporting System data. Under this system permits are sorted into specified categories.

A number of application categories, relevant to businesses, were identified:

- Change of use
- New building (commercial)
- Extension to building (commercial)
- Demolition (commercial)
- Liquor licence
- Signage (commercial)
- Car park reduction
- Vegetation removal (commercial)

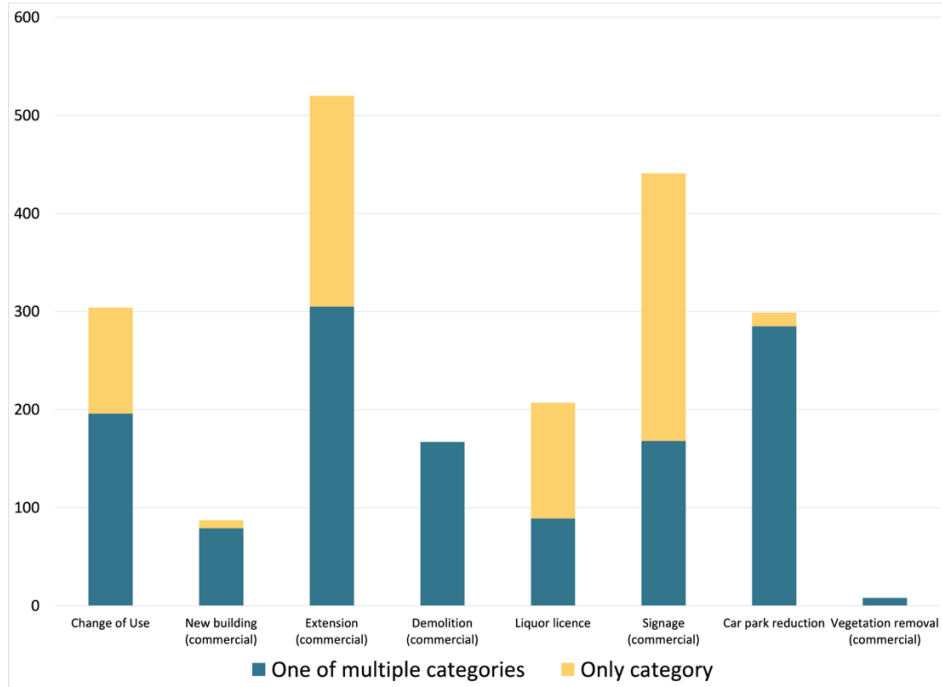
Note some categories – notably change of use and car parking reduction applications – are not exclusively lodged by commercial applicants. For example car parking reductions can be associated with residential applications.

The number of standard (non-VicSmart) applications in each of various application categories is shown in Figure 2, below. The bars separate applications where the specific category was the only permit trigger (yellow) from those where the trigger was one of several triggers (blue).

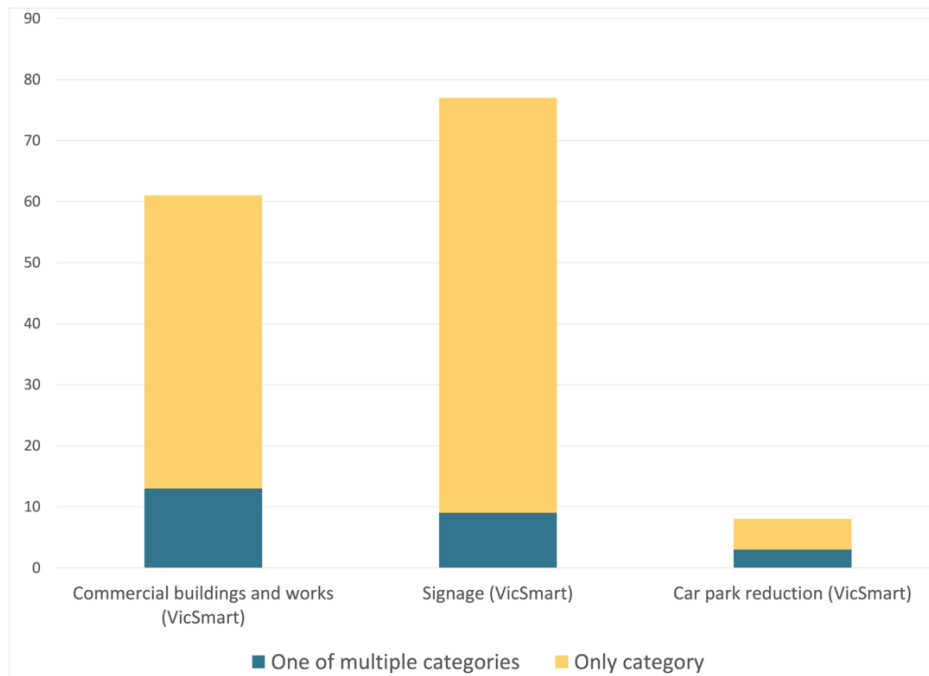
VicSmart is a system for fast-tracking certain categories of applications. VicSmart applications are exempt from typical public notice and objector appeal requirements. The Chief Executive Officer of council is also the formal decision-maker for these applications (meaning that they cannot be decided by councillors).

The application data discussed above and shown in Figure 2 does not include VicSmart applications. The equivalent data for VicSmart applications is shown in Figure 3.

**Figure 2: Number of standard planning permit applications, key commercial categories, 2021 to 2025**



**Figure 3: Number of VicSmart planning permit applications, key commercial categories, 2021 to 2025**



As applications can fall within more than one category, the combined total of these bars is greater than the total number of applications lodged. Presenting the data this way provides an understanding of the impact of different kinds of application to the total permit load.

Identifying the number of applications for which only one category of application applied helps to isolate prime opportunities to remove permits from the system. These can more readily be removed from the system than those applications that fall in multiple categories.

A crucial limitation of this data, however, is that it does not identify the specific permit triggers in the scheme. This makes the data difficult to analyse and extract. While some categories – such as car park reduction, liquor licence applications, and demolition – correlate either directly or very closely with an individual permit trigger, others do not. For example, signage applications might be required because of the heritage overlay, the state-wide signage provisions at cl 52.05, or both. This will not be clear from looking only at the permit category. The relationship between categories and permit triggers is shown in Table 1, below.

**Table 1: Relationship between permit categories and permit triggers**

Category of application	Provisions likely triggering the permit/ notes
Change of use	Various zones  This includes all change of use applications. While these are expected to be substantially business-related, some other use applications will be included.
New building (commercial) Buildings and works trigger	Commercial zones Industrial zones Design and Development Overlays Heritage Overlay
Extension (commercial) Buildings and works trigger	Commercial zones Industrial zones Design and Development Overlays Heritage Overlay
Demolition (commercial)	Heritage Overlay
Liquor licence	Cl 52.27 – Licensed Premises
Signage (commercial)	Cl 52.06 – Signs Heritage Overlay
Car parking reduction	Cl 52.06 – Car Parking  This category will include a mix of residential and business-related applications.
Vegetation removal (commercial)	Unclear, possibly Significant Landscape Overlay

The permit requirements outlined above are discussed in more detail in Section 3.

## 2.2 Key application types

The following observations are made about the breakdown of application types shown in Figure 2 and Figure 3. References are to “standard” (non-VicSmart) applications except where noted.

### Extensions to commercial buildings

Extensions to commercial buildings account for 520 applications, more than a third (37%) of the total applications lodged in the period studied. Of these, 215 (15% of the total selected applications) included no other category of application. However as noted above, these will include applications under several permit triggers. This makes it harder to identify the precise permit triggers most

responsible for drawing these applications into the system. This is also true of the smaller number of wholly new buildings.

### **Signs**

Signage applications are the next largest category of applications, with 441 applications (32% of the total applications). More of these are only for signage, with signage-only applications accounting for 273 (just less than 20% of the total applications).

Importantly, however, many of the single category applications will include more than one permit trigger (as these applications will include permission under the standard signage controls at cl 52.05 – Signs and the Heritage Overlay).

### **Liquor**

The next largest group of single-category applications were the liquor licence applications. Unlike many other categories, these can be linked to a single permit trigger (cl 52.27 – Licensed premises).

The state government has foreshadowed removal of this clause. This change would have completely removed 118 applications from this dataset, equivalent to nearly 30 applications a year.

### **Car parking**

Car park reductions account for a considerable volume of applications. Importantly, however, a significant volume of these would be associated with residential development. The data does not allow separation of these applications.

The overwhelming majority of parking reduction applications also involve another permit category (change of use, extension to buildings, or new buildings). There is therefore less scope for complete removal of such applications from the system.

Nevertheless, removal of the parking component of applications may still have considerable benefits for applicants. However, as discussed in Section 5.1, the statutory planning officers noted that car parking reductions can generate significant community concern. This has flow-on effects for business with reduced certainty, increased timeframes, and risk of appeals.

### **VicSmart applications**

The VicSmart data in Figure 3 shows that some minor buildings and works applications and signage applications are being assessed through the VicSmart process. This remains, however, a relatively small proportion of all applications.

## 3. Planning scheme review

The planning scheme includes a range of key permit requirements that affect business. The ability of council to influence these requirements varies.

### 3.1 Zones and overlays

Yarra's commercial areas are within the standard state zones (the Commercial 1 and 2 zones). There are also notable areas of Mixed Use Zone, which allows for both residential and commercial uses.

Unlike some similar inner city councils, Yarra does not use the Activity Centre Zone.

Multiple overlays are relevant to businesses and impose permit requirements for construction and alteration of buildings. These include Design and Development Overlays used to regulate design and height of buildings.

Most of the council area is within a Heritage Overlay, including most of the commercial strips.

### 3.2 Key state permit requirements

The planning permit data discussed in Section 2 of this report identifies the key scheme clauses that trigger planning permission. Many of these were noted in Table 1. The following briefly summarises the key triggers affecting businesses and provides preliminary notes on possible avenues for system improvement.

The discussion below separates these into state and local triggers, although this is not a straightforward divide. The structure of Victorian schemes means that strictly speaking all permit requirements are within core state-wide clauses. However the distinction drawn here is the level of choice council has about the application of the trigger.

The Commercial 1 Zone, for example, includes permit triggers set by the state. Council has some ability to control where the zone applies, however in practice there is little alternative to its use in standard commercial precincts and there are few changes Council can make to the zone with schedules.

On the other hand, provisions where the core control is a state government provision but council has considerable control over the choice to apply them (such as the Heritage Overlay) and the form they take (such as Design and Development Overlays) are addressed under local controls, at Section 3.3 below.

By their nature, the state permit triggers are outside of the direct control of council. However they are important to understand to appreciate the limitations to streamlining that council can achieve, and also to identify possible avenues for advocacy.

## Change of use

Changes of use accounted for just over 300 applications in the permit data discussed in Section 2 – just over 75 a year. While this encompasses all zones, of particular relevance to this report are the changes of use where a permit is required under the Commercial 1 Zone.

The commercial zones have been considerably liberalised in the past 15 years, most notably through changes made in 2013. Many uses – such as many hospitality venues – have been made Section 1 (no permit required for use) in the Commercial Zone. This means many new businesses do not need a permit for the change of use. Instead they are “caught” through other associated activity such as buildings and works, liquor licenses, car parking reductions and signage.

As a result of this liberalisation, it is more likely that uses that require a permit genuinely involve matters warranting a planning assessment (the centre of the bell curve discussed in Section 1). These are not prime candidates for system streamlining.

For these reasons the zone’s use provisions are considered to have relatively little relevance to streamlining the system for business uses.

## Commercial zones – buildings and works

Zones also include permit requirements for buildings and works. The most relevant of these at present current is the Commercial 1 Zone. This has the following buildings and works permit requirement at cl 34.01-4:

A permit is required to construct a building or construct or carry out works.

This does not apply to:

- The installation of an automatic teller machine.
- An alteration to an existing building façade provided:
  - The alteration does not include the installation of an external roller shutter.
  - At least 80 per cent of the building facade at ground floor level is maintained as an entry or window with clear glazing.
  - An awning that projects over a road if it is authorised by the relevant public land manager.

(The same requirement applies in the Commercial 2 Zone, at cl 34.02-4).

It can be seen that this is framed in a manner that catches most buildings and works, with limited exemptions. These permit triggers account for a significant proportion of the new building and extension categories shown at Table 1, although the exact contribution of each permit trigger is not reported in the data.

The exemptions provided interact and partially correspond with exemptions provided under local Design and Development Overlays, as discussed below at Section 3.3.

## Liquor licences

These applications are triggered by cl 52.27 – Licensed premises, which requires a planning permit to be issued for venues that need a liquor licence. As already noted in Section 2, the state government has indicated that this planning requirement will be removed from the system, with the liquor licensing regime taking over the management of such applications.

This is expected to remove a significant element of regulatory duplication from local businesses, and will reduce the permit load on council’s planning staff.

## Signage

Signage controls are contained primarily at cl 52.05 – Signs, with the permit requirement laid out at cl 52.05-2. Commercially zoned land is within signage Category 1 – commercial areas.

A key trigger in these controls for this report is the requirement in Category 1 areas for business identification signs. This will trigger a permit if the business identification signs do not satisfy the following requirement:

The total display area of all signs to each premises must not exceed 8 sqm. This does not include a sign with a display area not exceeding 1.5 sqm that is below a verandah or, if no verandah, that is less than 3.7 m above pavement level.

The sign controls include a complex set of exemptions that cover many minor forms of signage.

Clause 52.05-7 allows for signs to be exempted from notice and review requirements, but this option is not used within the City of Yarra.

Importantly, many signs will also need permission due to the Heritage Overlay, as discussed below at Section 3.3.

## Car parking

The car parking provisions are at cl 52.06 – Car Parking. This specifies minimum rates of car parking to be provided. Lower rates – *Column B rates* – are used in a designated “Principal Public Transport Network Area,” defined by proximity to major public transport routes. All of Yarra is within this area.

The Parking Overlay can be used to vary these standard rates. This could be used to turn off parking requirements for selected areas or categories of application. Currently Yarra uses this overlay for only two precincts, the Collingwood Arts Precinct and the Victoria Gardens Shopping Centre.

Reforms over the last fifteen years have reduced, although not eliminated, the burden caused by car parking controls for small business. Applications for parking reductions previously accompanied a large proportion of changes of use applications, but these impacts have been reduced through several reforms:

- The introduction of Column B rates which have reduced the rates applicable within well-located areas such as Yarra.
- The alignment of many rates at the same value of 3.5 spaces per sqm of leasable floor area – this reduces the chance that a change of use will trigger planning permission.

- A permit is not required for a reduction of 10 spaces or less in commercial areas where gross floor area of the building is not increased (cl 52.06-3).
- Applications for a reduction of 10 spaces or less are VicSmart applications (cl 52.06-3).
- All applications are notice exempt if no other trigger applies, or if an application is notice exempt under all other clauses (cl 52.06-4).

These reforms have reduced the extent of workload caused by parking waivers, and in the statutory planning workshop these were not considered a leading cause of workload.

### 3.3 Key local requirements

#### Heritage Overlay

The Heritage Overlay is applied across a very large proportion of the municipality. The provisions of this overlay are among the more restrictive in the Victorian planning system, with cl 43.01-1 requiring a planning permit to construct a building and to carry out works. It opts in many categories of application that would normally be exempt from the need for a permit under the general exemptions at cl 62.02-1.

The Heritage Overlay also requires a permit to construct or display a sign. While the permit data does not allow the precise number of these applications to be determined, in the workshop with statutory planners (see Section 5.1), it was clear that this included a significant volume of applications.

The heritage values of the City of Yarra are doubtless highly valued by its residents. Removing or reducing the application of the heritage overlay would be contentious and require considerable further justification and investigation. This report therefore proceeds on the assumption that the Heritage Overlay will remain in place with approximately its current coverage.

The question that arises is therefore a more limited question – can the overlay’s permit requirements to reduce the impact on business? Without a detailed review of the heritage provisions, the current analysis needs to focus on possible changes with relatively low risk of causing unintended consequences or impact upon heritage places.

The Heritage Overlay allows (at cl 43.01-3) that anything done in accordance with an incorporated plan specified in the schedule to the overlay does not need a permit. Yarra applies an incorporated plan identifying permit exemptions to many of its heritage precincts.

It appears likely that the state government’s allowance for the incorporated plan mechanism was intended to implement site-specific heritage management plans. The use of this mechanism to create a series of widely-used buildings and works exemptions is, however, considered a commendable “hack” of the standard VPP controls. The use of such a mechanism points to the need for a more standardised way to add such exemptions.

The exemptions under the incorporated plan cover the following headings (with the heading numbers retained to streamline the discussion that follows):

- 2.1 – Repairs and maintenance.
- 2.2 – Roofing.

- 2.3 – Painting.
- 2.4 – Modifications and alterations.
- 2.5 – Outbuildings.
- 2.6 – Pergolas, verandahs and decks.
- 2.7 – Fences and roller doors.
- 2.8 – Domestic services normal to a dwelling, utility installations and rainwater tanks.
- 2.9 – Domestic swimming pools and spas.
- 2.10 – Signage.

In each of the above categories, criteria are provided separately for individually significant, contributory, and non-contributory buildings.

The exemptions are considered to have two main avenues of impact that may affect businesses. Firstly, they can likely impact upon additions and alterations to commercial buildings (addressed in categories 2.1, 2.4, 2.5, and 2.6). Secondly, the exemptions regarding signage have obvious relevance to businesses.

A separate review is being undertaken of this document. This current report cannot attempt a full analysis of these exemptions, particularly with regards to the heritage values they protect. However some opportunities may exist to identify potential exemptions for low value applications in the two main categories of exemption identified above.

With regards to the exemptions affecting additions and alterations to commercial buildings, one key low risk category is likely to be ground floor rear additions. Some complexity arises with regards to these applications because of the slightly different exemptions that apply under categories 2.4, 2.5, and 2.6 of the incorporated document. Each has somewhat different diagrams for the exemptions applying to contributory and non-contributory buildings, as shown in Figure 4.

**Figure 4: Yarra heritage exemptions for alterations, outbuildings and verandahs**

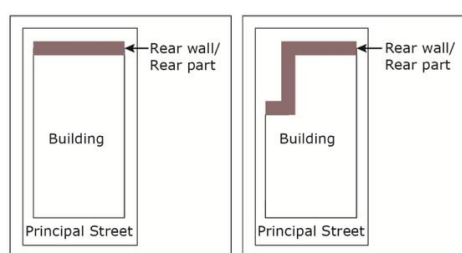


Figure 1 Modifications/alterations and associated demolition to rear walls or rear part of contributory or not contributory buildings.

Figure 2 Modifications/alterations and associated demolition to rear walls or rear part of contributory or not contributory buildings.

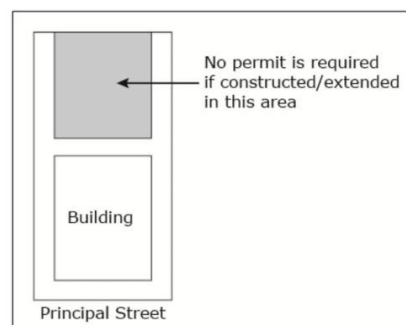


Figure 3 Construction/extension of outbuilding to a contributory property (not located on a corner site).

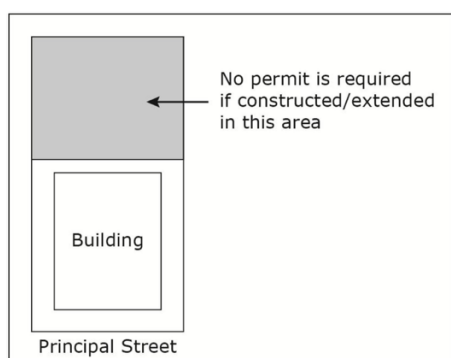


Figure 5 Construction/extension of outbuilding to a not contributory property (not located on a corner site).

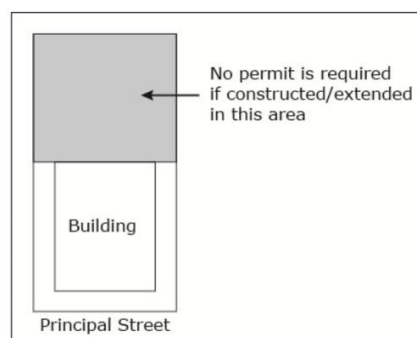


Figure 7 Construction/extension of a pergola/verandah to a contributory or not contributory property (not located on a corner site); and a deck to all properties.

An opportunity may exist to rationalise and simplify these exemptions. This is discussed in Section 6.2.

The existing signage exemptions are relatively limited, essentially applying to the renewal of signage and decal signage applied to ground floor windows.

### Design and Development Overlays

Yarra uses Design and Development Overlays (DDOs) as its principal provisions to manage the built form of activity centres.

Like most overlays in the Victorian system, the DDO uses a broad buildings and works trigger (in this case, at cl 43.02-2). It then allows the schedules to exempt out categories of application. The standard exemptions in the DDO State header clause are limited and only cover residential development. This places great reliance on the schedules to outline the exemptions.

Yarra's schedules typically have purposes relating change management in terms of both overall scale (such as height) as well as qualitative design quality elements such as street activation.

There are four key exemptions identified in Yarra's DDO schedules. One, relating to buildings less than 8.5m high, is used in a single overlay (Design and Development Overlay Schedule 4, which applies around the World Heritage Royal Exhibition Building). The other three vary slightly in their wording but can be summarised as exempting:

- Rear ground floor additions no higher than 4m.

- Alterations to existing facades subject to meeting specified standards of activation.
- Awnings projecting over a road where authorised by a public land manager.

Table 2, below, shows the application of these exemptions in these overlays. It can be seen that many DDO schedules do not have buildings and works exemptions. However the above three exemptions have been applied, with minor differences, in multiple of the more recently applied overlays. (These are currently interim provisions, set to expire on 30 June 2025. An extension to these interim controls has been requested).

This alignment of exemptions has clear advantages with regards to simplifying the administration of the system.

**Table 2: Design and Development Overlay Exemptions**

Overlay	Buildings less than 8.5m in height (in nominated area)	Rear ground floor extensions no higher than 4m	An alteration to an existing building facade (no roller shutter, 80% glazing or entry requirement)	Awning with public land manager consent
DD01				
DD02				
DD03				
DD04				
DD05				
DD06				
DD07				
DD08				
DD09				
DD010				
DD011				
DD012				
DD013				
DD014				
DD015				
DD016				
DD018*				
DD019				
DD021				
DD022				
DD023				
DD025				
DD026				
DD027				
DD028				
DD030*				
DD035*				
DD036*				
DD037*				
DD038*				
DD039*				
DD040*				

\* Indicates interim provisions currently expiring 30 June 2025.

### **3.4 Bespoke controls and future changes**

A notable aspect of Yarra’s planning scheme is that – in contrast to some other comparable councils such as Stonnington and Merri-bek – it does not use the Activity Centre Zone. Instead, standard zones such as the Commercial 1 Zone are applied over commercial centres, with Design and Development Overlays applied to guide built form.

There are considerable advantages from this approach. Standard zones are simpler to use than the Activity Centre Zone and their familiarity can benefit both council officers and business. As discussed at Section 3.2 above, the Commercial 1 Zone is permissively framed, which means that the zone has a small regulatory footprint with regards to use applications

However the zone is less targeted with regards to buildings and works, with a widely-framed permit requirement for development that council cannot customise. A bespoke zone would allow council to tailor buildings and works triggers to be more targeted. This is a benefit of zones such as the Activity Centre Zone that should be acknowledged and weighed against the disadvantages.

It is not expected that the state government will approve new applications of the Activity Centre Zone, with its role in the system replaced by the new Precinct Zone and Built Form Overlay. This is discussed further at Section 6.1.

## 4. Case studies

Selected applications were reviewed in detail to help understand the key causes of delay for businesses and identify potential planning scheme improvements.

Council provided the plans and delegate report for eight case studies. These allowed deeper understanding of the actual process of assessment that was undertaken, and helped to fill out the broader quantitative view provided by the permit data.

Categories outlined for each application in the discussion that follows are the categories used in Section 2, to assist in comparison of the discussion across sections.

### 4.1 617-619 Victoria St Abbotsford – Education Centre

<b>Zone and overlays</b>	PDZ1, SLO1, DDO2, DCPO1
<b>Categories</b>	Change of use, signage (commercial)
<b>Permit triggers</b>	PDZ1 – Cl 37.06 -1 – Section 2 Use Signs – Cl 52.-05-1 / cl 52.05-13– permit is required for business identification signs, advertising signs, and internally illuminated signs.
<b>Notice exempt?</b>	No (though see below).
<b>VicSmart?</b>	No.
<b>Advertised?</b>	Yes.
<b>Statutory days</b>	128

This application sought permission for a change of use for an education centre, as well as associated signage, within the Victoria Street East precinct.

With regards to the use, the key point of note here was the regulatory burden created by the application process, and particularly the notice process. The application was widely notified but did not attract any objections.

The burden associated with the use component of the application can be attributed to several factors:

- The use “education centre” is arguably treated somewhat conservatively in the zone, in that the use needs a permit when a training centre such as this is very akin to an office use, which is Section 1 subject to conditions.

- The decision regarding notice under the *Planning and Environment Act 1987* is relatively conservative, in that the responsible authority must advertise unless the application causes no material detriment caused to any person.
- The framing of the notice requirement under the Act means that once notice is given, that notice must go to all adjoining owners and occupiers. This can cause disproportionate notice exemption.

In this case, Council could likely have sustained a judgement that there was no material detriment caused by the application. However given the framing of the test under the legislation, which is set at a low bar, it is not considered appropriate to second guess the judgement of the officers in that regard. In particular, it is dangerous to focus on a material detriment judgement through an outcome-focused analysis.

The Priority Development Zone does, at cl 37.06-6, provide a notice exemption for any application that is generally in accordance with the incorporated plan under the zone. In this case, that plan is largely silent on use matters, and the judgement was therefore made that this exemption did not apply. While this is considered a sound reading of the scheme, it is worth noting that it is different to the way a similar provision in the Development Plan Overlay is typically applied. That provision requires all permits to be in accordance with an approved development plan. The restrictive nature of that requirement means that if the plan is silent on a matter about an application, applications are usually treated as in accordance with the plan.

The signage trigger included all business identification signage, with no minimum threshold for the area. This is because Victoria Street East is treated as within Category 3 – High Amenity Areas. This is the default under the zone, but the schedule also specifies that this precinct is within category 3. This is the second most restrictive signage category.

### **Possible scheme remedies**

It is likely that education centres are treated more conservatively than offices because the category includes uses such as schools and child care centres that feature external play areas. It is arguable that the table of uses in the zone schedule could make “Education centre (other than child care centre, primary school, or secondary school)” a Section 1 use.

While a detailed analysis of the built form of the precinct has not been undertaken, it may be that the precinct in question could reasonably be placed within Category 2 – Office and Industrial rather than Category 3 – High Amenity Areas. It may also be that there is room for refinement of the standard signage categories to better account for high amenity office precincts such as this (noting, for example, that Category 2 does allow for construction and display of pole signs without permission). This would require state government review of the signage provisions.

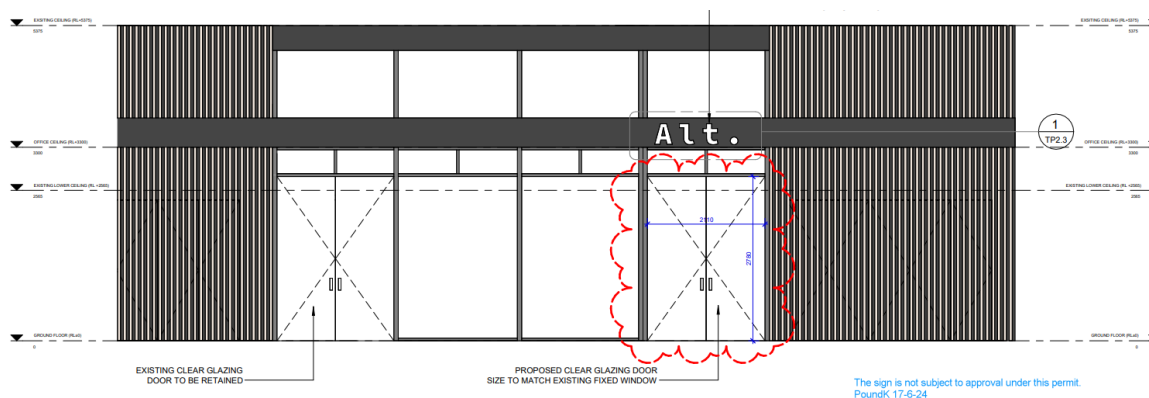
While the above changes would both have facilitated this application, the triggers involved are relatively specific and the Priority Development Zone is applied to only this small precinct in Yarra. These changes, if made, would therefore have minimal broader impact on business.

## 4.2 318 Johnston St Abbotsford – Facade Alterations

Zone and overlays	C1Z, DDO15, EAO, DCPO1
Categories	Extension (commercial)
Permit triggers	C1Z – cl 34.01-4 – construction of buildings and works DDO15 – cl 43.02-2 – construction of buildings and works
Notice exempt?	Yes under zone (cl 34.01-7), but not overlay.
VicSmart?	No.
Advertised?	No.
Statutory days	115

This was a proposal for ground floor alterations to a building facade. The permit was triggered under the zone because 80% of the glazing was not kept open. However the change did not alter the extent of ground floor glazing an activation, as it simply involved a new door being added in to replace a window (Figure 5).

Figure 5: Plan extract showing facade change



### Possible scheme remedies

The DDO in question here does not include the standard exemption for ground floor alterations that is included in many of Yarra’s recent DDOs (discussed in Section 3.3). That exemption closely mirrors the Commercial 1 Zone’s exemption. The DDO used here could benefit from that change. However, neither form of the exemption would apply in this case as the existing glazing is already below the 80% glazing threshold.

Consideration could be given to broadening the exemption to apply to situations where the extent of glazing and active frontage is not decreased.

### 4.3 100-102 Webb St Fitzroy – Demolition, Alterations, Signage

<b>Zone and overlays</b>	C1Z, HO334, DDO30, DCPO1
<b>Categories</b>	Extension (commercial)
<b>Permit triggers</b>	C1Z – cl 34.01-4 – construction of buildings and works DDO15 – cl 43.02-2 – construction of buildings and works HO334 – cl 43.01-1 - construction of buildings and works, demolition, construction or display of a sign.
<b>Notice exempt?</b>	Some elements were exempt under HO (cl 43.01-1), but not all elements, and no exemption applied under the other triggers.
<b>VicSmart?</b>	No.
<b>Advertised?</b>	No.
<b>Statutory days</b>	69

This application was for alterations, additions and demolition to an existing building associated with the establishment of a new business, as well as signage. The building was individually significant.

#### Possible scheme remedies

The application involved multiple minor changes, none of which were considered of note. However it would be difficult to codify exemptions that would catch all the alterations required in this case, given:

- The site was on the corner of a laneway meaning the proposed changes were visible from multiple directions.
- The building was individually significant, meaning that consideration of impact upon building fabric was required – this means exemptions tied to factors related to visibility from the precinct would not be appropriate.

There are therefore not simple scheme changes that would have avoided this application.

#### 4.4 Floor 1 62-70 Johnston Street Fitzroy – Signage and alterations for pet store

<b>Zone and overlays</b>	C1Z, HO334, EAO, DCPO1
<b>Categories</b>	Extension (commercial)
<b>Permit triggers</b>	C1Z – cl 34.01-4 – construction of buildings and works DDO15 – cl 43.02-2 – construction of buildings and works HO334 – cl 43.01-1 - construction of buildings and works, demolition, construction or display of a sign. Signs – cl 52.05-2 – construct or display a sign
<b>Notice exempt?</b>	Some elements were exempt under the zone (cl 34.01-7 ) and HO (cl 43.01-1), but not all elements and no exemption applied under the other triggers.
<b>VicSmart?</b>	No.
<b>Advertised?</b>	No.
<b>Statutory days</b>	71

This proposal was for signage, buildings and works, and demolition associated with a pet supplies premises. The use did not need a permit. The building was ‘not contributory’.

Permit requirements for signage included that the total area of signage was above that allowed for business identification signs in the zone.

#### Possible scheme remedies

The number of triggers here means that complete removal of the application from the system is unlikely. However removal of some of the triggers would have simplified assessment.

This application is an example of a permit being required because the signage exceeded the 8m<sup>2</sup> size threshold for business identification signs.

While notice of this application was not given, it does highlight the lack of alignment between notice and review exemptions under different provisions. For example, signs are automatically exempt from notice under the statewide heritage provisions, but not under cl 52.05 – Signs.

The opportunity exists for council to widen the notice exemptions for signs using the schedule to cl 52.05-7.

#### 4.5 449 Punt Road Cremorne – Amendment to change doors

<b>Zone and overlays</b>	C1Z, DDO1, DDO2, LSIO, DCPO1
<b>Categories</b>	Extension (commercial) Note: S 72 amendment
<b>Permit triggers (original permit)</b>	C1Z – cl 34.01-4 – construction of buildings and works DDO15 – cl 43.02-2 – construction of buildings and works LSIO1 – cl 44.04-2 – construction of buildings and works
<b>Notice exempt?</b>	No.
<b>VicSmart?</b>	No.
<b>Advertised?</b>	No.
<b>Statutory days</b>	21

This was an extremely small change (amended balcony doors) to existing endorsed plans.

#### Possible scheme remedies

Applications such as this are a quirk of the operation of permits. Since the original development *as a whole* needed a permit, the development is required to be constructed in accordance with the endorsed plans. This means that even minor subsequent alterations will require a new approval as an amendment to the permit.

This means that an application such as this cannot be easily removed from the system through additional permit exemptions under the original scheme controls.

While a process review is outside of the scope of this review, the 9 pages of assessment contained in the delegate report may point to opportunities to streamline reports for simple permit amendment applications (even allowing that much of this would be standard content repeated from report to report).

## 4.6 148 Victoria St Richmond – Signs and roller shutter

<b>Zone and overlays</b>	C1Z, DDO22, DCPO1
<b>Categories</b>	Buildings and works (commercial), signs
<b>Permit triggers</b>	C1Z – cl 34.01-4 – construction of buildings and works DDO22 – cl 43.02-2 – construction of buildings and works Signs – cl 52.05-11 – construction and display an internally illuminated sign
<b>Notice exempt?</b>	No.
<b>VicSmart?</b>	No.
<b>Advertised?</b>	No.
<b>Statutory days</b>	21

This was an application for signage and a roller shutter for an existing shopfront. The signage required a permit despite being smaller than an existing approved sign, as described in the officer report:

The proposed sign results in lesser amenity impact as it will replace a larger internally illuminated sign within the same location and only fails to be exempt from a planning permit as it is 0.5m under the 30m distance from a pedestrian/traffic light requirement.

The roller shutter was not supported. While procedurally this was managed as a condition of permit requiring its removal from the plans, this was effectively a refusal of that aspect of the application.

### Possible scheme remedies

This application highlights the complexity of some aspects of the operation of the statewide signage provisions, in this case the separation distances between illuminated signs and traffic lights.

Review of those provisions would need to be undertaken by the state government. (A previous review of the sign provisions was undertaken by the state Government in 2007 and was never fully implemented). That said, the purpose of the trigger here is understood to relate to visually separating signs from pedestrian lights. It is likely that this cannot be simply codified to remove the need for a permit.

The permit requirement for the roller shutter is considered appropriate as this is not a design element that is, or should be, supported. Streamlining such applications would only be achieved by making such shutters prohibited. This is not considered appropriate as it would have almost no benefit (as few such applications would currently be lodged) and would remove flexibility for the occasional situation where a shutter may be acceptable.

## 4.7 246 Victoria St Richmond – Alteration to Facade

<b>Zone and overlays</b>	C1Z, DDO22, DCPO1
<b>Categories</b>	Buildings and works (commercial), signs
<b>Permit triggers</b>	C1Z – cl 34.01-4 – construction of buildings and works DDO22 – cl 43.02-2 – construction of buildings and works Signs – cl 52.05-11 – construction and display an internally illuminated sign
<b>Notice exempt?</b>	No.
<b>VicSmart?</b>	No.
<b>Advertised?</b>	No.
<b>Statutory days</b>	24

This application was for alterations to a shopfront, along with signage.

The permit was required because:

- The shopfront alterations resulted in less than 80% of the frontage being clear glazing or entry; and
- The signage varied several criteria in the permit exemptions.

With regards to the shopfront alterations, while the area of glazing was lower than the standard, it was considered the intent of the control was met. In particular, the premises provided a cold bar opening onto the street which, while not an entry or clear glazing, did contribute to an active frontage.

With regards to signage triggers, the officer report notes as follows:

Pursuant to Clause 36.04-6, a permit is required to construct or put up for display a sign over a road carriageway or over land within 600 millimetres of a carriageway. While the applicant has not provided a measurement of the proposed signs from the carriageway, using aerial imagery to calculate the distance from the awning to the carriageway, it is considered that the proposal does not require a planning permit under the Transport Zone.

Two (2) different dates of aerial imagery have been utilised to demonstrate that the angle of the aerial imagery has not skewed the calculation and both calculations demonstrate greater distance than the 600mm requirement under the Transport Zone. Therefore, the proposal can be considered exempt from a planning permit under the Transport Zone.

The provisions discussed here relate to the signage within Victoria Street, which is in a different zone (Transport Zone) to the rest of the building. This zone, unusually, has a signage trigger at clause 36.04-6, separate to the main signage provisions. While no permit was required in this instance, this passage highlights the complexity of these provisions, in a manner similar to the application at 148 Victoria Street discussed above.

### Possible scheme remedies

As noted at Section 4.6 above, thorough reform and streamlining of the signage provisions would require action by the state government and would not be a simple project. The trigger causing difficulty here would not necessarily be simple to remove, as it does serve some purpose (although it may be that clearance from roadways is adequately addressed under building regulations).

Similarly, while the variation to the active frontage requirements was not problematic in this case, it would be difficult to codify a workable exemption that would have removed this application from the system. Attempting to fully codify situations such as this – where an unglazed section of the building still served the purpose of the provision – would increase the complexity of the provision in a manner that would likely outweigh the benefits of occasionally removing an unproblematic development from the system.

## 4.8 5-13 Little Charles St Abbotsford - Office

<b>Zone and overlays</b>	Mixed Use Zone, DDO22, EAO, DCPO1
<b>Categories</b>	Change of use, buildings and works (commercial), car parking reduction
<b>Permit triggers</b>	MUZ – cl 32.04-2 – office is a Section 2 Use and requires a permit MUZ – cl 32.04-10 – construction of buildings and works associated with a Section 2 Use DDO22 – cl 43.02-2 – construction of buildings and works Parking – cl 52.06-3 – reduce standard car parking requirement
<b>Notice exempt?</b>	No.
<b>VicSmart?</b>	No.
<b>Advertised?</b>	Yes (no objections)
<b>Statutory days</b>	104

This was an application for use of an existing building as an office.

This needed a permit for reduction of parking partly because the land is not within a commercial zone. In a commercial zone, it appears this would have been exempt as the waiver was less than 10 spaces and the gross floor area of the building is not increased (see cl 52.06-3).

A permit was required for minor buildings and works under the DDO. This is dealt with very expeditiously in the officer report, suggesting that there was no real merits issue to be assessed, but also that the application was not notably complicated or delayed by the requirement.

### Possible scheme remedies

The approval of use of the land as an office was relatively straightforward in this instance, and this is sometimes indicative of an unneeded permit requirement. However that is not clearly the case here. In

many locations in the Mixed Use Zone, and for some types of offices, this permit requirement would serve a clear purpose.

It is possible that parts of Yarra would be well-served by a mixed-use style zone that allowed offices without a permit. However this would require further investigation, and a single case study is not considered basis to make such a recommendation.

This is an example of how the broad-based buildings and works requirement in DDOs catches applications of very little value. A DDO exemption that applied where active frontage is not affected, as suggested in the discussion of 318 Johnston Street at Section 4.2 above, would benefit applications of this type (although a permit would still be required under the zone, assuming the use remains Section 2).

The parking component of the application could be removed with a broader removal of minimum parking requirements.

## 5. Internal stakeholders

Councils' statutory planning and economic development staff provided further insight into causes of delay for business.

### 5.1 Statutory planning workshop

A workshop was held with Council's statutory planning staff on 29 April 2025.

The purpose of the workshop was to seek input from Council statutory planners into key opportunities for reform. Statutory planners provide the direct interface between the planning system and local business, and the workload issues for statutory planners indirectly reflect the regulatory burdens upon business.

Statutory planners' experience with the system is also of value due to their understanding of the system. They are uniquely placed to understand the precise cause of delays given their familiarity with the specific planning permit triggers that are generating applications. As discussed in Section 3, this is only imperfectly captured in planning permit data.

The staff were invited to reflect upon types of applications:

- that contribute significantly to their workload.
- where they feel they add little value.
- where the outcome seemed clear even before a permit was lodged (for example at enquiry stage).
- that consume time disproportionate to any public benefit created.
- that could readily be codified / exempted from needing a permit.

A preliminary version of the analysis included in Section 2 was also presented to the officers and discussed as a group.

The officers highlighted signage applications as a key cause of workload and delay. They noted that the technicalities of the permit requirements for signs were complex and often hinged on precise details (such as distance from carriageways and traffic lights). Heritage controls were also mentioned as contributing to these permit requirements. Officers noted that many commercial signage applications related to ground floor signs with slight exceedances of standard sizes. These were perceived as adding little value in established commercial areas.

They noted that a great deal of existing signage existed without planning permission having been granted. This increased the complexity of administering the provisions, as the need for a permission when renewing a sign could hinge on whether the existing sign was legally erected. This also added to a sense of unfairness with regards to delays for those businesses that did seek permission.

Buildings and works applications for commercial buildings were also discussed as contributing to the number of applications. There was general agreement that it would be desirable to provide more exemptions for ground floor rear alterations to buildings.

It was agreed that applications for parking reductions were a contributor to workloads and delays, but these did not appear to be a “top of mind” issue for officers.

## **5.2 Economic development officer**

An interview with one of councils’ economic development officers who provides concierge services to business was held on 8 May 2025. This was of assistance in representing the concerns of business more directly than the statutory planning officers.

The officer noted that planning requirements were a considerable factor in the regulatory burden upon local businesses.

Like the statutory planning officers, they cited signage as a significant contributor to these delays. Their comments directly echoed their concerns about these controls, including the complexity of permit triggers and the apparent inequity of business that seek permission (or enquire about the need for permission) needing to apply when many signs are erected without permission.

Buildings and works applications were not cited as a major contributor to regulatory burden for businesses.

While less urgent than some other issues, parking reductions were noted as a contributor to regulatory burden. While many smaller applications are removed from the system by the exemption for applications for reductions of less than 10 spaces within commercial zones, some applications could not take advantage of this exemption. Medical centres, for example, can exceed a 10 space parking requirement with only a few practitioners.

## 6. Possible remedies

Previous reforms have taken some low-hanging fruit with regards to reducing the impact of the system upon small business. However there are still some further opportunities for system improvement by council, as well as matters that may be the subject of advocacy to state government.

### 6.1 State reforms and pending improvements

As noted in the Introduction, there has been some reform over the last 15 years of planning provisions that affect business, notably through removal of permit requirements under zones and parking provisions.

The state government has also foreshadowed the removal of permit requirements for liquor licenses. While the exact details of how licensed premises will be managed are not yet clear, this can be expected to reduce regulatory burden on businesses from the planning system.

The state government has recently gazetted several new planning tools that are relevant to this report, the Precinct Zone and the Built Form Overlay (BFO). These are anticipated to be central to the planning for activity centres, with the recent *Plan for Victoria* identifying the entirety of Yarra as an activity centre.

While it is too early to be clear if and how widely applied these provisions may be in the City of Yarra, they are of relevance in the current study as both include the ability to provide bespoke built form controls. Recommendations in the sections that follow regarding controls relating to development – such as alignment of built form exemptions – should be considered should these new provisions be proposed / applied.

If the BFO is adopted in the future, its application should be carefully evaluated to ensure it is not adding burden. The provision includes extensive “standard” built form controls that can be applied by default. There are potential advantages to this approach, including consistency across the state, and reducing the burden on councils to formulate their own built form approaches. The overlay also allows council to make applications notice exempt.

However it is also possible that the default controls may overregulate some aspects of built form, or introduce additional complexity. As an example, this report has highlighted the desirability of aligning approaches to active frontages between the Commercial 1 zones and overlays controlling built form. The BFO includes a default active frontage control (at Standard BF09) that is broadly consistent in intent with the Commercial 1 zone, but which differs in detail. Application of this provision in its default form may reduce alignment between the provisions compared to the newer of the DDOs being used by council.

There are considerable unknowns with regards to how the BFO will affect workload and regulatory burden. It is therefore recommended that the experience of other councils with the provision be closely monitored as the new provisions are rolled out.

The Precinct Zone could also be used to customise use controls. However, as discussed at Section 3.2, the commercial zones have already been reformed to be highly permissive. This review has not identified clear examples of further changes needed to use provisions under the zones.

A final point to note is that the Precinct Zone can also include customised built form controls. Unlike the use of a combination of the Commercial 1 Zone and BFO, this would allow removal or alteration of the broad buildings and works trigger under the zone.<sup>2</sup> While in isolation that would be desirable, it is not considered that this feature alone should dictate the choice of zone. Previous “bespoke” zones such as the Activity Centre Zone have been complex to administer, and the disadvantages of the zone may outweigh the ability to tweak permit triggers.

As with the BFO, further monitoring and understanding of other councils’ experience with the operation of the Precinct Zone should inform the use of these tools.

## 6.2 Local changes

Changes to local provisions such as schedules to overlays are a key priority in this review, as they provide the most direct path for council to lighten burdens upon small business.

### Buildings and works – exemptions under DDOs

The permit data (Section 2), scheme review (Section 3), case study analysis (Section 4) and discussion with council statutory planners (Section 5) all highlight that a significant volume of permits is generated by buildings and works requirements. This is partly due to the Commercial 1 zone, which uses a very broadly framed buildings and works trigger. However as noted in Section 3.3, many of Yarra’s DDOs do not include exemptions that align with the Commercial 1 zone’s exemptions.

Council’s most recent DDOs have largely remedied this problem. They include a set of exemptions that largely reflect, and slightly extend, the existing exemptions under the Commercial 1 Zone. However there are still many DDOs in the scheme that do not include any form of exemption for minor buildings and works.

It is suggested that a preferred form of the exemption be consistently applied across all DDOs (and other future built form tools such as BFOs). The exact program for applying these will need to be determined, but it is considered that having a consistent approach of applying these exemptions whenever a scheme control is introduced or modified, should be a minimal first step. Ideally the goal should be to apply the exemption universally in every built form control, unless some other contrary objective prevents this. (The interaction with the heritage overlay is a special case discussed in more detail below).

A suggested drafting of the exemption is to have it apply to the following buildings and works:

- Rear alterations, extensions or outbuildings that are no higher than 4m.

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<sup>2</sup> The BFO includes a provision (cl 43.06-4) that allows the schedule to the overlay to override other provisions of the scheme. However this relates to *outcomes and standards*, not permit requirements. It therefore appears doubtful that this could override the need for a permit in the zone. However there is considered some uncertainty about this point.

an alteration to an existing building façade provided:

- the alteration does not include the installation of an external roller shutter;
- in a Commercial 1 zone, the building façade at ground floor level that is entry or window with clear glazing is either maintained at not less than 80 per cent, or not further reduced.
- in a Mixed Use Zone, the alterations do not reduce the extent of the building facade at ground level that is entry or window with clear glazing.

The first exemption is based upon the exemption used in the most recent DDOs. However it is broadened to also apply to rear ground floor alterations and outbuildings. These are not considered to cause a higher risk of inappropriate outcomes than rear extensions. It is noted that the DDOs are overwhelmingly applied in commercial areas, where 4m high buildings should be well within reasonable expectations, reducing the risk of such an exemption.

The provisions about building facades are similarly based upon the most recent DDOs (which themselves have adapted the exemptions that apply under the Commercial 1 Zone). The following minor adaptations are suggested:

- An exemption is suggested that would allow buildings where the existing extent of active frontage was less than 80 per cent to be exempt as long the extent of window or clear glazing is not further reduced.
- The exemption for the Mixed Use Zone has been reworded to simply require that the current extent of active frontage not be reduced.

In considering the first point above, council should consider whether it is desirable to trigger permits for these buildings with less than 80 per cent active frontage. It may be considered desirable to retain such applications in the system to at least consider whether it is reasonable to require improved activation of such frontages. In considering the implications of this change it is important to note that the exemption only applies to alterations to existing building frontages. It should remain the expectation that wholesale reconstruction of a building or a new build should meet the 80% standard.

The wording above suggests a change to the exemption applicable in the Mixed Use Zone. The exemption currently covers “alterations [that] include and/or retain existing windows and pedestrian entry points and do not create blank walls.”

It appears that the 80% requirement has been removed for these areas because shopfronts are not the norm in this zone and therefore the 80% standard will often not be appropriate or desirable (and there is not an obvious alternative metric to use). The current wording does, however, introduce some ambiguity, notably around what is considered a “blank wall.” It is therefore suggested that a reasonable and workable starting point for this exemption might simply be that the extent of active frontage is not further reduced.

That said, there has not been evidence that the Mixed Use Zone exemption is currently causing major difficulties. Council may therefore prefer to retain its current wording.

## **Buildings and works – exemptions under the Heritage Overlay**

As discussed at Section 3.3, the use of the incorporated plan to customise exemptions under the Heritage Overlay is a creative use of this mechanism and helps to reduce the regulatory burden of a restrictive provision. However the document's exemptions are quite complex.

A separate review of this document is underway and it is presumed that this will be considering whether there is a chance to both simplify and broaden these controls. This will involve expert heritage advice which has not been sought as part of this review. However the following comments are offered for further consideration as part of that review.

Given the complexity of the various exemptions applying to ground floor ground floor additions alterations and outbuildings, as discussed at Section 3.3, consideration should be given to the potential to collapse these into a single exemption modelled on that used in the DDO.

The incorporated document could therefore exempt:

Rear alterations, extensions or outbuildings to a building where:

- There is no individually significant building on the land;
- The building is not on a corner site; and
- The alteration, extension or outbuilding is no higher than 4m.

This exemption would retain assessment of sites where an individually significant building might be affected. This would mean that the issues in play from a heritage perspective would relate primarily to their impact on the visual presentation to a wider precinct. If a site is not on a corner, it is considered that buildings at the rear up to 4m should have little if any detrimental impact upon the precinct.

The use of a 4m height is different from the current exemptions in the incorporated plan, which use a 3m height as their key reference. However given the above comments it is considered that this should be acceptable. If there was concern about this in the context of residential architectural forms, the use of the 4m figure could be limited to commercial zones.

The exemption outlined above should increase the number of rear additions and alterations that will be exempt under both the DDOs and heritage overlay. This change would simplify applications, although without reform of the Commercial 1 zone applications for rear additions would not be removed from the system completely. These state provisions are discussed below at Section 6.4.

Further heritage advice and testing would be needed to assess the risk of poor outcomes from the above exemption. It is recommended that this be investigated as part of the review of the incorporated plan.

## **Buildings and works – exemptions from notice and review**

Each of the commercial zones includes in its standard state provisions the following notice and review exemption (for example at cl 34.01-7 of the Commercial 1 Zone):

An application to subdivide land or construct a building or construct or carry out works is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act. This exemption does not apply

to land within 30 metres of land (not a road) which is in a residential zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

This implicitly accepts that applications with some separation from residential areas (or the nominated sensitive uses) should be exempt from notice and review in commercial areas. In Yarra, however, those areas are typically covered by Design and Development Overlays that do not have a corresponding notice exemption. In most cases, it is not considered that there is a basis for areas within DDOs that guide change to have narrower notice exemptions than they would with only the Commercial 1 Zone.

In practice, it is likely that the effect of this misalignment is minimal, as most of Yarra's commercial zones are strip shopping centres that are typically one line of properties deep, meaning that the separation would not normally be achieved. However there are a few areas where it appears that the thresholds could be met, such as the Commercial 2 Zone area in Collingwood covered by DDO11.

It is suggested that these areas, at least, should have a corresponding notice and review exemption added to the DDO, as allowed for by cl 43.02-2. Equivalent exemptions should be considered if new built form controls are introduced through new DDOs or the Built Form Overlay.

### **Signage – exemptions under the Heritage Overlay**

It was apparent from the internal stakeholder discussion that signage is a key cause of regulatory burden. Signs were also the second most numerous business-related category of application in the permit data (and the most numerous that is solely associated with businesses).

The current signage exemptions in the incorporated plan under the heritage overlay are quite limited. Consideration should be given to exempting:

- all business identification signs at ground level, including under a verandah, provided that:
  - the sign is not an animated sign, bunting sign, electronic sign, floodlit sign, internally illuminated sign or reflective sign.
  - The building is not individually significant.

It is noted that size restrictions would still apply under the standard signage provisions, so this would not be a free-for-all in terms of business identification signage. It is not suggested that this exemption apply to promotional signs.

It is suggested heritage advice be sought as to whether there are particular scenarios where such an approach may be of concern, such as side walls of corner sites. It is also possible that some precincts may have a character that warrants exclusion from such an exemption.

### **Signage – exemptions from notice and review**

Clause 52.05-7 allows signs to be made exempt from notice and review requirements. Based on the case studies and internal stakeholder discussions, it does not seem likely that notice is regularly given for signs. This is therefore not considered a major contributor to delays associated with such applications.

Nevertheless, there are few, if any, circumstances where a public notice process should be needed for typical business identification signs within commercial areas. It is therefore considered that the schedule could be utilised to exempt such signs from notice and review. The schedule could therefore be completed as shown in Table 3.

**Table 3: Recommended schedule to cl 52.05-7**

Land	Condition
Land within the following zones: <ul style="list-style-type: none"> <li>▪ Any commercial zone</li> <li>▪ Precinct Zone</li> </ul>	The sign is a business identification sign, and is not an animated sign, bunting sign, electronic sign, floodlit sign, internally illuminated sign or reflective sign.

The Precinct Zone is not currently used in Yarra but is suggested for inclusion in the schedule should it be applied. (The Activity Centre Zone could also be listed but it is understood that the state government will not be supporting applying this to new precincts).

Areas subject to the Comprehensive Development Zone and Priority Development Zone could be considered for inclusion in the above schedule, but this would require review of the expected outcomes in each area to which those zones are applied.

### **Car parking – Parking Overlay**

As discussed at Sections 3.2, reforms to the standard controls for car parking have reduced the regulatory burden flowing from these provisions. In particular, many small businesses will be able to take advantage of the exemptions for reductions of less than 10 spaces. However, as noted in Section 5, there are still circumstances where parking reductions are required. Where needed, these can involve significant documentation and cost for businesses. Furthermore, parking has long been recognised as a factor that often attracts objections and sometimes appeals, which increases risk and uncertainty for business.<sup>3</sup>

Council can use the Parking Overlay to broaden exemptions from minimum parking controls. Given its inner-city location, walkability, and exceptional access to public transport infrastructure, it is considered that broadening of the standard parking exemptions could be justified. However this case would ultimately need to be justified to the state government.

It is therefore recommended that council consider using the Parking Overlay to turn off minimum parking rates for all sites within the Commercial 1 or Commercial 2 zone - except for:

- Accommodation (including dwellings).
- Lots over 1000m<sup>2</sup>.

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<sup>3</sup> For the prevalence of parking as an issue prompting appeals, see Elizabeth Taylor, “‘Fight the Towers! Or Kiss Your Car Park Goodbye’: How Often Do Residents Assert Car Parking Rights in Melbourne Planning Appeals?,” *Planning Theory & Practice* 15, no. 3 (July 2014): 328–48.

This is intended to have a similar effect to the standard 10 space exemption noted above, in terms of ensuring that applications for changes of tenancy in commercial areas do not usually need a permit. However it will be more all-encompassing, helping to avoid higher-rate uses (such as medical centres) or minor increases in floor area causing the need for a permit.

The categories suggested for exclusion are intended to reduce the risk of unintended outcomes and to recognise areas of community concern.

Accommodation is excluded to recognise that the operation of parking controls on residential uses is somewhat different than for business. The decision not to provide parking for a business impacts a choice to drive on a trip-by-trip basis – the presence or absence of parking may affect people’s choice to drive or take another mode. However for residential uses, the choice not to have parking affects the long-term choice of whether residents will own a car. This is a more profound shift that is harder to influence. Excluding accommodation from the exemption recognises this, and would mean that the parking impact of parking buildings still needs to be considered.

Retaining parking for larger sites (with 1000m<sup>2</sup> suggested as a threshold) is intended to limit the exemption to applications involving small lots of land where there is little, if any, opportunity to provide car parking. Maintaining larger sites within the provisions recognises that larger developments not only have more potential parking impact, but may more legitimately be expected to accommodate car parking on site. It would also mean that major strategic redevelopment sites could still be assessed on an individual basis.

A 1000m<sup>2</sup> threshold would also mean that certain parking intensive uses (supermarkets, or restricted retail premises such as big box retail and hardware stores) were still assessed. Supermarkets, for example, are typically 1500m<sup>2</sup> or larger.

### **6.3 Local VicSmart categories**

This report has focussed on opportunities to remove applications entirely from the system, in accordance with the principles outlined in the Introduction. This is considered the favoured mode of reform. However council has only limited avenues to control its own permit load.

The Victorian system does afford more opportunity for council to add local categories to VicSmart. This would be an option for any kinds of application identified in this report as potentially removable from the system, if that complete removal cannot be achieved for any reason.

However VicSmart has some significant drawbacks in lightening regulatory burden for local government and hence, in turn, local business. In particular:

- Determining whether applications qualify for VicSmart adds a layer of complication to processing and assessment of applications.
- VicSmart applications are assessed against different clauses, complicating assessment and creating needless difference in assessment approaches between VicSmart and non-VicSmart applications.
- VicSmart will not apply where another non-VicSmart permit trigger exists. If a significant proportion of applications within a category do not qualify for VicSmart, the mechanism will be adding complexity with minimal benefit.

The key advantage for council in terms of ease of processing with a VicSmart application is the exemption from notice and review. The case studies and internal stakeholder discussions undertaken for this report have not suggested that public notice has been a significant contributor to delays for routine applications associated with small business, with the possible exception of applications for reduction of car parking (discussed above).

Given the above, while VicSmart applications are subject to a shorter statutory timeframe, they do not provide mechanisms that notably assist councils in achieving those timeframes. This suggests that if timeframe improvements are achieved from VicSmart, it is achieved through reallocation of resources and therefore at the expense of other categories of application.

It is therefore suggested that council pursue removing unnecessary permit requirements from the system, and additional notice and review exemptions for inconsequential applications, as its primary mode of system streamlining.

Where this does not prove possible, VicSmart categories could be considered if council believes it will yield procedural efficiencies. This is expected to most likely be the case where there is no other method for making a matter exempt from notice and review.

## **6.4 Advocacy**

It is clear from the preceding discussion that there are limited opportunities within the Victorian planning system for council to dramatically streamline the system. Many worthwhile changes will require action by the state government.

The following section summarises some of the key provisions which could usefully be reviewed by the state government. These should be considered as items for council to advocate for the state government to reform.

### **Signs – permit exemptions**

The standard allowance for business identification signage without a permit of 8m<sup>2</sup> in commercial areas may be overly restrictive and could be reviewed. This includes a provision relating to the size of signs below a verandah, which was cited by the statutory planners as triggering permits when slightly exceeded.

In most commercial areas, it may not be feasible or necessary to tightly manage ground floor signage. It is also noted that some of the practices that contribute to unsightly shopfronts, such as entire buildings painted in corporate colours or shopfronts obscured by window displays, already fall outside of the scope of signage controls.

The state government could therefore consider removing or easing limitations upon ground floor business identification signs at ground floor level. This would perhaps need to include a standard acceptable format or maximum size for signs suspended under the verandah to avoid these becoming excessive or bothersome.

In this approach, existing criteria relating to illumination and the like should remain in place.

### **Car parking – permit requirements**

The recommendations above have suggested use of a Parking Overlay to remove minimum parking requirements from the City of Yarra for many commercial uses.

While a detailed critique of minimum car parking controls is beyond the scope of this report, there has long been criticism of the use of this mechanism as the default approach to managing parking supply in Victoria. The patchwork of exemptions highlighted in Section 3.2 represent a somewhat reactive response to these concerns.

Further state government leadership would reduce the need for councils such as Yarra to undertake scheme-by-scheme reviews, and improve the consistency of approach between similar councils. It is noted that further parking reform is foreshadowed in Action 5 of *Plan for Victoria*, though it is unclear what form this will take.

### **Car parking – notice and review exemptions**

As discussed at Section 3.2, applications for reduction of car parking are currently notice exempt if no other permit trigger applies, or if an application is notice exempt under all other clauses (cl 52.06-4). They also qualify for VicSmart (and will therefore be notice exempt) if the application is for 10 spaces or less. VicSmart qualification also depends on their not being another non-VicSmart clause that triggers permission (see cl 71.0-6-1).

This arrangement is needlessly complicated.

The mechanism of having a notice and review exemption depend on the existence of another trigger is illogical, since the merit or otherwise of the parking application will be unaffected by that aspect of the proposal. This is not consistent with normal VPP drafting approaches where the question of notice and review under each clause stands alone.

The state government should simplify this mechanism to make some or all parking reduction applications exempt from notice. In descending order of boldness this could involve:

- Making all applications under cl 52.06 exempt from notice and review. While this might be controversial, such applications are already exempt under cl 52.06-4 if no other trigger exists, as noted above.
- Making all applications other than accommodation exempt from notice and review. As was argued above in the discussion of the Parking Overlay, residential applications can legitimately be distinguished from commercial applications.
- Making all applications subject to Column B rates exempt from notice and review, in recognition that these are in (notionally) well-located areas.

As has been discussed in this report, parking reductions have diminished in their total impact upon small business over time, due to previous reforms. However they do cause considerable uncertainty when they do arise. Notice and review exemptions would considerably reduce the associated delay and risk for business.

## Buildings and works – scheduled exemptions

This project has highlighted a general need for the ability to schedule in exemptions from triggers under state VPP clauses.

In this project, the clear example is the buildings and works permit requirement under the commercial zones (such as cl 34.01-4 of the Commercial 1 Zone). As has been discussed, council could eliminate some local permit triggers by adopting a standard set of building and works exemptions across its DDOs and heritage incorporated document. However the very broad permit trigger under the Commercial 1 Zone reduces (although not eliminates) the benefit of doing so.

This buildings and works trigger should have a simple ability to add exemptions, as follows (with this text inserted as part of the existing list of matters to which the trigger does not apply):

[This does not apply to] Buildings and works which:

- Are to be constructed on land specified in the schedule to this clause; and
- Meet any condition specified in the schedule to the clause.

While this project has highlighted how this could be useful in the Commercial 1 Zone, there is no reason that an approach such as this should not be universally applied to any standard state clause permit trigger. A schedule to this effect could also be added to the broad exemptions at cl 62.

In addition to allowing for flexibility for individual councils, this approach would allow councils to trial exemptions that might be more universally applied.

A similar approach could be taken to notice and review exemptions. This report has highlighted that an option to add a notice and review exemption exists for signage at cl 52.05-7. However this mechanism should also be available using a schedule for other permit triggers.

## 6.5 Recommendations

The following table summarises the key recommendations of this report. Many of these recommendations require further investigation or expert advice, as explained in the relevant sections of this report.

**Table 4: Summary of recommendations**

Recommendation (summarised)	Section of report
<p>Monitor roll-out of the Precinct Zone and Built Form Overlay in other councils to understand:</p> <ul style="list-style-type: none"><li>▪ Whether they would be useful in implementing recommendations of this report.</li><li>▪ Whether they would be beneficial or otherwise for business.</li></ul> <p>If these provisions are applied, consider applying the recommended exemptions for DDOs.</p>	6.1

Standardise and broaden DDO exemptions for rear additions, and investigate applying to all current and future DDOs.	6.2
Standardise DDO exemptions to align with Commercial 1 Zone exemptions for alterations to building facades, and investigate applying to all current and future DDOs.	6.2
Broaden the DDO facade alteration exemption so that it does not trigger permission if active frontage is not further reduced.	6.2
Consider simplifying facade alteration control under the DDOs as it applies in the Mixed Use Zone.	6.2
Consider simplifying and broadening the exemptions in the heritage incorporated document for buildings that are not individually significant, aligning the treatment of rear additions with the DDOs.	6.2
Align notice and review exemptions in the DDOs with cl 34.01-7 of the Commercial 1 Zone where there is a prospect that the precinct is large enough that applications may qualify for the exemption.	6.2
Consider broadening exemptions under the heritage incorporated document for low impact ground level business identification signs.	6.2
Exempt business identification signs in commercial areas from notice and review requirements using the schedule to cl 52.05-7.	6.2
Consider applying the Parking Overlay to turn off minimum parking rates for all sites within the Commercial 1 or Commercial 2 zone - except for: <ul style="list-style-type: none"> <li>- Accommodation (including dwellings)</li> <li>- Lots over 1000m<sup>2</sup>.</li> </ul>	6.2
If matters identified for removal of permit triggers or notice and review exemptions cannot be removed from the system, consider those categories for local VicSmart categories if it can be demonstrated that this will simplify, not further complicate, assessment.	6.3
Advocate to the state government for the review of permit requirements for low impact business identification signs.	6.4
Advocate to the state government for the review of statewide standard car parking requirements for commercial uses.	6.4
Advocate to the state government for simplified and more consistent notice and review exemptions for applications to reduce standard car parking requirements.	6.4
Advocate to the state government for a broad allowance to exempt categories of application from standard buildings and works permit triggers.	6.4

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