

**Amendment C159: Rezone land at 1
Jacksons Road, Mulgrave and 636
Wellington Road Mulgrave**

**Submission by Planning Authority for Planning Panel -
Part A**

8 April 2020



**CITY OF
MONASH**

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1 INTRODUCTION AND OVERVIEW

1.1 SUMMARY OF AMENDMENT

Amendment C159 to the Monash Planning Scheme has been prepared by the Monash City Council (the planning authority for this Amendment) at the request of Frondell Properties Pty Ltd and JKD Mulgrave Property Pty Ltd.

The Amendment applies to 1 Jacksons Road, Mulgrave and 636 Wellington Road, Mulgrave. The site currently sits within the Commercial 2 Zone. One Overlay is applied to the site, Development Plan Overlay Schedule 1.

The Amendment proposes to rezone the land at 1 Jacksons Road, Mulgrave and 636 Wellington Road, Mulgrave to facilitate the improved development potential of the land, including for residential development.

The Amendment:

- Rezones the whole site from Commercial 2 Zone to the Mixed Use Zone - Schedule 2.
- Deletes the Design and Development Overlay Schedule 1
- Applies the Design and Development Overlay Schedule 16 over the whole site.
- Applies the Environmental Audit Overlay over the whole site.
- As a consequence amends the Schedule to Clause 32.04 to read Schedule 1.

1.2 STRUCTURE OF COUNCIL'S SUBMISSION

This submission has been prepared having regard to Practice Note 46- Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments, May 2017.

The submission is structured as follows:

Part A

This part is provided prior to the hearing and contains the following:

1. Introduction and overview;
2. Background information;
3. Policy context;
4. Proposed Amendment C159 and authorisation
5. Strategic assessment;
6. Public exhibition;
7. Submissions received (including issues raised in submissions); and
8. Changes to the Amendment (in response to the issues raised in submissions).

Appendix A – Relevant Planning Controls for Surrounding Areas

Appendix B – Monash Industrial Land Strategy 2014

Appendix C – Monash Housing Strategy 2014

Appendix D – C159 Pre-Authorisation Correspondence with DELWP

Appendix E – C159 Authorisation Correspondence with DELWP

The Panel Directions for Amendment C159 were sent to all parties on Tuesday 31 March 2020. The Panel Directions require that Council must submit the following information as part of this Part A:

- a) background to the Amendment including chronology of events and relevant dealings with the Department of Environment, Land, Water and Planning as to the form and content of the Amendment **[see Section 4]**;
- b) relevant planning controls or approvals for adjacent residential or other properties including the Waverley Park Estate **[see Section 2.2 and 2.3]**;
- c) a summary of key elements of the *Monash Industrial Land Strategy 2014* and an update on its status **[see Section 2.5]**;
- d) a summary of key elements of the *Monash Housing Strategy 2014* and an update on its status **[see Section 2.6]**;
- e) an assessment against the General Practice Note for Potentially Contaminated Land (DSE, 2005) and response to the matters raised in the submission of the Environment Protection Authority dated 14 November 2019 **[see Section 5.1.4]**;
- f) strategic context and assessment, including why the Design and Development Overlay is proposed instead of the Development Plan Overlay **[see Section 5 and 4.3]**;
- g) issues identified in submissions **[see Section 7]**; and
- h) any suggested changes to the Amendment in response to submissions **[see Section 8]**.

Part B

This part will be delivered at the Panel Hearing and contains the following information (as set out in Panel Directions dated 31 March 2020:

- Response to submissions and evidence
- Council's final position on the Amendment, include any suggested changes in 'track changes' format.

2 BACKGROUND INFORMATION

2.1 SITE CHARACTERISTICS AND LOCATIONAL CONTEXT

The subject site comprises two land titles in separate ownership, totalling an area of 5.4 hectares and comprising:

1 Jacksons Road

Owned by Frondell Properties Pty Ltd.

The 3.7 hectares land ownership currently has two buildings:

- i. A two level office building comprising 2,500m² floor space, including common areas. Approximately 500m² of the building is being used by Link Health and Community for administration purposes. A child care centre occupies approximately 650m², plus outdoor areas.
- ii. A 4,000m² warehouse of which only 100m² is used.

The previous long term tenant of the site, the Body Shop vacated the building after the business was sold and relocated their office and warehouse functions to Chadstone and South Melbourne respectively.

636 Wellington Road.

Owned by JKD Mulgrave Property Pty Ltd.

The 1.7 hectare land ownership contains a two level office building comprising 1,970m² and warehouse comprising 7,580m².

The previous tenant of the site OfficeMax has vacated the site and consolidated operations in New South Wales with local office staff relocating to Richmond. The warehouse is used on an occasional and temporary basis.

Other uses on the site include the weekly Mulgrave Farmers Market, which operates under the management of the Wise Foundation. This is popular with the community and operates every Sunday from 8:00am to 1:00pm with up to 70 primary producers, food and craft stalls.

2.2 Surrounding area and zoning

The site is an isolated area of commercial land that is surrounded by low density residential.

On the western and southern boundary is the Waverley Park residential estate, which is zoned **General Residential Schedule 3**.

Across Jacksons Road, to the east of the site, there is a residential area largely developed in the **Neighbourhood Residential Schedule 4 zone**.

Located to the north across Wellington Road, a major arterial multi laned road, is the low-rise Cumberland View Village and Aged Care facility. This area is also located within the **Neighbourhood Residential Schedule 4 Zone**.

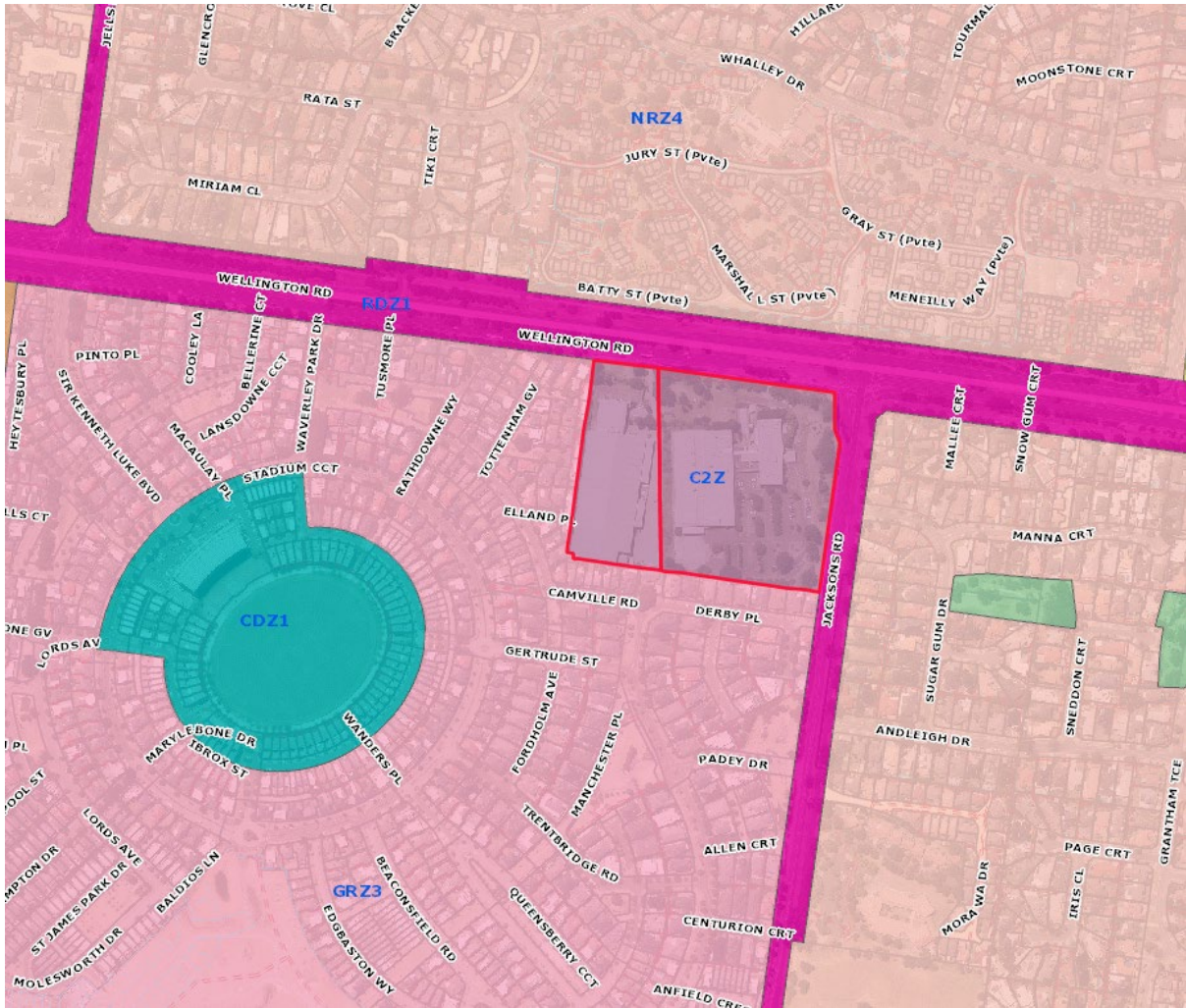


Figure 1 - Subject site (highlighted in red) and surrounding zoning



Figure 2 - Subject site (highlighted in red)

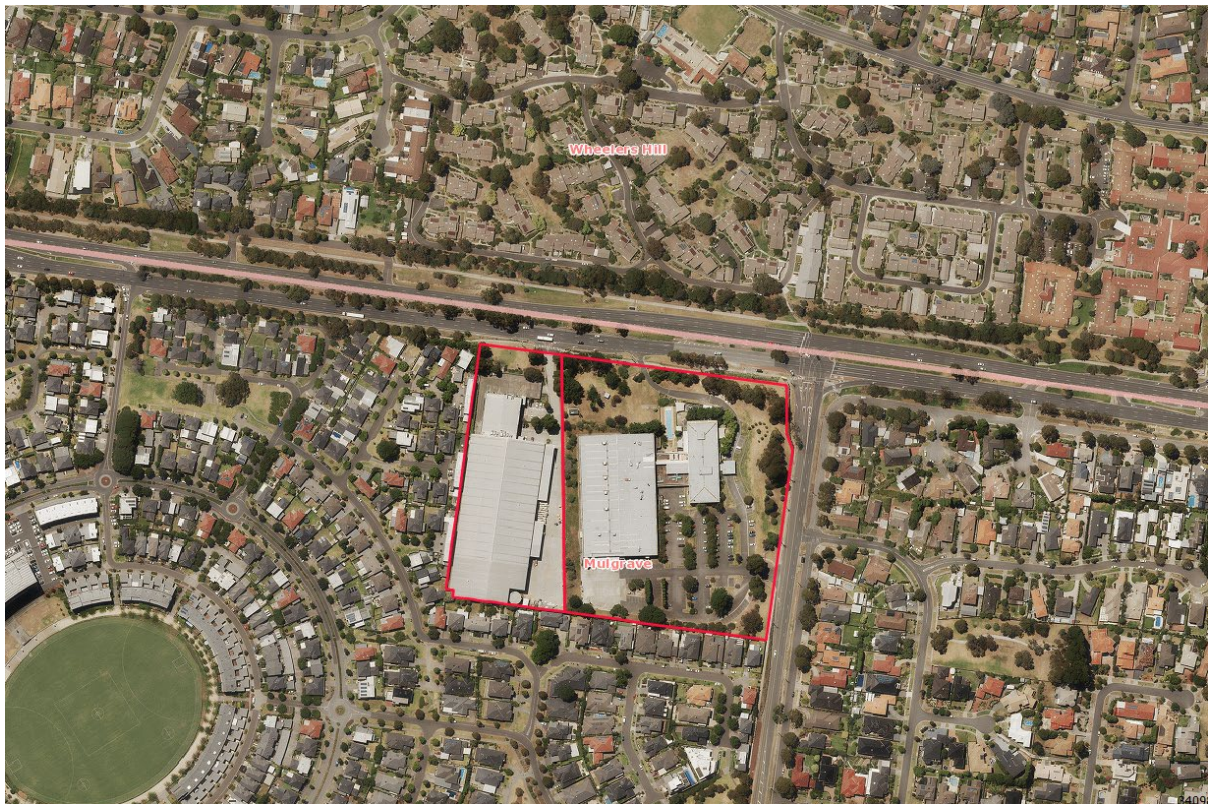


Figure 3 - Subject site (highlighted in red) and surrounding area

General Residential Zone Schedule 3: Garden City Suburbs (GRZ3)

The 'Neighbourhood character objectives' for GRZ3 are:

- *To support new development that contributes to the preferred garden city character through well landscaped and spacious gardens that include canopy trees.*
- *To promote the preferred garden city character by minimising hard paving throughout the site by limiting the length and width of accessways and limiting paving within open space areas.*
- *To support new development that minimises building mass and visual bulk in the streetscape through generous front and side setbacks, landscaping in the front setback and breaks and recesses in the built form.*
- *To support new development that locates garages and carports behind the front walls of buildings.*

Schedule 3 varies a number of controls in the zone and is provided in Appendix A.

Neighbourhood Residential Zone Schedule 4: Dandenong Valley Escarpment Areas

The 'Neighbourhood character objectives' for NRZ4 are:

- *To ensure new development maintains the important view lines to the Dandenong Ranges, along the streets and between buildings.*
- *To ensure development is defined by its spacious and generous garden settings, tall canopy trees and consistent built form and setbacks.*
- *To encourage open gardens to the street, and the planting and retention of significant trees.*

Schedule 4 varies a number of controls in the zone and is provided in **Appendix A**.

2.3 Waverley Park residential estate.

The land adjacent to the western and southern boundaries is known as the Waverley Park residential estate. It includes land that was originally the Waverley Park sports ground.

History of residential development

Mirvac Victoria Pty Ltd (Mirvac) purchased the Waverley Park site in December 2001.

On 7 March 2002, the Minister for Planning gazetted Amendment C30 to the Monash Planning Scheme. That amendment made the Minister the Responsible Authority for the development of Waverley Park.

Amendment C20 was approved and gazetted by the Minister for Planning on 14 August 2002. That amendment rezoned Waverley Park to R1Z – Residential 1 with a specific Neighbourhood Character Overlay to define residential development of the estate.

At that time, the Minister also issued Planning Permit STA/2001/00714 for the subdivision and development of Waverley Park. The permit allowed for the creation of up to 1500 lots and the construction of up to 1250 dwellings.

Development of the site commenced in 2003 with the demolition of most of the existing grandstand and the construction of the first dwellings in the north-west corner of the site adjacent to Wellington Road. The 'roll-out' of the new estate proceeded towards the south over the following years. As can be seen the recent the aerial photo below the estate has largely been completed, other than the construction of the significant parklands, currently being completed, and a small number of adjoining residential lots.

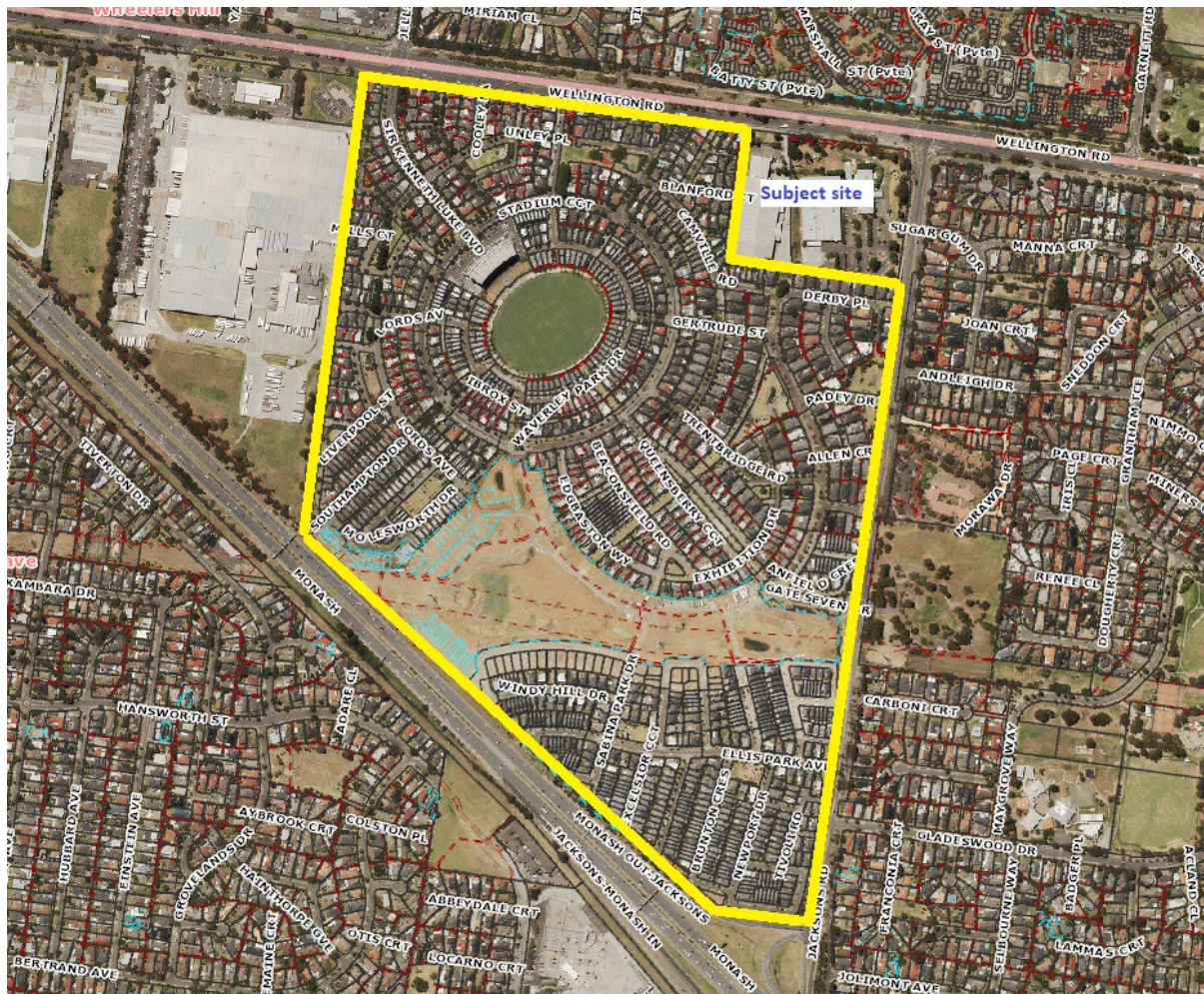


Figure 4. Waverley Park Residential (shown in yellow)

Neighbourhood Character Overlay Schedule 1 (NCO1): Waverley Park Neighbourhood Character Area.

NCO1 modifies a number of Clause 54 and 55 standards, which are summarised below:

- **A3:** Minimum front setback of 3 metres from a front street, or 1 metre from a side street.
- **B6:** Buildings of three storeys or less, a front set back of 3 metres from the front street and 1 metre for a lesser setback
Buildings of four storeys or more, a front set back of 3 metres from the front street and 0 metres for lesser setbacks.
- **A4 and B7:** Maximum building height should not exceed 10 metres, or 13 metres for a three storey building (exceptions for slope over 2.5 degrees).

- **A5 and B8:** Site area covered by all buildings should not exceed 80 percent (some exceptions apply).
- **A10 and B17:** A new building not on or within 150mm of a boundary should be set back from side or rear boundaries 1 metre, plus 0.3 metres for every metre of height over 7.5 metres above the finished ground level (exceptions for slope over 2.5 degrees).
A dwelling facing onto and directly abutting public open space may be built on or within 150mm of the common boundary.
- **A11 and B18:** The length of walls of a building on or within 150mm of the boundary should not exceed 50 percent of the perimeter, or a car port within 1 metre of the boundary should not exceed 50 percent of the combined length of the perimeter boundaries of the lot (a number of exceptions apply).
- **A17 and B28:** Private open space of an area of 40 square metres, a balcony of 8 square metres, or a roof top area of 10 square metres.
- **A18 and B29:** Private open space to be located on the north side of the dwelling where practicable.
- **A19 and B31:** The design of buildings should respect the existing or preferred neighbourhood character.
- **A20 and B32:** A front fence within 3 metres of the street should not exceed 2 metres for a street in a Road Zone, Category 1, or 1.5 metres for all other streets.

The above apply unless an alternative is generally consistent with design approaches specified in the Waverley Park Concept Plan, August 2002, or specified for a lot on a building envelope plan as part of the stage plans endorsed under Planning Permit STA/2001/ 000714 for Waverley Park.

Waverley Park Concept Plan 2002

The Waverley Park Concept Plan outlines the preferred future neighbourhood character of Waverley Park and was used as the basis behind the preparation of NCO1. The first aspect of the Plan specifically relevant to C159 is:

“Section 4.3.3 Visual Framework

Views are an important historic element of the site and they contribute to a sense of legibility and place. Heritage Victoria has nominated a range of views and vistas and the subdivision masterplan will weave these into the visual framework and legibility of the site. These views will include the focus upon the grandstand from the main entrance at Wellington Road and through the site from Jacksons Road.

Views include:

- *Views through the site connecting the lake and grandstand*
- *Views through the site toward the grandstand*
- *Views into the site from the Freeway looking toward the lake*
- *Views out from the site toward Mt Dandenong, Dandenong Creek, Port Phillip Bay and the City*
- *Visual attractors and landmark views of the grandstand, oval and lake*
- *Visual containment of the crescent road by a wetland corridor*

- *Main view into the site toward the grandstand and former procession ground*

The Boundary Interfaces are located on the southern boundary of 1 Jacksons Road and the western boundary of 636 Wellington Road. The section aspect of the Plan specifically relevant to C159 is:

“6.5 Boundaries Interface Treatments

The boundaries of Waverley Park are defined by major road corridors and light industrial adjacent uses. For the purpose of the principle, the boundaries which abut Waverley Park dwellings shall be referred to as ‘interface boundaries’. Specific interface boundary characteristics and locations surrounding Waverley Park include:

- *Urban edges and street frontages to major roads*
- *Noise attenuation requirements along the Monash Freeway*
- *Light industrial landuses and visually dominant buildings adjacent to the site*

Mirvac has developed a range of boundary interface treatments which respond to the adjacent landuses and achieve the following design objectives:

- *Promote and active street frontage*
- *Create a residential street elevation with street address*
- *Mitigate acoustic characteristics*
- *Encourage pedestrian permeability through boundaries where appropriate*
- *Minimise adverse visual impacts from adjacent landuses and buildings*

NCO1 and the Waverley Park Concept Plan 2002 is included in **Appendix A**.

2.4 Planning Permit – TPA 48276

A Planning Permit for the ‘Use and development of a childcare centre’ was issued for 1 Jacksons Road on 5 May 2018. The proposed centre, located in the south eastern corner of the site, will cater up to 200 children and would replace an existing childcare centre on the site. Construction of the centre has not commenced and the permit expires on 5 May 2020.

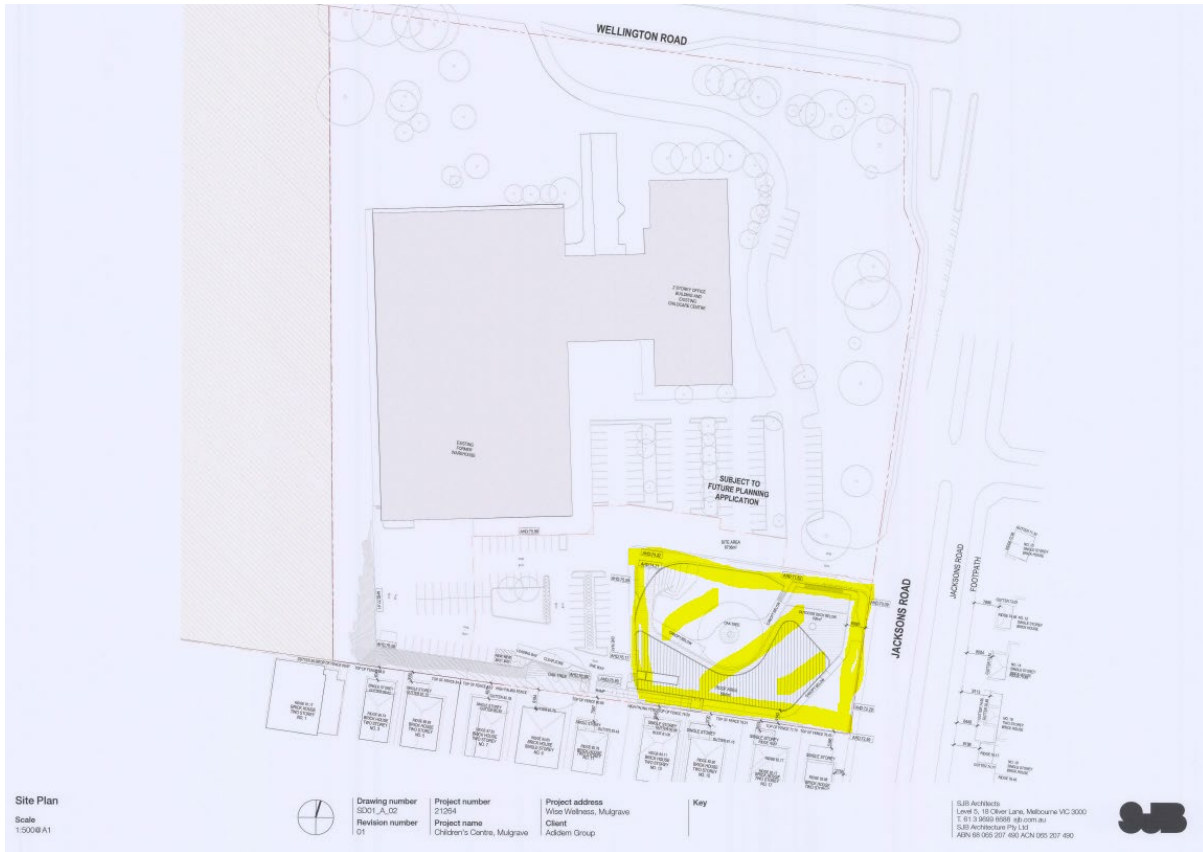


Figure 5. TPA 48276. Location of childcare centre shown in south eastern corner of 1 Jacksons Road.

2.5 MONASH INDUSTRIAL LAND USE STRATEGY

In July 2014 Council adopted the Monash Industrial Land Use Strategy. This document provides the strategic direction to support the future planning and development of industrial land within the City of Monash including the rezoning of land for non-industrial uses.

This direction is based upon analysis undertaken on a number of levels to determine:

- Monash’s future role as an industrial and employment location within a regional and metropolitan context;
- Development opportunities for each industrial precinct; and
- The strategic direction, vision and an appropriate land use for each precinct.

The Strategy addresses a number of competing strategic land use objectives to ensure sustainable land use outcomes that balance Monash’s role as a regional employment location with a need to facilitate more diverse housing opportunities, urban renewal and economic development generally.

In particular, this Strategy recognises the longer-term benefits and costs to the community of different uses for industrial land that are not always reflected in the current market value of individual sites and hence the highest best use from a development perspective. In doing so, it aims to encourage continued investment in these precincts while recognising the longer-term interests of the community.

The scope of the Strategy relates to all Industrial 1 and Business 3 (now Commercial 2) zoned land within the City of Monash excluding that contained within the Monash Technology Precinct (MTP). The strategic direction for the MTP is already well established from previous strategic studies that have been undertaken and within the Monash Planning Scheme (Clause 22.02 Monash Technology Precinct Policy).

The Strategy was prepared by Charter Check Kramer for the City of Monash in two parts, as follows:

- **Monash Industrial Land Use Strategy – Strategy Report.** The report that was adopted by Council.
- **Monash Industrial Land Use Strategy – Background Analysis and Context.** The detailed background information and context used to support the Strategy Report.

The Monash Industrial Land Use Strategy Identified 28 Industrial Precincts. Each of these precincts were assessed against a series of assessment criteria. A ‘Vision and strategic direction’ was determined for each precinct; along with a recommended zoning.

The land subject to Amendment C159 is located within **Precinct 26: Corner Wellington Road and Jacksons Road Mulgrave.**

The stated ‘Vision and strategic direction’ for all areas of this precinct was:

“It is expected that this precinct will continue to perform its role as a corporate head office and distribution centre location into the foreseeable future. There is no strategic justification for considering a change of land use at this stage.”

The ‘Recommending zoning’ for Precinct 26 was:

“It is recommended that this precinct be rezoned to Industrial 1 which under the reformed zones provides the flexibility for office uses.”

See Appendix B for the Monash Industrial Land Use Strategy.

Monash Planning Scheme Amendment C122

A number of the recommended zonings in the Monash Industrial Land Use Strategy were changed as part of Monash Planning Scheme Amendment C122, which was split into three parts: Part 1 gazetted on 18 February 2016, Part 2 Gazetted on 3 March 2016; and Part 3 which was abandoned on 2 July 2015.

The land subject to Amendment C159 was originally included as part of Amendment C122. As part of this amendment Council sought to rezone the land from Commercial 2 Zone to Industrial 1 Zone to reflect the outcomes of the Monash Industrial Land Use Strategy.

At the Council meeting held on 24 February 2015 the Council resolved the following:

1. *Split Amendment C122 into three parts:*
 - a. *Part 1 – Rezone Precinct 3 from Industrial 1 Zone to General Residential Zone Schedule 2 and rezone Precinct 4 from Industrial 1 Zone to Mixed Use Zone;*

- b. Part 2 – Rezone Precinct 11 and Precinct 13 from Industrial 1 to Mixed Use Zone; and*
 - c. Part 3 – Rezone Precinct 26 from Commercial 2 Zone to Industrial 1 Zone.*
5. *Abandon Amendment C122 (Part 3).*

The reasons behind abandoning the change of use as set out in the 24 February 2015 Council report are as follows:

“Issues

Precinct 26 comprises the corporate offices and distribution centres for OfficeMax (636 Wellington Road, Mulgrave) and the Adidem Group best known as The Body Shop (1 Jacksons Road, Mulgrave). A childcare centre known as The Children’s Centre at The Body Shop is also accommodated within the precinct along with the weekly Mulgrave Farmers Market.

OfficeMax at 636 Wellington Road Mulgrave have raised concerns with the proposed rezoning of Precinct 26 from Commercial 2 Zone to Industrial 1 Zone, and proposed an alternative zone. OfficeMax submit that the proposed Industrial 1 Zone limits redevelopment opportunities on the site by prohibiting retail and housing uses. Additionally, they are concerned that the proposed Industrial 1 Zone threatens the amenity of the adjoining residential uses generating land use conflicts and the creation of an isolated industrial area. Recognising the existing office and warehousing uses within Precinct 26 and the adjacent residential land, OfficeMax submit that the Mixed Use Zone would be more appropriate.

Frondeil Properties as owners of 1 Jacksons Road have also raised concerns with the potential residential amenity issues associated with proposed rezoning to Industrial 1. They have noted that the use of the site by the Body Shop is likely to cease within the next eighteen months and requested no change to the current Commercial 2 Zone until a decision about the future use of the site is made.

Officer Comments

The recent State government change of the Business 3 Zone to the Commercial 2 Zone in 2013 allows small scale supermarkets and ancillary shops within Precinct 26 without a planning permit for use. Amendment C122 proposed to rezone this precinct to Industrial 1 in order to reinstate the prohibition on retail uses. The submissions indicate that the site is inappropriate for industrial use and that neither party has an interest in establishing dedicated industrial uses. Given the proximity of surrounding residential uses and the opposing submissions from the land owners it is considered inappropriate to rezone the site to Industrial 1.

It is acknowledged that an Industrial 1 Zone may allow industrial uses that are incompatible with the residential uses that surround Precinct 26. The Industrial 1 Zone is identical to the current Commercial 2 Zone in terms of allowing industry and

warehouse uses without a permit. However, the Commercial 2 Zone offers greater third party notification and appeal rights for a change of land use where a permit required. On this basis the Commercial 2 Zone is a more appropriate zoning given the abutting residential context.

Rezoning Precinct 26 to Mixed Use as suggested in the OfficeMax submission provides the opportunity to redevelop the land for medium to high density housing. It may result in an undesirable outcome given the Precinct is not proximate to an activity centre or established urban infrastructure, such as public transport. Additionally, rezoning the land to Mixed Use as part of C122 would constitute a transformation of the amendment. Such a change would require further strategic analysis and notification as part of a fresh amendment process.

Having regard to this analysis of the OfficeMax and Frondell Properties submissions, it is recommended that the current zoning of Commercial 2 Zone be retained and the proposed rezoning of the site to Industrial 1 (Amendment C122- Part 3) be abandoned.”

See **Appendix B** for the Monash Council Report for 24 February 2015.

Current Amendment C159

The rezoning of the site from Commercial 2 Zone to Mixed Use zone is not supported by the Industrial Land Use Strategy 2014.

However, the background analysis and context report provides further information in terms of ‘Development opportunities’:

“While the OfficeMax site is fully developed, the Adidem site offers the opportunity for further development with the existing office and warehousing facility occupying only a portion of the site. A significant portion of the site however is accounted for by ‘at grade’ car parking which may limit the amount of potential surplus land.

The opportunity for more intensive development however is likely to be limited by the elevation of the site which limits exposure to either Wellington Road or Jacksons Road and to some extent accessibility to the site. This will limit the opportunities for dedicated office uses which would prefer a more prominent main road frontage while the sloping nature of the site may also limit the ability to develop parts of the site for industrial uses.

The most obvious development opportunity for the precinct would be for residential development which would most likely be in the form of townhouses. However while the existing buildings remain functional there is little justification for considering a change of land use.”

This commentary essentially places a strong emphasis on retaining the Commercial 2 zone, based on the existing uses on the site and this continuing into the foreseeable future. Given that these uses have now ceased it is relevant to reconsider the appropriate land use for the site and a potential change of use (See Section 5)

2.6 MONASH HOUSING STRATEGY 2014 AND AMENDMENT C125

In 2014, Council adopted a new Housing Strategy which aims to protect the 'garden city' character of Monash while also identifying preferred locations for increased housing intensity. The Strategy recognises that there is an increasing demand for a variety of different housing styles to cater for a growing population and changing community needs, such as an ageing population and student accommodation.

The strategy aims to maintain the predominately single detached dwelling style in suburban residential areas by promoting low rise development as the preferred character for the majority of the residential areas and sites within Monash. At the same time, strong population growth and falling household sizes have increased the need for more infill development within established areas of Melbourne.

To provide more housing in Monash, higher density developments will be directed to areas in and around activity and neighbourhood centres, and strategic sites within the Monash National Employment and Innovation Cluster. In addition, the Strategy does recognise there are opportunities for larger sites that may provide more intensive development outcomes.

This Strategy divides the municipality into eight categories. The subject site is located within 'Category C', which is noted as being an 'area with limited development potential'.

Amendment C125

Amendment C125 to the Monash Planning Scheme changed the suite of residential zones to reflect the outcomes of the Monash Housing Strategy 2014.

The Amendment took a number of years to complete and involved numerous changes by Council as a result of consultation(s) and Planning Panel Victoria recommendations; and subsequently changes made by the Minister of Planning. The completion of Amendment C125 only occurred in November 2019. A summary of the timeframe for Amendment C125 is provided below:

- Exhibition of Amendment C125 (first stage of consultation) – **Mid 2015**
- Second stage of consultation – **early 2016**
- Planning Panel Hearing for Amendment C125 – **September / October 2016**
- Independent Panel Report released – **3 January 2017**
- Council adopts residential zones and standards for submission to the Minister of Planning for approval – **28 February 2017**
- Minister of Planning splits Amendment C125 into Part 1 and Part 2 - **25 February 2018**
- Minister of Planning approves Part 1 of Amendment C125 – **25 February 2018**
 - Approval of Part one included the suite of Neighbourhood Residential zones and Residential Growth zones.
 - The Minister refused to approve the Design and Development Overlay (DDO13) and Development Contributions Plan Overlay (DCPO1) that were proposed around Clayton Activity Centre and within the Monash National Employment and Innovation Cluster.
- Minister of Planning approves Part 2 of Amendment C125 – **14 November 2019**
 - Approval of Part two included the suite of General Residential zones and the updated Clause 22.01 – Residential Development and Character Policy.

- Accessible areas and boulevards were removed from the amendment as per the Council resolution of 25 February 2019. Council will undertake further work on this separately.

See **Appendix C** for the Monash Housing Strategy.

3 POLICY CONTEXT

3.1 PLAN MELBOURNE

Plan Melbourne 2017-2050 is a long term plan to accommodate Melbourne's future growth in population and employment to the year 2050. The Plan identifies:

"The demographic changes facing Melbourne are profound. Between 2015 and 2051 Melbourne is projected to grow by 3.4 million people, from a population of 4.5 million to almost 8 million... A population increase of that magnitude would require another 1.6 million dwellings and 1.5 million jobs".

Plan Melbourne's vision for the city is guided by 9 principles, including:

Principle 2: A globally connected and competitive city

"Melbourne will develop and deliver infrastructure to support its competitive advantages in sectors such as business services, health, education, manufacturing and tourism. Employment, research, retail, cultural and sporting precincts will also be supported to ensure Melbourne remains attractive and liveable."

Principle 5: Living locally - 20-minute neighbourhood

"Creating accessible, safe and attractive local areas where people can access most of their everyday needs within a 20-minute walk, cycle or local public transport trip, will make Melbourne healthier and more inclusive. Due to the specialised and diverse nature of work, many people will still need to travel outside of this 20-minute neighbourhood for their jobs."

Principle 7: Strong and healthy communities

"To remain a city of diverse, healthy and inclusive communities, Melbourne needs to ensure its neighbourhoods and suburbs are safe and walkable. Strong communities need affordable, accessible housing; local health, education and community services; access to recreation spaces; and healthy food."

Outcome 1 states that *Melbourne is a productive city that attracts investment, supports innovation and creates jobs*" and two of the directions specified to achieve this are:

- 1.2 Improve access to jobs across Melbourne and closer to where people live
- 1.3 Create development opportunities at urban renewal precincts across Melbourne

Outcome 2 states that *"Melbourne provides housing choice in locations close to jobs and services"*, and two of three of the directions specified to achieve this are:

- 2.1 Manage the supply of new housing in the right locations to meet population growth and create a sustainable city
- 2.2 Deliver more housing closer to jobs and public transport
- 2.5 Provide greater choice and diversity of housing.

Outcome 5 states *"Melbourne is a city of inclusive, vibrant and healthy neighbourhoods"* and Direction 5.3 states:

- 5.3 Deliver social infrastructure to support strong communities

3.2 PLANNING AND ENVIRONMENT ACT (1987)

Section 4 of the *Planning and Environment Act 1987* ('the Act') has the following objectives:

- 1) The objectives of planning in Victoria are:
 - a) *To provide for the fair, orderly, economic and sustainable use, and development of land;*
 - b) *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
 - c) *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
 - d) *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
 - e) *To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
 - f) *To facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
 - fa) *To facilitate the provision of affordable housing in Victoria;*
 - g) *To balance the present and future interests of all Victorians.*

The Amendment implements the following objectives of planning in Victoria:

- *To provide for the fair, orderly, economic and sustainable use, and development of land – s4(1)(a)*
- *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria – s4(1)(c)*
- *To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community – s4(1)(e)*
- *To facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e)*
- *To balance the present and future interests of all Victorians. – s4(1)(g).*

Section 12 of the Act details the duties and powers of planning authorities, it includes that:

- 1) *A planning authority must:*
 - a) *Implement the objectives of planning in Victoria;*
 - b) *Provide sound, strategic and co-ordinated planning of the use and development of land in its area;*
- 2) *In preparing a planning scheme or amendment, a planning authority:*
 - b) *Must take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment [8] ; and*
 - c) *Must take into account its social effects and economic effects.*

Amendment C159 will implement the objectives of planning in Victoria by providing for the fair, orderly, economic and sustainable use and development of the land.

The land is currently underutilised with there being a transition within the City of Monash away from traditional industrial uses. An economic report concludes that the value of the site remaining with a Commercial 2 Zone would not be in the future interests of Victoria.

Given the surrounding area is primarily zoned General Residential Zone and Neighbourhood Residential Zone Schedule 4, it is considered that the application of a residential zone is appropriate. Further, the size of the site allows for taller built forms to be achieved without affecting nearby properties, thereby making the application of the Mixed Use Zone most appropriate.

The proposed rezoning to a Mixed Use Zone with related Design and Development Overlay Schedule and Environmental Audit Overlay will facilitate development in a manner better aligned with stated planning policy objectives and which will enable the delivery of development that provides an overall net community benefit.

3.3 STATE PLANNING POLICY FRAMEWORK

The amendment is consistent with the State Planning Policy Framework, in particular by:

Table 1: Relevant Clauses of the State Planning Policy Framework

Clause	Assessment
<p>Clause 11: Settlement 11.02-1S - Supply of Urban Land Ensuring a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.</p>	<p>The Amendment responds to the identified need to unlock the development potential in underutilised land which is well located to help accommodate additional housing, health and community uses and provide for economic growth.</p>
<p>Clause 13: Environmental Risk and Amenity 13.04-1S - Contaminated and Potentially Contaminated Land Ensuring that the potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.</p>	<p>The proposed amendment responds to this Clause by applying the Environmental Audit Overlay to ensure that the land is suitable for its intended future use and development in accordance with Ministerial Direction No. 1.</p>
<p>Clause 15: Built Environment</p>	<p>The proposed amendment responds to the need to create quality built environments and encourages an appropriate response to the sites context by applying a new Design and Development Overlay Schedule 16 which will govern future built form on the site in an appropriate manner and which recognises the sites natural and strategic context.</p>
<p>Clause 16: Housing 16.01-1S – Integrated Housing</p>	<p>The proposed amendment responds to housing growth planning, by allowing for an increase in</p>

<p>16.01-1R - Integrated Housing (Metropolitan Melbourne) 16.01-2S – Location of Residential Development 16.01-2R - Housing Opportunity Areas (Metropolitan Melbourne) 16.01-3S – Housing Diversity 16.01-3R - Housing Diversity (Metropolitan Melbourne)</p>	<p>housing supply within an existing urban area on an under-utilised urban site.</p> <p>The proposed amendment is considered to respond to Clauses 16.01-1S/1R, 16.01-2S/2R and 16.01-3S/3R as it will enable new medium and higher density housing to be located with an established urban area on a site in need of urban renewal. This is cost-effective in terms of infrastructure provision and will help consolidate existing urban areas and thus reduce the pressure for urban fringe development.</p>
<p>Clause 18 – Transport</p>	<p>The proposed amendment will provide for a new local road network with the new Design and Development Overlay Schedule 16 encouraging a high degree of pedestrian and cyclist permeability to encourage sustainable transport options. Further, the site directly interfaces with the Principal Public Transport Network providing incentive and encouragement for future residents and works to utilise public transport.</p>

3.4 LOCAL PLANNING POLICY FRAMEWORK

The proposed amendment will directly support many of the objectives, strategies and other policy points contained within the LPPF (and specifically the MSS), particularly the following:

Table 2. Relevant Clauses of the Local Planning Policy Framework

Clause	Assessment
<p>Clause 21.01-1 – Municipal Profile</p>	<p>This clause recognises that the municipality is in Melbourne’s fastest growing population corridor and that the municipality itself is one of Melbourne’s most populous. Whilst this is the case, the population of the municipality is only predicted to increase marginally with the biggest demographic change being instead a shift in the population demographic in favour of older residents and smaller family sizes, partly because of a rapid increase in housing prices. The proposed amendment responds to these factors by rezoning the land to the Mixed Use Zone and applying a new Design and Development Overlay Schedule 16 which will provide opportunity for higher medium density apartment style living which will, in turn, provide additional housing diversity and more affordable housing.</p>
<p>Clause 21.04 - Residential Development</p>	<p>This amendment promotes increased medium density housing through the application of the</p>

	<p>Mixed Use Zone and a new Design and Development Overlay Schedule 16. The application of these planning tools will ensure increased density can be supported on the site in a manner that provides for a diversity of housing that complements and manages the impacts on the surrounding neighbourhood character, and allows for appropriate landscaping.</p>
<p>Clause 21.05 – Economic Development</p>	<p>This clause highlights the transition of the municipality’s employment base from industrial to office-type/ commercial industries. The proposed amendment will continue this transition by rezoning the land to the Mixed Use Zone. This will enable a greater variety of land uses, including a focus on health and community services, to develop in a manner which is consistent with the overall economic direction of the municipality.</p>
<p>Clause 21.08 – Transport and Traffic</p>	<p>As relevant to this amendment, this clause has stated objectives around improving local area traffic management and ensuring an adequate supply of car parking is provided. Through the application of a new Design and Development Overlay Schedule 16, the amendment will support the creation of a new road network through the land which will be designed to modern standards.</p>
<p>Clause 21.13 – Sustainability and Environment</p>	<p>This clause seeks to encourage principles of sustainable living through best practice design practices. The proposed amendment will also seek to encourage best practice design through the incorporation of the new Design and Development Overlay Schedule 16 and relevant design objectives.</p>
<p>Clause 22.01 - Residential Development and Character Policy</p>	<p>The introduction of Design and Development Overlay Schedule 16 seeks to manage the competing interests of incremental change and housing diversity with maintenance of the existing neighbourhood character. It will introduce a series of design objectives, to manage the impacts on adjoining and nearby property owners reflecting the relatively low scale residential context of the surrounding area. As a result the Amendment introduces a mandatory three to six storey height limit.</p>

4 PROPOSED AMENDMENT C159 AND AUTHORISATION

4.1 SUMMARY OF THE AMENDMENT

The Amendment proposes to rezone the land at 1 Jacksons Road, Mulgrave and 636 Wellington Road, Mulgrave to facilitate the improved development potential of the land, including for residential development.

The Amendment:

- Rezones the whole site from Commercial 2 Zone to the Mixed Use Zone - Schedule 2.
- Deletes the Design and Development Overlay Schedule 1
- Applies the Design and Development Overlay Schedule 16 over the whole site.
- Applies the Environmental Audit Overlay over the whole site.
- As a consequence amends the Schedule to Clause 32.04 to read Schedule 1.

4.2 BACKGROUND TO THE PREPARATION OF THE AMENDMENT - DEVELOPMENT PLAN OVERLAY

There is a significant amount of history on the preparation of the Amendment, from the initial discussions that Council had with the proponents, until exhibition. The entire process took around five years. During this time there was a significant amount of discussion between the proponents and Council to arrive at an agreed position on the Amendment that Council considered was appropriate for the site and therefore a reasonable outcome in terms of mitigating impacts on adjoining residential areas.

A summary of that process and key dates and milestones is provided in the table below.

Table 3. Key milestones to prepare Amendment C159 for pre-authorisation consideration by DELWP

Milestone	Date
Discussions held between Council and initial consultant Sweetgroup at various dates prior to July 2015.	
Initial Rezoning Proposal June 2015 prepared by Sweetgroup submitted to Council for consideration and meeting held with Council officers.	14 July 2015
Formal submission of a Planning Scheme Amendment request by SJB Planning	17 August 2017
Council formal further information request (Letter 1)	14 November 2017
Meeting with SJB Planning to discuss the further information request letter 1.	20 November 2017
Updated Planning Scheme Amendment documents sent to Council from SJB Planning in response to 20 November 2017 meeting.	31 January 2018
Council formal further information request (Letter 2)	28 February 2018

Meeting with SJB Planning to discuss Letter 2.	13 March 2018
Updated DDO Schedule 16 Sent to Council from SJB Planning	23 April 2018
Council formal further information request (Letter 3)	14 May 2018
Phone call between Council officer and SJB Planning to discuss Letter 3	1 June 2018
Meeting with SJB Planning	20 July 2018
Further Council advice provided to SJB planning following 20 July meeting regarding DDO Schedule 16.	27 July 2019
Additional versions of DDO Schedule 16 were considered by Council in October and November 2018.	Various dates
Updated Planning Scheme Amendment Documents sent to Council from SJB Planning in response to previous discussions and meetings.	13 December 2018
Further discussions were had between Council and SJB Planning regarding Amendment documentation in January and February 2019.	
Council agreed that the Amendment documentation was at a stage to obtain preliminary comment from DELWP.	15 February 2019
Further discussions were had between Council officers and SJB Planning to discuss the DELWP feedback and appropriate changes in March and April 2019	

4.3 WHY A DESIGN AND DEVELOPMENT OVERLAY?

The use of a Design and Development overlay (DDO) v Development Plan Overlay (DPO) for the site has been to source of debate since the initial project conception. This has been a discussion point with the proponents at various times and the Department for Environment Land Water and Planning has questioned the use of the DDO for the site (see also Section 4.5).

The primary reason for the decision to not use a DDO is that Monash City Council has concerns that a DPO does not allow for third party involvement in the planning process. This has been an issue for Monash in the past, particularly with regards to the rezoning and redevelopment of several former school sites across Monash. These were Ministerial Amendments to put in place DPOs and when planning and subdivision permits were applied for some failings in the DPOs and the lack of ability to undertake third party notification resulted in poor outcomes for Monash and its community.

Ultimately Council considered that, as a planning authority, Monash has the responsibility to determine the most appropriate tools for each specific site or development proposal with DELWP providing guidance on how to use the tools available. Council officers requested DELWP provide us with written policy or guidance on the use of tools such as a DPO or a DDO, but this was not forthcoming. Their initial feedback and advice on this issue was verbal advice that varied between officers within the organisation.

With regards to Amendment C159 in its current form, it is considered that the DDO is the most appropriate tool. It will ensure appropriate considerations are given to the design and built form of future development through a planning permit process. As has been discussed in Sections 4.2 of this

report, there has been significant work and effort that has gone into developing the Amendment documents to the satisfaction of Councillors and to ensure that potential impacts on surrounding residents can be mitigated as best as possible through design. Given that there has been only a limited number of objections, Council considers that the effort that has been put in to developing DDO16 is therefore justified.

During the community 'drop-in' session for the Amendment held on Wednesday 6 November 2019 there was significant interest in the community being involved in future Planning Permit processes. Many considered this more important than the change of zoning. For this site it would not be considered appropriate to deny the community the involvement in such a process. Particularly if there is the potential for a number of years to pass before any application is submitted for one or both of the sites.

Lastly, the proponents are not in a position to supply information that would be required for a DPO, such as potential future densities on site, a more detailed site plan of building locations and heights. This type of information was requested from the proponents at times pre-authorisation and this is not available. A significant amount of further work would be required to reconsider this proposal as a DPO. This would not be a good outcome for either party as it would mean a significant extension of the timeframe for the Amendment, not only for further pre-authorisation consideration, but also re-exhibition.

4.4 COUNCIL DECISION TO PREPARE AMENDMENT

At its meeting on 25 June 2019, Council resolved to:

1. *“Request the Minister for Planning to authorise Council, pursuant to Section 8A of the Planning and Environment Act 1987, to prepare Amendment C143.*
2. *Authorise the Director City Development to prepare and finalise the planning scheme amendment documentation in accordance with this report.*
3. *Upon receiving authorisation from the Minister for Planning, prepare Amendment C143 and exhibit the amendment in accordance with Section 19 of the Planning and Environment Act 1987.*
4. *Notes the proposed change of zone from Commercial 2 Zone to Mixed Use Zone is not currently supported by the Monash Industrial Land Use Strategy 2014, but recognises the changed circumstances of the site and is supported by Plan Melbourne 2017-2050 the Monash Housing Strategy 2014 and the strategic directions of the Monash Planning Scheme. “*

The Panel has previously been provided a copy of the Council Report and Minutes from 25 June 2019.

4.5 AUTHORISATION

Preliminary Feedback

In line with the current procedures and policies of DELWP, Council submitted the amendment documents to DELPW officers for pre-authorisation consideration on 20 February 2019 via an email request.

The initial response from DELWP, received by Council on 6 March 2019, primarily questioned the use of a DDO for the site.

As a result of this feedback a phone conference meeting was held between Council officers and DELWP officers on 19 March 2019. As a result of these discussions, an amended draft DDO16 was submitted to DELWP by Council. DELWP's subsequent feedback and a marked up draft DDO16 was provided to Council on 27 March 2019.

Council considered that the changes proposed did not take into consideration the detailed circumstances of the site and site history. How Council responded to the 27 March feedback from DELWP in preparing the Amendment documents for authorisation was set out in an email on 1 April 2019.

All of the correspondence with DELWP was submitted with the request for Ministerial Authorisation.

Copies of the correspondence noted above is provided in **Appendix D**.

Ministerial Authorisation

Ministerial Authorisation to prepare Amendment C159 was sought by Council on 16 July 2019.

On 30 July 2019 DELPW wrote to Council to advise that under delegation from the Minister for Planning, in accordance with section 8A of the Planning and Environment Act 1987 advising council that the application required further review.

On 16 August 2019 the Minister for Planning authorised Council to prepare the Amendment, subject to the following conditions:

- *In proposed Schedule 16 to the Design and Development Overlay:*
 - *Amend the headings in tables 1a, b and c to use the words 'Built form requirements' instead of 'Maximum building height'.*
 - *Amend tables 1a, b and c by deleting the words 'above existing ground level at 1 January 2019'. Amend tables 1a, b and c by expressing maximum building heights as specific measurements (number of metres/storeys), rather than as a range, unless the lower part of the range is intended to be a mandatory minimum height (in which case further redrafting will be necessary). In decision guidelines, delete the words 'The staging of development' from the second dot point.*
 - *In decision guidelines, delete the third, fourth, sixth and seventh dot points.*
 - *Confirm that map and table references refer to the correct maps and tables.*
- *In proposed Schedule 2 to the Mixed Use Zone:*
 - *Delete all application requirements. Transfer the following application requirements to Clause 5.0 (Application requirements) in Schedule 16 to the Design and Development Overlay: 'An Arboricultural Assessment...' and the following three sub points, and 'A Landscape Plan...' and the following six sub points.*
 - *In decision guidelines, delete the second two dot points.*

The authorisation letter also stated that:

"As DELWP officers have previously advised, a Development Plan Overlay (DPO) is a more appropriate tool to facilitate the type of development envisaged by this amendment. A development plan can guide both future use and development, allowing for a coordinated

approach to the distribution and design of built development, distribution of open space, development of infrastructure, access and movement corridors and retention of existing environmental assets like significant trees. The DPO also supports the development of a plan that can be implemented in stages.

Using a DDO rather than a DPO means that some of your council's proposed provisions must be removed from the amendment by the conditions above, as they are not within the scope of the DDO."

Council wrote to DELWP on 16 September 2019 to seek further formal clarification about the conditions of authorisation provided by DELWP in the 16 August letter and to express concern over some of the changes proposed, as they will potentially alter the nature of the Amendment and introduce unnecessary uncertainty. Council officers met with DELWP on this matter on 22 October 2019 and a letter in response was sent to Council 1 November 2019.

Council agreed that it would make changes to the amendment to respond to all the conditions imposed in the DELWP letter, prior to exhibition of the Amendment and all changes have been made. Council separately determined that some of these matters would again be raised through the Panel process, regarding point two, of bullet one. This issue will be discussed in the Part B submission.

Council incorporated all the changes required in the DELWP letter, with the exception of the last dot point highlighted above. The reason that the highlighted condition was not changed as requested, is due to an oversight. It is proposed that this be addressed through the Panel Hearing process.

Copies of each of the authorisation letters noted above are provided in Appendix E. Details of each of the Clauses submitted for Authorisation and modified prior to exhibition are provided in **Appendix E**.

4.6 CLAUSE 32.04 SCHEDULE 2 TO THE MIXED USE ZONE

As noted earlier in this Part A the Amendment proposes to change the zoning of the site from Commercial 2 Zone to the Mixed Use Zone and introduce a new Schedule 2. Two Objectives are proposed for Schedule 2 for the Mixed Use Zone as follows:

- *To provide a range of medium density housing opportunities incorporating a diverse mix of residential dwelling types.*
- *To encourage a diversity of land uses, with a focus on health and community services, in easily accessible locations for the broader community.*

The mixed use zone will allow for the development of various types of medium density residential uses, which are currently prohibited in the Commercial 2 zone. The mixed use zone will also allow the current uses on the site to continue and offer the opportunity for other non-residential uses.

The proponents anticipate a vision for the site as a 'Wise Wellness Precinct' to incorporate the current uses on the site for health services, the childcare centre and the community market and other potential uses on the site such as office, health and community services or retail uses to occur. It is likely the redevelopment of the site will predominantly be for a diversity of residential accommodation that provides for a range of dwelling types and sizes. Should any retail uses occur on the site these would be small scale services or support retain and major retail uses would not be supported at the site.

The precise mix of future uses on the site will be determined through a future planning permit application in the context of the objectives noted above. The scale of development on the site will be further managed through the application of schedule 16 of the Design and Development Overlay, which is discussed in Section 5.7 below.

No other variations are made to the Schedule 2 of Clause 32.04, other than the addition of the following Design Guidelines:

- *Whether the intensity of development proposed is consistent with the site context and provides for an appropriate level of dwelling diversity.*
- *The appropriateness of the land use with consideration of its context having regard to transport movement networks, surrounding land uses and interfaces with publicly accessible areas.*
- *Whether a high standard of diverse residential amenity is achieved having regard to ResCode and the Better Apartment Design Standards as applicable.*

4.7 CLAUSE 43.02 SCHEDULE 16 TO DESIGN AND DEVELOPMENT OVERLAY (DDO16)

Proposed DDO16 will introduce a series of design objectives, design requirements and development outcomes to manage the future design and scale of development and ensure the amenity and character of surrounding residential areas is maintained. A summary of the requirements of DDO16 is outlined below.

Design objectives

The design objectives of DDO16 are:

- *To provide for the development of a medium rise built form character with a moderate building height that transitions in response to the variable topography across the site.*
- *To ensure that site planning, built form, scale and architectural qualities deliver high quality interfaces with the private, communal and public realms and avoid unreasonable off site amenity impacts.*
- *To ensure separation between buildings that promote views across and through the site.*
- *To ensure landscape design enhances the new character of the precinct and integrates the development with its context including the retention and ongoing health of the precinct's high value trees.*
- *To ensure development provides a high standard of internal and external amenity for those living and working in, or visiting the precinct including the provision of adequate open space.*

Key design elements of DDO16

Scale of development and Impacts on adjoining residents:

- The site is located to the north east of the Waverley Park Estate that comprises predominantly low density suburban development. While it is acknowledged that existing industrial style development is currently occurring on the site, future development and intensification of uses on the site will need to occur in a manner that maintains and improves amenity for existing residential properties. The scale of development has the potential to

impact on adjoining properties. DDO16 has included measures to manage the impacts on the adjoining neighbouring properties and to ensure that sight lines can be maintained through the property to the Dandenong Ranges. DDO16 includes the following measures:

- Building heights are separated into precincts and the building heights vary from three-four storeys on the residential interface, to a maximum of six storeys at any points across the site. Building height will need to transition in response to the topography of the site.
- At the residential interface within Sub-precinct C, development is required to be setback 3m from the residential boundary and appropriate landscaping included. From the 3m setback development, is not able to occur within 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres for all development. This recognises the Residential Code Standard B17 profile, which only applies to residential development. It has been repeated in DDO16 to recognise that uses other than residential may be developed on the site and this standard should still apply. An example is shown in Figure 6 below.

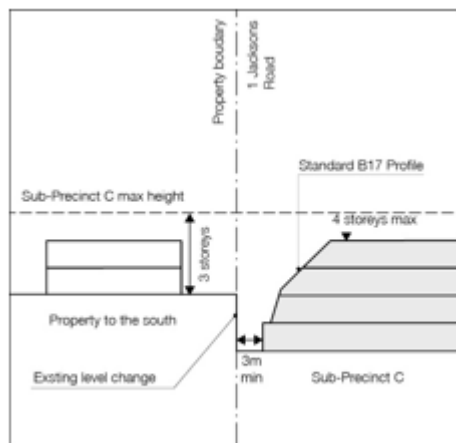


Figure 6 Example built form requirements (Precinct C)

- For precinct C the maximum height is proposed to be four storeys or the maximum height permitted in the adjoining residential zone.
- The building heights are set as maximums and are therefore mandatory. This means that a permit cannot be applied for to vary the building heights. This will provide certainty to the surrounding residential properties that the heights are not discretionary and could be increased.
- As noted above, a ‘Design objective’ has been included to require “...separation between buildings that promote views across and through the site”. To give effect to this ‘Design objective’, there is a requirement for a separation between buildings of at least 12 metres, up to four storeys, and at least 18 metres above four storeys, to maintain views through the site.

Site topography:

- The steep topography of the site slopes downwards from the south western and western boundaries towards Jacksons Road and the corner of Wellington and Jacksons Road. Further, there is a steep fall between the two properties that results in a topographical barrier. At its greatest the fall is around eight metres. To address topographical issues on the site, the following has been included:

- A design objective in the DDO16 to recognise that height transitions across the site in response to the variable topography.
- To outline the impacts of the site topography a series of indicative cross sections have been included in the planning report to show the slope of the site, transitioning building heights and relationship to adjoining properties. More specifically Map 1 of DDO16 shows the ‘reduced levels’ (RL) across the site.

Circulation and access:

- The DDO sets out requirements to ensure pedestrian, cycling and vehicle permeability through the site, future land uses and between the two land ownerships to recognise the change in topography. It is also necessary to ensure appropriate access is provided to Jacksons Road and Wellington Road.

Public realm and building design:

- DDO16 sets out requirements to ensure that the future design is of a high architectural quality and recognises interfaces with the public and private realm. This includes a setback of 10m from Wellington Road and a setback of 7.6m from Jacksons Road.

Landscaping and ‘high value trees’:

- Landscape design is an important aspect of DDO16 and is required to enhance the new character of the precinct, soften the impact to adjoining properties and the interface to Wellington and Jackson Road.
- DDO16 recognises five existing high value trees on the site to be retained and protected, as shown in Map 1. This directly links to the ‘Landscaping’ section on Page 5, which states that “existing high value trees in the precinct... should be retained and protected”.

5 STRATEGIC ASSESSMENT

5.1 STRATEGIC ASSESSMENT GUIDELINES

5.1.1 Why is an amendment required?

An amendment to the Monash Planning Scheme is required to realise a planning framework for the site which enables an appropriate development of the land in accordance with Metropolitan planning expectations.

Melbourne is currently experiencing a 'third wave of growth' as outlined within Plan Melbourne 2017-2050. As part of the challenge of appropriately managing this growth, direction is given to creating development opportunities at urban renewal precincts including former industrial areas and underutilised land.

The rezone of the land to Mixed Use zone is not currently supported by the recommendations of the Monash Industrial Land Strategy 2014 and background report, which seeks to rezone the land to Industrial 1. However, the background report to the Industrial Land Use Strategy provides additional commentary for future development of the site. In reference to development opportunities:

"The most obvious development opportunity for the precinct would be for residential development which would most likely be in the form of townhouses. However while the existing buildings remain functional there is little justification for considering a change of land use."

"It is expected that this precinct will continue to perform its role as a corporate head office and distribution centre location into the foreseeable future. There is no strategic justification for considering a change of land use at this stage."

This commentary essentially places a strong emphasis on retaining the Commercial 2 zone, based on the existing uses on the site and this continuing into the foreseeable future. Given that these uses have now ceased it is relevant to reconsider the appropriate land use for the site and a potential change of use.

To support this position the proponents have submitted an economic report that has been prepared by Deep End Services. The report concludes that as commercial/ operations on the site are winding down and the site is of little or no strategic value to the supply of industrial land in the City of Monash or the wider region, that economically, a rezoning of the land to enable residential development is appropriate. The site is surrounded by housing, forming an isolated industrial node which is removed from other industrial land and out of context with the surrounding residential and retirement village uses. The full conclusion of the report states:

"Local planning policy of the City of Monash supports the retention of industrial and commercial land for employment generating purposes. The two sites at Mulgrave are however of very low strategic value in the context of the industrial land supply in Monash and the land use and economic changes which have occurred since the initial use was conceived."

The larger of the two sites (1 Jacksons Road) was developed 45 years ago when housing estates in Mulgrave and Wheelers Hill were being developed, the Waverley Park football ground was just two years old and the Monash Freeway link from Chadstone to Eumemmering was under construction."

The two sites are now surrounded by housing, forming an isolated industrial node which is removed from other industrial land and out of context with the surrounding residential and retirement village uses.

The early edge-of-city advantages of the site have been eroded as the buildings and facilities have aged and new, more efficient buildings in planned estates with on-site amenities are available elsewhere with equal or better freeway connections. The industrial market in Monash has expanded and consolidated to the technology node around Monash University and the more traditional areas through Oakleigh, Clayton and Springvale.

The loss of 5.3 hectares of Industrial 1 zone is of little significance given the relatively low rate of industrial land development in Monash and the large existing supply of land and buildings.

For new businesses entering or relocating in Monash, there are new industrial buildings available for lease, others readily turning over for re-lease and significant redevelopment opportunities in the older areas where traditional activities have declined and will be displaced by modern buildings more suited to the market. The slow but steady take up of the Monash technology precinct and Caribbean Gardens at Scoresby are better examples of where the market is shifting.

The elevation and eastern aspect of both sites and the new residential interface with Waverley Park, makes the land far more suited to a mixed-use scheme with residential and commercial use.

An ageing population and the low diversity of housing choice support higher density housing, aged care and medical uses. These and other on-site uses under the Mixed Use zone can meet the needs of the structural demographic changes occurring in the area and allow residents to move closer to their existing networks.

In conclusion, there are positive economic and employment benefits in rezoning the site to Mixed Use zone and no material impacts on the effective supply of high quality industrial land in Monash. The change will allow the land to revert to a range of higher and better uses which should deliver a net gain in jobs and economic activity."

The amendment of the land from the current restrictive Commercial 2 Zone to the Mixed Use Zone will allow for a broader range of land uses to be accommodated on the land; particularly residential accommodation. The Mixed Use Zone will promote a range of residential, commercial, industrial and other uses, as opposed to the Commercial 2 Zones' focus on commercial and industrial land uses.

In further support of this position the Monash Housing Strategy 2014, which has been incorporated into the Monash Planning Scheme, recognises that there is an increasing demand for a variety of different housing styles to cater for a growing population and changing community needs, such as an ageing population and student accommodation. Within this Strategy, the municipality is divided into eight categories. The subject site is located within Category C, which is noted as being an 'area with limited development potential'. Overall, however, the Strategy does recognise there are opportunities for larger sites that may provide more intensive development outcomes. Within such locations, the desired development outcomes will need to be sensitive to the scale and character of the surrounding locality. In regards to the current site any future development would therefore need to have regard to low scale suburban context of the adjoining Waverley Park Estate.

The application of a new Design and Development Overlay Schedule 16 will provide greater certainty around how the development of the land is envisaged to occur. It will introduce a series of design objectives, design requirements and development outcomes to manage the future design and scale of development and ensure the amenity and character of surrounding residential areas is maintained. The Environment Audit Overlay is to be applied to satisfy Ministerial Direction No. 1 and ensure that the land is suitable to be developed for sensitive uses.

5.1.2 Does the amendment implement the objectives of planning and address any environmental, social and economic effects?

This amendment will implement the objectives of planning in Victoria by providing for the fair, orderly, economic and sustainable use and development of the land. The proposed rezoning will not raise any significant negative environment, social or economic effects, with the effects associated with these elements instead considered to be broadly positive.

Environmentally, the application of a Design and Development Overlay Schedule 16 will ensure that the retention of the high-value trees on the land is prioritised and that new development achieves a 'buildings in landscape' character. Further, the application of an Environmental Audit Overlay will ensure that the land is appropriately remediated.

Currently the land provides little social benefits beyond the childcare centre and the Sunday only farmers market that operate from the site. The application of the Mixed Use Zone will enable a greater variety of uses to be established on the land and provide a greater sense of community than currently provided for or allowed for under the Commercial 2 Zone.

Economically, as the primary industrial operations of the land have now ceased, the economic report commissioned concludes that "there are positive economic and employment benefits in rezoning the site to Mixed Use Zone and no material impacts on the effective supply of high quality industrial land in Monash".

5.1.3 Does the amendment address relevant bushfire risk?

This is not a relevant consideration.

5.1.4 Does the amendment comply with all the relevant Minister's Directions?

Ministerial Direction – The Form and Content of Planning Schemes

The amendment documentation is formatted and provided in accordance with the requirements of this direction.

Ministerial Direction 1 and Ministerial Direction 19

Ministerial Direction 1 relates to Potentially Contaminated Land, where potentially contaminated land is considered to be land used or known to have been used for industry.

This amendment proposes to rezone the land to Mixed Use Zone, replacing the current Commercial 2 Zone. This proposed rezoning will introduce the potential for sensitive land uses (e.g. residential) to be established on the land. As the previous uses on the land would be considered to have created potential for land contamination as identified within the Potentially Contaminated Land General Practice Note, the application of the Environmental Audit Overlay over the site is appropriate and satisfies this direction.

General Practice Note for Potentially Contaminated Land (DSE, 2005) (the Practice Note).

Council must satisfy themselves that the land is potentially contaminated in accordance with the Practice Note). The EPA have advised Council that this includes undertaking the following steps for identifying the potential for contaminated land in accordance with the Practice Note:

1. Conduct an inspection of the sites (virtual at a minimum).
2. Consider information available for the current and previous zoning, ownership or activities carried out on the site.
3. Review any existing assessments on contamination in the area.
4. Consider any potential contamination from surrounding land uses (for example an adjacent service station known to be causing off-site contamination).
5. Review publicly available databases (e.g. Vic Unearthed, GEO Vic).

Council has undertaken an assessment as follows:

1. Site inspection

Council officers have inspected the site on a number of occasions and identified that there are a number of large existing industrial and warehouses buildings located on the site.

It was not possible to conclude from the site inspections whether the land would not be contaminated, particularly due to nature of buildings located on the site.

2. Information available for the site

There was a large farmhouse on the former OfficeMax site and the remainder of the site was paddocks from the 1950s until the 1970s when the Body Shop building was constructed. The OfficeMax Warehouse was built in the mid 1990s.

Ultimately the site was used for warehouse and industrial uses for a number of decades. The warehousing involves distribution, which would have resulted in significant vehicular movements, including large trucks, on the site on a daily basis. This may have resulted in a level of contamination on the site.

1 Jacksons Road involved storage and distribution associated with the Bodyshop. This would have involved the storage of predominantly beautification products in large numbers that are made from a form of chemicals. In addition, it is unclear what goods were warehoused on this site. Council cannot be satisfied that this would not have resulted in some form of contamination.

Additional information has since been supplied by the proponents to Council on 3 April 2020 that indicates there may be some evidence of contamination on the site. This is discussed in more detail in point 3 below.

3. Existing assessments undertaken.

The proponents commissioned a report by Compass Environmental in January 2020 to completed a Phase 1 assessment of 1 Jacksons Road and 636 Wellington Road. The assessment comprised a site history review and detailed site inspection. The assessment identified and concluded the following:

“The site was used for agricultural purposes and/or farming practices up until 1975, with a residential structure was present in the western portion of the site. The residential /

farming structures were removed by 1975, and a large warehouse building (similar to the current layout on 1 Jackson Road) constructed. By 1988 the vacant land surrounding the warehouses had been developed into car parking areas. The current warehouse building at 636 Wellington Road was constructed between 1991 and 2005. Motorola Australia Pty Ltd purchased the land in 1987 and operated business in the western warehouse located on 1 Jackson Street.

The main identified potential sources of contamination included the possible presence of fill material across the site, including building demolition rubble, and the past agricultural use of the site. These potential sources were classified as medium risk in accordance with the DSE General Practice Note, Potentially Contaminated Land, June 2005 (as per Table 1 – Potential for contamination).

Several areas of the site contained potential sources of contamination that were classified as high risk in accordance with the DSE General Practice Note, and included the underground and above ground fuel storage infrastructure and substation area. Potentially further areas of high risk may be associated with the former Motorola Australia facility at 1 Jacksons Road.

This Phase 1 assessment is of a desktop nature, in accordance with the requirements of the DSE General Practice Note. It is recommended that, if the land is re-zoned to allow a change of use an intrusive assessment be completed, to better understand the contamination status of the site, and to best define the areas to which the levels of assessment are applied, in accordance with the proposed land uses.”

4. Potential Contamination in surrounding areas

The surrounding areas are residential in nature, so potential land contamination of the Amendment site is highly unlikely.

5. Available databases

Databases have been reviewed and no potential contamination issues were identified.

Council concluded in the 25 June 2019 Council report that as the site was previously used for industrial and warehouse uses, it is likely that there would be some level of contamination that would need to be addressed. This may impact on the future redevelopment of the site for sensitive uses (e.g. dwellings, childcare and community market uses). This combined with the assessment undertaken by the proponents is evidence that it is appropriate for an EAO to be applied to the site.

Ministerial Direction No. 9

Ministerial Direction 9 relates to Metropolitan Planning Strategy, which has been discussed in Section 3.2 of this Part A.

Ministerial Direction No. 11

This Part A report has been prepared to address all the aspects of Ministerial Direction No.11.

5.1.5 Does the amendment make proper use of the Victoria Planning Provisions?

The Mixed Use Zone is considered to be the most appropriate land use zone for the land as it allows for increased housing growth to occur without restricting the ability for other uses to be established.

Given the surrounding area is primarily zoned General Residential Zone Schedule 3, it is considered that the application of a residential zone is appropriate. Further, the size of the site allows for taller built forms to be achieved without affecting nearby properties, thereby making the application of the Mixed Use Zone most appropriate.

The application of a new Design and Development Overlay Schedule has been discussed in Section 4.3 of this report.

The application of an Environmental Audit Overlay is considered appropriate given Ministerial Direction No. 1 as discussed above.

5.1.6 Does the amendment address the requirements of the Transport Integration Act 2010?

This amendment will not have any significant impact on the objectives and decision making principles set out in the Transport Integration Act 2010.

5.1.7 What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The amendment will not have a significant administrative impact on Council.

6 PUBLIC EXHIBITION

6.1 EXHIBITION PROCESS

6.1.1 Exhibition Period

The Amendment was exhibited from 14 October 2019 to 18 November 2019.

6.1.2 Notification Given

Letters and formal Notice of Amendment were sent to the owners and occupiers of the properties highlighted in Figure X below:

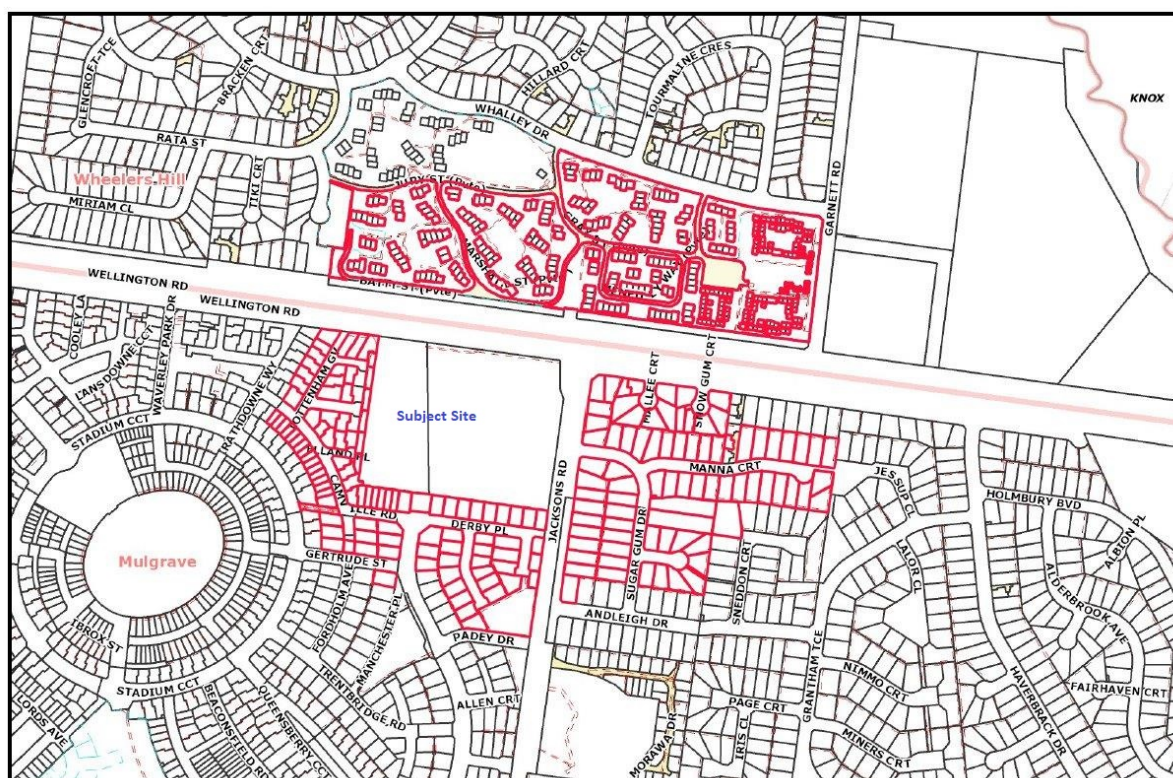


Figure 7 - Direct notice of amendment (properties notified in red)

Letters and formal Notice of Amendment were also sent to the Prescribed Ministers and the Environmental Protection Agency.

Three Notices of Amendment were displayed on site at the following locations:

- Entrance to 636 Wellington Road
- Entrance to 1 Jacksons Road, off Wellington Road
- Entrance to 1 Jacksons Road, off Jacksons Road

Public Notices were also placed in the Monash Leader and the Victorian Government Gazette.

6.1.3 Information Available

Amendment information was available to download electronically from the Council's website and the DELWP "Planning documents on exhibition" webpage.

Full hard copies of the Amendment information were available to view at Council's Civic Centre, and the Mulgrave and Wheelers Hill libraries.

6.1.4 Information Session

A 'drop-in' information session was held on site at 1 Jacksons Road on Wednesday 6 November 2019, between 4pm and 6.30pm. At the session people were able to come and ask questions of Council officers and the proponent representatives about the Amendment and the proposed new planning scheme clauses.

The session was attended by ten local residents.

6.2 COUNCIL CONSIDERATION OF SUBMISSIONS

At its meeting on 25 February 2020, Council formally considered submissions and provided the following resolution that Council:

- 1. Reviews and considers the issues raised in submissions to Amendment C159.*
- 2. Requests the Minister for Planning to appoint an independent Panel under Part 8 of the Planning and Environment Act 1987 to consider the submissions and Amendment C159 to the Monash Planning Scheme.*
- 3. Refers all submissions and Amendment C159 to the Panel appointed by the Minister for Planning.*
- 4. Notifies all submitters of Council's position on this Amendment*

The Panel has previously been provided the details of the officer's report and minutes of the 25 February 2020 Council meeting.

7 SUBMISSIONS RECEIVED

7.1 OVERVIEW OF SUBMISSIONS

A total of three submissions were received on the Amendment from:

- 2 local residents who all objected to the Amendment;
- The Environment Protection Authority, who were generally supportive of the Amendment;

7.2 LOCATION OF SUBMITTERS

Below is a map showing the location of the submitters for Amendment C159. Those submitters who are public authorities have not been included on this map.

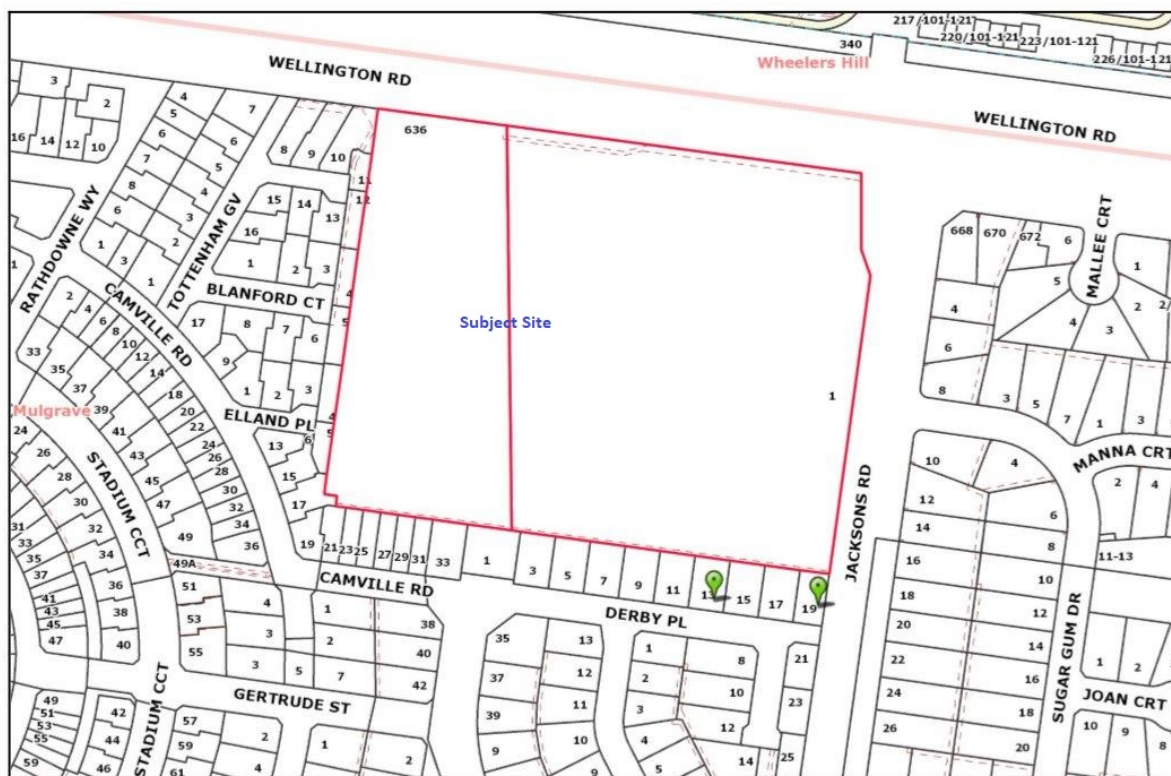


Figure 8 - Location of submitters

7.3 SUMMARY OF SUBMISSIONS

In summary the key issues raised in the submissions relate to:

- Impacts on property values
- Negative impacts of the proposed building heights
- Increased traffic
- Impact on the flora and fauna
- Potentially contaminated land

Submission Number	Issues
1	<ol style="list-style-type: none"> 1. The Amendment will negatively impact the value of their properties and their streetscape as the buildings will be visible. It will impact on their quality of life and will create noise. 2. It will create more traffic and put stress on the current roads and buses. 3. It will impact the flora and fauna of the site. 4. It will create less open space in the direct area by covering it with more buildings. 5. The current buildings should set a precedent and new buildings shouldn't be any higher. 6. The current buildings should be protected as one of the last remaining spaces to be developed. 7. If it were to become student accommodation, high vacancies could occur as there is already a lot of accommodation in the area for Monash University students. 8. The overlay makes no reference of what will become of the Mulgrave Farmers Market – a significant social/family recreation (SFR) space.
2	<ol style="list-style-type: none"> 1. The previously contaminating activity on the land is not clear. Council must satisfy themselves that the land is potentially contaminated in accordance with the General Practice Note for Potentially Contaminated Land (DSE, 2005). They encourage Council to explore this before seeking to apply the EAO given the cost of completing an Audit.

Submission Number	Issues
3	<ol style="list-style-type: none"> 1. The Amendment will negatively impact the value of their property and destroy current views. Tall buildings will diminish any privacy they have. 2. Current traffic volumes are already a problem in peak hours and adding more traffic lights on Jacksons Rd only 100m from current ones will exacerbate the issue. Thought needs to go into widening Jacksons Rd. 3. Any tree removal on the site will take away natural flora and fauna. 4. More thought needs to go into the environmental effect of any development, particularly in the construction stage as it can create noise, dirt, dust and waste problems for neighbours. 5. Current permit for the construction of a Childcare Centre – would change the proposal as it currently stands. The residents need to know which of the proposals would proceed.

The Panel has previously been provided the details of the officer's report and minutes of the 25 February 2020 Council meeting outlining the above submissions.

8 CHANGES TO AMENDMENT

Council has not sought to change the Amendment following exhibition and reviewing the submissions.

APPENDIX A – RELEVANT PLANNING CONTROLS FOR SURROUNDING AREAS

Documents include:

- General Residential Zone Schedule 3
- Neighbourhood Residential Zone Schedule 4
- Neighbourhood Character Overlay Schedule 1
- Waverley Park Concept Plan 2002

APPENDIX B – MONASH INDUSTRIAL LAND STRATEGY 2014

Documents include:

- Monash Industrial Land Use Strategy – Strategy Report.
- Monash Industrial Land Use Strategy – Background Analysis and Context.
- Monash Council Report for 24 February 2015 – Amendment C122 to the Monash Planning Scheme.

APPENDIX C – MONASH HOUSING STRATEGY 2014

APPENDIX D – C159 PRE-AUTHORISATION CORRESPONDENCE WITH DELWP

Documents include:

1. Email from Council to DELWP on 20 February 2019 and DELWP response on 6 March 2019. The parts of the 20 February email relevant to C159 are highlighted in yellow (initial email trail was in relation to a separate Amendment).
- 2a. DELWP email to Council on 27 March 2019.
- 2b. DDO Schedule 16 - DELWP version to Council.
3. Council email to DELWP on 1 April 2019 in response to DELWP 1 April 2019 correspondence.

APPENDIX E – C159 AUTHORISATION CORRESPONDENCE WITH DELWP

Documents include:

1. C159 Authorisation request application form – generated by the DELWP Amendment Tracking System (ATS) 16 July 2019.
2. Schedule 2 to Clause 32.04 Mixed Use Zone – **Version submitted for authorisation.**
3. Schedule 16 to Clause 43.002 Design and Development Overlay – **Version submitted for authorisation.**
4. Monash C159 DELWP - Authorisation further review letter 30 July 2019.
5. Monash C159 DELWP – Authorisation letter 16 August 2019.
6. Council response to DELWP authorisation letter, seeking further clarification 16 September 2019.
7. DELWP response to Council's 16 September 2019 letter – 1 November 2019
8. Schedule 2 to Clause 32.04 Mixed Use Zone – **Exhibited version.**
9. Schedule 16 to Clause 43.002 Design and Development Overlay – **Exhibited version.**