

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

**Planning Authority Further Submissions - Addressing  
Expert Witness Question Responses for Planning  
Panel**

**4 May 2020**



**CITY OF  
MONASH**

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# 1 BERNARD MCNAMARA

## 1.1 PART 1 QUESTIONS FOR MR MCNAMARA FROM THE PANEL

- Question 1.

*In paragraph 15 of your report, you recommend changes to the second objective of the Mixed Use Zone (Schedule 2) (MUZ2) – why have you selected this particular wording? How would the intent be different from what was exhibited?*

Council submission to Mr McNamara's response

Refer to the response in Section 3.3 of the Council Part B Submission.

- Question 2.

*Is there any value in having an objective or decision guidelines (or some other mechanism) to reflect the intention for smaller scale or complementary/convenience commercial or retail land use? Would it be problematic if something more intensive was proposed given expectations for medium density residential development?*

Council submission to Mr McNamara's response

Agree with Mr McNamara's comments, which reflect Council comments made at Section 3.3 in the Council Part B Submission.

- Question 3.

*Would it be possible or appropriate for the MUZ2 to limit or exclude industrial use for this site?*

Council submission to Mr McNamara's response

Agree with Mr McNamara. There is no intention to exclude Industrial Uses.

- Question 4.

*Are the three dot points in paragraph 94 a sourced quote (if so, from where?) or your own parameters?*

Council submission to Mr McNamara's response

No comments.

- Question 5.

*How do you consider that draft Clause 5.0 (Application Requirements) of the MUZ2 will operate in practice, bearing in mind the potential for the site to be subdivided or developed separately? Will these elements need to accompany the first application for a planning permit for any form of development, however minor?*

Council submission to Mr McNamara's response

Agree with Mr McNamara.

- Question 6.

*Building on the answers to question 5 above, at Table 1, page 27, you note that:*

- a) the Development Plan Overlay (DPO) can “identify the location/arrangement and relationship between future uses on the site”. In the absence of this, how will suitable site planning be achieved for this site?*
- b) the proposed Design and Development Overlay (Schedule 16) (DDO16) “seek[s] to encourage a master planned response” – please elaborate*
- c) in the absence of a DPO, is the site expected to provide any open space (communal or public) and how would this be planned for? Likewise, does the site require any shared infrastructure, such as for drainage and how would this be planned for?*
- d) The DDO “does not seek to identify future access arrangements (internal roads, vehicle crossover, pedestrian accessways)” – how will integrated site planning be achieved? Is it contemplated that the two titles will be developed separately and maintain existing main road access arrangements with no internal connectivity? If so, would this be an acceptable outcome relative to the ‘Circulation and access’ objectives on page 5 of 7 of draft DDO16?*

Council submission to Mr McNamara’s response

Agree with Mr McNamara. Refer to Section 4.3 of the Council Part A submission for a discussion on why Council considers that a DDO is the appropriate tool for the site.

- Question 7.

*What provisions apply to encourage the retention of ‘High value trees’ in Table 2 of Draft DDO16? What permission would be required for their removal (if proposed) under remaining planning scheme controls, if any?*

Council submission to Mr McNamara’s response

Agree with Mr McNamara. Refer also to Section 4.7 (“Landscaping and ‘high value trees’”) of the Council Part B Submission.

- Question 8.

*In paragraph 142 you refer to the potential for a higher potential to retain existing canopy trees though a flexible design approach – what is this expectation based on?*

Council submission to Mr McNamara’s response

Refer to comments made at Paragraphs 3.4.17 to 3.4.18 in the Council Part B Submission.

- Question 9.

*Should any variations to the requirements of Clause 54 and Clause 55 be considered for this site (noting none are specified in the draft schedule)?*

Council submission to Mr McNamara’s response

Agree with Mr McNamara

- Question 10.

*Is it suitable to use the words “appropriate level of dwelling density” in the draft Decision Guideline in Clause 6.0 of the MUZ2 – what would this be referable to?*

Council submission to Mr McNamara’s response

*Is it suitable to use the words “appropriate level of dwelling density” in the draft Decision Guideline in Clause 6.0 of the MUZ2 – what would this be referable to?*

The purpose of this objective is to provide a decision guideline to assist with the direction of the first objective of MUZ2, which states:

*“To provide a range of medium density housing opportunities incorporating a diverse mix of residential dwelling types.”*

Mr McNamara considers that this objective should be deleted, however, Council disagrees. It will be important when making decision on the type and scale of residential development (medium density) on the site decision makers recognise the site context and locality and that there could be different types of residential that could be promoted on the site, such as townhouses, apartments or aged care accommodation.

- Question 11.

*How have potential cumulative traffic impacts been assessed? Have discussions with relevant authorities identified any potential need for alterations for access to a road in a Road Zone (Category 1) or intersection upgrades? How could this be addressed if parts of the site were subdivided or developed separately?*

Council submission to Mr McNamara’s response

Agree with Mr McNamara.

- Question 12.

*Can Mr McNamara film a ‘walkthrough’ plus ‘talkover’ of the parameters proposed for each Sub- Precinct and why he regards the proposed built form as acceptable based on all interfaces, topography and viewlines (subject to modifying some mandatory provisions to discretionary provisions)? This should be sent as a video link. This could either be done by reference to paper materials, on site, or with the benefit of other modelling tools or aerial imaging. The video may include responses to questions 13, 14 and 15.*

Council submission to Mr McNamara’s response

Council wishes to reiterate the points made in the Part B Submission, Sections 3.4.12 to 3.4.16 whereby it has made a sound strategic justification to determining the use of mandatory provisions and appropriate heights for Precincts A to D in DDO16.

Council notes that the position of Mr McNamara appears to be a philosophical one that seeks to support an 'aspiration' for more height in future and is not appropriate to this site. This is highlighted by his comment that the height proposed is "probably" less than he could imagine for the site.

- Question 13.

*Why is it appropriate to fix a Development Outcome for Sub-Precincts A and B to design buildings to be "visually unobtrusive" to the two main roads through "recessive and articulated architecture"?*

Council submission to Mr McNamara's response

Disagree with Mr McNamara.

Council has included this statement due to the topography of the area, the low lying character of surrounding residential areas and the potential dominance of buildings when viewed coming up Wellington road and from a distance from Wellington Road. It is considered that the term "visually unobtrusive" provides the context for what Council is seeking to achieve by requiring "recessive and articulated architecture".

It also links to Design objective bullet four where it states that "built form, scale and architectural qualities deliver high quality interfaces with the private, communal and public realms and avoids unreasonable off site amenity impacts".

The intention for the statement "prominent built form presence to Wellington Road and Jacksons Road" is seeking to recognise the prominent and visible nature of these interfaces and links to bullet 3 which states "Buildings oriented to Wellington Road and Jacksons Road with a strong architectural presentation". It is acknowledged that this may cause some confusing as noted by Mr Mc Namara and therefore could be amended as follows:

Buildings ~~form a prominent built form presence to Wellington and Jacksons Road~~, frame the higher built forms within the site, allow for connections between Wellington Road and the rest of the precinct and provide for:

- Question 14.

*If building heights along the main roadways (Sub-Precinct A and B) were not mandatory, should any other purposes or decision guidelines be introduced to enable a suitable character response to the broader setting, bearing in mind the site topography and adjoining Neighbourhood Character types 'Dandenong Valley Escarpment' and 'Garden City Suburbs Northern'?*

Council submission to Mr McNamara's response

Council wishes to reiterate the position taken in the Part B Submission regarding the appropriateness of mandatory provisions for this site. In particular, the strategic justification set out in Section 3.4 and the fact the site is located towards the top of an escarpment that is visible for many kilometres from the site.

- Question 15.

*Can you explain the rationale for and appropriateness of the proposed 4 storey (13.5m) maximum building height and discretionary setback controls proposed for Sub-Precinct C with by reference to all site interfaces and topography? How representative is the cross section in Figure 9 relative to all site interfaces?*

Council submission to Mr McNamara's response

Agree with Mr McNamara. Refer to Councils Part B Submission Section 3.4.

## **1.2 PART 2 QUESTIONS FOR MR MCNAMARA FROM COUNCIL**

Thank you to Mr McNamara for responding to the Council's questions.

As a general point, in some locations Mr McNamara refers to adjoining residential Zones being located within the RGZ. This is incorrect. The adjoining residential zones (Waverley Park Estate) are located within the General Residential Zone Schedule 4 (GRZ4).

- Question 3.1.2

*Is there a reason why the NCO1 and Concept Plan have not been referred to and how would a reconsideration of your evidence having regard to these documents influence your evidence to not support Mandatory Height controls?*

Council submission to Mr McNamara's response

Disagree. Mr McNamara considers that the NCO1 and Waverley Park Concept Plan does not apply to the site and is therefore not relevant.

Council considers that this is a shortcoming in Mr McNamara's evidence in determining that discretionary heights should be preferred. As noted in Paragraphs 3.4.13 and 3.4.14 of the Council Part B Submission, the visual framework outlined in the document is relevant both to Waverley Park itself and impacts offsite towards and through adjoining properties such as the subject site.

- Question 3.1.2

*Can Mr McNamara provide further advice on the site visit including what locations he went to (on a map) and whether this included a visit to the Waverley Park Estate? Can Mr MacNamara provide his summary of conclusions from the site visit? To get to the site did Mr McNamara use public transport, and if not, why not?*

Council submission to Mr McNamara's response

Council acknowledges Mr McNamara's response. Council wishes to highlight the point that the site is not particularly convenient for public transport and therefore cannot be considered as well serviced by public transport.

- Question 3.1.3

*How does Mr McNamara consider that discretionary heights will address the impacts on adjoining residents in the context of the Councils application of mandatory heights in order to mitigate impact on adjoining neighbours?*

Council submission to Mr McNamara's response

No further comment.

- Question 3.1.4

*Can Mr McNamara point to any strategic justification or other work that has subsequently been prepared as evidence of heights higher than six storeys being appropriate on the site?*

Council submission to Mr McNamara's response

No further comment.

- Question 3.1.5

*Can you advise on the accuracy of Figure 3 in the Planning Report, reproduced below? Is it possible that this is an older contour map that precedes development on the sites?*

Council submission to Mr McNamara's response

No further comment.

## 2 JUSTIN GANLY

### 2.1 PART 1 QUESTIONS FOR MR GANLY FROM THE PANEL

- Question 1.

*On page 8, you proceed on the basis that any new retail uses on the site would be ‘modest in scale...but not impacting on the orderly operation of nearby centres’:*

- a) what is the character and scale of the two centres he references (Wheeler Hill NAC and Waverley Park Local Centre) and what strategic direction is set for them?*
- b) where is this direction for new retail uses being a modest scale and not impacting the orderly operation of nearby centres provided in the proposed planning controls? Is there any merit in supplementing these provisions?*

#### Council submission to Mr Ganly’s response

Part a):

Support Mr Ganly’s summation.

Part b):

The site is outside of the retail hierarchy that is promoted under *Clause 21.06* of the *Municipal Strategic Statement* of the *Monash Planning Scheme*. It is currently used for industrial and warehouse purposes and this Amendment is seeking to change the use to the *Mixed Use Zone*. The Mixed Use Zone sits within the nest of ‘residential’ uses and is not a commercial zone.

The type of uses promoted on the site is seeking to recognise that the site is relatively isolated and will predominantly be developed for residential purposes with some other uses that recognise existing community uses and recent health care uses on the site. MU22 is seeking to promote some retail or commercial uses that would complement, or be secondary, to the main uses on the site.

Mr Ganly is correct that it would not be appropriate for the site to be developed as a neighbourhood centre.

Mr Ganly considers modest (small scale) retail could be capped at 1,000m<sup>2</sup>. This figure would seem appropriate, in principle, based on Mr Ganly’s assessment. However, it is not considered necessary that this cap be directly included in the MU22. This would be too prescriptive and should be determined at the time a development proposal, along with the proposed mix of uses, is put forward. An alternative option would be to include the term “complementary” to the objective as follows:

To encourage a diversity of land uses, ~~providing opportunities for with a focus on~~ health and community services ~~and small scale complementary retail and commercial uses~~, in easily accessible locations ~~on the site for the broader community~~

- Question 2. Mr Ganly did not provide a response.
- Question 3.

*More particularly, what considerations would be particularly relevant to a permit application for a commercial, retail or industrial use in the Mixed Use Zone (Schedule 2) to achieve such integrated outcomes consistent with policy objectives?*

Council submission to Mr Ganly's response

No further comment

## 2.2 PART 2 QUESTIONS FOR MR GANLY FROM COUNCIL

Thank you to Mr Ganly for responding to the Council's questions. Apologies to Mr Ganly for referring to him as Mr Galey in the Part B Submission.

- Question 3.2.1

*The Economic Report notes at Paragraph 15 that there is an updated vision for the site. At Paragraph 16 it provides a justification for the updated vision based on the rezone of the site to the MUZ2. It is not clear what has changed and why the vision has changed?*

Council submission to Mr Ganly's response

No further comment.

- Question 3.2.2

*Can Mr Galey provide any assessment or evidence to explain his statement that the site is "extremely well served by frequent bus connections to Caulfield, Dandenong and Glen Waverley" in the context of Plan Melbourne principles?*

Council submission to Mr Ganly's response

No further comment.

- Question 3.2.3

*The Economic Report at Paragraph 47 state that "the Melbourne-wide trend is for apartments to be developed in suburbs which are further out than more traditional locations in response to affordability issues, planning policies and changing demographics". Can Mr Ganly provide any substantiated evidence as to what this claim is based on?*

Council submission to Mr Ganly's response

No further comment.

- Question 3.2.4

*At Paragraph 48 the Economic Report states that “Wheelers Hill has already become a focus for higher-density living, with 443 of 612 dwelling approvals being for apartments between 2017 and 2019”.*

*Can Mr Galey provide more background to this statement to be able to make this summation? Do the figures quoted include the large aged care accommodation being completed adjacent to the Brandon Park Shopping Centre in Ferntree Gully Road?*

Council submission to Mr Ganly’s response

Council wishes to reiterate that it is not appropriate to say that Wheelers Hill has already become a focus for higher-density living across the suburb. We accept that there is higher density living occurring in some pockets of the suburb, but it is not a focus for higher density living, compared to what occurs around the Glen Waverley Activity Centre, for example.

Council accepts that there is more density and infill and some apartments developed or planned to be developed in the suburb and we support that type of development on this site through this Amendment. However, in this location, which is relatively isolated, the scale proposed of medium density housing options is the most appropriate. Densities higher than this would not be appropriate.

### **3 RESPONSE TO HALL AND WILCOX MEMO SENT 27 APRIL 2020.**

The Proponent submitted additional statements from Mr McNamara and Mr Ganly on Monday 27 April 2020 where they have provided further comment and review of the final Melbourne Industrial and Commercial Land Use Plan (MICLUP).

Planning Panels Victoria provided Council a further seven days to make any supplementary Part B submissions.

Council has no further Part B submissions to make on this matter and supports the conclusions made by both Mr McNamara and Mr Ganly.