

Authorisation Application Form

C159mona

Authorisation to prepare an amendment to the planning scheme under section 8A of the Planning and Environment Act 1987

Draft

Preliminary Information

Amendment details

Provide a brief description of the proposed amendment

The Amendment is seeking to rezone the land at 1 Jacksons Road and 636 Wellington Road Mulgrave from Commercial 2 Zone (C2Z) to Mixed Use Zone: Schedule 2 (MUZ2). The Amendment is also seeking to delete Schedule 1 of the Design and Development Overlay (DDO1) and introduce Schedule 16 of the Design and Development Overlay (DDO16); and the Environmental Audit Overlay (EAO).

What is the type of Amendment ?

- C
 GC

What is the amendment classification?

- Exhibited
 Ministerial
 Prescribed

The amendment contains

- Only Maps
 Only Ordinances
 Both

Planning scheme details

Planning scheme

Monash

Planning authority details

Planning authority name

Monash City Council

Planning authority contact

Andre Schmid

Planning authority contact details

First Name	Last Name
Andre	Schmid
Position	Email
PA Planner	andre.schmid@monash.vic.gov.au
Phone Number	

95183090	
Additional email	
sherry.hopkins@monash.vic.gov.au This email address will be cc'd on emails sent from the ATS system for this amendment	

Proponent

Proponent	Proponent represented by
Frondeil Properties Pty Ltd and Winc Australia Pty Ltd	SJB Planning

Affected land details

Street address

Enter Address

Unit no.	Street no	Street name
	1	JACKSONS ROAD
Suburb	State	Postcode
MULGRAVE	VIC	3170

Enter Address

Unit no.	Street no	Street name
	636	WELLINGTON ROAD
Suburb	State	Postcode
MULGRAVE	VIC	3170

Informal land description

Provide a description of the land

The site is located on the corner of Jacksons Road and Wellington Road and comprises two land titles in separate ownership, totalling 5.4 hectares.

Details of amendment (A)

Select one or more amendment category

- | | |
|--|--|
| <input type="checkbox"/> Correction | <input checked="" type="checkbox"/> Rezoning |
| <input type="checkbox"/> Combined permit and amendment | <input type="checkbox"/> Heritage |
| <input type="checkbox"/> Transitional provision/sunset clause | <input type="checkbox"/> SPPF(VPP) |
| <input type="checkbox"/> Interim controls | <input type="checkbox"/> Residential zone(VPP) |
| <input type="checkbox"/> Local policy or strategy | <input type="checkbox"/> Residential zone schedule |
| <input type="checkbox"/> MSS Review or planning scheme review | <input type="checkbox"/> Zone(VPP) |
| <input type="checkbox"/> SPPF | <input checked="" type="checkbox"/> Zone schedule |
| <input checked="" type="checkbox"/> Overlay schedule(VPP) | <input type="checkbox"/> Regional policy |
| <input type="checkbox"/> Particular provision(VPP) | <input type="checkbox"/> Structure plan or activity centre |
| <input type="checkbox"/> Incorporated document(VPP) | <input type="checkbox"/> VicSmart |
| <input type="checkbox"/> Incorporated document schedule | <input type="checkbox"/> Wind farm |
| <input type="checkbox"/> Specific sites and exclusions(Clause 52.03) | <input type="checkbox"/> Ministerial direction change |
| <input type="checkbox"/> General provision(VPP) | <input type="checkbox"/> New or amended practice note |
| <input type="checkbox"/> Mapping change | <input type="checkbox"/> Other |

Has the planning authority discussed the proposed amendment with the Department?

- Yes No

Enter a brief summary of the discussions and dates

Council first sought preliminary feedback from DELWP on 20 February 2019 via an email request. The initial response from DELWP questioned the use of the Design and Development Overlay (See attachment).

As a result of this feedback a phone conference meeting was held between Council and DELWP officers on 19 March 2019. To respond to the feedback of this meeting an amended DDO16 was submitted to DELWP and DELWP's subsequent feedback and a marked up DDO16 was provided to Council on 27 March 2019 (See attachment).

How Council has responded to the 27 March feedback in preparing the Amendment documents for authorisation was set out in an email to DELWP on 1 April 2019 (See attachment).

Combined permit amendment

Is the Amendment a combined planning permit application and planning scheme amendment under section 96A of the Act?

Yes No

Does the amendment comply with the strategic assessment guidelines?

Yes No

Does the amendment documentation comply with the ministerial direction on form and content of planning schemes, including any annexure?

Yes No Not Applicable

Is an exemption from complying with a ministerial direction required?

Yes No

Details of Amendment(B)

Does the amendment have any effect on registered restrictive covenants?

Yes No

Does the proposed amendment affect Crown land?

Yes No

Is the land "agreement land" within the meaning of the Traditional Owner Settlement Act 2010(Refer Register of Land Use Activity Agreements)

Yes No

Government department or agencies affected

Does the amendment affect the interests or operation of any other government department or agency?

Yes No

Has the department/agency been consulted about the proposed amendment?

Yes No

Ratification by Parliament

Does the amendment require ratification by Parliament (Green Wedge land or Strategy Plan)?

Yes No

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Proposed C159mona

SCHEDULE 2 TO CLAUSE 32.04 MIXED USE ZONE

Shown on the planning scheme map as **MUZZ**.

1 JACKSONS ROAD AND 636 WELLINGTON ROAD, MULGRAVE – URBAN RENEWAL PRECINCT

1.0 Objectives

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Proposed C159mona

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.

2.0 Clause 54 and Clause 55 requirements

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Proposed C159mona

	Standard	Requirement
Minimum street setback	A3 and B6	None specified
Site coverage	A5 and B8	None specified
Permeability	A6 and B9	None specified
Landscaping	B13	None specified
Side and rear setbacks	A10 and B17	None specified
Walls on boundaries	A11 and B18	None specified
Private open space	A17	None specified
	B28	None specified
Front fence height	A20 and B32	None specified

3.0 Maximum building height requirement

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None specified.

4.0 Exemption from notice and review

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None specified.

5.0 Application requirements

--/--/---
Proposed C159mona

The following application requirements apply to an application for a permit under Clause 32.04, in addition to those specified in Clause 32.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A staged site plan that sets out the stages of development of the land for the entire site.
- Indicative land uses and yields.
- A Transport Impact Assessment covering the proposed pedestrian, bicycle and vehicle movement networks and which details:
 - Vehicle ingress/ egress to Wellington Road/ Jacksons Road, any traffic impact on Wellington Road/ Jacksons Road and any required traffic mitigation measures e.g. provision of traffic signals on Jacksons Road.
 - The functionality of vehicle movements within the site, including consideration of on-street car parking.

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- Pedestrian and bicycle connections from/ to Wellington Road/ Jacksons Road and internally to the site.
- The rates of car and bicycle provision.
- Practical measures to encourage use of sustainable modes of travel.
- A Waste Management Plan for the collection and disposal of garbage (including recyclables, organics and hard waste) which details:
 - The method of disposal and collection including the need to provide for private services or utilisation of Council services.
 - On-site bin storage areas and structures and details on the cleaning of such areas.
 - Appropriate bin storage on collection days.
 - Collection frequency, including hours of collection.
 - Measures to minimise the impact upon local amenity, including prevention of litter.
 - Practical measures to encourage reducing refuse generation and increasing recycling.
- An Arboricultural Assessment of all trees within the site and on abutting land (including nature strips) where they may be impacted by the development and which:
 - Identifies key arboricultural details including species name, common name, health, structure and retention value.
 - Nominates all trees as either for removal or for retention.
 - Provides Structural Root Zones and Tree Protection Zones for all trees proposed for retention in accordance with Australian Standard AS4970-2009.
- A Landscape Plan prepared by a landscape architect or a suitably qualified landscape designer, drawn to scale and dimensioned which:
 - Identifies, retains and protects significant vegetation on the site and significant vegetation on adjoining properties in proximity to the development, including the identification of tree protection zones.
 - Proposes new canopy trees and other vegetation that will enhance the landscape character of the area.
 - Provides a schedule of all proposed trees, shrubs and ground covers including the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material.
 - Provides the location and details of all fencing, external lighting, surface materials and other landscaping elements.
 - Identifies the extent of any cut and fill, embankments or retaining walls associated with the landscape treatment of the site.
 - Identify measures to maintain landscaping, including weed control, pruning, mulching and irrigation systems.
- A Sustainability Management Plan utilising a recognised best practice assessment tool (e.g. BESS, Green Star, MUSIC, STORM) and which:
 - Provides a detailed assessment of the development using a relevant best practice assessment tool, or an alternative assessment approach to the satisfaction of the Responsible Authority.
 - Identifies achievable environmental performance outcomes having regard to the objectives of Clause 22.13 Environmentally Sustainable Development Policy (as appropriate).

- Demonstrates that the building has the design potential to achieve the relevant environmental performance outcomes having regard to the site's opportunities and constraints.
- Documents the means by which the performance outcomes can be achieved.
- A Schedule of External Finishes and Materials to be used in the construction of the development, including accessways.

If in the opinion of the responsible authority an application requirement is not relevant to the evaluation of an application, the responsible authority may waive or reduce the requirement.

6.0

Decision guidelines

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Proposed C159mona

The following decision guidelines apply to an application for a permit under Clause 32.04, in addition to those specified in Clause 32.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- 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.

7.0

Signs

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Proposed C159mona

None specified.

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SCHEDULE 16 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO16**.

1 JACKSONS ROAD AND 636 WELLINGTON ROAD, MULGRAVE - URBAN RENEWAL PRECINCT

1.0 Design objectives

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Proposed C159mona

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 avoiding 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.

2.0 Buildings and works

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Proposed C159mona

The following buildings and works requirements apply to an application to construct a building or construct or carry out works:

Building height

Development must not exceed the maximum building height specified in Table 1.

The maximum building height excludes rooftop services which should be hidden from view from any adjoining public space or designed as architectural roof top features. Roof top services include, but are not limited to; plant rooms, air conditioning units, lift overruns and roof mounted equipment.

A permit may not be granted to vary this requirement.

Table 1a Maximum building height requirements for Precinct A and B

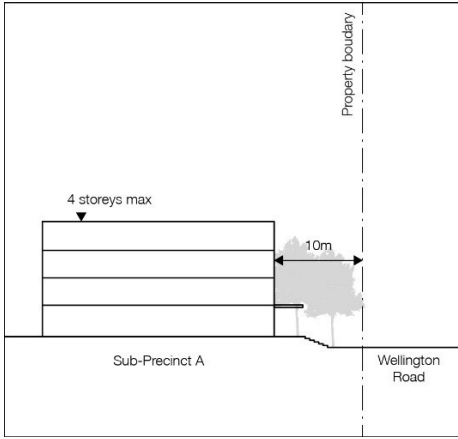
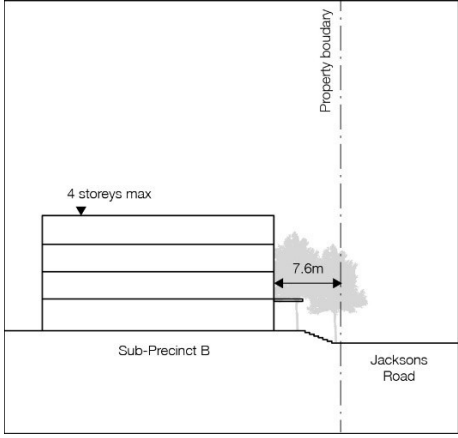
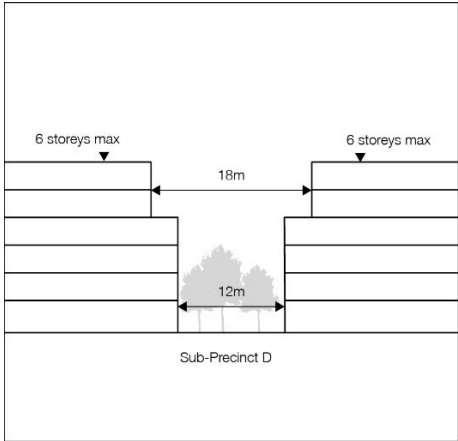
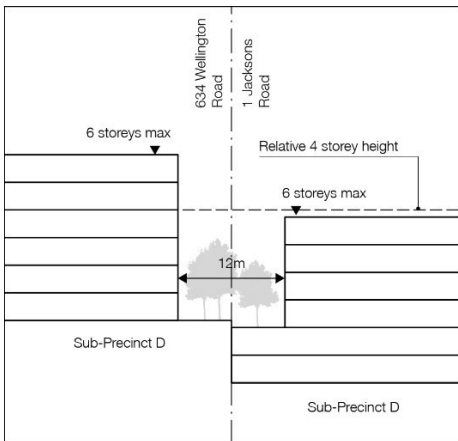
Built Form Sub-Precinct	Maximum Building Height Above Existing Ground Level at 1 January 2019	Development outcomes
<p>Sub-Precinct A and B:</p> <p>Wellington Road and Jacksons Road Interface</p>	<p>3-4 storeys (11 – 13.5 metres)</p>	<p>Buildings form a prominent built form presence to Wellington and 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:</p>
 <p>The diagram shows a cross-section of a building with four storeys, labeled '4 storeys max'. The building is set back from Wellington Road by 10 metres. A vertical dashed line indicates the 'Property boundary'. The area is labeled 'Sub-Precinct A' and 'Wellington Road'.</p>	<ul style="list-style-type: none"> ▪ Buildings that are designed to be visually unobtrusive to Wellington Road and Jacksons Road through recessive and articulated architecture, particularly for upper storeys. ▪ Landscaped front setbacks to Wellington Road and Jacksons Road, including the provision of canopy trees. 	
 <p>The diagram shows a cross-section of a building with four storeys, labeled '4 storeys max'. The building is set back from Jacksons Road by 7.6 metres. A vertical dashed line indicates the 'Property boundary'. The area is labeled 'Sub-Precinct B' and 'Jacksons Road'.</p>	<ul style="list-style-type: none"> ▪ Buildings orientated to Wellington Road and Jacksons Road with a strong architectural presentation. ▪ Promote views through the stie and from adjoining residential properties. ▪ Pedestrian and vehicular permeability to Sub-Precinct D having regard to the substantial level differences. 	

Table 1b Maximum building height requirements for Precinct C

Built Form Sub-Precinct	Maximum Building Height Above Existing Ground Level at 1 January 2019	Development outcomes
<p>Sub-Precinct C: Residential Interface</p>	<p>3-4 storeys (11 – 13.5 metres)</p>	<p>Lower height buildings separated from existing abutting residential properties and provide for:</p>
		<ul style="list-style-type: none"> ▪ Building height to not exceed 4 storeys or the maximum height permitted in the adjoining residential zone based on that existing ground level. ▪ Landscaped setbacks to Wellington Road, Jacksons Road and existing residential interfaces, including the provision of canopy trees. ▪ Protection of off-site amenity, particularly overshadowing to the south.
		<ul style="list-style-type: none"> ▪ Development setback from the southern and western precinct boundaries by at least 3 metres, plus 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. ▪ Promote views through the site from adjoining residential properties.

Table 1c Maximum building height requirements for Precinct D

Built Form Sub-Precinct	Maximum Building Height Above Existing Ground Level at 1 January 2019	Development outcomes
Sub-Precinct D: Core Precinct	Up to 6 storeys (22 metres)	<p>Buildings which take advantage of the more centralised location to provide increased built form and provide for:</p> <ul style="list-style-type: none"> ▪ Appropriate management of the level change between 1 Jacksons Road and 634 Wellington Road to manage the amenity impacts between buildings. ▪ Protection of off-site amenity, particularly overshadowing to the south. ▪ Promote views through the site from adjoining residential properties. ▪ Permeability within sub-precinct and to Sub-Precincts A, B and C, having regard to the substantial level differences. ▪ Landscaping between buildings, including canopy trees.
		
		

Building setbacks

Development should be setback in accordance with any preferred setbacks specified in Map 2 to this schedule.

An application to vary the preferred setbacks must demonstrate how the development will continue to achieve the design objectives of this schedule and the relevant precinct development outcome.

Buildings constructed within the precinct should be separated at lower levels by at least 12 metres to enable the planting of canopy trees and by at least 18 metres at upper levels (above the third storey) in accordance with Table 2 to allow equitable access to daylight and outlook and in recognition of the suburban context of the site.

Building form and design

Building form should consider the variable site topography and its impact on longer distance views to the Dandenong Ranges both from other development (existing and future) within the precinct and from abutting residential properties.

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Building design should moderate visual bulk by managing building height, length and breadth, building spacing, composition, high quality architectural details and materiality.

Buildings neighbouring existing residential properties should provide ground level setbacks capable of supporting screening vegetation and transitional upper level setbacks to maintain the amenity of adjoining residential properties.

Buildings should utilise materials that do not generate glare and to minimise the reflectivity on traffic.

Developments must be designed to ensure limited visibility of car parking areas and loading bays from Jackson Road and Wellington Road. Car parking, turning areas or other hard stand areas should be located away from primary internal accessways.

Utility areas such as waste and recycling areas and services including antennas, air- conditioning units, electrical substations and firefighting equipment should be located to minimise their visual impact, particularly to streets and public areas whilst remaining compliant with service provider requirements.

Circulation and access

Pedestrian linkages should be provided to connect all parts of the precinct.

The design and siting of buildings and works should promote a high degree of pedestrian/ cyclist/ vehicle permeability.

Primary vehicle access for the eastern and central parts of the precinct (1 Jacksons Road) should be from Jacksons Road.

Primary vehicle access for the western part of the precinct (634 Wellington Road) should be from Wellington Road.

Landscaping

Existing high value trees in the precinct and existing trees on neighbouring sites should be retained and protected.

Development should incorporate new canopy trees with a mature height of 20 metres or more.

New landscaping should incorporate a mix of low, medium and high canopy species, and offer seasonal variation and colour.

Map 1

1 JACKSONS ROAD AND 634 WELLINGTON ROAD, MULGRAVE – Sub-Precinct Areas, Boundary Setbacks and High-Value Trees



LEGEND

- Site boundary
- - - - - Setback
- ↙ ↘ Existing access point (left-in/left-out)
- Existing high-value trees
- Sub-Precinct A
- Sub-Precinct B
- Sub-Precinct C
- Sub-Precinct D
- ▨ Setback Area
- Landscaped Setback Area

Table 2 High value tree reference for Map 1

Tree No.	Species	Common Name
1	<i>Quercus bicolor</i>	Swamp White Oak
2	<i>Corymbia maculata</i>	Spotted Gum
3	<i>Eucalyptus bicostata</i>	Victorian Blue Gum
4	<i>Quercus canariensis</i>	Algerian Oak
5	<i>Quercus canariensis</i>	Algerian Oak

3.0 Subdivision

--/--
Proposed C159mona None specified.

4.0 Signs

--/--
Proposed C159mona None specified.

5.0 Application requirements

--/--
Proposed C159mona None specified.

6.0 Decision guidelines

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Proposed C159mona The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The relationship of the proposed building to the topography of the site both at the development's location and the precinct generally with regard to the anticipated development outcomes highlighted in Table 1.
- The staging of development and any impact, including potential impact, on the functionality of pedestrian, bicycle and vehicle movements and the anticipated development outcomes highlighted in Table 1.
- The extent to which views are promoted across and through the site towards the Dandenong Ranges from existing abutting residential properties is achieved.
- The landscape response proposed including relationship to the precinct's high value trees and the provision of appropriately sized, dimensioned, orientated and integrated open space.
- The height of new development and its setbacks from both the sites boundaries and other development within the precinct (both existing and future), with regard to the relevant sub-precinct preferred development outcomes highlighted in Table 1 and Table 2.
- The extent to which off-site amenity impacts have been minimised and high quality internal outcomes achieved.
- The architectural quality of both buildings and landscaped areas including open space areas.



Department of Environment,
Land, Water and Planning

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DX 210XXX
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Dr Andi Diamond
Chief Executive Officer
Monash City Council
Email address: andre.schmid@monash.vic.gov.au

Dear Dr Diamond

PROPOSED MONASH PLANNING SCHEME AMENDMENT C159MONA

I refer to your council's application for authorisation to prepare an amendment to the Monash Planning Scheme.

The amendment proposes to rezone the land at 1 Jacksons Road and 636 Wellington Road Mulgrave from Commercial 2 Zone (C2Z) to Mixed Use Zone: Schedule 2 (MUZ2). The amendment is also seeking to delete Schedule 1 of the Design and Development Overlay (DDO1) and introduce Schedule 16 of the Design and Development Overlay (DDO16); and the Environmental Audit Overlay (EAO).

Under delegation from the Minister for Planning, in accordance with section 8A of the *Planning and Environment Act 1987* I am advising your council that the application requires further review.

A decision on the authorisation application will be made as soon as possible following further review.

If you have any further queries in relation to this matter, please contact Laura Miles, Senior Planner, on 03 8392 5434 or email laura.miles@delwp.vic.gov.au.

Yours sincerely

Melena McKaskill
Acting Manager
State Planning Services





Department of Environment, Land, Water and Planning

8 Nicholson Street
East Melbourne, Victoria 3002
www.delwp.vic.gov.au

Dr Andi Diamond
Chief Executive Officer
Monash City Council
Email address: andre.schmid@monash.vic.gov.au

Dear Dr Diamond

PROPOSED MONASH PLANNING SCHEME AMENDMENT C159MONA

I refer to your council's application for authorisation to prepare an amendment to the Monash Planning Scheme to facilitate a mixed-use development in Mulgrave. The amendment proposes to rezone the land at 1 Jacksons Road and 636 Wellington Road, Mulgrave from the Commercial 2 Zone to the Mixed Use Zone - Schedule 2. The amendment also proposes to remove Schedule 1 to the Design and Development Overlay from the land, introduce Schedule 16 to the Design and Development Overlay to the Monash Planning Scheme and apply it to the land, and apply the Environmental Audit Overlay to the land.

Under delegation from the Minister for Planning, in accordance with section 8A of the *Planning and Environment Act 1987* (the Act) I authorise your council as planning authority 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.

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.

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



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.

The amendment must be submitted to the Minister for approval.

The authorisation to prepare the amendment is not an indication of whether or not the amendment will ultimately be supported.

Please note that [Ministerial Direction No. 15](#) sets times for completing steps in the planning scheme amendment process. This includes council:

- giving notice of the amendment within 40 business days of receiving authorisation; and before notice of the amendment is given, setting Directions Hearing and Panel Hearing dates with the agreement of Planning Panels Victoria. These dates should be included in the Explanatory Report ([Practice Note 77: Pre-setting panel hearing dates](#) provides information about this step).

The Direction also sets out times for subsequent steps of the process following exhibition of the amendment.

The Minister may grant an exemption from requirements of this Direction. Each exemption request will be considered on its merits. Circumstances in which an exemption may be appropriate are outlined in [Advisory Note 48: Ministerial Direction No.15 – the planning scheme amendment process](#).

In accordance with sections 17(3) and (4) of the Act, the amendment must be submitted to the Minister **at least 10 business days** before council first gives notice of the amendment.

Please submit the amendment electronically using the Amendment Tracking System (ATS).

If you have any further queries in relation to this matter, please contact Laura Miles, Senior Planner, on 03 8392 5434 or email laura.miles@delwp.vic.gov.au.

Yours sincerely,



Melena McKaskill
Acting Manager
State Planning Services

16/8/2019

16 September 2019

Melena McKaskill
Acting Manager
State Planning Services
Planning
Department of Environment, Land, Water and Planning

Dear Melena

PROPOSED MONASH PLANNING SCHEME AMENDMENT C159MONA (FORMER BODY SHOP SITE)

I am writing in response to the authorisation letter for the former Body Shop site – Amendment C159 that was sent to Council on 16 August, 2019 to seek further formal clarification about the conditions of the authorisation and to express concern with the some of the changes proposed as they potentially alter the nature of the amendment and will introduce unnecessary uncertainty into any subsequent development application for the site.

At the outset I must say that the intention in developing amendment documentation is to provide clarity and certainty to all parties through the amendment and post the change to the planning scheme. It is our view that changes to the planning scheme should not increase uncertainty nor knowingly create situations that are open to differing interpretations or dispute. Secondly, amendments are drafted with reference to Practice Notes and to make use of the planning tools that are fit for purpose, best addressing the issues that are needed to be resolved for any particular site. It is in this context that the following concerns arise.

I note that the Departments, *Guidelines - Preparing Planning Scheme Documentation 2014* states that, “The purpose of authorisation is to identify whether a proposed amendment is consistent with State policy or interests and ensure that it makes appropriate use of the VPP.” The intent of this is to provide high level oversight for consistency with State policy, unfortunately it appears that the authorisation process has expanded into a full editorial review of proposed planning scheme amendments ahead of exhibition and potential panel processes. Many of these amendments, including this Bodyshop amendment, are minor in the overall context of significance to the state, yet seem to consume an inordinate amount of resources that could be better directed to other more significant areas and issues.



Use of the DDO rather than a DPO

On the use of a DDO rather than a DPO, the letter notes that some of the proposed provisions contained in the DDO must be removed as they are not within the scope of a DDO. Whilst we understand that DDOs and DPOs are different tools we are not aware of any definitive resource that defines the “scope” of a DDO. It would assist use if can you provide us with the relevant practice note, regulation or other policy that sets out why this is the case and what has changed? We are aware of numerous Planning Schemes across Victoria where DDOs have be used to achieve similar outcomes to what DDO16 is seeking to achieve.

As noted earlier if the proposed rezoning does not offend State policy (in this case it is positively implementing it) and is making use of an appropriate planning tool to provide planning certainty to all parties, why then does the authorisation process delve into the minutia of a DDO over a DPO, when the authorisation request was for a DDO? Surely the question should be does the DDO achieve what the amendment is seeking?

DDO16 – deleting the words “above existing ground level at 1 January 2019”.

Again this is a minor and detail issue that seem to go beyond the scope of the authorisation process. The drafting of this clause is to clearly set out what “ground level”, in the context of this site actually is. Including this statement avoids any confusion or dispute in the future when assessing an application. No explanation has been provided as to why this definition needs to be removed.

Council has concerns over the deletion of this statement. I am not sure if you are aware of the context of the site, but there is significant cut and fill that has been undertaken on the two sites for the construction of existing buildings. As a result there is a steep fall of 8 metres between the two properties on the site and a steep fall at various points along the western boundary that adjoins with residential properties. The location of the ground level as it exists at present is critical in determining appropriate heights for future development and determining the potential impact on the adjoining residential properties.

All the background work that has been undertaken to arrive at the built form requirements in Tables 1a, b and c is based on topographic assessments of the land in its existing, heavily modified topography. Removal this statement simply adds an additional element of uncertainty to any future planning application.

Under Clause 73.01 of the planning scheme ‘ground level’ is defined as “the natural level of a site at any point”; and ‘building height’ is defined as “the vertical distance from natural ground level to the roof or parapet at any point”. There is, however, no definition of natural ground level and differing views at VCAT as to what constitutes “natural level”. It is important to clear about what is “natural ground level”, as building heights are subsequently measured from that point. A recent article by Best Hooper Lawyers has highlighted the different interpretations that VCAT have been taking for ground level. This has significant implications for C159. <https://www.besthooper.com.au/Insights-library/ground-level-what-is-natural/>

I also question how this detail is relevant to the authorisation process, as it doesn't contravene the overlay or State policy and is simply responding to the particularly and unique circumstances of this site.

DDO16 – Removal of third, fourth, sixth and seventh dot points from the decision guidelines.

Each of these bullets relate to information that is contained in the DDO either in the Design Objectives or Buildings and works and it is therefore appropriate to include them as decision guidelines. For example, bullet three relates to the impacts of views through the site from the adjoining residential properties - Design objective three. Bullet four relates to specific trees on the site that are set out in Map 1. Is there a particular reason these need to be removed?

MUZ2 Schedule – Applications requirements (bullets one and two).

In your letter you note that a DPO can support the development of a plan that can be implemented in stages. Following on from our previous discussions with DELWP officers the requirement for an applicant to submit a staged site plan for approval by Council was removed from the DDO. An application requirement was added to MUZ2 requiring that a staged site plan be submitted to Council at the permit application stage. However, it is just that, a requirement for a site plan to be submitted to help us assess an application and gain an understanding of the development timeline on the site(s). It is not a requirement for the development to be undertaken in stages or be planned in stages. Therefore it is not clear why this bullet needs to be removed.

A similar comment is made in regards to bullet two, however, it is accepted that this will most likely occur with the application anyhow.

MUZ2 Schedule – Applications requirements (all other bullets)

Can you provide an explanation as to why bullets three, four and seven and eight should be removed?

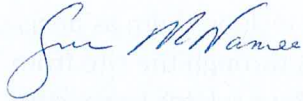
It is disappointing that the authorisation letter goes into such editorial detail on the amendment yet provides very little explanation for the conditions included or consideration of the position that we believed we had resolved from earlier discussions with DELWP officers.

As previously advised, Council has spent two years fine tuning the amendment with the proponents to prepare a control that has, to date, been supported by our Councillors and that can clearly demonstrate the proposed outcomes to neighbouring residents. Our experience is that the more certainty that is included in an amendment the more certainty is available for all parties and a better and quicker development outcome can be realised, which after all is a key objective of planning in this state.

Council will exhibit the amendment in accordance with the Authorisation, however I would appreciate a response to the issues raised in this letter as they will assist us in consideration of the amendment post exhibition and in the preparation of any future amendments to the Monash Planning Scheme.

If you would like to discuss this matter in more detail please call André Schmid, Senior Strategic Planner on 9518 3090 or via email andre.schmid@monash.vic.gov.au

Yours faithfully,



SEAN MCNAMEE

Manager, Strategic Planning and Economic Development



Department of Environment,
Land, Water and Planning

PO Box 500, East Melbourne,
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Mr Sean McNamee
Manager, Strategic Planning and Economic Development
Monash City Council
PO Box 1
GLEN WAVERLEY VIC 3150

Dear Sean

PROPOSED MONASH PLANNING SCHEME AMENDEMENT C159 (FORMER BODY SHOP SITE)

Thank you for your letter of 16 September 2019 seeking clarification about the authorisation conditions for the above amendment and expressing concerns about some of the conditions.

The Department of Environment, Land, Water and Planning's (DELWP) pre-authorisation advice in relation to this amendment was that the best overlay tool to use would be the Development Plan Overlay (DPO). A number of the conditions applied at authorisation reflect the fact that the Design and Development Overlay, rather than the DPO, was used.

Smart Planning

As I mentioned when we met on 22 October 2019, the implementation of the Smart Planning program has changed the approach DELWP takes to assessing requests for authorisation. This is consistent with the advice sent to councils by Christine Wyatt, then Deputy Secretary Planning, in January 2017. I have attached a copy of this letter for your information.

Smart planning principles require us to consider a number of matters in our assessment of authorisation requests in addition to consistency with State policy, including whether the correct VPP tool is being used and whether it is being used in the correct way. To do this we consider the details of an amendment at the authorisation stage, including drafting, as well as the broader policy context.

There are some major benefits to this approach of identifying and addressing issues early, including avoiding unnecessary submissions and panels and reducing the likelihood that an amendment will be refused or significantly changed at approval after going through a full amendment process.

We recognise that we are now refusing or conditioning requests that previously might have been authorised without conditions, however this a consequence of the changed approach implemented through the Smart Planning program, which has become the "business as usual" approach. The fact that something has been authorised in the past will not influence whether it is authorised now. Each authorisation request, no matter how minor in the overall scheme of things, will be assessed in the same way.

You raised a number of specific queries about authorisation conditions which are addressed below:

1. DDO16 - Deleting the words "above existing ground level at 1 January 2019"

I understand from our discussions on 22 October 2019 that there are issues with ground level on the subject land and that in drafting the DDO16 you were seeking to provide some certainty around where the building heights would be measured from.

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Privacy and Data Protection Act 2014*. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to foi.unit@delwp.vic.gov.au or FOI Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.



Stating that heights are to be taken from existing ground level at 1 January 2019 doesn't say what the ground level actually is and, in DELWP's view, creates uncertainty.

DELWP does not object to the proposal to identify the base ground levels from which heights are measured, however it needs to be done in a clear and unambiguous way. A better approach would be to specify the existing ground levels, possibly in the form of AHD figures, as part of the amendment and allow them to be interrogated through exhibition so in the future there is no question as to their accuracy.

2. DDO 16 – Removal of the third, fourth, sixth and seventh dot points from the decision guidelines

The changes were made to be consistent with the Practitioners Guide to Victorian Planning Schemes, which states: "*[d]ecision guidelines should be neutrally expressed and require a decision-maker to consider something. They should not be framed in terms that direct the decision-maker to consider a matter in a particular way.*"

The third, fourth and sixth dot points were required to be removed because in DELWP's view they repeated what was already in objectives of DDO16 or the decision guidelines in Clause 65.01, so were redundant.

Decision guidelines in the DDO head provision require the design objectives in the schedule to be considered.

The seventh dot point about "architectural quality" was required to be removed because it is subjective and not measurable (this also applied to the second part of the sixth dot point around "high quality internal outcomes").

3. MUZ Schedule – Application requirements (bullets one and two)

It is beyond scope of the MUZ schedule to require a staged site plan covering the development of the entire site. This view is supported by the Practitioners Guide to Victorian Planning Schemes, which states that an application requirement: "*[s]pecifies the information that must accompany a class of application for a planning permit or a request for approval. These requirements should be proportionate to the planning risks associated with an activity and derive from the objectives, standards or decision guidelines relevant to the discretion being exercised.*"

4. MUZ Schedule – Application requirements (all other bullets)

The application requirements in question are detailed requirements for a traffic impact assessment, a waste management plan and a sustainability management plan. These are onerous requirements that will not be relevant to all planning permits required under the zone. If they are relevant to the assessment of a particular application, council officers can require them from an applicant through normal planning permit assessment process.

I acknowledge your observation that it would have been helpful for reasons for the authorisation conditions to be included in the letter of authorisation.

I look forward to working together in a productive way in the future.

Yours sincerely



Melena McKaskill
Acting Manager
State Planning Services

Encl. Christine Wyatt letter dated 17 January 2017

--/--/---
Proposed C159mona

SCHEDULE 2 TO CLAUSE 32.04 MIXED USE ZONE

Shown on the planning scheme map as **MUZ2**.

1 JACKSONS ROAD AND 636 WELLINGTON ROAD, MULGRAVE – URBAN RENEWAL PRECINCT

1.0 Objectives

--/--/---
Proposed C159mona

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.

2.0 Clause 54 and Clause 55 requirements

--/--/---
Proposed C159mona

	Standard	Requirement
Minimum street setback	A3 and B6	None specified
Site coverage	A5 and B8	None specified
Permeability	A6 and B9	None specified
Landscaping	B13	None specified
Side and rear setbacks	A10 and B17	None specified
Walls on boundaries	A11 and B18	None specified
Private open space	A17	None specified
	B28	None specified
Front fence height	A20 and B32	None specified

3.0 Maximum building height requirement

--/--/---
Proposed C159mona

None specified.

4.0 Exemption from notice and review

--/--/---
Proposed C159mona

None specified.

5.0 Application requirements

--/--/---
Proposed C159mona

None specified.

6.0 Decision guidelines

--/--/---
Proposed C159mona

The following decision guidelines apply to an application for a permit under Clause 32.04, in addition to those specified in Clause 32.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- 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.

7.0

Signs

--/--/---

Proposed C159mona

None specified.

--/--/---
Proposed C159mona

SCHEDULE 16 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO16**.

1 JACKSONS ROAD AND 636 WELLINGTON ROAD, MULGRAVE - URBAN RENEWAL PRECINCT

1.0 Design objectives

--/--/---
Proposed C159mona

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.

2.0 Buildings and works

--/--/---
Proposed C159mona

The following buildings and works requirements apply to an application to construct a building or construct or carry out works:

Building height

Development must not exceed the maximum building height specified in Table 1a, b and c.

The maximum building height excludes rooftop services which should be hidden from view from any adjoining public space or designed as architectural roof top features. Roof top services include, but are not limited to; plant rooms, air conditioning units, lift overruns and roof mounted equipment.

A permit may not be granted to vary this requirement.

Table 1a Built form requirements for Precinct A and B

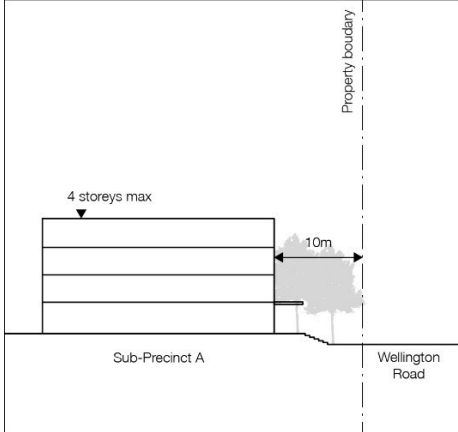
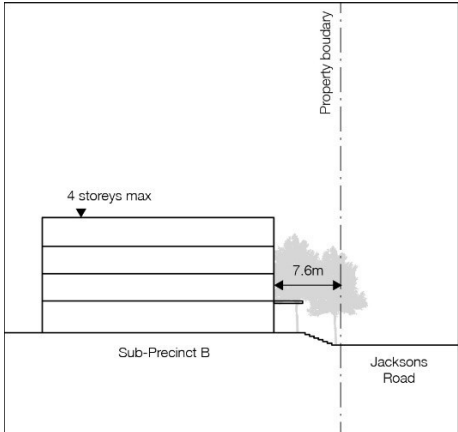
Built Form Sub-Precinct	Maximum Building Height	Development outcomes
<p>Sub-Precinct A and B: Wellington Road and Jacksons Road Interface</p>	<p>4 storeys (13.5 metres)</p>	<p>Buildings form a prominent built form presence to Wellington and Jacksons Road, frame the higher built forms within the site, allow for connections between Wellington Road and the rest of the precinct and provide for:</p>
 <p>The diagram shows a cross-section of a building with a maximum height of 4 storeys. A horizontal arrow indicates a 10m setback from the Wellington Road property boundary. The building is labeled 'Sub-Precinct A' and the road is 'Wellington Road'.</p>		<ul style="list-style-type: none"> ▪ Buildings that are designed to be visually unobtrusive to Wellington Road and Jacksons Road through recessive and articulated architecture, particularly for upper storeys. ▪ Landscaped front setbacks to Wellington Road and Jacksons Road, including the provision of canopy trees.
 <p>The diagram shows a cross-section of a building with a maximum height of 4 storeys. A horizontal arrow indicates a 7.6m setback from the Jacksons Road property boundary. The building is labeled 'Sub-Precinct B' and the road is 'Jacksons Road'.</p>		<ul style="list-style-type: none"> ▪ Buildings orientated to Wellington Road and Jacksons Road with a strong architectural presentation. ▪ Promote views through the stie and from adjoining residential properties. ▪ Pedestrian and vehicular permeability to Sub-Precinct D having regard to the substantial level differences.

Table 1b Built form requirements for Precinct C

Built Form Sub-Precinct	Maximum Building Height	Development outcomes
Sub-Precinct C: Residential Interface	4 storeys (13.5 metres)	Lower height buildings separated from existing abutting residential properties and provide for: <ul style="list-style-type: none"> <li data-bbox="1074 409 1430 607">■ Building height to not exceed 4 storeys or the maximum height permitted in the adjoining residential zone based on that existing ground level. <li data-bbox="1074 633 1430 801">■ Landscaped setbacks to Wellington Road, Jacksons Road and existing residential interfaces, including the provision of canopy trees. <li data-bbox="1074 828 1430 925">■ Protection of off-site amenity, particularly overshadowing to the south. <li data-bbox="1074 952 1430 1227">■ Development setback from the southern and western precinct boundaries by at least 3 metres, plus 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. <li data-bbox="1074 1243 1430 1339">■ Promote views through the site from adjoining residential properties.

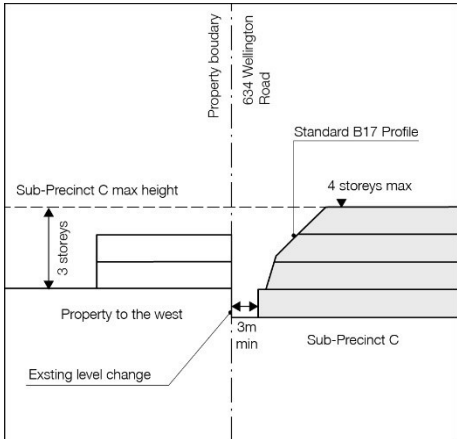
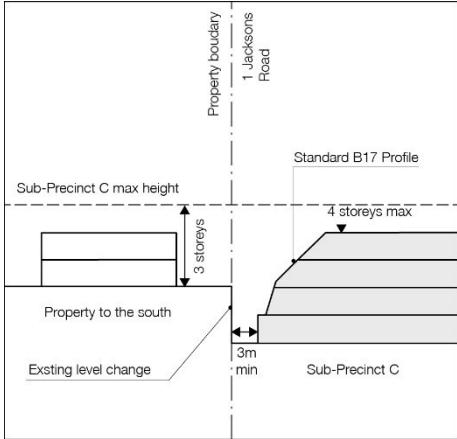
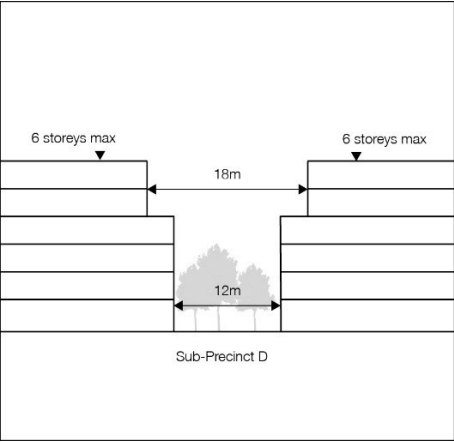
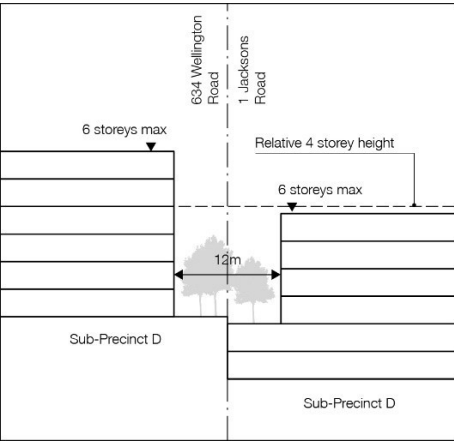


Table 1c Built form requirements for Precinct D

Built Form Sub-Precinct	Maximum Building Height	Development outcomes
Sub-Precinct D: Core Precinct	6 storeys (22 metres)	Buildings which take advantage of the more centralised location to provide increased built form and provide for: <ul style="list-style-type: none"> Appropriate management of the level change between 1 Jacksons Road and 634 Wellington Road to manage the amenity impacts between buildings. Protection of off-site amenity, particularly overshadowing to the south. Promote views through the site from adjoining residential properties. Permeability within sub-precinct and to Sub-Precincts A, B and C, having regard to the substantial level differences. Landscaping between buildings, including canopy trees.
		
		

Building setbacks

Development should be set back in accordance with any preferred setbacks specified in Map 1 to this schedule.

An application to vary the preferred setbacks must demonstrate how the development will continue to achieve the design objectives of this schedule and the relevant precinct development outcome.

Buildings constructed within each precinct should be separated at lower levels by at least 12 metres to enable the planting of canopy trees and by at least 18 metres at upper levels (above the third storey) in accordance with Table 1a, b and c to allow equitable access to daylight and outlook and in recognition of the suburban context of the site.

Building form and design

Building form should consider the variable site topography and its impact on longer distance views to the Dandenong Ranges both from other development (existing and future) within the precinct and from abutting residential properties.

Building design should moderate visual bulk by managing building height, length and breadth, building spacing, composition, high quality architectural details and materiality.

Buildings neighbouring existing residential properties should provide ground level setbacks capable of supporting screening vegetation and transitional upper level setbacks to maintain the amenity of adjoining residential properties.

Buildings should utilise materials that do not generate glare and to minimise the reflectivity on traffic.

Developments must be designed to ensure limited visibility of car parking areas and loading bays from Jackson Road and Wellington Road. Car parking, turning areas or other hard stand areas should be located away from primary internal accessways.

Utility areas such as waste and recycling areas and services including antennas, air-conditioning units, electrical substations and firefighting equipment should be located to minimise their visual impact, particularly to streets and public areas whilst remaining compliant with service provider requirements.

Circulation and access

Pedestrian linkages should be provided to connect all parts of the precinct.

The design and siting of buildings and works should promote a high degree of pedestrian/ cyclist/ vehicle permeability.

Primary vehicle access for the eastern and central parts of the precinct (1 Jacksons Road) should be from Jacksons Road.

Primary vehicle access for the western part of the precinct (634 Wellington Road) should be from Wellington Road.

Landscaping

Existing high value trees in the precinct and existing trees on neighbouring sites should be retained and protected.

Development should incorporate new canopy trees with a mature height of 20 metres or more.

New landscaping should incorporate a mix of low, medium and high canopy species, and offer seasonal variation and colour.

Map 1

1 JACKSONS ROAD AND 634 WELLINGTON ROAD, MULGRAVE – Sub-Precinct Areas, Boundary Setbacks and High-Value Trees



LEGEND

- Site boundary
- - - Setback
- ↔ Existing access point (left-in/left-out)
- Existing high-value trees
- Sub-Precinct A
- Sub-Precinct B
- Sub-Precinct C
- Sub-Precinct D
- ▨ Setback Area
- Landscaped Setback Area

Table 2 High value tree reference for Map 1

Tree No.	Species	Common Name
1	<i>Quercus bicolor</i>	Swamp White Oak
2	<i>Corymbia maculata</i>	Spotted Gum
3	<i>Eucalyptus bicostata</i>	Victorian Blue Gum
4	<i>Quercus canariensis</i>	Algerian Oak
5	<i>Quercus canariensis</i>	Algerian Oak

3.0 Subdivision

Proposed C159mona None specified.

4.0 Signs

Proposed C159mona None specified.

5.0 Application requirements

Proposed C159mona The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- An Arboricultural Assessment of all trees within the site and on abutting land (including nature strips) where they may be impacted by the development and which:
 - Identifies key arboricultural details including species name, common name, health, structure and retention value.
 - Nominates all trees as either for removal or for retention.
 - Provides Structural Root Zones and Tree Protection Zones for all trees proposed for retention in accordance with Australian Standard AS4970-2009.
- A Landscape Plan prepared by a landscape architect or a suitably qualified landscape designer, drawn to scale and dimensioned which:
 - Identifies, retains and protects significant vegetation on the site and significant vegetation on adjoining properties in proximity to the development, including the identification of tree protection zones.
 - Proposes new canopy trees and other vegetation that will enhance the landscape character of the area.
 - Provides a schedule of all proposed trees, shrubs and ground covers including the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material.
 - Provides the location and details of all fencing, external lighting, surface materials and other landscaping elements.
 - Identifies the extent of any cut and fill, embankments or retaining walls associated with the landscape treatment of the site.
 - Identify measures to maintain landscaping, including weed control, pruning, mulching and irrigation systems.

6.0

Decision guidelines

Proposed C159mona

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The relationship of the proposed building to the topography of the site both at the development's location and the precinct generally with regard to the anticipated development outcomes specified in Table 1a, b and c.
- Any impact, including potential impact, on the functionality of pedestrian, bicycle and vehicle movements and the anticipated development outcomes in Table 1a, b and c.
- The height of new development and its setbacks from both the sites boundaries and other development within the precinct (both existing and future), with regard to the relevant sub-precinct preferred development outcomes specified in Table 1a, b and c.