

14.10.21 PART ONE

an Individual Submission to Melbourne's Future Planning Framework

Objections to the Northern metro land use framework

I/we reserve all my/our rights. Justice does not date.

I or nominees wish to be publically heard on this submission. I will expand on this submission when I speak. If my objections and suggestions can-not be accommodated I wish to be heard by an independent panel appointed by the Minister.

All contents are directly relevant to the new Melbourne Future Planning Framework MFPF and the Northern Metro LUPF. Scope, terms of reference, purview or other cannot be used as an excuse to disqualify any of this submission.

The crux to our argument is that these lands must be removed from their incorrect placement in the Green Wedge. As is proven in this submission and attachments these lands belong rightfully within Melbourne's UGB and thus the urban area of the Northern metro LUPF.

This submission concerns the materially impacted properties:

██████ Ironbark Rd Diamond Creek (40 acres) held since 1940's

██████ Ironbark Rd Diamond Creek (5 acres) held since 1940's.

██████ Pioneer Rd Yarrambat held since 1989. And in opinion like neighbouring properties.

We plead with this State Government to assist us in the course and cause of Justice and equitably correct the mistaken zone translation made with the introduction of new Victorian Planning Provisions in 2000 when zones were amalgamated, reduced and translated to their 'closest fit zone'.

Our objections to the zoning mistakes in the New Format Planning Scheme were met with the reassurance that there were to be planning scheme reviews every 3 years to ensure corrections were made. As far as I am aware there has been no open and transparent review of the Nillumbik Planning Scheme since 2000, where impacted landowners were notified and an independent panel convened to hear objections and suggestions that were not incorporated or catered for.

The outstanding zoning and mapping mistakes for our lands, continuously drawn to the attention of Council, the Planning Minister and others must be equitably corrected as a first priority, together in our opinion with other like adjoining lands in Diamond Creek and Yarrambat (irrespective of any final

site specific land use). This is to ensure there is no impact whatsoever on our lands by Melbourne's Future Planning Framework- the most significant reform to planning since 2000. Failure to do so will mean this strategy and Councils Planning scheme will continue to have a flawed and unacceptable foundation.

In 2000/2001 when the planning mistake/anomaly/irregularity for our lands was made with the incorrect zone translation of our lands we lobbied the then infrastructure sector of Premier and Cabinet. Shortly afterwards we heard, Premier Steve Bracks issued a directive to Nillumbik Council 'that land with infrastructure was to be released with Metropolitan Strategy and that Green Wedge was not to be an excuse to fail to do so'. We remain mystified as to why this did not occur with our lands. We question if others have been included in some way for the future while we have been inequitably excluded?

If at any point in time these lands were planned differently to like lands with mandatory urban infrastructure, be it by mistake, jealousy, discrimination, financial advantage or any other reason, then the owners were not notified and proper process was not followed. If this was/is the case immediate equitable rectification is required, not perpetuation of same.

We have participated continually in processes since year 2000 including Plan Melbourne and Plan Melbourne refresh, requesting this equitable urban correction. All to no avail. This is despite Council acknowledging at that time that our lands had distinctive infrastructure. There is a direct connection between the infrastructure and the lands correct urban status. Utility infrastructure is the crux to all planning and yet ours is continually overlooked. It was strategic for urban land use development to Diamond Creek, Plenty and Yarrambat and this was the very reason it became urban to begin with. It is not acceptable for the Northern Metro LUPF to make new 'strategic' directions that 'knowingly' exclude these lands from the general residential zone, thereby allowing our paid for, established urban reticulated infrastructure to be eroded or diverted to others instead. Doing so 'knowingly' allows these lands to become infrastructure stripped unmanageable, rural bush blocks worse in value and use to that of 80 years ago. It is not a matter of Council determining their preferred housing locations but a rather an obligation on their part to release our lands for urban housing. They have a duty of care and trust to do so. These lands are not subject to new criteria and goalposts of this or any other new strategy or policies.

It is understood that Nillumbik will need an additional 4,200 new dwellings by 2036 (draft of abandoned Housing Strategy). There is also an acknowledgment that various housing density/requirements will be necessary. We argue subject lands remain ideal for any residential development. This includes retirement homes or small groups of homes

surrounded by and including abundant open green space. There could easily be a plan that incorporates high to medium density housing options or indeed for a retirement precinct that would appeal to those who have spent their life on a rural property. This opportunity is the very reason people are choosing to come to Diamond Creek. Subject lands are the very essence of liveability!

Subject lands combined with [REDACTED] Pioneer Rd, cover 60 acres. They have dual road frontages and dual infrastructure supply options, urban reticulated infrastructure to the whole area of the lands, they are situated in an area that offers the best of both worlds and they are located on a main road (rightfully arterial) that connects Diamond Creek and Yarrambat. At the very least it makes strong financial sense for Council to correct the mistake and allow these lands to utilise their urban infrastructure as was always the intention.

In terms of the safety and security as to any Bushfire threat to the population of Diamond Creek and surrounding areas, subject lands remain immensely strategic as to their location and reticulated infrastructure. If subject lands are not developed for housing they risk creating a 'funnel' of unmanaged rural space with eventual spreading of a bushfire to the densely developed suburb of Diamond Creek. If by Council planning, the infrastructure is diverted to other catchments the ability to fight and prevent fire is removed as well. The danger presented by both of these scenarios to the township of Diamond Creek is very real. Development of these lands would preserve the urban reticulated infrastructure with the pressures and flows measured at 21 00 kpa. It would also remove the threat that unmanaged rural space creates. The original environment was heavily farmed and completely altered. What exists there today has been introduced in the last 10-15 years.

This new MFPF is implementing Plan Melbourne and Plan Melbourne refresh and in our case was also informed by the Mernda Doreen and inter-related Diamond Creek (and Nillumbik) 2020 dating from 2001/2002. The former discriminatorily and wrongly omitted our lands. Our distinctive urban infrastructure was acknowledged by Nillumbik Shire Council in the year 2000 when the New format Nillumbik Planning Scheme was adopted and yet to date it is being ignored in all urban strategies and policies. We fear the recent major infrastructure works passing our door, along Ironbark Rd are evidence of our exclusion. All new planning and infrastructure strategies of the Northern metro LUFPP must include our lands and importantly allow us to utilise our infrastructure for residential development. This certainty was and is being relied on in our families long term financial planning.

If this fails to occur the consequences for our lands and our Family will be devastating and there can-not be any objectivity for any further

processes. Major losses and damages will occur, thwarting and compromising otherwise equitable remedies at the least cost to Council and others.

True urban values (not rural) must be preserved for these lands. We must be returned to the original suburban area of Diamond Creek. The major equity issues can no longer be ignored. Please again review all our hard evidence, professional supporting statements, together with what is known or ought to be known in support of our case (the latest being that submitted for the Green Wedge and Agricultural Land Review, the Council Plan, Council Budget and State electoral boundary changes).

New community aspirations such as Green Wedge or Climate change are not to be used as an excuse to deny our requests as they can be protected and incorporated in to the site specific property plan.

Should there be any changes to Shire boundaries we continue to insist that our lands be returned to the City of Banyule and not be gerrymandered out to City of Whittlesea.

[REDACTED]

[REDACTED]

Part Two will follow as per our granted extension.

It will include addressing the specifics re: MFPF Vision, Strategies, Directions, Outcomes, Policies, Principles etc

Attachments

Inner Melbourne district map showing Greensborough 1992

1955 Metropolitan Melbourne boundary map

1985 Templestowe map

1962 City of Heidelberg map with north ward outlined in purple

'Equitable correction brief with evidence and brief explanation'

'Additional Evidence'

'Redacted legal town planning letters'

PART TWO

an Individual Submission to Melbourne's Future Planning Framework

Objections to the Northern metro land use framework

I support calls for an extension of time for all public submissions to this major, complicated reform process. Such significant, major changes to Melbourne Planning have not occurred for twenty years and demand a significant extension of the process to ensure true open and transparent practice.

This process must be delayed until next year, after the parliamentary Inquiry into the adequacy of the *Planning and Environment Act 1987* and the new review of the Victorian Planning Framework (consultation only just commenced and finishing in January state wide holiday time!).

There can be no excuse for ignoring or dismissing old planning in favour of new. Infrastructure is the crux to all planning and yet ours is being totally disregarded by this process.

The State Government has our intensive submissions and hard evidence to Parliamentary Inquiry into the UGB, Plan Melbourne, Plan Melbourne Refresh, the 30yr Infrastructure Strategy, Planning for Melbourne's Green Wedge and Agricultural land and the Inquiry in to the Yan Yean rd. upgrade stage 2. All of which are relevant to this process and we ask for DELWP to re-examine them now.

We draw to your attention that as a result of the 2021 electoral boundary changes all of Diamond Creek (to it's boundary) has been removed from the district of Yan Yean and given their rightful place within the urban district of Eltham. Likewise it is no longer part of regional/ rural Victoria but instead as part of the North Eastern Metropolitan region.

We implore those responsible for this process to now recognise all of Diamond Creek (to its boundary) as a rightful suburb of Metropolitan Melbourne.

We welcome the inclusion of new land in Diamond Creek as part of planning objectives but we do NOT support the exclusion of any rightfully urban land, with planned for, established, and paid for urban reticulated infrastructure. Our lands must not be gerrymandered out of Diamond Creek.

Furthermore all of Diamond Creek, to its boundary, must be removed from the Green Wedge and included within the Urban Growth Boundary.

When ~~we~~ **these lands** were made compulsorily liable (under 310 A of the *Water Act 1958*) for ~~our~~ **their** share of total costs to pay for the extension to both the Plenty Yarrambat Waterworks Trust district and its urban district ~~we~~ **these lands** were planned urban from Diamond Creek and Yarrambat, as

part Melbourne Metropolitan Strategy and the Plenty Growth Corridor. Our **family's** participation in a Commonwealth Government loan scheme was predicated on this very fact.

In 2000 with the changes to Victorian Planning Policy VPP's and the subsequent planning scheme updates we were mistakenly translated to a rural zone (now rural conservation). Their correct, closest fit, promised translation should have Residential One (now General residential) in compliance with applicable legislation (*Water Act 1989* and other.)

We remind the State Government that these changes/updates in 2000 also intended Diamond Creek as the centre for population growth in Nillumbik, and yet our lands have been continually omitted as urban from all subsequent planning processes beginning with the Diamond Creek Urban Growth Review 1999/2000, Diamond Creek Twenty20, Melbourne 2030 and now Melbourne 2050.

This process, in the interests of genuine open and transparent practice MUST equitably rectify planning/mapping mistakes, irregularities and anomalies in Diamond Creek and Yarrambat.

Failure to do so will encourage and support the removal, erosion and diminishing of our accrued urban reticulated infrastructure and associated property/development rights/entitlements (and the equitable remedy for same).

Furthermore Melbourne Water cannot perform the duties, responsibilities and liabilities (inherited when it took over the Plenty Waterworks Trust) it has towards our lands, whilst our lands are considered as part of the Green Wedge in a rural conservation zone.

We are equally concerned that the combination of this process with Plan Melbourne Refresh, the Water and Catchment Amendment Legislation Bill 2021 and the Parliamentary inquiry into the adequacy of the *Planning and Environment Act 1987* may result in disastrous consequences for my extended Family.

With climate change, the pandemic, the move towards working from home and the increase in online services, I believe the housing, traffic, major roads, transport and land use strategies of the Northern Metro LUPF all require materially important changes. This applies particularly in Nillumbik and specifically to the Ironbark and adjoining Pioneer Rd infrastructure catchment.

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Please note the Ironbark rd properties were made compulsorily liable for costs. The Pioneer rd property was bought with the infrastructure attached to allow dual infrastructure and dual road access.