Standing Advisory Committee

Yarra Ranges Planning Scheme Draft Amendment C193: Lilydale Quarry Comprehensive Development Plan

21 May 2021



CONTENTS

1	Ехр	ert's Statement	4
1	.1	Name and Address	4
1	.2	Qualifications and Experience	4
1	.3	Area of Expertise	4
1	.4	Other Contributors	4
1	.5	Instructions for scope of work	4
1	.6	Completion of tests or experiments upon which the expert has relied on	5
1	.7	Declaration	5
2	Intro	oduction	6
2	.1	Structure of Evidence	6
3	Sun	nmary of Opinion	8
4	Sub	ject Land & Site Context	.11
5	Cur	rent Zones & Overlays	.12
6	The	Proposal	13
7	The	Comprehensive Development Plan	13
8	Sch	edule to the Comprehensive Development Zone	20
9	Con	clusion	.23
10	Con	solidated Recommendations	23
Арј	pendi	x 1 – CV	25

1 EXPERT'S STATEMENT

1.1 Name and Address

Chris De Silva, Executive Director of Mesh, Liveable Urban Communities at Level 2, 299 Clarendon Street, South Melbourne Victoria 3205.

1.2 Qualifications and Experience

I hold a Bachelor of Applied Science (Planning)(Honours) from RMIT University. I have worked as a strategic planner, principally in the field of metropolitan and regional growth area planning for approximately 30 years. A CV is included at Appendix 1.

1.3 Area of Expertise

I have a broad range of experience in strategic planning and development matters (including preparation and implementation of precinct structure plans and development contributions plans). My expertise is mainly in the area of metropolitan and regional growth area planning and delivery.

I started my career in a planning consultancy and thereafter was employed by the City of Whittlesea over an extended period (approximately 18 years). At the City of Whittlesea, I occupied various positions including Manager Strategic Planning and Director Planning and Development. After leaving Council I occupied a specialist strategic planning role in a privately owned development company for a year.

I established Mesh in 2009 and have since occupied the position of Executive Director and owner of the company. Mesh acts for a combination of public and private sector clients on a broad range of metropolitan and regional growth area projects, infill redevelopment projects, urban design of all scales including activity centre planning and design and infrastructure funding frameworks of all kinds including preparation and implementation of development contributions plans.

I have appeared as an expert witness in a number of Panel Hearings and VCAT cases.

1.4 Other Contributors

This work has been prepared by Chris De Silva, with no other assistance.

1.5 Instructions for scope of work

I have been requested by Russell Kennedy on behalf of the Yarra Ranges Shire Council to undertake a relatively broad review of the proposal, including:

- Consider the proposed amendment including its structure, the proposed Comprehensive Development Plan and associated material;
- > Consider the particular aspect of community and infrastructure contributions;
- > Consider the particular aspect of the proposed restricted retail on Maroondah Highway; and
- > Otherwise review and provide advice and recommendations as appropriate.

1.6 Completion of tests or experiments upon which the expert has relied on

No additional tests or experiments have been completed.

1.7 Declaration

I have made all enquires I believe are desirable and appropriate and confirm that no matters of significance, which I regard as relevant, have to my knowledge been withheld from the Advisory Committee.

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Chris De Silva Executive Director



2 INTRODUCTION

2.1 Structure of Evidence

This evidence has been structured into the following parts:

- Introduction
- Summary of Opinion
- Subject Land and Site Context
- Current Zones and Overlays
- The Proposal
- The Comprehensive Development Plan
- Schedule to the Comprehensive Development Zone
- Conclusion
- Consolidated Recommendations.

In preparing my statement I have had regard to a range of documents including:

- > Community Infrastructure
 - Lilydale Quarry Community Needs Assessment Ethos Urban (October 2020)
 - Lilydale Quarry Approach to Development Contributions Urban Enterprise (October 2020)
 - Kinley Estate Open Space Strategy T.C.L. (April 2020)
- > Comprehensive Development Plan
 - Lilydale Quarry Comprehensive Development Plan Consultation Urbis (October 2020)
- > Economics
 - Lilydale Quarry Economic Benefit Snapshot Urbis (June 2020)
 - Former Lilydale Quarry Planning Scheme Amendment Summary of Retail and Commercial Analysis
 Urbis (30 October 2020)
- > Engineering
 - Engineering Servicing Report Reeds Consulting (October 2020)
 - Kinley Development Geotechnical Framework Tonkin Taylor (part 1 of 2) (October 2020)
 - Kinley Development Geotechnical Framework Tonkin Taylor (part 2 of 2) (October 2020)
 - Former Lilydale Quarry Planning Scheme Amendment Geotechnical Overview Urbis (30 October 2020)
 - Lilydale Quarry Planning Scheme Amendment Integrated Water Management Strategy Incitus (12 October 2020)
 - Lilydale Quarry Planning Scheme Amendment Stormwater Strategy Incitus (5 October 2020)
- > Environment

- Former Lilydale Quarry Strategic Bushfire Assessment Biosis (29 April 2020)
- Cave Hill Quarry Conservation Management Plan Lovell Chen (September 2015)
- Environment Site Assessment Kinley Estate Western Areas Tonkin & Taylor (part 1 of 2) (April 2020)
- Environment Site Assessment Kinley Estate Western Areas Tonkin & Taylor (part 2 of 2) (April 2020)
- Cave Hill Quarry Lilydale Flora and Fauna Assessment Nature Advisory (April 2020)
- Lilydale Quarry, former (Kinley) Heritage Interpretation Strategy Lovell Chen (April 2020)
- The Former Lilydale Quarry Sustainability Framework WSP (12 October 2020)
- > Explanatory Documents
 - C196yran Explanatory Report consultation (November 2020)
 - C193yran Instruction Sheet consultation (November 2020)
 - Former Lilydale Quarry: Planning Scheme Amendment Planning Report Urbis (October 2020)
- > Housing
 - Lilydale Quarry Housing Supply and Demand Analysis SGS (December 2016)
 - Kinley Affordable Housing Proposition Urbis (29 April 2020)
- > Planning Scheme Maps
 - C193yran 001znMap40 consultation (November 2020)
 - C193yran 002d-hoMap40 consultation (November 2020)
 - C193yran 003paoMap40 consultation (November 2020)
 - C193yran 004eaoMap40 consultation (November 2020)
- > Planning Scheme Ordinances
 - 22 lpp13 yran Local Policy consultation (November 2020)
 - 37.02s yran CDZ1– consultation (November 2020)
 - 45 01s yran PAO12– consultation (November 2020)
 - 51 03s yran Upper Yarra Valley and Dandenong Ranges Strategy Plan (November 2020)
 - 72 03s yran List of maps incorporated consultation (November 2020)
 - 72 04s yran List of documents incorporated consultation (November 2020)
- > Transport
 - Cave Hill Station Concept Development Report Raylink Consulting (19 September 2017)
 - Integrated Transport Plan Lilydale Quarry Urban Renewal Cardno (30 October 2020)
 - Kinley Station Value Analysis Intrapac (February 2020)
 - Supporting Traffic Impact Assessment Lilydale Quarry Urban Renewal Cardno (30 October 2020) A-B-C-D

- Supporting Traffic Impact Assessment Lilydale Quarry Urban Renewal Cardno Appendix E (October 2020) E
- Lilydale Quarry Rail Station Cost Benefit Analysis SGS (September 2017)
- > Urban Design
 - Lilydale Quarry Urban Design Report Roberts Day (April 2020)

I note that I was involved in the Amendment process at an earlier stage of the process on behalf of the Shire of Yarra Ranges with regard to discreet matters such as open space and infrastructure contributions however since that time I have had no involvement in formulation of the Comprehensive Development Plan or any of the statutory provisions.

3 SUMMARY OF OPINION

- 1. Redevelopment of the Lilydale Quarry for urban purposes is a significant initiative that, if properly implemented, could deliver a distinctive, well serviced community of approximately 10,000 persons¹.
- 2. As a principle, I am supportive of redevelopment of the land for urban purposes as opposed to use of the land for land fill or other purposes that may have negative amenity or environmental impacts.
- 3. Notwithstanding this general support however, what must be recognised from the outset is that redevelopment of the land for urban purposes, at the scale proposed, can be compared to a Precinct Structure Plan (PSP) process in a greenfield development context or a Strategic Development Area (SDA) in an infill development context but that there is significant complexity that is added due to the former use of the land.
- 4. In this context, it is important to note that the quarry occupies a site area of approximately 143ha with a former quarry pit of approximately 25ha of surface area and that the existing quarry pit will need to be filled to a depth of approximately 120 metres requiring approximately 9 million cubic metres of fill material² to enable the land to be redeveloped as intended.
- 5. To put the depth of fill alone into perspective, it is a standard requirement for any building site (for housing purposes) that requires fill of greater than 200 millimetres for the following process to be adopted (in summary):

If more than 200mm of fill is required on a block, it must be inspected and tested to Level 1 by a suitably qualified geotechnical engineer in accordance with AS3798-2017;

Appropriate fill material is generally a structural clay and compaction of the soil is generally completed with a pad foot roller;

Placement and compaction of the soil is completed in layers of maximum 250mm thickness;

Throughout the placement and compaction process, numerous tests are undertaken to ensure the compaction is adequate; and

Once complete, a Level 1 fill inspection and testing report is prepared and issued for each impacted lot by a qualified geotechnical engineer.

6. According to Tonkin and Taylor:

¹ 3,200 dwellings

² Tonkin and Taylor 2020

The bulk earthworks calculations rely on approximately 9 million m3 of material to fill the quarry to the final designed level. This compares with 9.6 million m3 of available material on site, which provides a buffer for compaction factors and potentially unsuitable fill.

The landform design retains significant capacity to accommodate more or less fill by raising or lowering the final level across the former quarry area. As an indication of sensitivity, each 1m change in level of the surface comprises approximately 250,000 m3 of fill material near the top of the pit.³

7. The implications associated with the depth of fill were summarised in the Geotechnical Overview by Urbis which noted that:

The backfilling plan for the quarry pit includes placing fill up to approximately 120 metres deep from the original quarry base. The exact settlement profile cannot be predicted with confidence at this time due to the uncertainty about the compressibility of the fill. It is proposed to use an observational approach to the settlement of the filling and to modify the placement methods if needed as the work progresses. There is a high degree of confidence that the filled quarry area will be suitable for a level of development at some point (p. 8).

Filling is planned to take about five years and during this time settlement monitoring will be undertaken to assist in estimating the extent and timing of future settlement (p. 9).

Despite the high-density compaction ratio specified, it is accepted that some settlement will occur and that monitoring of settlement after completion is the only way that confidence in future settlement predictions can be established.

The Proponent accepts that it may take a period of time after filling is completed before the settlement performance criteria are met and the land is deemed suitable for development. There is also a very small risk that development may never be possible on the filled area if the settlement performance fails to meet the agreed criteria (p. 9).

As noted in Section 2.3.3, there is small risk that some development of the filled area may not be possible if the land does not achieve the agreed settlement performance criteria. While this risk is deemed to be extremely low, the Proponent has prepared an alternate development proposition as a contingency (p. 10).

The alternative development proposition is predicated on the use and development of the filled land for open space purposes only. This alternative proposition would only be enacted where the settlement performance of the filled land is unable to be demonstrated to achieve the agreed criteria. In that circumstance, an amendment to the Yarra Ranges Planning Scheme would be necessary.⁴

- 8. In this instance the relative complexity, and to some degree uncertainty, is also compounded by the question as to whether a train station will be delivered.
- 9. The scale of the development, the relative complexity associated with redevelopment of the former quarry pit for urban purposes, issues regarding the potential train station and the lodged submissions offer a useful context to reflect on and assess the critical question about what level of certainty is required at this time in order to proceed

³ Tonkin & Taylor Geotechnical Framework

⁴ Geotechnical Overview Urbis 2020, p. 8-10

with rezoning of the land and what matters may be reasonably deferred to a subsequent stage in the planning process.

- 10. In order to respond to the uncertainty in a practical manner, I note that the proponent of the Amendment has effectively adopted a 'maximum' development scenario yield assumption of 3,200 dwellings.
- 11. I support use of the maximum development scenario for planning purposes as it enables an 'impact mitigation' approach to be adopted in terms of assessment of the impact on the transport network and creation of demand for services and facilities etc.
- 12. Adoption of an 'impact mitigation' approach is particularly relevant and important within the context of the proposed redevelopment of the former quarry as the land is in single ownership.
- 13. Given that the land is in single ownership and there are no other contributors toward the need for infrastructure (other than existing development which can be described as the base case) it is appropriate in my opinion for an impact mitigation approach to be adopted for all types of infrastructure needs and also from a broader planning perspective in terms of impact on existing land uses.
- 14. In terms of how such impacts are documented and addressed, I have advised the Yarra Ranges Shire Council that the most appropriate approach would be to identify the necessary infrastructure, its standard of provision and timing of provision (land and construction as required) and to document those projects within a binding S.173 Agreement.
- 15. A S.173 Agreement is preferred in this instance over a Development Contributions Plan as the land is in single ownership, there are no other contributors and the S.173 Agreement is simply being used to document the developer's obligations and commitments to address the impacts or needs of the project.
- 16. Returning to the relative uncertainty and the timing of rezoning relative to when other matters may be addressed in subsequent stages of the planning process, I am of the opinion that it is essential for the S.173 Agreement to be finalised and executed before the land is rezoned (as it would otherwise be necessary to prepare a Development Contributions Plan (DCP) and for such a plan to be incorporated into the Planning Scheme at the time of rezoning of the land).
- 17. In terms of the proposed operation of the Statutory provisions, in particular the use of the Comprehensive Development Plan, it is significant that at the time of formulation of the proposed controls it was intended that the Comprehensive Development Plan would assume the status of an incorporated document (with associated Objectives, Requirements and Guidelines) and that the Comprehensive Development Plan would be implemented via subsequent approval of 'Precinct Plans'.
- 18. According to the planning report⁵, a three-stage approach was proposed involving rezoning to the Comprehensive Development Zone (and incorporation of the CDP), thereafter preparation of more detailed Precinct Plans and finally issue of permit approvals for subdivision and development of land.
- 19. According to this model, preparation of the Precinct Plans assumed a very important role as effectively the interface between the CDP and the permit approvals.
- 20. At this important interface it was expected that the Precinct Plans would be the key tool that not only applied the CDP objectives, requirements and guidelines but also incorporated the spatial and other actions and

⁵ Former Lilydale Quarry: Planning Scheme Amendment Planning Report, Urbis, 2020, pg 35

recommendations that are set out in a relatively long and complex list of Management Plans and Strategies and more detailed plans⁶.

- 21. In simple terms, the intended approach achieved certainty via incorporation of the CDP at the time of rezoning (which is important for the proponent) with the comfort (for Council as the future Responsible Authority and the proponent) that more detail would be provided on a staged basis over a 15+ year period.
- 22. It is now understood that the requirement to prepare Precinct Plans has been removed from the latest version of the schedule to the Comprehensive Development Zone.
- 23. Given the relative complexity of the land and the redevelopment that will take some time to achieve, I do not support deletion of the requirement to prepare the Precinct Plans.
- 24. Whilst I understand that deletion of the requirement to prepare Precinct Plans will enable the applicant to progress immediately to the planning permit application phase as per the current Precinct Structure Plan approach, my concern is that the balance between staged certainty following rezoning will be effectively lost and the immediate impact will be to cause uncertainty, risk and disagreement throughout the planning permit phase.
- 25. This change in approach is likely in my opinion to cause uncertainty for Council, the proponent and other stakeholders in attempting to deal with complex requirements through the permit phase without the benefit of the Precinct Plans which may result in delivery of 'piecemeal' outcomes that were expressly sought to be avoided in the Planning Report'.
- 26. Should there be a desire to support the rezoning of the land and incorporation of the CDP without the requirement to prepare Precinct Plans I note that there will be significant impacts on the structure and content of the CDP and the associated statutory provisions.
- 27. I have identified a number of issues associated with the schedule to the CDZ in my report however I have not attempted to identify necessary changes to the CDP (other than in relation to the specific spatial matters including the active open space and CAC).
- 28. In addition to needing to address the issues in relation to the statutory provisions, in the absence of the requirement to prepare Precinct Plans, I am of the opinion that a number of spatial matters and impact mitigation commitments (primarily traffic related) would need to be resolved with greater certainty before the rezoning and approval of the CDP were to occur.

4 SUBJECT LAND & SITE CONTEXT

- 29. The subject land is described as the former Lilydale Quarry, which consists of five titles across 143 hectares. These include the following parcels:
 - > Lot 1 TP810358
 - > Lot 2 TP810358
 - > Lot 3 TP810358
 - > Lot B PS731531

⁶ See Figure 14 of Planning Report, Urbis 2020, pg 34

⁷ See pg 35 of Urbis Planning Report

> Lot 2 PS325111

- 30. The subject land excludes the southern parcel (Lot A PS7313531) associated with Stage 1 of the development as this is not subject to this Amendment. The southern parcel is currently zoned General Residential Zone – Schedule 2 (GRZ2) and is under development for residential purposes.
- 31. The subject land is irregular in shape and is the site of the former Cave Hill Quarry site in Lilydale, which was used for limestone quarrying and production in 1878 and in the 1880s⁸.
- 32. The subject land is approximately 800 metres south-west of the Lilydale Station and is surrounded by established residential neighbourhoods and education facilities.
- 33. The subject land is bounded by Mooroolbark Road to the west; an industrial estate and Box Hill Institute to the northeast; Maroondah Highway, Taylor Street and Melba Avenue to the north; and residential properties to the east and south east.
- 34. The main features of the subject land include:
 - > Cave Hill Quarry pit, which is centrally located on the subject land
 - > The Lilydale railway line which bisects the site from north to south west
 - > Several buildings of primary significance and contributory significance, including a cricket pitch to the north of the quarry pit
 - > Several planted trees particularly around the boundary of the subject land
 - > Some scattered trees and areas of biodiversity values within confined locations on the subject land.

5 CURRENT ZONES & OVERLAYS

- 35. The subject land in its entirety is included within the Special Use Zone Schedule 1 (SUZ1).
- 36. In addition to SUZ1, the following overlays apply:
 - Public Acquisition Overlay Schedule 9 (PAO9) applies to areas north of the subject land towards Taylor Street
 - > Bushfire Management Overlay (BMO) applies to areas east of the subject land
 - > Erosion Management Overlay (EMO) applies to several areas to the west and south of the quarry pit
 - > Specific Controls Overlay Schedule 13 (SCO13) applies along the Lilydale railway line, which bisects the subject land
 - Heritage Overlay Schedule 201 (HO201), which applies to a heritage place included on the Victorian Heritage Register under the Heritage Act 2017, Cave Hill Limestone Quarry.
- 37. The following also applies to the subject land:
 - > It is entirely in a designated bushfire prone area.
 - > A portion of the subject land is an area of cultural heritage sensitivity.

⁸ Conservation Management Plan, Lovell Chen

6 THE PROPOSAL

- 38. According to the Explanatory Report for Draft Amendment C193, the amendment has been prepared by the Victorian Planning Authority (VPA) and applies to the former Lilydale Quarry as defined by the Former Lilydale Quarry Comprehensive Development Plan, October 2020 (the CDP).
- 39. The purpose of the amendment is to facilitate the development proposal as described in the Explanatory Report below:

"The amendment facilitates development that will deliver a mix of housing, townhouses, apartments and detached dwellings, improving affordability and housing choice which is lacking in the area. The Eastern Region housing market typically comprises low-density, detached housing. Lilydale and the surrounding region is experiencing increased demand for a greater variety of housing types. The medium density residential development envisaged under the CDP is largely unseen in Lilydale. 5% of dwellings delivered on the site will be designated as Affordable Housing.

The state-significant heritage assets on the site will be re-purposed (where appropriate) and rejuvenated. A network of open space will be provided with centrepiece features including a rail trail along the railway corridor and major park in the urban core, and district-level sporting facilities. A minimum of 10% unencumbered open space will be provided for active and passive open spaces.

Street typologies including high-amenity boulevards and active transport will be encouraged with connections to surrounding neighbourhoods and the existing regional trails.

The amendment seeks to facilitate the redevelopment of the former quarry in line with State policy which seeks to deliver new employment and housing at strategic redevelopment sites across metropolitan Melbourne. The subject site is strategically located with excellent access to the Maroondah Highway which connects the site to the eastern region and to Eastlink."⁹

40. According to the planning report that was lodged in support of the application:

"The development is expected to host approximately 8,000 new residents in 3,200 homes (including an affordable housing provision), as well as community facilities, open space, and a local town centre. It will be a walkable neighbourhood with a potential future train station at its heart, its heritage assets will be celebrated, and the quarry pit will be filled to allow for construction on its former footprint.

The southern portion of the land, known as Stage 1, was the subject of a rezoning and residential subdivision application lodged by the former site owner, Sibelco, which was approved by the Minister for Planning in November 2014. The Stage 1 land is now zoned General Residential Zone and is under development for residential purposes. The balance of the land (Stage 2) comprises some 143.8 hectares of land (the Site) and is the subject of proposed Planning Scheme Amendment C193yran (the Amendment). It is currently zoned Special Use Zone - Schedule 1 (SUZ1). Multiple overlays apply to the Site.⁷¹⁰

7 THE COMPREHENSIVE DEVELOPMENT PLAN

⁹ C193yran Explanatory report, p. 2-3.

¹⁰ Former Lilydale Quarry: Planning Scheme Amendment Planning Report, October 2020, p. 1.

- 41. Prior to lodgement of the Comprehensive Development Plan (CDP), and the Planning Proposal Council was party to a series of workshops that were designed to focus on a range of matters from vision and design through to infrastructure needs and funding commitments.
- 42. Some of these workshops were conclusive in terms of reaching general agreement in approach and intended outcome where others were left unresolved.
- 43. A key area of Council interest was in relation 'community infrastructure' in the form of active playing fields and associated infrastructure and a multi-purpose community activity centre.
- 44. Council's view in simple terms is that the projected yield of approximately 10,000 persons generates the need for 2 football/cricket ovals, a pavilion and shared car parking and a type 1 Community Activity Centre and that the land and construction of this infrastructure should be incorporated within the S.173 agreement as fully funded items.
- 45. Before commenting on the rationale for this approach it is important to explain the extent to which Council has sought to facilitate delivery of the community infrastructure.
- 46. In the early stages of the design process some versions of the master plan (which transitioned into the CDP) included provision for an active open space area in a more central location.
- 47. The proponent however expressed concern about the impact of the playing fields on the potential yield and the impact on the 'urban form' (by interrupting walkable catchments etc).
- 48. The response was to suggest that the ovals be delivered offsite at an existing reserve in proximity to the subject land.
- 49. Such options were not supported by Council on the basis that the outcome was proposed to be located on land that is subject to inundation, would not well service the planned community and would create an overall deficit in open space provision.
- 50. A suggestion was made that the northern part of the subject land be explored to assess whether the ovals could be accommodated there however the proposal at the time was that a very large retarding basin/wetland would be constructed on that part of the land with insufficient area remaining to accommodate the playing fields.
- 51. A creative option was identified at that point which involved relocation of the retarding basin and wetland to the east onto Council owned land (which could contribute toward consolidation of a broader network of drainage lines and infrastructure) thereby releasing the land for active sporting purposes along with retention of some of the heritage places as a community focal point.
- 52. Various options were tested at that time involving various configurations of the ovals and associated infrastructure that I participated in.
- 53. Correspondence was provided to the project team by way of email dated 6 August which attached the concept plan below and the following explanation/requirements.

Following our recent meeting and receipt of your updated concept plan I am pleased to advise that Council officers are supportive of the concept of locating two ovals in the northern part of the land.

The Council has however reviewed the arrangement of the two ovals and their potential functionality and favour a reconfiguration of the ovals generally as per the attached concept plan which does involve increasing the size of the smaller oval.

I have overlayed the preferred configuration over your concept plan which shows a very similar footprint to your concept plan albeit in a different configuration.

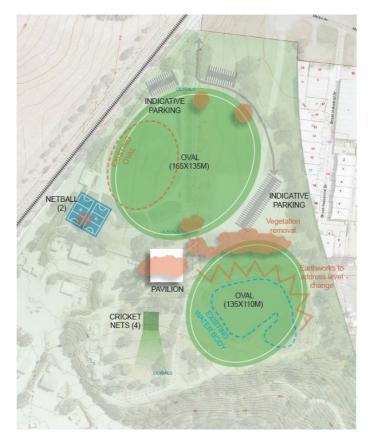
In order for the proposal to be successful however it is acknowledged that the heritage issues would need to be addressed along with the drainage issues (requiring MW support).

Council has commenced some preliminary investigation of the drainage issues which I have not forwarded at this stage other than confirmation that Council does not want to use the ovals for flood detention.

Pending your review of the attached concept plan I would now recommend reconvening with Council with potential agenda items being:

- 1. Discussion of preferred configuration of ovals and related infrastructure and construction obligations
- 2. Preliminary drainage investigations
- 3. Joint approach to Melbourne Water timing and information requirements
- 4. Joint approach to heritage issues timing and information requirements
- 5. Open space quantum and location on the balance of the project

I hope that the revised proposal meets with a favourable response from the project team and a positive joint approach to resolution of the issues above can be adopted to the benefit of the project and the future community.



- 54. Whilst the general intent of the concept plan has been reflected in the CDP, the ovals have not been sized as requested by Council and there is no provision for the associated infrastructure including the pavilion, car parking and associated active sporting areas.
- 55. Of equal or perhaps greater concern is that the heritage issues remain unresolved the suggestion being that they could be resolved during preparation of the Precinct Plans but it is clearly Council's preference and the preference of Heritage Victoria to resolve the matter before proceeding particularly in the absence of a Precinct Plan.
- 56. Whilst I am of the opinion that the importance of the land area for active sporting purposes is such that the land area and construction obligations must be resolved in any event before the land is rezoned, the example is

indicative of a future matter that will be subject of dispute within the context of a planning permit application if it remains unresolved.

- 57. I note in this context that other land is available in Precinct 2 to accommodate the preferred oval sizes that if not delivered will result in restricted useage for competition and other purposes.
- 58. In terms of the required land area for two ovals in a growth area context the typical standard is 8ha which provides for two full sized ovals however in this instance Council has offered a willingness to accommodate one full sized oval and one junior sized oval with the dimensions as shown on the attached concept plan.
- 59. I support the principle of achieving any efficiency below the 8ha standard provided that the space allocation provides for the ovals, the pavilion, the car parking and any associated activities generally as per the concept plan however there should be an attempt to accommodate two full sized ovals as the first preference but this exercise should not commence with an expectation that 8ha must be set aside.
- 60. With regard to the overall provision of open space, I note that the CDP includes an Open Space Hierarchy at Table 1 (pg19).
- 61. The open space hierarchy table describes the type of open space and the approximate size of the spaces and is accompanied by a more detailed land budget at Appendix A of the CDP.
- 62. The tables are inconsistent in their recording of spaces and it is apparent that land that is occupied by drainage infrastructure and other encumbrances such as the quarry face (escarpment park) may have been included in the passive open space calculations.
- 63. Whilst co-location of open space and infrastructure is somewhat supported as a principle the calculations appear to be questionable.
- 64. The more important objective however is to ensure that the active sporting reserve is appropriately sized and can achieve the support of Heritage Victoria before the land is rezoned and that the commitment to deliver the playing fields, pavilion and associated infrastructure is contained in an executed S.173 Agreement.
- 65. I consider this to be an entirely reasonable position of Council particularly noting that Council land is being offered to accommodate the drainage infrastructure that would otherwise have been constructed within the Precinct requiring other land within the project to be set aside for active sporting purposes.
- 66. Use of the Council land for drainage infrastructure purposes has unlocked a strategically important outcome that will benefit the project and the future community.
- 67. It is simply not reasonable for the interests of the future community to be threatened or left uncertain without resolution of the interest of Heritage Victoria.
- 68. Needs analysis completed by the proponent¹¹ (see Table 14, pg 32) identifies the need for the requested playing fields and other active sporting facilities (and the reliance of the project on other existing playing fields).
- 69. Based on the findings of the Ethos Urban needs assessment, I do not understand there to be a disagreement about need but what remains is to provide adequate land area and for the construction obligations to be set out in the S.173 Agreement.
- 70. The other matter of primary interest for Council is the community activity centre (CAC).

¹¹ Lilydale Quarry Community Needs Assessment (updated) 16 October 2020, Ethos Urban

- 71. Once again, I understand that the need for the CAC was identified in early discussion with the proponent and the needs analysis that was prepared on behalf of the proponent also clearly identifies the need for a CAC.
- 72. The needs analysis that was completed on behalf of the proponent also identifies the partial need or demand that is created by the project for other community facilities (see Table 14, pg 32) however the Council has chosen to forego potential cash contributions toward the upgrade of other facilities and/or future facilities provided that the developer agrees to deliver land and construction for a CAC.
- 73. The proponent appears to be challenging the request for a land area of 1.0ha and recommends that a flexible approach be adopted with regard to future design of the building.
- 74. It is noted in this context that the CDP plans do not show a location for the CAC however section 4.2 of the CDP somewhat addresses the expectation that a CAC will be delivered.
- 75. Section 4.2 of the CDP needs to be amended to confirm that 0.8ha of land (on flat useable land) will be set aside at no cost to Council and that the CAC will be constructed by the developer at an agreed trigger point at no cost to Council noting Council's desire to achieve delivery of the CAC early in the life of the development a location outside precinct 4 is preferred.
- 76. This obligation will then need to be carried forward into the S.173 Agreement where clauses or conditions about alternative design responses etc can be included but the discretion to consider such alternatives must rest with Council noting Council's preference for the CAC to be located in Precinct 2 or possibly Precinct 3.
- 77. The preferred location for the CAC should be included in the CDP plans including the Framework Plan in proximity to the active open space but with acknowledgement of the flexibility to consider other options.
- 78. Notwithstanding the findings and recommendations of the Ethos Urban Needs Assessment Report, it is understood that the proponent may be seeking a financial contribution from Council toward the CAC.
- 79. This position is not supported given the conclusive findings of the needs analysis and given that Council is foregoing contributions toward other needs that are generated by the project (active sporting and community facilities).
- 80. I am generally aware that Council is in the process of preparing a municipal DCP. Whilst there is the possibility of including the subject land within such a DCP it would be preferable in my opinion to contain the S.173 Agreement to full funding of the needed items and thereafter to focus on standard and timing of delivery.
- 81. Direct delivery of the active sporting fields and the associated infrastructure and the CAC are commensurate with the need that will be generated by the project in addition to the other impact mitigation works (primarily traffic related).
- 82. To put Council's request for direct delivery into context, it is useful to reflect on common use of approximately 10,000 persons as a 'planning unit' in growth area planning.
- 83. Approximately 10,000 persons has been commonly used in growth area planning over the last 20 years. The relevance of approximately 10,000 persons as a common planning unit is set out in the extract below:

It is considered that 10,000 persons or approximately 3,500-3,800 dwellings is an appropriate planning unit for the following reasons: -

1. It is typically the case that community and active recreation infrastructure requirements, including open space are calculated on accepted provision triggers and 10,000 people has become a recognised planning unit. i.e. 10,000 persons generally requires a state primary

school, level 1 community infrastructure comprising a community activity centre including MCH, active open space including playing fields and a pavilion;

- 2. A planning unit of 10,000 persons typically occupies an area of 250-600 net developable hectares. Deliberate regard to this scale of planning unit will encourage active consideration of infrastructure needs and impacts including management of drainage catchments;
- 3. Where a growth area contains more than two planning units consideration can be directed toward higher order community infrastructure (including infrastructure that is not proposed to be funded by the ICP); and
- 4. Deliberate regard to an accepted infrastructure provision benchmark/s will support efficient infrastructure planning, funding and delivery.¹²
- 84. Whilst it is acknowledged that redevelopment of the quarry may arguably be better defined as an infill project, in my opinion the relevance of approximately 10,000 persons as a planning unit for infrastructure planning purposes remains relevant.
- 85. In terms of type of projects that are typically included with Development Contributions Plans (DCPs) or Infrastructure Contributions Plans (ICPs), the tables below provide a summary of the funded items and the respective charges for a selection of DCPs and ICPs (*see Tables 1 & 2*).

Infrastructure Funded (Land & Construction)	Lockerbie North DCP	Beveridge Central ICP	Minta Farm ICP	Mt Atkinson & Tarneit Plains ICP
Arterial Road (interim) or secondary arterial construction	Y	Y	Y	Y
Connector Road	Y	Y	Y	Y
Key Local Access Road		Y		
Bridge			Y	Y
Culvert			Y	Y
Drainage				
Signalised Intersection	Y	Y	Y	Y
Unsignalised intersection i.e. Roundabout	Y	Y		
Pedestrian signals	Y	Y	Y	Y
District Open Space	Y			
Active Playing Fields - 2 ovals or 3 soccer pitches or equivalent	Y	Y	Y	Y
Sports Pavilion	Y	Y	Y	Y
Indoor Sports Centre (land only)	Y			
Community Centre	Y	Y	Y	Y
Neighbourhood House				Y
		ICP funds a proportion of 3 nearby community		Funds 3 active playing fields and pavilions
Source: Mesh Planning		centres		

Table 1 – Summary of Funded Infrastructure Land and Construction

12 [Project Title] Mesh Planning



Table 2 – Summary of Funded Projects and Charges

DCP/ ICP Name		NDA (Ha)	Yield - dwellings	Yield - population	Year of charges	Active Open Space Land	Passive Open Space Land	Credited Open Space as % of NDA (for residential purposes)	Transport	Community & Recreation (ICP only)	Community	Open Space/ Active Recreation	TOTAL Charge Rate	
Lockerbie North	DCP	296.49	4,434	12,400	2017 \$	18	10	9.1%	\$90,166.00		\$48,173.00	\$116,569.00	\$254,908.00	
Beveridge Central	ICP	227.07	3,389	9,489	2020/21 \$	6.79	4.91	5.2%	\$207,985.39	\$89,518.00			\$297,503.39	
Minta Farm	ICP	210.14	3,050	8,500	2020/21 \$	9	6.79	10.9%	\$228,040.00	\$89,518.00			\$317,558.00	Construction only costs, land covered by ICP land component
Mitta Partin	ICP	210.14	5,050	8,500	2020/21	3	0.79	10.9%	<i>γ</i> ∠∠8,040.00	,510.00			<i>311,338.00</i>	Construction only costs, land covered by ICP land
Tarneit Plains		906.63	8,000	22,400	\$ \$	23.31	21.3	9.07%	\$135,193.00	\$89,518.00			\$224,711.00	component

Source: Mesh Planning

- 86. Irrespective of costs, Table 1 confirms that land and construction of playing fields, pavilions and community activity centres are typically fully funded projects.
- 87. By reference to these comparison examples, the scale of the project and the needs analysis report findings, I support direct delivery of the playing fields (subject to increase in area and reconfiguration of the ovals) and associated infrastructure including the car parking and pavilion and the CAC and inclusion of these projects within the S.173 Agreement as preconditions to rezoning of the land.
- 88. In addition to uncertainty regarding the active open space and CAC, it is noted that the Department of Education and Training (DET) has identified a number of uncertainties in relation to the 'proposed government specialist school'.
- 89. DET have sought a number of changes and clarification and are clearly assuming that further opportunity for negotiation regarding siting and relationship to the CAC will be available during the precinct planning phase the DET submission serves to illustrate another important purpose of the Precinct Plan phase.
- 90. In a similar fashion to the DET submission, the Box Hill Institute submission raises questions and concerns about impact on the Institute land and infrastructure.
- 91. Once again an important structural issue remains unresolved and will require on-going discussion and resolution a process that would be aided by the Precinct Plan process.
- 92. The final structural land use component within the CDP that has been of interest to Council is the 'Highway frontage commercial/mixed use' land in the north-west corner of the CDP area.
- 93. Council has consistently raised concerns about access to this land and land use compatibility.
- 94. When viewed in its broader strategic context it becomes clear that the piece of highway frontage/commercial land on the subject land is isolated and does not form part of a larger activity centre.
- 95. To support such an outcome would be contrary to activity centre policy which seeks to consolidate activity centres.
- 96. I also note that allocation of this land for highway frontage commercial mixed-use purposes does not accord with the vision for the project.
- 97. The vision for the project, that of a walkable, transit orientated development, has vey much influenced the composition of the CDP and the more detailed masterplans that have informed the CDP (*see Attachment 2*).
- 98. Allocation of the land for large format, highway related uses that are disconnected from the balance of the project does not compliment the fine grain, connected pattern of development that is proposed with an emphasis on built form character and quality.
- 99. In accordance with Council's on-going concern and the views of the Department of Transport it is recommended that the Highway frontage commercial/mixed use designation be deleted from the CDP.

8 SCHEDULE TO THE COMPREHENSIVE DEVELOPMENT ZONE

100.At the time of preparation of the CDP it was generally understood that the CDP would be incorporated into the Planning Scheme and that there would be a subsequent requirement to prepare Precinct Plans that would bring together more detailed investigations that would in turn be used to guide applications for use and development and subdivision of land.

- 101. The requirement to prepare and enter into a S.173 Agreement was to occur before the land was rezoned (in lieu of a DCP) and the agreement was to detail the whole of project impact mitigation projects (primarily transport related) and the passive and active open space and community infrastructure obligations.
- 102. It is now understood that the CDP is proposed to be incorporated into the Planning Scheme and that any permits for use and development or subdivision must be 'generally consistent with' the incorporated CDP.
- 103.Before permits can be issued however it will be necessary for specialist reports to be prepared for some or all of the precincts.
- 104. The revised approach raises a number of operational issues as set out following.

Operational Issues

Issue 1

The schedule to the CDZ references the 'Former Lilydale Quarry Comprehensive Development Plan, October 2020' – that document does not contain a plan that is identified as the CDP but rather includes a Framework Plan and a series of supporting plans and text. The document places considerable importance on the precinct approach and includes specified Objectives, Requirements and Guidelines as well as relatively detailed staging information.

It is unclear whether any changes are proposed to the CDP to reflect the change in approach and the schedule to the CDZ makes no reference to the proposed operation of the Objectives, Requirements and Guidelines and the reference to 'Generally consistent with' the CDP is a weaker approach than 'Generally in accordance with'.

Recommendations

- That the form and content of the CDP be confirmed before the land is rezoned;
- That the proposed relationship between the schedule to the CDZ and the Objectives, Requirements and Guidelines be resolved prior to rezoning of the land;
- That the CDP Framework Plan be re-titled as the 'Comprehensive Development Plan' (within the document and the schedule to the CDZ) along with explanation that the approved CDP is the whole document;
- That the CDP plan be amended to show the indicative location for the CAC;
- That the CDP plan be amended to increase the area of the active open space and reconfigured ovals and associated infrastructure including the pavilion and car parking; and
- That the term 'generally in accordance with' be used to replace 'generally consistent with' throughout the schedule to the CDZ.

Issue 2

The schedule to the CDZ is divided into sections relating to subdivision and buildings and works. The relevant sections or clauses specify that more detailed investigations of various kinds (urban design framework, infrastructure contributions agreement, geotechnical statement, precinct integrated traffic and transport management plan, precinct stormwater and integrated water management plan, precinct sustainability management plan, heritage interpretation plan, precinct landscape plan, design strategy, environmental audit, performance of filled land) must be prepared for 'the relevant precinct to the satisfaction of the responsible authority' before a permit is granted.

Whist the requirement to undertake the studies is a little unclear in terms of timing and extent, of greater concern is that there is no apparent requirement to bring the findings of the relevant investigations together prior to submission nor is there any express requirement for any application to apply the findings of the investigations.

Specifically in relation to infrastructure contributions agreement, there is no explanation regarding the scope of the agreement (that is for the whole of the project or parts thereof) and bullet points 3 and 4 are not relevant as there are no projects that require contributions from Council (as per previous explanation). The timing of preparation of the agreement is also not in accordance with Council's long-standing expectations nor will it provide a satisfactory response to submitters concerns about commitments to deal with traffic and other impacts.

Recommendations

- That the important role of the Precinct Plans be restored as intended (in which case the schedule could be simplified to confirm which investigations are required for each precinct) and the schedule amended accordingly or that the schedule be revised to require the findings of the relevant investigations to be brought together prior to submission to Council with a summary report that identifies the key findings and relationship between each of the investigations;
- That the schedule to the CDZ be amended to include a requirement for any application for subdivision or buildings and works to include a report which demonstrates how the application has incorporated the findings and recommendations of the specialist reports;
- That the application requirements and decision guidelines be amended to reflect the recommendations above; and
- That the S.173 Agreement for infrastructure contributions be entered into before the land is rezoned.

Issue 3

The schedule to the CDZ contains some specific notes in relation to dwellings within the section 2 permit required section of the uses table. Whilst it is not clear it is assumed that the notes relate to the situation where an application may be lodged that seeks to exceed a particular density/yield that has been assumed in the CDP. The difficulty is that the CDP does not appear to specifically address this matter and the conditions that are contained within the schedule lack relevance and ability to be assessed on a cumulative basis without any recognition within the CDP.

Recommendations

• That the CDP and the schedule to the CDZ be amended to more directly address the density/yield assumption and the process by which an application that seeks to exceed that yield will be assessed.

Issue 4

The schedule to the CDZ addresses subdivision and buildings and works requirements independently however from a Council assessment and processing point of view it is likely that emphasis will be on lodgement of applications to subdivide land.

Neither the schedule to the CDZ nor the CDP provide any guidance about the preferred size of application area. Under the proposed Precinct Plan model, it was broadly understood that a component of the Precinct Plan would include a master plan for the entire precinct and that a subdivision application would be lodged for the entire precinct or pieces thereof but within the context of the master plan.

Whilst the CDP will provide some framework to operate within, it would be far more preferable for the CDP to include a section that provides guidance about preferred size of application area with emphasis on larger rather than smaller stages of subdivision (other than for specific purposes such as utilities etc).

Recommendations

 That the CDP be amended to include a new section in relation to provide guidance about preferred size of application area with emphasis on larger rather than smaller stages of subdivision (other than for specific purposes such as utilities etc).

Issue 5

The CDP identifies the uncertainty regarding whether a train station will be provided. The schedule to the CDZ requires preparation of a Design Strategy for the potential future train station however the schedule is silent about the implications associated with a decision not to deliver the train station.

Taking into account the definite tendency toward smaller lot sizes and integrated housing opportunities there is less concern about density implications however the issue is whether an amendment to the CDP and/or the schedule to the CDP will be required if the decision is not to deliver the train station.

Recommendations

• That the schedule to the CDZ be amended to include specific reference to the need for Amendment of the CDP and/or the schedule to the CDZ if there is a decision not to deliver the train station.

9 CONCLUSION

105. Redevelopment of the former Lilydale Quarry is a very complex but strategically important initiative.

- 106. The proposal to proceed with rezoning of the land along with incorporation of a CDP with a requirement for subsequent preparation of Precinct Plans to support and guide the planning permit process was a well-considered approach.
- 107. The needs of the proponent to gain certainty via the rezoning process with subsequent approval requirements to follow were well established and were recognised by Council who have sought certainty in infrastructure commitments via the S.173 Agreement in lieu of a formal DCP.
- 108. In my opinion, removal of the Precinct Plan requirement has caused unnecessary uncertainty and has raised questions about the appropriate level of detail that should be included within the CDP in addition to expectations about the planning permit process.
- 109.Deferral of the S.173 Agreement until after the land is rezoned is not supported as it is incumbent upon the proponent to demonstrate commitment to deal with impact mitigation (traffic impacts) and active open space and the CAC as a pre-condition to gaining rezoning approval.
- 110. The background material that has been prepared to support the proposal to this point, along with the Committee findings, are sufficient to enable resolution of the S.173 Agreement in relation to infrastructure and the requested changes to the CDP can be made without impacting on other part of the CDP.

10 CONSOLIDATED RECOMMENDATIONS

- 111.My consolidated recommendations include:
- a) Restore the important role of the Precinct Plans as intended (in which case the schedule could be simplified to confirm which investigations are required for which precinct) and the schedule amended accordingly or that the

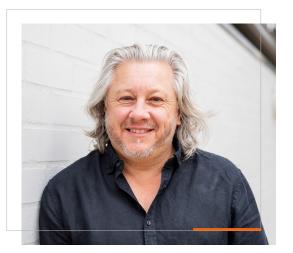
schedule be revised to require the findings of the relevant investigations to be brought together prior to submission to Council with a summary report that identifies the key findings and relationship between each of the investigations;

- b) Engage with Heritage Victoria via the Committee process (or following) to resolve any heritage issues that may affect the ability to deliver the active open space prior to rezoning of the land;
- c) Amend the CDP at section 4.2 to specify a land area of 0.8ha for the CAC;
- d) Amend the CDP to show an indicative location for the CAC;
- e) Amend the CDP to increase the area of the active open space reserve to accommodate two reconfigured ovals, the pavilion and associated infrastructure including car parking;
- f) Require execution of the S.173 Agreement prior to rezoning of the land and include full funding and direct developer responsibility to deliver the CAC (to Council's specifications) and the two ovals, pavilion and car parking and associated infrastructure (including land for both) at no cost to Council;
- g) Include the other important transport impact mitigation projects within the S.173 Agreement;
- h) Amend the CDP and the associated land budget to delete the highway frontage commercial/mixed use area;
- i) Resolve the proposed relationship between the schedule to the CDZ and the Objectives, Requirements and Guidelines prior to rezoning of the land;
- j) Re-title the CDP Framework Plan as the 'Comprehensive Development Plan' (within the document and the schedule to the CDZ) along with explanation that the approved CDP is the whole document;
- Replace the term 'generally consistent with' with the term 'generally in accordance with' throughout the schedule to the CDZ;
- Amend the schedule to the CDZ to include a requirement for any application for subdivision or buildings and works to include a report which demonstrates how the application has incorporated the findings and recommendations of the specialist reports;
- m) Amend the CDP to include a new section to provide guidance about preferred size of subdivision application area with emphasis on larger rather than smaller stages of subdivision (other than for specific purposes such as utilities etc);
- n) Amend the application requirements and decision guidelines to reflect the recommendations above;
- Amend the CDP and the schedule to the CDZ be to more directly address the density/yield assumption and the process by which an application that seeks to exceed that yield will be assessed;
- p) Amend the schedule to the CDZ to include specific reference to the need for Amendment of the CDP and/or the schedule to the CDZ if there is a decision not to deliver the train station
- q) Confirm the form and content of the CDP (document and plans) be before the land is rezoned.



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APPENDIX 1 – CV



Chris De Silva is highly respected in the planning industry for his ability to conceptualise the strategic merits of any given project.

Chris has over 30 years experience as a planner, primarily in the specialized field of growth area planning.

Spending 18 years at the City of Whittlesea, occupying the positions of Manager Strategic Planning and Director Planning and Development Chris was broadly responsible for conceptualising and implementing the Whittlesea Growth Areas framework. This process involved in-house preparation of Precinct Structure Plans for each of the growth areas and formulation of integrated transport plans and development contributions plans for the City.

The approach adopted by the City under Chris's guidance culminated in a total of 11 State awards from the Planning Institute of Australia for Planning Excellence and visits from all other growth areas.

Chris De Silva

executive director.

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education.

+ Bachelor of Applied Science (Planning) RMIT University

employment.

- + 2009 Mesh, Director
- + 2008 Villawood Properties, Strategic Development Director
- + 1991 City of Whittlesea, Director of Planning and Development (and formerly Manager Strategic Planning)
- + 1990 Wilson Sayer Core, Town Planner

key projects.

Chris has been the mastermind behind the following key projects:

- + Armstrong Creek West Precinct Structure Plan and Development Contributions Plan, Geelong
- + Wollert Precinct Structure Plan, Whittlesea
- + Davies Hill, Woodend
- + Strathfieldsaye East Development plan, Bendigo
- + Schofields Indicative Layout Plan Urban Design Review, New South Wales
- + Trillium Estate Masterplan, Hume
- + Redstone Hill Masterplan and Town Centre, Sunbury
- + Greenvale Central Precinct Structure Plan and Masterplan, Hume
- + North of the Merri Local Structure Plan, Development Contributions Plan and Development Plan, Warrnambool
- + Crinigans Road Development Plan, Morwell
- + Cross' Road Development Plan, Traralgon

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APPENDIX 2 – ILLUSTRATIVE MASTER PLAN





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