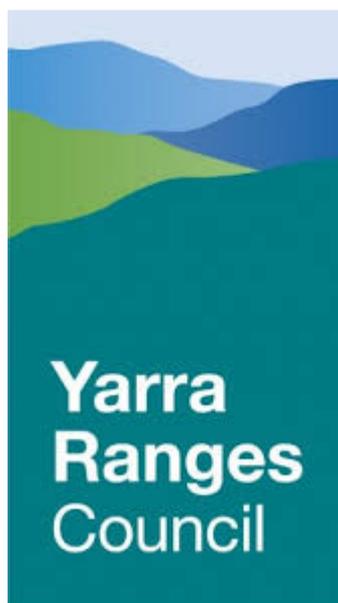


**Yarra Ranges Council  
Submission to the Victorian  
Planning Authority  
Former Lilydale Quarry  
Proposed Amendment  
C193 to the Yarra Ranges  
Planning Scheme**



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## 1. Introduction

The redevelopment of the former Lilydale Quarry represents a major urban renewal opportunity that will lead to significant investment, local employment, increased housing diversity and will provide additional community facilities, public open space and a network of new shared paths. Since 2014, Council has supported redevelopment of the site providing it is in accordance with an agreed master plan that has been developed in consultation with the community and key stakeholders. This has been a consistent position of Council and is reflected in Council's consideration of the draft Amendment that was submitted by the proponent to Council earlier in 2020 and formally considered in September 2020 before the Victorian Planning Authority (VPA) was directed by the Minister for Planning to lead the finalisation of the Amendment.

Given the complexities of the site there are a number of outstanding issues that require resolution before the planning scheme amendment can progress. Among the most critical of these is the need to successfully backfill the 120m deep quarry pit to enable it to be developed. Other key issues include facilitation of a new railway station, negotiating appropriate infrastructure contributions, ensuring adequate public open space for active recreation, and reaching agreement on an appropriate affordable housing contribution. Council has been working closely with the proponent on these and other matters and significant progress has been made in formalising arrangements through proposed section 173 agreements for Infrastructure Contributions, Affordable Housing and Geotechnical requirements.

It is understood that the Minister for Planning is likely to refer unresolved matters raised in submissions to the VPA Standing Advisory Committee. Council wholeheartedly supports this and requests that its submission be referred to the Advisory Committee and that the Committee allows Council and all those who made a submission the opportunity to present before the Committee. Given that additional matters are likely to be raised as part of this consultation process, Council requests that it be provided an opportunity to review submissions received by VPA and to be able to make further submissions to the Advisory Committee as required.

At its Ordinary meeting held 8 September 2020, Council considered a report on draft Planning Scheme Amendment C193. In that meeting Council resolved the following:

*That Council:*

- 1. Provide in principle support to redevelop the former Lilydale Quarry for residential, commercial and community uses generally, as envisaged under draft Amendment C193 to the Yarra Ranges Planning Scheme, subject to the resolution of key issues outlined in this report.*

2. *Continue to work with the Victorian Planning Authority on preparation of draft Amendment C193 and request that the outstanding matters raised in this report be fully addressed.*
3. *Request that the VPA undertake a comprehensive engagement process with all relevant stakeholders in finalising draft Amendment C193.*
4. *Request that the VPA advance the timely and coordinated upgrade of regional transport infrastructure to support the Lilydale Quarry redevelopment including the duplication of the rail line from Mooroolbark to Lilydale, construction of a new train station within the quarry site, and planned upgrades to the arterial road network.*
5. *Write to the Minister for Planning advising him of Council's position on Amendment C193 and request the approval pathway for the Amendment is open and transparent allowing for full public consultation.*
6. *Make a submission to a future Advisory Committee Hearing generally in accordance with this report.*

Council understands the importance of facilitating new development activity to support the recovery of the Victorian economy during the Covid19 crisis. However this should not be at the expense of ensuring appropriate planning controls are put in place and that the future development is supported by the required infrastructure. It is essential to resolve all matters ahead of approval of the amendment in order for the successful redevelopment and seamless integration of this site into broader Lilydale. Spending time ensuring an appropriate planning framework is put in place will save considerable time and resources during subsequent approval processes.

Council is supportive of many elements of the proposed Comprehensive Development Plan (CDP) and associated planning controls. It is also clear that this is not a straight forward development site, and while some improvements to the proposed CDP have been made since Council last reviewed the draft documentation, there still remain a number of areas of concern that need to be resolved. These issues are discussed in this submission and for convenience a Summary of Issues is also provided (Attachment 1 – Summary of Issues).

Council welcomes the opportunity to work with the VPA, proponent, State Government agencies, other key stakeholders, and the community to resolve critical areas before the amendment can be considered for approval by the Minister for Planning.

## 2. VPA Projects Standing Advisory Committee

It is understood the Minister for Planning has not determined the approval pathway for the amendment following this public consultation phase but has indicated use of

the VPA Projects Standing Advisory Committee. Given the significance of this proposal, it is requested that a fully transparent process is adopted and that all submissions are referred to the Committee and that all submitters are provided an opportunity to present before the Committee. Council looks forward to expanding on the issues raised in this submission at a future public hearing.

### 3. Quarry Rehabilitation

#### Work Authority 199

The redevelopment as envisaged by the CDP is reliant on the successful backfilling and rehabilitation of the quarry pit and surrounding site including removal of the existing overburden stockpiles. The pit area is approximately 25 hectares and the eastern stockpile area approximately 53 hectares. Ultimately, it is understood the final landform for the pit area is intended to be at RL140m AHD at the southern edge of the pit with the surface sloping three (3) per cent towards the northern edge of the quarry which is intended to be at about RL120m AHD. To achieve this, in the order of nine (9) million cubic metres of stockpile is proposed to be relocated as engineered fill into the pit at a depth of up to approximately 120 metres.

Currently the backfilling operation is regulated by the State Government's Earth Resources Regulation branch of the Department Jobs, Precincts and Regions (DJPR) through Work Authority 199 and an approved Work Plan. However this agency has made it clear to Council that beyond safety and amenity issues, the Work Plan does not address geotechnical matters beyond the backfill being suitable for end uses approved under the Work Plan, which Council understands to be grazing.

It is understood that the current approved Work Plan allows the quarry to be backfilled to a finished level of RL100m AHD. Once this level is reached and conditions of the Work Plan have been met, it is understood the proponent will seek to apply to the regulatory authority to extinguish the Work Authority from the site. Under this scenario, significant backfilling is still required (from RL100 to RL140m – RL120m) which is also over a significantly larger area than the filling that will have taken the height to RL100m AHD. This second phase of the rehabilitation is proposed to be regulated by Council under a future planning permit in addition to the proposed Geotechnical Framework section 173 agreement. It is unclear to Council the reasons why DJPR would be prepared to consider extinguishing the Work Authority at RL00 when the backfilling is only partially complete. It is also understood that rehabilitation conditions of the Work Plan would require topsoiling and seeding to make it suitable for grazing, which are incompatible with the ongoing backfilling operation. Council's preference is for the entire backfilling to be regulated by DJPR complemented by a geotechnical section 173 agreement.

## Peer Review and Geotechnical section 173 agreement

Given the importance of the backfilling process and the need to ensure the land is fit for the intended purpose, Council has sought expert geotechnical advice (Golder and more recently Senversa) on reviewing the backfilling proposal. Key issues considered at length have included:

- the methodology and earthworks specification for the backfilling to enable future development of the land
- establishing an appropriate monitoring and reporting framework that captures total and differential settlement
- the impact of groundwater recharge on settlement behaviour
- determining acceptable settlement performance criteria to enable consideration of the transfer of land to Council as either public open space or road reserves.

It is noted that the Schedule to Clause 37.02 (Comprehensive Development Zone) includes a requirement for the preparation of a section 173 agreement between the responsible authority and the owner of the land regarding the performance of filled land in Precinct 4. This agreement is proposed to cover monitoring and reporting obligations, performance specifications to be achieved before land can be transferred to Council for open space and infrastructure, and indemnification of Council in relation to claims by third parties relating to negligence or non-compliance with the requirements of the agreement by the proponent.

In the interests of providing greater certainty for the project and whether Council would be prepared to accept backfilled land as either open space or road reserves, the proponent has requested Council formalise arrangements through preparation of a section 173 agreement. While Council is supportive of this approach and sees overall benefit in specifying requirements on geotechnical matters through an agreement, there are a number of outstanding issues that require resolution before Council is prepared to enter into such an agreement.

In addition to seeking advice from Golder, Council recently commissioned a second geotechnical consultancy, Senversa to review the quarry backfilling and to consider unresolved issues between the proponent's geotechnical consultants Tonkin and Taylor and Golder. The Senversa Review confirms matters previously raised by Golder are justified and need to be addressed in any agreement going forward and also in the submitted geotechnical framework and planning provisions. A copy of the Senversa Review is attached (Attachment 2 – Senversa Review).

The advice provided confirms Council's position that before any land within or adjacent to the filled area is considered for development or proposed to be transferred to Council for public open space or road reserves, there needs to be a sufficient period of post fill monitoring to confirm that both total and differential settlement are and will be within acceptable limits. From the advice received it would

appear there is still a high level of uncertainty about future settlement behaviour, particularly in relation to the impact of groundwater recharge and the extent of differential settlement.

### CDZ Schedule

It is noted that the CDZ schedule includes a requirement to prepare a Geotechnical Statement, prior to subdivision or building and works, refer to extract below.

Unless otherwise agreed to by the responsible authority, a permit must not be granted to construct a building or construct or carry out works within Precinct 4 until a geotechnical statement prepared by a suitably qualified geotechnical engineer has been prepared to the satisfaction of the responsible authority

The statement must confirm that the geotechnical condition of the filled area will support the type and scale of development proposed within the CDP for Precinct 4.

The statement must be accompanied by a peer review and supporting report from a suitably qualified and independent geotechnical engineer.

What will be critical in being able to satisfy the above requirement will be documentation that clearly demonstrates the backfilling has been undertaken in accordance with a comprehensive geotechnical framework including adherence to a detailed Earthworks Specification and compliance to a suitable monitoring and reporting program. The proposed section 173 agreement will assist in this regard, however it is noted that backfilling has already commenced without an agreement in place.

Given that geotechnical considerations are also relevant for land immediately adjacent to the quarry edge, it is recommended that the requirement for a geotechnical statement is triggered for proposals that are located adjacent to the filled land (e.g. within 30m of the quarry edge). To clearly show this in the CDZ schedule, a scaled diagram should be included clearly identifying the quarry edge together with, for example the 30m buffer. This modification is recommended to take into account any potential ground settlement impacts adjacent to the filled area that may occur outside of Precinct 4.

## 4. Transport

Council seeks a coordinated approach to the delivery of transport infrastructure required for this site. This includes ensuring all necessary upgrades to the surrounding transport network are identified and secured and commitments are made to deliver regional infrastructure projects that will improve public transport for new and existing residents. The arterial road network will also require upgrades to ensure it is capable of managing anticipated future traffic volumes.

Council has recently adopted a new Integrated Transport Strategy and it is pleasing to see the redevelopment of the quarry site as proposed provides a very realistic opportunity to develop a transit orientated development that prioritises public transport and active modes of transport. However it is the timely delivery of the necessary transport upgrades and infrastructure that will enable the vision of the CDP to be realised. Without this level of investment, the additional population and resultant traffic generation will significantly increase local congestion around Lilydale and Mooroolbark continuing a reliance on private motor vehicles and ultimately reducing the quality of life for new and existing residents.

Throughout the preparation of this amendment Council and the Department of Transport (DoT) have identified a number of transport related issues that require resolution. It is understood that DoT will be making a submission to the VPA and Council requests that these matters along with Council's identified transport issues are resolved prior to the Amendment being finalised.

### **North South Connector Road through Box Hill Institute**

The proposal involves the construction of the North South Boulevard Connector Street and round about intersection on Box Hill Institute land and Council land. It is not clear in the submitted documentation that an agreement between the proponent and Box Hill Institute to transfer land to facilitate this link has been finalised. The final location and design of the road will need to be to the satisfaction of Council and DoT. Once this has been agreed to, a formal agreement between Box Hill Institute, the proponent and Council will need to be entered into to secure the relevant land, access arrangements and timing of construction.

### **Traffic Investigations and proposed mitigation measures**

The proposed amendment has been informed by the preparation of an Integrated Transport Plan (ITP) and Traffic Impact Assessment (TIA). These investigations commenced a number of years ago and earlier versions were reviewed by Council assisted by transport consultants GTA, and detailed comments were provided to the proponent at the time. Feedback on these earlier reports was also provided by DoT. The latest versions of the ITP and TIA have incorporated some of this feedback including adopting agreed traffic generation rates for residential development.

Council officers assisted by transport consultants GTA have reviewed the latest transport reports and associated transport details of the Comprehensive Development Plan (CDP). A copy of GTA's Peer review is provided (Attachment 3 – Peer Review of Transport Related Matters). Council officers generally concur with the GTA analysis and recommendations. At a high level, the objectives and requirements of the CDP and proposed layout and road hierarchy are considered appropriate for the purposes of considering the Amendment, notwithstanding the uncertainty around the future train station and the need to review the proposed traffic mitigation measures.

Overall the proposed traffic generation levels and distribution patterns, with the exception of movement along John Street (as identified by GTA) and Hull Road (identified by Council traffic engineers) are considered reasonable for the purposes of assessing this proposal.

GTA has undertaken a review of the proposed mitigation measures and timing of delivery. The feedback confirms that for a number of intersections the proposed mitigation measures are considered to be inadequate and would result in unacceptable congestion and intersection delays. Significantly, GTA advise that the signalisation of Hutchinson St / Maroondah Hwy is critical.

Key surrounding external intersections that require further works and/or analysis include:

- Victoria Road / Maroondah Hwy/Mooroolbark Rd
- Mooroolbark Rd / Hull Rd
- Swansea Rd / Hull Rd
- Anderson St / Hardy St
- Maroondah Hwy / John St
- Hull Rd / Lakeside Drive (x2)
- Hutchinson St / Maroondah Hwy
- Hutchinson St / Lilydale Market Place
- Hutchinson St / Lilydale High School

GTA also advises that further operational analysis should be undertaken for the proposed new intersections (principally along Mooroolbark Rd) in order to coordinate cycle lengths with nearby external intersections.

When considering the principles of need, nexus and equity, all mitigation measures GTA and Council have identified including the signalling of the Maroondah Hwy / Hutchinson Street intersection should be fully funded by the development.

Council acknowledges that in some instances it may not be possible or desirable to provide mitigating works that will return intersections back to pre-development levels. However, as a principle Council concurs with GTA's conclusion that the measures should provide well functioning intersections that approach predevelopment levels if practical and feasible. It is not appropriate to design mitigation measures where an intersection will operate above its capacity leading to unacceptable queues and delays nor is it appropriate for the development to absorb unreasonable levels of existing capacity.

It is noted the submitted TIA assumes the signalisation of Maroondah Hwy and Hutchinson Street will be undertaken by Council. This is incorrect. The potential upgrade of this intersection was first identified in the Council's Lilydale Integrated

Transport Plan which was undertaken by GTA in 2014. The document did not specify who was responsible for implementing the various recommendations. What is clear is that the need to signalise this intersection is generated by the Lilydale Quarry development and will be an integral part of managing the substantial volumes of additional traffic utilising the proposed North South Boulevard Connector Street. A fully signalised intersection at Hutchinson St / Maroondah Hwy will provide a logical and direct route to the arterial network i.e. Maroondah Hwy. It will also reduce traffic volumes on both John and Hardy Streets and the new William St East and West / Maroondah Hwy signalised intersection, which will be installed by the Level Crossing Removal Project as part of the new Lilydale Railway Station Bus Interchange. With the new train station now to be located on the south side of Maroondah Hwy, the local road network west of Hutchinson Street will require a more pedestrianised focus.

GTA also note that further analysis should be provided within the TIA to justify the proposed timing of infrastructure mitigation measures proposed under the Approach to Development Contributions Report.

In consultation with DoT, Council is currently undertaking additional traffic modelling as part of its review of the current Lilydale Structure Plan. This modelling will take into account the latest transport reports prepared for Amendment C193 and also changes to the street network as a result of the Level Crossing Removal Project. The investigation will be finalised in the coming weeks and will assist in informing the preferred traffic mitigation measures for the quarry development to be secured through the Infrastructure Contributions Section 173 Agreement. It is requested that this traffic modelling work is completed before a decision is made regarding traffic mitigation measures.

### **Proposed Cave Hill Station**

The CDP identifies a new railway station within the middle of the Quarry site and this is seen as a key feature of the development which is strongly supported by Council's Integrated Transport Plan. It is also noted that the submitted TIA has discounted traffic generation on the assumption the train station will be available leading to higher levels of public transport usage than typically occurs in outer suburban areas. Higher density housing and a neighbourhood activity centre are envisaged around the new station precinct and the CDP earmarks in the order of 1,300 dwellings within this precinct alone.

It is disappointing that at this stage, there is no commitment from the State Government to deliver a new station and this has made it challenging to plan for the site based around a 'potential future train station'. Without certainty of the station it will be difficult to undertake further detailed planning for this precinct as the intended uses of higher density housing and a neighbourhood activity centre are reliant on the new station. In this regard a clear mechanism should be provided within the CDP and CDZ schedule and agreements put in place between the State Government and

landowner that secures sufficient land for the station and associated station car park and puts in place an agreed delivery time. In addition, further planning of Precinct 4 should only occur once it is confirmed the land is suitable from a geotechnical and environmental perspective for the use and scale of development intended, and that a future train station is confirmed. The CDP should clearly spell out the circumstances when a planning scheme amendment to modify the CDP would be required.

Given the importance of a future train station to realise the vision proposed under Amendment C193 and the need to improve public transport services generally in the area, this current VPA led process should facilitate a process that provides for the new station and coordinates its construction with the duplication of the train line from Mooroolbark to Lilydale with the concurrent upgrade of the Mooroolbark Rail Underpass.

### **Healesville Freeway Reservation (Healesville Arterial)**

The Amendment proposes an extension of the existing Public Acquisition Overlay 11 along the western side of the subject land for the purposes of upgrading Mooroolbark Road to future proof the strategic corridor known as the Healesville Freeway Reserve or Healesville Arterial. It is understood that in 2009, VicRoads undertook a strategic review of the Healesville Freeway Reservation and concluded the need to retain and secure land from Wantirna Road (within the vicinity of Eastlink) to the Maroondah Highway, Lilydale for future road purposes.

It is understood the extent of the proposed Public Acquisition Overlay is based on plans undertaken by AECOM, commissioned by VicRoads in 2014. This strategic corridor when constructed will alleviate congestion on Hull Road and other roads within Mooroolbark and adjoining Maroondah City Council and will provide an important transport corridor for the Bayswater Business Precinct, a major employment centre for outer eastern metropolitan Melbourne. The upgrade to Mooroolbark Road (and ultimately completion of Lilydale Bypass) will reduce the anticipated through traffic volumes along the new North South Boulevard Connector Street, which until these regional projects are undertaken will partly act as a default arterial road bringing significant volumes of traffic into the centre of Lilydale.

### **Active Modes of Transport**

Council is supportive of the network of shared trails, and provision of off-road cycling paths proposed throughout the development. The proposed cross-sections of the road categories are generally supported and will provide for a high level of amenity, future bus connections and provision for cycling and walking. To ensure appropriate minimum standards are provided, the CDP should specify a minimum shared path width of 3m and minimum footpath widths of 1.5m-1.8m.

It is also encouraging that the proponent is advancing a proposed bridge connection across the railway line at the southern part of the site which will improve east west connectivity and potentially ease congestion at the Mooroolbark Rail Underpass.

Additional pedestrian connections across the railway line at the new railway station and at the northern end of the site are also strongly supported.

### Access Proposal

The proposed road configuration identified in the CDP provides an acceptable access strategy. It is noted that access to the site from the north is limited on account of the future Lilydale Bypass reservation. Beyond enabling access to the sports grounds, all vehicular access from the north should be via the new North-South Boulevard Connector Street. While a permeable future bypass design should be pursued (i.e. a raised structure allowing free access and movement underneath) the Quarry access network should avoid any potential increase in through traffic along Cave Hill Road and other residential streets.

In relation to access during the construction period, it is preferable that the primary access for heavy vehicles should continue to be via the existing Quarry driveway avoiding any residential streets. Access to the western side should be facilitated by the early construction of the bridge across the railway line and be subject to approval of a construction management plan.

## 5. Infrastructure Contributions

It is proposed to manage infrastructure contributions including impact mitigation measures and community orientated infrastructure through a section 173 agreement under the *Planning and Environment Act 1987*. Earlier consideration was given to preparing a Development Contributions Plan (DCP) however a section 173 agreement approach was preferred for the following reasons:

- The land is in singular ownership;
- The majority of infrastructure that will be required can be categorised as either internal infrastructure that will be required to be delivered to meet the needs of the future community or external infrastructure that is required to mitigate the impacts of the development;
- The required infrastructure will be provided by the developer to the benefit of the project with no external apportionment;
- Given the direct nexus between the development and the infrastructure it is not necessary or appropriate for Council to assume responsibility for delivery of any infrastructure (with the exception of contributions towards community infrastructure external to the site);
- Land can be identified for vesting to Council without the need to value, or revalue, it;
- Detailed costings will not be required by Council – Council’s interest lies in the design and delivered standard and timing;

- The section 173 agreement will run with the land and bind any future owners to the requirements that are contained within the agreement; and
- Preparation of the section 173 agreement will simplify the process and enable any site specific issues to be addressed to the benefit of both parties.

It is also submitted that major infrastructure items including proposed bridges over the railway line, new intersections, intersection upgrades, the various stormwater treatment facilities and construction of the North South Boulevard Connector Street that involves significant land acquisition are all projects that are solely benefitting the development. If these projects were to be managed through a DCP, it would place unreasonable risk and liability onto Council to deliver these projects particularly in light of the uncertainty around the timing and scale of development.

At this stage the extent of infrastructure that will be required for the new development will require further discussion and resolution, and for a number of mitigation measures will also require agreement with DoT. From an assessment of the submitted Approach to Development Contributions Report, there are a number of matters that require further consideration. The key items include:

- Extent of mitigation measures proposed for the road network - Council has reviewed the proposed measures and has identified a number of inadequacies. Among these is the need for the proponent to provide a signalised intersection at Maroondah Hwy / Hutchinson Street (subject to DoT agreement). The full extent of road mitigation measures will need to be agreed to by Council and DoT before the draft amendment is finalised.
- The extent of public open space for active recreation - Currently a 6.77 Hectare site is allocated at the northern end for two ovals and ancillary activities. Council has sought advice from community infrastructure consultants ASR which has demonstrated that an area of at least eight (8) hectares is required.
- The active open space (two playing fields) will require a developer funded pavilion that has not been included in the proposed project descriptions prepared by the proponent. A description of Council's required standard is discussed under the section on Community Infrastructure.
- A community centre is proposed for the site and the final scope, location and land area requirements need to be resolved. The description provided in the submitted Approach to Development Contributions report is considered to be inadequate. This issue is discussed further under Community Infrastructure.
- A Government specialist school with an area of 1.9 hectares is nominated in the CDP. At this stage it is not clear at what stage the Department of Education and Training intends to acquire the site.
- Land for a future railway station and associated car parking will need to be secured.

Overall, further details around standard and timing of infrastructure will need to be provided on all agreed infrastructure items. A detailed infrastructure project schedule (detailing items, standards and timing) will need to be finalised and incorporated into the section 173 agreement managing infrastructure contributions.

### **Community infrastructure**

In relation to future community infrastructure, it is Council's view the proposed community centre and active recreation reserve descriptions will need to be reviewed. An analysis of community needs for the future development was undertaken by consultants ASR which recommends that these facilities should be upgraded to accommodate the needs generated by the new community. This analysis which includes a detailed description of the required community centre and active recreation reserve is provided in Attachment 4 – Community Centre and Active Recreation Precinct. It is submitted that the standards required by Council are consistent with typical standards required for developments of this scale. Council submits that the external apportionment attributed to the Community Centre expressed in the proponent's Development Contributions Report is flawed and the scale of community centre proposed should not be considered to be an 'over provision' by an estimated 36 per cent. Moreover, it is not appropriate to calculate an 'over-provision' of 0.4 kindergarten rooms on account of generating a demand of 1.66 kindergarten rooms. Put simply, you cannot construct 1.66 rooms.

It is also submitted that the Community Centre should be delivered earlier than proposed and to this end, two options each of 0.8 Hectares in area should be shown on the CDP;

- Option 1: Adjacent to the Government Specialist Education site and outside of the Quarry pit area (still within Precinct 4)
- Option 2: Within the Heritage Village (Precinct 2) with the potential to integrate with the future repurposed heritage buildings.

While it would be preferable to identify one location, at this stage inclusion of the two options will provide the required flexibility to determine the best location for the facility. A third option of locating a facility close to the future station and within the core retail area (Urban Core) was considered. However at this stage there is too much uncertainty to identify a location within the backfill area.

Some needs generated by the proposed community cannot be met on site such as library space, indoor sporting facilities, lawn bowls, aquatic facilities, etc. These needs have not been addressed in the Approach to Development Contributions report prepared on behalf of the proponent. To address this deficiency it is anticipated a financial contribution towards upgrading existing facilities and construction of new facilities within the Lilydale/Mooroolbark/Chirnside Park catchments is an appropriate mechanism to manage this generated demand. This contribution can be negotiated as part of the Infrastructure Contributions section 173

agreement. To assist this analysis, Council is currently investigating preparation of a municipal wide Development Contributions Plan (DCP) which will include projects to serve local, district and regional catchments. Lilydale is expected to increase in population significantly over the next 20 years (approx. by 87 per cent), due mainly to the Quarry development but also on account of continued urban consolidation within Lilydale and nearby suburbs. With the levels of anticipated population growth, there will be a need to improve and upgrade existing facilities as well as provide new facilities to cater for the extra demand. Given the broader nature of infrastructure projects that would be identified in a municipal wide DCP, compared to the infrastructure provision associated with the quarry site, it is expected that a future municipal wide DCP would also apply to the Quarry land.

While there are differences of opinion between Council and the proponent on the level of infrastructure contributions required, both parties are well progressed in preparing the section 173 agreement. Council and the proponent will continue negotiations on infrastructure contributions and it is submitted that this matter will need to be resolved and the section 173 agreement signed and executed before the Amendment is approved.

In relation to the existing contributions associated with the Stage 1 Development approved under Amendment C139, the proposed community contributions should be regarded as separate to the demand generated by this development. As the Approach to Development Contributions report states under section 3.2, "All technical reports were prepared on the basis that there would be in the order of 3,484 demand units (in the order of 3,052 dwellings). While the community needs analysis used a figure of 3,200 dwellings to estimate community needs, it did not consider the additional demands generated by non-residential development that will contribute to demands on many aspects of the community infrastructure. Regardless of whether Stage 1 contributions should be considered as part of this proposal, Council is seeking an appropriate response to infrastructure contributions that is appropriate to the scale of development proposed.

## 6. Proposed Planning Framework

### Comprehensive Development Plan

The key planning controls includes the Comprehensive Development Zone and Schedule (CDZ1) supported by an Incorporated Document, the *Former Lilydale Quarry Comprehensive Development Plan* (CDP). The CDP provides high level guidance for the future use and development of the site as well as identifying major transport routes, key open space, drainage reserves and required infrastructure. Since Council considered the draft Amendment in September 2020, the CDP has been modified to include additional detail and now provides:

- Guidance on built form showing preferred building heights and key interface treatments.
- An indicative land budget indicating yields for residential and non - residential uses for each precinct; and
- Proposed cross sections for street categories identified in the CDP.

These changes are generally supported and provide an improved level of detail for how the site is proposed to be developed. However, the CDP and CDZ acknowledge that additional investigations will need to be undertaken before development can occur. As a principle it is Council's strong preference that additional investigations are undertaken as part of the preparation of the CDP rather than being deferred. This is particularly important for management of stormwater where the CDP has detailed the location and land area for retarding basins/wetlands which is currently based on a stormwater strategy which Council has concerns with. This issue will be expanded in the section under Stormwater Management. Similarly, it is preferable that an Aboriginal Cultural Values Assessment is undertaken to inform the CDP rather than be deferred and considered under individual precincts.

In relation to the proposed indicative yields (residential and non-residential uses), it is recommended the CDP provide clearer guidance. Currently the CDP provides Guideline G1 which states "*The indicative yield for residential and non-residential uses for each precinct are outlined in tables 1 to 4.*" However tables 1-4 do not refer to land uses, and it is most likely this is an error and the guideline should be referring to Appendix B - Precinct Yield Table. While this table provides some information on anticipated yields, it is recommended that non-residential uses are clarified and described in more detail for each Precinct. This would include providing indicative estimates for the various key land use terms consistent with the Planning Scheme definitions. This will reduce ambiguity that currently exists and will assist in determining whether a permit application is 'generally consistent' with the CDP.

It is also recommended that the precinct yield table with proposed residential and non-residential yields be made more prominent in the CDP and not as an Appendix.

### **Comprehensive Development Zone**

In a previous version of the CDZ schedule (considered by Council on 8 September 2020), the additional investigations required prior to the granting of permits were to be undertaken as part of preparing Precinct Plans that required approval by the responsible authority before permits could be granted. The current proposed CDZ schedule requires similar investigations to be undertaken but has eliminated the second step of requiring approval of Precinct Plans that would have involved a public consultation phase, similar to exhibiting a development plan under a Development Plan Overlay.

Providing there is sufficient detail within the CDP that clearly shows how the site will be developed into the future, which should include identifying and quantifying key

land uses, design elements, open space, community facilities, built form, transport connections, street cross sections, parking, and estimated land use yields per precincts, the removal of this second approval process may be acceptable. Without a detailed CDP in place however, a secondary approval process involving public consultation should be required.

Given the ambiguity around proposed uses within the current version of the CDP, Council is concerned about the broad exemptions from notice and review proposed in the CDZ schedule. Providing additional detail in the CDP particularly for non-residential uses as outlined earlier will reduce this concern.

Council is supportive of the inclusion of further conditions on Industry and Warehouse uses within the CDZ schedule specifying uses must not be a purpose listed in the table to Clause 53.10.

Council is also generally supportive of inclusion of the ability to develop lots less than 300sqm under the Small Lot Housing Code. This will encourage provision of smaller dwellings although it is understood that a significant portion of dwellings are envisaged to be medium density products.

The CDP identifies a future highway frontage commercial/mixed use area on the corner of Maroondah Hwy and Mooroolbark Road. Council is concerned that this is an inappropriate location for the kind of commercial development that would be allowed under the CDZ schedule. Development of retail and commercial uses in this location is considered to be contrary to Council's activity centre policies of encouraging retail and commercial activity within identified activity centres. Clause 22.07 *Lilydale Activity Centre* seeks to consolidate commercial activity within the town centre and established commercial zones. It is also understood that DoT has expressed concerns about potential access arrangements at this location given its close proximity to the proposed Lilydale Bypass, steep topography and the existing intersection of Maroondah Hwy and Mooroolbark Road.

## 7. Affordable Housing

Council recognises the importance and opportunity the redevelopment of the Lilydale Quarry represents in terms of contributing towards providing well located and suitable affordable housing within Yarra Ranges and indeed the outer eastern metropolitan area. The scale of the quarry redevelopment together with its location adjacent to the Lilydale Activity Centre and the expectations under the *Planning and Environment* 1987 represents a once in a lifetime opportunity to secure a meaningful affordable housing outcome.

With the recent announcement by the Victorian Government to deliver \$5.3 billion towards construction of social housing over the next four years, there is a significant opportunity for the proponent to partner with the new Government agency *Housing Victoria* to deliver some of the 12,000 new homes that will be provided as part of this initiative.

Council is encouraged to see the proponent has prepared a proposed affordable housing proposition to deliver a quantum of affordable housing outcomes, and while not guaranteed in the CDZ schedule, it provides a starting point to enter into negotiation with the proponent. Based on the findings of recent research prepared for Council, Council submits that the contribution towards meeting the needs of Very Low and Low Income households is not adequate under this proposition and this component should be increased.

The proponent is proposing a five (5) per cent affordable housing contribution (approx. 160 dwellings that are to be made affordable) made up of:

- Twenty eight (28) one bedroom units dedicated for social housing.
- Offering forty (40) one and two bedroom units to a Registered Housing Provider at a discounted rate (e.g. 25% discount) to be used for rental purposes or if this cannot be realised providing the equivalent value of the discount as a contribution towards affordable housing outcomes.
- Providing sixty-five (65) units that are within the affordable price points for moderate income households as defined under the *Planning and Environment Act 1987*.
- Providing thirty (30) units at affordable price points for “key workers” which are likely to fall into the moderate income household bracket.

While the provision of affordable housing is made on a voluntary basis, it is Council’s view that in order to satisfy the Minister for Planning’s requirements under the Ministerial Notice of June 2018, the proportion of housing that is to be secured for Very Low to Low Income households should be at least five (5) per cent.

This position is based on the findings of research undertaken by Affordable Development Outcomes, a consultancy commissioned by Council as part of the State Government’s Affordable Housing Grants Program that was established to assist Councils in negotiating appropriate affordable housing contributions when considering planning proposals. A Background report “*Yarra Ranges Affordable Housing Background Report (June 2019)*” identifies a significant shortfall of public/social housing in Yarra Ranges, with an estimated 2016 Affordable Housing Supply gap of 1,839 dwellings, increasing to 2,237 dwellings by 2036. This is the estimated gap of dwellings that is required to respond to the housing needs of Very Low and Low Income households and is therefore best delivered as Social Housing or Community Housing. The report also identifies that one and two bedroom dwellings are the priority built form to meet the unmet and forecast Affordable

Housing need and that a percentage of Affordable Housing should be accessible and incorporate adaptable design to allow for changing household requirements.

In addition to the Background Report, Affordable Development Outcomes has also prepared specific advice focusing on the Lilydale Quarry development. In this report a series of Guiding Principles are set out as well as a proposed Affordable Housing Outcome. The recommendation from Affordable Development Outcomes is the delivery of eight (8) per cent Affordable Housing comprising of:

- A minimum five (5) per cent Social Housing or other forms of Affordable Rental Housing to be owned and managed by a Registered Housing Agency; and
- A three (3) per cent other Affordable Housing component, which may be delivered as additional Social Housing, Affordable Rental Housing or Affordable Home Purchase (such as shared equity home ownership).

Given that a component of housing that will be developed on the site is likely to be affordable (both purchase price or rental) under the 'Moderate Income Households' definition and that the proposal is seeking to include a significant proportion of smaller dwellings, Council's focus is towards addressing the needs of the Very Low and Low Income household groups.

It is Council's position that the proportion of housing delivered as Social Housing or other forms of Affordable Rental Housing that is owned and managed by a Registered Housing Agency should be at five (5) per cent. This level of Social Housing together with a proportion of dwellings aimed at Moderate Income Households would provide an appropriate Affordable Housing outcome as part of this rezoning proposal and is consistent with the recommendations made by Affordable Development Outcomes and expectations established under the *Planning and Environment Act 1987* and State Government policies.

To provide an appropriate and transparent planning framework to manage Affordable Housing, it is recommended that the arrangement is secured within the Schedule to the CDZ as well as in a section 173 Agreement made between Council and the landowner. Currently the schedule to the CDZ does not provide any guarantee to deliver specific affordable housing outcomes and a section 173 agreement has not been signed. To this end, the wording of the CDZ Schedule and Section 173 agreement should detail exactly how affordable housing will be delivered. This could include a combination of approaches including:

- Gifting of completed dwellings to a Registered Housing Agency;
- Sale of completed dwellings to a Registered Housing Agency;
- Gifting of land to a Registered Housing Agency to then develop as Affordable Housing; and/or
- Sale of dwellings to nominated Eligible Purchasers under a Shared Equity or other appropriate Affordable Home Purchase arrangement.

It is recommended that discussions are held with the community housing sector, Department of Health and Human Services (DHHS), Housing Victoria, VPA, Council and the proponent in order to reach a satisfactory Affordable Housing outcome that responds to the housing needs identified in the Council research with a particular focus on the shortfall of housing for Very Low and Low Income households.

A copy of the Yarra Ranges Affordable Housing Background Report and Lilydale Quarry Affordable Housing Strategy are provided in Attachment 5 and 6 respectively.

## 8. Cultural Heritage

Council recognises the significant Aboriginal cultural heritage values, both tangible and intangible associated with the former Lilydale Quarry site. Council also acknowledges the significant European heritage and the role of Lilydale Quarry as a major source of limestone in Victoria dating back to 1878 and its association with prominent public figure David Mitchell. The proposed approach of the CDP to establish a Heritage Interpretation Strategy that builds on existing knowledge and set up a process to ensure the site's heritage significance (both Aboriginal and European cultural heritage) will be integrated and celebrated into the new development is supported. In addition, Council welcomes the provisions in the CDZ schedule to require Heritage Interpretation Plans for each precinct.

It is however recommended that these investigations are undertaken ahead of finalising the CDP so that key issues, directions and outcomes are considered in the CDP. This would include preparation of an Aboriginal Cultural Values Assessment to ensure Aboriginal heritage is considered from the outset in the design and planning of the site and throughout subsequent approval processes.

The existing heritage buildings and remnant industrial structures provide a significant opportunity to integrate and repurpose many of these significant heritage places into the new urban environment. While the planning controls establish a framework for future work as part of the redevelopment, Council is concerned that there is a very real risk that many parts of the significant heritage structures including the Limestone Processing Precinct that includes kilns and a tunnel could be left without any prospect for restoration and adaptive repurposing. Council is seeking more commitment by the proponent at the amendment stage and involvement of Heritage Victoria to secure and document in the CDP the expectations and ability of how significant heritage buildings and structures can and will be restored and where possible repurposed. Unfortunately there are many examples of redevelopment sites that have failed to protect and integrate existing heritage structures as part of the new development and as a consequence are left derelict and ultimately lost. In this regard it is suggested that a flexible approach be adopted by Heritage Victoria in

assessing future approvals under the *Heritage Act 2017* and that adaptive uses for the buildings, spaces and structures are encouraged and facilitated.

The northern part of the site including the quarry pit is listed under the Victorian Heritage Register (shown as HO201) and future development in this area will require a permit under the *Heritage Act 2017*. The proposed Heritage Village Precinct includes provision for two playing fields which will require modifications to the existing oval and Eastern Driveway, which is specifically mentioned in the Heritage Statement of Significance. Council is supportive of the proposal to extend the existing oval to make it competition size and create a second oval immediately adjacent to the larger oval. While the concept will alter the existing oval and necessitate removal of part of the Eastern Driveway, the two oval concept along with netball facilities and pavilion will establish a model active sports precinct for the new community. From a heritage perspective it is considered this is an appropriate response and maintains a connection to the original purpose of this part of the quarry site which provided social recreation for the quarry employees and their families. This precinct will also seek to protect, repurpose and integrate important heritage buildings and remnant structures into the new urban setting.

Initial feedback from Heritage Victoria indicated concerns with the proposed concept of increasing the size of the oval and it is Council's preference that this issue is resolved before the amendment is finalised as it has significant implications on the overall open space strategy for the site.

The proponent is also requesting the removal of the quarry pit from HO201. Council is supportive of this request providing the heritage features associated with the northern escarpment are protected. It is understood that a permit under the *Heritage Act 2017* has been issued enabling the backfilling of the quarry pit.

## 9. Stormwater Management

From the submitted stormwater strategy, the proposal is an unusual approach to managing stormwater by not providing stormwater attenuation for the two Melbourne Water catchments and relying on Lillydale Lake and Melba Drain/Olinda Creek to receive un-attenuated stormwater runoff. This has implications for the overall design and land area of the two main retarding basins/wetlands shown in the CDP. It is acknowledged that the proponent has adjusted their original concept to enable an expansion of the northern active recreation area to accommodate two sporting ovals by relocating a wetland onto Council land. In principle this concept is supported by Council but will require further investigations and involvement of Melbourne Water for it to be endorsed. It is also possible that alternative options can be considered that avoids the need for large conventional end of line treatment facilities.

The CDZ Schedule will require more detailed investigations for each Precinct before permits can be granted. However, it is Council's strong preference that a range of critical investigations are undertaken now prior to finalising the amendment and CDP which can then provide greater clarity. Key areas include:

- Confirmation from Melbourne Water the proposed retardation of stormwater from the development into Lillydale Lake and Melba Drain/Olinda Creek without attenuation on site is acceptable;
- Confirmation that the proposed stormwater facility on the Council owned land is feasible and acceptable to Council and to Melbourne Water; and
- Confirmation of ownership and management arrangements for the stormwater treatment facilities.

Three stormwater treatment areas (wetlands/sediment retarding basins) are proposed within the quarry land (includes Phase 1 land) and one is proposed on Council land abutting the Lillydale Lake Reserve and Box Hill Institute. The proposal to use the Council land for a wetland has been discussed with Council officers at a preliminary level and if feasible will enable a larger sporting precinct than would otherwise be achieved within the Heritage Village Precinct. More detailed investigations are required to demonstrate the viability of this option before the Amendment can be finalised.

To manage stormwater from the development a 35 metre wide overland flow path from the quarry site into Lillydale Lake is proposed. This involves land acquisition from Box Hill Institute and permission from Council and Melbourne Water. At this stage it is unclear if Box Hill Institute is supportive of this proposal and confirmation of this arrangement will need to be provided before the Amendment is progressed. It is also recommended that options to 'naturalise' this overland flow path be explored and measures to minimise amenity impacts at the Lillydale Lake Reserve are agreed to.

Prior to the VPA taking over the amendment process under the Government's Fast Track Program, Council received feedback from Melbourne Water (MW) on the draft amendment. Key issues raised by MW included concerns about the impact on the Lillydale Retarding Basin (flood level) and confirmation was sought that the proposed development will not lead to an increase in the downstream flow of Olinda Creek. MW also sought further details on the feasibility of the proposed wetland located within the Lillydale Lake Reserve and also queried the reasons for not attenuating stormwater within the development site as is normally expected.

It is noted the amendment documentation does not clarify the ownership and maintenance responsibilities for stormwater treatment facilities. Contrary to MW's position, it is Council's view that the stormwater facilities serving the Melba Ave Drain Catchment and the Lillydale Lake Retarding Basin should be owned and

managed by Melbourne Water. Council accepts responsibility for the Mooroolbark Drain Catchment.

Council's drainage engineers have reviewed the submitted documentation and these additional comments are provided under Attachment 7 – Stormwater Strategy Additional Comments. It is requested that the matters raised are resolved through further discussions with the proponent and Melbourne Water before the amendment is progressed.

## 10. Sustainability

Council has a long commitment to driving and encouraging sustainability and addressing climate change. Council's recently endorsed Liveable Climate Plan 2020-2030 outlines an organisational commitment to achieving Net zero emissions by 2040. Council is also seeking to introduce a Local Planning Policy through Amendment C148 that seeks to embed sustainability initiatives as part of the planning approval process.

The inclusion of Sustainable principles and a Sustainability Framework in the Comprehensive Development Plan (CDP) is supported. The CDP promotes many best practice approaches including provision of new public transport, a network of shared paths, Water Sensitive Urban Design requirements as well as providing significant areas of public open space. Further initiatives and requirements will be provided through Precinct Sustainability Management Plans that are required for each precinct before permits can be granted. The Sustainability Framework referenced in the CDP and the Schedule to the Comprehensive Development Zone do not specify a minimum certification level leaving this to the Precinct Sustainability Management Plans. While it is acknowledged sustainability is dynamic and continues to evolve, it is recommended a minimum standard of certification is specified in the Sustainability Framework and this be reflected in the CDP. This could include a minimum Green Star rating of at least 5-6 or equivalent standard. This will establish an exemplary benchmark avoiding potential disagreement when the Precinct Sustainability Management Plans are submitted for approval under the CDZ.

## Attachments