

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

**Victorian Planning Authority Standing Advisory Committee  
Referral 5 Report**

*Planning and Environment Act 1987*

**15 July 2021**

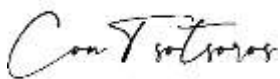
---

*Planning and Environment Act 1987*

Victorian Planning Authority Standing Advisory Committee  
Referral 5 Report pursuant to section 151 of the PE Act

Draft Yarra Ranges Planning Scheme Amendment C193

**15 July 2021**



Con Tsotsoros, Chair



Kate Partenio, Member



John Hartigan, Member

# Contents

	<b>Page</b>
<b>1 Introduction.....</b>	<b>1</b>
1.1 The Amendment.....	1
1.2 Background .....	5
1.3 Procedural issue.....	6
1.4 Summary of issues raised in submissions .....	6
1.5 The Committee’s approach .....	6
<b>2 Planning context.....</b>	<b>8</b>
2.1 Planning policy framework.....	8
2.2 Plan Melbourne .....	10
2.3 Planning scheme provisions .....	11
2.4 Ministerial Directions and Practice Notes.....	11
2.5 Strategic justification .....	12
<b>3 Overarching issues.....</b>	<b>15</b>
3.1 Infrastructure contributions.....	15
3.2 Section 173 agreement timing .....	17
3.3 Precinct plans .....	19
<b>4 Heritage .....</b>	<b>21</b>
4.1 Background .....	21
4.2 Aboriginal cultural heritage .....	22
4.3 Heritage conservation management .....	23
<b>5 Environmental issues .....</b>	<b>26</b>
5.1 Geotechnical management .....	26
5.2 Potential land contamination.....	30
5.3 Bushfire management .....	31
5.4 Interfaces and buffers .....	35
5.5 Vegetation .....	37
<b>6 Use, development, design and housing .....</b>	<b>39</b>
6.1 Highway frontage commercial/mixed use area .....	39
6.2 Built form and character .....	40
6.3 Affordable housing .....	42
6.4 Urban design and walkability .....	46
6.5 Infrastructure project triggers.....	47
<b>7 Open space and infrastructure.....</b>	<b>49</b>
7.1 Public open space .....	49
7.2 Education and community facilities .....	54
7.3 Integrated water management and stormwater .....	58

<b>8</b>	<b>Transport and movement .....</b>	<b>61</b>
8.1	Relevant policies, strategies and studies .....	61
8.2	Uncommitted potential train station .....	64
8.3	Bridges over the railway line .....	71
8.4	Road network capacity .....	74
8.5	Maroondah Highway intersections with Hutchinson Street and John Street .....	79
8.6	Mooroolbark Road and Hull Road intersection and bridge widening (DI-RD-07a and DI-RD-07b) .....	81
8.7	Maroondah Highway commercial frontage access .....	84
8.8	Taylor Street access .....	85
8.9	North South Connector Road and transport infrastructure on the Box Hill Institute land .....	87
8.10	Cycling network .....	90
8.11	Public Acquisition Overlay .....	91
<b>9</b>	<b>Statutory processes .....</b>	<b>93</b>
9.1	Third party notice and review .....	93
9.2	Planning provision discretion and landowner review .....	94
<b>10</b>	<b>Form and content of the Amendment.....</b>	<b>97</b>
10.1	Comprehensive Development Zone Schedule 1.....	97
10.2	Comprehensive Development Plan.....	99
<b>Appendix A</b>	<b>Terms of Reference</b>	
<b>Appendix B</b>	<b>Letter of referral</b>	
<b>Appendix C</b>	<b>Submitters to the Amendment</b>	
<b>Appendix D</b>	<b>Document list</b>	
<b>Appendix E</b>	<b>Committee recommended CDZ1</b>	
<b>Appendix F</b>	<b>Outline of Committee recommended changes to the Comprehensive Development Plan</b>	

## List of Tables

	Page	
Table 1	Relevant zone and overlay purposes .....	11
Table 2	Views on when the section 173 agreements should be entered into.....	18

## List of Figures

	Page
Figure 1 Subject land .....	1
Figure 2 Exhibited CDZ1 Map 1: Framework Plan .....	3
Figure 3 Urban design masterplan .....	5
Figure 4 Exhibited Environmental Audit Overlay .....	30
Figure 5 Bushfire Prone Areas and Bushfire Management Overlay .....	33
Figure 6 CDP: Built form and urban design plan .....	41
Figure 7 Public Acquisition Overlays.....	63
Figure 8 Lilydale Quarry - Urban Design Report: Urban Design Masterplan - Place Activation.....	65

## Glossary and abbreviations

CDP	Lilydale Quarry Comprehensive Development Plan
CDZ	Comprehensive Development Zone
CFA	Country Fire Authority
the Committee	VPA Projects Standing Advisory Committee
Conservation Management Plan	Conservation and Management Plan 2015
DELWP	Department of Environment, Land, Water and Planning
DET	Department of Education and Training
DoS	Degree of saturation
DoT	Department of Transport
EPA	Environment Protection Authority
Head TfV	Head, Transport for Victoria
PAO	Public Acquisition Overlay
PE Act	<i>Planning and Environment Act 1987</i>
Plan Melbourne	<i>Plan Melbourne 2017-2050: Metropolitan Planning Strategy</i>
VCAT	Victorian Civil and Administrative Tribunal
VPA	Victorian Planning Authority
Yarra Ranges Council	Yarra Ranges Shire Council

Note: Any number following a zone or overlay refers to a schedule number or map code

## Overview

Amendment summary	
The Amendment	Draft Yarra Ranges Planning Scheme Amendment C193
Common name	Former Lilydale Quarry Comprehensive Development Plan
Brief description	<p>The Amendment:</p> <ul style="list-style-type: none"> <li>- incorporates the Former Lilydale Quarry Comprehensive Development Plan into the Yarra Ranges Planning Scheme</li> <li>- rezones the subject land from Special Use Zone Schedule 1 to the Comprehensive Development Zone Schedule 1 to facilitate the development of predominately residential use with commercial, retail and other uses</li> </ul>
Subject land	Former Lilydale Quarry, 4 Melba Avenue, Lilydale (see Figure 1)
The Proponent	HBI Lilydale Pty Ltd
Council	Yarra Ranges Shire Council
Exhibition	13 November to 18 December 2020
Submissions	57 received from submitters shown in Appendix C

## Committee process

The Committee	Sarah Carlisle (Chair for the Directions Hearing), Con Tsotsoros (Chair), Kate Partenio, John Hartigan
Project Officer	Tom Milverton
Directions Hearing	By video conference, 22 April 2021
Committee Hearing	By video conference, 31 May and 1, 2, 3, 4, 7, 8, 9 and 10 June 2021
Site inspections	Partly accompanied, 20 May 2021
Parties to the Hearing	<p>Victorian Planning Authority represented by John Rantino of Maddocks  HBI Lilydale Pty Ltd represented by Nick Tweedie SC of Counsel, assisted by Norton Rose Fulbright, called evidence on:</p> <ul style="list-style-type: none"> <li>- geotechnical engineering from Roger Olds of Tonkin and Taylor</li> <li>- heritage from Peter Lovell of Lovell Chen</li> <li>- traffic from Jason Walsh of Traffix</li> <li>- urban design from Craig Czarny of Hansen Partnership</li> </ul> <p>Yarra Ranges Council represented by Andrew Sherman of Russell Kennedy Lawyers, called evidence on:</p> <ul style="list-style-type: none"> <li>- affordable housing from Kate Breen of Affordable Development Outcomes</li> <li>- community infrastructure from Robert Panozzo of ASR Research Pty Ltd</li> <li>- planning from Chris De Silva of Mesh Planning</li> <li>- traffic from Chris Coath of GTA Consultants</li> </ul> <p>Country Fire Authority represented by Tammy Garret  Department of Transport represented by Kate Morris of Harwood Andrews, called evidence on:</p> <ul style="list-style-type: none"> <li>- planning from Rob Milner of Kinetica</li> </ul>
Citation	VPA Projects SAC Referral 5 – Former Lilydale Quarry [2021] PPV
Date of this report	15 July 2021

## Executive summary

The subject land at 4 Melba Avenue, Lilydale comprises 143.8 hectares and is bounded by Mooroolbark Road, Maroondah Highway, Melba Avenue, industrial uses, Box Hill Institute and residential uses. It is located 750 metres south of Lilydale Major Activity Centre and 1 kilometre to Lilydale Train Station. Its elevation provides it with panoramic views of the Dandenong Ranges from many different vantage points.

The subject land originally formed part of a larger mixed use farm known as 'Cave Hill'. It was later used for quarrying from 1878 to the 1960s. By 1887, the quarry had 70 employees with a network of kilns operating day and night throughout the week. Quarry-related overburden was retained on-site. The proposed Hawthorn to Lilydale railway line was realigned to go through the subject land west of the quarry to support its expanding operations.

The 25-hectare quarry pit is currently being filled with overburden which was retained on the subject land during the excavation phase.

Places Victoria purchased the subject land during the final phase of the quarry's operation and started preparing plans for its future development. During that time, the Minister for Planning approved changes to the Yarra Ranges Planning Scheme (Planning Scheme) to enable residential development on the southern part of the subject land. This development, otherwise referred to as the Stage 1 subdivision, is currently being constructed.

Places Victoria sold the land to HBI Lilydale Pty Ltd in 2017.

HBI Lilydale submitted a draft amendment to Yarra Ranges Council in April 2020, however the Minister for Planning redirected the process to the Victorian Planning Authority. Draft Yarra Ranges Planning Scheme Amendment C193 (the Amendment) seeks to introduce planning provisions which would enable the subject land to develop with predominately residential use supported by commercial, retail and other land uses. Specifically, it proposes to, among other things:

- rezone the subject land to a new Comprehensive Development Zone Schedule 1 (CDZ1)
- incorporate the Comprehensive Development Plan into the Planning Scheme
- introduce Clause 22.13 (Former Lilydale Quarry) to require use and development to be generally consistent with the Lilydale Quarry Comprehensive Development Plan.

Victorian Planning Authority informally exhibited the Amendment over five weeks in November and December 2020 and received 57 submissions. Key issues raised in submissions include built form and density, bushfire management, education and community facilities, heritage, land use and buffers, open space, potential land contamination, precinct infrastructure, transport and movement, urban design, and vegetation.

The Minister for Planning referred the Amendment to the Victorian Planning Authority Projects Standing Advisory Committee (the Committee) on 23 March 2021. The Minister appointed the Committee in July 2020 to provide advice on referred matters by himself and the Victorian Planning Authority.

Six of the 57 submitters appeared at the Hearing conducted by video conference over nine days from 31 May to 10 June 2021. Collectively, three of the parties called 10 expert witnesses. The Committee considered all submissions and the large volume of material provided, regardless of whether they are mentioned in the Report.



## **Strategic justification**

The Amendment is strategically justified, supported by, and implements, the relevant sections of the Planning Policy Framework. It is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment will deliver net community benefit and sustainable development, as required by Clause 71.02-3 of the Planning Scheme. It should progress to be prepared subject to addressing the more specific issues raised in submissions discussed in this report.

## **Overarching issues**

Section 173 agreements are appropriate as a mechanism for delivering infrastructure. The developer:

- should be required to contribute towards infrastructure based on demand generated by development on the subject land
- should not be required to contribute to infrastructure for existing and future demand generated outside the subject land.

The proposed section 173 agreements, except for the affordable housing agreement, should be entered into at the time specified in the exhibited Comprehensive Development Zone Schedule 1. The affordable housing section 173 agreement should be entered into before a permit is granted to subdivide land or construct a building or construct and carry out works in any precinct.

Precinct plans should not be required for each proposed precinct and are not appropriate for the Comprehensive Development Zone.

## **Heritage**

The Amendment appropriately responds to heritage, including Aboriginal cultural heritage, in the Comprehensive Development Zone Schedule 1 provisions and the Comprehensive Development Plan guidelines and requirements. No further changes are required.

It is not appropriate for the Committee to comment on matters of state heritage which Heritage Victoria will consider through a future application process when detailed designs are known. HBI Lilydale should follow Heritage Victoria's preliminary comments to support any future application. The Amendment should not delete part of the Heritage Overlay (HO201) from the subject land.

## **Geotechnical management**

The Amendment provides an appropriate geotechnical management framework for designing, implementing and backfilling the quarry and subsequent monitoring of the rehabilitated quarry area. There is some uncertainty regarding settlement, differential settlement and groundwater saturation in the filled quarry area that will need to be monitored for some time after the fill operations are completed to confirm that the filled land is suitable for development.

Comprehensive Development Zone Schedule 1 would benefit from changes at Clauses 3.0 (Subdivision) and 4.0 (Buildings and works) which clarify requirements for the Geotechnical Statement – Precinct 4 and specify the details needed for the geotechnical section 173 agreement. The geotechnical section 173 agreement should specify which party will be responsible for the ongoing operation of the groundwater dewatering system, if needed.

## **Potential land contamination**

The Amendment has appropriately considered potential land contamination. The provisions in Comprehensive Development Zone Schedule 1 headed 'Environmental Audit – All land to east of

the Lilydale-Melbourne railway line' should be corrected to refer to the Environmental Audit Overlay rather than the *Environment Protection Act 1970*.

### **Bushfire management**

The Amendment has appropriately considered bushfire management through Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan. Section 4.8 of the Comprehensive Development Plan should require roads for the purposes of emergency access to be constructed before any other development commences.

The Bushfire Site Management Plan should apply to all the subject land, consistent with the Comprehensive Development Zone Schedule 1 application requirements.

The Bushfire Management Overlay should be reviewed through a separate process when development on the subject land reduces the extent of vegetation.

### **Interfaces, buffers and vegetation**

The Comprehensive Development Plan has appropriately responded to the sensitive interface between future development on the subject land and the Box Hill Institute and existing residential areas to the east and south. Referencing the Box Hill Institute Masterplan in Table 3 will ensure a coordinated interface response between the subject land and Box Hill Institute.

The proposed planning provisions, including the need to maintain the buffer area, apply irrespective of ownership. Whether the 10 metre tree retention buffer zone should remain in private ownership is not a planning matter.

The Amendment has appropriately considered the removal of existing trees on the subject land which buffer the surrounding residential areas from the quarry's operations.

### **Use, development, design and housing**

There should be no commercial/mixed use area on the corner of Maroondah Highway and Mooroolbark Road in Precinct 1.

#### *Built form and character*

The subject land's 143.8 hectare area justifies its own character. The proposed planning provisions will enable development which responds appropriately to neighbourhood character sought through planning policy for the existing surrounding areas.

#### *Affordable housing*

Comprehensive Development Zone Schedule 1 should require the landowner to enter into a section 173 agreement which specifies that affordable dwellings or land lots for constructing affordable dwellings equal to 5 per cent of the total number of dwellings in Precincts 1, 2, 3 and 4 must be provided.

The proportion of social housing, income ranges, and location of housing should be determined through the affordable housing delivery strategy which will inform the section 173 agreement process.

#### *Urban design and walkability*

The relevant infrastructure should be operational at appropriate times to enable the subject land to achieve walkability, including the 20-minute neighbourhood, across its 20-year development phase.

*Project delivery triggers*

The project delivery triggers in the Comprehensive Development Plan based on the degree of saturation, number of residents, or broadly defined staging are unclear, would be difficult to implement and may result in unintended consequences. Unless recommended otherwise, the triggers should be revised to specify the number of dwellings in one or more precincts, and to identify who will be responsible for their delivery.

**Open space and infrastructure***Public open space*

The overall provision of open space of 11.9 per cent of net developable area is appropriate and justified. The area of active open space should be determined based on need generated by the proposed development. It is appropriate to require a full scale and junior sized oval.

The active open space area should be what is sufficient to accommodate the two ovals, basketball/netball courts, car parking and sports pavilion up to a maximum of 8 hectares. The facilities in the sports pavilion should be agreed between Yarra Ranges Shire Council and HBI Lilydale and included in the infrastructure contributions section 173 agreement.

Consideration should be given to adding to the Comprehensive Development Plan a contingency provision to require delivery of the active open space at an alternative location agreed between Yarra Ranges Council and HBI Lilydale should the application to Heritage Victoria be unsuccessful.

The land budget should not remove the rail trail area from the unencumbered public open space contribution. The area proposed for the Escarpment Park should be reviewed to ensure it includes only unencumbered land.

The trigger for providing the active open space reserve (DI-OS-01) should be:

- brought forward to an equivalent of the 4,000<sup>th</sup> resident (50 per cent of stages 1 and 2 of the development)
- translated into the corresponding number of dwellings rather than the number of residents.

The discrepancy in open space land areas between CDP Table 1 (Open Space Hierarchy) and Appendix A – Land Budget should be rectified.

*Education and community facilities*

The 1.9-hectare size and indicative location of the government Special School in the exhibited and Day 1 versions of the Comprehensive Development Plan are appropriate.

There is no strategic justification to specify a land area requirement of 0.8 hectares for the community centre (DI-CF-01) and a lesser area may be suitable. There is also no justification to locate an aquatic centre on the subject land.

The Comprehensive Development Plan should:

- identify alternative uses and development for the government Specialist School site to avoid a future planning scheme amendment if the school is no longer needed in the future
- allow flexibility in the multi-purpose community centre design by specifying the facilities needed but not specifying its land area and built form.

### *Integrated water management and stormwater*

The Comprehensive Development Plan has appropriately considered integrated water management and stormwater and would benefit from minor refinements. It generally allows sufficient flexibility on the area and design of the proposed drainage assets through the notes to Table 2 (Stormwater drainage retardation basins and wetlands infrastructure). However, Note 2 would benefit from noting that the locations and areas of the drainage assets will be subject to review and refinement during the design and approval phases.

The Comprehensive Development Plan should not require Council to provide its land at no cost to the developer for delivering DI-DR-01 drainage assets. Rather, the developer should obtain agreement from Council before delivering the drainage assets on Council land. It should also allow for an alternative location in case the drainage works cannot be delivered on Council land.

### **Transport and movement**

#### *Uncommitted potential train station*

The creation of a transit oriented development is an appropriate aspirational outcome to include in Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan. Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan should:

- refer to an 'uncommitted potential train station' rather than all other references
- be revised in the future through a separate process if Head, Transport for Victoria confirms that no train station will be provided or if there is no confirmation for a train station when a permit is needed for Precinct 4.

Comprehensive Development Zone Schedule 1 should prohibit a permit for Precinct 4 until Head, Transport for Victoria has confirmed its decision on a train station. Track duplication and commuter car parking at existing train stations are outside the scope of the Amendment. That said, Department of Transport should consider designing the railway track duplication to ensure it does not preclude a train station on the subject land.

#### *Bridges over the railway line*

The pedestrian bridge at the potential train station location is critical infrastructure even if the train station is not provided. A funding mechanism should be included to ensure the bridge's timely provision. The timing triggers for the three bridges should ensure that early residents are provided with reasonable active transport connectivity across the rail line.

#### *Road network capacity*

The developer should not be responsible for addressing existing traffic congestion issues. The traffic analysis and methodology has been peer reviewed and is generally appropriate.

Healesville Arterial to Mooroolbark Road, duplication of Mooroolbark Road and the Lilydale Bypass are projects identified by the State Government to accommodate regional traffic growth and address existing capacity constraints on the arterial road network in the vicinity of the subject land, particularly along Mooroolbark Road, Hull Road and Maroondah Highway.

Given the State Government has not committed to the timing of the Healesville Bypass and the Lilydale Bypass, it is appropriate for the developer to fund appropriate traffic mitigation works on the arterial network that offset the traffic impacts of the development in the vicinity of the site.

Traffic mitigation can be provided through suitable capacity upgrades to the arterial road intersections at and around the subject land, subject to resolving the Maroondah Highway and Hutchinson Street intersection and the Mooroolbark Road and Hull Road intersection.

*Maroondah Highway intersections with Hutchinson Street and John Street*

Further analysis of the traffic impacts on Maroondah Highway should be undertaken before finalising the Amendment. Any traffic works required as an outcome of the further traffic analysis should be included in Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan as infrastructure projects.

*Mooroolbark Road and Hull Road intersection and bridge widening (DI-RD-07a and DI-RD-07b)*

The proposed works at the Mooroolbark Road and Hull Road intersection provide reasonable mitigation of traffic impacts of the Maroondah Highway commercial frontage access.

The trigger in the Comprehensive Development Plan for road projects DI-RD-07a and DI-RD-07b should be changed to before delivering the 600<sup>th</sup> dwelling in the development. The Plan should allow for an alternative mitigation package to projects DI-RD-07a and DI-RD-07b in the event the proposed works are not feasible or are cost prohibitive. The Department of Transport should work with the developer to minimise the extent of works that would be redundant in the future.

*Maroondah Highway and Mooroolbark Road intersection (DI-RD-06)*

The trigger for the works at the Maroondah Highway and Mooroolbark Road intersection (DI-RD-06) should not be limited by development in Precinct 1.

*Maroondah Highway commercial frontage access*

Vehicular access should not be provided at Maroondah Highway.

*Taylor Street access*

It is appropriate to provide interim access through Taylor Street and its location can be determined at the permit stage. Interim access through Taylor Street should cease after delivering the 250<sup>th</sup> dwelling in Precinct 1. The Comprehensive Development Plan should provide for an alternative interim access intersection in the event the land along the Taylor Street frontage is acquired for the Lilydale Bypass.

*North South Connector Road and transport infrastructure on the Box Hill Institute land*

The North South Connector Road Extension (DI-RD-09) is critical road infrastructure that should be secured:

- before development commences in Precincts 2, 3 and 4 but it is not necessary before Precinct 1 commences
- through an early voluntary agreement with Box Hill Institute to purchase the land (preferred) or alternative mechanisms to the satisfaction of the responsible authority.

The trigger for delivering the North South Connector Road Extension (DI-RD-09) and the Melba Avenue and Hutchinson Street intersection (DI-RD-04a) should:

- be changed to a more directly measurable trigger such as dwellings or traffic volumes
- ensure that the traffic volume at the southern end of Honour Avenue (North South Connector in Stage 1) does not exceed its post development design volume
- ensure these projects are delivered when the northern end of the North South Connector Road is delivered.

The Comprehensive Development Plan should clearly identify the developer as being responsible to construct the North South Connector Road Extension (DI-RD-09).

#### *Cycling network*

The local cycle path shown in the Comprehensive Development Plan as being located within the southern edge of the Box Hill Institute land should be shifted to within the subject land unless provision is made to acquire land from Box Hill Institute by way of an infrastructure project.

There is adequate provision for a rail trail through the subject land and connection to the Carrum to Warburton Trail to the south and Lilydale Lake trails to the east.

#### *Public Acquisition Overlay*

The Public Acquisition Overlay (Planning Scheme Map Reference 12) should be amended to match the AECOM plan unless other advice is provided by the responsible road authority. Online Planning Scheme maps and planning information set out in section 32 vendor statements will adequately inform prospective property purchasers of Public Acquisition Overlay 12 and its purpose. There is no evidence of a need to apply the Public Acquisition Overlay to Hull Road.

#### **Statutory processes**

Comprehensive Development Zone Schedule 1 appropriately responds to third party notice and review of future permit applications which are generally consistent with the incorporated Comprehensive Development Plan.

The responsible authority should not have the discretion to allow a permit before the specified processes are achieved. However, a permit for minor and preparatory works should be allowed before a section 173 agreement is signed, if:

- it does not negatively affect the ability to achieve the outcomes of that agreement
- it is specified in a common 'Grant of permits' provision or directly in the particular section 173 agreement provision if it is relevant only for that agreement.

There should be an opportunity for the landowner to review associated section 173 agreement processes at the Victorian Civil and Administrative Tribunal.

#### **Form and content of the Amendment**

The Committee supports drafting changes to Comprehensive Development Zone Schedule 1 and the Lilydale Quarry Comprehensive Development Plan proposed by submitters which:

- provide clarity and improve their operation
- are consistent with other Committee recommendations.

#### **Recommendations**

Based on the reasons set out in this Report, the Committee recommends that Draft Yarra Ranges Planning Scheme Amendment C193 be adopted as exhibited subject to the following:

- 1. Before the Amendment is finalised and approved:**
  - a) The Victorian Planning Authority undertake further work with HBI Lilydale Pty Ltd and Yarra Ranges Shire Council to determine a practical set of infrastructure triggers for the three proposed new bridges over the Lilydale – Melbourne rail line.**
  - b) HBI Lilydale Pty Ltd undertake further traffic analysis in consultation with the Department of Transport, to determine what works are necessary to provide**

**sufficient capacity at the Maroondah Highway intersections with John Street and Hutchinson Street to mitigate development impacts.**

- 2. Amend Comprehensive Development Zone Schedule 1 as shown in Appendix E.**
- 3. Amend the Public Acquisition Overlay Map 12 to reflect the area shown in AECOM drawing no 60303372-SKE-0019 issue B or a smaller area specified by the Head, Transport for Victoria.**
- 4. Abandon the proposal to delete part of the Heritage Overlay (HO201) from the subject land.**
- 5. Amend the Lilydale Quarry Comprehensive Development Plan as outlined in Appendix F.**

# 1 Introduction

## 1.1 The Amendment

### (i) The subject land

Address:	4 Melba Avenue, Lilydale, as shown in Figure 1, comprising five titles
Area:	143.8 hectares
Bounded by:	West: Mooroolbark Road North: Maroondah Highway and Melba Avenue East: Industrial uses (Industrial 1 Zone), Box Hill Institute and residential uses South: Future residential uses – currently being developed
Use:	Quarry (formerly) currently being rehabilitated by filling it with about 9 million cubic metres of on-site stockpile
Key features:	Lilydale railway line dissects the land in a north-south direction On-site buffers with treatment abutting the boundary Mostly unused historic industrial buildings and structures Partly filled quarry south of the historic buildings Sports oval, landscaping and display office on the northern part
Zone:	Special Use Zone Schedule 1 (SUZ1)
Overlays:	Bushfire Management; Erosion Management; Heritage; Public Acquisition (proposed Lilydale Bypass); and Specific Controls (part of the level crossing removal project)
Context:	750 metres south of Lilydale Major Activity Centre and 1 kilometre to Lilydale Train Station

**Figure 1** Subject land



Source: Comprehensive Development Plan



**(ii) Subject land history**

The subject land formed part of a larger land holding comprising Crown allotments 20 and 21 of the Parish of Mooroolbark used as mixed use farm known as 'Cave Hill'. It was later used for quarrying from 1878 (when David Mitchell purchased the property) until the 1960s. One of Mr Mitchell's children was Helen Porter Mitchell, otherwise known as Dame Nellie Melba. By 1887, the quarry had 70 employees with a network of kilns operating day and night throughout the week. Quarry-related overburden was retained around the quarry pit rather than being transported offsite.

The quarry's operations evolved over time to adapt to its expansion and changing economic circumstances. These included:

- realigning the (then) proposed Hawthorn to Lilydale railway line to go through the subject land west of the quarry
- a siding to integrate the quarry with the new railway line
- on-site trams to transport materials.

In 2014, the Minister for Planning approved changes to the Planning Scheme which enable the southern part of the subject land to be developed. This development, otherwise referred to as the Stage 1 subdivision, is currently being constructed.

In 2015, work commenced to fill the 25-hectare quarry pit with the retained overburden.

**(iii) Amendment description**

The Amendment seeks to introduce planning provisions which would enable the subject land to develop with predominately residential use supported by commercial, retail and other land uses.

Specifically, the Amendment proposes to:

- introduce the Comprehensive Development Zone into the Yarra Ranges Planning Scheme (Planning Scheme)
- rezone the subject land to a new Comprehensive Development Zone Schedule 1 (CDZ1)
- delete the Heritage Overlay from the quarry pit
- apply the Public Acquisition Overlay to part of the land abutting Mooroolbark Road to enable future road widening
- apply the Environmental Audit Overlay to the part of the subject land to the east of the railway line
- introduce Clause 22.13 (Former Lilydale Quarry) to require use and development to be generally consistent with the Lilydale Quarry Comprehensive Development Plan (CDP)
- amend the Clause 51.03 Schedule (Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan) to exempt certain buildings and works and vegetation removal in on land in the CDZ1
- incorporate the CDP into the Planning Scheme through the Clause 72.04 Schedule.

CDZ1 includes a Framework Plan (Map 1), as shown in Figure 2, which designates different parts of the subject land into precincts and identifies infrastructure and other associated details.

Figure 2 Exhibited CDZ1 Map 1: Framework Plan



**(iv) Comprehensive Development Plan**

The CDP was prepared in October 2020 and designates the subject land into four precincts:

- Precinct 1 – Western neighbourhood
- Precinct 2 – Heritage village
- Precinct 3 – Eastern neighbourhood
- Precinct 4 – Urban core.

The CDP sets out guidelines and requirements under the following implementation categories:

- Housing, retail and commercial

- Community facilities
- Open space
- Integrated transport
- Integrated water management and stormwater
- Built form and urban design
- Heritage
- Infrastructure and staging.

The Infrastructure and staging section:

- specify the type, quantity, and responsibilities for infrastructure delivery
- categorise projects as:
  - Intersections and Collector and major roads (DI-RD)
  - Bridges (DI-BR)
  - Drainage (DI-DR)
  - Open space (DI-OS)
  - Community facilities (DI-CF).

The CDP appends a land budget, precinct yield tables, glossary and street cross sections.

#### **(v) Background documents**

The Amendment is supported by the following background documents:

- Lilydale Quarry Community Needs Assessment (Ethos Urban, October 2020)
- Lilydale Quarry Development Contributions (Urban Enterprise, October 2020)
- Lilydale Quarry - Economic Benefit Snapshot (Urbis, June 2020)
- Lilydale Quarry - Retail & Commercial Analysis (Urbis, October 2020)
- Lilydale Quarry - Engineering Servicing Report (Reeds Consulting, October 2020)
- Lilydale Quarry - Geotechnical Framework (Tonkin and Taylor, April 2020)
- Lilydale Quarry - Geotechnical Overview (Urbis, October 2020)
- Lilydale Quarry - Integrated Water Management (Incitus, October 2020)
- Lilydale Quarry - Stormwater Strategy (Incitus, October 2020)
- Lilydale Quarry - Bushfire Assessment (Biosis, April 2020)
- Lilydale Quarry - Conservation Management (Lovell Chen, September 2015)
- Lilydale Quarry - Environmental Site Assessment (Tonkin and Taylor, April 2020)
- Lilydale Quarry - Flora and Fauna Assessment (Nature Advisory, April 2020)
- Lilydale Quarry - Heritage Interpretation (Lovell Chen, April 2020)
- Lilydale Quarry - Sustainability Framework (WSP, October 2020)
- Lilydale Quarry - Housing Supply and Demand Analysis (SGS, December 2016)
- Lilydale Quarry - Affordable Housing Needs Assessment (Urbis, April 2020)
- Lilydale Quarry - Kinley Affordable Housing (Urbis, April 2020)
- Lilydale Quarry - Cave Hill Station Concept Report (Raylink, September 2017)
- Lilydale Quarry - Integrated Transport Plan (Cardno, October 2020)
- Lilydale Quarry - Kinley Station Value Analysis (Intrapac, February 2020)
- Lilydale Quarry – Supporting Traffic Impact Assessment (Cardno, October 2020)
- Lilydale Quarry - Train Station Cost Benefit Analysis (SGS, September 2017)
- Lilydale Quarry - Urban Design Report (Roberts Day, April 2020)
- Lilydale Quarry – Open Space Strategy (TCL, April 2020)

- Former Lilydale Quarry: Planning Scheme Amendment Planning Report (Urbis, October 2020).

The Urban Design Report includes the Masterplan of a development concept, as shown in Figure 3.

**Figure 3** Urban design masterplan



Source: Urban Design Report (Roberts Day, 2020)

## 1.2 Background

2014	Minister for Planning approved planning provisions to enable residential development on the southern part of the subject land [Amendment C139]
2015	The quarry on the subject land ceased to operate
August 2016	Places Victoria began preparing Amendment C156 (master plan for stage 2 of the subject land) which was later abandoned when it decided to sell the land
2017	Places Victoria sold the subject land to HBI Lilydale Pty Ltd Yarra Ranges Shire Council (Council) managed the Amendment process with advice from the Victorian Planning Authority (VPA)
2018-2020	VPA led workshops with HBI Lilydale, Yarra Ranges Council, and other government departments and agencies to resolve issues
30 April 2020	HBI Lilydale Pty Ltd submitted the draft amendment to Yarra Ranges Council
17 July 2020	The Minister for Planning established the VPA Fast-Track Planning Program (Fast-Track Program) and directed VPA to lead the preparation, engagement and implementation of draft plans

3 August 2020	The Minister for Planning wrote to Yarra Ranges Council to advise that VPA would lead the Amendment through the Fast-Track Program
8 September 2020	Yarra Ranges Council considered the Amendment at its meeting
November to December 2020	VPA informally exhibited the Amendment over five weeks

Source: Document 29

### 1.3 Procedural issue

During the Hearing, the independence of certain expert witnesses was questioned because of their previous engagement with the party who called them.

There are two types of expert witnesses:

- those who helped prepare technical reports which supports the Amendment and appear at the Hearing to answer questions about their work
- peer review experts who have had no previous involvement in the Amendment.

An expert witness' independence relies on:

- having not previously advocated for specific matters set out in their evidence statement
- the nature of their engagement with any party
- providing their honest expert opinion directly to the Committee irrespective of their client's position.

While it may be argued that generally the evidence of a peer review expert should be given more weight, this needs to be considered on individual merit. All expert witnesses made themselves available to have their evidence tested, and inquiries made into the nature of their independence. The Committee found no basis on which to question the independence of any expert witness, irrespective of previous involvement with their client.

### 1.4 Summary of issues raised in submissions

VPA identified the following issues in submissions:

- Built form
- Land use and buffers
- Education and community facilities
- Transport and movement
- Open space
- Vegetation
- Density
- Precinct infrastructure
- Heritage
- Urban design.

### 1.5 The Committee's approach

The Committee has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Committee considered all written submissions made in response to the exhibition of the Amendment, observations from a site visit, and submissions, evidence and other material presented to it during the Hearing. It has reviewed thousands of pages of material, and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Committee in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This report meets the terms set out in the Terms of Reference in Appendix A. It deals with the issues under the following headings:

- Planning context
- Overarching issues
- Heritage
- Environmental issues
- Use, development, design and housing
- Open space and infrastructure
- Transport and movement
- Statutory processes
- Form and content of the Amendment.

Any reference in this Report to:

- the Amendment refers to draft Amendment C193 to the Yarra Ranges Planning Scheme, which is yet to be finalised and formally prepared, adopted or approved
- exhibited documents refers to the targeted public consultation undertaken by the Victorian Planning Authority outside sections 17, 18 and 19 of the PE Act.



## 2 Planning context

### 2.1 Planning policy framework

VPA submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Committee has summarised below.

#### (i) State policies

##### 11 (Settlement)

- Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.
- Planning is to prevent environmental and amenity problems created by siting incompatible land uses close together.

##### 12 (Environmental and Landscape Values)

- Planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values.

##### 13 (Environmental Risks and Amenity)

Planning should:

- strengthen the resilience and safety of communities by adopting a best practice environmental management and risk management approach
- aim to avoid or minimise natural and human-made environmental hazards, environmental degradation and amenity conflicts
- identify and manage the potential for the environment and environmental changes to impact on the economic, environmental or social wellbeing of society
- ensure development and risk mitigation does not detrimentally interfere with important natural processes
- prepare for and respond to the impacts of climate change.

##### 14 (Natural Resource Management)

- Planning is to assist in the conservation and wise use of natural resources including energy, water, land, stone and minerals to support both environmental quality and sustainable development.
- Planning should ensure agricultural land is managed sustainably, while acknowledging the economic importance of agricultural production.

##### 15 (Built environment and heritage)

- Planning is to recognise the role of urban design, building design, heritage and energy and resource efficiency in delivering liveable and sustainable cities, towns and neighbourhoods.
- Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context.
- Planning should protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

##### 16 (Housing)

- Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure.

- Planning should ensure the long term sustainability of new housing, including access to services, walkability to activity centres, public transport, schools and open space.
- Planning for housing should include the provision of land for affordable housing.

### **17 (Economic development)**

- Planning is to provide for a strong and innovative economy, where all sectors are critical to economic prosperity.
- Planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.

### **18 (Transport)**

- Planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe.

### **19 (Infrastructure)**

- Planning for development of social and physical infrastructure should enable it to be provided in a way that is efficient, equitable, accessible and timely.
- Planning is to recognise social needs by providing land for a range of accessible community resources, such as education, cultural, health and community support (mental health, aged care, disability, youth and family services) facilities.
- Planning authorities should consider the use of development and infrastructure contributions in the funding of infrastructure.

## **(ii) Local policies**

### **21.01-1 (The Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan)**

- The Upper Yarra Valley and Dandenong Ranges Authority (established under the *Upper Yarra Valley and Dandenong Ranges Authority Act 1976*) prepared the Regional Strategy Plan to enable increased protection for the special features and character of the region including the former shires of Healesville, Lilydale, Sherbrooke and Upper Yarra.

### **21.03 (Vision)**

- The community's vision for the future of Yarra Ranges is expressed in Vision 2020-*Community Plan* which serves as a strategic framework for the municipality and guide to the future. It is based on the simple idea that if the community decide on where they are going, the chances are they will get there.

### **21.04 (Land use)**

- Providing greater housing choice to meet present and future community needs.
- Facilitating affordable housing options in sustainable locations.
- Ensuring housing is adaptable to the needs of residents as they age and located in areas which minimise risk to older residents.
- Ensuring higher density residential development occurs in identified consolidation areas to maximise investment in facilities and services and employment opportunities.
- Regulating infill residential development in incremental and least changes areas to ensure it preserves and enhances the character of the established residential areas.

### **21.05 (Settlement)**

- Activity centres in the Shire range in size from large suburban centres on the metropolitan fringe, to those serving towns and smaller settlements in the rural and green wedge areas.
- These activity centres provide a range of retail, commercial and other community services and are important sources of employment opportunities for the local population.



- The Shire's two major activity centres, at Lilydale and Chirnside Park, offer significant opportunities for more intensive redevelopment including employment generating commercial uses and higher density housing.

### **21.06 (Built form)**

- To promote proper siting and good design in the construction of all buildings and in the carrying out of works.
- Ensure that any development reflects the environmental and physical form of the surrounding neighbourhood.
- To recognise and protect the distinctive characteristics and environmental features of the residential areas throughout Yarra Ranges.
- To protect and conserve the Shire's cultural heritage.

### **21.08 (Subdivision)**

- Provide a range of lot sizes in appropriate locations to meet the needs of a diverse range of household types.
- Promote subdivision that is functional and enhances the existing neighbourhood character.

### **21.09 (Environment)**

- To ensure land use and development is assessed in the context of its potential effect on the wider catchment.
- To ensure that the use of land, the construction of buildings and the carrying out of works are of a type, scale and design which do not adversely impact on the natural environment and take account of physical development constraints.

### **21.10 (Infrastructure)**

- To establish a good standard of physical infrastructure for all new development and, where appropriate, upgrade the existing infrastructure in established urban areas.
- To integrate land use planning with transport planning throughout the Shire.
- To promote a greater accessibility to, and provision of, public transport into and throughout the Shire, particularly in areas remote from current public transport services.

### **21.11 (Community infrastructure)**

- To improve access to a well-planned range of Shire-based community services that meet the current and future needs of residents.

### **22.07 (Lilydale Activity Centre)**

- To reinforce Lilydale's role as a centre that provides a wide range of retail, employment, business, residential, community, entertainment and transport services.

## **2.2 Plan Melbourne**

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Particularly relevant to this Amendment, Plan Melbourne sets out to create a city of 20-minute neighbourhoods. The facilitation of new housing in established areas, close to existing services, jobs and public transport and a network of vibrant neighbourhood activity centres helps achieve this. Plan Melbourne also aspires to achieve a housing distribution of 70 per cent new housing in established areas and 30 per cent in growth area greenfield sites.

## 2.3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework. The zones and overlays shown in Table 1 are either existing or proposed planning provisions.

Table 1 Relevant zone and overlay purposes

Zones and overlays	
<b>Zone</b>	
<b>Comprehensive Development</b>	To provide for a range of uses and the development of land in accordance with a comprehensive development plan incorporated in this scheme.
<b>Overlay</b>	
<b>Bushfire Management</b>	<p>To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.</p> <p>To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.</p> <p>To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.</p>
<b>Erosion Management</b>	To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.
<b>Public Acquisition</b>	<p>To identify land which is proposed to be acquired by a Minister, public authority or municipal council.</p> <p>To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.</p> <p>To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.</p>
<b>Specific Controls</b>	To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.

## 2.4 Ministerial Directions and Practice Notes

### Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of :

- Ministerial Direction 1 (Potentially contaminated land)
- Ministerial Direction 9 (Metropolitan Planning Strategy)
- Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018
- Ministerial Direction 19 (Amendments that may significantly impact the environment, amenity and human health).

That discussion is not repeated here.

### Planning Practice Note 30

- *Planning Practice Note 30: Potentially Contaminated Land* (DELWP, June 2005) is relevant to the Amendment and is discussed in Chapter 5.2.

## 2.5 Strategic justification

### (i) The issues

The issues are whether the Amendment:

- is strategically justified
- will deliver net community benefit and sustainable development, as required by Clause 71.02-3
- should progress.

### (ii) Evidence and submissions

VPA, HBI Lilydale and Yarra Ranges Council submitted the Amendment is supported by the relevant sections of the Planning Policy Framework.

The Explanatory Report and VPA background submission detail how the Amendment is consistent with relevant planning policies in the Planning Scheme (shown in brackets below). They stated the Amendment will:

- facilitate increased housing diversity and choice, high standards of amenity, land use and transport integration and focuses investment and growth in a designated urban renewal site (Clause 11)
- prioritise the health of the ecological and waterway systems on the site (Clause 12)
- facilitate rehabilitation of a former quarry pit into a mixed use development with high quality open spaces, drainage and wetland systems, and planting of landscape vegetation (Clause 12)
- ensure that potentially contaminated land will be suitable for its intended future use and development by:
  - applying the Environmental Audit Overlay to that part of the site considered to have a risk of contamination
  - including an environmental audit requirement before any development being permitted (Clause 13)
- enable development in a low risk area for climate change impacts, including bushfire risk (Clause 13)
- embed sustainability through all aspects of the CDZ and CDP framework, seeking to deliver sustainability principles as part of the overarching vision (Clause 14)
- ensure water quality is protected, water usage is minimised, stormwater is managed to improve quality and any discharge is appropriately controlled through the Integrated Water Management Strategy and Stormwater Strategy (Clause 14)
- support the overarching principles of Clause 15 through development which will:
  - deliver a high standard of architectural and urban design
  - celebrate the subject land's heritage and landscape character,
  - deliver a unique, safe, quality and sustainable neighbourhood
- facilitate development of a 20-minute neighbourhood and plan for a potential new train station (Clause 15)
- provide a voluntary 5 per cent affordable housing (Clause 16)
- facilitate a unique, metropolitan-significant urban renewal project which will transform the disused quarry into a mixed use, residential-led development (Clause 17)
- embed the integrated transport principles sought by Clause 18 for the subject land

- address infrastructure needs in Clause 19 through infrastructure and services that meet the needs of its future community
- facilitate the efficient, equitable, accessible and timely delivery of social and physical infrastructure (Clause 19)
- formalise contributions to fund infrastructure as part of the development by requiring a section 173 agreement through CDZ1 (Clause 19)
- provide significant urban infill in an established urban area (Clause 21.01-1)
- contribute towards a vibrant and dynamic shire (Clause 21.03)
- provide services to the future residential population and existing surrounding neighbourhoods (Clause 21.04)
- establish a new community catchment that will rely on Lilydale Activity Centre for retail and community services through strong active, public and road transport connections (Clauses 21.05, 22.07)
- embed sustainability principles and design measures (Clauses 21.06, 21.10)
- acknowledge and protect the indigenous and more recent industrial heritage of the subject land (Clause 21.06-1)
- set overarching principles for subdivision, lot layout, lot sizing and functionality to create housing diversity and an attractive, high-amenity neighbourhood (Clause 21.08)
- ensure appropriate sustainable infrastructure and construction through its planning framework (Clause 21.09)
- integrate land use and transport planning through a section 173 agreement for infrastructure contributions (Clause 21.10)
- provide community infrastructure including maternal health, childcare and a potential future educational facility (Clause 21.11).

HBI Lilydale submitted the Amendment supports Plan Melbourne by facilitating new development in an established area and creating a new '20-minute neighbourhood' close to existing services, jobs, and public transport. It noted that the subject land is a strategically important urban renewal site within 10-15 minutes walking distance from the Lilydale Activity Centre. Ringwood is a 15-minute train ride from Lilydale.

HBI Lilydale referred to Plan Melbourne's aspirational target of 70 per cent population growth sought to be accommodated in existing areas. It submitted the project presents a crucial opportunity to contribute to achieving this target.

Submissions which opposed the Amendment considered it would enable built form which is inconsistent with Yarra Ranges Council's policies on the landscape.

### **(iii) Discussion**

The Amendment has been well informed by many comprehensive background and technical reports. This ranges from geotechnical assessments through to indigenous and more recent heritage considerations.

The 143.8-hectare area provides a unique urban renewal opportunity to develop a new community that cannot be achieved on significantly smaller sites in the broader area. This includes achieving an economy of scale for a diverse housing offer, passive and active public open space, community and educational facilities, commercial mixed use activities, adapting state heritage buildings and structures, and starting a conversation about the opportunity for a new train station.

The Committee agrees with submissions and expert evidence which found the Amendment to be consistent with, and contributing towards implementing, broad level policy objectives in the Planning Scheme. The Amendment seeks to introduce Clause 22.13 (Former Lilydale Quarry) to provide specific strategic policy guidance for developing the subject land. Of note is the need to address Melbourne's housing shortage, including affordable dwellings. The proposed planning provisions would enable development which would accommodate thousands of new residents near the Lilydale Activity Centre.

The Amendment proposes to establish a comprehensive planning framework for assessing future permits across four precincts. The proposed framework itself is consistent with existing and proposed planning policy.

**(iv) Findings**

The Committee finds that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is strategically justified
- will deliver net community benefit and sustainable development, as required by Clause 71.02-3
- should progress to be prepared subject to addressing the more specific issues raised in submissions discussed in the following chapters.

## 3 Overarching issues

### 3.1 Infrastructure contributions

#### (i) The issues

The issues are:

- whether section 173 agreements are appropriate as a mechanism for delivering infrastructure
- whether the developer should be required to contribute beyond demand generated by development on the subject land.

#### (ii) Background

The CDP identifies infrastructure to be delivered on and outside the subject land. It includes objectives, requirements and responsible agencies for delivering the infrastructure.

CDZ1 specifies that a permit for the use and subdivision of land must be generally consistent with the CDP. CDZ1 requires the section 173 agreements to be entered into between the landowner and Yarra Ranges Council for local infrastructure and the landowner and the Head, Transport for Victoria (Head TfV) for State infrastructure. These agreements are an alternative to a development or infrastructure contributions plan.

#### (iii) Evidence and submissions

Parties and expert witnesses considered a section 173 agreement to be the appropriate instrument for providing landfill performance, infrastructure contributions and affordable housing. VPA stated it would have adopted its normal practice of using a development contributions plan if it led the project from the beginning. However, it supported Yarra Ranges Council's position to use a section 173 agreement.

HBI Lilydale referred to the subject land's single ownership as an opportunity for a section 173 agreement for flexibility to achieve good outcomes such as the district sports oval. It referred to the *Eddie Barron* principle that infrastructure should be provided on an 'as needed' basis rather than what is desirable.

Yarra Ranges Council preferred a section 173 agreement rather than a development contributions plan because:

- it is simpler and specific issues can be more easily resolved
- the subject land is unique in terms of its former use, being in single ownership and effectively an island site
- the infrastructure will not require any external apportionment
- the direct nexus between the development and the provision of infrastructure will mean that Council will not be required to assume responsibility
- any land vested with Council will not need a valuation
- it did not require detailed costings as part of the process
- it will be attached to the land and bind future owners.

Yarra Ranges Council requested that local road intersections be specified in one section 173 agreement and intersections for which Department of Transport (DoT) will be responsible in

another. It agreed that a third-party agreement is “*probably the answer*” but noted there are cases where mitigation works will be at intersections that abut Council roads. Council remained interested in the scale, form and timing of proposed traffic works and would seek to provide input to the appropriate solutions.

HBI Lilydale called evidence on planning from Mr Woodland of Echelon Planning and Yarra Ranges Council called evidence on planning from Mr De Silva of Mesh Planning. Mr Woodland and Mr De Silva supported the use of a section 173 agreement as an appropriate infrastructure delivery mechanism. Mr Woodland referred to the Development Contributions Guidelines (2007) and Infrastructure Contributions Guidelines (2021) which contemplate the use of section 173 agreements:

- for land in single ownership and where most of the required infrastructure is provided on-site or external to the subject land such as traffic impact mitigation works
- when parties to the agreement agree to a mutually acceptable outcome.

Mr De Silva supported a section 173 agreement for similar reasons and noted there are no other contributors.

#### **(iv) Discussion**

There was considerable discussion in submissions, evidence and at the Hearing about how much the developer of the subject land should contribute towards infrastructure and public open space. These are explored in more detail in relevant chapters later in this report.

Having carefully reviewed submissions and evidence, the Committee considers the contribution attributable to the developer should reflect demand generated by development on the subject land. The development contributions, irrespective of which mechanism they are being delivered through, should demonstrate nexus between likely demand to be generated by the subject land and specified contributions.

For the purposes of apportioning costs, a development contribution plan would have set out the proportion of:

- demand generated by the future development
- existing infrastructure shortfalls which should not be apportioned to the developer
- existing and future external residents benefitting from the new infrastructure (this includes contributions towards existing infrastructure shortfalls) which should not be apportioned to the developer.

A section 173 agreement should achieve the same principles of a development contribution plan. The exhibited CDZ1 section 173 agreement provisions seek to achieve this by requiring:

The equitable apportionment of costs between the developer and Council for any items which exceed the needs of the development.

An agreement is simpler and more flexible for delivering infrastructure when there is a single owner. It avoids the need to apportion costs between parties or prepare costings or land valuations needed for contribution plans. This benefit falls away if, for unforeseeable reasons, HBI Lilydale decides to sell the subject land in parts. However, this can be addressed if the circumstance arises.

Having separate section 173 agreements for State and local infrastructure would:

- simplify implementation and ensure that parties focus on infrastructure in their jurisdiction (Council would be a party as the responsible authority)
- help facilitate resolutions for infrastructure items and reduce process time.

The issue as to whether the section 173 agreements can be finalised and entered into after gazettal of the Amendment is discussed in Chapter 3.2.

#### (v) Findings and recommendation

The Committee finds:

- Section 173 agreements are appropriate as a mechanism for delivering infrastructure.
- The developer should be required to contribute towards infrastructure based on demand generated by development on the subject land.
- The developer should not be required to contribute to infrastructure for existing and future demand generated outside the subject land.

The Committee recommends:

1. **Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) **transfer State infrastructure contribution provisions from the Infrastructure Contributions Agreement to a new State Transport Infrastructure Contributions Agreement.**

## 3.2 Section 173 agreement timing

### (i) The issues

The issues relate to when the section 173 agreements for infrastructure contributions, affordable housing and Precinct 4 performance of filled land should be entered into.

### (ii) Background

The exhibited CDZ1 specifies:

#### **Infrastructure contributions agreement**

Unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land until an agreement under section 173 of the *Planning and Environment Act 1987* has been entered into between the owner of the land and the responsible authority to formalise infrastructure contributions.

...

#### **Performance of filled land – Precinct 4**

Unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land in Precinct 4 until the owner of the land enters into an agreement under section 173 of the Act regarding the performance of filled land in Precinct 4 and its development.

...

#### **Provision of affordable housing**

Prior to the granting of a subdivision permit for the seven hundred and first (701) dwelling, the owner of the land must enter into an agreement under section 173 of the *Planning and Environment Act 1987* that requires the owner of the land to provide ...



The Day 1 CDZ1 version added:

### **State Transport Infrastructure Contributions Agreement**

Unless otherwise agreed to by the responsible authority and the Head, Transport for Victoria, a permit must not be granted to construct a building or construct or carry out works until an agreement under section 173 of the *Planning and Environment Act 1987* has been entered into between the owner of the land the responsible authority and the Head, Transport for Victoria to formalise infrastructure contributions.

### **(iii) Evidence and submissions**

There were different views about when the section 173 agreements should be entered into, as summarised in Table 2. VPA noted that it was not involved in the drafting of the agreements because it is not a party to any of them.

**Table 2 Views on when the section 173 agreements should be entered into**

	<b>Infrastructure contributions</b>	<b>State Transport Infrastructure Contributions</b>	<b>Performance of filled land</b>	<b>Affordable housing</b>
VPA	As specified in CDZ1	As specified in CDZ1	As specified in CDZ1	As specified in CDZ1
HBI Lilydale	As specified in CDZ1	As specified in CDZ1	As specified in CDZ1	As specified in CDZ1
Council	Before Amendment is gazetted		As specified in CDZ1	Before Amendment is gazetted
DoT	Before Amendment is gazetted	Before Amendment is gazetted		
Mr Woodland	As specified in CDZ1			
Mr De Silva	Before Amendment is gazetted			

DoT submitted that deferring the infrastructure agreements to the permit stage could result in disagreement and a costly Victorian Civil and Administrative Tribunal (VCAT) dispute.

VPA considered it appropriate for agreements to be entered into after gazetting the Amendment (but before the grant of permits), provided CDZ1 provides the appropriate level of guidance to the parties as to the contents of the required agreements. It noted CDZ1 specifies matters required to be included in the section 173 agreements.

HBI Lilydale submitted there was no risk if the section 173 agreement was not finalised before the subject land was rezoned because CDZ1 would prohibit a permit to subdivide or develop the land until an agreement was reached.

Mr Woodland considered that from an orderly planning perspective it would be necessary to resolve the scope of some of the infrastructure contributions as part of finalising the Amendment whereas other matters can be resolved as part of finalising the section 173 agreement.

Mr De Silva stated it was essential that the agreement be finalised and executed before the subject land is rezoned because it would otherwise be necessary to prepare a Development Contributions Plan to incorporate into the Planning Scheme at the time of the land rezoning.

**(iv) Discussion**

The Committee considers CDZ1 appropriately requires the section 173 agreement for performance of filled land before a permit is granted to subdivide or construct a building and carry out works in Precinct 4. This agreement would not negatively affect Precincts 1, 2 and 3 if signed at this later stage.

The remaining section 173 agreements should be signed before any permit is granted for the subject land, consistent with CDZ1.

The Committee does not support the affordable housing agreement being deferred to some point before a permit for the 701<sup>st</sup> dwelling is granted. It is important that details are determined before the first permit is granted because considerable discussions, negotiations and resolutions will be needed with relevant parties, including housing providers to inform the section 173 agreement. Any discussion about the timing and location of affordable housing can form part of that process. Requiring the affordable housing agreement at an earlier stage does not preclude HBI Lilydale from excluding affordable housing from Precinct 1.

The Committee was not persuaded that any of the section 173 agreements needed to be entered into before the Amendment is gazetted. CDZ1 would prohibit subdivision and buildings and works before these agreements are resolved and signed.

**(v) Findings and recommendation**

The Committee finds:

- The section 173 agreements, except for the affordable housing agreement, should be entered into at the time specified in the exhibited Comprehensive Development Zone Schedule 1.
- The affordable housing section 173 agreement should be entered into before a permit is granted to subdivide land or construct a building or construct and carry out works in any precinct.

The Committee recommends:

- 2. Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) revise the trigger for requiring the section 173 agreement for affordable housing to be entered into, to before a permit is granted to subdivide land or construct a building or construct and carry out works in precincts 1, 2, 3 and 4.**

**3.3 Precinct plans****(i) The issue**

The issue is whether precinct plans should be required for each proposed precinct, and whether they could be subject to consultation.

**(ii) Evidence and submissions**

Yarra Ranges Council referred to the April 2020 version of CDZ1 and the CDP which proposed formal precinct plans as part of the approval process. It added that since VPA became involved, CDZ1 no longer sought precinct plans but retained the concept of precincts. Council was concerned that there are many decisions, investigations and reports still to be made around

elements of the proposed development. These include geotechnical issues, the proposed train station, community infrastructure, affordable housing, access issues, stormwater and heritage.

Mr De Silva supported the requirement to prepare precinct plans, given the subject land's complexities. He was concerned that without precinct plans:

- there would be uncertainty about how the development is staged
- there would be uncertainty, risk and disagreement throughout the planning permit phase
- 'piecemeal' outcomes may result.

VPA responded that the Department of Environment, Land, Water and Planning (DELWP) advised the precinct plan approach is not appropriate because it is not the proper use of the CDZ and CDP.

**(iii) Discussion**

A CDZ purpose is to *“provide for a range of uses and the development of land in accordance with a comprehensive development plan incorporated in this scheme.”* This differs from the Urban Growth Zone which refers to precinct structure plans.

The Amendment is supported by considerable background work and a comprehensive and integrated CDP which adopts a staged approach for planning purposes. CDZ1 and the CDP refer to precincts, to help implement the CDP. They provide a sound framework for coordinating future detailed plans across precincts and the subject land.

**(iv) Finding**

The Committee finds that precinct plans should not be required for each proposed precinct and are not appropriate for the Comprehensive Development Zone.

## 4 Heritage

### 4.1 Background

The subject land is included in the Victorian Heritage Register (H2366). Planning Practice Note 1 is relevant to the Amendment. The Amendment:

- is informed by the Conservation Management Plan (2015) and Heritage Interpretation Strategy (2020)
- proposes to delete the Heritage Overlay (HO201) from the subject land.

#### (i) Victorian Heritage Register (H2366)

What is significant?

Cave Hill Limestone Quarry including the quarry pit, structures and plant for processing limestone and the production of lime-based products dating to the 1880s (tunnel and battery of pot kilns) and 1920s (no. 1 kiln, picking station, incline hoist, road metal plant and riveted steel hopper), rail siding and section of rail platform, remnants of the late-nineteenth century Cave Hill farm, specifically the dairy and bacon factories and silage store; eastern driveway; and memorial gateposts.

...

Registered Aboriginal Party (RAP)

Cave Hill Limestone Quarry is located within the traditional language boundaries of the Woi wurrung, who made up one of the seven Kulin Nation language groups. There is no Registered Aboriginal Party (RAP) for the site. The Wurundjeri Tribe Land and Compensation Cultural Heritage Council Incorporated is the current applicant for RAP status for the activity area having lodged application for this on 24 August 2007.

How is it significant?

Cave Hill Limestone Quarry is of historical and technical and significance to the State of Victoria. The place satisfies the following criteria for inclusion in the Victorian Heritage Register:

- Criterion A: Importance to the course, or pattern, of Victoria's cultural history.
- Criterion B: Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
- Criterion D: Importance in demonstrating the principal characteristics of a class of cultural places and objects.
- Criterion F: Importance in demonstrating a high degree of creative or technical achievement at a particular period.
- Criterion H: Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

#### (ii) Conservation Management Plan

Places Victoria, on behalf of Sibelco the (then) quarry owner, commissioned Lovell Chen Architects & Heritage Consultants in collaboration with Andrew Long and Associates, and Lookear to prepare the Conservation Management Plan. The Conservation Management Plan seeks to:

- clarify the nature and extent of the site's cultural heritage significance
- ensure that the conservation and future uses, adaptation and development of the place have regard for its heritage significance.

The Conservation Management Plan provides:

- a history of the development of the place and a description of the key areas and elements
- assesses the heritage significance based on that information
- implications arising from significance, conservation policies and management guidelines.

The Conservation Management Plan includes Policy 26:

Aboriginal history and use of Cave Hill, and attachment to it, are significant factors for consideration in the future interpretation and management of the site.

### **(iii) Aboriginal Heritage Assessment**

The Conservation Management Plan appends an Aboriginal Heritage Assessment prepared by Andrew Long and Associates in 2013. The Assessment:

- identifies the Lilydale Quarry as a registered Aboriginal place in the Victorian Aboriginal Heritage Register (12.3-31), with six identified surface and subsurface artefacts on the hillside, elevated plateau and hill ridge
- concludes that a mandatory Cultural Heritage Management Plan is not required for the proposed development of the subject land for the following reasons:

Given the general absence of areas of cultural heritage sensitivity within activity area one of the two triggers required to make a CHMP mandatory are essentially absent from the majority of the activity area. Where areas of cultural heritage sensitivity are present, in association with registered Aboriginal cultural heritage places, these places are subject to the recommendations of a previously prepared CHMP and as a consequence a subsequent CHMP will likely not be required. This will likely hold unless the proposed activity in that part of the activity area containing these sites is radically altered from that which the previous CHMP was prepared for.

### **(iv) Heritage Interpretation Strategy**

Lovell Chen and Biosis Pty Ltd prepared the Heritage Interpretation Strategy which:

- establishes a recommended approach to interpreting cultural heritage values associated with the former Lilydale Quarry site
- provides a high-level strategy with emphasis placed on opportunities for site-wide coordination.

## **4.2 Aboriginal cultural heritage**

### **(i) The issues**

The issues are:

- whether the Wurundjeri elders need to be consulted throughout the subject land's development phase
- whether an Aboriginal Cultural Values Assessment should be prepared to inform the CDP.

### **(ii) Evidence and submissions**

HBI Lilydale advised that Aboriginal Victoria was one of the agencies that participated in at least one of the 16 workshops which interrogated the background reports.

Yarra Ranges Council considered an Aboriginal Cultural Values Assessment should be prepared to inform the CDP and future development. VPA provided minutes from the 8 September 2020 Yarra Ranges Council meeting which state:

Officers are recommending that an Aboriginal Cultural Values Assessment be prepared for each Precinct Plan. The CDP should have a specific objective to celebrate aboriginal cultural heritage.

HBI Lilydale and VPA submitted that the Amendment was supported by sufficient analysis through the conservation management background reports.

### **(iii) Discussion**

Lilydale Quarry is registered in the Victorian Aboriginal Heritage Register, with six identified artefacts. Matters of Aboriginal heritage are subject to separate statutory processes under the *Aboriginal Heritage Act 2006*. The planning framework proposed through the Amendment has been appropriately informed by a comprehensive Aboriginal cultural heritage assessment. The Committee was not persuaded that further work is needed beyond the existing statutory approvals process.

### **(iv) Finding**

The Committee finds the Amendment has appropriately considered Aboriginal cultural heritage and no further changes are required.

## **4.3 Heritage conservation management**

### **(i) The issues**

The issues are:

- whether the CDP is consistent with the Conservation Management Plan
- whether there should be more detail about how buildings will be repurposed
- whether CDZ1 should require precinct interpretation plans.

### **(ii) Evidence and submissions**

Yarra Ranges Council submitted:

- the CDP should provide more details on how significant heritage structures and buildings will be protected and repurposed
- CDZ1 should require precinct interpretation plans, consistent with CDP Guideline G40.

Heritage Victoria submitted that:

- there appears to be a misalignment or potential conflict between proposed planning provisions related to the proposed treatment of the northern portion of the Heritage Village (Precinct 2), particularly the entrance driveways and sporting ovals, and the recommendations of the Conservation Management Plan
- the Conservation Management Plan:
  - is not formally endorsed by Heritage Victoria
  - assists with the assessing matters relating to the heritage place and future approvals under the Heritage Act
  - assesses the 1930s cricket oval as an element of contributory significance and the 1870s driveway alignment as an element of primary significance
- the Amendment proposes to develop two sports ovals and tennis courts partly over the cricket oval and the driveway alignment.

- a proposal to reconfigure elements in the heritage registration would need to be considered through a future permit application lodged in accordance with the Heritage Act
- works which propose the loss of heritage fabric when other approaches may be achievable are unlikely to be approved under the Heritage Act
- ideally this potential conflict should be resolved before the Amendment is approved and gazetted to avoid a development that is consistent with CDZ1 failing to be approved under the Heritage Act.

HBI Lilydale advised that Heritage Victoria was one of the agencies that participated in at least one of the 16 workshops which interrogated the background reports. HBI Lilydale called evidence on heritage from Mr Lovell of Lovell Chen. He found issues of heritage sensitivity arise for:

- Potential for provision of open space within the northern precinct, including the proposed construction of an oval over the east drive
- The removal of land from the extent of registration as associated with the filling of the quarry pit
- Subdivision in the vicinity of the farm area and the processing plant area
- Conservation and adaptive reuse of heritage structures and buildings.

Mr Lovell considered that these issues would be managed through the formal Heritage Victoria process.

Mr Lovell consider it premature to remove part of the Heritage Overlay (HO201) from the subject land. He explained the Heritage Overlay would normally require the impacted land to be removed from the Victorian Heritage Register first. HBI Lilydale accepted his recommendation to retain the Heritage Overlay until that time.

### **(iii) Discussion**

The subject land's heritage values have been soundly informed by the Conservation Management Plan and Heritage Interpretation Strategy. The Amendment establishes an appropriate planning assessment framework for heritage through the CDZ1 provisions and the CDP guidelines and requirements. Specifically, CDZ1 requires:

- an urban design framework for Precinct 2 to:
  - identify heritage elements to be retained or adopted
  - demonstrate how the relevant policies and principles in the Plan and Strategy will be achieved
- a heritage interpretation plan which includes:
  - precinct level detail of applicable themes, stories and interpretive media
  - interpretation strategies and concepts which are generally consistent with the principles outlined in the Strategy.

Heritage Victoria has the lead role in advising on matters of state heritage. It is not appropriate for the Committee to comment on matters of state heritage which Heritage Victoria will consider through a separate future application process. Further, the Committee does not support including or requiring further details or requirements for heritage matters before design plans are finalised. The Committee has considered the issue of oval size and associated infrastructure later in this report based on need rather than state heritage. HBI Lilydale would benefit from following advice from its heritage expert and from consulting with Heritage Victoria during the permit stage.

The Committee accepts Mr Lovell's evidence that the Amendment should not delete part of the Heritage Overlay (HO201) from the subject land. This can be reviewed following any change to the Lilydale Quarry listing in the Victorian Heritage Register.

**(iv) Findings and recommendation**

The Committee finds:

- The Amendment appropriately responds to heritage in the Comprehensive Development Zone Schedule 1 provisions and the Comprehensive Development Plan guidelines and requirements.
- It is not appropriate for the Committee to comment on matters of state heritage which Heritage Victoria will consider through a future application process under the *Heritage Act 2017* when detailed designs are known.
- HBI Lilydale should follow Heritage Victoria's preliminary comments to support any future application under the *Heritage Act 2017*.
- The Amendment should not delete part of the Heritage Overlay (HO201) from the subject land.

The Committee recommends:

- 3. Abandon the proposal to delete part of the Heritage Overlay (HO201) from the subject land.**



## 5 Environmental issues

### 5.1 Geotechnical management

#### (i) The issue

The issue is whether the Amendment provides an appropriate geotechnical management framework for designing, implementing and backfilling the quarry and subsequent monitoring of the rehabilitated quarry area.

#### (ii) Background

Works have commenced to backfill the quarry pit with approximately nine million cubic metres of stockpile located on the subject land. Most of the stockpile is the overburden removed from the quarry during its operation. The balance of the soil (about 1 million cubic metres) required to complete the backfill will be sourced from other earthworks planned in stages of the subject land's future development.

Backfilling commenced in accordance with an approved Work Plan under Work Authority WA199 issued by the Department of Jobs, Precincts and Regions. The Work Plan covers filling up to the level RL 100 metres at which stage the rehabilitation process will continue under a planning permit issued by Yarra Ranges Council and a section 173 agreement between the landowner and Yarra Ranges Council.

The Geotechnical Framework (Tonkin and Taylor) April 2020:

- details the approach, filling specifications, fill process, monitoring, reporting and survey and investigation works to be undertaken
- is one of the background reports which informed the Amendment
- was reviewed by Golder and Senversa in December 2020 at the request of Yarra Ranges Council.

Backfilling is expected to be completed in two to three years when the land level reaches between RL 120 and RL 140 metres. The quarry area will then be monitored for earth settlement over two more years before:

- land is transferred to Yarra Ranges Council for roads and open space
- permit applications for subdivision of the rehabilitated quarry site land can be lodged.

The exhibited CDZ1 requires a geotechnical statement for land in Precinct and a section 173 agreement regarding the performance of filled land.

#### (iii) Evidence and submissions

HBI Lilydale called evidence on geotechnical engineering from Mr Olds of Tonkin and Taylor. Mr Olds detailed the history of the quarry and the Geotechnical Framework for its rehabilitation. He noted that a literature search did not find other projects where fill of up to 120 metres had been done. A process of engineering investigation and design was therefore undertaken to establish an engineering methodology for the filling work that could lead to the quarry site's eventual stability for development.

Mr Olds did not find any signs of contamination at the quarry pit site or backfilling operations. He noted an environmental audit is required for the heritage area, the quarry pit, old stockpile sites and groundwater before development can commence.

Mr Olds stated that ongoing settlement of the fill will vary after backfilling is completed due to variable fill depths, variable densities of fill and variable degrees of groundwater infiltration. The most uncertain variable is expected to be the degree of groundwater saturation and the impact of saturation on settlement. One option would be to retain the dewatering system to remove uncertainty. A system of surface modelling will be established on the fill surface and the surrounding natural ground level outside the quarry pit area will be established to monitor settlement and differential settlement. Mr Olds advised that this technology is not yet finalised.

Mr Olds explained that the land to be transferred to Yarra Ranges Council is subject to meeting agreed settlement criteria which will be included in the proposed section 173 Agreement.

For the remaining land, he stated:

- the ability to develop the remaining land will depend on the settlement monitoring results, the timing of development and any additional work to be done on the fill
- the type of foundation design (he noted that the footing systems for development would most likely be non-standard and require dual certification by two engineers).

Mr Olds concluded that:

- filling the quarry creates engineering challenges for future development due to its depth
- an observational approach is being used to compare actual settlement to the analytical predictions of fill behaviour due to the lack of proven laboratory and analytical methods to predict settlement with certainty
- significant effort is being made to compact the fill to a standard well above the normal AS3798 requirements
- ongoing monitoring of settlement and groundwater is being conducted
- increased confidence in fill and groundwater behaviour will be gained over time to inform how best to develop the land once fill is completed
- the work will continue in accordance with the Geotechnical Framework relied on in the future associated section 173 agreement
- the procedures in the Geotechnical Framework will deliver outcomes that will provide confidence in the final development of the subject land.

HBI Lilydale submitted Mr Olds' evidence demonstrated the level of rigour and analysis that has been applied to the filling of the quarry. It submitted that no other party sought to rely on any geotechnical evidence and the evidence of Mr Olds has not been the subject of any serious challenge. HBI Lilydale added:

- there are additional engineering solutions that can be applied to expedite the settlement process if the fill does not settle as anticipated
- the proposed section 173 agreement makes HBI Lilydale responsible for meeting the criteria before transferring land to Council
- the five years needed to fill the quarry and subsequently monitor settling will provide time to resolve the section 173 agreement without delaying the Amendment.

HBI Lilydale proposed to change the CDZ1 (Day 1 version) provisions headed 'Geotechnical statement – Precinct 4' and 'Performance of filled land – Precinct 4' to reinstate '*Unless otherwise*

*agreed to by the responsible authority ...’ and to add ‘... to the satisfaction of the responsible authority’.*

Yarra Ranges Council supported the quarry fill because it would:

- substantially improve the subject land’s aesthetic landform and safety
- not leave a large area of unusable open space.

Council maintained that requirements for geotechnical outcomes should apply to all the subject land, not just land which may vest with Council as open space or road reserve. It noted Mr Olds’ evidence that the compaction approach cannot be divided between land that will end up in Council ownership as open space and land that will be private development sites.

Yarra Ranges Council referred to the Senversa report which it described as a peer review of the Tonkin and Taylor Geotechnical Framework report. The Senversa report advised that:

- issues associated with differential settlement will need to be a necessary criterion for managing the fill
- after the fill is completed, development of the land or transfer of some of the land to Council will be predicated on an expert geotechnical engineer predicting about the following decades of likely settlement.

Yarra Ranges Council submitted that the final form of the geotechnical section 173 agreement still needed to be negotiated. At the Hearing, Council referred to the CDZ1 requirements for the geotechnical performance of the land being separated into:

- a section 173 agreement regarding monitoring, reporting, performance specifications and an indemnity
- another scheme requirement for a geotechnical statement.

Yarra Ranges Council explained that it had been proposed for at least four years for the geotechnical statement to be incorporated into the section 173 agreement rather than be required under separate planning provisions. It added:

The most obvious point about this is that there is absolutely no guidance within the CDZ Schedule about what ought to be considered satisfactory in terms of the geotechnical performance of the relevant land. It would just become an open question.

Yarra Ranges Council noted that the time for providing the geotechnical statement had shifted from when the subject land is ready for transfer to around the time of the statement of compliance and the vesting of the relevant reserve to Council. Council considered the granting of a permit for subdivision or building and works may be months or even years before the settled filled land is ready for the preparation of the relevant geotechnical statement with respect to the transfer of open space or road reserve land to Council.

Yarra Ranges Council recommended a range of changes<sup>1</sup> to CDZ1 (Day 1 version) which:

- added to the end of the second paragraph under the heading ‘Geotechnical Statement – Precinct 4’ in Clause 3.0 Subdivision and Clause 4.0 Buildings and works:

... including a description of that development. In any case where an alternative or modified form of development is proposed the provisions of this clause apply including the need for further geotechnical statement.

<sup>1</sup> Document 79(a)

- replaced the section headed ‘Performance of filled land – Precinct 4’ with a new provision headed ‘Geotechnical Section 173 Agreement’ in Clauses 3.0 and 4.0 (to replace the draft CDZ1 provision headed ‘Performance of filled land – Precinct 4’) stipulating that:
 

A permit must not be granted for the development (including subdivision) of any land within Precinct 4 until the owner enters into an agreement with the responsibility authority under section 173 of the Planning and Environment Act 1987 relating to the filling of the former Lilydale quarry.
- added a new provision with specific matters that must be included in the section 173 agreement.

At the Hearing, Yarra Ranges Council noted CDZ1 would need to reference who has responsibility for the ongoing operations of the ground water pumping should that be necessary into the future.

#### **(iv) Discussion**

The quarry pit is being filled to a substantial depth. The Committee was not provided with any other example of backfilling a quarry to this depth.

The Geotechnical Framework for the filling of the quarry pit is a comprehensive report that establishes a sound methodology for backfilling the quarry. No evidence questioned the report. As acknowledged by Mr Olds, there is some risk associated with its novel methodology which has been specifically engineered for the subject land.

There is some uncertainty regarding overall settlement, the extent of differential settlement over the fill area and the level of intrusion of groundwater into the fill. The ongoing monitoring technology and program is still being developed. However, there is time to develop the monitoring program and scope for engineering options should that be necessary, particularly with groundwater.

Given there is some uncertainty, the Committee generally supports Yarra Ranges Council’s changes to CDZ1, subject to some variations. The party responsible for the ongoing operation of the groundwater dewatering system should be specified, should that be needed after the quarry has been filled.

Chapter 3.2 of this report discusses the timing for the geotechnical section 173 agreement.

#### **(v) Findings and recommendations**

The Committee finds:

- The Amendment provides an appropriate geotechnical management framework for designing, implementing and backfilling the quarry and subsequent monitoring of the rehabilitated quarry area.
- There is some uncertainty regarding settlement, differential settlement and groundwater saturation in the filled quarry area that will need to be monitored for some time after the fill operations are completed to confirm that the filled land is suitable for development.
- Comprehensive Development Zone Schedule 1 would benefit from changes at Clauses 3.0 (Subdivision) and 4.0 (Buildings and works) which clarify requirements for the Geotechnical Statement – Precinct 4 and specify the details needed for the section 173 geotechnical agreement.
- The geotechnical section 173 agreement should specify which party will be responsible for the ongoing operation of the groundwater dewatering system, if needed.

The Committee recommends:

4. Amend the Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:
  - a) amend Geotechnical Statement – Precinct 4 in Clauses 3.0 and 4.0 to require a description of the development
  - b) rename ‘Performance of land fill – Precinct 4’ in Clauses 3.0 and 4.0’ to ‘Geotechnical section 173 agreement – Precinct 4’ and revise the provisions to provide more detail and guidance, including the responsibility for the ongoing operation of the groundwater dewatering system, if needed, when preparing the agreement.

## 5.2 Potential land contamination

### (i) The issue

The issue is whether the Amendment has appropriately considered potential land contamination.

### (ii) Background

The Amendment proposes to apply the Environmental Audit Overlay to part of the subject land shown in Figure 4. CDZ1 Clause 2.0 requires an environmental audit for all land east of the railway line. CDP Requirement 53 specifies that any land subject to an Environmental Audit Overlay and transferred to the Responsible Authority must have a certificate of environmental audit in accordance with the *Environment Protection Act 1970*.

**Figure 4** Exhibited Environmental Audit Overlay



Ministerial Direction 1 and Planning Practice Note 30 are relevant to potential land contamination.

### (iii) Evidence and submissions

The EPA did not object to the proposed Environmental Audit Overlay. It submitted that:

- it supports steps taken by HBI Lilydale to manage risks
- while it supported the proposed CDZ1 environmental requirements, careful management will be needed to avoid conflict between adjoining land uses and new development close to the rehabilitated quarry
- reference to the *Environment Protection Act 1970* in the CDZ1 environmental audit provisions should be replaced with reference to the Environmental Audit Overlay.

VPA considered the Environmental Audit Overlay over the eastern part of the subject land would ensure an environmental audit is prepared at an appropriate time in line with detailed precinct planning. It submitted that the approach to potentially contaminated land has been reviewed by the EPA and adequately addresses the potential environmental, amenity and human health risks identified.

VPA submitted that the background Environmental Site Assessment concluded the subject land west of the railway line has low potential for contamination and no Environmental Audit Overlay or environmental audit is required for that part. VPA explained the EPA and Yarra Ranges Council found this approach to be satisfactory.

Box Hill Institute queried whether it would be advised of potential contamination and amenity impacts.

#### **(iv) Discussion**

The Committee considers the Amendment has appropriately considered potential land contamination through its preliminary research and proposed approach. The proposed requirements in CDZ1 and the CDP will ensure that future planning decisions are appropriately guided and informed, consistent with Ministerial Direction 1 and Planning Practice Note 30.

The Committee agrees with EPA that the CDZ1 environmental audit provisions should refer to the Environmental Audit Overlay. These provisions replicate the requirements in the overlay and would apply only to the land subject to the overlay (east of the railway line).

#### **(v) Findings and recommendation**

The Committee finds:

- The Amendment has appropriately considered potential land contamination.
- The provisions in 'Environmental Audit – All land to east of the Lilydale-Melbourne railway line' of Comprehensive Development Zone Schedule 1 should be corrected to refer to the Environmental Audit Overlay rather than the *Environment Protection Act 1970*.

The Committee recommends:

5. **Amend the Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) **replace 'Environmental Protection Act 1970' in the Environmental Audit – All land east of the Lilydale-Melbourne railway line provisions with 'Environmental Audit Overlay'.**

### **5.3 Bushfire management**

#### **(i) The issue**

The issue is whether the Amendment has appropriately considered bushfire management through CDZ1 and the CDP.

## **(ii) Background**

### **Victoria Planning Provisions**

Clause 13.02-1S (Bushfire planning) seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

Clause 44.06 (Bushfire Management Overlay) seeks to ensure development of land prioritises the protection of human life and strengthens community resilience to bushfire, to identify areas where the bushfire hazard warrants bushfire protection measures to be implemented and to ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

Clause 52.47 (Bushfire Protection: Planning Requirements) specifies requirements for buildings, works and subdivision of land to which the Bushfire Management Overlay applies.

Clause 56.06-7 (Neighbourhood street network detail objective) requires, among other things, subdivisions to meet the requirements of the relevant fire authority.

### **Technical assessment**

The Lilydale Quarry - Bushfire Assessment (Biosis, April 2020) informed the Amendment and acknowledges:

- the entire subject land is a Bushfire Prone Area
- the Bushfire Management Overlay (BMO) applies to the eastern part of the subject land
- risk mitigation measures are already in place for the subject land including:
  - dwellings in a Bushfire Prone Area need to meet BAL-12.5 construction standards to protect them from ember attacks
  - Clause 56.09-3 requirements for hydrants and access roads to be designed to Country Fire Authority (CFA) standards.

The Biosis report recommended that the BMO be removed from the subject land because the mapping criteria would no longer be met and the measures in the Amendment would mitigate bushfire risk. The Amendment does not propose to remove the BMO.



**Figure 5 Bushfire Prone Areas and Bushfire Management Overlay**

Source: Lilydale Quarry - Bushfire Assessment (Biosis, April 2020)

### (iii) Evidence and submissions

VPA made changes to CDZ1 and the CDP, as shown in the Day 1 version in response to CFA's submission. CFA indicated it would support a review of the BMO on the subject land.

At the Hearing, CFA acknowledged VPA's changes but stated that there are still issues that have not been adequately addressed to meet policy outcomes and reduce fire risk to an acceptable level. CFA requested further changes to CDZ1 and the CDP which:

- clarified how open space will be managed to maintain a low fire threat
- demonstrated how future development will be able to achieve the radiant heat benchmarks
- directed vulnerable and sensitive land uses away from higher bushfire risk areas (being Precincts 3 and 4)
- clarified the road layout and design parameters to:
  - provide multiple points of access and egress
  - require roads wide enough to ensure that parked cars do not prohibit the movement of emergency vehicles and can accommodate fire trucks likely to attend emergencies
  - provide a perimeter road between bushfire hazards and future development.

VPA supported the additional CDP Requirement R51 proposed by CFA for the road design to accommodate 30 tonne vehicles in areas where there are buildings above 12 metres in height. VPA considered *"this requirement is sufficient to provide the basis for the appropriate level of detail to be included at the subdivision permit stage."*



VPA did not support any other change proposed by CFA.

HBI Lilydale requested the CDZ1 application requirements be revised to require a Bushfire Site Management Plan only for a permit application on land with the BMO. It noted the BMO did not apply to most of Precinct 4 or any of Precinct 1.

HBI Lilydale submitted the CFA changes identified in its submission<sup>2</sup> should be rejected because:

- the built form associated with sensitive uses is appropriately dealt with by the Planning Scheme including Clause 13.02-1S, the BMO and Bushfire Planning Particular Provisions
- in some cases, would constitute 'double handling' (for example, the requirement for a Bushfire Management Statement for land within the BMO).

HBI Lilydale considered some matters are more appropriately addressed at the subdivision permit level. It noted CFA is a determining referral authority and can impose permit conditions. HBI Lilydale accepted CFA's request under 'Infrastructure and Staging' that:

Roads for the purposes of emergency access and egress, which include perimeter and connector roads, to be constructed prior to any development being constructed.

Yarra Ranges Council considered the following CFA changes to the CDP to be unnecessary:

- the Vision and objectives, given the urban setting and the likely removal of the BMO
- changes to Section 3.1 (Precinct 1- Western Neighbourhood), given the extent of vegetation and that these are going to be standard residential lots.

#### **(iv) Discussion**

The Committee queries why the quarry pit and its surrounds, which have no grasslands or vegetation, have been designated a Bushfire Prone Area. It also acknowledges the BMO may be removed in the future. Regardless, the Committee has considered bushfire management issues based on the Bushfire Prone Area designation applying to all of the subject land and the BMO applying to some of the land.

The Victorian Government amended the State bushfire planning policy<sup>3</sup> in December 2017 to:

Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:

...

- Not approving any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL-12.5 rating under AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009).

The CDZ1 application requirements should require a Bushfire Site Management Plan for all the subject land. Applying it only to the BMO area may fall short of meeting planning policy.

The Day 1 version of CDZ1 and the CDP, which include changes requested by CFA, include sufficient objectives and requirements without the need for further changes.

The perimeter and connector roads should be constructed before other development commences. This should be reflected in Section 4.8 (Infrastructure and Staging) of the CDP.

<sup>2</sup> Document 87

<sup>3</sup> Amendment VC140

Once developed, the subject land will become essentially an urban environment, with reduced vegetation, particularly in Precinct 3 where the BMO currently applies. Consistent with the views of parties, including CFA, the Committee considers the BMO should be reviewed within this revised context.

#### **(v) Findings and recommendations**

The Committee finds:

- The Amendment has appropriately considered bushfire management through Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan.
- Comprehensive Development Plan Section 4.8 should require roads for the purposes of emergency access to be constructed before any other development commences.
- The Bushfire Site Management Plan should apply to all the subject land, consistent with the Comprehensive Development Zone Schedule 1 application requirements, given it is all in a Bushfire Prone Area.
- The Bushfire Management Overlay should be reviewed through a separate process when development on the subject land reduces the extent of vegetation.

The Committee recommends:

- 6. Amend the Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) add a new application requirement with specified content for a Bushfire Management Plan**
- 7. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
  - a) add a new requirement under Section 4.8 (Infrastructure and Staging):**
    - **Roads for the purposes of emergency access, which include perimeter and connector roads, must be constructed before other development commences.**

## **5.4 Interfaces and buffers**

### **(i) The issues**

The issues are:

- whether the CDP has appropriately responded to the sensitive interface between future development on the subject land and existing residential areas to the east and south and the Box Hill Institute
- whether the 10 metre tree retention buffer zone should remain in private ownership.

### **(ii) Background**

The CDP Framework Plan and the Built Form and Urban Design Plan identify a sensitive residential interface zone in Precinct 3 along the subject land boundary abutting the existing residential area to the east and south. CDP Requirement R38 states:

Within the Sensitive Residential Interface Zone (shown on Figure 8), development must consider the established built form pattern.

Lots will have a 40 metre minimum depth and a maximum two storey height limit shall apply within the Sensitive Residential Interface.

CDP Table 3 states that for Precinct 3 along the eastern residential interface:

The interface between the existing residential properties and new development will be sensitively managed through the provision of 40 metre minimum lot depths within the area coloured light green on Figure 8.

A tree retention zone, shown on Figure 5 will be applied to private lots and will require management to minimise the risk of bushfire to the surrounding community.

### **(iii) Evidence and submissions**

Several submitters considered the proposed 10 metre-wide buffer along the boundary between the subject land and existing residential areas to be inadequate. Mr and Ms Peterson disagreed that:

- the 10 metre buffer should be 'private and within the parcel of purchasable land'
- the landowner or developer should be responsible for deciding the type of vegetation planted in the area.

Mr and Ms Rooke submitted:

We are so fortunate to have this abundance of nature so close to our properties. Our concern is that these trees will be removed and ornamental trees put in their place, hence all that wildlife will be gone forever as this is not their natural habitat.

They added that a large part of the proposed residential interface 40-metre buffer will comprise new dwellings by invading their privacy with noise and visual interference.

VPA responded the 10 metre buffer is currently privately owned and will remain so. It noted future landowners will need to maintain the landscaped buffer area identified on the CDP.

VPA explained the interface with Box Hill Institute is a key matter raised in discussions and is being addressed through the campus masterplan currently being prepared by the Institute. It subsequently proposed to revise the key interface treatment for Box Hill Institute land in CDP Table 3 to:

Built form adjacent to this interface will be designed to address and activate the Box Hill Institute land. The interface treatment should accord with the Box Hill Institute Masterplan.

HBI Lilydale called evidence on urban design from Mr Czarny of Hansen Partnership. Mr Czarny found the urban design response to the interface with established residential lots south and east of the subject land to be entirely appropriate. He considered the interface was carefully considered in the background documents and well executed in the CDP.

### **(iv) Discussion**

The Committee acknowledges that residents on properties abutting the eastern boundary of the subject land have benefited from the vegetated buffer intended to protect their amenity from the quarry's operations. However, a buffer of this scale will not be needed after the subject land has been filled and used predominantly for residential purposes. Retaining that extent of vegetated area may hinder the integration of the subject land with the existing residential area.

The Committee accepts Mr Czarny's evidence on the interface. The CDP recognises the form of development along the subject land boundary in Precinct 3 needs to be sensitive to, and minimise the impact on, the amenity of abutting existing residential properties. The proposed design requirements and guidelines for the identified sensitive interface zone:

- are an acceptable response to the amenity of the existing residential properties

- appropriately balance the amenity of existing residents on abutting properties with future residential development on the subject land.

The Amendment seeks to introduce a comprehensive planning framework for the subject land irrespective of whether it is privately or publicly owned. The Committee agrees with VPA that any owner, whether public or private, would have to maintain the land.

The Committee was not presented with information to explain how relatively standard suburban lots with two storey residential buildings will result in unacceptable noise or privacy issues. This would be an unlikely outcome.

The Committee agrees with VPA's revised key interface treatment for Box Hill Institute land in CDP Table 3 because it would ensure a coordinated interface response between the two sites.

#### **(v) Findings and recommendation**

The Committee finds:

- The Comprehensive Development Plan has appropriately responded to the sensitive interface between future development on the subject land and the Box Hill Institute and existing residential areas to the east and south.
- The proposed planning provisions, including the need to maintain the buffer area, apply irrespective of ownership.
- Whether the 10 metre tree retention buffer zone should remain in private ownership is not a planning matter.
- Referencing Box Hill Institute Masterplan in Comprehensive Development Plan Table 3 will ensure a coordinated interface response between the subject land and Box Hill Institute.

The Committee recommends:

- 8. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
  - a) revise the key interface treatment for Box Hill Institute land in Table 3 to:**

**Built form adjacent to this interface will be designed to address and activate the Box Hill Institute land. The interface treatment should accord with the Box Hill Institute Masterplan.**

## **5.5 Vegetation**

### **(i) The issue**

The issue is whether the Amendment has appropriately considered the removal of existing trees on the subject land which buffer surrounding residential areas from the quarry's operations.

### **(ii) Background**

The Lilydale Quarry - Flora and Fauna Assessment (Nature Advisory, April 2020) which informed the Amendment:

- recorded the planted vegetation including trees along the subject land boundary abutting the existing residential areas to the east and south
- found none of the trees to be native vegetation, therefore the Biodiversity Assessment Guidelines do not apply.

Regarding the CDP:

- The Framework Plan and the Built Form and Urban Design Plan include a 10 metre vegetation retention zone in Precinct 3 along the Site boundary abutting the existing residential area to the east and south of the Site.
- Requirement R38 was added to CDP (Day 1 version) to require the 10 metre vegetation retention zone to be managed to minimise bushfire risk.
- Guideline G39 states that all mature trees on lots within 10 metres of the southern and eastern boundary of the sensitive residential interface zone should be retained.

**(iii) Evidence and submissions**

Mr Guest submitted the development would remove and ‘disrespect’ the existing vegetation and wildlife. Mr and Ms Rooke submitted that habitat for native birds would be lost if existing trees along the subject land boundary abutting existing residential properties were removed and replaced with ornamental trees.

VPA responded that:

- a flora and fauna assessment had been undertaken to minimise the impact on ecosystem
- the flora and fauna background report and the CDP considered tree removal and landscaping.

**(iv) Discussion**

The Committee accepts the findings in the Flora and Fauna Assessment that the relatively wide band of trees along the boundary of the subject land is not native vegetation. The Biodiversity Assessment Guidelines do not apply when considering their removal.

These trees were planted as a longer-term interim measure to protect the amenity of residents during the quarry’s operation. This natural appearing environment on privately owned land has benefitted abutting residents who viewed it from their property and wildlife which may have used it. The Committee is satisfied there is an abundance of vegetation in the broader surrounding area for wildlife after part of the vegetation is removed from the subject land.

Residents and wildlife will continue to benefit from 10 metre vegetation zone required to be retained by the built form and urban design guidelines for Precinct 3.

**(v) Finding**

The Committee finds the Amendment has appropriately considered the removal of existing trees on the subject land which buffer the surrounding residential areas from the quarry’s operations.

## 6 Use, development, design and housing

### 6.1 Highway frontage commercial/mixed use area

#### (i) The issue

The issue is whether there should be a commercial/mixed use area in Precinct 1 on the corner of Maroondah Highway and Mooroolbark Road.

#### (ii) Evidence and submissions

Yarra Ranges Council submitted the commercial area proposed on the corner of Maroondah Highway and Mooroolbark Road is inappropriate because from a planning perspective:

- it does not integrate with, relate to, or is needed by, the subject land's development
- it is inconsistent with the Planning Scheme provisions, including Clause 21.05 (Objectives 1 and 2) and Clause 22.07.

Yarra Ranges Council explained that existing planning policy seeks to direct commercial development to the existing Lilydale and Chirnside Park activity centres. Both centres are located near each other. The proposed commercial/mixed use area would compete with commercial activity in these two centres, potentially undermining the success or viability of the centres.

Yarra Ranges Council and DoT raised traffic issues associated with having a new commercial centre at this location (see Chapter 8.7 of this report).

Mr De Silva recommended the commercial/mixed use area be deleted from the CDP. He considered the mixed use:

- is inconsistent with the project's vision
- is isolated and does not form part of the existing Lilydale Activity Centre
- does not complement the fine grain, connected pattern of proposed development.

Mr Woodland referred to this commercial area in his evidence but did not express any specific opinion regarding its suitability.

#### (iii) Discussion

The Amendment proposes to enable a commercial/mixed use area that is:

- outside the existing commercial core of the Lilydale Activity Centre and its surrounding Residential Growth Zone area
- about 1,000 metres from Lilydale's commercial core.

The Committee considers there is insufficient strategic justification for a new activity centre so close to an existing major activity centre. Its location alone would make it difficult to include within Yarra Ranges retail hierarchy.

Rather, the proposed commercial/mixed use area is an out-of-centre retail proposal which shares the same retail trade area as the Lilydale Major Activity Centre. Planning policy seeks to direct such uses and development within the boundaries of that activity centre.

The Committee agrees with Yarra Ranges Council and Mr De Silva that there should be no commercial/mixed use area on the corner of Maroondah Highway and Mooroolbark Road in Precinct 1.

**(iv) Findings and recommendations**

The Committee finds that there should be no commercial/mixed use area on the corner of Maroondah Highway and Mooroolbark Road in Precinct 1.

The Committee recommends:

9. **Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) **delete any reference to a commercial/mixed use area on the corner of Maroondah Highway and Mooroolbark Road in Precinct 1.**
10. **Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
  - a) **delete any reference to a commercial/mixed use area on the corner of Maroondah Highway and Mooroolbark Road in Precinct 1.**

## **6.2 Built form and character**

**(i) The issue**

The issue is whether the proposed planning provisions will enable development which responds appropriately to neighbourhood character sought for the existing surrounding areas.

**(ii) Background**

The CDP specifies preferred heights in its Figure 8, as replicated in Figure 6.

Figure 6 CDP: Built form and urban design plan



### (iii) Evidence and submissions

Numerous submissions opposed multi-storey buildings on smaller lots and medium density which would be enabled by the Amendment because they would be inconsistent with area's single storey buildings on properties with substantial gardens. Submitters sought new development on the subject land which reflected a rural or semi-rural neighbourhood character rather than a 'city' environment. One submitter considered that Lilydale would *"become like Box Hill or East Doncaster with multilevel buildings, that are aesthetically ugly and an eye sore"*.

Mr Czarny considered the subject land was of a size which justified establishing a new character that is distinct from surrounding areas. He found the Amendment to be an appropriate neighbourhood design and development outcome, with specific attention to urban design and landscape matters. He supported the urban design approach of:

- dividing the subject land into four neighbourhoods which he described as *"sensible and practical"*



- concentrating higher density mixed use form centrally, stepping down to urban living/medium density town houses then again to an extensive ring of conventional neighbourhood lots.

#### **(iv) Discussion**

The Committee agrees with Mr Czarny that the subject land's 143.8 hectare size justifies it having its own character. This emerging character should be more evident in the medium density areas and higher density central core (Precinct 4).

The Committee accepts Mr Czarny's evidence regarding the Amendment's approach to built form and neighbourhood character. This includes locating the taller built form centrally so that, if it is visible from surrounding areas, it appears in a more diminished form. Transitioning built form scale and dwelling density towards existing established areas is an appropriate urban design response to ensure the subject land appropriately interfaces with established neighbourhood character. Having more conventional housing lots in the subject land's outer ring will help this response.

Of note, the Amendment proposes a planning framework to guide decisions on the appropriate built form, including building heights, through future permit applications. There is no assurance that future development will be able to achieve the full extent of scale enabled by the planning framework in every location on the subject land.

#### **(v) Findings**

The Committee finds:

- The subject land's 143.8 hectare area justifies its own character.
- The proposed planning provisions will enable development which responds appropriately to neighbourhood character sought through planning policy for the existing surrounding areas.

## **6.3 Affordable housing**

### **(i) The issues**

The issues are:

- whether requiring 5 per cent of all dwellings to be affordable is appropriate and justified
- whether affordable housing should be further designated into minimum proportions for social housing and affordable rental housing
- whether there should be further guidance for affordable housing in CDZ1 and the CDP.

### **(ii) Background**

The Amendment was supported by the Affordable Housing Needs Assessment (Urbis, 2020) and Kinley Affordable Housing Proposition (Urbis, 2020). The Proposition:

- specified the subject land provide 5 per cent of its total dwellings as affordable housing
- calculated 162 affordable dwellings would be provided on the assumed yield of 3,241 dwellings, comprising:
  - crisis, social rented: 28
  - affordable rental: 40
  - shared equity, affordable purchase: 65

- key worker: 30
- noted that 162 additional affordable dwellings would increase affordable housing in Yarra Ranges by 26 per cent.

The CDP includes Objective O2:

To promote lot and residential typologies that allow for a diversity of households, including affordable housing, throughout the site.

CDZ1 requires the owner of the land to enter into a section 173 agreement before a subdivision for the seven hundred and first dwelling is granted. The agreement must require, among other things, the owner to either:

- deliver affordable dwellings or land lots to construct affordable dwellings equal to 5 per cent of the total dwellings on the subject land, or
- provide affordable housing by any agreed alternative method generally consistent with the value of the above provision.

### **(iii) Evidence and submissions**

HBI Lilydale referred to planning objectives in the PE Act which seek to:

- provide for the fair, orderly, economic and sustainable use, and development of land
- facilitate the provision of affordable housing in Victoria.

HBI Lilydale submitted that:

- the planning objectives need to be balanced when considering a planning scheme amendment with a view towards achieving a net community benefit for present and future Victorians
- there is no state-wide framework on how to achieve the affordable housing objective in a particular development or amendment.

Yarra Ranges Council called evidence on affordable housing from Ms Breen of Affordable Development Outcomes. Ms Breen and HBI Lilydale agreed that the Planning Scheme does not mandate affordable or social housing requirements. HBI Lilydale added that there are various ways to facilitate the provision of affordable housing. One significant way would be to increase housing supply and diversity.

HBI Lilydale and Yarra Ranges Council disagreed over how much, and what type of, affordable housing should be provided on the subject land. HBI Lilydale supported the 5 per cent specified in the exhibited CDZ1 and referred to the two affordable housing reports prepared by Urbis to support its position.

Mr Woodland found 5 per cent to be acceptable, based on existing state planning policy and noted it is comparable with recent urban rezonings in metropolitan Melbourne. He considered the affordable and social housing mix should be mutually agreed through the voluntary agreement rather than being mandated. Mr Woodland recommended CDZ1 require the preparation and approval of an affordable housing strategy to address details such as the affordable housing mix and relevant agencies. VPA and Yarra Ranges Council included different versions of this requirement in their without prejudice versions of CDZ1.

Yarra Ranges Council preferred at least 8 per cent of all dwellings on the subject land to be affordable, with 5 per cent social housing. It submitted that if only 5 per cent affordable housing was supported on the subject land, they should all be social housing.

Ms Breen attached to her evidence two documents prepared for Council by her organisation:

- draft Yarra Ranges Affordable Housing Background Report prepared, June 2019 which:
  - forms the basis of an Affordable Housing Development Negotiation Framework
  - identifies the subject land as a key opportunity to seek an affordable housing agreement
- draft Yarra Ranges Affordable Housing Development Negotiation Framework, October 2019 which:
  - establishes Council's intent to facilitate Affordable Housing outcomes through agreement with a planning permit applicant through the planning assessment process
  - requires 8 per cent of all dwellings on sites proposing 500 or more dwellings to be affordable.

Yarra Ranges Council advised that it had not adopted either of the draft documents to date.

Ms Breen recommended:

- 8 per cent affordable dwellings should be provided on the subject land
- a minimum of 5 per cent social housing with dwellings owned and managed by a registered housing agency
- the remaining 3 per cent should support low to moderate income households.

Ms Breen believed CDZ1 did not provide certainty and lacked sufficient detail to guide the preparation of an affordable housing section 173 agreement and subsequent delivery.

Yarra Ranges Council's without prejudice version of CDZ1 included:

Prior to the grant of a permit to develop (including subdivide) the land the owner must enter into an agreement under section 173 of the *Planning and Environment Act 1987*. The agreement must specify:

- Securing the provision of affordable housing totalling 8% of the final total number of dwellings on the land, as:
  - 5% social housing; and
  - 3% affordable housing (other than social housing);
- The manner of provision of the affordable housing may be determined by the owner and may include:
  - the transfer of serviced land, to a registered housing agency;
  - making available affordable housing for purchase at a reduced price; or
  - such other agreed alternative to the satisfaction of the responsible authority.

The affordable housing must be:

- provided in accordance with an Affordable Housing Delivery Strategy to be prepared to the satisfaction of the responsible authority;
- be tenure blind, including complying with any urban design requirements applying to the land;
- must be suitably spread and located throughout the overall development.

The costs of the preparation, negotiation and recording of the agreement must be borne by the owner.

#### **(iv) Discussion**

The Committee finds no reason to question the contextual information forming part of the housing needs assessments in the Urbis reports and Mr Breen's evidence. The Committee has not considered the Yarra Ranges Affordable Housing Development Negotiation Framework as adopted

Council policy. Rather, it has referred to the statistical data for the purposes of understanding affordable housing need. All documents demonstrate irrefutable evidence for the need to provide affordable housing in Yarra Ranges, including Lilydale.

The question is what is the appropriate percentage of affordable housing which should be provided on the subject land. The Urbis reports refer predominantly to examples in planning schemes where 5 per cent affordable housing is required whereas Ms Breen refers to examples where a larger percentage is applied. While these are interesting examples, the Committee has considered the subject land on its own merits based on the Yarra Ranges municipal context.

The Committee considers that CDZ1 should require affordable dwellings or land lots for constructing affordable dwellings equal to 5 per cent of the total number of dwellings in Precincts 1, 2, 3 and 4. This is consistent with the exhibited CDZ1. The subject land's scale enables it to provide a considerable number of affordable housing dwellings through a 5 per cent measure. The Committee was not persuaded by submissions or evidence to require 8 per cent.

Affordable housing provisions in CDZ1 should be flexible enough to enable ongoing negotiations during the section 173 agreement process. The Committee could not find any demonstrable need to specify details in CDZ1 such as the type of affordable housing, income ranges and where affordable housing should be located. These details:

- are important and will ultimately be included in the affordable housing section 173 agreement
- should be informed through an affordable housing delivery strategy which sets out how affordable housing will be achieved.

CDZ1 should require the landowner to prepare the strategy before a permit to subdivide land is granted. It should include information which will inform the section 173 agreement, including intended partners, timeframes, built form and associated matters. The Committee prefers VPA's version of this requirement.

Chapter 3.2 discusses the timing of the section 173 agreements specified in CDZ1.

## **(v) Findings and recommendations**

The Committee finds:

- Comprehensive Development Zone Schedule 1 should require the landowner to enter into a section 173 agreement which specifies that affordable dwellings or land lots for constructing affordable dwellings equal to 5 per cent of the total number of dwellings in Precincts 1, 2, 3 and 4 must be provided.
- The proportion of social housing, income ranges, and location of housing should be determined through the affordable housing delivery strategy which will inform the section 173 agreement process.

The Committee recommends:

- 11. Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) revise the affordable housing provisions to, among other things, require an affordable housing delivery strategy.**

## 6.4 Urban design and walkability

### (i) The issue

The issue is whether the proposed urban layout will achieve appropriate walkable neighbourhoods.

### (ii) Evidence and submissions

Mr Czarny noted the urban structure set out in the Masterplan is underpinned by four key principles: Walkable urban environments; Open space stories; Housing diversity; and Place activation. Having found CDZ1 faithfully translates the CDP, Mr Czarny stated:

The Comprehensive Development Plan (and associated CDZ1) represents a considerable and rigorous body of multidisciplinary research, collaborative investigation and design. I consider the proposed estate development concept to be sound and supportable, serving as a benchmark for metropolitan infill, in particular in relation to its open space configuration, morphological concept and transit-oriented development approach. To its credit, the proposed Amendment incorporates much of the pertinent detail of the CDP into the statutory regime with confidence – thereby minimising the opportunity for ambiguity. I therefore support the draft Amendment as proposed.

Submissions and evidence referred to planning policies seeking walkability, including Plan Melbourne Direction 3.3 (the 20-minute neighbourhood). Mr Woodland referred to Clause 11.02-2S which requires planning to facilitate structure plans that “*assist the development of walkable neighbourhoods*”. He also referred to the proposed Clause 22.13 and CDP which state:

Lilydale Quarry will become a major new urban renewal precinct with a masterplan that prioritises liveability and sustainability. A true 20-minute neighbourhood, it will provide housing diversity, recreation opportunities, services and a transport network that supports the future community, and integrates with surrounding neighbourhoods. Designed to achieve high levels of walkability, the development will promote social interaction and encourage healthy, active lifestyles.

Mr Woodland considered the proposed development vision for the subject land strongly aligned with the 20-minute neighbourhood.

DoT requested the development be based on the 20-minute neighbourhood walkable catchment in the short and medium term. It highlighted that there is no more than a potential long term opportunity, given a new train station is not planned or funded on the subject land.

### (iii) Discussion

In line with the proposed Clause 22.13 and CDP, the Committee has considered whether the CDP will:

- prioritise liveability, integrate with surrounding neighbourhoods, and achieve high levels of walkability
- enable a development which promotes social interaction and encourage healthy, active lifestyles.

These aspirations are interrelated and rely on an urban design which encourages people to walk out of their front doors to their local destinations. Plan Melbourne seeks to have the future residents’ daily needs within a 20-minute return walk from their home.

The Committee considers the proposed urban layout will provide acceptable walkable neighbourhoods when developed in its ultimate form. This walkability should be achieved at every

stage of the development phase. This means having the necessary infrastructure in place at the time when residents and visitors need it.

Notably, the subject land currently comprises two disconnected areas which are separated by a railway line. This is a significant pedestrian barrier for enabling future residents to connect to established areas west of the subject land. The Committee prefers Mr Czarny's evidence regarding the need for the proposed pedestrian crossings, including the one over the uncommitted potential train station, to support walkability.

There is no proposal to include a primary school for children who will be living on the subject land. Three primary schools (Yarralinda, Rolling Hills and Bimbadeen Heights) are located east of Mooroolbark Road. Anyone seeking to walk to these schools would need one of more crossings in place. There are also pre-schools and reserves in this area. Conversely, residents east of Mooroolbark Road seeking to visit places such as the heritage village or active recreation facilities on the subject land would need the crossings in place to encourage walkability.

These infrastructure projects are discussed in further detail in Chapter 8 of this report.

#### **(iv) Finding**

The Committee finds that relevant infrastructure should be operational at appropriate times to enable the subject land to achieve walkability, including the 20-minute neighbourhood, across its 20-year development phase.

## **6.5 Infrastructure project triggers**

### **(i) The issue**

The issue is whether the proposed infrastructure project deliverable triggers specified in the CDP appropriately respond to the subject land's 20-year staged development.

### **(ii) Background**

The CDP Project descriptions table proposes to trigger the delivery of projects:

- before delivering a specified number of dwellings
- before completing the final stage in a precinct
- when a precinct is fully built out
- before a road exceeds a specified degree of (vehicle) saturation (DoS)
- before Statement of Compliance for the lot for the 5,000<sup>th</sup> resident.

### **(iii) Evidence and submissions**

Yarra Ranges Council requested<sup>4</sup> that project delivery triggers be tightened to ensure the infrastructure is provided when needed. It considered the triggers to be vague with the risk of them never being achieved. It questioned what 'fully built out' meant for DI-BR-02.

---

<sup>4</sup> Document 80

**(iv) Discussion**

The Committee has considered the CDP project triggers by interrogating whether they are clear, measurable and implementable. Without these attributes, infrastructure may be delivered well after it is needed, or not at all.

The Committee considers triggers based on precinct stage completion, fully built out, DoS, or the number of residents to be unclear. The triggers should be simplified to refer to the number of dwellings within a specified area. The number of dwellings is more directly aligned with demand for infrastructure and is an implementable measure.

The Committee understands the term 'built out' may have been selected for the pedestrian rail crossing (DI-BR-02) because it refers to the urban core in Precinct 4 which includes commercial spaces. For reasons set out in Chapter 8, the Committee considers this trigger should be aligned with the number of dwellings in the precinct. This would clarify that the bridge will be provided to residents even if the commercial uses do not eventuate.

Similarly, the trigger for the active open reserve (DI-OS-01) relies on knowing how many people will be residing in Stage 1 and 2 to inform when a lot will be accommodating the 5000<sup>th</sup> resident. It would be costly to periodically survey households to count the number of residents. A dwelling measure would resolve this issue.

All project triggers should specify who is responsible for their delivery, to minimise any delay when the need is triggered.

**(v) Findings and recommendation**

The Committee finds that the Project delivery triggers in the Comprehensive Development Plan based on the degree of saturation, number of residents, or broadly defined staging:

- are unclear, would be difficult to implement and may result in late delivery of infrastructure
- should be revised to specify the number of dwellings in one or more precincts, and identify who is responsible for their delivery.

The Committee recommends:

- 12. Amend the Comprehensive Development Plan, as outlined in Appendix F, to revise the project delivery triggers to:**
  - a) specify the number of dwellings in one or more precincts, unless recommended otherwise**
  - b) specify a responsible delivery agency for each project.**

## 7 Open space and infrastructure

### 7.1 Public open space

#### (i) The issues

The issues are:

- whether the Amendment responds appropriately to the need for public open space
- whether additional pocket parks should be required to be provided in Precinct 4 (Urban core)
- whether the CDP should specify:
  - the land size of the proposed active open space and, if so, what size should be specified
  - the size of the two proposed ovals in the active open space area
  - that a sports pavilion with appropriate facilities be included in the active open space reserve
  - car parking be included in the active open space area.

#### (ii) Background

The CDP requires a minimum 10 per cent of the Total Site Area for unencumbered open space comprising:

- formal active open space (district sport reserve): a minimum of 4.5 per cent of Total Site Area
- passive open space (district social recreation reserve, walking and cycling paths, neighbourhood park and urban parks and plazas): a minimum of 5.5 per cent of Total Site Area.

CDP Table 1 (Open Space Hierarchy):

- sets out the types, names, locations and functions/activities and areas of the active and passive open space
- describes the district sports reserve as a competition standard oval, a junior sports oval, basketball/netball courts and associated facilities covering approximately 6.7 hectares and located in the Heritage Village (Precinct 2).

The active and passive open space elements are shown in CDP Figure 12 (Infrastructure Framework Plan) and described in the associated table (with assigned project ID numbers) as:

- active open space – DI-OS-01 (6.77 hectares)
- passive open spaces – DI-OS-02 (5.81 hectares)
- civic plazas – DI-OS-03 (1.7 hectares)
- rail trail linear open space – RD-OS-04 (1.38 hectares).

#### (iii) Evidence and submissions

One submitter requested the quarry area be transformed into an urban forest. Another requested that pocket parks be required throughout Precinct 4 (Urban core) to minimise the urban heat island effect.



Yarra Ranges Council considered there were two issues regarding active open space – the appropriate land area and the facilities that are to be provided. Yarra Ranges Council preferred a basic land area of 8 hectares with two full sized ovals, car parking, two multi-use courts and a pavilion with a range of facilities. The car park should have 112 spaces for at least a full sized oval and a junior oval. Council submitted that it had previously clarified its preference for 8 hectares of active public space on multiple occasions. Council referred to its submission to VPA which cited the advice of its infrastructure consultants, ASR Research, that an area of at least 8 hectares is required.

Yarra Ranges Council explained the area did not have to be exactly 8 hectares. An area of 7.5 hectares may be adequate if it included the rail trail and a junior oval. It opposed CDZ1 and the CDP specifying ‘approximately’ 6.7 hectares. It considered CDZ1 and the CDP should specify a land area *“adequate to accommodate the improvements on the Site of up to 8 hectares”*.

Yarra Ranges Council submitted that a district facility needed a pavilion with reasonable facilities. The CDP was entirely silent about requiring a pavilion. It was concerned that HBI Lilydale would argue during negotiations on the proposed infrastructure contributions section 173 agreement that the pavilion is not needed. It added:

The silence implies someone else will need to step in and provide that pavilion – undoubtedly, that is expected to be the Council – noting of course that, even if one accepts the proposition that this Active Open space facility is only, in part, justified by the development, that even the relevant part of the pavilion – is left out.

Yarra Ranges Council was concerned the proposed Escarpment Park (District Social Recreation Reserve) area of 3.1 hectares may include some of the retained escarpment. It submitted the credited area of the Escarpment Park should only include unencumbered land and requested that the CDP Table 1 and Figure 12 be reviewed to identify the extent of any of encumbered land and the land budget adjusted accordingly.

Yarra Ranges Council submitted that the trigger in the CDP project description table for the active sports reserve (DI-OS-01) should be amended to bring forward the project to the 4,000<sup>th</sup> resident (50 per cent of stages 1 and 2 of the Kinley development).

Yarra Ranges Council queried what would happen if the future application to Heritage Victoria was unsuccessful and the active open space cannot be achieved on the northern part of the subject land. It submitted that the CDP should provide for this contingency if it cannot be resolved before the Amendment is finalised. It requested a requirement in the CDP to provide the active open space on the subject land or another nearby location negotiated with Yarra Ranges Council.

Yarra Ranges Council called evidence on community infrastructure from Mr Panozzo of ASR Research Pty Ltd. Mr Panozzo considered 6.7 hectares insufficient to accommodate two full sized oval and other proposed facilities. He considered there was scope to reconfigure the open space land budget to allow for 8 hectares of active open space by, for example, reallocating the 1.3 hectares of land identified for the rail trail to an expanded active open space reserve. He considered that the rail trail should be incorporated in the proposed road network and/or the buffer land along the existing rail line in the form of a widened shared pedestrian/bike pathway.

HBI Lilydale submitted the CDP requires the subject land to provide more unencumbered open space than the usual contributions, including full size and junior sports ovals. It explained that Council supported these ovals because it was *“Council itself that proposed this as the appropriate facility that should be provided.”*

HBI Lilydale submitted the 6.77-hectare active open space alone is:

- around 4.7 per cent of the subject land
- almost equal the amount of open space contribution that can be required elsewhere in the municipality under section 18(1)(a) of the *Subdivision Act 1988*.

HBI Lilydale noted the CDP proposed 15.67 hectares, or 11.9 per cent of net developable area, as unencumbered public space. This is roughly twice the amount required for a subdivision elsewhere in the municipality. It considered it unfair to further increase the developer contribution by requiring a pavilion for a district sporting reserve.

HBI Lilydale referred to the Ethos Urban detailed analysis which found the proposed facilities would exceed the demand generated by the proposed development of the subject land. HBI Lilydale submitted that Yarra Ranges Council had not demonstrated why 6.77 hectares is insufficient to accommodate a sporting reserve with one full size and one junior size oval. It said Council's preference for two full sized ovals was "*hardly a proper basis to demand that the landowner make an even greater contribution to open space that is currently proposed*".

HBI Lilydale submitted that Mr Panozzo:

- did not clearly justify why it was necessary to accommodate an enlarged facility with two full size ovals or why the developer should meet these costs
- treated the area as a greenfields site, with little regard to the subject land area, existing heritage fabric or existing conditions
- recommended a rudimentary design, driven by what could be extracted from a developer without considering site context, actual need or equity.

HBI Lilydale accepted a minor error which Mr Panozzo identified in CDP Table 1. The discrepancy arose because Table 1 did not include the 1.66 hectares allocated to Local Parks in the Land Use Budget Table (Appendix A).

A submitter requested that the quarry be filled with groundwater friendly waste then planted with green into a forest area. VPA considered any change to the proposed land use to be inappropriate.

#### **(iv) Discussion**

No submission disputed the combined amount of active and passive open space set out in the CDP. Submissions which sought more public open space for heat island or opportunistic reasons did not argue the proposed open space was insufficient. There was general agreement on the location of the public open space as set out in CDP Figure 5, including the location of the active open space area. The main disputes were the proportion of active and passive open space, and whether two full size ovals are needed.

The Committee considers that requiring 11.9 per cent of the net developable area for public open space to be appropriate and justified. This percentage is relatively proportional between the average density anticipated on the subject land compared those in Lilydale and the municipality. The default 5 per cent public open space metric was first introduced when Melbourne had considerably lower population densities than what is sought through Plan Melbourne and even lower than what is likely to eventuate on the subject land.

There is no strategic justification to transform the quarry pit into a forest.

CDP Figure 5 identifies neighbourhood parks, urban plaza spaces and a large District Social Recreation Space (Escarpment Park) in Precinct 4 (Urban core). There is insufficient justification to add pocket parks in Precinct 4, given the amount of open space already identified in the CDP.

The total area needed for active open space will be determined by the size of the sporting ovals and associated facilities. An area of 6.77 hectares is unlikely to accommodate Yarra Ranges Council's preference for two full size ovals.

The Committee has already concluded in Chapter 4 that the development's final design layout, including the active sports reserve, will be determined after a detailed proposal is referred to Heritage Victoria. The CDP should acknowledge the final design will be subject to Heritage Victoria's response.

The sports reserve area should be based on the needs generated by the proposed development. The development contributions, irrespective of which mechanism delivers them, should demonstrate nexus between likely demand generated by the development and how much the developer needs to contribute.

Yarra Ranges Council should consider alternative funding for active open space and facilities to the extent that demand is generated by development outside the subject land. Generally, external demand is funded by the relevant authority such as Council. Yarra Ranges Council may consider negotiating with HBI Lilydale where costs are shared proportionally based on demand generated on and off site.

The Committee considers it appropriate to require a full size oval, a junior oval and two multi-use courts. There is logic in including a pavilion and car parking in the sports reserve area. The scale and nature of the pavilion should be determined between Yarra Ranges Council and HBI Lilydale when finalising the infrastructure contributions section 173 agreement. There may be scope to reduce the amount of required car parking for the sports facilities by providing it where it can be shared with other uses in the area.

Detailed design in consultation with Heritage Victoria will be required to determine how much land is needed. About 6.77 hectares may or may not be sufficient but 8 hectares may be too much. The active open space area should be what is needed to accommodate the two ovals, basketball/netball courts, car parking and sports pavilion up to a maximum of 8 hectares.

It is not appropriate to remove the rail trail from the unencumbered open space contribution to adjust the land budget. This appears to be an artificial construct to accommodate a larger active sports reserve area in the proposed contribution of 11.9 per cent of net developable area.

The credited area of Escarpment Park should not include any encumbered land. The park's land area should be reviewed to ensure that none of the retained escarpment is calculated as part of the public open space area.

The trigger for providing the active sports reserve should be based on the statement of compliance for a specified number of lots and not on the number of residents which would be difficult to measure.

The Committee supports Council's proposal to bring forward the trigger in the CDP for the active sports reserve. There would be reasonable demand to require them at this stage and it would make it available earlier for the benefit of future residents. The 4,000<sup>th</sup> resident (50 per cent of stages 1 and 2 of the development) trigger should be translated into the corresponding number of dwellings.

The discrepancy in open space land areas between Comprehensive Development Plan Table 1 (Open Space Hierarchy and Appendix A – Land Budget) should be rectified to avoid any future process delays.

**(v) Findings and recommendations**

The Committee finds:

- The overall provision of open space of 11.9 per cent of net developable area is appropriate and justified.
- The area of active open space should be determined based on need generated by the proposed development.
- It is appropriate to require a full scale and junior sized oval.
- The active open space area should be what is sufficient to accommodate the two ovals, basketball/netball courts, car parking and sports pavilion, up to a maximum of 8 hectares.
- The facilities in the sports pavilion should be agreed between Yarra Ranges Council and HBI Lilydale and included in the infrastructure contributions section 173 agreement.
- Consideration should be given to adding to the Comprehensive Development Plan a contingency provision to require delivery of the active open space at an alternative location agreed between Yarra Ranges Council and HBI Lilydale should the application to Heritage Victoria be unsuccessful.
- The land budget should not remove the rail trail area from the unencumbered public open space contribution.
- The area proposed for the Escarpment Park should be reviewed to ensure it includes only unencumbered land.
- The trigger for providing the active open space reserve (DI-OS-01) should be:
  - brought forward to an equivalent of 4,000<sup>th</sup> resident (50 per cent of stages 1 and 2 of the development)
  - translated into the corresponding number of dwellings rather than the number of residents.
- The discrepancy in open space land areas between Comprehensive Development Plan Table 1 (Open Space Hierarchy and Appendix A – Land Budget) should be rectified.

The Committee recommends:

- 13. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
  - a) specify that the active open space (DI-OS-01) should include a full size oval, a junior oval, two multi-use courts, a sports pavilion and required car parking**
  - b) specify a maximum of 8 hectares for the active open space (DI-OS-01)**
  - c) correct the discrepancy in the open space areas between Table 1 (Open Space Hierarchy) and Appendix A (Land Budget of the Comprehensive Development Plan)**
  - d) change the trigger for delivering the active open space (DI-OS-01) to the equivalent dwellings measure representing 50 per cent of stages 1 and 2 of the development.**

## 7.2 Education and community facilities

### (i) The issues

The issues are:

- whether the size and location of the proposed education and community facilities are appropriate to meet the needs of the future community in the development area
- whether there should be an aquatic centre near the sports reserve.

### (ii) Background

The CDP requires 1.9 hectares for a proposed government Specialist School. An indicative location in Precinct 2 (Heritage Village) for the school is shown on CDP Figure 4. The CDP also requires the community facilities described in CDP project DI-CF-01 to be provided in one multi-purpose community centre. The site area and indicative location of the community facilities are not specified other than the facilities should be located generally within Precinct 2 or Precinct 4 (Urban core) and consist of:

- neighbourhood house/flexible meeting rooms/event space
- maternal and child health services
- three and four-year-old kindergarten
- childcare services.

### (iii) Evidence and submissions

#### Community Centre

In response to submissions, VPA proposed the CDP show a community centre with a site area of 0.8 hectares.

Mr De Silva stated that Section 4.2 of the CDP needed to be amended to confirm that 0.8 hectares of 'flat usable' land will be set aside at no cost to Yarra Ranges Council at a preferred location near the active open space but with flexibility to consider other location options. He recommended that the CDP be amended accordingly.

Mr Panozzo supported Yarra Ranges Council's request for a 0.8 hectare site in CDP stage 2 because:

- a 0.8 hectare allocation is consistent with community centre provisions in Melbourne's growth areas where base level facilities are delivered at the rate of one centre for every 3,000 dwellings and more than 8,000 people
- the subject site is in outer Melbourne where there is less imperative to squeeze facilities on smaller land allocations using multi-storey building formats, even if higher residential densities are proposed than the surrounding area
- his demand estimates generally confirm the service and activity functions recommended by his colleague, Adrian Fernon
- he supported the argument for providing additional land to safeguard future expansion opportunities.

Mr Panozzo provided a schematic plan showing what type of facility could be accommodated on 0.8 hectares. He considered his plan to be instructive in guiding the preferred dimensions of a 0.8 hectares community centre; confirming the building footprint of the order of 1,500 square metres; car parking with 86 spaces; and allowing for a future expansion area of about 1,350 square metres.

Mr Panozzo recommended that the CDP be amended to specify a preferred 0.8 hectares site and to show a preferred location. He suggested three possible locations for the community centre.

Mr Woodland stated that the broad scope of community facilities must be resolved before finalising the Amendment. He considered that the CDP should provide for a community centre to be located centrally in either Precincts 2 or 4. He added that there appears to be scope for the centre to be delivered “... in a more compact urban format reflecting the transit orientated aspirations for the Site, and that a land area smaller in size than 0.8 hectares might be sufficient.”<sup>5</sup> He considered CDZ1 and the CDP should provide flexibility for this outcome to be achieved.

Yarra Ranges Council submitted there was a lack of specificity in CDZ1 and the CDP which would make the future resolution of the community centre’s size and location problematic and open to dispute. It requested 0.8 hectares on a single site for the community centre, preferably co-located with the proposed government Specialist School. It considered a single lot to be a better result regardless of size, though it preferred at least 0.8 of a hectare.

HBI Lilydale submitted there was no good reason for the CDP to specify a specific land area for the community facility:

- if it can be provided on a smaller land area, such as through a multi-level building
- because the subject land is in single ownership and there is no need apportion infrastructure contributions across multiple land holdings.

HBI Lilydale submitted the 0.8 hectares appears to be predicated on the development being in a greenfield Precinct Structure Plan. In its view, the proposal should be required to supplement existing facilities to meet the needs of its future population rather than starting from scratch.

HBI Lilydale referred to the case studies reviewed by Ethos Urban which demonstrated that community centres can be delivered on less than 0.8 hectares. It considered that the evidence of Mr De Silva and Mr Panozzo:

- did not demonstrate why a centre on less land was an inappropriate outcome
- inconsistent with the basic principles of need, nexus and equity
- did not explain the acceptability of requiring this developer to pay for any future expansion of the community facility sought by Yarra Ranges Council to meet future demand from areas unrelated to the subject land.

HBI Lilydale disagreed with claims that achieving efficiencies in the facility design would compromise the ability of Yarra Ranges Council to redevelop or ‘embellish’ the facility to meet future need. It submitted that Mr Panozzo’s recommended 0.8 hectares was based on a diagram of a similar facility that included not just future expansion opportunities but also car parking (of 86 spaces) for that future expansion at a rate of 5.8 spaces per 100 square metres which is a rate “more intensive than if a supermarket had been proposed” and higher than the highest rate in the Planning Scheme.

HBI Lilydale submitted that the *Eddie Barron* principle that infrastructure to be provided is ‘needed’ as distinct from merely ‘desirable’ should be borne in mind when assessing Yarra Ranges Council’s position. It added that Yarra Ranges Council’s demand for 0.8 hectares is not based on the need generated by the development but rather is motivated by a desire to facilitate a future expansion of the community centre.

---

<sup>5</sup> Document 45, para 32

HBI Lilydale stated that Yarra Ranges Council had not explained why it needed ‘flat land’. While a future centre could be multi-storey with underground car parking, there is no reason to prohibit such an outcome. It was open to Yarra Ranges Council to negotiate terms with the landowner for a larger site for future expansion, but the landowner should not be required to pay for the larger site.

### **Education facilities**

The Department of Education and Training (DET) supported the Amendment with the provision of 1.9 hectares for a proposed government Specialist School. This was on its understanding that a more detailed plan of the proposed site would be shared for discussion at the ‘precinct planning stage’. It requested the CDP be changed to:

- co-locate the kindergarten with the proposed government Specialist School
- reference the proposed government Specialist School with consistent terminology and its proposed site allocation of 1.9 hectares
- confirm safe crossing points between the school, the existing Lilydale high school and active open space
- confirm the road providing access to the school would be designed to achieve low speed, have pedestrian crossing points, and be capable of supporting a bus stop, bus parking, two-way vehicle parking and two-way traffic.

In response to the submissions by DET, VPA revised the exhibited CDP as set out in the CDP (Day 1 version).

HBI Lilydale submitted that the DET submission was unsupported by analysis that validated the need for a government Specialist School or the increased land for the future school. It requested:

- the site for the government Specialist School be reduced to 1.4 hectares
- the CDP specify the appropriate use and development for the site if DET did not proceed with a government Specialist School to avoid a further amendment to enable alternative use and development if the school is not pursued.

Mr Panozzo provided in his evidence a map showing the existing government primary schools surrounding the subject land and the 500 metre catchments around each school site. He stated that this map showed a potential government Primary School gap area that includes two thirds of the Kinley development and existing residential areas to the east and southeast. He considered that given the need for a government Primary School in greenfield sites is typically triggered by 3,000 dwellings, there may be grounds for DET to investigate further the need for a government Primary School in the Kinley Development. He argued that it would be prudent to increase the 1.9 hectare site proposed by DET for a government Specialist School to 3.5 hectares to provide the opportunity for DET to assess the need for a government Primary School and should it be deemed that a only a government Specialist School is required, the land area can be reduced accordingly.

In closing submissions, VPA presented an aerial map analysis of the location of existing government primary schools near the subject land and the approximate walking distances to these schools from the boundary of the development area. It showed them located between about 350 to 1,300 metres from the subject land.

### **Aquatic Centre**

One submission suggested an aquatic centre facility near the active sports reserve as a “*logical addition and asset*”. Yarra Ranges Council provided an extract from its Yarra Ranges Council

Recreation and Open Space Strategy<sup>6</sup> which identified the subject land as an opportunity to develop a new aquatic centre and included an action to recommend an aquatic centre as part of the master plan for quarry site's development.

**(iv) Discussion**

The Committee is cognisant that DET can compulsorily acquire land it needs for the purposes of a public school. DET has identified the need for a site area of 1.9 hectares and this should not be reduced without agreement from DET.

The Committee was not presented with information which persuaded it that 3.5 hectares should be set aside for a public Specialist School site and a Primary School. DET is the relevant authority in deciding the location and size of future public schools. It would be a fruitless exercise to reserve land not sought or needed by the relevant authority.

There is the risk that not all land reserved for future public schools will ultimately be acquired for that purpose. There are Precinct Structure Plans where alternative uses and development have been identified for government school sites to avoid a further planning scheme amendment if the site is no longer required. There is merit in adopting this approach in the CDP for the proposed Specialist School on the subject land.

There is disagreement as to whether:

- the CDP should specify the land size of 0.8 hectares for the community centre on a single, ground level site
- no land area should be specified to enable flexibility such as a multi-storey solution.

For reasons set out in Chapter 3.1, the Committee does support Mr Panozzo's approach to requiring the developer to provide land to enable expansion to cater for future external demand. Requiring the developer to contribute towards future external demand not generated by the development would be unfair. Any contribution should be fair and reasonable and based on the principles of need, nexus and equity.

Having reviewed the various examples of community centres in Melbourne, the Committee is satisfied the community centre can be provided on land less than 0.8 hectares. The request for 0.8 hectares appears to be based on community centres on green field sites in growth areas. There is no justification to specify land area beyond what is needed for a community centre based on demand generated by the subject land. The CDP should set out the facilities to be included in a community centre and provide flexibility as to its location, the size of the site and the built form of the centre.

Should Yarra Ranges Council seek a larger site, a single-level format or space to enable expansion for demand beyond the subject land, it should negotiate with HBI Lilydale to try and achieve a shared voluntary outcome.

The CDP does not include an aquatic centre and Yarra Ranges Council did seek its inclusion. The Committee was not presented with any evidence that an aquatic centre is needed on the subject land.

---

<sup>6</sup> Document 91



**(v) Findings**

The Committee finds:

- The 1.9-hectare size and indicative location of the government Special School in the exhibited and Day 1 versions of the Comprehensive Development Plan are appropriate.
- The Comprehensive Development Plan should identify alternative uses and development for the government Specialist School site if the school is ultimately not needed, to avoid the need for any future planning scheme amendment.
- The Comprehensive Development Plan should specify the facilities needed for the multi-purpose community centre but not specify the land area and built form to enable flexibility.
- Specifying a land area of 0.8 hectares for the community centre is not justified.
- There is no strategic justification to locate an aquatic centre on the subject land.

**7.3 Integrated water management and stormwater****(i) The issues**

The issues are whether the CDP:

- has appropriately considered integrated water management and stormwater
- provides sufficient flexibility for alternative stormwater infrastructure if the proposed infrastructure cannot be delivered at the proposed locations.

**(ii) Background**

CDP Figure 5 shows proposed drainage basin locations and CDP Table 2 (Stormwater drainage retardation basins and wetland infrastructure) provides a description, location, approximate area and responsibility for the function of three drainage assets being:

- Lilydale Lake Retarding Basin
- Mooroolbark Retarding Basin (west of the railway reserve)
- Melba Avenue Main Drain – Constructed Wetland System.

The table notes:

The areas shown in the table are approximate and subject to review and refinement during the detailed design and approval phases to be undertaken in conjunction with the Responsible Authority and Melbourne Water.

The developer is to construct the proposed Melba Avenue Main Drain on land owned by Yarra Ranges Council outside the subject land.

**(iii) Submissions**

Yarra Ranges Council asked what would happen if the proposed stormwater solutions for the subject land cannot be achieved. It suggested the CDP have a contingency for circumstances such as Melbourne Water requiring additional retardation in the discharge to Lilydale Lake or if Yarra Ranges Council land was not available. Yarra Ranges Council requested that Table 2 be revised to allow for an alternative solution because a departure from the specified requirements which is not in general accordance with the CDP would need another amendment to the Planning Scheme.

Yarra Ranges Council requested the CDP:

- should only include and describe a stormwater management strategy and associated plans that have been agreed to by Melbourne Water and Yarra Ranges Council
- be modified when the agreed stormwater solution is achieved, which will require agreement on all stormwater facilities including the feasibility of the proposed stormwater treatment facility located on Council land
- require discharge stormwater into Lilydale Lake or Melba Drain be confirmed with Melbourne Water
- Table 2 Note 3 be revised to:
  - The responsibility for drainage function of the assets shown will be subject to review, with the finalisation of maintenance agreement/s between the Responsible Authority and Melbourne Water before the Amendment is approved
- if a stormwater solution is not resolved before approval, add a new Requirement R35 which allows an alternative stormwater and drainage facility on the subject land if the Council land option turns out not to be achievable
- Project DI-DR-01 description in the Project descriptions table be revised to:
  - require the developer to obtain agreement from Council before delivering the project on Council-owned land
  - delete reference to 'land provided by Council at no cost to the developer'
  - add an alternative option if Council land is not available.

#### **(iv) Discussion**

It is common for a Precinct Structure Plan to include a note to the plans enabling flexibility when providing drainage and water management assets. Typical notes state that drainage and water management assets are subject to detailed design approved by Melbourne Water. The Committee considers Note 2 to CDP Table 2 provides sufficient flexibility for the area and design of the drainage works proposed for the subject land.

The Committee supports changes to the project description of DI-DR-01 requested by Yarra Ranges Council to replace 'Land provided by Council at no cost to Developer' with:

Developer to obtain agreement from Council for providing on land in its ownership.

The Committee agrees the CDP would benefit from an alternative location for DI-DR-01 in case the drainage project cannot be delivered on Council land. This could be done by:

- amending the project description of DI-IR-01 to allow for an alternative location
- amending Note 2 to Table 2 to read:

The location and areas shown in the table are approximate and subject to review and refinement during the detailed design and approval phases to be undertaken in conjunction with the Responsible Authority and Melbourne Water.

#### **(v) Findings and recommendations**

The Committee finds the Comprehensive Development Plan:

- has appropriately considered integrated water management and stormwater, although it would benefit from minor refinements
- Table 2 (Stormwater drainage retardation basins and wetlands infrastructure):
  - allows sufficient flexibility on the design of the proposed drainage assets through the notes

- would benefit from noting the location and areas of drainage assets are subject to review and refinement during the design and approval phases
- Project DI-DR-01:
  - should not require Council to provide its land at no cost to the developer for delivering drainage assets
  - should require the developer to obtain agreement from Council before delivering any drainage assets on Council land
  - should allow for an alternative location in case these drainage works cannot be delivered on Yarra Ranges Shire Council land.

The Committee recommends:

**14. Amend the Lilydale Quarry Comprehensive Development Plan, as outlined in Appendix F, to:**

**a) revise the DI-DR-01 project description to:**

- **replace the 'Land provided by Council at no cost to Developer' delivery responsibility with 'Developer to obtain agreement from Council for providing on land in its ownership'**
- **allow for an alternative location if the drainage assets cannot be delivered on Yarra Ranges Shire Council land**

**b) revise Table 2 (Stormwater drainage retardation basins and wetlands infrastructure) Note 2 to:**

**The location and areas shown in the table are subject to review and refinement during the detailed design and approval phases to be undertaken in conjunction with the Responsible Authority and Melbourne Water.**

## 8 Transport and movement

### 8.1 Relevant policies, strategies and studies

#### (i) Yarra Ranges Planning Scheme

##### Clause 18.01-2S Transport System

Relevant strategies include:

- Reserve land for strategic transport infrastructure.
- Plan or regulate new uses or development of land near an existing or proposed transport route to avoid detriment to and where possible enhance, the service, safety and amenity desirable for that transport route in the short and long terms.
- Ensure that pedestrian and cyclist access to public transport is facilitated and safeguarded.

##### Clause 18.02-1S Sustainable Personal Transport

Relevant strategies include:

- Provide direct and connected pedestrian and bicycle infrastructure to and between key destinations including activity centres, public transport interchanges, employment areas, urban renewal precincts and major attractions.
- Ensure cycling infrastructure (on-road bicycle lanes and off-road bicycle paths) is planned to provide the most direct route practical and to separate cyclists from other road users, particularly motor vehicles.

##### Clause 18.02-1R Sustainable Personal Transport – Metropolitan Melbourne

Relevant strategies include:

- Improve local travel options for walking and cycling to support 20-minute neighbourhoods.
- Develop local cycling networks and new cycling facilities that support the development of 20-minute neighbourhoods and that link to and complement the metropolitan-wide network of bicycle routes - the Principal Bicycle Network.

##### Clause 18.02-2S Public Transport

Relevant strategies include:

- Maintain and strengthen passenger transport networks.
- Plan for and deliver public transport in outer suburban areas that is integrated with land use and development.

#### (ii) Plan Melbourne 2017-2050

Direction 2.2 Deliver more housing closer to jobs and public transport

- Policy 2.2.3 Support new housing in activity centres and other places that offer good access to jobs, services and public transport

Direction 3.2 Improve transport in Melbourne's outer suburbs

- Policy 3.2.1 Improve roads in growth areas and outer suburbs

- The development of the arterial road network in growth areas and outer suburbs will ensure access for businesses to nearby national employment and innovation clusters, metropolitan activity centres, major activity centres and other areas with high or growing job densities.
- Policy 3.2.2 Improve outer-suburban public transport
  - The sequencing of development in Melbourne’s growth areas will be improved along with increasing the diversity and density of development along the Principal Public Transport Network and near stations. This helps enable the timely delivery of services
  - The government will plan and deliver high quality public transport in line with the rate of development in outer areas.

#### Direction 3.3 Improve local travel options to support 20-minute neighbourhoods

- Policy 3.3.1 Create pedestrian-friendly neighbourhoods
- Policy 3.3.2 Create a network of cycling links for local trips
- Policy 3.3.3 Improve local transport choices
- Policy 3.3.4 Locate schools and other regional facilities near existing public transport and provide safe walking and cycling routes and drop-off zones

#### Direction 5.1 Create a city of 20-minute neighbourhoods

- Policy 5.1.1 Create mixed-use neighbourhoods at varying densities
- Policy 5.1.2 Support a network of vibrant neighbourhood activity centres

#### Direction 5.2 Create neighbourhoods that support safe communities and healthy lifestyles

- Policy 5.2.1 Improve neighbourhoods to enable walking and cycling as a part of daily life

Access to local services—including early years centres, primary and secondary schools, parks and sporting fields, and medical centres—is needed at the early stage of a neighbourhood’s development. Connecting people to these services and facilities via frequent public transport services and safe and convenient pedestrian and cycle routes (which avoid arterial roads wherever possible) will be integral to the creation of a city of 20-minute neighbourhoods.

### **(iii) Planned major transport projects**

Planned major transport projects near the subject land are:

- the Lilydale Bypass
- Healesville Arterial and duplication of Mooroolbark Road
- level crossing removal works at Maroondah Highway Lilydale and Manchester Road, Mooroolbark
- railway track duplication works.

The road projects are considered long term projects by the DoT and are presently unfunded with no set timeframe for delivery.

The future Lilydale Bypass is identified through the existing Public Acquisition Overlays PAO9 and PAO10 (Lilydale Bypass (Maroondah Highway and Anderson Street intersection, Lilydale)) in the Planning Scheme. PAO9 and PAO10 are shown in Figure 7.

The Healesville Arterial is a planned arterial road based on the Healesville Freeway reservation route that runs from Boronia Road/East Link (Vermont South) to Mooroolbark Road, Lilydale. Land for the Healesville Arterial is either already in public ownership or has been identified in a PAO.

PAO11 runs south from Hull Road. Mooroolbark Road is proposed to be duplicated, as an extension of the Healesville Arterial.

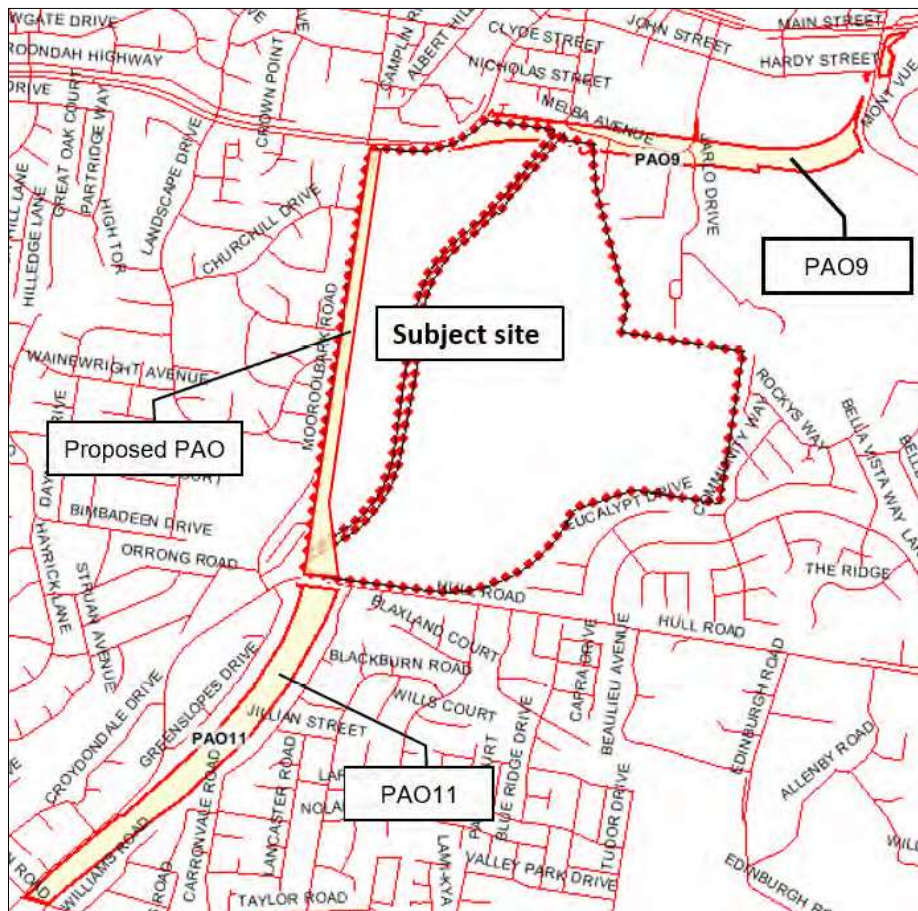
The Lilydale level crossing on Maroondah Highway is currently being removed. The project includes relocating the Lilydale Station to the south side of Maroondah Highway, road and car park works. This includes the creation of a new signalised intersection on Maroondah Highway encompassing the train station car park access on the north side of the highway, and William Street East and William Street West on the south side of the highway. A new rail bridge over John Street will have a greater height clearance than the existing bridge, facilitating movement by buses and other large vehicles.

The rail line duplication between Mooroolbark Station and Lilydale Station is a recommended rail project in the Network Development Plan – Metropolitan Rail to be implemented by 2032. This project is to support new maintenance and stabling facilities in the Lilydale area in accordance with a policy direction in Plan Melbourne (Policy 3.1.1). The rail line duplication is currently not funded.

**(iv) Transport Studies**

GTA Consultants prepared the Lilydale Integrated Transport Plan (issue A, 15/04/15) for Yarra Ranges Shire Council. Yarra Ranges Council has not endorsed this study.

**Figure 7 Public Acquisition Overlays**



Source: Lilydale Quarry - Integrated Transport Plan (Cardno, Oct 2020)

## 8.2 Uncommitted potential train station

### (i) The issues

The issues are:

- whether the purpose of CDZ1 to create an opportunity for a transit orientated development is appropriate without a commitment from the State Government to deliver a train station on the subject land
- whether CDZ1 should include reference to a situation where the State Government has not made a decision whether to confirm a train station or declare no station will be provided at this location
- whether the railway line between Mooroolbark and Lilydale Stations should be duplicated and the design allow for a potential station as envisaged in the CDP
- whether further car parking should be provided at Mooroolbark and Lilydale Train Stations car parks if the new train station does not proceed.

### (ii) Background

#### CDZ1 and the CDP

Exhibited CDZ1 specifies that, unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land or construct a building or construct or carry out works in Precinct 4 until a design strategy for the potential future train station has been prepared to the satisfaction of the responsible authority and the Department of Transport.

The CDP was developed with a vision for a “*true 20-minute neighbourhood*”. Seven principles set out how to achieve this vision including one for Transit Oriented Development:

Establishing a vibrant focus for community around the potential future train station with complementary facilities in a local centre, and connecting the whole neighbourhood via a safe, convenient and attractive active transport network.

The Indicative Framework Plan includes a train station icon in Precinct 4 (Urban core), with the legend describing it as “*Potential station (no commitment made)*”. The CDP has assumed the delivery of the train station, including a pedestrian bridge, and advises that an amendment to the CDP will be required if the train station does not proceed.

The CDP states:

The Urban Core will deliver vibrant higher density transit-oriented development focused around the potential future train station and urban plaza, establishing opportunities for living and working within a walkable catchment of the station.

The CDP was informed by the following background reports:

#### Lilydale Quarry – Urban Design Report

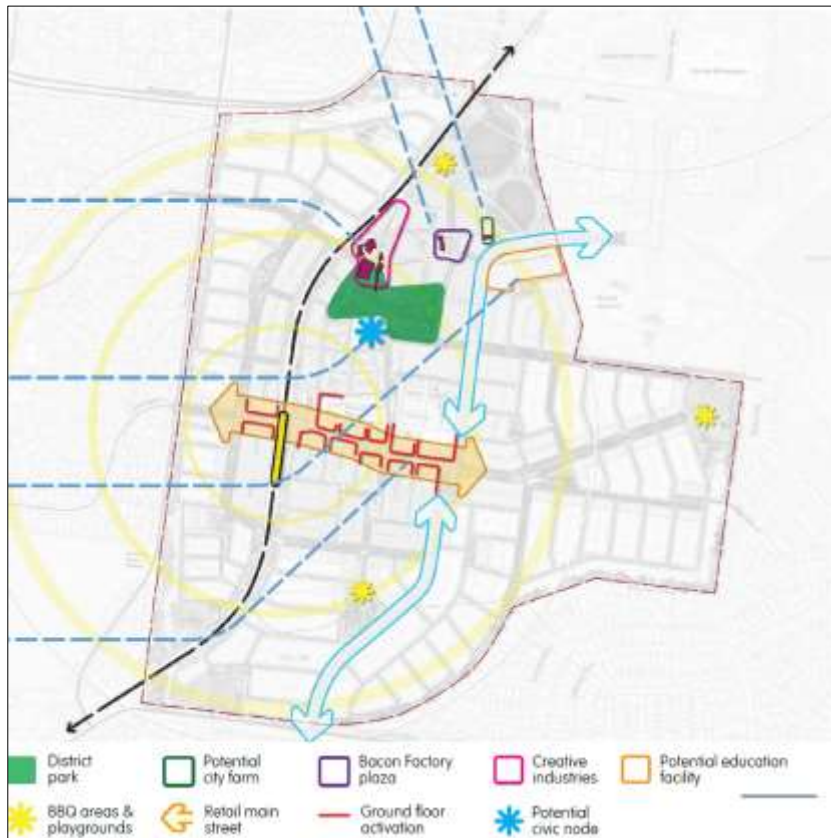
The report’s Urban Design Masterplan – Place Activation plan places the centroid of the walkability catchment on the pedestrian bridge at the train station, with the bridge forming part of the ‘Retail main street’ that runs east-west (refer Figure 8). It states that the western neighbourhood (Precinct 1) provides three pedestrian links and vital connectivity across the railway line.

#### The Lilydale Quarry – Integrated Transport Plan

The plan states that the western precinct will deliver strategic pedestrian connections into the site from Mooroolbark Road.



**Figure 8** Lilydale Quarry - Urban Design Report: Urban Design Masterplan - Place Activation



Source: Lilydale Quarry – Urban Design Report

### **Cave Hill Station Concept Development Report**

The report, prepared in September 2017 by Raylink Consulting, provides a concept plan and costing for a potential future station. The report states that the rail track would require duplication to support a train station at this location and the tracks would need to be lowered to achieve a satisfactory grade line. Commuter car parking is shown on the west side of the rail line, according with the western extent of Precinct 4, shown in the CDP, extending to the west of the rail line.

### **Lilydale Quarry Rail Station – Cost Benefit Analysis report**

The report, prepared in September 2017 by SGS Economics and Planning:

- assumed the rail duplication was an existing committed State project and excluded it from the train station construction costs
- concludes the train station will have a positive community benefit, with an estimated Benefit Cost Ratio greater than 2.

### **Kinley Station value analysis: An assessment of the potential revenue and funding benefits from the delivery of a train station Final Report**

The report, prepared in February 2020 by Value Advisory Properties assesses the likely benefits of providing a train station on the subject land and recommends:

The planning scheme for the precinct include provision of a future station at Kinley as part of an integrated transport and land use plan to optimise the opportunities and benefit from the government's future investment in the rail infrastructure.



**(iii) Evidence and submissions**

Several submitters including Maroondah City Council supported the inclusion of a train station, suggesting that it is needed to reduce travel to Mooroolbark or Lilydale Stations and to cater for the new residents. They also sought train station parking to support the increased demand for commuter parking. Mr Pope noted:

A station between Mooroolbark and Lilydale was promised by the state member 31 years ago. Land was sold off and a new sight [sic] proposed due to the quarry extension. Third time around it is time that new home builders in the estate had a firm commitment from the state government on a date for the Station.

**Department of Transport**

DoT supported transit orientated developments near existing and proposed railway stations. It explained that the State Government does not currently propose a railway station for this area so it should be planned as a 20-minute neighbourhood, while preserving the long term opportunity for a train station and transit orientated development.

DoT was concerned that planning the subject land as a transit orientated development may lead to a community expectation that a train station will be delivered at some point. DoT considered the nuance of planning terminology may not be understood by the ordinary person. Specifically, the difference between a 'potential future station' and a 'proposed station'. To demonstrate this, DoT noted that DET has committed to providing a school on the subject land and this is also referenced as 'proposed'.

DoT considered that without a train station, a lower dwelling density may be more appropriate.

DoT called planning evidence from Mr Milner of Kinetica. Mr Milner agreed there was a basis for a train station on the subject land, but advised that there was no current strategic justification. There were no references in the *Victorian Transport Plan (2008)*, *Simply connected journeys – our strategic plan 2019-2023* (DoT 2019), *Growing our Rail Network 2018-2025* (DoT 2018), *Plan Melbourne 2017-2050*, or the Planning Scheme.

Mr Milner considered the train station concept aligns with the overarching direction of land use and policy. However, without a State Government commitment to provide a train station at this location, the lack of certainty means that it would not be orderly planning to advance such infrastructure in planning provisions which the broader community will rely on.

Mr Milner referred to the Wyndham Growth areas and Box Hill Activity Centre as examples where detailed precinct planning proceeded after a commitment to deliver the rail infrastructure and transport integration.

Mr Milner noted some concern about the feasibility of achieving a transit orientated development due to:

- the geotechnical implications of filling the quarry pit remaining uncertain
- potential catchment implications of re-siting the Lilydale Station closer to the subject land as an outcome of the Level Crossing Removal Program.

He added that, while a theoretical housing and population density can be advanced, there is no assurance as to if and when that density might be attained to justify investment in the train station.

Mr Milner was concerned the Amendment and the CDP are based on a high probability that a train station will eventuate. He considered references on the Kinley website (which promotes future

development on the subject land) to ‘potential’ station and ‘proposed’ station could easily be misrepresented, with some people believing it will be delivered at some point.

To help resolve the issue, Mr Milner recommended:

- a two-stage approach where the Amendment proceeds based on no station and the CDP is amended if and when a commitment for a train station is made
- removing the train station icon from CDZ1 Map 1 and the CDP plans and changing associated words to focus on delivering a 20-minute neighbourhood rather than a transit orientated development while retaining the opportunity for a train station.

DoT provided changes to CDZ1 and the CDP, generally to remove references to transit orientated development and to increase the focus on a 20-minute neighbourhood in line with Mr Milner’s evidence. This included changing the second purpose of CDZ1 to:

To create a 20-minute neighbourhood based upon a walkable catchment providing for a local retail village, public transport services, higher density housing and district level open space.

To protect the long-term opportunity to further develop the 20-minute neighbourhood as a potential transit-oriented development.

Changes to the Design Strategy (Potential Future Train Station) – Precinct 4 include:

- Prohibition of the granting of a permit for Precinct 4 until *“the Government has confirmed, or otherwise, the provision of a new rail station in the long term.”*
- Requiring the Geotechnical Statement for Precinct 4, that is required to confirm the filled area is suitable for the proposed development, to be approved before approving the Urban Design Strategy.
- Requiring demonstration of how the long term opportunity to achieve a transit oriented development will be protected.
- Showing the location of a potential future train station if required by the Head TfV.

## VPA

In response to DoT’s submission, VPA through its CDZ1 (Day 1 version) proposed to prohibit the granting of a permit for Precinct 4 until the provision of a train station is confirmed by the Head TfV.

## HBI Lilydale

HBI Lilydale noted fixed rail is the most effective means of providing public transport and the CDP contains text and figures that refer to the inclusion within the subject land of a ‘Potential Station (no commitment made)’. HBI Lilydale submitted that it is common ground that a train station on the subject land is a worthy objective which if able to be realised would deliver substantial community benefits. It added:

Further, a failure to both identify, and seek to preserve, those opportunities in the planning controls for any future redevelopment of the Site would have been both irresponsible and risky. It would have left open the possibility that future development which either precluded, prejudiced or failed to properly capitalise on that opportunity could be approved – to the ultimate detriment of the community.

HBI Lilydale called traffic evidence from Mr Walsh of Traffix. Mr Walsh considered the CDP would achieve the vision of providing a 20-minute neighbourhood and advised that if the train station was not delivered, the traffic generation would be lower because there would be no associated car

park. His evidence did not consider the impact on the 20-minute neighbourhood vision if the train station and pedestrian bridge at that location was not delivered.

Mr Woodland found no downside to including the aspiration for a train station in the planning provisions and that the CDP makes it possible to deliver a train station but does not require it. He advised the dwelling density proposed is suitable with and without a train station, although if a train station is committed to a greater density could potentially be aspired to, subject to considering other impacts such as traffic.

Mr Woodland considered including the train station in the plans would not raise an unacceptable expectation in the community. He gave examples of growth corridor plans that allow for future rail that are not committed to, including the Orica Deer Park site (Brimbank Planning Scheme DPO16) amendment and Fishermans Bend.

Mr Czarny gave evidence that:

The delivery of a train station at this site would be highly beneficial to the precinct, and indeed it might warrant consideration to delivering even higher densities on the site over the longer term. However, I do not consider that the absence of a commitment to a train station on this site warrants any consideration of lower housing densities on the site.

As I have noted earlier in my advice, the potential for delivery of a station within the site can be reviewed in the course of preparing a framework plan for Precinct 4 of the site.

In response to questions from the Committee, Mr Czarny considered the pedestrian bridge at the train station location:

- an important connection linking the western neighbourhood to the urban core
- needed to be there regardless of the provision of a train station.

Mr Woodland advised that an urban area would not normally have that many bridges, so the pedestrian bridge would probably only be needed if the train station is delivered.

HBI Lilydale referred to the Armstrong Creek Town Centre (Greater Geelong Planning Scheme Amendment C267) as an example where strategic planning has included transport infrastructure with no financial commitment.

HBI Lilydale cautioned that the approach suggested by Mr Milner could lead to a case where Yarra Ranges Council had no choice but to approve a request for subdivision without a train station if one is made before the State Government was in a position to decide whether to commit to a train station. It concluded:

We ought plan for the highest and best use of land and when a rare opportunity presents itself to deliver a transit oriented development it ought be seized, explored and flagged to all relevant stakeholders such that its delivery is considered in all relevant decision making.

In respect to the prohibition of granting a permit for Precinct 4 before a commitment is made for the provision of a train station, HBI Lilydale sought to also include a removal of the prohibition in the event that confirmation is provided that the station is not to be provided.

### **Yarra Ranges Council**

Yarra Ranges Council submitted that it has and continues to advocate for a train station at the identified site on the subject land.

Yarra Ranges Council called traffic evidence from Mr Coath of GTA Consultants. Mr Coath stated *“the severing effects of the rail line for pedestrian permeability are mitigated by a series of three (3) grade-separated pedestrian crossing locations”*. Like Mr Walsh, he did not consider the impact of

the non-delivery of the train station and pedestrian bridge on the 20-minute neighbourhood vision.

Mr De Silva considered:

- there is uncertainty in the CDP whether a train station will be provided
- CDZ1 does not address the situation where the State Government may confirm not to establish a train station at the subject land.

Mr De Silva recommended CDZ1 be revised:

- to specifically reference the need to amend the CDP in case there is a future decision for the train station
- if there is a decision to not deliver the train station.

In response to a query from the Committee regarding '*Cave Hill (Proposed)*' station label in the southwest corner of the subject land on VicPlan maps, Yarra Ranges Council advised the label has been on multiple maps for at least 40 years.

#### **(iv) Discussion**

No party advanced a proposition that a train station at this location is out of the question or would never be supported. Rather, all agreed it was an aspirational outcome worthy of consideration. The Committee agrees.

The Committee acknowledges that there is no current government commitment to fund a train station at the identified location, nor is it shown in strategic transport plans. At the very least, the development should focus in the short term on creating a 20-minute neighbourhood.

The opportunity for a potential train station and transit oriented development, even without funded commitment, should be considered and pursued. The subject land provides a unique opportunity for a train station for existing and future residents.

The unique opportunity is driven by:

- the historic decision to divert the railway line through the subject land
- the identified potential train station site's distance between the existing Lilydale and Mooroolbark stations
- the subject land's ability to accommodate about 7,500 people in about 3,000 dwellings
- the proposed district active open space and government Specialist School.

The opportunity is supported by the preliminary cost benefit analysis by SGS concluding the train station would result in a Benefit Cost Ratio of 2.19 and Net Present Value of \$34.3 million.<sup>7</sup> The existing reference to a train station on the subject land on the State Government's mapping database (VicPlan maps) indicates a long-held desire for an additional station between Mooroolbark and Lilydale stations.

Removing reference to a potential train station in CDZ1 and the CDP would:

- contradict Plan Melbourne policies and Clause 18 of the Planning Scheme
- misrepresent actual circumstances to the community and when making future decisions
- risk decisions in planning around the potential station site which terminate the opportunity for a future station and rail duplication works.

<sup>7</sup> Excludes potential construction cost discount

The Amendment should ensure the opportunity is preserved, while clearly highlighting there is no commitment at this stage. Not referencing it all would be at considerable risk.

A new train station in this area has the potential to reduce travel on the wider arterial network by encouraging greater use of the train network and potentially reducing travel distances to a train station, creating benefit to the wider community. Buses connecting to an existing train station is a secondary response and unlikely to encourage public transport use to the same extent as a train station on the subject land because passengers would need to wait for two different transport modes.

The Committee has reviewed the alternative wording provided by DoT and considers the current purpose of CDZ1 is appropriate. Reference to the train station should more clearly highlight its current status by changing it from ‘potential future station’ to ‘uncommitted potential train station’. This would put the most important aspect upfront in plain English and help manage community expectations. Adopting this wording for all train station references in the CDP would improve its clarity and consistency.

The CDP has assumed that providing a train station is the best outcome and has designed the urban structure around this outcome. It includes explanatory words noting that an amendment to the CDP will be needed if a decision is made not to provide a train station. The exhibited CDZ1 prohibits the granting of a permit in Precinct 4 until the train station is committed to. A decision to not to commit to a train station would require a review of CDZ1 and the CDP.

There may be a situation in the future where the train station is committed to:

- without a decision on funding or timing on its delivery
- but the agreed timing is beyond the development’s horizon.

Developing the train station footbridge and Precinct 4 are key to achieving a 20-minute neighbourhood, with the walkability catchment designed around the train station footbridge. Providing an urban design strategy for the train station as a part of the Precinct 4 plans should consider how an interim footbridge could be provided to meet the timing needs of the development rather than be delayed by the delivery of a station. This is discussed further in the following chapter.

Ultimately, the decision whether or when to deliver a train station on the subject land or to duplicate the tracks between Lilydale and Mooroolbark Stations rests with the State Government, and is beyond the Committee’s remit. However, the Committee observes that the railway line duplication in the next 10 years will remove current track capacity constraints. During the design phase, the duplication works should take a precautionary approach and ensure that its design does not preclude the opportunity for a train station at the identified site on the subject land. This may reduce costs associated with reconstructing some of the rail duplication if the State Government decides to proceed with the train station.

Providing car parking at nearby train stations is not a part of the project and has not been sought by DoT which is responsible for such decisions.

## **(v) Findings and recommendations**

The Committee finds:

- The creation of a transit orientated development is an appropriate aspirational outcome to include in Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan.

- Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan should refer to an ‘uncommitted potential train station’ rather than all other references.
- Comprehensive Development Zone Schedule 1 should prohibit a permit for Precinct 4 until Head, Transport for Victoria has confirmed the provision of a train station.
- Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan should be revised through a separate process in the future if:
  - Head, Transport for Victoria confirms that no train station will be provided
  - there is no confirmation for a train station when a permit is sought for Precinct 4.
- Track duplication and commuter car parks at existing train stations are outside the scope of the Amendment. That said, Department of Transport should consider designing the railway track duplication to ensure it does not preclude a train station on the subject land.

The Committee recommends:

- 15. Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
- a) change wording for the train station to ‘uncommitted potential train station’
  - b) include the following new provision in Clauses 3.0 and 4.0:

***Uncommitted Potential Train Station – Precinct 4***

***A permit must not be granted to subdivide land in Precinct 4 until the Head, Transport for Victoria has confirmed the provision of a train station in the precinct.***

- 16. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
- a) change wording for the train station to ‘uncommitted potential train station’.

## 8.3 Bridges over the railway line

### (i) The issue

The issue is when the pedestrian and vehicular crossings over the existing Lilydale rail line should be provided on the subject land.

### (ii) Background

The CDP includes three proposed bridges over the rail line to ‘maximise connectivity’ and prioritise active transport to achieve the vision of a 20-minute neighbourhood.

The following two bridges, approximately 1 kilometre apart, are proposed as infrastructure projects to be delivered by the developer:

- East-West Road bridge [DI-BR-01]
  - Located in the southern section of the subject land
  - To be constructed once the delivery of the final stage within Precinct 1 (Western Neighbourhood) is complete and development has commenced in Precinct 4 (Urban core).
- Pedestrian bridge (rail crossing) [DI-BR-02]
  - Located in the northern section of the site, linking the western neighbourhood (Precinct 1) with the heritage village (Precinct 2).
  - To be constructed at the time when urban core is fully built out.

The third bridge is a pedestrian and cyclist bridge to be located central to the urban core at the uncommitted potential train station and is expected to form the entry to the train station.

The Lilydale Quarry Integrated Transport Plan notes that the western neighbourhood integrates strategic pedestrian connections into the site from Mooroolbark Road and pedestrian routes are to be provided over the railway line in key locations to provide active transport links between east and west.

### **(iii) Evidence**

Yarra Ranges Council submitted that the infrastructure delivery triggers need to be reviewed to ensure the required infrastructure is delivered when needed and to avoid unclear or unachievable triggers.

Mr Czarny and Mr Woodland had different opinions on whether the central bridge was needed before developing a train station. Mr Czarny considered it necessary to connect Precinct 1 and Precinct 4. Mr Woodland did not.

Mr Walsh considered the trigger for the two bridge infrastructure items to be acceptable. In response to questions from the Committee, he said he had assumed the precincts would be developed one after the other.

### **(iv) Discussion**

The 20-minute neighbourhood is all about living locally – giving people the ability to meet most of their daily needs within a 20-minute return walk from home, with access to safe cycling and local transport options. The bridges are essential to deliver this vision, connecting the eastern and western precincts and connecting the eastern precincts to Mooroolbark Road and nearby primary schools to the east.

However, the CDP requires Precinct 4 (Urban core) to be developed before any bridge can be delivered. This may result in not achieving a 20-minute neighbourhood for a prolonged period.

The southern bridge [DI-BR-01] relies on the delivery of the final stage of Precinct 1 and commencement of Precinct 4. The CDP allows for the concurrent delivery of precincts so there is no guarantee of when Precinct 1 may be completed or Precinct 4 may commence.

The northern pedestrian bridge is not triggered until the urban core is fully built out. This is a vaguely defined threshold, given the uncertainty of building on the filled quarry area. The northern bridge presumably connects some of the earliest development areas, Precinct 1 and Precinct 2, noting Precinct 1 will have interim access from the north off Taylors Road.

The central bridge has no funding mechanism or timing at all, given the assumption it will be provided by DoT as part of the uncommitted potential future station. This is a particular issue in that, even if a commitment is made for a potential train station allowing permits for Precinct 4 to be issued, there is no requirement to provide the potential train station in a timely manner. The potential train station could remain unfunded for decades even if a commitment for a station is made by the State Government.

To facilitate the achievement of a walkable neighbourhood, the three bridges should be developed at the time they are needed to connect the communities across the rail line and to provide access to facilities on each side. This includes access to the nearest primary schools west of Mooroolbark

Road and the open space areas, cycle trails, commercial and community facilities to the east. Providing early access for walking and cycling is critical because:

- there is no timing for providing public transport through the 143.8 hectare subject land
- essential services on the subject land are not planned for early delivery
- the external arterial road network is already under some stress.

The northern pedestrian bridge is most needed to connect the northern half of Precinct 1 and both Precinct 2 and the northern part of Precinct 3. It would link the east-west pedestrian and cycle route connecting to the Mooroolbark Road and Churchill Drive intersection.

The southern road bridge is needed to:

- connect the southern halves of Precinct 1 and Precinct 3 with the Urban core
- create a vehicular connection to help distribute traffic internally.

The central pedestrian bridge is needed to:

- reduce walking times through a more direct central connection for the central elements of the subject land
- help deliver the vision for a main street in the urban core
- link the east-west pedestrian and cycle route connecting to the Mooroolbark Road and Statesman Crescent intersection.

Given the present lack of commitment for a train station on the subject land, the central bridge should be funded as an infrastructure item, at least as a temporary structure, to ensure that the 20-minute neighbourhood vision can be achieved in a timely manner.

The Committee has insufficient information to provide more definitive recommendations on the recommended triggers for the three bridges beyond the above and those set out in Chapter 6.5.

## **(v) Findings and recommendations**

The Committee finds:

- The pedestrian bridge at the potential train station location is critical infrastructure whether or not the station is delivered, and a funding mechanism should be included to ensure its timely provision.
- The timing triggers for the three bridges should ensure that early residents are provided with reasonable active transport connectivity across the rail line.

The Committee recommends:

- 17. The Victorian Planning Authority undertake further work with HBI Lilydale and Yarra Ranges Shire Council to determine a practical set of infrastructure triggers for the three proposed new bridges over the rail line before the Amendment is finalised for approval.**
- 18. Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) include an infrastructure item to deliver the central bridge over the rail line.**
- 19. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
  - a) include an infrastructure item to deliver the central bridge over the rail line in a timely manner.**



## 8.4 Road network capacity

### (i) The issues

The issues are:

- whether access roads referred to in the CDP have enough capacity to manage future traffic volumes that would be generated by future development on the subject land
- whether the proposed Boulevard connector street will result in heavy vehicles negatively impacting the surrounding area
- whether the Lilydale Bypass should be prioritised to decongest traffic at the subject land's access points, Lilydale Central and along Main Street.

The following intersections are addressed briefly in this chapter and in more detail in following chapters:

- Maroondah Highway intersections with John Street and Hutchinson Street (Chapter 8.5)
- Mooroolbark Road and Hull Road intersection (Chapter 8.6).

### (ii) Evidence and submissions

Submitters were concerned that:

- existing congestion on the road network, particularly on Mooroolbark Road at the Hull Road and Maroondah Highway intersections, will be exacerbated by the development
- traffic may use local streets to avoid congestion, impacting the safety of pedestrians particularly around nearby schools
- the proposed additional two sets of signals on Mooroolbark Road would add to existing delays in the area.

Maroondah City Council submitted most of the traffic from the development will move through its municipality in the morning and afternoon peak periods. It was concerned the Ringwood Bypass is operating at capacity and would worsen after North-East Link is constructed. Maroondah City Council submitted that lane reassignment and signal modification was needed at Oliver Street/Maroondah Highway, Ringwood to manage existing and future traffic.

VPA advised there have been ongoing negotiations between DoT and VPA on transport issues since VPA became lead in the draft amendment process. The key outstanding road capacity issue was the proposed mitigation works at the Mooroolbark Road and Hull Road intersection.

DoT submitted that the planned long term projects, the Healesville Arterial, Mooroolbark Road duplication and the Lilydale Bypass seek to provide regional network growth and address existing congestion.

DoT was concerned with the proposed traffic mitigation at the Mooroolbark Road and Hull Road intersection and recommended a further assessment of the Maroondah Highway and Hutchinson Road intersection. These two intersections are discussed in more detail in later chapters.

DoT recommended changes to the documents which would:

- require the Melba Avenue/Hutchinson Street roundabout to be consistent with plans for a future Lilydale Bypass

require plans for the North South Connector Road

- provide no access from Melba Avenue

- provide interim access along Mooroolbark Road to be consistent with the Precinct Traffic and Transport Management Plan
- provide local bus stop infrastructure at locations specified by DoT.

DoT requested:

- interim access to Mooroolbark Road as an alternative to an interim Taylor Street access over PAO9 if the land was required to deliver the Lilydale Bypass
- the CDP Glossary be amended to clarify that Maroondah Highway and Mooroolbark Road are declared arterial roads, and Taylors Road and Melba Avenue will become arterial roads in the long term when developed as the Lilydale Bypass.

Mr Coath explained that Yarra Ranges Council is currently preparing a new Lilydale Structure Plan to update the 2006 plan. The new Structure Plan is expected, among other things, to address Yarra Ranges Council's position on the Lilydale Bypass, with both the current planned bypass route using the PAO land and an alternative route through John Street and Hardy Street under consideration. Alternatives for the design of the Lilydale Bypass along the current planned route include an elevated road between Maroondah Highway and Swansea Road with no side access, or an option that includes an at-grade connection at Hutchinson Street. There is no planned date for delivery of the bypass, which is the responsibility of the DoT.

Mr Coath was satisfied with the traffic generation and distribution except for concern in respect to the distribution of traffic at the Hutchinson Street and John Street intersection. He was concerned the unsignalised intersection of Maroondah Highway and John Street is currently over capacity, based on his firm's analysis, which would be exacerbated by the development.

Mr Coath advised that Cardno, in the Lilydale Quarry - Integrated Transport Plan, has distributed west bound traffic along John Street to Maroondah Highway from the Hutchinson Street and John Street intersection rather than directly to Maroondah Highway by Hutchinson Street. He considered this would weaken the opportunities to upgrade John Street to improve its streetscape and levels of pedestrian activity which would in his opinion be inconsistent with the 2006 Structure Plan and the 2008 Lilydale Urban Improvement Project (Policy references to the Lilydale Activity Centre, Clause 22.07-4).

Mr Coath noted that the Lilydale level crossing removal project would release capacity on Maroondah Highway and result in a reduced speed limit on John Street to 40km/hr in response to increased pedestrian, cyclist and bus movements in John Street. He said this adds to the need to direct development traffic directly to the Maroondah Highway and Hutchinson Street intersection rather than along John Street. The Maroondah Highway and Hutchinson Street intersection, he contended, would have adequate capacity if signalised and he considered that the signalisation of that intersection should be included as a traffic mitigation project delivered by the Lilydale Quarry developer.

Regarding other external intersections, Mr Coath stated:

- Melba Avenue and Hutchinson Street intersection – new roundabout (DI-RD-04a)
  - Satisfactory mitigation is proposed.
- Hutchinson Street and John Street intersection (DI-RD-05)
  - Having consideration to existing constraints the mitigation works are acceptable.
- Maroondah Highway and Mooroolbark Road intersection (DI-RD-06)
  - The proposed mitigation works will maintain the intersection below a degree of saturation (DoS) level of 1.0 but will not return all approaches to current operating

conditions with long queues on many approaches. He recognised that topography challenges may limit the ability to extend short turn lanes and deferred the consideration of this to DoT.

- Mooroolbark Road and Hull Road intersection (DI-RD-07 and DI-RD-07b)
  - The proposed mitigating works return the intersection to below a DoS of 1.0 but with some increased queuing. Extensions of a right turn lane could be considered.
- Hull Road and Swansea Road intersection upgrade (DI-RD-08)
  - Mr Coath was not satisfied with the minor mitigation works proposed at the Hull Road and Swansea Road intersection as they would not maintain the intersection within acceptable operating parameters (DoS 0.85 existing, 0.95 maximum, 0.96 proposed). He recommended considering additional work which may include lane lengthening and signal optimisation.
- Maroondah Highway and Anderson Street intersection and Anderson Street and Hardy Street intersection
  - DoS levels remain generally within appropriate limits, with limited increases to queuing and delays.
- Maroondah Highway and Hutchinson Street intersection
  - This intersection requires signalisation as a result of the development and this should be included as an infrastructure project.
- Maroondah Highway and John Street intersection
  - The intersection has insufficient capacity to cater for the development traffic distributed to it. This traffic should be catered for at the Maroondah Highway and Hutchinson Street intersection.

Mr Coath was generally satisfied that site access points, including the Hull Road and Honour Avenue intersection and the Hutchinson Street and Melba Avenue roundabout would have adequate capacity.

Mr Coath was concerned with the impact of additional traffic on the accesses to the Lakeview Drive estate to the east, particularly the western Lakeview Drive intersection. That intersection has no ability for right turners to store in the median to stage their right turn out. Mr Coath recommended that assessment of these intersections should be undertaken to determine the need for mitigating works.

Yarra Ranges Council submitted *“there is a crucial disagreement in relation to the need to provide traffic signals (at HBI Lilydale’s cost) at the intersection of Hutchinson Street and Maroondah Highway”*. Council noted the CDP assigns delivery responsibility for the Hutchinson Street and John Street intersection upgrade (DI-RD-05) and the Hull Road and Swansea Road intersection upgrade (DI-RD-08) to Council and that these mitigation projects should be a developer responsibility to deliver.

Mr Walsh reviewed the Cardno traffic modelling and was satisfied it included an appropriate study area, traffic generation and traffic distribution. The study area included eight key intersections surrounding the subject land. He noted that the analysis was done based on a train station being delivered and that including a train station would result in higher traffic generation than a no train station option.

The traffic analysis for the existing external road intersections assumed existing conditions plus full development in accordance with DoT guidelines, with mitigation typically required to bring intersections back to within capacity limits, or existing condition where already saturated.

Regarding future operating conditions of these intersections Mr Walsh advised:

- Melba Avenue and Hutchinson St intersection (new roundabout)
  - The proposed roundabout (DI-RD-04a) was estimated by Cardno to operate well below capacity and Mr Walsh was satisfied that the proposed roundabout was an appropriate traffic control for this intersection.
- Hutchinson Street and John Street intersection
  - This intersection is constrained by existing property boundaries. The proposed line marking changes and signal phase changes (DI-RD-05) will result in the intersection operating at 'acceptable' level with a DoS of 0.95. The Lilydale Bypass may result in further consideration of this intersection.
- Maroondah Highway and Mooroolbark Road intersection
  - This intersection is currently saturated in the PM peak and the proposed works (DI-RD-06) will bring the intersection back to current operating conditions, although with a higher level of saturation in the AM peak than existing.
- Mooroolbark Road and Hull Road intersection
  - This intersection is currently saturated and the proposed works including widening of the rail bridge (DI-RD-07 and DI-RD-07b) will bring the intersection back to operating conditions comparable with existing. He considered the Healesville Arterial will provide relief for this intersection.
- Hull Road and Swansea Road intersection upgrade
  - The proposed modification to turn lane on Hull Road to allow a shared left/right turn lane (DI-RD-08) will limit the DoS to 0.96, an increase from 0.85. Mr Walsh was satisfied that these works were reasonable given the intersection's constraints.
- Maroondah Highway and Anderson Street intersection and Anderson Street and Hardy Street intersection
  - The combined intersection DoS is expected to increase from 0.94 to 1.00 in the PM peak. Mr Walsh considered this acceptable with improvements considered to be the responsibility of the road authority as part of the Lilydale Bypass project.
- Maroondah Highway and Hutchinson Street intersection
  - Mr Walsh assessed the future condition of the intersection under the assumption that Yarra Ranges Council would fund and construct traffic signals in line with a recommendation in the Lilydale Integrated Transport Plan. With signals the intersection is expected to operate satisfactorily and consistent with existing conditions.
- Maroondah Highway and John Street intersection
  - The DoS for this intersection is expected to increase from 0.67 to 1.07 primarily due to through and right turning volumes from the southwest on Maroondah Highway (and entering John Street). He considered that as John Street currently acts as a pseudo Lilydale Bypass the operation of the intersection should be monitored and considered more broadly when Yarra Ranges Council resolves its preferred road network for the Lilydale Bypass.

For the proposed new signalised intersections providing access into the subject land, on Mooroolbark Road and Hull Road, Mr Walsh advised full development traffic was added to an estimated year 2030 base traffic, assuming 1 per cent annual growth in network traffic over 10 years. With the works proposed in the CDP for each of the intersections, he expected these intersections to operate well within their capacity levels.

**(iii) Discussion**

It is clear from the analysis that the existing arterial road network is already under some stress with major intersections operating at or near capacity. DoT has plans to address this with the planned but not yet funded major road projects. There is no evidence that the development will increase the need to bring forward these works or substantially alter their scope. That need already exists and the Committee supports the community requests for these projects to be funded to complement the investment being made in this area by this development and the Level Crossing Removal Program.

Setting aside the Maroondah Highway intersections with Hutchinson Street and John Street and the Mooroolbark Road and Hull Road intersection (which are expanded upon in the following chapters), the Committee is satisfied on the evidence that the proposed mitigation works are appropriately targeted and scaled to address the local impacts.

Regarding the Hull Road intersection with Lakeside Drive, the Committee accepts that the road authority has a responsibility to address safety concerns at existing local arterials and notes that neither Yarra Ranges Council nor VicRoads advocated this issue.

Similarly, the Committee is not persuaded by Mr Coath that the mitigation works proposed at the Hull Road and Swansea Road intersection is so insufficient to warrant further investigation. The analysis indicates a future DoS only marginally over the 'maximum desirable' and such discrepancy would be within the bounds of modelling error. This was not a matter pursued by the road authorities.

The Committee agrees with Yarra Ranges Council that the Hutchinson Street and John Street intersection (DI-RD-05) and the Hull Road and Swansea Road intersection upgrade (DI-RD-08) are traffic mitigation projects that should be delivered by the developer and not by Council.

Regarding the Maroondah Highway and John Street intersection, the Committee does not find it acceptable for an unsignalised intersection to operate at a DoS over 0.95 and agrees with Yarra Ranges Council that some of this traffic should be encouraged to use the Maroondah Highway and Hutchinson Street intersection, particularly given the uncertainty as to when the Lilydale Bypass may be constructed.

Neither of the experts considered the concern raised that the boulevard collector through the estate may attract heavy vehicles. The Committee has considered this and notes that the CDP anticipates that the north-south boulevard connector street will be traffic calmed and its design will discourage through traffic from diverting from surrounding major arterials.

**(iv) Findings and recommendation**

The Committee finds:

- The developer should not be responsible for addressing existing traffic congestion issues.
- Healesville Arterial to Mooroolbark Road, duplication of Mooroolbark Road and the Lilydale Bypass are projects identified by the State Government to accommodate regional traffic growth and address existing capacity constraints on the arterial road network in the vicinity of the subject land, particularly along Mooroolbark Road, Hull Road and Maroondah Highway.
- Given the State Government has not committed to the timing of providing the Healesville Bypass and the Lilydale Bypass, it is appropriate for the developer to fund traffic

mitigation works on the arterial road network that offset the development's traffic impacts near the subject land.

- The traffic analysis and methodology has been peer reviewed and is generally appropriate.
- Traffic mitigation can be provided through suitable capacity upgrades to the arterial road intersections at and around the subject land, subject to resolving the Maroondah Highway and Hutchinson Street intersection and the Mooroolbark Road and Hull Road intersection.
- The developer should be responsible for delivering the Hutchinson Street and John Street intersection upgrade (DI-RD-05) and the Hull Road and Swansea Road intersection upgrade (DI-RD-08).

The Committee recommends:

- 20. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
- a) assign delivery responsibility for the Hutchinson Street and John Street intersection upgrade (DI-RD-05) and the Hull Road and Swansea Road intersection upgrade (DI-RD-08) to the developer.**

## 8.5 Maroondah Highway intersections with Hutchinson Street and John Street

### (i) The issues

The issues are:

- whether the Maroondah Highway intersections with Hutchinson Street and John Street need to be signalised to manage increased traffic anticipated from the subject land
- if needed:
  - when the intersections should be signalised
  - whether the developer should fund the signalisation.

### (ii) Evidence and submissions

Both traffic experts agreed that the intersection of Maroondah Highway and Hutchinson Street does not have sufficient capacity under existing conditions to cater for the development traffic.

The traffic volume data contained in Appendix B of Mr Walsh's evidence indicates that traffic volumes at both the Maroondah Highway and Hutchinson Street and the Maroondah Highway and John Street intersection will increase by in the order of 20 to 30 per cent in the peak periods. Percentage increases for the turning movements at the Maroondah Highway and Hutchinson Street are significantly higher at between 138 and 191 per cent, with the critical right turn out movement increasing in volume from around 12 vehicles per hour to around 110 vehicles per hour.

Mr Walsh explained that the Hutchinson Street intersection had not been assessed in the Lilydale Quarry – Traffic Impact Assessment or in his evidence. They both assumed Yarra Ranges Council was committed to funding the signalisation of the intersection outlined in the Lilydale Integrated Transport Plan prepared by GTA Consultants in 2015.

Mr Walsh noted that traffic flows and gaps along Maroondah Highway will change as a result of the current level crossing removal. The crossing removal project includes a new set of traffic

signals at the William Street intersections, under the rail line. This may improve capacity at the Hutchinson Street intersection.

HBI Lilydale submitted that the Lilydale Integrated Transport Plan included the proposed development traffic generation and concluded that the Hutchinson Street intersection should be signalised at Yarra Ranges Council's cost for both capacity and pedestrian safety reasons.

Mr Coath noted that he had not been involved with the preparation of the Lilydale Integrated Transport Plan by his office. He added Yarra Ranges Council had not committed to fund the signalisation of the intersection and the probable cost of these works were estimated to be in the order of \$1 to 1.65 million dollars, based on a high-level opinion.<sup>8</sup>

Yarra Ranges Council submitted that:

- Cardno and Mr Walsh incorrectly assumed Council had committed to signalise the intersection
- while the Lilydale Integrated Transport Plan indicates that Yarra Ranges Council should signalise the intersection at its cost, Council has not endorsed the document
- Council has done alternative works since that report to address the identified pedestrian issues, namely providing pedestrian operated signals to the east of the intersection.

Yarra Ranges Council noted that there is no debate the intersection will need signalling to cater for the traffic generated by the development and the Level Crossing Removal Project will logically increase the desire to use Hutchinson Street as the outlet to Maroondah Highway, rather than John Street. It will also (appropriately) encourage travellers from the west to stay on Maroondah Highway rather than to seek a 'rat run' down John Street.

Yarra Ranges Council referred to the Lilydale Integrated Transport Plan which identified other road capacity works such as a widening of Hardy Street to cater for traffic:

- generated by the development of the subject land
- using John Street and Hardy Street as a bypass route.

That project was proposed to be a jointly funded project by both Yarra Ranges Council and the developer. This is not included in the CDP.

Yarra Ranges Council concluded the Maroondah Highway and Hutchinson Street intersection needed to be signalised to enable the development of Precincts 2, 3 and 4.

DoT submitted the pedestrian signals installed on Maroondah Highway east of Hutchinson Street in 2017 resolved the primary justification for traffic signals at the Hutchinson Street intersection identified in the Lilydale Integrated Transport Plan. It supported an investigation into signalling the Maroondah Highway and Hutchinson Street intersection. DoT added:

This should involve further analysis of the potential impact of signalisation on the operation of Maroondah Highway given the proximity of the intersection to the new traffic signals being constructed approximately 100m to the west of the intersection as part of the Maroondah Highway Level Crossing Removal Project and also the pedestrian operated signals approximately 150m east of the intersection constructed in 2017.

### **(iii) Discussion**

Consultant reports such as the Lilydale Integrated Transport Plan help guide Council decisions but are not a Council plan to be relied upon unless adopted by Council. This has not been done and it

---

<sup>8</sup> Document 47

is clear that Yarra Ranges Council is not proposing to signalise the Maroondah Highway and Hutchinson Road intersection as assumed by HBI Lilydale's experts.

The traffic evidence clearly indicates that there is currently insufficient capacity at the Maroondah Highway intersections with John Street and Hutchinson Street to cater for the projected development traffic and further work is needed to determine what would be an appropriate package of works to ensure adequate capacity is available to accommodate the development traffic. This analysis may need to consider redistributing some of the development traffic from John Street to Hutchinson Street.

This is likely to require additional infrastructure projects and as a consequence is a matter that should be resolved before finalising the Amendment to allow the works to be included in CDZ1 and the CDP.

#### **(iv) Findings and recommendations**

The Committee finds:

- Further analysis of the traffic impacts on Maroondah Highway should be undertaken before finalising the Amendment.
- Any traffic works required as an outcome of the further traffic analysis should be included in Comprehensive Development Zone Schedule 1 and the Comprehensive Development Plan as infrastructure projects.

The Committee recommends:

- 21. Before approving the Amendment, further traffic analysis should be undertaken, in consultation with the Department of Transport, to determine what works are necessary to provide sufficient capacity at the Maroondah Highway intersections with John Street and Hutchinson Street to mitigate development impact.**
- 22. Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) include as State Infrastructure Projects any mitigating road works that are identified as an outcome of further traffic analysis on Maroondah Highway at its John Street and Hutchinson Street intersections.**
- 23. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
  - a) include as State Infrastructure Projects any mitigating road works that are identified as an outcome of further traffic analysis of the traffic impacts on Maroondah Highway at its John Street and Hutchinson Street intersections in the Comprehensive Development Plan.**

## **8.6 Mooroolbark Road and Hull Road intersection and bridge widening (DI-RD-07a and DI-RD-07b)**

### **(i) The issues**

The issues are:

- whether the proposed Mooroolbark Road and Hull Road intersection works will adequately mitigate traffic impacts of the development
- whether the developer should pay the full costs of the intersection works
- the appropriate trigger for delivering these works



- how to respond if the bridge works are not feasible or the Healesville Arterial and Mooroolbark Road projects are delivered.

## **(ii) Background**

The CDP includes two infrastructure projects to increase the capacity of the Mooroolbark Road and Hull Road intersection:

- Mooroolbark Road and Hull Road – intersection upgrade and land acquisition (DI-RD-07a)
- Mooroolbark Road and Hull Road intersection – bridge widening (DI-RD-07b).

These projects are estimated to collectively cost about \$6 million dollars. The trigger requires them to be delivered before the final stage in Precinct 1.

The feasibility of the proposed bridge widening is still under investigation.

## **(iii) Evidence and submissions**

There were submitters concerned that the Mooroolbark Road and Hull Road intersection is currently congested with long queues and delays associated with the narrow rail underpass and that this will be exacerbated by the development.

VPA advised if bridge widening is not feasible in engineering terms, alternative mitigation measures will be needed such as altering the PAO on Mooroolbark Road. It considered the bridge widening should logically occur at the same time as the rail track duplication, expected to occur in the next ten years. It considered the staged development of the subject land means that this timeframe is reasonable as the time horizon for the project, especially Precinct 4, is up to 15 years.

DoT submitted that if the bridge widening cannot be delivered, more land may be required on Mooroolbark Road. It requested this potential be referenced in the CDP before the Amendment is finalised.

HBI Lilydale submitted that *“this is a challenging and potential very expensive infrastructure project, which has not been appropriately addressed by the government to date”*. It agreed to do the work if feasible but requested some flexibility to allow for alternative mitigation works or no works in the event the Healesville Arterial project secures funding removing the need for the works.

Mr Walsh stated the intersection is currently operating with high levels of congestion (DoS 1.02 AM peak, 0.88 PM peak) and the proposed intersection upgrade and bridge widening are designed to offset the impacts of the development traffic (which are anticipated to result in DoS 1.03 AM peak, 1.06 PM peak).

Mr Walsh explained that DoT proposes the Healesville Arterial and Mooroolbark Road duplication to address the existing congestion. He considered that to allow for precincts to be developed at the same time and to make allowance for the potential for interim access to Precinct 2 from Melba Avenue, the trigger for the Mooroolbark Road and Hull Road intersection upgrade and bridge widening should be modified to:

Prior to delivery of the 600<sup>th</sup> lot that has access from within the CDP area to Mooroolbark Road and / or Hull Road.

Mr Coath stated that not all movements will be returned to satisfactory operating conditions and the proposed works should be modified to increase the length of the short lanes, particularly on the southwest departure lanes and on the northwest approach lanes.

**(iv) Discussion**

It is clear that works are needed at the intersection of Mooroolbark Road and Hull Road to address both existing congestion and accommodate the extra traffic generated by the development. The ultimate plan is the Healesville Arterial and Mooroolbark Road duplication projects which will create a new rail crossing and bypass of this intersection. However, as these projects are not yet funded and the timing for delivery is unknown at this stage it is obvious that interim works will be necessary to mitigate development impacts. This has been accepted by HBI Lilydale. This decision allows the development to proceed without funding for the planned government projects.

The Committee agrees with HBI Lilydale that, given the uncertainty of the feasibility of widening the bridge, the CDP should allow for an alternate set of mitigation works to be identified and substituted to the satisfaction of the Head TfV if needed, on the basis that they are interim works or a subset of future planned major works of equivalent cost.

With the intersection already operating at full capacity in the morning peak, works ideally should be done prior to commencement of development. Mr Walsh has recommended that the trigger be the 600<sup>th</sup> lot, which the Committee interprets as being dwelling.

This timing needs to be considered, given interim access for the first 250 dwellings is to be from Taylors Road and the proposed upgrade of the Maroondah Highway and Mooroolbark Road intersection (DI-RD-06) is programmed to occur with the delivery of the 400<sup>th</sup> dwelling in Precinct 1. As that project (DI-RD-06) is to cater for full development traffic, it will provide some capacity to allow traffic to avoid the Hull Road intersection before it is upgraded. On this basis and noting the scope of the works involved, the timing of 600 dwellings for the Mooroolbark Road and Hull Road intersection upgrade and bridge widening is considered reasonable.

The planned works have been designed for full development traffic. The Committee is satisfied the works will reasonably mitigate the development impact as currently proposed, given the scope of the works and the need for the government to address existing congestion and provide for arterial growth along this route. The extra capacity provided at delivery of the road project will improve existing congestion for some time and allow DoT to continue its planning for the ultimate solution.

The trigger for these infrastructure projects currently refers to completing the final stage in Precinct 1. As precincts are not required to be completed before another precinct commencing development, it would be appropriate to remove reference to Precinct 1 in the triggers.

**(v) Findings and recommendations**

The Committee finds:

- The proposed works at the Mooroolbark Road and Hull Road intersection provide reasonable mitigation of traffic impacts of the development Maroondah Highway commercial frontage access.
- The trigger for the works DI-RD-07a and DI-RD-07b should be changed to before the delivery of the 600<sup>th</sup> dwelling in the development.
- The trigger for the works at the Maroondah Highway and Mooroolbark Road intersection (DI-RD-06) should not be limited by development in Precinct 1.
- The Comprehensive Development Plan should allow for an alternative mitigation package to projects DI-RD-07a and DI-RD-07b in the event the proposed works are not feasible or are cost prohibitive, and the Department of Transport should work with the developer to

minimise the extent of works that would be redundant in the future and of equivalent cost.

The Committee recommends:

- 24. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
- a) provide some flexibility in the mitigation works required to address capacity constraints at the Mooroolbark Road and Hull Road intersection**
  - b) remove reference to Precinct 1 in infrastructure item DI-RD-06**
  - c) change the trigger for DI-RD-07a and DI-RD-07b to before delivering the 600<sup>th</sup> dwelling.**

## 8.7 Maroondah Highway commercial frontage access

### (i) The issue

The issue is whether access should be permitted at Maroondah Highway.

The Committee has recommended in Chapter **Error! Reference source not found.** to not include the Highway frontage commercial/mixed use area. The Committee has considered the issue of Maroondah Highway commercial frontage access in the event this recommendation is not supported.

### (ii) Evidence and submissions

DoT submitted that the mixed-use development on the corner of Maroondah Highway and Mooroolbark Road should be omitted from the CDP or the indication of a Maroondah Highway access be removed from the plans. Less preferably, a notation could be added to indicate that the access was subject to the approval of the Head TfV.

The DoT did not support access at the Highway due to concerns with:

- the grade of Maroondah Highway making it difficult for traffic re-entering the Highway to merge
- distance to the intersection including its turn lanes
- safety concerns with U-turns at the intersection.

DoT advised that the planned major road projects would increase the traffic volume turning from south to east. It was concerned that showing a left in and left out on the plans in the CDP would indicate that DoT would approve such access, making it difficult to refuse and to defend a refusal at VCAT. DoT sought to prohibit access to Maroondah Highway for a service station use in CDZ1.

Mr Coath considered a left turn out movement would not be acceptable due to concerns with risk taking behaviour of vehicles attempting to cross over to the right turn lane on Maroondah Highway to turn right or U-turn. A lack of gaps in the traffic stream in peak hours and queues at the intersection would increase risk. He was not so concerned with the left turn in, noting that a deceleration lane would be required, and it would limit traffic having to travel around the corner into an access on Mooroolbark Road.

Mr Walsh advised he had assessed the sight lines on Maroondah Highway and found them adequate to support the proposed left in and left out entry, with sufficient distance to the intersection for motorists to safely enter Maroondah Highway. He considered access to Maroondah Highway to be *“highly desirable for the viability of a commercial use at this corner”*.

**(iii) Discussion**

The Committee agrees with Mr Walsh that providing access at Maroondah Highway would improve the viability of the mixed use area. However, this is not a valid reason to override traffic safety issues.

This corner site is encroached by PAO9 for the Lilydale Bypass on both arterial road frontages. Traffic connecting between the Healesville Bypass and the Lilydale Bypass will need to travel along both frontages as Maroondah Highway connects the two routes in this section. As DoT noted, this will result in a greater volume of traffic turning left from Maroondah Highway in the future. Accordingly, these major projects are expected to result in a substantial upgrade of this intersection, potentially increasing the number of traffic lanes and turn lane lengths, as indicated in the concept plan in the Lilydale Quarry – Supporting Traffic Impact Assessment.<sup>9</sup>

This is a road location where protection of the arterial traffic function must override local access needs. This is not a case where there is an overwhelming land use consideration, noting the Committee's finding in Chapter 5 that a mixed use development on this site is not supportable. Nor is it the case that alternative access cannot be provided, as the proposed internal road network will connect to a signalised intersection on Mooroolbark Road.

There are significant geometric constraints with a substantial drop in level between the road and the subject land and the uphill grade of Maroondah Highway. There is uncertainty about the future road works associated with the planned arterial road upgrades.

**(iv) Finding and recommendation**

The Committee finds that vehicular access should not be provided at Maroondah Highway.

The Committee recommends:

- 25. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
  - a) exclude vehicular access at Maroondah Highway.**

**8.8 Taylor Street access****(i) The issues**

The issues are:

- whether it is appropriate to provide the interim access through Taylor Street
- whether interim access should be provided as far east as practicable.

**(ii) Evidence and submissions**

Mr Walsh advised that the trigger for constructing direct access to Mooroolbark Road is the delivery of the 330<sup>th</sup> dwelling (DI-RD-01 or DI-RD-02). In the interim, access to Precinct 1 is proposed from Taylor Street to the north. Mr Walsh recommended the interim access from Taylor Street be limited to the first 250 dwellings based on amenity expectations for Taylor Street.

Mr Coath was concerned with allowing interim access to Precinct 1 from Taylor Street for up to 330 dwellings. He advised this has flow on impacts to Cave Hill Road and John Street, which has

<sup>9</sup> Cardno Drawing number V161623-TR-SK-005 rev 2.

capacity constraints, as discussed earlier in this chapter. He supported the reduction to 250 dwellings.

Yarra Ranges Council submitted:

- it preferred no interim access to Taylor Street, given its rural typology
- interim access was being sought to delay constructing an intersection at Mooroolbark Road
- Taylor Street has some medium density development.

If there was interim access to Taylor Street, Yarra Ranges Council requested that it be:

- located as far east as possible to minimise impacts to the Taylor Street residents
- limited to the first 250 dwellings.

DoT submitted that the CDP should contemplate interim access from Mooroolbark Road in the event the PAO9 land along the Taylors Road frontage was acquired to deliver the Lilydale Bypass.

### **(iii) Discussion**

The Committee accepts the evidence of the traffic experts that interim access through Taylor Street is acceptable for up to 250 dwellings.

The location of that access is a matter that can be addressed at the permit application stage.

The Committee agrees with DoT that it would be prudent to provide for an alternative interim access in the event the Lilydale Bypass project commenced before the ultimate access on Mooroolbark Road was provided.

### **(iv) Findings and recommendations**

The Committee finds:

- It is appropriate to provide interim access through Taylor Street and its location can be determined at the permit stage.
- Interim access through Taylor Street should cease after delivering the 250th dwelling in Precinct 1.
- The Comprehensive Development Plan should provide for an alternative interim access intersection in the event land along Taylors frontage is acquired for the Lilydale Bypass.

The Committee recommends:

- 26. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
  - a) revise the triggers for DI-RD-01 and DI-RD-02 to the 250<sup>th</sup> dwelling rather than the 330<sup>th</sup> dwelling**
  - b) allow an alternative interim access at Mooroolbark Road should land along Taylors Road in PAO9 be acquired to facilitate the Lilydale Bypass.**

## 8.9 North South Connector Road and transport infrastructure on the Box Hill Institute land

### (i) The issue

The issues are:

- whether land needs to be acquired from Box Hill Institute to deliver the North South Connector Road Extension between the subject land boundary and Hutchinson Street (DI-RD-09)
- whether an infrastructure project is required to deliver the local cycle path and road along the south side of the Box Hill Institute land
- when the North South Connector Road and the extension out to Melba Avenue, including the upgrades on Hutchinson Street, should be provided (the triggers for DI-RD-04a, DI-RD-04b, DI-RD-09 and DI-RD-10).

### (ii) Background

The Integrated Transport Plan indicates that the North South Connector Road (DI-RD-10) through the subject land will carry in the order of 15,000 vehicles each day. It is proposed to be delivered sequentially as adjacent stages progress.

The North South Connector Road Extension (DI-RD-09) is an external road link through land currently owned by Box Hill Institute and Yarra Ranges Council linking to the Melba Avenue and Hutchinson Street intersection (DI-RD-04a). A new roundabout (DI-RD-04b) is also proposed at the entry to the Box Hill Institute.

The CDP states that that these external road projects will be delivered prior to the intersection of Hull Road and North South Connector Road (DI-RD-03) exceeding a DoS of 0.9 in either the morning or afternoon commuter peak periods.

### (iii) Evidence and submissions

#### Land acquisition

Box Hill Institute submitted:

The CDP acknowledges BHI<sup>10</sup> and shows a road and round about through the northern part of the land and a drainage reserve in the south-east corner. These are both items that have formed part of a previous MOU and are identified in the CDP as delivered infrastructure items whereby land acquisition is identified. BHI have no objection to these matters, however there is no understanding of final boundaries, sale price, timing and what impacts/disruptions this may have on BHI.

Box Hill Institute submitted that the CDP figures show a street abutting the south boundary of its campus which appears to be partially on Box Hill Institute land. That street is not identified as a delivered infrastructure item or identified for land acquisition. If the intention is to use the Box Hill Institute land for road or pedestrian/cycle access, this too should form part of the delivered infrastructure items.

VPA responded that the street is intended to align on the subject land and the cycle path forms part of the street cross-section.

<sup>10</sup> Box Hill Institute

Mr Woodland stated:

If the submitter agrees that these road and pedestrian works can be delivered (in part) on their land then I suggest that these works be identified in chapter 4.8 of the draft CDP and dealt with as part of the development contributions arrangements.

Yarra Ranges Council was concerned that no agreement has been reached between HBI Lilydale and the Box Hill Institute over the purchase of land for the North South Connector Road Extension. Its concern was founded on:

- the significant amount of time the road consideration has taken to date
- the need for an agreement to avoid negative consequences to developing Precincts 2, 3 and 4.

Yarra Ranges Council sought to not progress the Amendment until an agreement is reached.

HBI Lilydale submitted that:

- discussions are continuing with Box Hill Institute and that it would not be fair to delay the Amendment until the negotiations are completed
- if a voluntary agreement cannot be reached for the land acquisition, alternative mechanisms such as compulsory acquisition or creation of easement rights could be pursued.

### Trigger

Mr Walsh stated that the trigger for these external road projects did not consider that interim access for up to 200 lots in Precinct 2 could be provided directly from Melba Avenue. He recommended the trigger be revised to:

If there is no connection to the south to Hull Road for Precinct 2, then prior to the occupation of the 201st lot within Precinct 2.

If there is a connection to the south to Hull Road for Precinct 2, then prior to the DI-RD-03 exceeding a Degree of Saturation (DoS) of 0.90 in either the morning or evening peak hours.

HBI Lilydale acknowledged that the CDP should be amended to acknowledge that the developer is responsible for delivering DI-RD-09, noting it currently only addresses responsibilities relating to the land acquisition for this project.

### (iv) Discussion

Precinct 2 is located east of the rail line at the northern end of the subject land and is proposed to contain 200 dwellings and some non-residential uses. Its primary access will ultimately be through the North South Connector Road Extension. This is a critical link as it provides direct access to the Lilydale Activity Centre.

The Committee accepts the arguments put forward by HBI Lilydale in relation to seeking an agreement with Box Hill Institute. As noted by Yarra Ranges Council, the land is not required to facilitate development of Precinct 1 and accordingly holding the Amendment until an agreement is reached may add an unnecessary delay. The land needs to be secured to facilitate Precincts 2, 3 and 4 and should be obtained before approval is granted to develop land in any of these three precincts.

Regarding the timing for the North South Connector Road Extension and roundabout, the trigger of the DoS at the Hull Road signals exceeding 0.9 is greater than 2030 post development DoS of

0.78 estimated by Mr Walsh. The impacts of this on the external road network has not been assessed.

Compounding this is the need to develop the North South Connector Road as part of Precinct 3 and 4, as it is proposed to be constructed as part of the stages in which it sits. This would mean that Precinct 2 could not be commenced or delivered before Precincts 3 and 4 as envisaged in the indicative staging plan in the CDP unless interim access to Melba Avenue is permitted.

The North South Connector Road Extension will provide convenient access to existing services within Lilydale avoiding unnecessary car travel from the north-eastern part of the subject land. The CDP should clearly identify the developer as being responsible to construct this road project.

While Mr Walsh has suggested that an interim access onto Melba Avenue could be provided for the proposed 200 dwellings in Precinct 2, it is unclear how this could be achieved as this was not discussed in the CDP or at the Hearing. The subject land's current access to Melba Avenue is used for quarry access and it is expected this will continue to be used for construction access until subdivision works are complete for Precincts 2, 3 and 4.

Logically, the North South Connector Road Extension and the Melba Avenue roundabout should be delivered when the northern end of the North South Connector Road is delivered. A trigger relating to the capacity of the Hull Road site entry should be included, with the current DoS measure converted to a measure relating to dwellings or traffic volume that is more directly measurable, as discussed in Chapter 6.5. In setting the limit, consideration should be given to convenience so that new communities are not unnecessarily isolated from their closest activity centre.

Regarding the local cycle path along the south side of the Box Hill Institute land, the figures in the CDP clearly show it placed on the Box Hill Institute land. This is even more evident in the Lilydale Quarry - Urban Design Report which shows the Avenue Street straddling the Box Hill Institute boundary.

This local cycle path forms an important part of the local cycling network linking between the rail trail and Lilydale Lake trails. If as VPA suggests the local cycle path will be on the subject land, then the CDP figures should be amended to clearly indicate that intent. Alternatively, it should be included as an infrastructure project.

The CDP (Day 1 version) included a reference to land acquisition from Box Hill Institute to deliver DI-RD-10. This appears to be an erroneous response to the Box Hill Institute issue, given that DI-RD-10 is the section of the North South Connector Road on the subject land.

## **(v) Findings and recommendations**

The Committee finds:

- The North South Connector Road Extension is critical road infrastructure that should be secured:
  - before Precincts 2, 3 and 4 commence development but is not necessary before Precinct 1 commences
  - through an early voluntary agreement with Box Hill Institute to purchase the land (preferred) or alternative mechanisms to the satisfaction of the responsible authority
- The trigger for delivering the North South Connector Road Extension (DI-RD-09) and the Melba Avenue and Hutchinson Street intersection (DI-RD-04a) should:
  - be changed to a more directly measurable trigger such as dwellings or traffic volumes



- ensure that the traffic volume at the southern end of Honour Avenue (North South Connector in Stage 1) does not exceed its post development design volume
- ensure these projects are delivered when the northern end of the North South Connector Road is delivered.
- The Comprehensive Development Plan should clearly identify the developer as being responsible to construct the North South Connector Road Extension but not the North South Connector Road (DI-RD-10).
- The local cycle path shown in the Comprehensive Development Plan as being located within the southern edge of the Box Hill Institute land should be shifted to within the subject land unless provision is made to acquire land from Box Hill Institute by way of an infrastructure project.

The Committee recommends:

- 27. Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
- a) **not enable a permit to be issued for Precincts 2, 3 or 4 until either:**
    - a voluntary agreement to be signed between the developer and Box Hill Institute to purchase the land for the North South Connector Road Extension or
    - an alternative mechanism for acquiring the land is approved to the satisfaction of the Responsible Authority.
- 28. Amend the Comprehensive Development Plan, as outlined in Appendix F, to:**
- a) **specify the developer is responsible for constructing the North South Connector Road Extension (DI-RD-09)**
  - b) **show the local cycle path along the southern edge of the Box Hill Institute to lie within the subject land, unless provision is made in the Comprehensive Development Plan and the Comprehensive Development Zone Schedule 1 for the road and cycle path to be delivered as an infrastructure item including acquisition of land from Box Hill Institute**
  - c) **change the trigger for delivering the North South Connector Road Extension (DI-RD-09), the roundabout at the Box Hill Institute entry (DI-RD-04b) and the Melba Avenue and Hutchinson Street intersection (DI-RD-04a) to:**
    - **when the northern end of the North South Connector Road (DI-RD-10) is delivered and before the design volume at the southern end of the North South Connector Road is expected to be reached.**

## 8.10 Cycling network

### (i) The issue

The issue is whether there should be a pedestrian/bicycle path along the railway line to the Brushy Creek Trail at Manchester Road.

### (ii) Evidence and submissions

Mr Pope submitted that provision needs to be made to continue the rail trail along the rail line to the Brushy Creek Trail at Manchester Road. VPA responded that strategic cycling corridors are committed, and further connections are for Council to consider.

**(iii) Discussion**

The rail trail specified in the CDP through the subject land will connect to the Carrum to Warburton Trail at Hull Road, which connects into the Brushy Creek Trail at Manchester Road. A local east-west cycle path will be provided to connect the new rail trail to the Lilydale Lake trail which forms part of the Olinda Creek Trail. The Committee considers that this will make a substantial contribution to the trail network. It agrees with VPA that HBI Lilydale should not be responsible for trail connectivity outside the subject land.

**(iv) Finding**

The Committee finds that there is adequate provision for a rail trail through the subject land and connection to the Carrum to Warburton Trail to the south and Lilydale Lake trails to the east.

**8.11 Public Acquisition Overlay****(i) The issues**

The issues are:

- whether the proposed alignment of PAO12 (Mooroolbark Road widening) is appropriate and justified
- whether prospective property purchasers should be advised of PAO12
- whether a PAO should be applied to Hull Road.

**(ii) Evidence and submissions**

Mr Mangan submitted that it is not clear enough in the plans that the PAO12 is for a future freeway and that more should be done to inform purchasers. Mr Noy questioned why there is no acquisition shown for Hull Road.

VPA responded that:

- the PAO12 is to facilitate a widening of Mooroolbark Road, and not to create a freeway
- a PAO along Hull Road is not necessary.

DoT submitted that the proposed PAO12 area shown on the Amendment PAO Map does not reflect the current design assumptions for the Mooroolbark Road duplication. A greater area is sought to accommodate a longer taper towards the Hull Road end. DoT advised it is discussing this matter with HBI Lilydale but DoT's position was that the PAO12 should reflect AECOM drawing no 60303372-SKE-0019 issue B.

HBI Lilydale submitted that it was premature to change the proposed extent of the PAO to match the AECOM plan because negotiations were still ongoing.

**(iii) Discussion**

There was no evidence led regarding the requirements for PAO12, nor did any party contest the need for the PAO. The Committee understands that the overlay is required to secure sufficient land for the future duplication of Mooroolbark Road and diversion of that road to connect directly into the proposed Healesville Arterial.

These major transport projects are the responsibility of the DoT to deliver and accordingly it is up to DoT to determine what land is needed to enable that to occur.

HBI Lilydale did not seek the Amendment process be halted for further assessment nor did it seek to justify its position.

The Committee accepts that the latest information is based on the AECOM design commissioned by DoT and can see no reason not to follow DoT's recommendation. Should the AECOM design be shown to be excessive it would be an easier process to reduce the PAO later than to seek an increase in area, which may be the outcome if the exhibited plan is adopted. Continuing with the current plan may result in a compromised design.

The Committee understands that PAO12 is required to facilitate the duplication of Mooroolbark Road and is not proposed to be upgraded to freeway standard. The Committee notes that Online Planning Scheme maps and planning information set out in section 32 vendor statements<sup>11</sup> will adequately inform prospective property purchasers of the purpose of PAO12 - Widening of Mooroolbark Road (between Maroondah Highway and Hull Road), Lilydale.

The Committee has not been provided with any information to suggest that a PAO is required on Hull Road.

**(iv) Findings and recommendation**

The Committee finds:

- The Public Acquisition Overlay 12 map should be amended to match the AECOM plan unless other advice is provided by the responsible road authority.
- Online Planning Scheme maps and planning information set out in section 32 vendor statements will adequately inform prospective property purchasers of Public Acquisition Overlay 12 and its purpose.
- There is no evidence of a need to apply the Public Acquisition Overlay to Hull Road.

The Committee recommends:

- 29. Amend the Public Acquisition Overlay 12 Map to reflect the area shown in AECOM drawing no 60303372-SKE-0019 issue B or a smaller area specified by the Head, Transport for Victoria.**

---

<sup>11</sup> section 32 of the Sale of Land Act 1962

## 9 Statutory processes

### 9.1 Third party notice and review

#### (i) The issue

The issue is whether CDZ1 appropriately responds to third party notice and review of future permit applications which are generally consistent with the incorporated CDP.

#### (ii) Background

The Comprehensive Development Zone specifies at Clause 37.02-4:

##### Exemption from notice and review

An application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act if it is generally consistent with the comprehensive development plan.

The schedule to this zone may specify that other applications are also exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

#### (iii) Evidence and submissions

Box Hill Institute submitted that it is a major stakeholder but CDZ1 removes third party notice and review rights if a proposal is generally consistent with the incorporated CDP.

VPA responded that the third party arrangements were normal due process.

Mr Woodland considered it common practice for planning frameworks for major urban renewal developments to limit future statutory third party notice and appeal rights after a development plan has been subject to public input. He expected Council would informally notify affected parties to consider their views on future plans and agreements required by CDZ1.

#### (iv) Discussion

The Comprehensive Development Zone has state-based provisions which cannot be changed through a local planning scheme amendment. This includes its inherent notice and review exemptions. A different zone will need to be selected if the Committee agrees that third party notice should not be exempt for generally consistent planning proposals.

The Committee has explored whether there is a strategic basis for requiring third party notice. The PE Act provides the head of power to provide those materially affected with an opportunity to comment on planning proposals. However, this opportunity is not available for all circumstances. For example, the Urban Growth Zone, Comprehensive Development Zone and Development Plan Overlay exempt notice and review requirements if a planning application is generally consistent with a plan.

This approach infers that if a future planning proposal is consistent with comprehensively prepared and considered strategic planning which the community previously had input into, then it does not need further third party notice. The community, including the 57 submitters such as Box Hill Institute, would only be notified if a proposal differs from the comprehensive development plan which they helped shape through their participation in the strategic planning process.

Regarding giving informal notice for matters which are exempt, the Committee refers to DELWP's advice in Planning Practice Note 23 regarding the Development Plan Overlay and Incorporated Plan Overlay which could equally apply for the Comprehensive Development Zone:

Responsible authorities should not use non-statutory consultation practices to assist in deciding planning applications. Where notice is being served without a basis in the planning scheme or *Planning and Environment Act 1987*, it is possible that defects in the notice process can be judicially reviewed in the Supreme Court.

**(v) Finding**

The Committee finds that Comprehensive Development Zone Schedule 1 appropriately responds to third party notice and review of future permit applications which are generally consistent with the incorporated Comprehensive Development Plan.

## 9.2 Planning provision discretion and landowner review

**(i) The issues**

The issues are:

- whether the responsible authority should have the discretion to allow a permit before a section 173 agreement is signed
- whether there should be an opportunity for the landowner to review processes associated with the CDZ1 section 173 provisions at VCAT.

**(ii) Evidence and submissions**

In its original submission, DoT requested to add 'Head Transport for Victoria' to "*Unless otherwise agreed to by the responsible authority*" to the following planning provisions:

- Infrastructure contributions agreement
- Design Strategy (Potential Future Train Station) – Precinct 4
- Precinct Integrated Traffic and Transport Management Plan – all precincts.

At the Hearing, DoT raised a new issue regarding the words "*unless otherwise agreed to*" for a provision seeking to prohibit a permit to subdivide the land. DoT referred to section 149 of the PE Act which enabled the user, owner or developer of the land to apply to VCAT to review:

... a decision of a specified body in relation to a matter if a planning scheme specifies or a permit contains a condition that the matter must be done to the satisfaction, or must not be done without the consent or approval, of the specified body.

DoT described the risk of issues being litigated as "*not fanciful*". It requested the provisions raised in its submission be changed to remove secondary consent so they could be mandatory without review.

VPA noted that this issue was not raised in any original submission. VPA explained that it proceeded on the basis the exhibited provisions were not reviewable. It submitted the relevant provisions should not be reviewable but should be flexible enough to allow a permit for minor works or site preparation works.

VPA's final CDZ1<sup>12</sup> proposed to delete "*Unless otherwise agreed to by the responsible authority ...*" from the following CDZ1 planning provisions:

---

<sup>12</sup> Document 73

- Infrastructure contributions agreement
- State Transport Infrastructure Contributions Agreement
- Urban Design Framework – Precincts 2 and 4
- Potential Future Train Station – Precinct 4
- Design Strategy (Potential Future Train Station) – Precinct 4
- Geotechnical Statement – Precinct 4
- Precinct Integrated Traffic and Transport Management Plan – all precincts
- Precinct Sustainability Management Plan – all precincts
- Heritage Interpretation Plan – all precincts
- Environmental Audit – All land to east of the Lilydale-Melbourne railway line
- Performance of filled land – Precinct 4.

To enable flexibility, VPA suggested adding the following provision in CDZ1:

**Granting of permits**

Where this schedule specifies that a permit must not be granted prior to the preparation of a plan or the entering into of a section 173 Agreement or that specifies that a plan must be prepared or a section 173 Agreement must be entered into prior to the grant of a permit, such provision does not apply to the following category of permits:

[insert category of permits]

HBI Lilydale submitted that there are matters which the responsible authority could grant a permit before a section 173 agreement is signed. It considered the responsible authority's discretion regarding permits should not be limited.

**(iii) Discussion**

The proposed planning provisions should be flexible enough to accommodate unforeseeable circumstances and to avoid the need to change them through a planning scheme amendment process. Section 149 of the PE Act allows an applicant to review a responsible authority's decisions at VCAT to avoid a process stalling when there is a disagreement.

There may be justified reasons to remove review rights normally afforded through the PE Act. The Committee does not consider the extent of resources or the degree of pleasantness associated with participating in the VCAT process to be such reasons.

The Committee agrees with deleting *“unless otherwise agreed to by the responsible authority”* from planning provisions seeking actions to be completed to the satisfaction of the responsible authority. That is, all provisions except for the section 173 agreements.

For such provisions, the specified plans, statements, strategies and other documents will need to be completed to inform future permit applications. The requirements for what should be included in each of these documents are generally broad and flexible enough to accommodate unforeseeable circumstances without the need for a secondary consent mechanism. A number of these provisions already include exemptions. For example, the 'Precinct Sustainability Management Plan – all precincts' specifies:

This requirement does not apply if a precinct sustainability management plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority ...

Regarding the section 173 agreement provisions, the term *“unless otherwise agreed to by the responsible authority”*:

- allows planning permits to be granted before a plan or strategy has been prepared

- can remove the requirement for a section 173 agreement.

As outlined earlier in this report, all section 173 agreements are needed to ensure important outcomes so there should be no process to review their need. The requirements for what should be included in each of these documents are generally broad and flexible enough to accommodate unforeseeable circumstances.

However, they are not flexible enough to allow certain planning permits which may be needed to prepare the subject land. The Committee supports provisions which allow minor and preparatory permits which do not negatively affect the ability to achieve the outcomes of any of the section 173 agreements. VPA's proposed 'Grant of permits' provision would be suitable if the category of listed permits have common outcomes to all section 173 agreements.

#### **(iv) Findings and recommendation**

The Committee finds:

- The responsible authority should not have the discretion to allow a permit before specified processes are achieved.
- A permit for minor and preparatory works should be allowed before a section 173 agreement is signed, if:
  - it does not negatively affect the ability to achieve the outcomes of that agreement
  - it is specified in a common 'Grant of permits' provision or directly in the relevant section 173 agreement provision if it is relevant only for that agreement.
- There should be an opportunity for the landowner to review processes associated with processes such as section 173 agreements.

The Committee recommends:

- 30. Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) add a new 'Grant of permits' provision which allows specified uses before a section 173 agreement is signed**
  - b) delete "*unless otherwise agreed to by the responsible authority*" from planning provisions seeking actions to be completed to the satisfaction of the responsible authority except for section 173 agreements.**

## 10 Form and content of the Amendment

### 10.1 Comprehensive Development Zone Schedule 1

The Ministerial Direction on the Form and Content of Planning Schemes, issued under section 7(5) of the PE Act (Ministerial Direction 7(5)) is relevant for drafting CDZ1.

#### (i) Number of purposes

Ministerial Direction 7(5) states “*Insert a maximum of 5 purposes*”. The exhibited and subsequent VPA CDZ1 versions achieved this requirement. There was at least one CDZ1 without prejudice version which proposed six purposes. During the drafting discussion, there was the view that, even if the Direction limits a CDZ schedule to five purposes, six ‘would be all right’. Another view was that two purposes could be incorporated as two points under a parent purpose. The Committee does not share either view.

Ministerial Direction 7(5) is non-negotiable. Unlike other Ministerial Directions, it does not enable a planning authority to seek an exemption. Irrespective, requiring a maximum of five purposes compels the planning authority to think carefully about the schedule’s actual purposes rather than include unnecessary detail.

The Committee’s recommended CDZ1 in Appendix E includes four purposes, consistent with Ministerial Direction 7(5).

#### (ii) ‘Generally consistent with’ or ‘generally in accordance with’

There was concern with using ‘generally consistent with’ rather than the more widely used ‘generally in accordance with’ in CDZ1, particularly when referring to the CDP. No submitter questioned ‘generally’. Mr De Silva recommended that ‘generally in accordance with’ replace ‘generally consistent’ through CDZ1 because he considered it to be a stronger approach.

During the without prejudice discussion, it was submitted that:

- discussion regarding the two terms was a matter of semantics
- ‘generally consistent’ is modern plain English
- ‘generally in accordance with’ should apply because it is more widely used in planning schemes and more comprehensively tested at VCAT.

The Committee considers the two terms mean the same thing. However, it has been asked to choose one term over the other. It found:

- ‘generally in accordance with’ appears 16 times in the Victoria Planning Provisions and 30 times in the Planning Scheme
- ‘generally consistent with’ appears once in the Victoria Planning Provisions (in the Comprehensive Development Zone) and not in the Planning Scheme.

If the term was selected based on popularity, ‘generally in accordance with’ wins. *A Practitioner’s Guide to Victorian Planning* calls for a more sophisticated approach to drafting provisions. The Committee prefers ‘generally consistent with’ because:

- it adopts terminology in the Comprehensive Development Zone head provision
- it is modern and plain English, as sought by the Practitioner’s Guide.



**(iii) Subdivision and buildings and works requirements**

CDZ1 includes subdivision and buildings and works requirements such as:

Unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land within Precinct 2 or Precinct 4 until an urban design framework for the relevant precinct has been prepared to the satisfaction of the responsible authority.

Each requirement instructs the responsible authority to not issue a permit until a certain document or action has been completed, rather than directing what the applicant must do. At the Hearing and during drafting discussion, VPA changed CDZ1 to:

~~Prior to the grant of a permit~~ Unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land within Precinct 2 or Precinct 4 until an urban design framework for the relevant precinct ~~must be~~ has been prepared to the satisfaction of the responsible authority.

The Committee generally agrees with VPA's changes to requirements which include "*to the satisfaction of the responsible authority...*". The changes:

- redirect each requirement to the applicant
- refer to the granting of a permit to explain when the applicant should complete each action.

The Committee prefers a slightly modified version of VPA's changes which adopts plain English:

Before a permit is granted to subdivide land within Precinct 2 or Precinct 4, an urban design framework for the relevant precinct must be prepared to the satisfaction of the responsible authority.

For reasons set out in Chapter 3, the Committee does not support these changes to the section 173 agreement provisions.

**(iv) Duplication of planning provisions**

All CDZ1 versions duplicate planning provisions for subdivision (Clause 3.0) and buildings and works (Clause 4.0). During drafting discussion, parties agreed that it would be better to not duplicate the provisions. They explained the structure in Ministerial Direction 7(5) required this structure.

The Committee considers the planning provisions should not be duplicated where it is avoidable. However, in this instance, CDZ1 is drafted appropriately around the structure sought by Ministerial Direction 7(5).

**(v) Other requested drafting changes**

Parties requested other drafting changes through submissions, particularly those focussed around drafting. The Committee recommended CDZ1 in Appendix E reflects the drafting changes it considers improve clarity and will improve the schedule's operation.

The Committee does not support translating state government guidelines such as the VicTrack Rail Development Interface Guidelines into requirements unless supported by robust justification.

**(vi) Recommendations**

The Committee recommends:

- 31. Amend Comprehensive Development Zone Schedule 1, as shown in Appendix E, to:**
  - a) make drafting related changes which improve its clarify and operation**

- b) **reflect other Committee recommendations in the application requirements and decision guidelines.**

## **10.2 Comprehensive Development Plan**

### **(i) Evidence, submissions and discussion**

Chapters throughout this report have responded to issues which affect the content of the CDP. Appendix F outlines the changes supported by the Committee.

Submitters requested drafting related changes to the CDP, such as those in Documents 31 (Appendix 6), 80 and 81. The Committee's recommended CDP changes outlined in Appendix F reflect the drafting changes it considers will improve clarity the CDP's operation.

### **(ii) Recommendation**

The Committee recommends:

- 32. Amend the Comprehensive Development Plan, as outlined in Appendix E, to make drafting related changes which improve its clarify and operation.**

## Appendix A Terms of Reference

### VPA Projects Standing Advisory Committee

#### Version 1: July 2020

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* (the Act) to advise the Minister for Planning and the Victorian Planning Authority (VPA) on referred projects and plans and associated draft planning scheme amendments.

#### Name

The Standing Advisory Committee is to be known as the 'VPA Projects Standing Advisory Committee'.

1. The Committee is to have members with the following skills:
  - a. Strategic planning
  - b. Statutory planning
  - c. Civil engineering (infrastructure planning)
  - d. Development contributions
  - e. Road and transport planning
  - f. Biodiversity
  - g. Social planning
  - h. Urban design
  - i. Heritage (post contact and Aboriginal)
  - j. Planning law.
2. The Committee will include a Chair, Deputy Chairs and not less than ten other appropriately qualified members.
3. The Committee may seek advice from other experts where it considers this necessary.

#### Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning and the VPA on specific matters referred to it related to various proposals, including but not limited to structure plans, infrastructure and development contribution plans, framework plans, development plans and any associated draft planning scheme amendment and planning permits.

#### Background

5. The VPA is responsible for preparing development plans and other proposals in identified metropolitan, growth areas and regional cities and towns. Some of these plans are to be approved through the planning scheme amendment process using the provisions of section 20(4) of the Act.

6. This Committee process allows submissions to be made to the VPA on a draft plan and associated draft planning scheme amendment, with any unresolved issues to be considered by the Committee before the final planning scheme amendment is submitted to the Minister for Planning for approval.
7. The Committee will provide a targeted and timely process to assess the merits of discrete unresolved issues associated with State and regionally significant projects.

## Method

8. The Committee may meet, and depending on the nature of the referral and the issues raised, undertake consultation that is fit for purpose. This may be on the papers; through round table discussions or forums; or Hearings. There must be a quorum of at least two Committee members, including either the Chair or a Deputy Chair.
9. The Committee may apply to vary these Terms of Reference in any way it sees fit.

## Notice

10. As directed by the Minister, the VPA will prepare and give notice of a 'draft Amendment' and receive submissions. The VPA will consider all submissions and where possible seek to resolve issues with submitters prior to referring matters to the Committee.
11. The Committee is not expected to carry out additional public notification or referral of matters but may seek the views of any relevant referral authority, responsible authority or government agency.

## Referral

12. Once all submissions are considered, the Chief Executive Officer, VPA (or delegate) will provide a letter of referral to the Committee Chair, seeking its advice on particular matters or unresolved issues raised in the submissions and/or any other relevant matter. The letter of referral will be a public document.
13. The letter of referral must be accompanied by:
  - a. The relevant plan and associated draft planning scheme amendment and planning permit documentation
  - b. The referred submissions
  - c. Any supporting background material.

## Committee Assessment

14. The Committee may inform itself in anyway it sees fit, but must consider:
  - a. The relevant components of the referred plan and associated draft planning scheme amendment and any associated planning permit (if relevant) that relate to the submissions or issues referred to it
  - b. The referred submissions
  - c. Plan Melbourne
  - d. Any relevant Regional Growth Plan or Growth Corridor Plan
  - e. The applicable Planning Scheme

- f. Relevant State and local policy
  - g. Any other material referred to it.
15. Depending upon the nature of the referral, the Committee can conduct its proceedings through round table discussions, on the papers or, a public hearing, including by video conference if unable to conduct this 'in person'.
  16. The Committee will be provided with the written submissions and other supporting material by parties, and may:
    - a. Direct that parties meet, to discuss and further resolve issues, or
    - b. Act as a mediator to seek to resolve issues in dispute.
  17. The Committee may direct the VPA and relevant parties to provide additional information on specified matters.
  18. The committee must not consider submissions or evidence on a matter that a planning authority is prevented from considering by operation of ss 22(3) and 22(5) of the *Planning and Environment Act 1987*.
  19. The written submission of the VPA is to include:
    - a. an overview of the draft amendment and/or any relevant planning permit and the relevant Plan, including a detailed explanation of the referred elements.
    - b. a written response to each referred submission and how the draft plan, amendment or permit might be changed to respond to the submission.

### Outcomes

20. The Committee must produce a written report for the VPA and the Minister for Planning, providing the following:
  - a. Whether the referred element(s) of the draft amendment or planning permit is appropriate
  - b. A summary and assessment of the issues raised in submissions referred to the Committee.
  - c. Any other relevant matters raised in the course of the Committee process.
  - d. A list of persons who made submissions considered by the Committee.
  - e. A list of tabled documents.
  - f. A list of persons consulted or heard, including via video conference.
21. Following the completion of the report the Committee may deliver an oral briefing to the Minister for Planning or the VPA. The briefing may be in person, by video conference or telephone.

### Submissions are public documents

22. The Committee must retain a library of any written submissions or other supporting documentation provided to it until a decision has been made on its report or five years has passed from the time of its appointment.

23. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain 'in camera'. A document may be made available for public inspection electronically.

## **Timing**

24. The Committee is required to commence its process by issuing a written notice of the referral of a matter from the VPA to all referred submitters no later than 10 business days from the date of any specific letter of referral received.
25. The Committee is required to submit its report in writing as soon as practicable but no later than 20 business days from the last day of its proceedings, tabling of submissions or consultation process.
26. The VPA must release the report of the Committee within 10 business days of its receipt.

## **Fee**

27. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
28. The costs of the Committee will be met by the VPA.



**Richard Wynne MP**  
**Minister for Planning**

Date: 17 / 07 / 2020

## Appendix B Letter of referral

Nick Wimbush  
Lead Chair  
Victorian Planning Authority Projects Standing Advisory Committee  
Planning Panels Victoria

Dear Mr Wimbush

### **DRAFT AMENDMENT C193 TO THE YARRA RANGES PLANNING SCHEME - LILYDALE QUARRY COMPREHENSIVE DEVELOPMENT PLAN - REFERRAL OF SUBMISSIONS TO THE VPA PROJECTS STANDING ADVISORY COMMITTEE**

I refer to the draft Amendment C193 to the Yarra Ranges Planning Scheme, which aims to facilitate the development of a major, mixed use, urban renewal precinct, built around the concepts of the 20-minute neighbourhood and transit-oriented development, generally in accordance with the draft Lilydale Quarry Comprehensive Development Plan (CDP).

The VPA has committed to delivering a fast-track planning program to assist with Victoria's post coronavirus (COVID-19) economic recovery over the next financial year.

On 17 July 2020, I established a streamlined planning process, including the establishment of the VPA Projects Standing Advisory Committee (SAC) to independently review unresolved submissions, including discrete issues, received through the VPA streamlined engagement process.

Between 13 November 2020 and 18 December 2020, the VPA undertook a targeted public consultation process for draft Amendment C193. The consultation included landowners and occupiers surrounding the Lilydale Quarry site as well as Victorian Government agencies, Ministers prescribed under section 19(1)(c) of the *Planning and Environment Act 1987* and Yarra Ranges Shire Council. The VPA held a virtual drop-in session on 2 December 2020 and responded to phone calls and emails during the consultation period.

I have decided to refer all unresolved submissions to the VPA Projects SAC for advice and recommendations in accordance with the SAC's terms of reference.

I have also enclosed a submissions summary table, prepared by the VPA, which provides an analysis of each submission, including summaries of the issues raised and a significance rating to assist the SAC with its proceedings.

The SAC should consider the submissions in the manner it sees fit, in accordance with its terms of reference. I note the terms of reference enable the committee to adopt an approach that is 'fit for purpose' and that this could involve consideration of issues of lesser significance 'on the papers'.

I am advised the VPA will continue to seek to resolve matters with submitters and it will advise the SAC if further matters are resolved.

Please find enclosed some of the supporting documents required by clause 13 of the terms of reference for the VPA Projects SAC. The VPA will provide the remaining documents in due course.

I encourage the SAC to undertake its work in the most efficient way and to act promptly in light of the significance of the proposed project and its role in assisting Victoria's post coronavirus economic recovery.

If you would like further information about this matter, please email Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, at [jane.homewood@delwp.vic.gov.au](mailto:jane.homewood@delwp.vic.gov.au).

Yours sincerely

A handwritten signature in blue ink that reads "Richard Wynne". The signature is written in a cursive style.

**HON RICHARD WYNNE MP**

**Minister for Planning**

**23/3/21**

Encl. Draft Amendment C193 Submissions Summary Table  
Lilydale Quarry site: Public consultation report



## Appendix C Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Peter Jones	30	PL Della-Vedova
2	Catherine Nickson	31	David Morgan
3	John Nickson	32	Peter and Robyn Rooke
4	Trent McInnes	33	Paul Dempsey
5	Paul Guest	34	Paul Noy
6	Wayne Williams	35	Stephen and Rhonda Gilbert
7	Terry Avery	36	Yarra Ranges Council
8	Travis Sherren	37	Heritage Victoria
9	Paul Griffiths	38	Environment Protection Authority
10	Alyson Macdonald	39	John Brewster
11	Robert Huygen	40	Yarra Valley Water
12	Andrew Mangan	41	Joy Emmett
13	Thoren Hadley	42	Melbourne Water
14	Csaba Szabo	43	Graham Thain
15	Silvana Stieber	44	Philip Burton
16	Greg Milton	45	Dawn Coombridge
17	Trevor Barr	46	Andrea Higgins
18	Steven [surname not provided]	47	Box Hill Institute
19	Tarquin Harvey	48	Country Fire Authority
20	Roger Willsher	49	Lilydale Township Action Group
21	AusNet Services	50	HBI Lilydale Pty Ltd
22	John Pope	51	Benson Bannon
23	Tim Whitehead	52	Julia Blanche
24	Nigel and Christine Peterson	53	Sarah MacLean
25	Leanne Williams	54	Department of Transport
26	Sean Morris	55	Brian Hughes
27	Patricia Brown	56	Maroondah City Council
28	Robert and Gillian Brown	57	Department of Education and Training
29	Donna M [surname not provided]		

## Appendix D Document list

No.	Date	Description	Provided by
<b>2021</b>			
1	26 Mar	Referral Letter – Minister for Planning to the Standing Advisory Committee	Zoe Milicic (DELWP)
2	26 Mar	VPA Submissions summary table	Zoe Milicic
3	26 Mar	Public consultation report, February 2021	Zoe Milicic
4	30 Mar	Advisory Committee Notification Letter and Terms of Reference	Tom Milverton, Planning Panels Victoria (PPV)
5	20 Apr	Letter – VPA to the Committee: Comments on draft directions	John Rantino
6	20 Apr	Letter – Yarra Ranges Council to the Committee: Comments on draft directions	Andrew Sherman
7	20 Apr	Advisory Committee Distribution List	Tom Milverton
8	26 Apr	Advisory Committee Directions Letter	Tom Milverton
9	28 Apr	Email – VPA to the Committee: Response to Directions 2 & 6	Nicholas Power, VPA
10	28 Apr	Email – VPA to the Committee: Response to Directions 11 & 12e	Nicholas Power
11	28 Apr	VPA submission summary table	Nicholas Power
12	29 Apr	Email – HBI Lilydale to the Committee: Response to Direction 14	Elle McIntosh, Norton Rose Fulbright
13	30 Apr	Email – Department of Transport (DoT) to the Committee: Response to Direction 14	Kate Morris of Harwood Andrews
14	30 Apr	Email – DoT to Committee: Response to Direction 11	Kate Morris
15	30 Apr	Letter – Council to the Committee covering Documents 16, 17, 18 and 19	Andrew Sherman
16	30 Apr	Development Contribution section 173 Agreement	Andrew Sherman
17	30 Apr	Geotechnical Framework section 173 Agreement	Andrew Sherman
18	30 Apr	Council Submission to VPA: Transport Peer Review	Andrew Sherman
19	30 Apr	List and map: Suggested site inspection areas	Andrew Sherman
20	30 Apr	Letter – HBI Lilydale to the Committee: covering Document 21	Elle McIntosh
21	30 Apr	Statistics – Cardno SIDRA Queuing Output around subject land	Elle McIntosh
22	30 Apr	Letter – VPA to the Committee: Details of files sharing	John Rantino
23	3 May	Advisory Committee Distribution List and Timetable (v1)	Tom Milverton
24	7 May	Email – HBI Lilydale to the Committee - Confirmation of planning witness	Elle McIntosh

No.	Date	Description	Provided by
25	7 May	Email – DoT to the Committee: not calling expert evidence	Kate Morris
26	7 May	Email – Paul Dempsey to all parties	Paul Dempsey
27	10 May	Email – Committee response to Document 26	Tom Milverton
28	14 May	Email – DoT to Committee: calling expert evidence	Kate Morris
29	18 May	VPA Background Submission	Zina Teoh, Maddocks
30	18 May	VPA Background Submission: Appendices 1-5 and 7	Zina Teoh
31	18 May	VPA Background Submission – Appendix 6 – Lilydale Quarry Comprehensive Development Plan – Day 1 Version	Zina Teoh
32	21 May	Expert Evidence – Robert Milner	Kate Morris
33	21 May	Letter – Yarra Ranges Council to the Committee providing expert witness reports	Andrew Sherman
34	21 May	Expert Evidence – Chris De Silva	Andrew Sherman
35	21 May	Expert Evidence – Kate Breen	Andrew Sherman
36	21 May	Expert Evidence – Kate Breen (Attachment 1)	Andrew Sherman
37	21 May	Expert Evidence – Kate Breen (Attachment 2)	Andrew Sherman
38	21 May	Expert Evidence – Kate Breen (Attachment 3)	Andrew Sherman
39	21 May	Expert Evidence – Robert Panozzo	Andrew Sherman
40	21 May	Expert Evidence – Craig Czarny	Elle McIntosh
41	21 May	Expert Evidence – Peter Lovell	Elle McIntosh
42	21 May	Expert Evidence – Roger Olds	Elle McIntosh
43	21 May	Expert Evidence – Jason Walsh	Elle McIntosh
44	21 May	Expert Evidence - Jason Walsh (Appendix C)	Elle McIntosh
45	21 May	Expert Evidence – Mark Woodland	Elle McIntosh
46	21 May	Advisory Committee Site visit locations	Tom Milverton
47	21 May	Expert Evidence – Chris Coath	Andrew Sherman
48	21 May	Advisory Committee Directions and Distribution List (v4), Timetable (v2) and Document List (v1)	Tom Milverton
49	30 May	Evidence presentation – Mark Woodland	Elle McIntosh
50	30 May	Evidence presentation – Chris De Silva	Xander Meachem, Russell Kennedy Lawyers
51	31 May	Opening Submission – Yarra Ranges Shire Council	Xander Meachem
52	31 May	Opening Submission – HBI Lilydale Pty Ltd	Elle McIntosh
53	31 May	Opening Submission – DoT	Kate Morris

No.	Date	Description	Provided by
54	31 May	Opening Submission – DoT (Appendix 1)	Kate Morris
55	31 May	Opening Submission – DoT (Attachment 1 to Appendix 1)	Kate Morris
56	31 May	Opening Submission – DoT (Appendix 2)	Kate Morris
57	31 May	INT LIL – Lilydale Quarry – CDP Plan – Revision G	Xander Meachem
58	31 May	Evidence presentation – Chris Coath	Xander Meachem
59	1 June	Mesh Quarry Assistance Proposal (redacted)	Xander Meachem
60	1 June	Evidence presentation – Roger Old	Elle McIntosh
61	1 June	Email – Chris DeSilva to Murray James, 2 September 2019	Elle McIntosh
62	2 June	Lilydale Integrated Transport Plan	Elle McIntosh
63	2 June	Evidence presentation – Kate Breen	Xander Meacham
64	2 June	Evidence presentation – Peter Lovell	Elle McIntosh
65	3 June	Advisory Committee additional questions for Mr Walsh	Tom Milverton
66	4 June	Advisory Committee Directions and Distribution List (v5) and Timetable (v3)	Tom Milverton
67	7 June	Submission – Country Fire Authority (CFA)	Luci Johnson, CFA
68	7 June	Submission – Victorian Planning Authority	John Rantino
69	7 June	Submission – DoT	Kate Morris
70	7 June	Submission – DoT (Appendix 1: Planning Permit)	Kate Morris
71	7 June	Submission – DoT (Appendix 2: DoT CDZ1 version)	Kate Morris
72	7 June	Submission – HBI Lilydale Pty Ltd	Elle McIntosh
73	7 June	CDZ1 (Day 7 version: tracked) – VPA	Zina Teoh
74	7 June	Jason Walsh response to Advisory Committee questions	Elle McIntosh
75	8 June	Hobsons Bay C88 (PSA) [2018] PPV	Elle McIntosh
76	8 June	Torkee Properties Pty Ltd v Ballarat CC [2021] VCAT 355	Elle McIntosh
77	8 June	CDZ1 (tracked without prejudice drafting) – CFA	Luci Johnston
78	8 June	Submission – Yarra Ranges Shire Council	Xander Meachem
79	9 June	CDZ1 (without prejudice drafting: tracked changes) – Yarra Ranges Council (a)	Xander Meachem
79	9 June	CDZ1 (without prejudice drafting: clean version) – Yarra Ranges Council (b)	Xander Meachem
80	9 June	CDP (summary of changes) – Yarra Ranges Council	Xander Meacham
81	9 June	CDP (summary of changes) – DoT	Kate Morris
82	9 June	CDZ1 (Day 1 version in MS Word) – VPA	Lucy Botta, VPA

No.	Date	Description	Provided by
83	9 June	Advisory Committee Document List (v4) and Directions	Tom Milverton
84	10 June	Closing Submission – HBI Lilydale Pty Ltd	Elle McIntosh
85	10 June	CDZ1 (without prejudice drafting: tracked changes) – HBI Lilydale Pty Ltd	Elle McIntosh
86	10 June	CDZ1 and CDP (Table of amendments) – HBI Lilydale Pty Ltd	Elle McIntosh
87	10 June	CDZ1 and CDP (Table: response to CFA and DoT changes) – HBI Lilydale Pty Ltd	Elle McIntosh
88	10 June	Closing Submission – Yarra Ranges Shire Council	Xander Meacham
89	10 June	Yarra Ranges Council meeting agenda: Item 7.1, 26 March 2019	Xander Meacham
90	10 June	Yarra Ranges C148 and UYVDRR Strategy Plan Amendment 122 (PSA) [2018] PPV	Xander Meacham
91	10 June	Yarra Ranges Council Recreation and Open Space Strategy – Extract: Precinct C Lilydale	Xander Meacham
92	10 June	Lilydale Quarry Precinct: Community Infrastructure Needs Assessment – Intrapac, March 2018	Xander Meacham
93	10 June	Letter – Yarra Ranges Shire Council to Ministers Allan and Carroll, 21 September 2020	Xander Meacham
94	10 June	Response to Advisory Committee Questions - DoT	Kate Morris
95	10 June	Growing Our Rail Network Report 2018-2025	Kate Morris
96	10 June	Metro Rail Network Development Plan	Kate Morris
97	10 June	Letter – Minister Allan to Yarra Ranges Shire Council, 15 December 2020	Kate Morris
98	10 June	Victorian Planning Provisions Clause 66.02	Kate Morris

## Appendix E Committee recommended CDZ1

[Tracked Added](#)

~~Tracked Deleted~~

### SCHEDULE 1 TO CLAUSE 37.02 COMPREHENSIVE DEVELOPMENT ZONE

Include content throughout resulting from Committee recommendations for further work

Shown on the planning scheme map as **CDZ1**.

#### FORMER LILYDALE QUARRY COMPREHENSIVE DEVELOPMENT PLAN

##### Land

This schedule applies to land as defined by the *Former Lilydale Quarry Comprehensive Development Plan, October 2020* (the CDP) incorporated in this scheme.

The land and precincts referred to in this schedule are shown on Map 1.

~~The map is an extract from the incorporated CDP.~~

##### Purpose

To provide for the integrated planning, development and subdivision of the land primarily for residential purposes, while encouraging the development of a supplementary mix of community, education, retail, commercial and recreational activities.

To create the opportunity for a transit-oriented development that encourages higher density housing within a walkable catchment of the [uncommitted](#) potential ~~future~~-train station, local retail village and district level open space.

To provide a comprehensive public open space network and public realm that is supported by connections through and into the site, with priority placed on walking, cycling and social interaction.

To provide commercial and community facilities to serve the needs of existing and future residents and at a scale that is complementary to Lilydale Major Activity Centre

#### 1.0 Table of uses

##### Section 1 - Permit not required

Use	Condition
Bed and breakfast	No more than 10 persons may be accommodated away from their normal place of residence. At least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence
Child care centre	Must be located within precinct 2 or 4
Community care accommodation	Must meet the requirements of Clause 52.22-2
Dependent person's unit	Must be the only dependent person's unit on the lot.
Display home centre	
Domestic animal husbandry (other than Dog breeding)	Must be no more than 2 animals.

<b>Dwelling (other than Bed and breakfast)</b>	Must be no more than 3,000 dwellings in the CDP area
<b>Food and drink premises (other than Bar, Hotel)</b>	Must be located within precinct 2 or 4 and must not include a drive-thru facility.
<b>Home based business</b>	
<b>Informal outdoor recreation</b>	
<b>Office</b>	Must be located within Precincts 2 or 4.
<b>Place of assembly (other than Carnival, Circus, Nightclub, Place of worship, Restricted place of assembly)</b>	Must be located within Precincts 2 or 4.
<b>Railway</b>	
<b>Residential aged care facility</b>	
<b>Rooming house</b>	Must meet the requirements of Clause 52.23-2.
<b>Shop (other than Adult sex product shop, Restricted retail premises)</b>	Must be located within Precincts 2 or 4. The combined leasable floor area of all shops in Precinct 2 must not exceed 1,000 square metres. The leasable floor area of a shop in Precinct 4 must not exceed 1,500 square metres. The combined leasable floor area of all shops in Precinct 4 must not exceed 5,000 square metres.
<b>Tramway</b>	
<b>Any use listed in Clause 62.01</b>	Must meet the requirements of Clause 62.01

## Section 2 – Permit required

Use	Condition
<b>Accommodation (other than Community care accommodation, Corrective institution, Dependent person's unit, Dwelling, Residential aged care facility, Residential hotel and Rooming house)</b>	
<b>Education centre (other than Child care centre)</b>	
<b>Industry (other than Extractive industry, Materials recycling, Transfer station)</b>	Must be located within Precinct 2 or 4. Must not be a purpose listed in the table to Clause 53.10.
<b>Racing dog husbandry</b>	Must be no more than 2 animals.
<b>Residential hotel</b>	Must be located within Precincts 1, 2 or 4.
<b>Restricted retail premises</b>	Must be located within Precinct 1 or 4.
<b>Service station</b>	The site must have access to a road in a Road Zone.
<b>Warehouse</b>	Must be located within Precinct 2 or 4. Must not be a purpose listed in the table to Clause 53.10.

---

**Any other use not in Section 1 or 3**


---

**Section 3 - Prohibited****Use**

**Adult sex product shop**  
**Animal husbandry (other than Animal training, Domestic animal husbandry, Racing dog husbandry)**  
**Brothel**  
**Cemetery**  
**Corrective institution**  
**Crematorium**  
**Extractive industry**  
**Horse stables**  
**Intensive animal production**  
**Materials recycling**  
**Refuse disposal**  
**Rural industry**  
**Saleyard**  
**Transfer station**

---

**2.0 Use of land**

A permit for the use of land must be generally consistent with, [and meet the requirements of](#) the incorporated CDP.

**Amenity of the Neighbourhood**

A use must not detrimentally affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any building, works or material.
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

**Application Requirements**

The following application requirements apply to an application for a permit under Clause 37.02, in addition to those specified in Clause 37.02 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- The purpose of the use and the type of activities which will be carried out.
- The likely effects, if any, on adjoining land including noise levels, traffic, the hours of delivery and despatch of goods and materials, hours of operation and light spill, solar access and glare.
- The means of maintaining land not required for immediate use.
- If an industry or warehouse use:
  - The type and quantity of goods to be stored, processed or produced.
  - Whether a Works Approval or Waste Discharge Licence is required from the Environment Protection Authority.
  - Whether a notification under the Occupational Health and Safety. Regulations 2017 is required, a licence under the Dangerous Goods Act 1985 is required, or a fire protection quantity under the Dangerous Goods (Storage and Handling) Regulations 2012 is exceeded.



- If a dwelling:
  - The likely effects of the dwelling on the local and regional traffic network.;
  - The works, services or facilities required to cater for those effects so that the efficiency and safety of the traffic network is maintained.;
  - The proposed method of funding the required works, services or facilities.
  - The availability and capacity of the electricity, drainage, sewer water and digital networks.;
  - Any necessary upgrades to those networks and the proposed method of funding the upgrade works.
- An application to use land for a Shop where the combined leasable floor area of all shops exceeds the figure shown in the 'land use table' at section 1.0 of this schedule must be accompanied by a retail economic impact assessment prepared by a suitably qualified professional.

### Exemption from Notice and Review

An application for use of land is exempt from the notice requirements of Section 52(1) (a) (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act if it is generally consistent with the incorporated CDP.

### Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 37.02, in addition to those specified in Clause 37.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The incorporated CDP
- The interface with adjoining zones, especially the relationship with residential areas.
- The scale and intensity of the use.
- The effect that existing uses may have on the proposed use.
- Whether the use generally serves local community needs.
- The effect of traffic to be generated on roads.
- The local catchment and CDP catchment demand for the additional floor area for an application to use land for Shop floorspace where the combined leasable floor area of all shops exceeds the figure shown in the 'land use table' at section 1.0 of this schedule; and
- The effect on the Lilydale Major Activity Centre for an application to use land for Shop floorspace where the combined leasable floor area of all shops exceeds the figure shown in the 'land use table' at section 1.0 of this schedule.

## 3.0

### Subdivision

A permit for subdivision must be generally consistent with [and meet the requirements of](#) the incorporated CDP. Subdivision of lots may occur in stages.

### Small Lot Housing Code

Any permit for subdivision that allows the creation of a lot less than 300 square metres must contain the following conditions:

- Prior to the certification of the plan of subdivision for the relevant stage, a plan must be submitted for approval to the satisfaction of the responsible authority. The plan must identify the lots that will include a restriction on title allowing the use of the provisions of the Small Lot Housing Code incorporated pursuant to Clause 72.04 of the Yarra Ranges Planning Scheme; and,
- The plan of subdivision submitted for certification must identify whether type A or type B of the Small Lot Housing Code applies to each lot to the satisfaction of the responsible authority.

### Infrastructure Contributions Agreement

Unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land until an agreement under section 173 of the *Planning and Environment Act 1987* has been entered into between the owner of the land and the responsible authority to formalise infrastructure contributions.

The agreement should specify:

- The scope of work and location of infrastructure items required as a result of the development, including any land provision or acquisition
- The expected timing of provision of each infrastructure item and who is responsible for delivery
- The cost of any items that are the subject of financial contributions rather than direct delivery by the owner
- The equitable apportionment of costs between the developer and Council for any items which exceed the needs of the development
- Operational and administrative provisions.

The agreement will apply to the following infrastructure categories:

- Road [and](#) intersection projects
- Road and foot bridges, [which includes the bridge over the uncommitted potential train station](#)
- Drainage
- Community facilities
- Active open space
- Passive open space
- Shared trails.

All infrastructure required to directly support the development is to be provided by the developer of the land. The owner will pay all costs and expenses of, and incidental to, the execution and recording of the agreement.

[This requirement does not apply if an agreement is registered on the land resulting from a buildings and works permit pursuant to Clause 37.02-4 and this Schedule.](#)

### State Transport Infrastructure Contributions Agreement

[Before a permit to subdivide land is granted, an agreement under section 173 of the Planning and Environment Act 1987 must be entered into between the owner of the land, the responsible authority and the Head, Transport for Victoria to formalise infrastructure contributions.](#)

[The agreement should specify:](#)

- [The scope of work and location of infrastructure items required as a result of the development, including any land provision or acquisition](#)
- [The expected timing of provision of each infrastructure item and who is responsible for delivery](#)
- [The cost of any items that are the subject of financial contributions rather than direct delivery by the owner](#)
- [The equitable apportionment of costs between the developer, Council and Transport for Victoria for any items which exceed the needs of the development](#)
- [Operational and administrative provisions.](#)

Include any mitigation works identified as an outcome of further traffic analysis of the traffic impacts on Maroondah Highway at its John Street and Hutchinson Street intersections

[The agreement will apply to the following infrastructure items, as referenced in the CDP:](#)

- [DI-RD-01](#)
- [DI-RD-02](#)

- [DI-RD-06](#)
- [DI-RD-07a \(subject to feasibility of DI-RD-07b\)](#)
- [DI-RD-07b \(subject to feasibility\)](#)
- [DI-BR-02](#)

All infrastructure required to directly support the development is to be provided by the developer of the land. The owner will pay all costs and expenses of, and incidental to, the execution and recording of the agreement.

This requirement does not apply if an agreement is registered on the land resulting from a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

### **North South Connector Road (DI-RD-09) extension**

Before a permit to subdivide land is granted, an agreement under section 173 of the Planning and Environment Act 1987 must be entered into between the owner of the land, the responsible authority and the owner of 50 Melba Avenue, Lilydale to acquire land needed for the North South Connector Road extension (DI-RD-09) specified in the incorporated CDP.

This requirement does not apply if an alternative mechanism for acquiring the land is approved to the satisfaction of the responsible authority.

### **Urban Design Framework – Precincts 2 and 4**

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ is granted to subdivide land within Precinct 2 or Precinct 4, ~~until~~ an urban design framework for the relevant precinct ~~has~~ must be prepared to the satisfaction of the responsible authority.

The responsible authority may allow an urban design framework to be prepared in stages.

An urban design framework approved under this schedule must be generally consistent with, and meet the requirements of, the incorporated CDP applying to the land.

An urban design framework may be submitted in the form of plans, tables and reports and must include the following:

- The proposed urban structure for the precinct, identifying the hierarchy of local streets based on a rationalised street network, pedestrian, cycle and transit networks, and public realm and open space
- Identification of place-making elements and key destinations within the precinct, including a hierarchy of public spaces that provide opportunities for social interaction.
- Location of medium and higher density housing.
- Built form guidance across the precinct, including preferred building heights and setbacks.
- Details of how adverse environmental amenity factors will be avoided or minimised (e.g. wind, excessive overshadowing)
- Details of how the design of all interfaces to surrounding precincts have been addressed.
- Details of how views to public open space and civic spaces have been addressed.
- A public space plan that identifies a hierarchy of public spaces including local parks, pedestrian and cycling links, urban spaces and landscape nodes, showing links to the broader open space network.
- Location and design of active uses throughout the precinct.
- Details of how visual interest at the pedestrian scale will be achieved, with activated façades and the avoidance of long expanses of unarticulated façade treatments.
- Requirements for a variety of building materials and form.

The following additional information must be included as part of an urban design framework for Precinct 2:

- Identification of heritage elements to be retained and / or adapted for community, commercial, tourism and retail uses.

- Demonstration of how the relevant Conservation Policies of the *Cave Hill Quarry Conservation Management Plan* (September 2015), and the principles of the *Former Lilydale Quarry Heritage Interpretation Strategy* (Lovell Chen and Biosis, April 2020) has been achieved.

The following additional information must be included as part of an urban design framework for Precinct 4:

- Locations of public transport services, including the [uncommitted rail potential train](#) station, bus stops and commuter parking areas [to the satisfaction of the Head, Transport for Victoria](#).

[This requirement does not apply if an urban design framework for the relevant precinct has been prepared to the satisfaction of the responsible authority as the result of a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.](#)

#### **Uncommitted Potential Train Station – Precinct 4**

[A permit must not be granted to subdivide land in Precinct 4 until the Head, Transport for Victoria has confirmed the provision of a train station in the precinct.](#)

#### **Design Strategy (~~Potential Future Train Station~~) – Precinct 4**

~~Unless otherwise agreed to by the responsible authority, Before~~ a permit ~~must not be~~ is granted to subdivide land within Precinct 4, ~~until~~ a design strategy for the [uncommitted potential future](#) train station ~~has~~ [must](#) been prepared to the satisfaction of the responsible authority and the ~~Department Head, Transport for Victoria of Transport~~.

A design strategy may be submitted in the form of plans, tables and reports and must include the following:

- station concept plan, detailing:
  - land required for the [potential](#) train station and associated facilities;
  - platform type and location;
  - access arrangements to the platform;
  - station plaza area;
  - bicycle facilities and storage;
  - layout of administration areas (e.g. ticket office and passenger waiting room);
  - how the station interfaces with the remainder of Precinct 4 and Precinct 2; and how changes in levels will be effectively addressed.
- role, extent, location and layout/design of station car parking;
- details of bus access to the station and bus interchange facilities;
- indicative cost estimate for the station and associated works (e.g. station construction, track works, pedestrian access arrangements, shelters, car parking, bus and bicycle facilities);

[This requirement does not apply if a design strategy for the uncommitted potential train station has been prepared to the satisfaction of the responsible authority and the Head, Transport for Victoria as the result of a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.](#)

#### **Geotechnical Statement – Precinct 4**

~~Unless otherwise agreed to by the responsible authority, Before~~ a permit ~~must not be~~ is granted to subdivide land within Precinct 4, ~~until~~ a geotechnical statement prepared by a suitably qualified geotechnical engineer ~~has~~ [must](#) 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 [and include a description of the development](#).

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

This requirement does not apply if a geotechnical statement has been prepared to the satisfaction of the responsible authority as the result of a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

### **Precinct Integrated Traffic and Transport Management Plan – all precincts**

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ is granted to subdivide land within precincts 1, 2, 3 or 4, ~~until~~ a precinct integrated traffic and transport management plan that promotes walking, cycling and public transport ~~has~~ must ~~been~~ prepared for the relevant precinct, to the satisfaction of the responsible authority and the Head, Transport for Victoria where relevant.

The management plan may be submitted in the form of plans, tables and reports and should include the following where relevant:

- Location of proposed roads, pedestrian, cyclist and vehicle access points:
- Details of how the objectives of the *Former Lilydale Quarry Integrated Transport Plan, October 2020* have been addressed.
- An assessment of the impact of traffic generated by the precinct upon the surrounding road network.
- Address internal road design requirements.
- Predicted traffic volumes.
- An assessment of potential traffic mitigation works and traffic management measures that may be required within and external to the site, including the staging of the measures and external works.
- Details of proposed connections to the surrounding road network, where relevant
- Details of internal and external intersections, performance and treatments.
- Details of the location of and linkages to public transport
- An assessment of car parking demand
- An assessment of public transport services in the locality, existing stops and any additional stops or infrastructure prepared in consultation with the relevant Victorian public transport authority.
- Details of cycling and pedestrian infrastructure, including links to significant destinations and the uncommitted potential ~~future~~ train station.
- Details of how the road design enables the safe movement of a range of emergency vehicles appropriate to the scale of development proposed within the precinct.

This requirement does not apply if a precinct integrated traffic and transport management plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority and the Head, Transport for Victoria as the result of a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

### **Precinct Stormwater and Integrated Water Management Plan – all precincts**

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ is granted to subdivide land within precincts 1, 2, 3 or 4, ~~until~~ a precinct stormwater and integrated water management plan ~~has~~ must ~~been~~ prepared for the relevant precinct, to the satisfaction of the responsible authority and Melbourne Water.

The management plan may be submitted in the form of plans, tables and reports and should include the following where relevant:

- An assessment of how the objectives of the *Former Lilydale Quarry Integrated Water Management Strategy, October 2020* have been addressed.
- An assessment of how the stormwater quantity and treatment performance objectives of the *Former Lilydale Quarry Stormwater Strategy, October 2020* have been addressed
- Specific approaches to capture, treat and reuse stormwater across the Precinct.

- Details of proposed urban water management, including water supply, wastewater, flood resilience, urban waterway health, and management of public spaces.
- Details of potable water use, wastewater and stormwater capture, reuse and discharge processes in accordance with best practice water sensitive urban design principles.
- Design detail to ensure flooding on and off site and downstream is managed and there is no deterioration in water quality in the area surrounding the land as a result of development.

This requirement does not apply if a precinct stormwater and integrated water management plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority and Melbourne Water, as the result of a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

### **Precinct Landscape Plan – all precincts**

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ granted to subdivide land within precincts 1, 2, 3 or 4, ~~until~~ a precinct landscape plan ~~has~~ must been prepared for the relevant precinct, to the satisfaction of the responsible authority.

The plan may be submitted in the form of plans, tables and reports and should include the following where relevant:

- Existing landscape features of the precinct and immediate surrounding area, such as significant trees, and identifying those proposed to be retained.
- The network of open space within the precinct and how it interfaces with other precincts. Include identification of encumbered and unencumbered open space components.
- Key landscape design principles to be applied in considering species selection throughout road reserves, along the site's key internal and external interfaces and within proposed communal open spaces and car parking areas.

This requirement does not apply if a precinct landscape plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority as the result of a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

### **Precinct Sustainability Management Plan – all precincts**

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit must not be granted to subdivide land within precincts 1, 2, 3 or 4, ~~until~~ a precinct sustainability management plan ~~has~~ must been prepared for the relevant precinct, to the satisfaction of the responsible authority.

The plan may be submitted in the form of plans, tables and reports and should include the following where relevant:

- A set of sustainability guidelines for the Precinct which are generally consistent with the sustainability objectives and strategies outlined in the *Former Lilydale Quarry Sustainability Framework, October 2020*.
- Sustainability guidelines are to prescribe the minimum standards proposed for the precinct. Guidelines must cover the following where appropriate: integrated transport and mobility, water efficiency and re-use, community facilities; open space, energy efficiency and greenhouse gas reductions, climate change and community resilience, ecological management practices, materials and waste environmental impacts.
- Precinct climate change risk and vulnerability assessment that identifies key measures to be incorporated into the precinct for climate resilience.
- Identify key sustainability guidelines and strategies to be incorporated within the permit application stage for buildings.

This requirement does not apply if a precinct sustainability management plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority as the result of a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

### Heritage Interpretation Plan – all precincts

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ is granted to subdivide land within precincts 1, 2, 3 or 4, ~~until~~ a precinct heritage interpretation plan ~~has~~ must ~~been~~ prepared for the relevant precinct, to the satisfaction of the responsible authority.

The plan may be submitted in the form of plans, images, tables and reports and should include the following:

- Precinct level detail with regards to applicable themes, stories and interpretive media.
- A set of interpretation strategies and concepts for the precinct which are generally consistent with the principles outlined in the *Former Lilydale Quarry Heritage Interpretation Strategy, April 2020*.

This requirement does not apply if a precinct heritage interpretation plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority as the result of a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

### Environmental Audit – All land to east of the Lilydale-Melbourne railway line

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ is granted to subdivide land to the east of the Lilydale-Melbourne railway line, ~~until~~ the following requirement ~~has~~ must ~~been~~ satisfied (as applicable):

Where the ~~Environment Protection Act 1970~~ Environmental Audit Overlay applies:

- A certificate of environmental audit is issued for the affected land in accordance with Part IXD of the *Environment Protection Act 1970*; or
- An environmental auditor appointed under the *Environment Protection Act 1970* makes a statement in accordance with Part IXD of that Act that the environmental conditions of the affected land are suitable for sensitive uses.

Where an Environmental Audit is required after the repeal of the *Environment Protection Act 1970*, this shall be carried out in accordance with the relevant provisions of the *Environment Protection Act 2017*.

Any recommendations in an environmental audit statement required under this provision must:

- Be carried complied with to ensure the land is suitable for the purposes a specified in the statement
- For the subdivision of land, be complied with to ensure the land is suitable for the purposes specified before the issue of a statement of compliance
- Be included as a permit condition when a permit to use, develop or subdivide land for a sensitive use is granted. The permit condition may include the management of contamination before, during and after the construction of the development or commencement of the use.

### ~~Performance of filled land~~ Geotechnical section 173 agreement – Precinct 4

Unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land in Precinct 4 until the owner of the land enters into an agreement under section 173 of the Planning and Environment Act 1987 regarding the performance of filled land in Precinct 4 and its development.

The agreement must ~~address~~:

- Reference the Lilydale Quarry - Geotechnical Framework (Tonkin and Taylor, April 2020).
- Provide design and construction details of the fill works.
- Provide the intended and actual ~~M~~ monitoring ~~and reporting obligations~~ design.
- Specify necessary reporting of fill works completed after the agreement exists.
- Specify the responsible party for the ongoing operation of the groundwater dewatering system if needed after the quarry filling is completed.
- Specify groundwater management and reporting.



- Specify fill Pperformance specifications to be achieved for land ~~to be before the vesting or transferred~~ of land to Yarra Ranges Shire Council for public open space and infrastructure.
- Specify contingencies arising from fill performance.
- ~~Indemnification of~~ Yarra Ranges Shire Council ~~in relation to~~ from claims by third parties relating to negligence or non-compliance with the requirements of the agreement by the proponent.
- Specify Fill Works Security and Rectification Bonds.

The owner must bear the costs of the responsible authority for the preparation, regulation and recording of this agreement.

This requirement does not apply if an agreement is registered on the land resulting from a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

### **Provision of affordable housing**

Before a permit to subdivide land is granted, the owner of the land must prepare an affordable housing delivery strategy which sets out how affordable housing is to be achieved, including the identification of intended partners, timeframes, built form and response to each of the matters set out by the Minister pursuant to section 3AA(2) of the Planning and Environment Act 1987.

~~Prior to the granting of~~ Before a subdivision permit to subdivide land is granted ~~for the seven hundred and first (701) dwelling~~, the owner of the land must enter into an agreement under section 173 of the *Planning and Environment Act 1987* that requires the owner of the land to provide for either:

- Delivery of affordable dwellings, or land lots for construction of affordable dwellings, equal to 5% of the total dwellings proposed to be delivered across Precinct 1, Precinct 2, Precinct 3 and Precinct 4, rounded to the nearest whole number, or any lesser number of dwellings as agreed between the owner and the responsible authority; or
- The provision of affordable housing by any agreed alternative method generally consistent with the value of the above provision.
  - Where an alternative method is agreed, and the landowner has met all of its obligations under that method, any obligation of the landowner to provide for affordable housing has been fully discharged.

This requirement does not apply if an agreement is registered on the land resulting from a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

~~This requirement does not apply if an affordable housing agreement is registered on the land resulting from a buildings and works permit pursuant to Clause 37.02 (Schedule 1), Section 4.0.~~

### **Standard of open space on transfer to municipal council**

All public open space which is to be provided to the Yarra Ranges Shire Council must be finished to a standard that satisfies the reasonable requirements of the Yarra Ranges Shire Council prior to the public open space being transferred to Council, including the following where appropriate:

- Landscaping and / or improvements generally consistent with the incorporated CDP
- Clearing of rubbish, environmental weeds and rocks.
- Removal or all existing, disused structures, foundations, pipelines and stockpiles.
- Provision of water tapping, potable, and where available recycled water connection point.
- Sewer, gas and electricity connection points to land.

### **Works to be provided in association with development**

Development must provide and meet the total cost of delivering the following infrastructure internal to the site (and external to the site in the case of works at arterial road intersections), if and where appropriate, unless provided for in the Infrastructure Contributions Agreement ~~struck entered into~~ between the ~~landowner of the land~~ and the Responsible Authority or in the State Infrastructure Contributions Agreement entered into between the owner of the land, the responsible authority and the Head, Transport for Victoria:



- Connector streets and local streets.
- Local bus stop infrastructure ~~where at~~ locations ~~are~~ agreed in writing by [the Head, Transport for Victoria](#).
- Landscaping.
- Intersection works and traffic management measures along arterial roads, connector streets and local streets [to the satisfaction of the Head, Transport for Victoria where appropriate](#).
- Local shared, pedestrian and bicycle paths along local roads, connector streets, local streets, waterways and wiling local parks.
- Bicycle parking.
- Appropriately scaled lighting along roads, major shared and pedestrian paths and traversing the open space network.

### Application requirements

[An application to subdivide land within precincts 2 and 4 must be consistent with an approved urban design framework.](#)

The following application requirements apply to an application for a permit under Clause 37.02, in addition to those specified in Clause 37.02 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- Urban Context Report providing an analysis of the site and surrounding land uses and development in the area, including topography, existing features, title boundaries, services, views into and out of the site, built features, landscape features such as significant trees, open space, adjoining roads, bike paths, pedestrian access, public transport routes and dwellings located on the periphery of the precinct where applicable.
- A response to the Precinct specific vision, objectives and requirements outlined in the incorporated CDP
- A table detailing the proposed dwelling mix and density, and projected resident population.
- Indicative staging plan
- Public open space budget in the form of a table that defines the amount and location of proposed public open space
- Community facility summary in the form of a table detailing what community facilities are to be provided, where they are located and how they will be integrated with other uses, where relevant.
- [A Bushfire Site Management Plan that addresses bushfire risk during, and where necessary, after construction which is approved by the responsible authority. The plan must specify, amongst other things:](#)
  - [The staging of development and the likely bushfire risks at each stage](#)
  - [An area of land between the development edge and any vegetation forming a bushfire hazard, consistent with the separation distances specified in AS3959-2009, where bushfire risk is managed](#)
  - [The land management measures to be undertaken by the developer to reduce the risk from fire within any surrounding undeveloped landscape to protect residents and property from the threat of grassfire and bushfire](#)
  - [Provision of adequate access and egress for early subdivisions to minimise grass and bushfire risks to new residents](#)

### Exemption from Notice and Review

An application for the subdivision of land is exempt from the notice requirements of Section 52(1) (a) (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act if it is generally consistent with the incorporated CDP.

## Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 37.02, in addition to those specified in Clause 37.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the application is generally consistent with the incorporated CDP.
- The effect of the subdivision on the redevelopment of the precinct in the long-term.
- The pattern of subdivision and its effect on the spacing of buildings.
- The effect the subdivision will have on the potential of the area to accommodate the uses which will maintain or enhance its competitive strengths.
- The location and function of public reserves, road reserves and other public spaces.
- How any proposed public roads integrate with the surrounding road network.
- The effect of the findings of an environmental audit, including whether the staging of development appropriately reflects the ability of the land to be used for the intended purpose.

## 4.0 Buildings and works

A permit is required to construct or extend a front fence within 3 metres of a street if:

- The fence is associated with 2 or more dwellings on a lot or a residential building, and
- The fence exceeds the maximum height specified in Clause 55.06-2.

An application for residential development must meet the requirements of Clause 54 and Clause 55. This does not apply to a development of five or more storeys, excluding a basement. An apartment development of five or more storeys, excluding a basement, must meet the requirements of Clause 58.

A permit is not required to:

- Construct or carry out works normal to a dwelling.
- Construct or extend one dwelling on a lot greater than 300 square metres.
- Construct or extend one dwelling on a lot with an area of less than 300 square metres where a site is identified as a lot to be assessed against the Small Lot Housing Code via a restriction on title, and it complies with the Small Lot Housing Code incorporated into the Yarra Ranges Planning Scheme.
- Make structural changes to a dwelling provided the size of the dwelling is not increased or the number of dwellings is not increased.
- Construct or extend an out-building (other than a garage or carport) on a lot provided the gross floor area of the out-building does not exceed 10 square metres and the maximum building height is not more than 3 metres above ground level.

A permit is not required for the following where located in a nominated commercial / office area or retail area:

- Alter an existing building façade provided:
  - The alteration does not include the installation of an external roller shutter.
  - At least 80 per cent of the building façade at ground floor level is maintained as an entry or window with clear glazing.
- Install an automatic teller machine.
- Construct an awning that projects over a road if it is authorised by the relevant public land manager.

## Infrastructure Contributions Agreement

Unless otherwise agreed to by the responsible authority, a permit must not be granted to construct a building or construct or carry out works until an agreement under section 173 of the *Planning and*

*Environment Act 1987* has been entered into between the owner of the land and the ~~R~~A responsible authority to formalise infrastructure contributions.

The agreement ~~should~~must specify:

- The scope of work and location of infrastructure items required as a result of the development, including any land provision or acquisition
- The expected timing of provision of each infrastructure item and who is responsible for delivery
- The cost of any items that are the subject of financial contributions rather than direct delivery by the owner
- The equitable apportionment of costs between the ~~developer~~owner of the land and Council for any items which exceed the needs of the development
- Operational and administrative provisions.

The agreement will apply to the following infrastructure categories:

- Road intersection projects
- Road and foot bridges, which includes the bridge over the uncommitted potential train station
- Drainage
- Community facilities
- Active open space
- Passive open space
- Shared trails.

All infrastructure required to directly support the development is to be provided by the developer of the land. The owner will pay all costs and expenses of, and incidental to, the execution and recording of the agreement.

This requirement does not apply if an agreement is registered on the land resulting from a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.

### **State Transport Infrastructure Contributions Agreement**

A permit must not be granted to construct a building or construct or carry out works until an agreement under section 173 of the Planning and Environment Act 1987 has been entered into between the owner of the land the responsible authority and the Head, Transport for Victoria to formalise infrastructure contributions.

The agreement must specify:

- The scope of work and location of infrastructure items required as a result of the development, including any land provision or acquisition
- The expected timing of provision of each infrastructure item and who is responsible for delivery
- The cost of any items that are the subject of financial contributions rather than direct delivery by the owner of the land
- The equitable apportionment of costs between the developer, Council and Transport for Victoria for any items which exceed the needs of the development
- Operational and administrative provisions.

Include any mitigation works identified as an outcome of further traffic analysis of the traffic impacts on Maroondah Highway at its John Street and Hutchinson Street intersections

The agreement will apply to the following infrastructure items, as referenced in the CDP:

- DI-RD-01
- DI-RD-02
- DI-RD-06
- DI-RD-07a (subject to feasibility of DI-RD-07b)

- [DI-RD-07b \(subject to feasibility\)](#)
- [DI-BR-02](#)

All infrastructure required to directly support the development is to be provided by the owner of the land. The owner will pay all costs and expenses of, and incidental to, the execution and recording of the agreement.

This requirement does not apply if an agreement is registered on the land resulting from a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.

### **North South Connector Road (DI-RD-09) extension**

Before a permit is granted construct a building or construct or carry out works in Precincts 2, 3 or 4, an agreement under section 173 of the Planning and Environment Act 1987 must be entered into between the owner of the land, the responsible authority and the owner of 50 Melba Avenue, Lilydale to acquire land needed for the North South Connector Road extension (DI-RD-09) specified in the incorporated CDP.

This requirement does not apply if an alternative mechanism for acquiring the land is approved to the satisfaction of the responsible authority.

### **Urban Design Framework – Precincts 2 and 4**

~~Unless otherwise agreed to by the responsible authority, Before~~ a permit ~~must not be~~ granted to construct a building or construct or carry out works within Precinct 2 or Precinct 4, ~~until~~ an urban design framework for the relevant precinct ~~has must been~~ prepared to the satisfaction of the responsible authority.

The responsible authority may allow an urban design framework to be prepared in stages.

An urban design framework approved under this schedule must be generally consistent with, and meet the requirements of, the incorporated CDP applying to the land.

An urban design framework may be submitted in the form of plans, tables and reports and must include the following:

- The proposed urban structure for the precinct, identifying the hierarchy of local streets based on a rationalised street network, pedestrian, cycle and transit networks, and public realm and open space
- Identification of place-making elements and key destinations within the precinct, including a hierarchy of public spaces that provide opportunities for social interaction.
- Location of medium and higher density housing.
- Built form guidance across the precinct, including preferred building heights and setbacks.
- Details of how adverse environmental amenity factors will be avoided or minimised (e.g. wind, excessive overshadowing)
- Details of how the design of all interfaces to surrounding precincts have been addressed.
- Details of how views to public open space and civic spaces have been addressed.
- A public space plan that identifies a hierarchy of public spaces including local parks, pedestrian and cycling links, urban spaces and landscape nodes, showing links to the broader open space network.
- Location and design of active uses throughout the precinct.
- Details of how visual interest at the pedestrian scale will be achieved, with activated façades and the avoidance of long expanses of unarticulated façade treatments.
- Requirements for a variety of building materials and form.

The following additional information must be included as part of an urban design framework for Precinct 2:

- Identification of heritage elements to be retained and / or adapted for community, commercial, tourism and retail uses.

- Demonstration of how the relevant Conservation Policies of the *Cave Hill Quarry Conservation Management Plan* (September 2015), and the principles of the *Former Lilydale Quarry Heritage Interpretation Strategy* (Lovell Chen and Biosis, April 2020) has been achieved

The following additional information must be included as part of an urban design framework for Precinct 4:

- Locations of public transport services, including the [uncommitted potential future](#) train station, bus stops and commuter parking areas [to the satisfaction of the Head, Transport for Victoria](#).

[This requirement does not apply if an urban design framework for the relevant precinct has been prepared to the satisfaction of the responsible authority as the result of a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.](#)

#### **Uncommitted Potential Train Station – Precinct 4**

[A permit must not be granted to construct a building or construct or carry out works in Precinct 4 until the Head, Transport for Victoria has confirmed the provision of a train station in the precinct.](#)

#### **Design Strategy ~~(Potential Future Train Station)~~ – Precinct 4**

~~Unless otherwise agreed to by the responsible authority, Before~~ a permit ~~must not be~~ ~~is~~ granted to construct a building or construct or carry out works within Precinct 4, ~~until~~ a design strategy ~~has~~ ~~must~~ ~~been~~ prepared for the [uncommitted potential future](#) train station to the satisfaction of the responsible authority and the [Head, Transport for Victoria](#) ~~Department of Transport~~.

A design strategy may be submitted in the form of plans, tables and reports and must include the following:

- station concept plan, detailing:
  - land required for the train station and associated facilities;
  - platform type and location;
  - access arrangements to the platform;
  - station plaza area;
  - bicycle facilities and storage;
  - layout of administration areas (e.g. ticket office and passenger waiting room);
  - how the station interfaces with the remainder of Precinct 4 and Precinct 2; and how changes in levels will be effectively addressed.
- role, extent, location and layout/design of station car parking.
- details of bus access to the station and bus interchange facilities.
- indicative cost estimate for the station and associated works (e.g. station construction, track works, pedestrian access arrangements, shelters, car parking, bus and bicycle facilities).

[This requirement does not apply if a design strategy for the uncommitted potential train station has been prepared to the satisfaction of the responsible authority and the Head, Transport for Victoria as the result of a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.](#)

#### **Geotechnical Statement – Precinct 4**

~~Unless otherwise agreed to by the responsible authority, Before~~ a permit ~~must not be~~ ~~is~~ 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~~ ~~must~~ ~~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 [and include a description of the development](#).

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

This requirement does not apply if a geotechnical statement has been prepared to the satisfaction of the responsible authority as the result of a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.

### **Precinct Integrated Traffic and Transport Management Plan – all precincts**

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ is granted to construct a building or construct or carry out works within precincts 1,2,3 or 4, ~~until~~ a precinct integrated traffic and transport management plan that promotes walking, cycling and public transport ~~has~~ must ~~been~~ prepared for the relevant precinct, to the satisfaction of the responsible authority and the Head, Transport for Victoria where relevant.

- The management plan may be submitted in the form of plans, tables and reports and should include the following:
- Locations of proposed roads, pedestrian, cyclist and vehicle access points:
- Details of how the objectives of the *Former Lilydale Quarry Integrated Transport Plan, October 2020* have been addressed.
- An assessment of the impact of traffic generated by the precinct upon the surrounding road network.
- Address internal road design requirements.
- Predicted traffic volumes.
- An assessment of potential traffic mitigation works and traffic management measures that may be required within and external to the site, including the staging of the measures and external works.
- Details of proposed connections to the surrounding road network, where relevant
- Details of internal and external intersections, performance and treatments.
- Details of the location of and linkages to public transport
- An assessment of car parking demand
- An assessment of public transport services in the locality, existing stops and any additional stops or infrastructure prepared in consultation with the relevant Victorian public transport authority.
- Details of cycling and pedestrian infrastructure, including links to significant destinations and the uncommitted potential ~~future~~ train station.

This requirement does not apply if a precinct integrated traffic and transport management plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority and the Head, Transport for Victoria as the result of a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.

### **Precinct Stormwater and Integrated Water Management Plan – all precincts**

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ is granted to construct a building or construct or carry out works within precincts 1,2,3 or 4, ~~until~~ a precinct stormwater and integrated water management plan ~~has~~ must ~~been~~ prepared for the relevant precinct, to the satisfaction of the responsible authority and Melbourne Water.

The management plan may be submitted in the form of plans, tables and reports and ~~must~~ should include the following:

- An assessment of how the objectives of the *Former Lilydale Quarry Integrated Water Management Strategy, October 2020* have been addressed.
- An assessment of how the stormwater quantity and treatment performance objectives of the *Former Lilydale Quarry Stormwater Strategy, October 2020* have been addressed
- Specific approaches to capture, treat and reuse stormwater across the Precinct.

- Details of proposed urban water management, including water supply, wastewater, flood resilience, urban waterway health, and management of public spaces.
- Details of potable water use, wastewater and stormwater capture, reuse and discharge processes in accordance with best practice water sensitive urban design principles.
- Design detail to ensure flooding on and off site and downstream is managed and there is no deterioration in water quality in the area surrounding the land as a result of development.

This requirement does not apply if a precinct stormwater and integrated water management plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority and Melbourne Water, as the result of a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.

### **Precinct Landscape Plan – all precincts**

~~Unless otherwise agreed to by the responsible authority, Before~~ a permit ~~must not be~~is granted to construct a building or construct or carry out works within precincts 1,2,3 or 4, ~~until~~ a precinct landscape plan ~~has~~must been prepared for the relevant ~~p~~Precinct, to the satisfaction of the responsible authority.

The plan may be submitted in the form of plans, tables and reports and ~~should~~must include the following:

- Existing landscape features of the precinct and immediate surrounding area, such as significant trees, and identifying those proposed to be retained.
- The network of open space within the precinct and how it interfaces with other precincts. Include identification of encumbered and unencumbered open space components.
- Key landscape design principles to be applied in considering species selection throughout road reserves, along the site's key internal and external interfaces and within proposed communal open spaces and car parking areas.

This requirement does not apply if a precinct landscape plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority as the result of a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.

### **Precinct Sustainability Management Plan – all precincts**

~~Unless otherwise agreed to by the responsible authority, Before~~ a permit ~~must not be~~is granted to construct a building or construct or carry out works within precincts 1,2,3 or 4, ~~until~~ a precinct sustainability management plan ~~has~~must been prepared for the relevant precinct, to the satisfaction of the responsible authority.

The plan may be submitted in the form of plans, tables and reports and ~~should~~must include the following:

- A set of sustainability guidelines for the Precinct which are generally consistent with the sustainability objectives and strategies outlined in the *Former Lilydale Quarry Sustainability Framework, October 2020*.
- Sustainability guidelines are to prescribe the minimum standards proposed for the precinct. Guidelines must cover the following where appropriate: integrated transport and mobility, water efficiency and re-use, community facilities; open space, energy efficiency and greenhouse gas reductions, climate change and community resilience, ecological management practices, materials and waste environmental impacts.
- Precinct climate change risk and vulnerability assessment that identifies key measures to be incorporated into the precinct for climate resilience.
- Identify key sustainability guidelines and strategies to be incorporated within the permit application stage for buildings.

This requirement does not apply if a precinct sustainability management plan has been prepared for the relevant precinct, to the satisfaction of the responsible authority as the result of a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.



## Heritage Interpretation Plan – all precincts

~~Unless otherwise agreed to by the responsible authority,~~ Before a permit ~~must not be~~ is granted to construct a building or construct or carry out works within precincts 1, 2, 3 or 4, ~~until~~ a precinct heritage interpretation plan ~~has~~ must ~~been~~ prepared for the relevant precinct, to the satisfaction of the responsible authority.

The plan may be submitted in the form of plans, images, tables and reports and ~~should~~ must include the following:

- Precinct level detail with regards to applicable themes, stories and interpretive media.
- A set of interpretation strategies and concepts for the precinct which are generally consistent with the principles outlined in the *Former Lilydale Quarry Heritage Interpretation Strategy, April 2020*.

## Performance of filled land Geotechnical section 173 agreement – Precinct 4

Unless otherwise agreed to by the responsible authority, a permit must not be granted to construct a building or construct or carry out works in Precinct 4 until the owner of the land enters into an agreement under section 173 of the Planning and Environment Act 1987 regarding the performance of filled land in Precinct 4 and its development.

The agreement must ~~address~~:

- Reference the Lilydale Quarry - Geotechnical Framework (Tonkin and Taylor, April 2020).
- Provide design and construction details.
- Provide the intended and actual M monitoring and reporting obligations design.
- Specify necessary reporting of fill works completed after the agreement exists.
- Specify the responsible party for the ongoing operation of the groundwater dewatering system if needed after the quarry filling is completed.
- Specify groundwater management and reporting.
- Specify fill P performance specifications to be achieved for land ~~to be~~ before the vesting or transferred of land to Yarra Ranges Shire Council for public open space and infrastructure.
- Specify contingencies arising from fill performance.
- Indemnification of Yarra Ranges Shire Council in relation to from claims by third parties relating to negligence or non-compliance with the requirements of the agreement by the proponent.
- Specify fill Works Security and Rectification Bonds.

The owner must bear the costs of the responsible authority for the preparation, regulation and recording of this agreement.

This requirement does not apply if an agreement is registered on the land resulting from a buildings and works permit pursuant to Clause 37.02-4 and under this Schedule.

## Provision of affordable housing

Before a permit to construct a building or construct or carry out works is granted, the owner of the land must prepare an affordable housing delivery strategy which sets out how affordable housing is to be achieved, including the identification of intended partners, timeframes, built form and response to each of the matters set out by the Minister pursuant to section 3AA(2) of the Planning and Environment Act 1987, to the satisfaction of the responsible authority.

~~Prior to the granting of~~ Before a permit to construct a building or construct or carry out works is granted ~~for the development of the seven hundred and first (701) dwelling~~, the owner of the land must enter into an agreement under section 173 of the *Planning and Environment Act 1987* that requires the owner of the land to provide for either:

- Delivery of affordable dwellings, or land lots for construction of affordable dwellings, equal to 5% of the total dwellings proposed to be delivered across Precinct 1, Precinct 2, Precinct 3



and Precinct 4, rounded to the nearest whole number, or any lesser number of dwellings as agreed between the owner and the responsible authority; or

- The provision of affordable housing by any agreed alternative method generally consistent with the value of the above provision.
  - Where an alternative method is agreed, and the landowner has met all of its obligations under that method, any obligation of the landowner to provide for affordable housing has been fully discharged.

This requirement does not apply if an agreement is registered on the land resulting from a subdivision permit pursuant to Clause 37.02-3 and under this Schedule.

~~This requirement does not apply if an affordable housing agreement is registered on the land resulting from a buildings and works permit pursuant to Clause 37.02 (Schedule 1), Section 4.0.~~

### Works to be provided in association with development

Development must provide and meet the total cost of delivering the following infrastructure internal to the site, (and external to the site in the case of works at arterial road intersections), if and where appropriate, unless provided for in the Infrastructure Contributions Agreement ~~struck~~ entered into between the ~~landowner of the land~~ and the ~~Responsible Authority or in the State Infrastructure Contributions Agreement entered into between the owner of the land, the responsible authority and the Head, Transport for Victoria:~~

- Connector streets and local streets.
- Local bus stop infrastructure ~~where at~~ locations ~~are~~ agreed in writing by the Head, Department of Transport for Victoria.
- Landscaping.
- Intersection works and traffic management measures along arterial roads, connector streets and local streets to the satisfaction of the Head, Transport for Victoria where appropriate.
- Local shared, pedestrian and bicycle paths along local roads, connector streets, local streets, waterways and wiling local parks.
- Bicycle parking.
- Appropriately scaled lighting along roads, major shared and pedestrian paths and traversing the open space network.

### Application requirements

An application to construct a building or construct or carry out works within Precinct 2 or Precinct 4 must be consistent with an approved urban design framework.

An application to construct a building or construct or carry out works must be accompanied by the following information, as appropriate:

- For a residential development of four storeys or less, the neighbourhood and site description and design response as required in Clause 54 and Clause 55.
- Any application for buildings and works on filled land within Precinct 4 must be accompanied by a statement from a suitably qualified geotechnical engineer that confirms the land is suitable for the proposed development.

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

### Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 37.02, in addition to those specified in Clause 37.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

#### General

- Whether the application is generally consistent with, [and meets the requirements of](#), the incorporated CDP.
- The provision of car and bicycle parking and associated accessways.
- Any proposed loading and refuse collection facilities.
- The traffic impacts generated by the proposal.

#### For dwellings and residential buildings

- For the construction and extension of one dwelling on a lot, the objectives, standards and decision guidelines of Clause 54.
- For the construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55. This does not apply to an apartment development of five or more storeys, excluding a basement.

## 5.0 Signs

Sign requirements are at Clause 52.05. All land within Precincts 2 and 4 is Category 1. All other land is in Category 3.

Map 1 to Schedule 1 to Clause 37.02



## Appendix F Outline of Committee recommended changes to the Comprehensive Development Plan

This outline of changes should be read together with relevant CDP recommendations throughout the report.

Existing content	Recommended changes
<b>All references throughout the document</b>	
Potential future train station	Uncommitted potential train station
Map and figure symbols for potential future train station	Ensure they clearly reflect an uncommitted potential train station
Commercial mixed use or restricted retail development on Maroondah Hwy frontage	Delete all references and exclude vehicular access at Maroondah Highway
Vehicular access at Maroondah Highway	Delete all references
-	Include any road works identified as an outcome of the further traffic analysis on Maroondah Highway as infrastructure items in relevant sections, figures and tables
-	Show the local cycle path along the southern edge of the Box Hill Institute to lie within the subject land, unless provision is made in the Comprehensive Development Plan and the Comprehensive Development Zone Schedule 1 for the road and cycle path to be delivered as an infrastructure item including acquisition of land from Box Hill Institute.
-	Make drafting related changes which improve its clarity and operation.
<b>2 Vision</b>	
Framework Plan	Check dimensions of Escarpment Park to confirm its area and that it is unencumbered land
<b>3.4 Precinct 4 – Urban core</b>	
<b>4.1 Housing, retail and commercial</b>	
The opportunity for restricted retail in the longer term will be provided at the north-western corner of the site (Precinct 1).	Delete this reference.
-	Reference affordable housing

Existing content	Recommended changes
<b>4.3 Open space</b>	
<b>Table 1</b>	Correct the discrepancy in open space areas with Appendix A
<b>4.5 Integrated Water Management &amp; Stormwater</b>	
<b>Table 2</b> The areas shown in the table are approximate and subject to review and refinement during the detailed design and approval phases to be undertaken in conjunction with the Responsible Authority and Melbourne Water.	Revise to: The location and areas shown in the table are subject to review and refinement during the detailed design and approval phases to be undertaken in conjunction with the Responsible Authority and Melbourne Water.
<b>4.6 Built Form and Urban Design</b>	
<b>Table 3 – Precinct 4</b> Built form adjacent to this interface will be designed to address and activate the Box Hill Institute land.	Revise to: Built form adjacent to this interface will be designed to address and activate the Box Hill Institute land. The interface treatment should accord with the Box Hill Institute Masterplan.
<b>4.8 Infrastructure &amp; Staging</b>	
-	New requirement: Roads for the purposes of emergency access, which include perimeter and connector roads, must be constructed before other development commences.
	Expand DSS to Development Services Scheme
<b>Project descriptions table</b>	
All projects	Revise triggers to: <ul style="list-style-type: none"> <li>- specify the number of dwellings in one or more precincts, unless recommended otherwise</li> <li>- clarify delivery responsibility</li> </ul>
DI-DR-02	Replace delivery responsibility 'Land provided by Council at no cost to Developer' with: <p style="margin-left: 40px;">Developer to obtain agreement from Council for providing on land in its ownership</p> Revise the description to allow an alternative site if Council land is not available

Existing content	Recommended changes
DI-RD-01 and DI-RD-02	<p>Revise triggers from 330<sup>th</sup> dwelling to 250<sup>th</sup> dwelling</p> <p>Allow an alternative interim access at Mooroolbark Road should land along Taylors Road in Public Acquisition Overlay 9 be acquired to facilitate the Lilydale Bypass</p>
DI-RD-04a and DI-RD-04b	<p>Change the trigger to when the northern end of the North South Connector Road (DI-RD-10) is delivered and before the design volume at the southern end of the North South Connector Road is expected to be reached</p>
DI-RD-06	<p>Remove reference to Precinct 1</p> <p>Change the trigger to before the 600<sup>th</sup> dwelling</p>
DI-RD-07a and DI-RD-07b	<p>Provide some flexibility in the mitigation works required to address capacity constraints at the Mooroolbark Road and Hull Road intersection</p>
DI-RD-05 and DI-RD-08	<p>Change responsibility from Council to Developer</p>
DI-RD-09	<p>Specify the developer is responsible for constructing this project</p> <p>Change the trigger to when the northern end of the North South Connector Road (DI-RD-10) is delivered and before the design volume at the southern end of the North South Connector Road is expected to be reached</p>
-	<p>Add as State Infrastructure Projects any mitigation works identified as an outcome of further traffic analysis of the traffic impacts on Maroondah Highway at its John Street and Hutchinson Street intersections</p>
DI-OS-01	<p>Specify the active open space:</p> <ul style="list-style-type: none"> <li>- should include a full size oval, a junior oval, two multi-use courts, a sports pavilion and required car parking</li> <li>- must be on a maximum of 8 hectares</li> <li>- be delivered when the equivalent dwellings measure representing 50 per cent of stages 1 and 2 of the development is achieved</li> </ul>
-	<p>Add a new project (DI-BR-03) for a new bridge over the rail line at the uncommitted potential train station location to be delivered when needed by residents in a specified number of dwellings.</p>
Figure 12: Infrastructure Framework Plan	<p>Add projects recommended by the Committee</p> <p>Review the relevant land sizes of open spaces to confirm size and location.</p>

Existing content	Recommended changes
	<p>The area proposed for the Escarpment Park should be reviewed to confirm that it includes only unencumbered land and, if necessary, adjust the land budget</p>
<p><b>Appendices</b></p>	
<p><b>Appendix A – Land budget</b></p>	<p>Review the Land Budget to confirm relevant areas including better definition of differentials within both Open Space and the Urban Park/Civic Plaza A</p> <p>Correct the discrepancy in open space areas with Table 1</p>
<p><b>Appendix B</b></p>	<p>In 3 (Eastern Neighbourhood):</p> <p>Specify 0 square metre under Non-Residential</p>