



Our Ref: 5011361

17 December 2020

Victorian Planning Authority
C/- Lilydale Quarry Comprehensive Development Plan
Level 25, 35 Collins Street
MELBOURNE VIC 3000

Attention: Peter Sagar, Executive Director
Melbourne Renewal Precincts

Sent to: Lucy Botta, Project Manager lucy.botta@vpa.vic.gov.au
CC: amendments@vpa.vic.gov.au

Dear Peter

PUBLIC CONSULTATION ON THE LILYDALE QUARRY COMPREHENSIVE DEVELOPMENT PLAN AND DRAFT AMENDMENT C193 TO THE YARRA RANGES PLANNING SCHEME

Thank you for your letter dated 13 November 2020 in which you refer to the public consultation on the proposed and draft planning scheme amendment C193 and the Lilydale Quarry Comprehensive Development Plan. EPA has had a long history of involvement in this project and recognises the public consultation phase of the amendment and of the CDP as an important milestone.

The Lilydale Quarry Comprehensive Development Plan guides the sustainable staged development of the 143-hectare former quarry site over a 20-year period. The Plan identifies the location of future housing for some 3,000 dwellings and what infrastructure is needed to support the growing community, such as roads and community facilities, and land for employment and retail. This will provide certainty to the local community about what changes to expect on the former quarry site over the next 20 years.

EPA Position

EPA strives to protect the environment and human health by preventing and reducing harm from pollution and waste and recognises the importance of land use planning in achieving the broader purpose of the EP Act.

Having regard to the proposal, we note the following:

- Application of the Environmental Audit Overlay (EAO) to the 'eastern land' responds to the current use of the land for industrial purposes (quarry activity and rehabilitation) as having potential for contamination. The application of the EAO signals the requirement to further assess the risk of contamination and provides a framework to protect future sensitive uses in respect of any contamination that is revealed through this further investigation.
- EPA supports the steps taken by the proponent (commencement of environmental audit) to ensure that the risks associated with potentially contaminated areas are assessed and managed in this early phase of the project.

Our Understanding of the Proposal

Documents reviewed by EPA include:

- VPA Lilydale Quarry Comprehensive Development Plan 'Have your Say' Brochure;
- Former Lilydale Quarry: Planning Scheme Amendment Planning Report prepared by Urbis dated October 2020;
- Lilydale Quarry Framework Plan November 2020;
- Draft Schedule 1 to Clause 37.02 Comprehensive Zone
- Draft Explanatory Report;
- Draft Instruction Sheet; and
- Draft Zone and Environmental Audit Overlay (EAO) Map.

Land affected by the Amendment

Recognising that we are familiar with the site and the project, we acknowledge the land to which the amendment applies as being land generally comprising the former Lilydale Quarry (the subject site) bound by:

- Mooroolbark Road to the west;
- Maroondah Highway, Taylor Street and Melba Avenue to the north;
- the Technology Drive industrial estate and education precinct on Jarlo Drive to the northeast;
- residential properties generally along Eucalypt Drive, Waratah Court, Sanctuary Court, Community Way, Sharnalee Court, Reece Court and Rockys Way to the east and south east; and the
- 'Stage 1' land zoned GRZ2 to the south.

The site is bisected north-south by the Lilydale Railway Line, separating the site into eastern and western areas. The subject site is approximately 143 hectares in area.

Planning Zones, Overlays and Tools

The proposal seeks to introduce a new, tailored Comprehensive Development Zone (CDZ) Schedule into the Yarra Ranges Planning Scheme. This CDZ Schedule, supported by a Comprehensive Development Plan, will establish a planning framework to require detailed planning for the Site to be carried out, in subsequent stages, following rezoning.

Of particular interest to EPA is how the CDP, (taking into account the historical use of the land), assesses potentially contaminated land in a way that adequately manages the potential risk of harm to the environment and human health.

Previous Advice

Having regard to the historical use of the land as a quarry, together with the backfilling of the site (Work Authority (WA 199), EPA has sought to ensure that key risks associated with potentially contaminated land, as well as amenity impacts associated with noise and dust are appropriately responded to. To this end, EPA has previously provided advice clarifying the need for, and extent to which, the Environmental Audit Overlay should apply to the land.

EPA has also advocated for early oversight by an environmental auditor of the backfilling works and notes the confirmation by Urbis that an audit has commenced (EPA Ref. 8006773).

Current Assessment

Referring to our letter dated 24 June 2020 (EPA Ref. 5010798) it should be noted that EPA has not carried out a detailed review of all of the documentation provided. Rather we have sought to focus on those areas related to the issues that have required specific consideration by EPA throughout the course of our involvement with this project. Of relevance to this stage of the planning process; are the following matters:

- The proposed extent of the EAO in that it is applied to the 'eastern land' only;
- Timing of audit requirements; and
- The relationship to overall staging of the Development.

We also take this opportunity to provide comment on broader planning considerations relating to amenity and land use compatibility.

Potentially Contaminated Land - Extent of EAO

Given the 'eastern land' has historically been used for quarrying and other industrial activities, the land falls within the definition of "potentially contaminated land". In accordance with MD. 1 an environmental audit is required to ensure the environmental conditions of that land are or will be suitable for that use or development envisaged in the amendment. This is further supported by PPN30, whereby multiple historical uses of the land, including mining and extractive industries, asbestos disposal and underground storage tanks, are listed with a high potential for contamination. Where the land is transitioning to a sensitive use, PPN30 recommends an environmental audit.

Consistent with earlier discussions and EPA advice, the EAO will apply to the full extent of the 'eastern land' and will not be applied to the 'western land'. EPA has no further comments on the proposed extent of the EAO.

Timing and Relationship to overall staging of the Development

In seeking to apply the EAO, the environmental audit can be deferred. In this case, EPA notes that Clause 3.0 Subdivision, Schedule 1 to the CDZ (as below), requires that a permit must not be granted for subdivision prior to the completion of an audit (and the associated issue of a certificate or statement in accordance with Part IXD of the *Environment Protection Act 1970*).

Environmental Audit – All land to east of the Lilydale-Melbourne railway line

Unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land to the east of the Lilydale-Melbourne railway line until the following requirement has been satisfied (as applicable):

Where the Environment Protection Act 1970 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.*

Please note the underlined section above, - EPA considers that this should refer to the EAO and not the Act.

Referring to Section 4.6.3 of the Planning Report, EPA supports the steps taken by the proponent to ensure that the risks associated with potentially contaminated are assessed and managed in this early phase of the project.

This formal Environmental Audit process will act as the mechanism to manage potential contamination during the quarry pit filling process. The proponent has engaged Peraco Pty Ltd as Environmental Auditor for the site (defined as 4 Melba Avenue, Lilydale). The audit has recently commenced and the EPA audit reference number is 8006773. The audit process will result in the presentation of an environmental audit statement and/or report that will resolve concerns with respect to the contamination status of the filled land and will be presented before a permit can be issued to subdivide land east of the Lilydale-Melbourne railway line.

Additional Comments

Land use Compatibility

The CDP identifies four main precincts for the development of housing and other mixed uses. We note that the CDP speaks at a high level to the potential for housing to sit alongside other non-residential uses including retail and commercial uses and a potential train station within the Urban Core (Precinct 4), and adjacent to the Maroondah Highway frontage, as below.

O3	To support transit oriented mixed-use development adjacent to the potential future train station, which incorporates retail, commercial, education, community and higher density residential uses within a walkable catchment of the station precinct.
O4	To provide for retail and commercial activities on the site, which deliver some local employment and support the future residential community, while complementing the established Lilydale Activity Centre.
O5	To establish the area around the potential future train station in Precinct 4 as a neighbourhood activity centre, the site's primary focus for commercial and retail activity.

Extract from Page 14, Former Lilydale Quarry Development Plan

Revised clause 13.07-1S *Land use compatibility* of the Planning Policy Framework requires consideration of land use compatibility with regard to adjoining and nearby land uses; and seeks to avoid incompatible uses being located in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses. Many land uses have the potential to produce off-site impacts, such as noise, dust and odour.

Clause 13.07-1 Land Use Compatibility

Objective

To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

Strategies

Ensure that use or development of land is compatible with adjoining and nearby land uses. *

Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses. *

Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures. *

Protect existing commercial, industrial and other uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

**Bolded for our own emphasis*

As the land transitions from predominantly industrial activities (quarry rehabilitation) to residential and other uses, implementation of the CDP should ensure land use conflict can be avoided or effectively managed. Care should be taken to ensure that new development is sited and designed to minimise negative impacts on the amenity of sensitive land uses and to optimise amenity improvements.

EPA supports the steps taken to address this matter by way of the Application Requirements set out at Clause 2.0 Use of land, Schedule 1 to the CDZ:

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.*

Staging and interface with rehabilitation works

Referring to Figure 11: Indicative Staging Plan. *Former Lilydale Quarry Development Plan*, it is noted that there is potential for a number of activities to take place concurrently. For example- residential development and establishment of sensitive uses within Precinct 1, are proposed to occur alongside backfilling works, taking place in Precinct 4.

EPA notes that issues can arise when there is insufficient separation between a source that generates air emissions and noise (such as quarry rehabilitation) and a sensitive land use, or when there are insufficient controls to mitigate air quality and noise impacts. Exposure to air pollution can have adverse effects on human health and may also cause environmental nuisance. Further, persistent exposure to nuisance levels of dust and odour can lead to indirect health effects

Again, care should be taken to ensure that new development is sited and designed to minimise negative impacts on the amenity of sensitive land uses whilst rehabilitation of the quarry is ongoing.

Closing

EPA acknowledges that the proposal has responded to feedback from EPA during the course of its development. Please consider these comments as an effort to round out some final areas for consideration.

We understand that this project is part of the VPA – Fast-Track Program, an element of the Victorian Government's response to support a post-COVID economic recovery. If required, the Lilydale Quarry Comprehensive Development Plan project will be subject to the VPA Projects Standing Advisory Committee (VPA SAC), which has been established to provide independent advice on draft planning scheme amendments to the VPA and the Minister for Planning.

EPA thanks VPA for the opportunity to provide comments and welcomes the opportunity to provide further input into this strategic planning project. If our high-level assessment is not aligned with your view of the environmental human health or amenity risks, or if the proposal is amended, please contact our Planning Team Lead (Strategic) Trisha Brice on 1300 EPA VIC (1300 372 842).

Yours sincerely,



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