

**4.2 1221-1249 CENTRE ROAD, OAKLEIGH SOUTH  
BACKFILLING AND SITE REHABILITATION OF THE FORMER QUARRY  
(Application TPA/43336)**

**USE AND DEVELOPMENT OF THE LAND FOR STOCKPILING OF EARTH AND  
TREATMENT OF FILL MATERIAL  
(Application TPA/43337)**

**EXECUTIVE SUMMARY:**

This application proposes initial remediation of the former quarry located on the eastern side of Huntingdale Road in Oakleigh South. Application TPA/43336 comprises backfilling and site rehabilitation of the former quarry within the western side of the land. Application TPA/43337 proposes use and development of the land for stockpiling of earth, treatment of existing on-site slimes, sediments and uncontrolled fill material and associated earthworks to facilitate the backfilling of the former quarry within the eastern side of the land.

The application was subject to extensive public notification. Four (4) objections to application TPA/43336 (backfilling) have been received. Five (5) objections to application TPA/43337 (stockpiling) have been received.

Key issues to be considered relate to site remediation, use of the land for stockpiling and treatment of slimes, process and site management, and residential amenity protection measures within the vicinity of the works.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework and issues raised by objectors.

**The reason for presenting this report to Council is due to significance of the site and extent of the proposed works.**

**The proposed development is considered appropriate having regard to the relevant provisions of the Monash Planning Scheme. It is recommend that Council resolve to issue a Notice of Decision to Grant a Planning Permit, subject to conditions.**

<b>RESPONSIBLE DIRECTOR:</b>	<b>Peter Panagakos</b>
<b>RESPONSIBLE MANAGER:</b>	<b>Angela Hughes</b>
<b>RESPONSIBLE PLANNER:</b>	<b>James Heitmann</b>
<b>WARD:</b>	<b>Oakleigh</b>

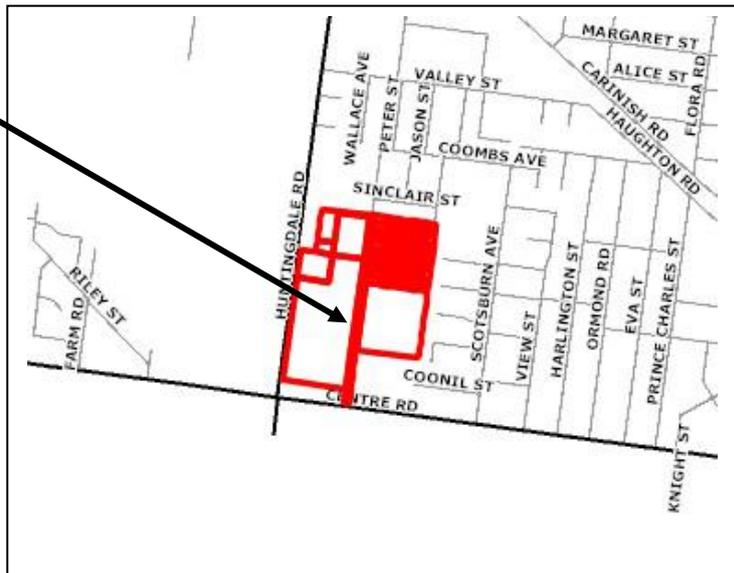
<b>PROPERTY ADDRESS:</b>	1221-1249 Centre Road, Oakleigh South
<b>PRE-APPLICATION MEETING:</b>	Yes
<b>NUMBER OF OBJECTIONS:</b>	TPA/43336 – 4 objections TPA/43337 – 5 objections
<b>ZONING:</b>	Special Use Zone 2 (Earth And Energy Resources Industry) General Residential Zone 2 (GRZ2)
<b>EXISTING LAND USE:</b>	Vacant former quarry
<b>OVERLAY:</b>	Environmental Audit Overlay
<b>RELEVANT CLAUSES:</b>	
<u>State Planning Policy Framework</u> Clause 10.01 (Purpose) Clause 10.02 (Goal) Clause 10.04 (Integrated Decision Making) Clause 11 (Settlement) Clause 11.04 (Metropolitan Melbourne) Clause 13.03 (Soil Degradation) Clause 14.02-1 (Catchment Planning and Management) Clause 15 (Built Environment and Heritage) Clause 16.01-3 (Strategic Redevelopment Sites)	<u>Local Planning Policy Framework</u> Clause 21 (Municipal Strategic Statement) Clause 21.04 (Residential Development) Clause 21.08 (Transport and Traffic) Clause 22.01 (Residential Development and Character Policy) Clause 22.04 (Stormwater Management Policy)  <u>Particular Provisions</u> Clause 52.06 (Car Parking) Clause 52.08 (Earth and Energy Resources Industry) Clause 52.09 (Stone Extraction and Extractive Industry Interest Areas) 52.10 (Uses with Adverse Amenity Potential) Clause 52.34 (Bicycle facilities)  <u>General Provisions</u> Clause 65.01 (Decision Guidelines)
<b>STATUTORY PROCESSING DATE:</b>	11 January 2015
<b>DEVELOPMENT COST:</b>	Nil

### LOCALITY PLAN



**SUBJECT SITE**

### NEIGHBOURHOOD PLAN



1221-1249 Centre Road, Oakleigh South - Backfilling And Site Rehabilitation Of The Former Quarry. Use And Development Of The Land For Stockpiling Of Earth And Treatment Of Fill Material

**RECOMMENDATION TPA/43336:**

That Council resolves to issue a **Notice of Decision to Grant a Planning Permit (TPA/43336)** for the backfilling and site rehabilitation of the former quarry, at 1221-1249 Centre Road, Oakleigh South subject to the following conditions:

1. Before the development and use starts, three copies of amended site plan drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. The submitted plans must clearly delineate and highlight any changes. When approved the plans will be endorsed and will then form part of the permit.

The plans must be generally in accordance with the plans submitted with the application, but modified to show:

- a) Retention of all existing mounding areas within 40 metres from the boundary of the land
  - b) All works within the site setback a minimum of 30 metres from the boundary of the land;
  - c) Retention of existing grassed areas and vegetation within 30 metres from the boundary of the land;
  - d) Staff parking and site sheds setback a minimum of 30 metres from the boundary of the land;
  - e) The setback of the concrete crusher within the existing quarry pit 150 metres from the boundary of the land;
  - f) The location of existing vegetation;
  - g) Existing site levels within 40 metres of the boundary;
  - h) Notation specifying the height of the stockpiles shall be limited so that no part is higher than 3 metres existing above the natural ground level immediately adjacent to site boundaries.
2. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Endorsed documents forming part of this permit include:

- a) Zone 4 Backfilling Design Report (Rev 04), Coffey Geotechnics, 17 November 2014.
- b) Construction Environmental Management Plan - Backfilling Works, Coffey Environmental, 9 October 2014.
- c) Site backfilling Protocol, Coffey Environments, 9 October 2014.
- d) Huntingdale Estate Environmental Site Assessment (Site,

Groundwater and Landfill Gas Assessment), Coffey Environments, 8 July 2014.

- e) Huntingdale Estate Zone 4 Environmental Site Assessment - Soil, Sediment & Surface Water, Coffey Environments 24 June 2014.
- f) Traffic Management Plan, Cardno 7 October 2014.

3. Once the development and use has started it must be continued and completed to the satisfaction of the Responsible Authority.
4. Prior to the use and development commencing a community consultative committee must be established comprising surrounding residents and land owners, the land owner, project manager and Council representatives. The committee is to be established to liaise with all parties and deal with and resolve any ongoing issues associated with the project. Residents and land owners surrounding the development are to be invited to participate in the community consultative committee prior to the use and development commencing. Contact details are to be provided for the project manager, land owner and Council adjacent to the Huntingdale Road and Centre Road entrances.
5. Contact details of the key site personnel on-site and the principal contacts for registration and resolution of complaints must be clearly displayed in a highly visible location external to the site at all times during the stockpiling works.
6. All complaints received in relation to the works must be managed, addressed and resolved by the operator within 24 hours of receipt. Details of all complaints and the action taken by the operator in respect thereof shall be given forthwith to the Responsible Authority.
7. The use may operate only between the hours of:
  - Monday to Friday, 7:00am-6:00pm.
  - Saturday, 8:00am-12:00pm.
  - No work permitted on Sunday or public holidays.

Unless the Responsible Authority gives consent in writing.

8. All existing trees to be retained shall be maintained to the satisfaction of Responsible Authority including suitable management during construction stage.
9. The amenity of the area must not be detrimentally affected by the use or development, through the:
  - a) transport of materials, goods or commodities to, from and within the land.

- b) through vehicle movements (including parking of trucks and reversing beepers etc) in any other way.
- c) appearance of any building, works or materials.
- d) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
- e) presence of vermin.

At the immediate request of the Responsible Authority the owner must take action to respond to amenity and nuisance issues raised by the Responsible Authority including suspending operations upon request.

10. The unused portion of the property must be kept drained, tidy and mown at all times to the satisfaction of the Responsible Authority.
11. At the immediate request of the Responsible Authority, the applicant must limit the scale of, or cease operations, which emit dust during windy days when dust levels are unacceptable.
12. The applicant must ensure that vehicles leaving the site have clay and soil removed from their wheels before entering public roads. Street sweeping of roads surrounding the development is to be undertaken as requested by the Responsible Authority at full cost of the developer/operator.
13. Sediment traps or similar, must be installed to prevent the transportation of sediment, litter and wastes oil, grease and detergents from vehicles to the stormwater system and adjoining properties. Sediment control measures are to be designed in consultation with and implemented to the satisfaction of City of Monash Engineering Division.
14. The height of the stockpiles shall be limited so that no part is higher than 3 metres above the natural ground level.
15. The height of the stockpiles shall be limited so that no part is higher than 3 metres above the natural ground level when measured from existing site levels adjacent to the boundary of the land.
16. The recommendations as identified within the Construction Environmental Management Plan prepared by Coffey Environments Australia dated 9th October 2014, shall be adhered to and implemented to the satisfaction of the Responsible Authority.
17. A Certificate of Environmental Audit is required to confirm the land is suitable for its intended use before commencement of

use/development or subdivision of the site.

18. Any fill material brought onto the subject land or deposited in the former quarry pit must meet the specifications contained in EPA publication IWRG621, Soil Hazard Categorisation and Management 2009 or as amended.
19. Construction and post-construction activities must be in accordance with EPA Publication 275 Construction Techniques for Sediment Pollution Control 1991 or as amended.
20. The land must not be used as a waste transfer station or for refuse disposal.
21. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
22. No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.
23. Adequate provision shall be made for the storage and collection of garbage and other solid wastes and these facilities are to be located on the site to the satisfaction of the Responsible Authority.
24. All common boundary fences are to be a minimum of 1.8 metres above the finished ground level to the satisfaction of the Responsible Authority. The fence heights must be measured above the highest point on the subject or adjoining site, within 3 metres of the fence line.
25. Before the use and development permitted starts, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
  - a) constructed to the satisfaction of the Responsible Authority;
  - b) properly formed to such levels that they can be used in accordance with the plans;
  - c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
  - d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
  - e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes

at all times.

26. A sign to the satisfaction of the Responsible Authority must be provided directing drivers to the area set aside for car parking and must be located and maintained to the satisfaction of the Responsible Authority. The sign must not exceed 0.3 square metres.
27. The loading and unloading of goods from vehicles must only be carried out on the land.
28. Vehicles under the control of the operator of the use or the operator's staff must not be parked on Centre Road, Huntingdale Road, Talbot Avenue, Sinclair Street, Alvina Street, Clarinda Road, Crawford Road, Eulinga Road, Elder Street, Scotsburn Avenue, Coonil Street, Hardy Court, Redpath Close, Kaybrook Court and Ashbrook Court.
29. Before the development starts, a construction management plan must be prepared and submitted to the Responsible Authority for approval.

The plan must address the following issues:

- a) measures to control noise, dust and water runoff;
- b) prevention of silt or other pollutants from entering into the Council's underground drainage system, road network and adjoining properties;
- c) the location of where building materials are to be kept during construction;
- d) site security;
- e) maintenance of safe movements of vehicles to and from the site during the construction phase;
- f) on-site parking of vehicles associated with construction of the development;
- g) wash down areas for trucks and vehicles associated with construction activities;
- h) cleaning and maintaining surrounding road surfaces;
- i) a requirement that works must only be carried out during the following hours:
  - Monday to Friday (inclusive) – 7.00am to 6.00pm;
  - Saturday – 9.00am to 12.00pm;

The plan must be prepared to the satisfaction of the Responsible Authority. Once approved, the plan will be endorsed to form part of this permit and implemented to the satisfaction of the Responsible Authority.

30. Plant and equipment installed on/or within the site must be so positioned and baffled that any noise emitted complies with the appropriate Australian Standards and EPA requirements.

At the immediate request of the Responsible Authority noise testing must be taken to demonstrate compliance with EPA noise requirements. Noise testing is to be undertaken at no cost to the Responsible Authority.

31. The owner and any person controlling works undertaken on the site must ensure that any noise emanating from the site do not exceed the standards of the State Environment Protection Policies No. N1 and must on request provide evidence to Council of Compliance with the policies. In the event that noise exceeds the standards of the State Environment Protection Policies No. N1, works and operations on the land must cease immediately.

32. This permit will expire in accordance with section 68 of the *Planning and Environment Act 1987*, if one of the following circumstances applies:

- The development and use are not started before 2 years from the date of issue.
- The development is not completed before 4 years from the date of issue.

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of the permit expiry date, where the use or development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the use or development has lawfully started before the permit expires.

NOTES-

1. Building approval must be obtained prior to the commencement of the above approved works.
2. Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
3. Engineering permits must be obtained for new or altered vehicle crossings and for connections to Councils drains / Council pits / Kerb & Channel and these works are to be inspected by Council (tel. 9518 3690).

**RECOMMENDATION TPA/43337:**

That Council resolves to issue a **Notice of Decision to Grant a Planning Permit (TPA/43337)** for the use and development of the land for stockpiling of earth, treatment of existing on-site slimes, sediments and uncontrolled fill material and associated earthworks to facilitate the backfilling of the former quarry, at 1221-1249 Centre Road, Oakleigh South subject to the following conditions:

1. Before the development and use starts, three copies of amended site plan drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. The submitted plans must clearly delineate and highlight any changes. When approved the plans will be endorsed and will then form part of the permit.

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- a) transport of materials, goods or commodities to, from and within the land.
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**BACKGROUND:****The Site and Surrounds**

The subject land is located on the eastern side of Huntingdale Road in Oakleigh South. The land is significant in size having an oval area of approximately 19 hectares (46.94 acres). The land has a typical width of 300m-400m from east to west and length of 400m-585m from north to south. Huntingdale Road runs along the western boundary and Centre Road is accessible at the southern most end of the land. Soil embankments of varied heights are located along the perimeter of the site, which are commonly grassed. Some significant scattered vegetation occupies part of the northern and western boundaries. The topography of the land is undulating. The existing quarry pit is located within the south-west corner of the land. The site has previously been utilised as a quarry which commenced in the 1950's and continued to operate until the late 1990's.

Land surrounding the site is can be described as:

**North**

- Davies Reserve immediately adjoining the subject land is a Council owned recreation reserve comprising athletics track, pavilion and large areas of public open space. Provides open space pedestrian and cyclist link through to Huntingdale Road Open and Wallace Avenue;
- Residential properties (11) orientated to Talbot Avenue and Sinclair Street. The setback of dwellings to the common boundary is typically in the range of 1.5 metres to 20 metres, with several garages and outbuildings located on the common boundary. Some scattered vegetation is located along the common boundary of the land.
- The southern end of Talbot Avenue and Alvina Street.

**East**

- Former Clayton West Primary School. Development of the land for medium density residential housing envisaged; there is a current application for approval of plans under the Development Plan Overlay on this site.
- Residential properties (17) orientated to Ashbrook Court, Kaybrook Court, Redpath Close and Hardy Court. The setback of dwellings to the common boundary is typically 1.9 metres to 10 metres, with several garages and outbuildings located on the common boundary. Some scattered vegetation is located along the common boundary of the land.
- Talbot Park located immediately adjacent to the south-east corner of the subject land. This Council owned recreation reserve comprises large green space areas and children's playground. Some scattered vegetation is located along the common boundary of the land. Provides open space pedestrian and cyclist link through to Centre Road and Coonil Street.

### South

- Vacant double storey premises located on the north-eastern corner of the intersection of Centre Road and Huntingdale Road. The existing premises was previously used for student accommodation and aged care. Approved development on the land for a five (5) storey building comprising 137 apartments. The approved development is yet to commence construction.
- Two storey residential development comprising 16 x single bedroom apartments. The development has a setback of approximately 17 metres from the subject land. Car ports and car parking areas are located immediately adjacent to the subject land.
- The area to the further south across Centre Road includes Clarinda Primary School and detached dwellings orientated to Centre Road.

### West

- Residential properties (10) orientated to Huntingdale Road. The setback of dwellings to the common boundary is typically in the range of 1.8 metres to 23 metres, with several garages and outbuildings located on the common boundary.
- Huntingdale Golf Club is located opposite the land across Huntingdale Road.

An aerial photograph of the subject site and surrounding land can be found attached to this report (Attachment 2).

### Site History

The land has an established history as a sand quarry originally established circa 1950's. Operations of the quarry included extraction, re-washing, drying, blending, storage and sale of sands. At various times uncontrolled fill may have been brought into the land and deposited on-site.

### Existing Section 173 Agreement

Section 173 of the *Planning and Environment Act 1987* provides for a responsible authority (Council) to enter into an agreement with a land owner to covenant obligations on the land and/or land owner.

Within this context the City of Oakleigh (Council) entered into a Section 173 Agreement with Consolidated Quarries Ltd (previous owner) on 15 March 1993 (registered on Title 26 May 1993). The agreement includes obligations for any successors in Title which would include the current owners.

The following is a broad summary of the existing Section 173 Agreement obligations:

- Undertake early and rapid extraction of sand at the southern end of the site.
- Extracted sand to be stockpiled in the north-west corner of the site.

- Permitted hours of operation limited to 7:00am to 6:00pm Monday to Friday, and 7:00am to 1:00pm on Saturday. Operations may continue until 8:00pm on Monday to Friday provided that no movement of vehicles or loaders on site associated with the drying plant. No operations are permitted on Sundays or Public Holidays.
- Noise levels in accordance within State Environment Protection Policy N-1 noise provisions.
- Filling of the eastern dam upon completion of the eastern dam.
- Option for Council to use airspace within the land for tipping.
- That all tipping is carried out in accordance with all applicable statutory requirements and in compliance with all applicable requirements for reclamation and rehabilitation of the site.
- That upon reclamation, the land be appropriately consolidated, resoiled and levelled.
- Ensure that use of the subject land for the purpose of extraction, re-washing, drying, blending, storage or sale of sands shall finish on 31 December 2014.
- Establishment of a consultative committee for monitoring requirements of the agreement.

**PROPOSAL:**

Application TPA/43336 seeks approval for backfilling of the former quarry pit located to the south-western corner of the subject land. The purpose of the works is to rehabilitate the land to enable future use for residential development (subject to further approval).

Key details of the proposed backfilling works can be summarised as:

- Removal of water from the base of the pit;
- Removal and treatment of existing sediment;
- Removal and treatment of slimes;
- Crushing of concrete within the pit for later use in the engineered fill;
- Removal of uncontrolled fill and unsuitable materials;
- Engineered filling of the quarry hole including drainage, compaction, settlement and stability control measures.

Application TPA/43337 seeks approval for use and development of the land for stockpiling of earth, treatment of existing on-site slimes, sediments and uncontrolled fill material and associated earthworks. The purpose of the works is to facilitate the backfilling of the former quarry to enable future use for residential development (subject to further approval).

Key details of the proposed stockpiling works can be summarised as:

- Stockpiling of earth in zones 1, 2, 3 and 5 located to the northern and eastern areas of the land.
- Drying of excavated sediment and slimes within zone 2 located to the south-eastern corner of the land. The dried sediment and slimes are able to be used as engineered fill (provided they are able to meet the requirements for suitable materials for engineered fill).
- Provision of a minimum 5 metre buffer/setback between the location of fill for stockpiling and residential boundaries around the site.
- Provision of a 50 metre buffer to Centre Road and 26 metre buffer to the eastern boundary of Talbot Park will also be applied.
- Stockpiles having a maximum of 3 metres in height, with batter slopes.

The proposed works are anticipated to be completed within approximately 24 months, subject to availability of clean fill material and weather.

Documentation forming part of the application submission includes:

- Zone 4 Backfilling Design Report (Rev 04), Coffey Geotechnics, 17 November 2014;
- Construction Environmental Management Plan - Backfilling Works, Coffey Environmental, 9 October 2014;
- Site backfilling Protocol, Coffey Environments, 9 October 2014;
- Huntingdale Estate Environmental Site Assessment (Site, Groundwater and Landfill Gas Assessment), Coffey Environments, 8 July 2014;
- Huntingdale Estate Zone 4 Environmental Site Assessment - Soil, Sediment & Surface Water, Coffey Environments 24 June 2014.

The quarry backfill design has been prepared by Coffey Geotechnics in collaboration with Coffey Environments to enable future use of the land for residential purposes. Coffey Environments are accredited EPA Environmental Auditors.

Attachment 1 details plans forming part of the application.

#### **PERMIT TRIGGERS:**

##### Zoning

The subject site is located within a General Residential Zone - Schedule 2 (GRZ2) and Special Use Zone - Schedule 2 (SUZ2) under the provisions of the Monash Planning Scheme.

Pursuant to the requirements of Clause 32.08-1 (GRZ2) a permit is required for use of the land for stockpiling within the General Residential Zone. Pursuant to the requirements of Clause 32.08-6 a permit is required for buildings and works associated with the use.

Pursuant to the requirements of Clause 37.01-1 (GRZ2) a permit is required for use the land for backfilling of the former quarry. Pursuant to the requirements of Clause 37.01-4 a permit is required for buildings and works associated with the proposed backfilling works.

### Overlays

#### Environmental Audit Overlay

The land is subject to the Environmental Audit Overlay (EAO) under the provisions of the Monash Planning Scheme.

The proposed use of the land and works do not trigger any requirement for an Environmental Audit to be completed at this stage as they do not involve commencement of a more sensitive use (residential use, child care centre, pre-school centre or primary school).

Attachment 3 details the zoning and overlays applicable to the subject site and surrounding land.

### **CONSULTATION:**

#### **Public information session**

Prior to public notification of the application, the permit applicant circulated a community information fact sheet to residents within the wider surrounding area. Residents were invited to an information session held at the Clayton Community Centre on the 27 November 2014, which was attended by Council Officers. The information session included representatives from the project team to advise on the scope of the project and management of potential impacts to surrounding residents.

#### **Public Notice**

Notice of the application was given in accordance with Section 52 of the *Planning and Environment Act 1987* property owners and occupiers within the wider surrounding area. Six (6) signs were displayed on the site during the notification period.

Four (4) objections to application TPA/43336 (backfilling) have been received. The issues raised within the objections can be summarised as:

- Management of contamination;
- Type of fill used to backfill (including uncontrolled fill);
- Dust controls;
- Impact on local fauna;
- Noise;
- Traffic.

Five (5) objections to application TPA/43337 (stockpiling) have been received.

The issues raised within the objections can be summarised as:

- Noise;
- Traffic;
- Management of contamination;
- Treatment of slimes on site;
- Stability of the land;
- Future development;
- Impact on property values.

Attachment 4 details the location of objector properties.

### **Referrals**

The application was refer to the Environmental Protection Authority (EPA) for comment. The EPA are not a statutory referral authority to the applications, however the following response was provided:

*“(The) EPA is not a statutory referral Authority under Section 55 of the Planning and Environment Act 1987, since this proposal:*

- a) does not require a licence or works approval or amendment to a licence or works approval;*
- b) is not proposed to be used for an industry or warehouse for a purpose listed in the table to Clause 52.10 shown with Note 1 or for which the threshold distance cannot be met; and*
- c) is not a proposed extractive industry intended to be used at a later date for landfill.*

*EPA has no concern with Council issuing this planning permit according to the information that has been provided. However, we recommend Council considers the following conditions for inclusion in the planning permit:*

- The applicant must limit the scale of, or cease operations, which emit dust during windy days when dust levels are unacceptable.*
- The applicant must ensure that vehicles leaving the site have clay and soil removed from their wheels before entering public roads.*
- Sediment traps or similar, must be installed to prevent the transportation of sediment, litter and wastes oil, grease and detergents from vehicles to the stormwater system.*
- The height of the stockpiles shall be limited so that no part is higher than 3 metres above the natural ground level.*
- The recommendations as identified within the Construction Environmental Management Plan prepared by Coffey Environments Australia dated 9th October 2014, shall be adhered to.*
- A Certificate of Environmental Audit is required to confirm the land is suitable for its intended use before commencement of use/development or subdivision of the site.*

- *Any fill material brought onto the subject land or deposited in the former quarry pit must meet the specifications contained in EPA publication IWRG621, Soil Hazard Categorisation and Management 2009 or as amended.*
- *Construction and post-construction activities must be in accordance with EPA Publication 275 Construction Techniques for Sediment Pollution Control 1991 or as amended.”*

The conditions suggested by the EPA will included in any permit issued.

## **DISCUSSION:**

### **Consistency with State and Local Planning Policies**

#### **Clause 11.02 Urban Growth**

The objective of Clause 11.02-1 is:

*“To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.”*

The proposed works are critical in facilitating remediation of the land for future redevelopment.

Clause 13.03-1 relating to use of contaminated and potentially contaminated land seeks to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

The onus is on the permit applicant to provide adequate information on the potential for contamination to have adverse effects on the future land use, where the subject land is known to have been used for mining and storage of waste.

In determining applications of land known to be contaminated, the planning process must have consideration of:

- *State Environment Protection Policy (Prevention and Management of Contamination of Land).*
- *Ministerial Direction No. 1 – Potentially contaminated land.*
- *National Environment Protection (Assessment of Site Contamination) Measure (National Environment Protection Council, 1999).*

Clause 21.13-2 of the Municipal Strategic Statement recognises:

*“Previous work practices, particularly associated with industrial activities, may have resulted in soil or water contamination. Planning procedures should ensure that areas undergoing renewal and redevelopment are investigated for the presence and extent of contamination and appropriate actions taken to remediate the site.*

Any future development of the land for a more sensitive use (including residential development) will be subject to an environmental audit and issue of a statement or certificate of audit under Part XID of the Environment Protection Act 1970. The proposed works seek to facilitate remediation of the site to allow potential future use of the land residential purposes. The proposed works have been prepared under the supervision of an accredited environmental auditor.

#### Non-Residential Uses and Development in Residential Areas Policy

Objectives of Clause 22.09-1 seek:

*“To ensure that development is appropriate having regard to the residential environment of the surrounds and that the amenity of the neighbourhood is not adversely affected by a business conducted in a residential area.”*

Critical in determining the appropriateness of the expanded use is to minimise and mitigate the impact of the use on adjoining residential amenity and ensuring the built form suitably integrates with the surrounding residential context.

Appropriate conditions can be specified should a permit be issued to ensure ongoing compliance with EPA noise regulations minimise amenity impacts on surrounding properties such as noise.

#### Particular Provisions

##### Clause 52.08: Earth and Energy Resources Industry

A permit is required to use the land for earth and energy resources industry.

Earth and energy resources industry is defined as land used for the exploration, removal or processing of natural earth or energy resources.

The application does not seek any new use of the land for quarrying or sand extraction. The proposed works relate to rehabilitation of the former quarry where operations previously included sand extraction, washing, drying, blending, storage and sale of sands.

##### Clause 52.09: Stone Extraction and Extractive Industry Interest Areas

The purpose of these provisions is to:

*“To ensure that use and development of land for stone extraction does not adversely affect the environment or amenity of the area during or after extraction.*

*To ensure that excavated areas can be appropriately rehabilitated.*

*To ensure that sand and stone resources, which may be required by the community for future use, are protected from inappropriate development.”*

The application does not seek approval for stone extraction under the provisions of Clause 52.09.

The provisions of Clause 52.09-7 specify typical requirements for stone extraction a use not dissimilar to the proposed works. Requirements include:

- Minimal impact to natural condition and topography within 20 metres of the boundary.
- Provision of screen planting along the site perimeter.
- Adequate on-site parking for employees associated with the use.

The retention of existing mounding/bunds adjacent to residential boundaries, and provision of a minimum 30 metre setback for all works is consistent with these requirements and appropriate to be conditioned. The provision of a 30 metre buffer zone adjacent to the residential boundaries is to maintain existing conditions on the site perimeter and mitigate off site amenity impacts including dust, noise, vehicle movement and visual amenity.

#### Clause 52.10: Uses with Adverse Amenity Potential

The provisions of clause 52.10 specify threshold distances for industry located within proximity of an adjoining residential zone and may cause offence or unacceptable risk.

Advice from the EPA forms the view that the proposed use and works is not for a purpose listed in the table to Clause 52.10 shown with Note 1 or for which the threshold distance cannot be met.

#### Backfill Design

The existing quarry pit is located within the south-west corner of the land and is referred to as Zone 4 within supporting documentation. The permit applicant submits the following quarry pit backfilling design philosophy, as described within the Zone 4 Backfill Design Report (Coffey Geotechnics, 5 February 2015):

*“The residential development of Zone 4 will require the filling of the existing quarry pit with engineered fill to create an engineered fill platform up to 20m thick to reach the proposed design level of approximately RL 60m. The construction of the engineered fill platform will include the removal of clay slimes, soft sediments and uncontrolled fill which have been placed in the northern half of the site. Where practical to do so, these materials may be re-used as engineered fill on the site.*

*The construction of the engineered fill platform within the quarry pit will need to be carefully controlled and managed to ensure adequate subgrade preparation is undertaken, only suitable fill materials are used and that the fill*

*is spread, moisture conditioned and compacted in an engineered manner, such that relatively uniform behaviour of the fill platform and the finished surface can be relied upon with confidence to perform to acceptable levels to allow residential development to occur. Coffey have prepared a Site Backfilling Protocol (ENAUABTF00751AA\_R02\_final Rev05, dated 9 October 2014) which outlines the procedures which should be followed during the backfilling of the former quarry pit.*

*Residential style buildings are routinely supported on engineered fill and guidelines for the construction of engineered fill are presented in AS3798-2007 "Guidelines on Earthworks for Commercial and Residential Developments." However, given the history of this site and the surrounding areas, which includes the presence of landfills containing clay slimes and landfill materials, and that the controlled fill is to be up to 18m thick, it is considered that additional engineering design and performance requirements will need to be developed and accurately assessed to ensure acceptable performance standards are satisfied.*

*The additional requirements include environmental controls (not included in the report) and settlement monitoring (included in Section 5). Monitoring of the settlements will be undertaken to assess when the primary consolidation is complete and secondary consolidation commences. Shortly after the completion of primary consolidation (12 to 18 months following completion of the fill placement) the site can be released for infrastructure development. Based on site wide geotechnical reports and earthworks filling reports, a site classification report for each of the lots including recommendations for design based on engineering principals can be prepared to assist in the design of individual dwellings.*

*This report presents a geotechnical design for the works, which includes a detailed works specification and a detailed settlement monitoring program with nominated settlement criteria which will allow infrastructure and residential development to commence."*

The detailed design of the backfill process is contained within the Coffey report. The report was peer reviewed by Golder Associates (19 February 2015) which resulted in amendments to the initial submission.

The design has been prepared on the basis that the land is to be prepared to support residential land use including the development of townhouses and apartments. An environmental audit will be required prior to commencement of development relating to a sensitive use. Future application for re-zoning and, development and subdivision of the land will be subject to further planning approval.

Approval of the proposed stockpiling and backfilling works does not prejudice Council to support separate application for future redevelopment of the land including re-zoning of the eastern part of the land.

#### Uncontrolled Fill

The application seeks to allow for stockpiling of fill to allow backfilling of the existing quarry pit. The permit applicant has advised that the use of uncontrolled fill material refers to the occasional presence of non-soil materials (including bricks and concrete in near surface soils, as well as some organic matter mainly associated with roots), which have been observed in soil investigations of the fill platform in Zone 4. It was confirmed that no materials assessed as being hazardous were observed, and soil contamination testing showed that the soil in the fill platform was suitable to be reused on the site.

A condition on the permit can require that the land will not be used as a waste transfer station or refuse disposal.

#### **Objection Response**

##### Use of the land for drying sediments and slimes, and management of existing contamination

Objections expressed concern that use of the site as proposed is not permitted under the Special Use Zone, on the basis that it includes activities that are listed at Clause 52.10, being “soil conditioning and blending” and “treatment of aqueous waste.”

The permit applicant (Urbis) has submitted the following response with respect to this issue:

- *The submission from the EPA confirms that they are satisfied that the uses proposed are not activities listed at Clause 52.10. Subsequent discussions with the EPA referral officer has confirmed that the EPA regards the proposal as temporary works associated with the rehabilitation of the site, as opposed to a permanent industrial use/activity as per the industry classifications set out at Clause 52.10. Accordingly, the EPA does not believe Clause 52.10 is applicable in this circumstance.*
- *The application of Clause 52.10 would require the primary purpose/use to be characterised as an ‘industry.’ We submit this is clearly not the case, on the basis that:-*
  - *The primary use that is proposed by the applications is for rehabilitation of the site, not the carrying out of an industry;*
  - *The proposed works are temporary in nature, and more particularly are not being carried out as part of a commercial enterprise;*
  - *The works are necessary to fulfil the obligations of the existing Environmental Audit Overlay and the Section 173 Agreement, and are directly contemplated by the zone purpose which provides for the rehabilitation of the site;*

- *While some of the activities that will be carried out will include treatment of soils and aqueous materials, these are ancillary to the primary use.*
- *Legal advice obtained by our client in relation to these applications has confirmed that the proposed use should be characterised as rehabilitation works, which are an innominate use in both the Special Use and General Residential Zones. We note the definition of works in section 3 of the Act is:-*
  - *“‘Works’ includes any changes to the natural or existing condition or topography of land, including the removal, destruction, or lopping of trees and the removal of vegetation or topsoil.”*
  - *We submit that the use of land for ‘rehabilitation works’ is the most accurate way to characterise the proposal, and that there is no legal basis to suggest that the works could be regarded as an ‘industry.’*
- *Finally, we note that the objector’s claim with respect to the “treatment of aqueous waste” is incorrect, on the basis that:-*
  - *the water that is present in the pond in Zone 4 is not regulated by EPA as an ‘aqueous waste’;*
  - *any discharge of the water will comply with the State Environment Protection Policy – Waters of Victoria which is the appropriate regulatory control;*
  - *the water quality is considered suitable for various uses, including on-site or off-site irrigation use, disposal to stormwater or sewer, or dust suppression. As such the aqueous material has a productive alternative purpose, and is likely to be used for irrigation purposes by the adjoining golf club.*

*For these reasons the aqueous material is not considered a ‘waste product.’*

*Testing of the slimes in Zone 4 has been conducted and shows that contamination concentrations are low and do not pose a risk to persons working on the site or neighbouring residents. Additional testing will be completed prior to slimes treatment commencing. If any unacceptable contamination is found, those slimes found to be contaminated will be disposed off site.*

The proposed works have been considered and designed by appropriate environmental and geotechnical consultants. The proposed drying of sediments and slimes on the land is considered satisfactory provided that it is adequately managed and controlled as submitted within application documentation. The works are to be undertaken with reasonable setback from the adjoining residential properties. The proposed works relate remediation, rehabilitation and filling of the existing quarry as envisaged by the existing Section 173 Agreement (legal agreement registered on Title) applicable to the land.

#### Stability of the soil embankment and grounds water flows.

The stability of the existing embankments has been assessed by the geotechnical consultant as part of the backfill design. The design approach includes measures to ensure structural stability of the quarry pit and future use of the land for potential residential development.

The rehabilitation of the quarry pit is necessary to address the slope stability risk in the long-term and the backfill design report outlines the requirements for managing slope stability during construction.

#### Proximity of works to adjoining residential properties

Objections express concerns regarding the proximity of works to existing residential properties adjoining then land to the north, east and west.

The application proposes a minimum setback of 5.0 metres adjacent to the adjoining residential properties. The proposed setback is considered inadequate given the overall size of the land, extent of proposed works and the ability for the works to be undertaken well within the property boundaries. Existing grassed soil mounds adjacent to the property provide a barrier/setback of around 20-40 metres to the adjoining property boundaries. No modification should take place to existing mounding adjacent to existing residential boundaries and no stockpiling or sediment drying take place within 30 metres of adjoining residential boundary. A further plan clearly detailing minimum setback of works, retention of existing mounding and vegetation adjoining the boundaries should be submitted to and approved by the responsible authority.

The use of a concrete crusher is proposed on a temporary basis within the existing quarry void approximately 8 metres below ground surface level. Conditions specifying this requirement including a minimum setback of 150 metres to any adjoining residential property can be specified on any permit issued. Additional conditions requiring noise testing and compliance with SEPP-N1 noise regulations can be conditioned, should a planning permit issue.

#### Amenity impacts on adjoining residential properties

Objections submit that proposed land rehabilitation will cause adverse amenity impacts on residents and drying of sediments and slimes should not be carried out on this site.

The purpose of the Special Use Zone expressly seeks to encourage the rehabilitation of the land. The applications are entirely in accordance with the zone purpose, given they will directly fulfil the site's rehabilitation.

Potential amenity impacts have been considered by environmental consultants in their application submissions including the submitted Construction Environmental Management Plan. Potential impacts have been addressed through various mitigation strategies. Measures are proposed to monitor

impacts throughout the works process, and a community liaison group/complaints register can be established to promptly address neighbour amenity concerns and resolution of issues

Additional conditions relating to noise, dust, fumes and hours of operation will provide additional residential amenity protection.

#### Traffic

The proposed stockpiling and backfilling is anticipated to be conducted over a period of 2 years. The permit applicant has submitted that this would likely result in approximately 2,000 cubic metres of material being imported to the site per day, with an average of 70 trucks per day on a 6 day per week basis. Truck movements will fluctuate depending on the availability of fill and could reach as high as 130 trucks per day.

Vehicle access to the site will be via Huntingdale Road. The anticipated vehicle movements are relatively low and within the capacity of the existing road network.

A Traffic Management Plan submitted with the application prescribes safe vehicle movements within the site during construction phase.

#### Impact on Property Values

This is not a relevant planning consideration.

#### Future Development

Application has been lodged with Council for re-zoning, development and subdivision of the land following completion of the proposed stockpiling and backfilling of the existing quarry.

The intended future use of the land is for residential purposes which in itself, will need to be subject to further approvals. Use of the land for residential purposes will require environmental audit requirements to be satisfied.

Public notification and exhibition of these applications is expected later this year.

#### **CONCLUSION:**

The proposed works are considered critical in rehabilitating the existing quarry for future use and re-development. The proposed works have been designed under the guidance of environmental experts and engineers in preparation for a future environmental audit and potential re-development of the site. Adequate measures are proposed to protect surrounding residential including establishment of a community consultative committee, general amenity

provisions and setbacks to adjoining properties. Both applications should be approved subject to conditions.

**LIST OF ATTACHMENTS:**

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (November 2012).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.