



Strategic Extractive Resource Areas

Victoria's Existing Planning System

October 2016



Executive summary

This report provides Minerals Development Victoria (MDV) with an explanation of the current Victorian planning system with respect to the protection of extractive resources and establishes a conceptual definition of 'strategic extractive resource areas' (SRAs). The report demonstrates how the incorporation of these areas into the existing planning system can provide for the efficient approval of stone extraction and long term protection of Victoria's stone resources.

Stone extraction is critical to society as a whole, with extractive industry products used in housing, commercial and industrial buildings and key infrastructure. To ensure materials are affordable and accessible now and into the future, it is essential that high quality sand and stone resources in proximity to markets remain available for extraction. The importance of extractive industry to Victoria is recognised in the State Planning Policy Framework (SPPF) of Victoria's planning schemes. However in some cases, extractive industry has been compromised by competing land use activities with resultant impacts to operations, and in some places, the extraction of resources has been forced to cease prematurely. In addition, the development of new projects is subject to complex and often lengthy approval processes under the *Planning and Environment Act 1987* (the Act) and the *Mineral Resources (Sustainable Development) Act 1990* (MRSDA). The interrelationship between the Act and the MRSDA is often poorly understood by responsible authorities. These land use planning issues were identified and considered in detail by the Parliament of Victoria in 1994 with the Environment and Natural Resources Committee's *Report on Planning Issues for Extractive Industries* and the Economic Development and Infrastructure Committee's *Inquiry into greenfields mineral exploration and project development in Victoria* in 2012.

Key to this report is the development of a conceptual definition of SRAs. The report defines SRAs as:

A defined area with a significant stone resource. It has manageable environmental and planning constraints and is accessible to markets.

This definition builds on the definition put forward by PWC in *Extractive Resources in Victoria: Demand and Supply Study 2015-2059* (PWC 2016). It applies the earlier definition in the land use planning context, to accurately reflect the strategic importance of a stone resource and to provide greater certainty surrounding the development of stone resources. This report identifies that meaningful changes would need to be made to Victoria's planning system to achieve this outcome.

The report proposes to apply SRAs to areas which are currently producing stone which is in high demand or of unique importance to Victoria. These areas can be identified by a number of contiguous or proximate operating and proposed work authorities. Additionally, SRAs should be developed to protect important stone resources to ensure their availability well into the future (2050 and beyond).

A future body of work will be required to prepare detailed criteria for the selection and establishment of SRAs as defined areas. Once defined, a series of state-wide amendments to the Victoria Planning Provisions and amendments to planning schemes will be required to highlight the policy importance of SRAs and to clearly identify them within planning schemes by **using a number of existing planning scheme zone and overlay provisions**.

This report highlights the need for SRAs to be clearly recognised within planning scheme maps and to be supported by the development of appropriate planning scheme ordinance. Specifically this report suggests that SRAs be incorporated into planning schemes as follows:

- For SRAs over production clusters:
 - Relevant changes to the State Planning Policy Framework
 - Application of the Special Use Zone over existing and proposed Work Authorities and preparation of a new extractive industry schedule, and
 - Application of the Environmental Significance Overlay beyond the Special Use Zone to identify the required buffer area.
- For SRAs over **long term resources**:

- Relevant changes to the State Planning Policy Framework, and
- Application of the State Resource Overlay.

This report also recommends that stone extraction in Victoria (irrespective of its inclusion within a SRA) would be greatly assisted by the **introduction of a planning permit trigger** (within the suite of existing rural zones) **for sensitive uses** (dwellings, accommodation, education facilities and childcare facilities) which are proposed to be established within 500 metres of a Work Authority or proposed Work Authority.

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Acronyms

Term / Acronym	Description
BCA	Building Code of Australia
CHMP	Cultural Heritage Management Plan
DEDJTR	Department of Economic Development, Jobs, Transport and Resources (formally the Department of State Development, Business and Innovation (DSDBI))
DELWP	Department of Environment, Land, Water and Planning (formally the Department of Planning and Community Development and previous to this, Department of Sustainability and Environment)
DoE	Commonwealth Department of the Environment
EE Act	<i>Environment Effects Act 1978 (Vic)</i>
EES	Environment Effects Statement
EIIA	Extractive Industry Interest Area
EP Act	<i>Environment Protection Act 1970 (Vic)</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>
FFG Act	<i>Flora and Fauna Guarantee Act 1988 (Vic)</i>
LPPF	Local Planning Policy Framework
MDV	Minerals Development Victoria
MRSDA	<i>Minerals Resources (Sustainable Development) Act 1990 (Vic)</i>
MSS	Municipal Strategic Statement
NES	National Environmental Significance
P&E Act	<i>Planning and Environment Act 1987 (Vic)</i>
SRA	Strategic Extractive Resource Area
SPPF	State Planning Policy Framework
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

1. Introduction

1.1 Purpose of this report

The purpose of this report is to provide Minerals Development Victoria (MDV) with an explanation of the Victorian planning system with respect to the protection of extractive resources. In addition, this report establishes a conceptual definition of 'Strategic Extractive Resource Areas' (SRAs) and considers options for incorporating these areas into Victoria's planning system.

Chapters 2, 3 and 4 of this report describe Victoria's current planning system (and associated legislation). These sections discuss how the planning system currently identifies, protects and ultimately facilitates the exploitation of extractive resources using the Victoria Planning Provisions (VPPs).

Chapter 5 of the report establishes a conceptual definition of SRAs and reviews the existing tools within the VPPs that could be used to give effect to the greater protection of stone resources. Chapter 5 also considers opportunities to facilitate the approval of stone extraction where located within SRAs.

1.2 Importance of stone extraction

Victoria has in the order of 485 quarries which produce around 40 million tonnes of stone annually (DEDJTR 2016). The value of this production at the 'quarry gate' is estimated to be around \$676 m annually (DEDJTR 2016).

Extractive industries are critical to society as a whole as they provide the base materials used in housing, commercial and industrial buildings and key infrastructure such as roads, railways, wind farms, ports and bridges. To ensure that extractive industry materials are affordable and accessible now and into the future, it is essential that high quality sand and stone resources, that are in proximity to markets, remain available for extraction.

The importance of extractive industry to Victoria is recognised in Clause 14.03 of the State Planning Policy Framework (SPPF) of Victoria's planning schemes and has recently been recognised in *Extractive Resources in Victoria: Demand and Supply Study 2015-2059 (PWC 2016)* and *Demand Analysis of Extractive Resources in Victoria (EY 2016)*.

The impact of competing land uses on existing and proposed extractive industry has been recognised in parliamentary inquiries dating back to the Parliament of Victoria's, Environment and Natural Resources Committee *Report on Planning Issues for Extractive Industries* (ENRC 1994) which noted that:

- *Sterilisation, or the prevention of extractive industry development by prior occupation of a site or a region by another land use, represents a major constraint imposed on future quarry developments. In particular, urban spread has sterilised, and has the potential to sterilise, large areas of stone resource, and that;*
- *Subdivision of broadacre farming land and forested land into small allotments often described as "hobby farms" and "bush blocks". This process reduces the supply of land that is of a size sufficient to accommodate many "utility" land uses, including quarries.*

The Government response to ENRC 1994 led to a number of changes to the then Victorian planning system, which remain in some form, including the:

- Introduction of Extractive Industry Interest Areas and a State extractive industry policy
- Creation of the then Department of Energy and Minerals (DEM) as a 'notice authority' for planning permit applications within Extractive Industry Interest Areas and a prescribed authority for all planning scheme amendments
- Requirement for internal buffers within quarries to be owned or controlled by the quarry operator
- Notification requirements to DEM of some planning permit applications within 500 m of an extractive industry

- Linking of extractive industry planning permits to the life of the stone resource.

The Government response to ENRC 1994 also included measures which were not implemented or, which were subsequently removed from Victoria's planning system, such as identifying Extractive Industry Interest Areas and extractive industry sites with an 'identifier' overlay on planning scheme maps.

The Victorian Parliament's Economic Development and Infrastructure Committee *Inquiry into greenfields mineral exploration and project development in Victoria* (EDIC 2012) made three key recommendations to Government being:

- *That the Victorian Government develops a state-wide integrated, strategic land use policy framework to better manage competing land uses in Victoria. This framework should be subject to periodic review giving consideration to economic, social and environmental factors.*
- *As part of the development of an integrated state-wide strategic land use framework, that the Victorian Government ensures studies are undertaken to determine areas of high prospectivity for extractives and future extractives needs in metropolitan Melbourne and regional Victoria.*
- *That the findings of the extractives prospectivity and future needs studies be incorporated into the state-wide strategic land use framework, be protected in local planning schemes, and have appropriate post-extractive uses identified that are consistent with and sensitive to abutting areas.*

The Government response to EDIC 2012 proposed to:

- Ensure existing extractive industry interest areas are incorporated into the Regional Growth Plans
- Where necessary, use the existing provisions under the *Planning and Environment Act 1987* for the Minister for Energy and Resources to withhold consent for changes to planning schemes that may affect stone resources
- Enable the Minister for Energy and Resources to become a referral authority for developments near existing quarries, and
- Consider the most appropriate method to protect resources within the planning framework.

1.3 Remaining challenges in protecting resources

Despite the significant body of work undertaken by previous Parliaments and State Governments and the fact that the importance of extractive industry is recognised in Clause 14.03 of the SPPF, the sterilisation of stone resources by other land uses remains a concern for stone extraction. Identified resources have continued to be 'sterilised' by rural subdivision, proliferation of lifestyle properties and/or urban development. Additionally, established quarries which operate in accordance with their approvals, remain under pressure from encroaching incompatible land uses which have the potential to significantly hinder operations and to end extraction prior to the exhaustion of the stone resource.

A consistent challenge for operating quarries and key resource areas remains. That is, in most cases significant quarries and resource areas are not adequately identified by or protected by Victoria's planning schemes. These areas are, in most instances not shown on planning scheme maps and, as a consequence, the protection resources are reliant on planning scheme policy¹, obscure planning scheme ordinance² and reference documents³.

Planning reform to appropriately protect stone extraction is overdue. PWC (2016) concluded that Victoria faces the potential of constrained future supply as a consequence of the issues mentioned. Given projected demand from forecast infrastructure projects and the continued challenge faced in maintaining access to quality extractive resources, the development of a suite of effective and efficient planning instruments will be important in securing the long term supply of stone resources for Victoria.

¹ Clause 14.03 Resource exploration and extraction

² Clause 52.09-8 Stone Extraction and Extractive Industry Interest Areas - Notice of an application

³ For example - *Melbourne Supply Area - Extractive Industry Interest Areas Review - Geological Survey of Victoria Technical Record 2003/2.*

Reasonable changes to Victoria's planning system, largely using existing planning 'tools,' would ensure that existing quarries, significant stone production areas and strategic long term resources are adequately identified and protected from incompatible land uses.

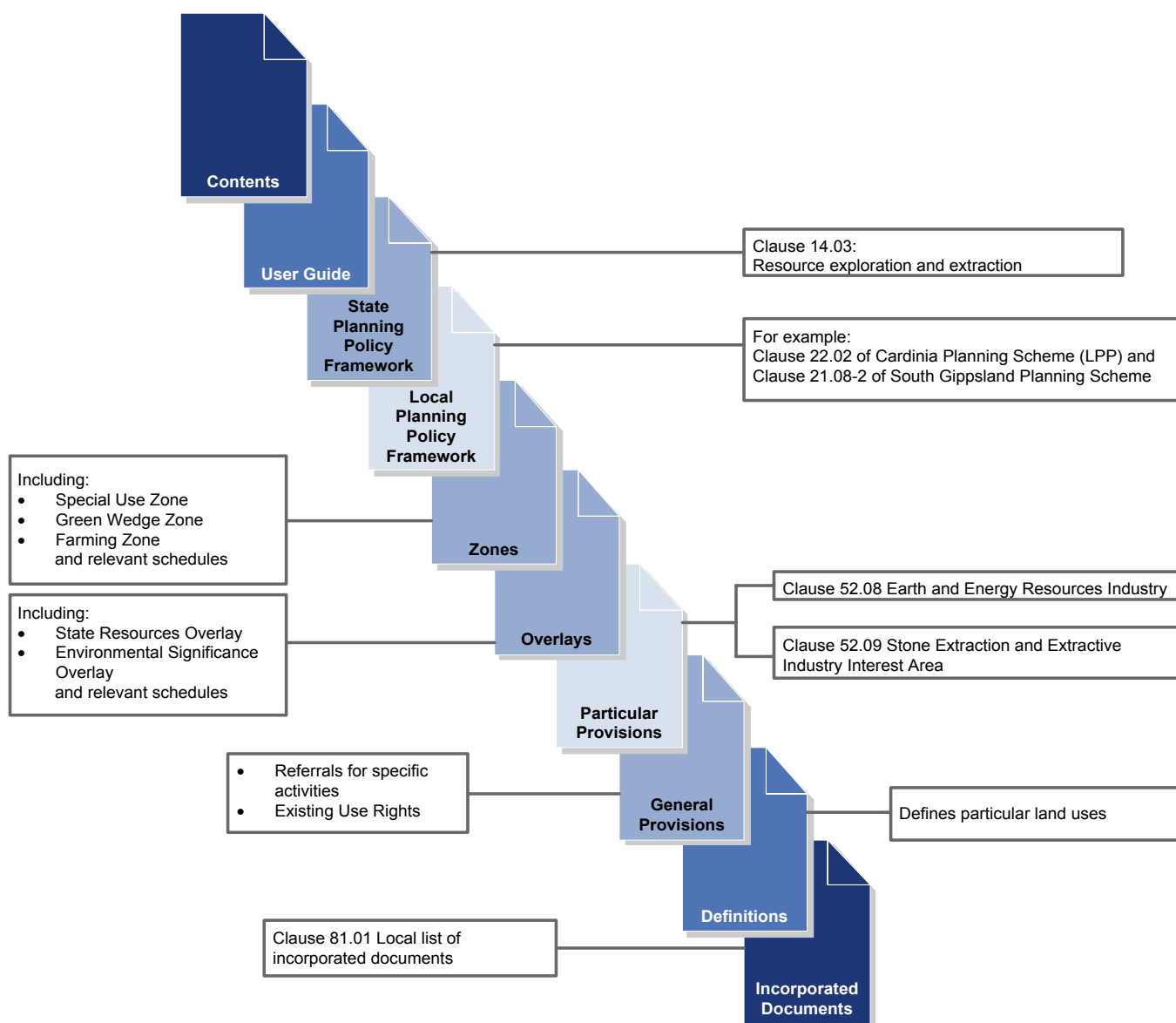
The identification of SRAs against sound criteria would (in addition to earlier parliamentary inquiries, Extractive Industry Interest Areas and recent work by PWC and EY) provide the strategic justification for further reform to Victoria's planning system. This would lead to enhanced protection of significant stone resources and for more timely decision making.

2. Extractive industry and Victoria’s Planning System

The *Mineral Resources (Sustainable Development) Act 1990* (MRSDA) provides the main legislative framework for extractive industry in Victoria. However, the Victorian planning system plays a key role in providing statutory weight to the location of the industry and its interface with other land uses. The development of new projects is often subject to complex and lengthy approval processes under the *Planning and Environment Act 1987* (the Act) and the MRSDA.

Figure 2.1 shows the structure and the components of Victoria’s current planning system and highlights where extractive industry is referenced in the planning system. This chapter discusses these components in further detail.

Extractive Industry and Victoria’s Planning System
(current structure)**



* Adapted from Using Victoria’s Planning System (DELWP 2015)

** All Victorian Planning Schemes have the same format

Figure 2.1 :Victoria’s current Planning System

2.1 Planning and Environment Act 1987

The *Planning and Environment Act 1987* (the Act) provides a framework for integrating controls in land use, development, planning and environment protection in Victoria.

The objectives of planning in Victoria are established by section 4 of the Act as follows:

- a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*
- b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- e) *to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
- f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
- g) *to balance the present and future interests of all Victorians.*

The Act provides for planning schemes to be established and administered by local government to control the use and development of land. Planning schemes must seek to further the objectives of planning in Victoria within the area covered by the scheme and do this by setting out policies and provisions for the use, development and protection of land. These controls overlap with other Victorian legislation including, but not limited to, the *Environment Protection Act 1970*, *Environment Effects Act 1978*, *Water Act 1989* and *Subdivision Act 1988*.

The Act also provides for the VPP - a template document of standard State provisions for all planning schemes to be derived from. The VPP is not a planning scheme and does not apply to any land (DELWP 2015).

2.2 Planning schemes

Planning schemes are a single instrument of planning control for each municipality and set out how land may be used or developed. Planning schemes contain state and local planning policies, zones and overlays and other provisions which influence the use and development of land. Planning schemes are public documents comprised of maps and ordinances and are a primary consideration for the use and development of land in Victoria.

In addition, they contain definitions for different land uses. In the case of extractive industry, Clause 72 (general terms) and Clause 74 (land use terms) contain a number of definitions of relevance:

- Stone:
 - *Basalt, freestone, granite, limestone, sandstone, or other building stone, or rock, ordinarily used for building, manufacturing, road making, or construction; or clay (not fine clay, bentonite, or kaolin), earth, gravel, quartz (not quartz crystals), sand, soil, slate, or other similar material.*
- Earth and energy resources industry:
 - *Land used for the exploration, removal or processing of natural earth or energy resources. It includes any activity incidental to this purpose including the construction and use of temporary accommodation*
- Stone exploration:
 - *Land used to search for stone, including: a) conducting geological, geophysical, and geochemical surveys; b) costeaming and bulk sampling; c) drilling; and d) taking samples for chemical, physical, or other testing.*
- Earth and energy resources industry:

- *Land used for the extraction or removal of stone in accordance with the Mineral Resources (Sustainable Development) Act 1990.*

These terms are used throughout the VPPs and help determine whether planning approval is required under the zones and other provisions of planning schemes.

2.2.1 State Planning Policy Framework

All planning schemes in Victoria contain the SPPF. The SPPF comprises general principles for land use and development with specific policies dealing with settlement, environment, housing, economic development, infrastructure, and particular uses and development.

Planning authorities (when considering planning scheme amendments) and responsible authorities (when deciding on planning permit applications) must take account of and give effect to the SPPF's general principles and specific policies.

The SPPF contains a number of policies to provide for the protection of stone resources and to guide decision making on stone extraction.

Clause 14.03 Resource exploration and extraction

Clause 14.03 sets out state planning policy as it applies to resource exploration and extraction. Importantly the clause sets out:

- The need to protect resources and encourage exploration and extraction
- Where and how buffers should be applied
- The need to consider legislation such as the MRSDA and policy documents such as Extractive Industry Interest Areas (EIAs).

The objective of Clause 14.03 is:

- *To encourage exploration and extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation.*

The strategies relevant to stone extraction to implement this objective are:

- *Protect the opportunity for exploration and extraction of natural resources where this is consistent with overall planning considerations and application of acceptable environmental practice.*
- *Provide for the long term protection of natural resources in Victoria.*
- *Recognise the possible need to provide infrastructure for the exploration and extraction of natural resources.*
- *Planning schemes must not impose conditions on the use or development of land that is inconsistent with the Mineral Resources (Sustainable Development) Act 1990, the Greenhouse Gas Sequestration Act (2008), the Geothermal Energy Resources Act (2005), or the Petroleum Act (1998).*
- *Planning permit applications should clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the proponent of an extractive industry.*
- *Buffer areas between extractive activities and sensitive land uses should be determined on the following considerations:*
 - *Appropriate limits on effects can be met at the sensitive locations using practical and readily available technology.*
 - *Whether a change of land use in the vicinity of the extractive industry is proposed.*
 - *Use of land within the buffer areas is not limited by adverse effects created by the extractive activities.*

- *Performance standards identified under the relevant legislation.*
- *Types of activities within land zoned for public use.*

Clause 14.03 requires the following policy guidelines to be considered where relevant:

- *Mineral Resources (Sustainable Development) Act 1990*
- *Greenhouse Gas Sequestration Act (2008)*
- *Geothermal Energy Resources Act (2005)*
- *Petroleum Act (1998)*
- *Melbourne Supply Area - Extractive Industry Interest Areas Review - Geological Survey of Victoria Technical Record 2003/2*
- *Ballarat Supply Area - Extractive Industry Interest Areas – Geological Survey of Victoria Technical Record 1997/3*
- *Bendigo Supply Area - Extractive Industry Interest Areas – Geological Survey of Victoria Technical Record 1998/6*
- *Geelong Supply Area - Extractive Industry Interest Areas – Geological Survey of Victoria Technical Record 1999/2*
- *La Trobe Supply Area - Extractive Industry Interest Areas – Geological Survey of Victoria Technical Record 1999/4*
- *Any relevant State Environment Protection Policy.*

2.2.2 Local Policy Planning Framework

The Local Planning Policy Framework (LPPF) outlines the local and regional policy context for municipalities. The LPPF is comprised of the Municipal Strategic Statement (MSS) and specific local planning policies (LPP).

The LPPF must be consistent with the SPPF and should demonstrate how broader State planning policies will be achieved or implemented in a local context. The LPPF must be taken into account when preparing planning scheme amendments and when deciding on planning permit applications.

Some municipalities have a LPPF which reflects the importance of stone extraction within their respective local government areas. For instance, Cardinia's MSS contains Clause 21.04-6 (Extractive Industry). The objective of this clause is:

- *To recognise and protect significant sand and stone resources in the municipality and allow the extraction of these resources if it can be demonstrated that the extraction operation will not adversely impact on the environment or community*

Strategies to achieve this objective include:

- *Protection of resources*
 - *Protect sand and stone resources and existing extractive industry operations from inappropriate development which may impact on their viability.*
- *Amenity impacts*
 - *Ensure that developments mitigate potential impacts of extractive industry on surface water, ground water, biodiversity (Flora and Fauna), visual landscape, transport infrastructure, residents amenity (i.e. noise dust, transport blast vibration) and cultural heritage (notably Aboriginal Heritage).*
 - *Ensure the provision of appropriate buffer distances from surrounding sensitive uses to ensure minimal conflict of uses and amenity impacts.*

- *Rehabilitation*
 - *Ensure that rehabilitation details (including progressive requirements) are included as an integral part of the extractive industry approval.*
 - *Ensure that the proposed end use is compatible with adjacent land-use and development.*
- *Transport*
 - *Designate transport routes between extractive industry sites and the arterial road network, and require contributions towards the upgrading and maintenance of transport routes from extractive industry sites.*

The Cardinia Planning Scheme also includes Clause 22.02 (Sand Extraction – Lang Lang to Grantville Region). This clause is a local planning policy to guide the development of quarry proposals in the Lang Lang region. Clause 21.03-7 (Economic Development - Extractive Industry) of the Bass Coast Planning Scheme aims to guide the development of quarry proposals in the Grantville region. These provisions are a good example of the LPPF giving effect to Clause 14.03 of the SPPF.

2.2.3 Zones

Zones are applied to land within municipalities to implement the policy objectives of the SPPF and LPPF by controlling the use and development of land.

A number of zones provide specifically, for and in some circumstances encourage stone extraction and the development of stone resources. These are the:

- Special Use Zone
- Green Wedge Zone
- Farming Zone.

Stone extraction also occurs within other zones such the Rural Conservation Zone, and in some cases quarries may have 'existing use rights,' with the quarry being established prior to the current planning scheme controls.

The Special Use, Green Wedge and Farming zones are discussed in more detail below.

Special Use Zone

The Special Use Zone provides for land to be used for specific purposes.

Schedules to the Special Use Zone can be tailored to provide for particular uses and development. However, currently a Ministerial Direction requires a specific schedule to be applied consistently for extractive industry. Ministerial Direction, *The Form and Content of Planning Schemes* (DELWP 2015) states that:

- *If a planning scheme includes land in a Special Use Zone for the purpose of recognising or providing for the use and development of the land for Extractive industry, the planning scheme must include the schedule set out in Annexure 3.*

This schedule should be only used where land with an earth and energy resource has been identified and an alternate zone does not provide sufficient clarity around this use and development (DELWP 2015). This schedule is located in Appendix A. The Special Use Zone has been applied to stone extraction in a number of planning schemes. These include quarries in the Lang Lang and Grantville areas, Lysterfield, Bacchus Marsh and Langwarrin.

Green Wedge Zone

A number of proposed work authorities, EIAs and operating quarries around Melbourne, such as in Tynong and Dromana, are located in the Green Wedge Zone.

The Green Wedge Zone recognises non-urban land (between urban land and growth corridors) within the Melbourne metropolitan area for its agricultural, environmental, historic, landscape or recreational values, or mineral and stone resources (DELWP 2015).

A purpose of the Green Wedge Zone is:

*To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and **stone resources**.*

The provisions of the Green Wedge Zone are located in Appendix B.

Farming Zone

The purpose of the Farming Zone is to provide for the use of land for agriculture, encourage the retention of productive agricultural land and to ensure that non-agricultural uses do not impact on agriculture.

Outside of the Melbourne metropolitan area, many operating quarries, proposed work authorities and EIAs are located within the Farming Zone.

The provisions of the Farming Zone are located in Appendix B.

2.2.4 Overlays

Overlays may apply in addition to a zone and are an additional planning control that provides for single issues such as heritage, environmental significance or flooding. Overlays make requirements about land development rather than land use and do not affect the intent of the zone. Multiple overlays can apply to a particular piece of land to deal with a range of issues.

Overlays which identify significant landscapes or environments such as the Significant Landscape Overlay and Environmental Significance Overlay have the potential to impede the development of stone resources. However, other overlays can give effect to the extraction and protection of stone resources. The overlays directly applicable to stone extraction include the Environmental Significance Overlay and the State Resource Overlay.

Environmental significance overlay

The Environmental Significance Overlay has a dual purpose. It is applied when the development of land may impact on important environmental features or when land may be affected by environmental constraints. These constraints may be a result of the effects from industrial areas.

Tailored schedules provide the particular circumstances of an issue. For instance, the Environmental Significance Overlay is used in the Yarra Ranges Planning Scheme to protect areas of significant biodiversity whilst in other cases such as those listed below, it has been used to provide a buffer around particular land uses.

- Environmental Significance Overlay (Schedule 1 – Urban Buffers) protects those elements of the Coal Buffers Policy Area such as urban settlements from the impact of the radical change to the environment from the coal industry) (Latrobe Planning Scheme)
- Environmental Significance Overlay (Schedule 2 – Echuca & District Livestock Exchange Municipal Pound and Waste Transfer Station – refer to Figure 2.2) seeks to ensure that the use and development of the facility is not constrained by the establishment of potentially conflicting development within proximity to the facilities and that development on land abutting or in close proximity to the facility is not detrimentally affected with respect to noise, odour or other environmental effects generated from these facilities (Campaspe Planning Scheme)

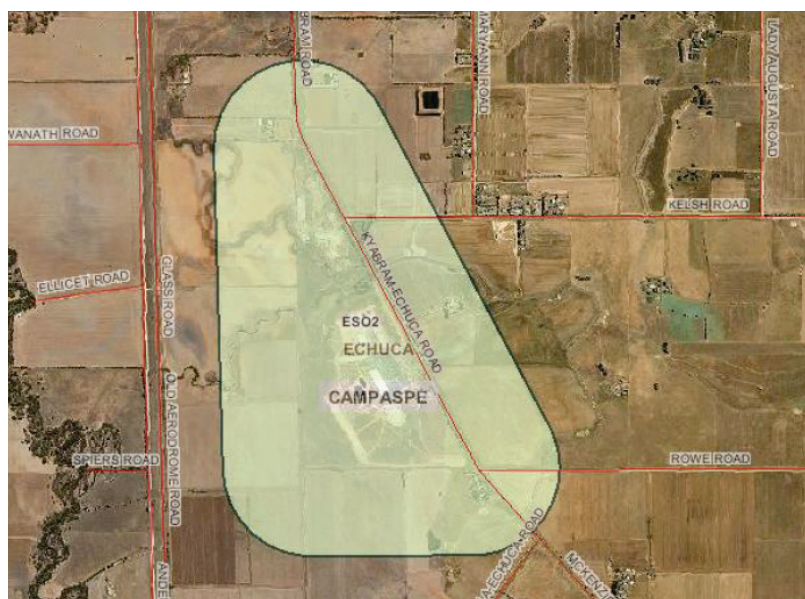


Figure 2.2 : Environmental significance overlay, Schedule 2 – Campaspe Planning Scheme (Planning Maps online)

- Environmental Significance Overlay (Schedule 2 – Eastern Treatment Plant Buffer) regulates the establishment of land uses that will result in the presence of large numbers of people and/or the establishment of odour-sensitive uses within the buffer area (Frankston Planning Scheme)
- Environmental Significance Overlay (Schedule 1 – Radio Australia ESO) secures the unrestricted broadcasting transmissions from Radio Australia infrastructure by limiting the intensity of residential development and resultant potential electrical and broadcast interference within an area surrounding the site (Greater Shepparton Planning Scheme)
- Environmental Significance Overlays (Schedule 2, 3, 4 and 5 – Shepparton, Mooroopna, Tatura and Murchison Waste Water Treatment Complexes) protects the use and development of land for the purposes of waste water treatment by restricting the intensity of housing development in proximity to the complexes (Greater Shepparton Planning Scheme)
- Environmental Significance Overlay (Schedule 2 – Mildura Waste Water Treatment Plant and Reuse centre) ensures that development on land abutting or in close proximity to the Mildura Waste Water Treatment Plant and Reuse Centre is not detrimentally affected in terms of noise or odour. Additionally ensures that the future use and development of the site is not detrimentally affected by allowing inconsistent and potentially conflicting development to occur within the overlay area (Mildura Planning Scheme)
- Environmental Significance Overlay (Schedule 3 – Merebein Mushrooms Buffer Area – refer to Figure 2.3) ensures that future land use conflict is minimised by discouraging any new dwellings within the buffer area and requiring permits for building and works within the area (Mildura Planning Scheme)
- Environmental Significance Overlay (Schedule 4 – Incompatible land use buffer area – refer to Figure 2.3) ensures that future land use conflict is minimised by discouraging any new dwellings within the buffer area and requiring permits for building and works within the area (Mildura Planning Scheme).

Schedules for the above overlays are located in Appendix C.

Overlays can also be used to identify and protect stone resources. For example, the Baw Baw Planning Scheme uses Schedule 3 of the Environmental Significance Overlay to protect the Trafalgar Sand Resource. This overlay schedule is located in Appendix C.

2.2.5 Particular provisions

Particular provisions are specific prerequisites or planning provisions for a range of specific uses and developments. These planning controls apply in addition to the requirements of a zone or overlays. Particular provisions apply across the State and are unable to be tailored to meet specific circumstances.

Two particular provisions are relevant to the exploration and extraction of stone resources in Victoria. These are:

- Clause 52.08 – Earth and Energy Resources Industry; and
- Clause 52.09 – Stone Extraction and Extractive Industry Interest Areas.

Clause 52.08 – Earth and Energy Resources Industry

Clause 52.08 provides for planning permit exemptions from mineral and stone exploration and seeks to ensure consistency with other legislation such as MRSDA during decision making.

The objective of Clause 52.08 is:

- *To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.*
- *To ensure that mineral extraction, geothermal energy extraction, greenhouse gas sequestration and petroleum extraction are not prohibited land uses.*
- *To ensure that planning controls for the use and development of land for the exploration and extraction of earth and energy resources are consistent with other legislation governing these land uses.*

Clause 52.08-1 (permit requirements) states that a planning permit is required to 'use and develop land for earth and energy resources' unless specifically exempt. With regard to stone exploration and extraction, a permit is not required for:

- *Stone exploration (Must not be costeaning or bulk sampling)*
- *Stone extraction (Must comply with Section 77T of the Mineral Resources (Sustainable Development) Act 1990⁴).*

A copy of Clause 52.08 is located in Appendix E.

Clause 52.09 – Stone Extraction and Extractive Industry Interest Areas

Clause 52.09 contains a number of requirements relevant to the assessment of proposals for stone extraction, and for the assessment of other land uses within EIAs.

The objective of Clause 52.09 is:

- *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.*

Clause 52.09-3 (Application requirements) outlines the process of 'statutory endorsement' of work plans when applying for a planning permit for stone extraction and the exemption from agency referral where this has taken place. Clause 52.09-5 (Decision guidelines) sets out a number of matters for the responsible authority to consider when deciding on permit applications for stone extraction. Clause 52.09-6 (Permit conditions for stone extraction) specifies the circumstances where expiry conditions can be placed on planning permits. Clause 52.09-7 (Requirements for the use and development of land for stone extraction) details specific basic

⁴ Section 77T refers to situations where the Minister for Planning has assessed an Environment Effects Statement.

requirements for all stone extraction proposals including the boundary setback, screen planning and parking areas.

The process of considering planning permit applications for stone extraction is discussed further in Chapter 3.

With regard to the protection of stone resources, Clause 52.09-8 (Notice of an application) requires the responsible authority to give notice of certain planning permit applications which are made within EIAs or on or within 500 m of land which is covered by an approved or proposed work authority. These include subdivision and sensitive uses such as accommodation (which includes dwellings), child care centres, schools and hospitals.

A copy of Clause 52.09 is located in Appendix F.

2.2.6 General provisions

General provisions apply consistently across Victoria and contain administrative provisions and operational requirements. In relation to stone extraction, relevant general provisions include existing use rights, ancillary activities and referral of planning permit applications.

2.2.7 Incorporated and reference documents

Incorporated documents refer to external documents that a particular planning scheme has decided to adopt or apply to assist with decision making or to provide guidance. Incorporated documents often include a range of codes, strategies, guidelines, plans or similar documents (DELWP 2015). Incorporated documents have the same force or effect of the planning scheme which adopts them. Changing an incorporated document will require an amendment to the planning scheme.

Reference documents, provide background information to assist in understanding the context of a particular policy or provision. Reference documents have only a limited role in decision-making as they are not part of the planning scheme. They do not have the status of incorporated documents or carry the same weight (DELWP 2015). A relevant example of a reference document would be the EIA reports. The EIA concept is discussed in further detail below.

Extractive Industry Interest Areas

EIAs identify land where stone extraction is likely to occur due to favourable geology and a lack of planning and environmental constraints.

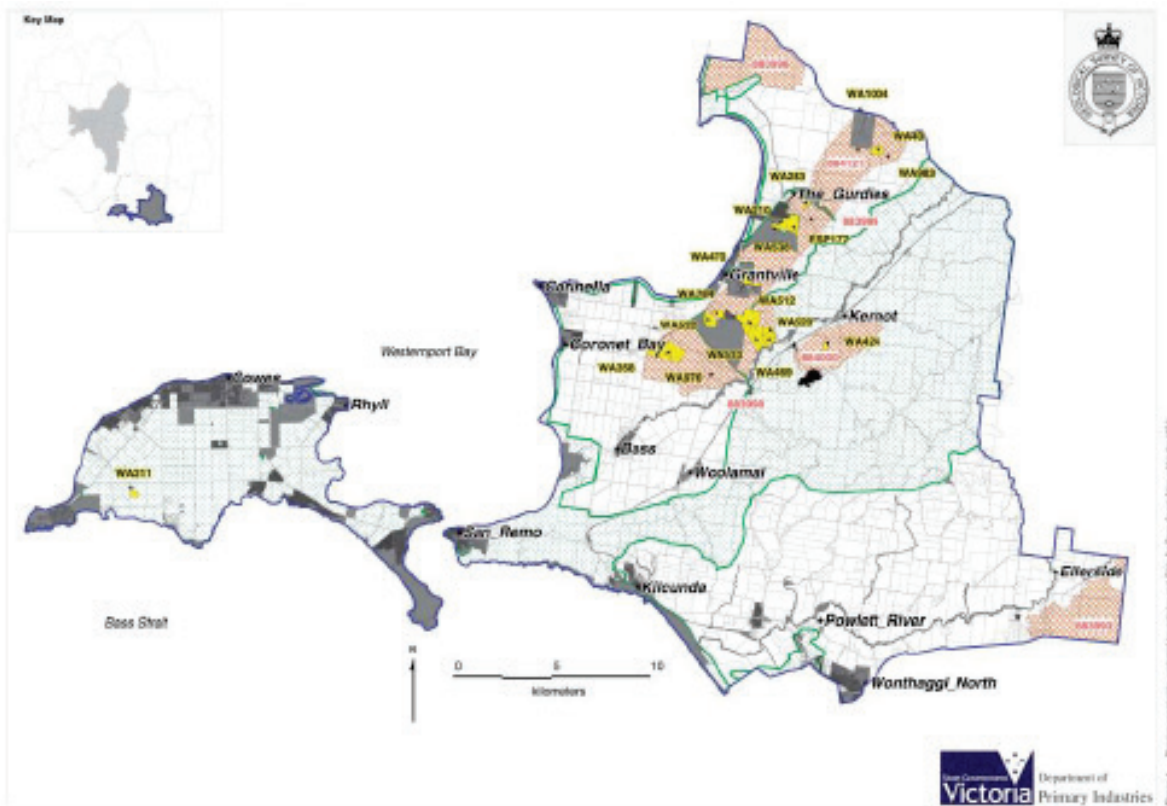
The *Melbourne Supply Area – Extractive Industry Interest Area Review* outline that EIAs:

- *provide a basis for the long term protection of sand and stone resource by sterilisation by inappropriate land uses;*
- *provide a basis for ensuring the long term availability of sand and stone resources for use by the community at minimal detriment to the environment;*
- *assist in long term strategic planning that is being carried out by planning authorities;*
- *ensure that planning and responsible authorities consult with all other agencies with regard to land use proposals within EIAs that may result in the reduction in sand and stone resources; and*
- *create an awareness that extractive industry is a possible land use.*

EIAs do not remove the need for planning approval for stone extraction or prevent land being used for other purposes.

EIAs have a degree of policy weight within the planning schemes. Clause 14.03 (Resource exploration and extraction) requires EIAs to be considered as policy documents and Clause 52.09-8 (Notice of an application) requires the giving of notice to the DEDJTR of certain planning permit applications which are made within EIAs.

Figure 2.5 below shows the Bass Coast EIA.



Legend

-  886931 Extractive Industry Interest Area (EIIA)
-  Area where new extractive industry operations are prohibited due to current planning and social limitations
-  Area of environmental and landscape significance where proposed extractive industry operations would be subject to additional assessment criteria
-  WA963 Current and proposed extractive industry operations
-  Cadastral boundary
-  Municipal boundary (within the MSA)

Figure 2.5 : Bass Coast EIA (GSV 2003)

3. Assessing permit applications for stone extraction

3.1 Background

The MRSDA provides the main legislative framework for stone extraction in Victoria. The MRSDA is supported by the *Planning and Environment Act 1987* (the Act). The MRSDA provides for the development and approval of a Work Plan and Work Authority and the Act provides for planning permits to be assessed in accordance with the planning scheme and the amendment of planning schemes.

The Work Plan process deals with the technical and operational detail associated with operating a quarry and deals with environmental issues such as native vegetation and water quality and the amenity impacts such as dust and noise. The Work Authority is the final instrument under the MRSDA which enables the stone extraction to begin.

The planning approval deals with broader issues such as traffic management. Work Plans, Work Authorities and planning approvals do not contain expiry dates with the intent of these approvals being that the approval expires once the resource is exhausted.

The approval process for stone extraction can be lengthy and complex. Only a limited number of Councils (as responsible authorities for administering a planning scheme) regularly assess such applications and understand the intricacies of assessing and approving stone extraction.

3.2 Approvals process

A key element of obtaining an approval for stone extraction is the preparation of a draft Work Plan in consultation with local government, key agencies and with the DEDJTR inspectorate. The draft Work Plan is then 'statutorily endorsed' by the DEDJTR inspector. Once a work plan is endorsed, it is deemed to be of a satisfactory standard to support a planning permit application. The planning permit application along with the endorsed draft Work Plan (in accordance with Clause 52.09-3 (Application requirements)) is then submitted to the Council.

Once a planning application is lodged, a Council can request additional information⁵ - this must be done within 28 days of lodgement. Once Council is satisfied with the information, the application will be placed on public notice for a minimum of fourteen days⁶. In accordance with Clause 52.09-4 (Referral Requirements), the Council does not need to refer an application for stone extraction if a copy of the work plan or a variation to an approved work plan was previously referred to a particular agency. For instance, if native vegetation is required to be removed, there is no need to refer it to DELWP as part of the planning process.

Council will then make a decision as to whether to approve or refuse the planning permit application for stone extraction. If there have been objections to the application, and the Council seeks to approve the stone extraction, a 'notice of decision to grant a permit' is issued giving any objectors the opportunity to seek a review of the Council's decision at the Victorian Civil and Administrative Tribunal (VCAT). The permit applicant can also seek a review of Council's decision to refuse an application or against conditions of the permit. VCAT will either; uphold the decision to refuse the application, direct a permit to issue, amend permit conditions, or refuse to amend permit conditions. VCAT's decision will be final.

Following the issue of a planning permit, the draft work plan can be amended to be consistent with the planning approval (if need be) and a Work Authority can then be issued.

The assessment and approval process for stone extraction is illustrated in Figure 3.1. Figure 3.2 outlines the approvals process in the event that an Environment Effects Statement (EES) is required for stone extraction.

⁵ Ideally this should not occur after the earlier consultation.

⁶ While it is acknowledged that there are circumstances where an application may not be put on public notice, these are not typical and rely on a Council being able to assess that there would be no 'material detriment' caused as a result of the application.

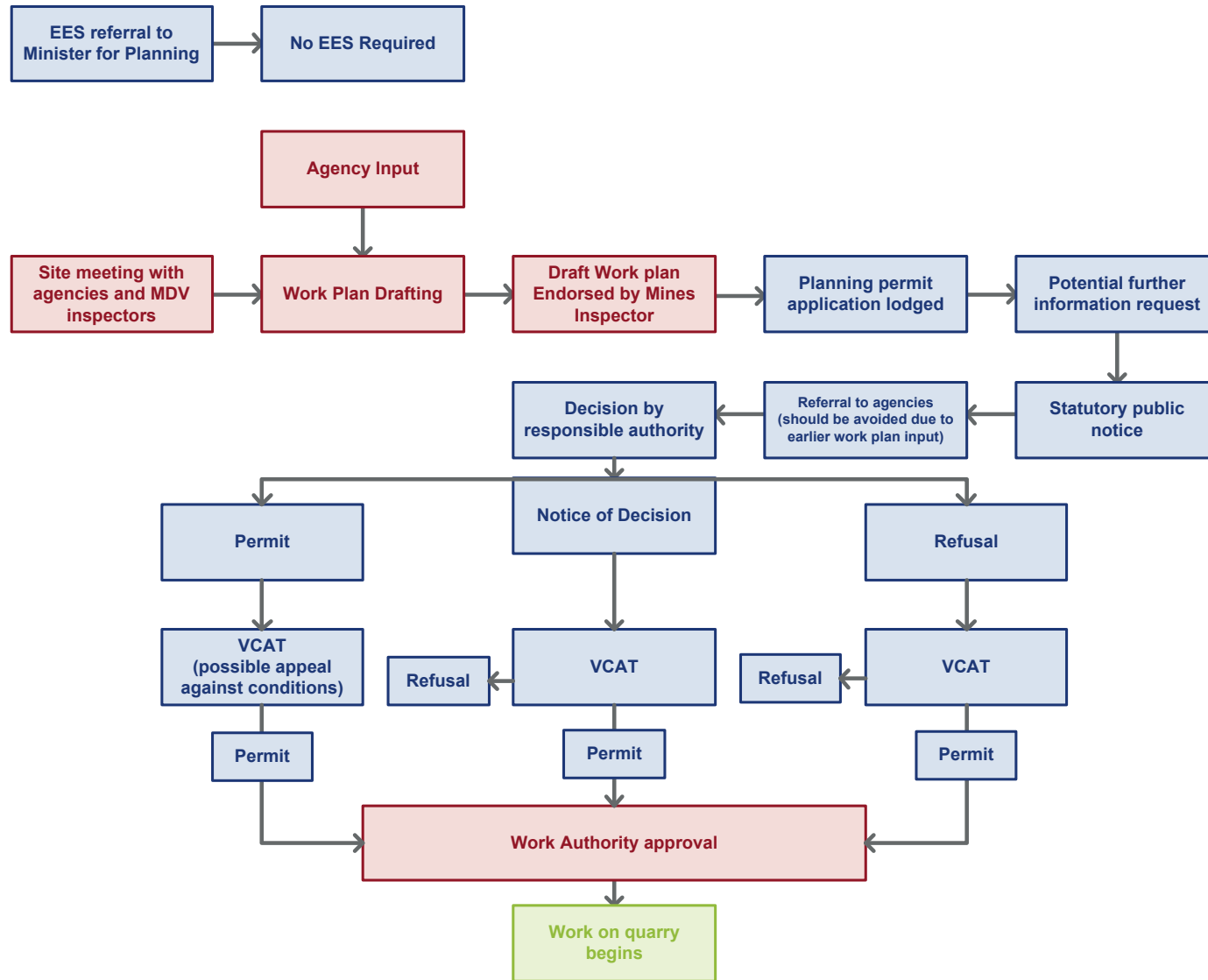


Figure 3.1 : Planning approval process for stone extraction

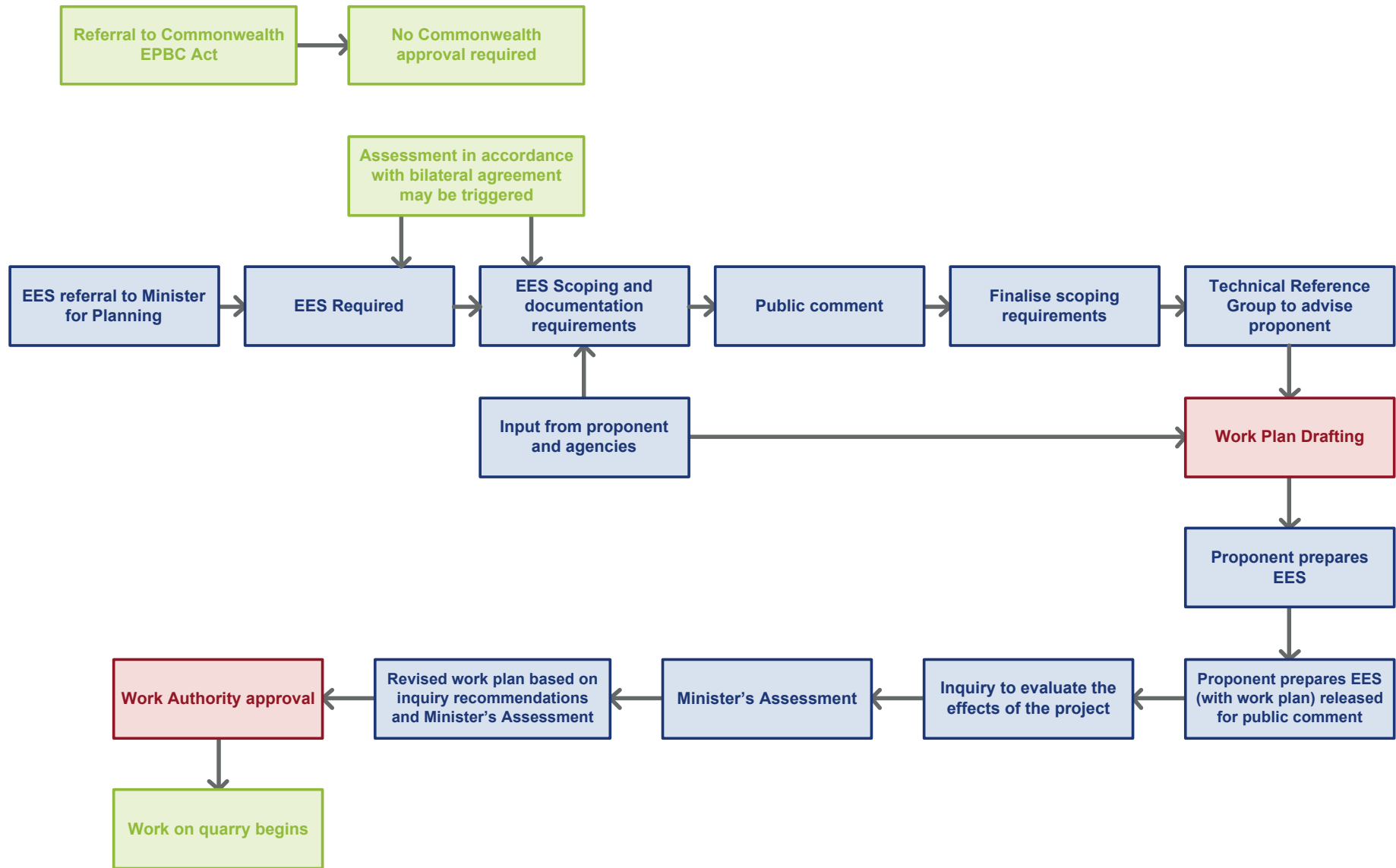


Figure 3.2 : Planning approval where an EES is required.

4. Other assessments and extractive industry

In addition to the *Planning and Environment Act 1987* and the MRSDA, there are other approvals that have a direct relationship to assessments under the *Planning and Environment Act 1987* and should be considered to obtain a full understanding of the planning and environmental assessment process in Victoria.

This Chapter contains an outline of key approvals and consents which may relate to stone extraction in Victoria.

4.1 Environment Protection and Biodiversity Conservation Act 1999 (C'wealth)

Referral and approval from the Commonwealth under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) may be required if quarry proposals are determined to have a significant impact on matters of National Environmental Significance (NES). The nine matters of NES include:

- World heritage properties
- National heritage places
- Wetlands of international importance (listed under the Ramsar Convention)
- listed threatened species and ecological communities
- migratory species protected under international agreements
- Commonwealth marine areas
- the Great Barrier Reef Marine Park
- Nuclear actions (including uranium mines)
- A water resource, in relation to coal seam gas development and large coal mining development (DEE 2015).

If stone extraction could have a significant impact on NES matters, the 'action' should be referred to the Commonwealth Minister for the Environment. The Minister will make a decision as to whether further assessment is required. If further assessment is required, the proposed quarry will be referred to as a 'controlled action.'

In Victoria, a bilateral agreement is in place with the Commonwealth to minimise duplication in the assessment of NES matters. This means that the processes under the *Planning and Environment Act 1987* and the *Environment Effects Act 1978* can be used to assess impacts on the matter of NES on behalf of the Commonwealth if the Commonwealth decides that the proposal is a 'controlled action'.

4.2 Environment Effects Act 1978

Potential environmental impacts or effects of stone extraction may need to be considered under the *Environment Effects Act 1978*. If so, the Minister for Planning may require an EES to be prepared. The *Ministerial Guidelines for Assessment of Environmental Effects* provide guidance as to the impacts and environmental risk which may need to be considered by the Minister for Planning.

In the event that an EES is required for stone extraction, the proposal will be exempt from requiring a planning permit.

4.3 Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* provides for the protection and management of Victoria's Aboriginal heritage. The preparation of a Cultural Heritage Management Plan (CHMP) will be required for most stone extraction proposals to help manage activities that may harm Aboriginal cultural heritage.

Regulation 48 of the Aboriginal Heritage Regulations 2007 states that an activity is a high impact activity where an earth resource authorisation is required and that would result in significant ground disturbance. Regulation 6

of the Aboriginal Heritage Regulations 2007 requires that a CHMP to be prepared and approved if all or part of the activity area is within an area of cultural heritage sensitivity (for example land within 200m of a waterway) and the activity is a high impact activity.

A planning permit cannot be issued until a CHMP has been approved. Furthermore, planning approval must be consistent with the approved CHMP.

4.4 Other consents and approvals

Table 4.1 below outlines additional land related consents and approvals which may also be required after planning approval and prior to extraction.

Table 4.1 : Other consents and approvals

Legislation	Discussion
<i>Road Management Act 2004</i>	Approval under the <i>Road Management Act 2004</i> may be required to carry out works in a road reserve to obtain access or upgrade a road. The Act can also be used by Council to declare certain road use as 'extraordinary' to obtain funding for repairing road damage. In practice this issue would likely be addressed by a traffic management plan assessed as part of the planning approval. Arterial roads are managed by VicRoads, while other roads managed by the relevant Council.
<i>Building Act 1993</i>	The <i>Building Act 1993</i> sets out the legal framework for the regulation of construction of buildings, building standards, and maintenance of specific building safety features, in Victoria. All building work must comply with the <i>Building Act 1993</i> , Building Regulations 2006 (the Regulations) and the Building Code of Australia (the BCA) unless specifically exempted.
<i>Crown Land (Reserves) Act 1978</i> <i>Forests Act 1958</i> <i>Land Act 1958</i>	A number of extractive industries are and have the potential to be located on Crown land. If so, leases and or licences will be required under the relevant acts relating to Crown land.
<i>Flora and Fauna Guarantee Act 1988</i>	The <i>Flora and Fauna Guarantee Act 1988</i> is the primary legislation dealing with biodiversity, conservation and sustainable use of native flora and fauna in Victoria and applies to public land. A permit may be required should a proposal need to remove listed threatened flora and fauna species and communities on public land.
<i>Water Act 1989</i>	The <i>Water Act 1989</i> provides for the establishment of water corporations empowered to carry out functions in relation to floodplain management, irrigation, regional drainage, sewerage, waterway management and/or water supply in Victoria. The Minister for Water is responsible for administering the <i>Water Act 1989</i> . A permit may be required from the Catchment Management Authority if works are proposed within a known flood zone or within 50 m of a designated waterway. A designated waterway is generally defined as: a river, creek, stream or watercourse; a natural channel in which water regularly flows; a lake, lagoon, swamp or marsh. A licence is required (under S67) for works on a designated waterway or to construct a bore. A licence is also (under S51) required to take and use groundwater or water from a waterway.
<i>Wildlife Act 1975</i>	The <i>Wildlife Act 1975</i> establishes procedures to promote the protection and conservation of wildlife, the prevention of wildlife from becoming extinct and the sustainable use of and access to wildlife. It also prohibits and regulates the conduct of persons engaged in activities concerning or relating to wildlife. The <i>Wildlife Act 1975</i> is administered by DELWP. Where trees containing potential habitat or any other fauna habitat area are proposed to be removed, then a permit under the <i>Wildlife Act 1975</i> may be required. If fauna salvage and translocation is required during construction a permit will be required and there will be a need to prepare a Wildlife Relocation and Salvage Protocol. However, a permit is not required under the <i>Wildlife Act 1975</i> if approval is issued for removal of vegetation under the <i>Planning and Environment Act 1987</i> or the <i>Flora and Fauna Guarantee Act 1988</i> .

5. Strategic resource areas

5.1 Strategic resource determination

PWC (2016) developed a set of criteria (Strategic Resource Determination) to provide for the identification of particular extractive resource areas.

These criteria are illustrated in Figure 5.1 below.



Source: PwC

Figure 5.1 : Overview of the strategic resource determination criteria.

The Strategic Resource Determination criteria developed by PWC are summarised in the Table 5.1 below.

Table 5.1 : Strategic resource determination criteria

Criteria	Comment
Threatened resource types	Resources that are in short supply in the State relative to the level of projected demand (less than 5 years of supply from current and planned reserves). Identification of known locations of these resources has also been undertaken, where possible. This criterion has regard to the potential substitutability of resources in considering which particular extractive resources could be subject to strong price pressures in the future.
Resource depletion	Locations where supply is unable to meet demand due to exhaustion of reserves. Identifies locations in Victoria where supply is unable to match demand due to significant exhaustion of existing licensed reserves across the analysis period. This criterion points to locations where licensing of new resources will be required to replace exhausted assets, with potential implications for policies governing land use.

Criteria	Comment
Significant production	Locations that produce significant volumes of extractive resources Identifies those locations that deliver large volumes of extractive resources across the analysis period. This criterion points to the Victorian locations which could be considered for protection of existing resources to support the State's development.
Resources important to Melbourne	Locations critical to supporting Greater Melbourne's future. Identifies those locations that are expected to deliver significant volumes of resource to Greater Melbourne (areas which supply at least 1% of their total supply to Melbourne). This criterion will identify those locations that could result in significant infrastructure cost increases in Melbourne should encroachment or sterilisation of extractive resources occur.

PWC (2016) applied these criteria to extractive industry across the state. This resulted in five critical stone resource areas being identified. These are:

- South Gippsland
- Greater Geelong
- Mitchell
- Knox
- Cardinia.

It is recommended that these local government areas be considered as a starting point for further analysis to determine whether it is appropriate to apply SRAs.

5.2 Strategic resource areas

In developing a conceptual definition of SRAs, it is important to focus on the spatial component to ensure they can be accurately identified in the planning schemes.

The conceptual definition of SRAs developed by Jacobs focuses more on the supply and availability of the stone resource and its ability to be protected for the long term by planning schemes. A key difference (from PWC 2016) in the conceptual definition is the extent to which resources, which are in relatively short supply (less than 5 years), warrant inclusion within a SRA.

This report defines the concept of a Strategic Resource Area (SRA) as:

A defined area with a significant stone resource. It has manageable environmental and planning constraints and is accessible to markets.

Key words associated with this definition are discussed in in Table 5.2. These key words ensure that the definition is robust, defensible and appropriate for inclusion within planning schemes.

Table 5.2 : The concepts important key words

Keywords	Possible Criteria
Defined area	An easily identified area, with clear boundaries which can be inserted into planning schemes. The area is: <ul style="list-style-type: none"> • bound to existing cadastral (property title) information in accordance with current land use zoning principles; and/or • bound to strategic resources and environmental conditions such as geology.

Keywords	Possible Criteria
Significant stone resource	Identified as areas with a proven significant stone resource by way of: <ul style="list-style-type: none"> stone type required to meeting demand; geological information, for example DEDJTR and industry borehole data; significant volumes of stone available for future production or currently being produced; and medium to long term life expectancy remaining for existing quarries.
Manageable environmental and planning constraints	All stone extraction will have an impact on the environment. However, within SRAs, environment and planning constraints can be managed to ensure straightforward stone extraction approvals and reduced environmental risk. SRAs are located on areas where future stone extraction will not result in significant impacts to: <ul style="list-style-type: none"> significant populations of EPBC and FFG listed communities or species; potable water supply catchments or important wetlands; landscapes of regional importance and identified in planning schemes. SRAs are not located on areas that are within: <ul style="list-style-type: none"> areas zoned for urban, rural residential or rural conservation; areas covered by a precinct structure plan; and areas identified by planning schemes as available for future urban growth.
Accessible to markets	SRAs are located within proximity to markets. Transport routes between SRAs and markets are well established

The SRAs build on a significant amount of existing information that sits with Government and industry. Figure 5.2 illustrates appropriate parameters which would input into the development of SRAs.

Strategic Extractive Resource Areas (SRA)

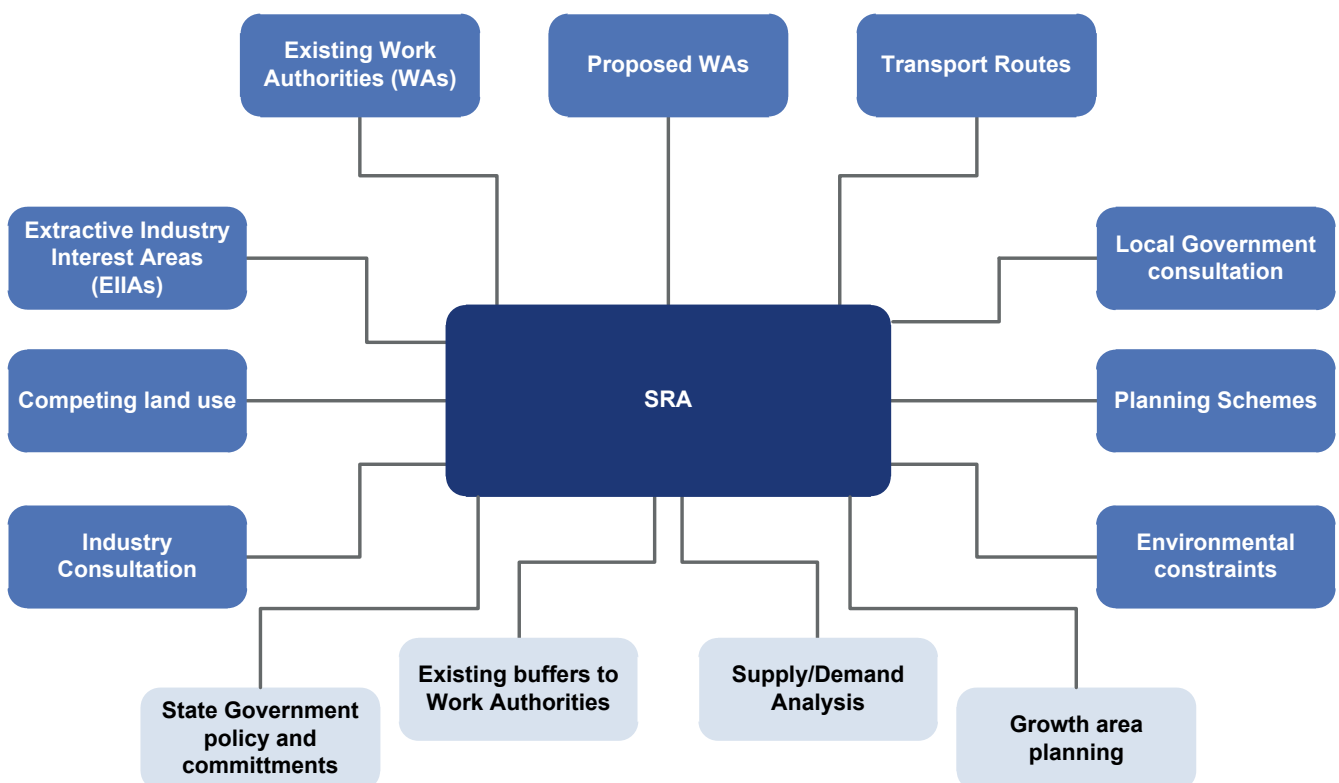


Figure 5.2 : Inputs into SRAs

5.3 Scenarios

There are two clear scenarios for the application of a SRA. The two scenarios require slightly different inputs and would need to be implemented by different land use planning tools.

5.3.1 Production clusters

The first approach would be the protection and recognition of important stone extraction areas which are currently producing stone. These areas would be identified by a number of contiguous or proximate operating and proposed work authorities.

The role of the SRA would be to enable a straight forward approvals process for quarry approval, expansion and variation and to ensure that key existing quarries can operate, largely unencumbered, well into the future. Some examples of such areas could be Grantville (Bass Coast) and Moriac (Surf Coast).



Figure 5.3 : Potential Grantville SRA to protect operations (Google Maps)

Straightforward approvals could be achieved through the application of the Special Use Zone (this already occurs in some instances – such as Lang Lang - Grantville) over the SRA. As the areas identified in SRA are of State significance, it may be appropriate for the Minister for Planning to be the responsible authority⁷ and assess permit applications, reflecting the importance of the resource to the State. This would be consistent with industries such as wind energy, which have been identified as being of State significance and for which the Minister for Planning is the Responsible Authority.

There is the opportunity to include exemptions to third party notice and appeal requirements against minor proposals (such as minor Work Plan extension and variations) should they trigger a planning permit within the Special Use Zone. To achieve this, the current provisions of the mandated Schedule to the Special Use Zone (as discussed in Section 2.2.3) would need to be amended.

To ensure that existing operations can continue to operate, the Environmental Significance Overlay should be applied to land within 500 metres from the boundary of the Special Use Zone and a tailored schedule prepared to trigger a planning permit for buildings and works associated with sensitive uses (dwellings) and to ensure notice is given to the quarry operator and DEDJTR.

⁷ Responsible authorities administer and enforce planning schemes. This includes assessing and deciding on permit applications. In most instances, the local council is the responsible authority. In some areas, such as Melbourne Casino Area, Melbourne Docklands Area, Melbourne Central City, French Island, Flemington Racecourse and the Royal Melbourne Showgrounds the Minister for Planning is the responsible authority. For some permit applications, such as wind energy facilities, the Minister for Planning is also the responsible authority. This reflects the State significance of such land uses. On occasion, the Minister for Planning can 'call in' permit applications and become the responsible authority.

A default distance of 500 m is appropriate to trigger permit and notice requirements. Such a buffer distance is consistent with *Recommended Separation Distances for Industrial Air Emissions* (EPA 2013). This guideline recommends the following buffers for the quarrying, crushing, screening, stockpiling and conveying of rock:

- Without blasting 250 metres
- With blasting 500 metres
- With respirable crystalline silica 500 metres.

Where it can be demonstrated that blasting will not occur, and/or respirable crystalline silica does not exist, then the Environmental Significance Overlay area could be reduced to 250 m.

The benefit of applying the Special Use Zone and the Environmental Significance Overlay is that the SRA production area would be clearly identified in the maps to the planning schemes.

5.3.2 Long term resource areas

The second scenario involves the protection of important stone resources to ensure their availability for future development.

Previous work that involved the protection of stone resources through the use of EIAs has been of limited effectiveness in protecting long term stone resources. The EIAs however, provide a good starting point for revisiting the protection of stone resources and a degree of strategic justification for future changes to Victoria's planning system.

Areas would be identified as a SRA and further protection made available in Victoria's planning system. An example of such an area would be the Trafalgar Sand Resource in the Baw Baw Shire (this area is also shown in Figure 5.4).

Further planning protection would be applied through the application of the State Resource Overlay and the Minister for Planning could also be designated as the Responsible Authority for assessing permit applications of a particular nature within the SRA. This would reflect the strategic importance of the resource to the State. Alternatively, the Minister for Resources could become a determining referral authority⁸ for all applications within the SRA.

Similar to above, the benefit of applying the State Resource Overlay is that the resource area would be clearly identified in the maps to the planning schemes.

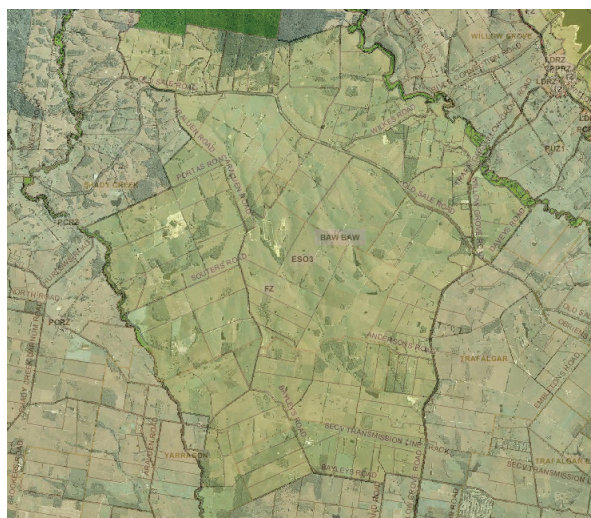


Figure 5.4 : Potential Trafalgar sand resource SRA (Google Maps)

⁸ If a determining referral authority objects, the responsible authority must refuse to grant a permit, and if a determining referral authority specifies conditions, those conditions must be included in any permit granted (DTPLI 2013).

5.3.3 Important quarries outside of SRAs

Some quarries which may be of strategic importance may not warrant protection by a SRA. For example, such quarries may have limited resources (depletion within a few years) or be within established growth areas.

It is important that such quarries be considered in strategic planning decisions where possible. For example, it may be possible to have some input into the sequencing of development within growth areas to ensure that quarries can continue to operate (with land use conflicts being minimised) until resources are depleted.

Additionally, stone extraction in Victoria would be greatly assisted by the introduction of a planning permit trigger, for sensitive uses (dwellings, accommodation, education facilities and childcare facilities) within the suite of rural zones. This would prevent the encroachment of sensitive uses from occurring without considering the impact on the nearby stone extraction operation.

5.4 Options for Victoria’s Planning System

A number of options exist for Victoria’s planning system to give greater effect to the protection of stone resources. These options range from minimising the extent of change through to the introduction of new legislation.

Options for planning in Victoria to give effect to SRAs are summarised in Table 5.3 and discussed in more detail in Section 5.5.

Table 5.3 : Planning options

Option	Advantages	Disadvantages	Discussion
High Level Strategic Planning			
Consultation and Engagement	Whole of Government support not required Timing neutral	No obvious identification (such as overlay provision) within planning schemes (buried in policy) Relies on other planning permit triggers for involvement Reactionary, always responding to the agent of change. Costly, time in responding, attendance in VCAT and Planning Panels. No additional protection offered by planning scheme.	This option involves maintaining the status quo. DEDJTR would respond to proposals for sensitive uses only when triggered by other provisions in the planning scheme. This option could be augmented with an education and awareness campaign with relevant local governments. The option could involve the preparation of a new planning practice note for stone extraction. This would result in continued: <ul style="list-style-type: none"> development within EIIAs which may sterilise future resources and; encroachment of sensitive uses in the vicinity of quarries which could affect production.
Precinct Planning – Scheduling of development in the vicinity of important quarries.	Is included within existing Precinct Structure Planning processes.	Many competing interests around development timing.	Dialogue could be facilitated between existing quarry operators and urban development regarding scheduling of urban development within Precinct Structure Plans that is in the vicinity of existing quarries.
Regional Growth Planning – Program to identify and protect resources.	Ensures resources are considered in regional growth planning.	Lack of information in resource availability and quality.	DEDJTR could work to identify and protect key resource areas under threat from urban growth.

Option	Advantages	Disadvantages	Discussion
Changes to Planning Schemes			
Introduction of a permit trigger within the rural zones for sensitive uses ⁹ on land which is within 500m of land on which a work authority has been applied for or granted under the MRSDA.	<p>Enables the impact of the sensitive uses on identified mineral or stone resources to be fully considered.</p> <p>This would give effect to the purpose of the Green Wedge Zone.</p> <p>Could be applied in a State-wide amendment.</p> <p>Would apply to all Work Authorities – not just within SRAs.</p>	Requires an amendment to the Victoria Planning Provisions.	<p>The introduction of such a permit trigger would directly deal with unplanned encroachments around approved and proposed work authorities. Currently such encroachments may be exempt from needing a planning permit, for example a dwelling (depending on the lot size) or a bed and breakfast (if less than 10 persons).</p> <p>A trigger would ensure that the notice requirements to the Secretary of the Department administering the MRSDA (Clause 52.09-8 and 66.05) are linked to an appropriate trigger in all circumstances.</p>
Introduce the Environmental Significance Overlay over land within 500 m (or 250 m) of a Work Authority within as SRA.	<p>Already exist within the Victoria Planning Provisions and is used within other buffer scenarios.</p> <p>Clearly shows the buffer area within the planning scheme maps.</p>	<p>Requires a planning scheme amendment.</p> <p>Amendment may not be supported by local government or landholders.</p>	<p>Introduces a permit trigger for buildings and works associated with sensitive uses in the vicinity of work authorities.</p> <p>Could tailor schedule to the specifics of the Work Authority.</p>
Introduce the Special Use Zone over Work Authorities within a SRA.	<p>Clearly shows the Work Authority area (including proposed Work Authority area) within the planning scheme maps.</p> <p>Precedent already exists for some quarries.</p>	<p>Requires a planning scheme amendment.</p> <p>Amendment may not be supported by local government or landholders.</p> <p>Currently, Ministerial Direction requires a specific schedule to be prepared and used if a Special Use Zone is applied to a Work Authority.</p>	Potential opportunity to streamline planning approvals such as removal of notice and appeal rights for quarry proposals within SRAs.
Introduce the State Resource Overlay over land identified as containing a significant resource (supply).	<p>Already exist within the Victoria Planning Provisions</p> <p>Would highlight the importance of the resource within the planning scheme map – not referred to in a reference document like the EIAs.</p>	<p>Requires a planning scheme amendment.</p> <p>Has only been applied to the coal resources.</p>	This would protect resources from being sterilized and be available post 2050.
Other Option – Not Recommended			
Develop new zones and overlays.	<p>Tailor new specific tools to protect resources and facilitate development.</p> <p>Identifies SRA within planning schemes.</p>	<p>Need to justify that the Victoria Planning Provisions do not have the right 'tool.'</p> <p>Develop the strategic justification</p> <p>Need to receive agreement from DELWP and the Minister for Planning.</p>	It is considered that the tools within the existing VPP are satisfactory. Establishing new zones, such as an 'extractive industry zone' or a 'buffer overlay' are likely to be more onerous than using existing provisions.
Legislative change	<p>Could be drafted for specific outcomes.</p> <p>Can introduce a permit</p>	<p>Time to prepare</p> <p>Requires support of Parliament</p>	Again legislative change would be more onerous and time consuming than using existing provisions.

⁹ Accommodation, child care centre, education centre or hospital.

Option	Advantages	Disadvantages	Discussion
	trigger for sensitive uses in the vicinity of quarries. Ability to build in process improvements for assessing new quarry proposals.		

5.5 Suggested approach

Key steps to be undertaken to identify and implement SRA's into Victoria's planning system, include:

- Identify and map SRAs
 - Build on the criteria identified in Sections 5.1, 5.2, and the inputs illustrated in Figure 5.1 to prepare criteria for the identification and mapping of SRAs
 - Proposed SRAs should be mapped and then refined using a multi criteria analysis.
- Engagement and Consultation
 - Post mapping consultation should occur with key stakeholders including: DELWP, local governments, industry, landholders within SRAs and the broader community
 - Refine the SRA maps
 - Consultation and engagement should be carefully planned and efforts at this stage may assist with the time associated with amending planning schemes
- Amending the VPP and planning scheme.
 - Discussed further in Section 5.5.1.

5.5.1 Amendments to Planning Schemes

It is considered that there is significant strategic justification to support a planning scheme amendment to introduce SRAs. It is also considered appropriate that the Minister for Resources should seek the Minister for Planning's authorisation to act as the Planning Authority to prepare the amendment. Authorisation should also be sought to amend all relevant planning schemes at the one time. Additionally, it is recommended that the Minister for Planning's exemption from the exhibition process also be obtained to ensure that amendments can be made within a reasonable timeframe. This process is discussed in more detail in Section 5.6.

Critical to the Minister for Resources being authorised and for the exemption of exhibition, will be the extent to which there is rigour behind the development of the SRAs. Building on and applying the considerations in Sections 5.1 and 5.2 (Table 5.1) of this report will assist in ensuring that SRAs are sound and defensible. Also critical will be the extent to which key stakeholders are engaged and consulted.

The preferred option to incorporate SRAs into planning schemes, put forward by this report, would be to use existing zones and overlays which are available within the VPP.

The key tools to implement the objectives of the SRA are the:

- Special Use Zone
- Environmental Significance Overlay
- State Resource Overlay.

Applying these tools would involve the preparation of a new schedule to the Environmental Significance Overlay and the State Resource Overlay and potentially a revised schedule to the Special Use Zone.

A schedule to the Environmental Significance Overlay would:

- Complement the mapping within the planning scheme

- Outline the objective to be achieved
- Tailor the permit trigger for buildings and works¹⁰ associated with sensitive uses
- Provide a referral and / or notice requirement to DEDJTR and the quarry operator¹¹
- Provide decision guidelines for Council to consider when deciding on applications within the overlay.

A schedule to the State Resource Overlay would:

- Complement the mapping within the planning scheme
- Outline the importance of the resource
- Outline the objective to be achieved
 - For example “to ensure the medium to long term extraction and use of the stone resource for development in Victoria. Building, works and subdivision of land over the stone resource should be of a type that will not inhibit, by way of community significance the productive use of that resource.”
- Tailor the permit trigger for buildings and works
- Provide a referral and or notice requirement to DEDJTR
- Provide decision guidelines for the responsible authority to consider when deciding on applications within the overlay.

Revisions to the required ‘Earth and Energy Resources Industry’ schedule to the Special Use Zone would:

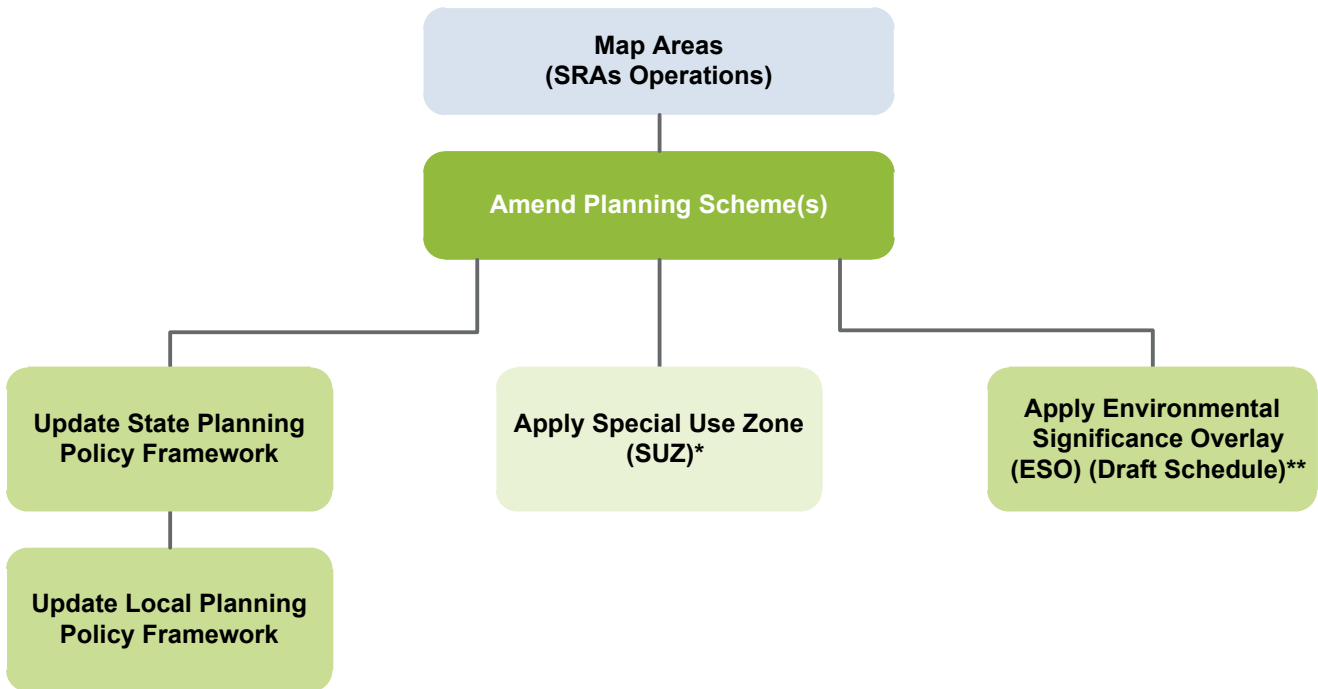
- Complement the mapping within the planning scheme
- Outline the importance of the resource
- Encourage compatible land use in the interim period before extraction
- Introduce permit triggers and exemptions to implement the above points
- Removal of notice and appeal rights
- Provide decision guidelines.

In addition to clearly identifying SRAs within planning schemes, an opportunity exists to streamline approvals processes for stone extraction within SRAs. This could involve introducing the Minister for Planning as the responsible authority for proposed stone extraction within SRAs and / or the removal of notice and appeal rights for quarry proposals within SRAs.

This is illustrated in Figure 5.5.

¹⁰ For example, the permit trigger may only wish to consider new dwellings and not dwelling extensions or sheds. The latter could be specifically exempted from requiring a permit.

¹¹ This would significantly improve the current notice requirements of Clause 52.09-8.



* Amended schedule may be required.

SUZ would cover:

- Existing Work Authorities (WAs) areas
- Buffer, if owned or controlled by operator
- Proposed Work Authorities (WAs) (where seriously entertained eg Where shown on GeoVic, owned or controlled by operator and initial background studies underway)

** The ESO would apply to the area around WAs' buffer (500m/250m) where land is not owned or controlled by the operator

Figure 5.5 : Implementing SRAs – Operations

Resource areas are larger and present greater implementation challenges. Much of the land within these areas will not be owned or controlled by industry and many landowners would be unaware of the importance of their land as a stone resource.

In finalising and accurately mapping these areas, more information is required as to the extent of the resource and known planning and environment constraints. A greater degree of consultation would also be required with industry, local government and the community.

Figure 5.6 illustrates the process of amending the planning scheme to introduce SRAs for resource areas.

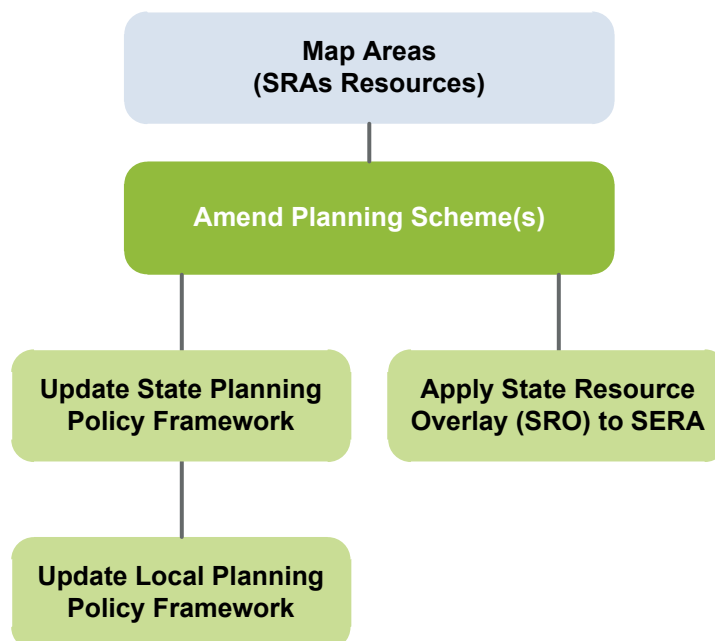


Figure 5.6 : Implementing SRAs – resource

5.6 The Planning Scheme Amendment process

5.6.1 General process

Any change to a planning scheme requires a planning scheme amendment. The *Planning and Environment Act 1987* determines the formal process in which an amendment to a planning scheme can be made. This is a structured process by which a Planning Authority is authorised by the Minister for Planning. Local Councils, public authorities and other Ministers can act as the Planning Authority and request authorisation to prepare an amendment.

In the early preparation of a planning scheme amendment consultation should occur with relevant stakeholders who may have an interest in the amendment. This would include regional representatives from DELWP as well as local councils, landholders, industry groups and quarry operators relevant to the proposed amendment. Following these discussions and before a planning amendment can be drafted, an application must be made to the Minister for Planning to authorise the preparation of a planning scheme amendment (Authorisation stage of the process). Once authorisation has been given, the nominated Planning Authority can begin drafting of planning scheme amendment documentation. This includes a strategic assessment and consultation for the development of an explanatory report that supports the proposed amendment. Further discussions with stakeholders should be undertaken to ensure all requirements of this stage of the process have been complied with (Preparation stage of the process).

It is at the preparation stage that the level of notification of the proposed amendment is determined. Section 19 of the Act requires the Planning Authority to give notice of the preparation of the amendment unless an exemption from the Minister for Planning is approved. Section 20(2) allows the Minister for Planning to either issue a full exemption of notice, a part exemption of notice or full notification required (no exemption of notice). Under section 20(4), the Minister for Planning may exempt him or herself from requirements of sections 17, 18 and 19 and the regulations in respect of an amendment. This can only occur if the Minister for Planning considers that compliance with any of those requirements is not warranted or that the interests of Victoria or any part of Victoria make such an exemption appropriate.

If full exemption of notice is granted by the Minister for Planning, the amendment will be assessed in accordance with the *Strategic Assessment Guidelines for Preparing and Evaluating Planning Scheme Amendments*, and a recommendation will be made by the Planning Authority to the Minister for Planning to either adopt or abandon the amendment. If adoption is recommended, a submission will be made to the

Minister for Planning to consider approval of the amendment (Adoption Stage of the process). The Minister for Planning will then decide whether to approve or reject the amendment. On approval of the amendment, the Minister will publish the notice of approval in the Government Gazette (Gazettal Stage of the process). The planning scheme will then be changed accordingly.

If part exemption or no exemption is directed by the Minister for Planning, then the Planning Authority must give notice of the amendment as part of a formal exhibition process (Exhibition Stage of the process). It is during this exhibition phase that third party submissions to the amendment can be received. The usual time period of exhibition is one month. If no submissions to the amendment are received, then the amendment either moves into the adoption stage or is abandoned. If submissions are received then these are considered by the Planning Authority and an independent planning panel is appointed by the Minister for Planning to consider submissions and hear from submitters (Submission and Panel Hearing Stage of the process). It is the role of the panel to give submitters an opportunity to be heard in an informal, non-judicial forum, to ask questions of the proposed amendment and to give advice to the Planning Authority or the Minister for Planning about the amendment. Following the formal hearing, the planning panel prepares a report to the Planning Authority with recommendations on the amendment.

The amendment is then assessed by the Planning Authority in accordance with the Strategy Assessment Guidelines and the recommendation of the planning panel report. The amendment then enters into the Adoption phase of the process with submission to the Minister for Planning for approval. If approved, the amendment is published in the gazette and the planning scheme is changed.

Figure 5.7 illustrates the planning scheme amendment process.

Outline of the planning scheme process

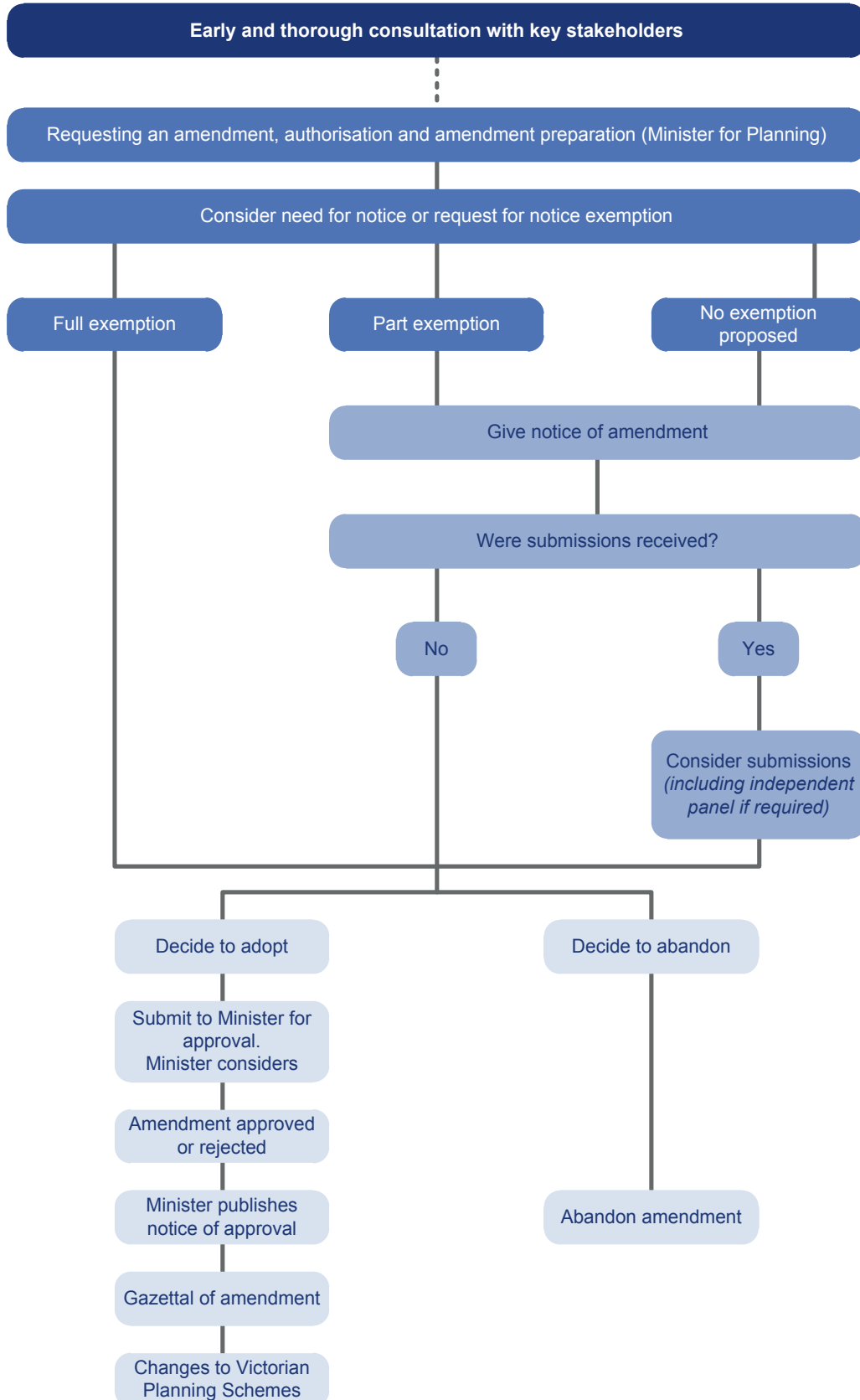


Figure 5.7 : Planning scheme amendment process

6. Conclusion and recommendations

The protection of extractive industry is critical to the efficient resourcing of raw extractive products for housing, commercial and industrial buildings and infrastructure in Victoria. It is essential that high quality sand and stone resources in proximity to markets remain available for extraction to ensure extractive industry materials are affordable and accessible now and into the future.

This report found that Victoria's planning system does highlight the importance of extractive industry and offers some protection for operating quarries and to future stone resources. However, areas of strategic importance are not highlighted in planning scheme maps and planning scheme ordinance is not preventing the loss of stone reserves or inappropriate land uses encroaching on quarries and affecting operations.

This report found that areas of strategic importance for extractive industry could be incorporated into the concept of SRAs. The report establishes the conceptual definition of SRAs as:

A defined area with a significant stone resource. It has manageable environmental and planning constraints and is accessible to markets.

SRAs can be applied to important stone extraction areas which are currently producing stone and areas of important stone resources to ensure their availability for future development.

This report recommends that the SRAs be incorporated into Victoria's planning system by **using a number of existing planning scheme zone and overlay provisions** and relevant changes to the State and Local Planning Policy Frameworks.

Specifically the report recommends that SRAs be implemented through the application of the:

- Special Use Zone
- Environmental Significance Overlay, and
- State Resource Overlay.

The application of these zones and controls will necessitate the development and preparation of new schedules to the Environmental Significance and State Resource Overlays. The schedules will require responsible authorities and relevant referral authorities to consider development applications within these overlays in accordance with their purpose, objectives and land use controls.

The schedules prepared would in summary:

- Provide for the protection of a future resource from sterilisation from competing land use, and
- Provide for the protection of existing extractive industry from competing land uses.

In addition it is recommended that a revision to the Earth and Resources Industry Schedule of the Special Use Zone be considered to secure the on-going use and development of extractive industry in Victoria. The revision will in summary:

- Encourage only compatible land use in the interim before extraction
- Introduce permit triggers and exemptions to facilitate the use and development of extractive industries
- In certain circumstances, remove the notice and appeal rights.

SRAs should be clearly recognised within planning scheme maps and be supported by the development of appropriate planning scheme ordinance. Specifically SRAs should be incorporated into planning schemes as follows:

- For SRAs over **production clusters**:
 - Relevant changes to the State Planning Policy Framework

- Application of the Special Use Zone over existing and proposed Work Authorities and preparation of a new extractive industry schedule, and
- Application of the Environmental Significance Overlay beyond the Special Use Zone to identify the required buffer area.
- For SRAs over **long term resources**:
 - Relevant changes to the SPPF, and
 - Application of the State Resource Overlay.

Additionally, stone extraction in Victoria generally would be greatly assisted by the introduction of a planning permit trigger, for sensitive uses (dwellings, accommodation, education facilities and childcare facilities) within the suite of rural zones.

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Appendix A. Required Special Use Zone schedule

23/09/2011
VC77**SCHEDULE 1 TO THE SPECIAL USE ZONE**Shown on the planning scheme map as **SUZ1**.**EARTH AND ENERGY RESOURCES INDUSTRY****Purpose**

To recognise or provide for the use and development of land for earth and energy resources industry.

To encourage interim use of the land compatible with the use and development of nearby land.

To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of nearby land.

1.0**Table of uses**23/09/2011
VC77**Section 1 - Permit not required**

Use	Condition
Extensive animal husbandry	
Home occupation	
Informal outdoor recreation	
Minor utility installation	
Railway	
Tramway	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Agriculture (other than Animal keeping, Animal training, Apiculture, Extensive animal husbandry, Horse stables, and Intensive animal husbandry)	
Animal keeping (other than Animal boarding)	Must be no more than four animals.
Caretaker's house	
Dependent person's unit	
Industry (other than Materials recycling, Refuse disposal, and Transfer station)	Must not be a purpose listed in the table to Clause 52.10.
Landscape gardening supplies	
Leisure and recreation (other than Informal outdoor recreation)	
Manufacturing sales	
Materials recycling	
Place of assembly (other than Amusement parlour and Nightclub)	
Refuse disposal	
Transfer station	
Utility installation (other than Minor utility installation)	

Use	Condition
Warehouse	Must not be a purpose listed in the table to Clause 52.10.

Section 3 - Prohibited

Use
Accommodation (other than Caretaker's house and Dependent person's unit)
Amusement parlour
Animal boarding
Animal training
Brothel
Cinema based entertainment facility
Horse stables
Intensive animal husbandry
Nightclub
Office
Retail premises (other than Landscape gardening supplies and Manufacturing sales)
Saleyard
Service station
Transport terminal
Veterinary centre

2.0

19/01/2006
VC37

Buildings and works

Permit requirement

The requirement for a permit does not apply to the construction of a building or the construction or carrying out of works which are a modification necessary to comply with a direction or licence under the Dangerous Goods Act 1985 or a Waste Discharge Licence, Works Approval or Pollution Abatement Notice under the Environment Protection Act 1970.

Appendix B. Zones

35.07**FARMING ZONE**05/09/2013
VC103

Shown on the planning scheme map as **FZ** with a number (if shown).

Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for the use of land for agriculture.

To encourage the retention of productive agricultural land.

To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

To encourage the retention of employment and population to support rural communities.

To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

35.07-1**Table of uses**05/09/2013
VC103**Section 1 – Permit not required**

ion	
Agriculture (other than Animal keeping, Apiculture, Intensive animal husbandry, Rice growing and Timber production)	
Animal keeping (other than Animal boarding)	Must be no more than 5 animals.
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.
Cattle feedlot	Must meet the requirements of Clause 52.26. The total number of cattle to be housed in the cattle feedlot must be 1000 or less. The site must be located outside a special water supply catchment under the Catchment and Land Protection Act 1994. The site must be located outside a catchment area listed in Appendix 2 of the Victorian Code for Cattle Feedlots – August 1995.
Dependent person's unit	Must be the only dependent person's unit on the lot. Must meet the requirements of Clause 35.07-2.
Dwelling (other than Bed and breakfast)	Must be the only dwelling on the lot. The lot must be at least the area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares. Must meet the requirements of Clause 35.07-2.

Use	Condition
<p>Home occupation</p> <p>Informal outdoor recreation</p> <p>Minor utility installation</p>	
Primary produce sales	<p>Must not be within 100 metres of a dwelling in separate ownership.</p> <p>The area used for the display and sale of primary produce must not exceed 50 square metres.</p>
Railway	
Rural industry (other than Abattoir and Sawmill)	<p>Must not have a gross floor area more than 200 square metres.</p> <p>Must not be within 100 metres of a dwelling in separate ownership.</p> <p>Must not be a purpose shown with a Note 1 or Note 2 in the table to Clause 52.10.</p> <p>The land must be at least the following distances from land (not a road) which is in a residential zone or Rural Living Zone:</p> <ul style="list-style-type: none"> ▪ The threshold distance, for a purpose listed in the table to Clause 52.10. ▪ 30 metres, for a purpose not listed in the table to Clause 52.10.
Rural store	<p>Must be used in conjunction with Agriculture.</p> <p>Must be in a building, not a dwelling and have a gross floor area of less than 100 square metres.</p> <p>Must be the only Rural store on the lot.</p>
Timber production	<p>Must meet the requirements of Clause 52.18.</p> <p>The plantation area must not exceed any area specified in a schedule to this zone. Any area specified must be at least 40 hectares.</p> <p>The total plantation area (existing and proposed) on contiguous land which was in the same ownership on or after 28 October 1993 must not exceed any scheduled area.</p> <p>The plantation must not be within 100 metres of:</p> <ul style="list-style-type: none"> ▪ Any dwelling in separate ownership. ▪ Any land zoned for residential, commercial or industrial use. ▪ Any site specified on a permit which is in force which permits a dwelling to be constructed. <p>The plantation must not be within 20 metres of a powerline whether on private or public land, except with the consent of the relevant electricity supply or distribution authority.</p>
Tramway	
Any use listed in Clause 62.01	Must meet requirements of Clause 62.01.

Section 2 – Permit required

Use	Condition
Abattoir	
Animal boarding	
Broiler farm	Must meet the requirements of Clause 52.31.
Camping and caravan park	
Car park	Must be used in conjunction with another use in Section 1 or 2.
Cattle feedlot – if the Section 1 condition is not met	Must meet the requirements of Clause 52.26. The site must be located outside a catchment area listed in Appendix 2 of the Victorian Code for Cattle Feedlots – August 1995.
Cemetery	
Crematorium	
Dependent person's unit – if the Section 1 condition is not met	Must meet the requirements of Clause 35.07-2.
Dwelling (other than Bed and breakfast) – if the Section 1 condition is not met	
Emergency services facility	
Freeway service centre	Must meet the requirements of Clause 52.30.
Group accommodation	
Host farm	
Industry (other than Rural industry)	
Intensive animal husbandry (other than Broiler farm and Cattle feedlot)	
Landscape gardening supplies	
Leisure and recreation (other than Informal outdoor recreation)	
Manufacturing sales	
Market	
Place of assembly (other than Amusement parlour, Night club, Carnival and Circus)	
Primary school	
Renewable energy facility (other than Wind energy facility)	Must meet the requirements of Clause 52.42.
Residential hotel	
Restaurant	
Rice growing	
Sawmill	
Secondary school	
Timber production – if the Section 1 condition is not met	Must meet the requirements of Clause 52.18.

Use	Condition
Trade supplies	
Utility installation (other than Minor utility installation and Telecommunications facility)	
Warehouse (other than Rural store)	
Wind energy facility	Must meet the requirements of Clause 52.32.
Winery	
Any other use not in Section 1 or 3	

Section 3 – Prohibited

Use
Accommodation (other than Bed and breakfast, Camping and caravan park, Dependent person's unit, Dwelling, Group accommodation, Host farm and Residential hotel)
Amusement parlour
Brothel
Child care centre
Cinema based entertainment facility
Education centre (other than Primary school and Secondary school)
Nightclub
Office
Retail premises (other than Market, Landscape gardening supplies, Manufacturing sales, Primary produce sales, Restaurant and Trade supplies)

35.07-2

19/01/2006
VC37

Use of land for a dwelling

A lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

These requirements also apply to a dependent person's unit.

35.07-3

05/09/2013
VC103

Subdivision

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

35.07-4 Buildings and works

05/09/2013
VC103

A permit is required to construct or carry out any of the following:

- A building or works associated with a use in Section 2 of Clause 35.07-1. This does not apply to:
 - An alteration or extension to an existing dwelling provided the floor area of the alteration or extension is not more than the area specified in a schedule to this zone or, if no area is specified, 100 square metres. Any area specified must be more than 100 square metres.
 - An out-building associated with an existing dwelling provided the floor area of the out-building is not more than the area specified in a schedule to this zone or, if no area is specified, 100 square metres. Any area specified must be more than 100 square metres.
 - An alteration or extension to an existing building used for agriculture provided the floor area of the alteration or extension is not more than the area specified in a schedule to this zone or, if no area is specified, 200 square metres. Any area specified must be more than 200 square metres. The building must not be used to keep, board, breed or train animals.
 - A rainwater tank.
- Earthworks specified in a schedule to this zone, if on land specified in a schedule.
- A building which is within any of the following setbacks:
 - The setback from a Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road, Category 1 specified in a schedule to this zone or, if no setback is specified, 50 metres.
 - The setback from any other road or boundary specified in a schedule to this zone.
 - The setback from a dwelling not in the same ownership specified in a schedule to this zone.
 - 100 metres from a waterway, wetlands or designated flood plain.

35.07-5 Application requirements for dwellings

19/01/2006
VC37

An application to use a lot for a dwelling must be accompanied by a written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings in the zone.

35.07-6 Decision guidelines

05/09/2013
VC103

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

Agricultural issues and the impacts from non-agricultural uses

- Whether the use or development will support and enhance agricultural production.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- Any integrated land management plan prepared for the site.

Dwelling issues

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

Environmental issues

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.
- The impact of the use or development on the flora and fauna on the site and its surrounds.
- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

Design and siting issues

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the use and development will require traffic management measures.

35.07-7

19/01/2006
VC37

Advertising signs

Advertising sign requirements are at Clause 52.05. This zone is in Category 4.

Notes: Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land.

Check whether an overlay also applies to the land.

Other requirements may also apply. These can be found at Particular Provisions.

35.04
05/09/2013
VC103

GREEN WEDGE ZONE

Shown on the planning scheme map as **GWZ** with a number (if shown).

Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for the use of land for agriculture.

To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.

To encourage use and development that is consistent with sustainable land management practices.

To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses.

To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.

To protect and enhance the biodiversity of the area.

35.04-1
05/09/2013
VC103

Table of uses

Section 1 - Permit not required

Use	Condition
Agriculture (other than Animal keeping, Apiculture, Intensive animal husbandry, Rice growing and Timber production)	
Animal keeping (other than Animal boarding)	Must be no more than 5 animals.
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.
Home occupation	
Informal outdoor recreation	
Minor utility installation	
Primary produce sales	Must not be within 100 metres of a dwelling in separate ownership. The area used for the display and sale of primary produce must not exceed 50 square metres.
Railway	
Rural store	Must be used in conjunction with Agriculture. Must be in a building, not a dwelling and have a gross floor area of less than 100 square

Use	Condition
	metres.
	Must be the only Rural store on the lot.
Tramway	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Animal boarding	
Broiler farm	Must meet the requirements of Clause 52.31.
Camping and caravan park	
Car park	Must be used in conjunction with another use in Section 1 or 2.
Cattle feedlot	Must meet the requirements of Clause 52.26. The site must be located outside a catchment area listed in Appendix 2 of the Victorian Code for Cattle Feedlots – August 1995.
Dependent person's unit	Must be the only dependent person's unit on the lot. Must meet the requirements of Clause 35.04-2.
Dwelling (other than Bed and breakfast)	Must be the only dwelling on the lot. This does not apply to the replacement of an existing dwelling if the existing dwelling is removed or altered (so it can no longer be used as a dwelling) within one month of the occupation of the replacement dwelling. Must meet the requirements of Clause 35.04-2.
Exhibition centre	
Freezing and cool storage	The goods stored must be agricultural produce, or products used in agriculture.
Function centre	Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery. The number of patrons present at any time must not exceed the number specified in a schedule to the zone or 150 patrons, whichever is the lesser. The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.
Group accommodation	Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry, or Winery. The number of dwellings must not exceed the number specified in a schedule to the zone or 40 dwellings, whichever is the lesser. The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.

Use	Condition
Hall	
Host farm	
Indoor recreation facility	Must be for equestrian based leisure, recreation or sport.
Intensive animal husbandry (other than Broiler farm and Cattle feedlot) Leisure and recreation (other than Indoor recreation facility, Informal outdoor recreation, Major sports and recreation facility and Motor racing track)	
Major sports and recreation facility	Must be for outdoor leisure, recreation or sport.
Manufacturing sales	Must be an incidental part of Rural industry.
Market	
Materials recycling	Must be used in conjunction with Refuse disposal or Transfer station. Must not include the collecting, dismantling, storing, recycling or selling of used or scrap construction and demolition materials.
Milk depot	
Place of assembly (other than Carnival, Circus, Exhibition centre, Function centre, Hall, Nightclub, Place of worship and Restricted place of assembly)	Must not be used for more than 10 days in a calendar year.
Place of worship	
Plant nursery	
Primary school	
Refuse disposal	
Research and development centre Research centre	Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery. The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.
Residential building (other than Residential hotel)	Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery. Must be used to provide accommodation for persons away from their normal place of residence. The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.
Residential hotel	Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery. The number of bedrooms must not exceed the

Use	Condition
	<p>number specified in a schedule to the zone or 80 bedrooms, whichever is the lesser.</p> <p>The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.</p>
Restaurant	<p>Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery.</p> <p>The number of patrons present must not exceed the number specified in a schedule to the zone or 150 patrons, whichever is the lesser.</p> <p>If used in conjunction with Function centre, the total number of patrons present at any time must not exceed the number specified in a schedule to the zone or 150 patrons, whichever is the lesser.</p> <p>The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.</p>
Restricted place of assembly	Must not be used for more than 30 days in a calendar year.
Rice growing	
Rural industry	
Secondary school	
Solid fuel depot	
Timber production	Must meet the requirements of Clause 52.18.
Transfer station	Must not include the collecting, storing or processing of used or scrap construction and demolition materials.
Utility installation (other than Minor utility installation and Telecommunications facility)	
Vehicle store	
Any other use not in Section 1 or 3	

Section 3 - Prohibited

Use
Accommodation (other than Camping and caravan park, Dependent person's unit, Dwelling, Group accommodation, Host farm and Residential building)
Brothel
Child care centre
Cinema based entertainment facility
Display home
Education centre (other than Primary school and Secondary school)
Freeway service centre
Funeral parlour
Hospital

Use

Industry (other than Materials recycling, Refuse disposal, Transfer station, Research and development centre and Rural industry)

Motor racing track

Office

Nightclub

Retail premises (other than Manufacturing sales, Market, Plant nursery, Primary produce sales and Restaurant)

Service station

Warehouse (other than Freezing and cool storage, Milk depot, Rural store, Solid fuel depot and Vehicle store)

35.04-2

19/01/2006
VC37

Use of land for a dwelling

A lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

These requirements also apply to a dependent person's unit.

35.04-3

05/09/2013
VC103

Subdivision

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- The subdivision is the re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

35.04-4

05/09/2013
VC103

Long term lease or licence for accommodation

A permit is required to lease or license a portion of a lot for a period of more than 10 years if the portion is to be leased or licensed for the purpose of Accommodation.

Each portion of a lot leased or licensed for the purpose of Accommodation must be at least the minimum subdivision area specified for the land in a schedule to this zone. If no area is specified, each portion of a lot leased or licensed for the purpose of Accommodation must be at least 40 hectares.

35.04-5

05/09/2013
VC103

Buildings and works

A permit is required to construct or carry out any of the following:

- A building or works associated with a use in Section 2 of Clause 35.04-1. This does not apply to:
 - An alteration or extension to an existing dwelling with a floor area of no more than the area specified in a schedule to this zone or, if no area is specified, 50 square metres.
 - An alteration or extension to an existing building used for agriculture with a floor area of no more than the area specified in a schedule to this zone or, if no area is specified, 100 square metres. The building must not be used to keep, board, breed or train animals.
 - A rainwater tank.
- Earthworks specified in a schedule to this zone, if on land specified in a schedule.
- A building which is within any of the following setbacks:
 - 100 metres from a Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road, Category 1.
 - 40 metres from a Road Zone Category 2 or land in a Public Acquisition Overlay to be acquired for a road, Category 2.
 - 20 metres from any other road.
 - 5 metres from any other boundary.
 - 100 metres from a dwelling not in the same ownership.
 - 100 metres from a waterway, wetlands or designated flood plain.

35.04-6

05/09/2013
VC103

Decision guidelines

Before deciding on an application to use or subdivide land, lease or license a portion of a lot for a period of more than 10 years if the portion is to be leased or licensed for the purpose of Accommodation, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development.
- How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage management, recreation or tourism.
- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.
- Whether the use or development is essential to the health, safety or well-being of the State or area but is not appropriate to locate in an urban area because of the effect it may have on existing or proposed urban areas or the effect that existing or proposed urban areas may have on the proposed use or development.

- The need to minimise adverse impacts on the character and appearance of the area or features of architectural, scientific or cultural heritage significance, or of natural scenic beauty.

Rural issues

- The maintenance of agricultural production and the impact on the rural economy.
- The environmental capacity of the site to sustain the rural enterprise.
- The need to prepare an integrated land management plan.
- The impact on the existing and proposed rural infrastructure.
- The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses.
- The protection and retention of land for future sustainable agricultural activities.

Environmental issues

- The impact of the use or development on the flora and fauna on the site and its surrounds.
- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- How the use or development relates to sustainable land management and the need to prepare an integrated land management plan.
- The location of on site effluent disposal areas to minimise impact of nutrient loads on waterways and native vegetation.

Design and siting issues

- The need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas.
- The location and design of existing and proposed infrastructure services which minimises the visual impact on the landscape.
- The need to minimise adverse impacts on the character and appearance of the area or features of archaeological, historic or scientific significance or of natural scenic beauty or importance.

Primary school or secondary school issues

- Access being provided via an all-weather road with dimensions adequate to accommodate emergency vehicles and not rely on local residential streets for access.
- Access by public transport, or if public transport is not available or adequate, transport may be provided by the school. Where transport is provided by the school the parking of buses should be accommodated on site.
- Connection to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- Connection to a reticulated potable water supply or an alternative potable water supply with adequate storage for school use as well as for fire fighting purposes.

- Connection to a reticulated electricity supply or an alternative energy source.

35.04-7 Advertising signs

31/10/2006
VC43

Advertising sign requirements are at Clause 52.05. This zone is in Category 3.

Notes: Refer to the State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land.

Check whether an overlay also applies to the land.

Other requirements may also apply. These can be found at Particular Provisions.

37.0119/01/2006
VC37**SPECIAL USE ZONE**

Shown on the planning scheme map as **SUZ** with a number.

Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To recognise or provide for the use and development of land for specific purposes as identified in a schedule in this zone.

37.01-119/01/2006
VC37**Table of uses****Section 1 - Permit not required**

USE	CONDITION
Any use in Section 1 of the schedule to this zone	Must comply with any condition in Section 1 of the schedule to this zone

Section 2 - Permit required

USE	CONDITION
Any use in Section 2 of the schedule to this zone	Must comply with any condition in Section 2 of the schedule to this zone.

Any other use not in Section 1 or 3 of the schedule to this zone

Section 3 - Prohibited

USE
Any use in Section 3 of the schedule to this zone

37.01-219/01/2006
VC37**Use of land**

Any requirement in the schedule to this zone must be met.

Application requirements

An application to use land must be accompanied by any information specified in the schedule to this zone.

Exemption from notice and review

The schedule to this zone may specify that 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.

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any guidelines in the schedule to this zone.

37.01-3
19/01/2006
VC37

Subdivision

Permit requirement

A permit is required to subdivide land.

Any requirement in the schedule to this zone must be met.

Application requirements

An application to subdivide land must be accompanied by any information specified in the schedule to this zone.

Exemption from notice and review

The schedule to this zone may specify that 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.

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any guidelines in the schedule to this zone.

37.01-4
19/01/2006
VC37

Buildings and works

Permit requirement

A permit is required to construct a building or construct or carry out works unless the schedule to this zone specifies otherwise.

Any requirement in the schedule to this zone must be met.

Application requirements

An application to construct a building or construct or carry out works must be accompanied by any information specified in the schedule to this zone.

Exemption from notice and review

The schedule to this zone may specify that 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.

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any guidelines in the schedule to this zone.

37.01-5

19/01/2006
VC37

Advertising signs

Advertising sign requirements are at Clause 52.05. This zone is in Category 3 unless a schedule to this zone specifies a different category.

Notes:

Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land

Check whether an overlay also applies to the land.

Other requirements may also apply. These can be found at Particular Provisions.

Appendix C. Schedules to the Environmental Significance Overlay

02/07/2009
C42**SCHEDULE 1 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as ESO1

URBAN BUFFER**1.0**19/01/2006
VC37**Statement of environmental significance**

The coal industry is of national and State importance due to its use as the primary energy source for the electricity generating industry in Victoria. The impact on the environment is radical. Buffers protect those elements of the Coal Buffers Policy Area such as urban settlements from the impact of the radical change to the environment from the coal industry.

2.019/01/2006
VC37**Environmental objective to be achieved**

To ensure that development in the Gippsland Coalfields Policy Area provides mutual protection of urban amenity and coal resource development and the continued social and economic productive use of land.

To provide for development which is compatible within a buffer area including reservations and for services ancillary to a Brown Coal Open Cut outside the buffer area.

3.002/07/2009
C42**Permit requirement**

A permit is not required to construct the following buildings or to construct or carry out the following works:

- Works associated with plantation establishment.
- Buildings or works normally associated with farming or forestry (other than a dwelling).
- Maintenance or rehabilitation of existing works under the control of public authority.
- A building or works which is/are a modification necessary to comply with a direction or licence under the Dangerous Goods Act 1985 or a Waste Discharge Licence, Works Approval or Pollution Abatement Notice under the Environment Protection Act 1970.
- Works associated with the construction of the Princes Freeway – Traralgon Bypass carried out by or on behalf of the Roads Corporation.
- Remove, destroy or lop native vegetation associated with the construction of the Princes Freeway – Traralgon Bypass carried out by or on behalf of the Roads Corporation, subject to meeting the requirements of Victoria's Native Vegetation Management – A Framework for Action (Department of Natural Resources and Environment 2002) to the satisfaction of the Secretary of the Department of Sustainability and Environment.

4.019/01/2006
VC37**Application requirements**

An application to construct a building or construct or carry out works must be accompanied by the following information, as appropriate:

- A plan to scale which shows:
 - The boundaries and dimensions of the site.

- Adjoining roads.
- The location, height and purpose of buildings and works on adjoining land.
- Relevant ground levels.
- The layout of existing and proposed buildings and works.
- All driveway, car parking and loading areas.
- Proposed landscape areas.
- All external storage and waste treatment areas.
- Areas not required for immediate use.
- Elevation drawings to scale showing the colour and materials of all buildings and works.
- Construction details of all drainage works, driveways, vehicle parking and loading areas.
- A landscape layout which includes the descriptions of vegetation to be planted, the surfaces to be constructed, site works specification and method of preparing, draining, watering and maintaining the landscape area.
- A fire management plan for any proposed development within 1000 metres of a mining licence.

Development must

- Be compatible with both the adjacent urban and coal related uses of land.
- Provide an opportunity for improvement in the visual amenity of areas surrounding the urban settlements, and the visual protection from the effects of coal resource development on the landscape.
- Be productive within the constraints required from mutual protection, separation and compatibility of adjacent uses.
- Maintain the integrity of the buffer area and discourage any incremental or future pressures for urban or coal related development in the future.

5.0

19/01/2006
VC37

Referral of applications

Applications of the kind listed below must be referred in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that clause:

- To subdivide land which create a lot with an area less than 20 hectares.
- To develop land for:
 - cemetery.
 - educational centre.
 - exhibition centre.
 - function centre.
 - golf course.
 - hospital.
 - industry (other than rural industry).
 - major sports and recreational facility.

- plantation
- shop or office with a floor area exceeding 2,000 square metres.
- accommodation if the total number of people to be accommodated exceeds 100 or the proposed development results in an increase of greater than 25% to the floor area of an existing accommodation building.

6.0 Exemption from notice and appeal

19/01/2006
VC37

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 appeal rights of Section 82(1) of the Act. This exemption does not apply to land within 30 metres of land (not a road) which is in a residential zone or Business 5 Zone, land used for a hospital or school or land in a Public Acquisition Overlay to be acquired for a hospital or school.

7.0 Decision guidelines

19/01/2006
VC37

Before deciding on an application, in addition to the decision guidelines in Clauses 65, the responsible authority must consider, as appropriate:

Buildings and works

- The movement of pedestrians and cyclist, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, including outdoor advertising structures, illumination of buildings or their immediate spaces and landscaping of land adjoining a road.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- The availability of and connection to services.
- Any natural or cultural values on or near the land.
- Interface with non-industrial areas.
- Outdoor storage, lighting and storm water discharge.
- The designs of buildings to provide for solar access.
- If an industrial or warehouse development, the effect on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.
- All buildings and works must be maintained in good order and appearance to the satisfaction of the responsible authority.

Subdivision

- The effect the subdivision will have on the potential of the area to accommodate the uses, which will maintain or enhance its competitive strengths.
- Any natural or cultural values on or near the land.

- The interface with adjoining zones, especially the relationship with residential areas.
- The drainage of the land.
- The availability of and connection to services.
- The effect of traffic to be generated on roads.
- The responsible authority must notify and consider the views of any Mining Licence holder who may be affected.

04/04/2014
C86**SCHEDULE 2 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as **ESO2**.

ECHUCA & DISTRICT LIVESTOCK EXCHANGE, MUNICIPAL POUND AND WASTE TRANSFER STATION**1.0**04/04/2014
C86**Statement of environmental significance**

The Echuca & District Livestock Exchange; Municipal Pound and Waste Transfer Station have the potential to create significant noise and odour emissions. Locating sensitive land uses in the vicinity of the facilities can result in land use conflicts. Buffer areas have been established to separate sensitive uses from these facilities and protect quality of life and the environment from the off-site effects generated by these operations. These buffer areas and distances require review over time to ensure their scope is sufficient.

It is important that land within this buffer not be developed for any purpose that may compromise the continued operation or expansion of the facilities.

2.004/04/2014
C86**Environmental objective to be achieved**

To ensure that the use and development of the Echuca & District Livestock Exchange; Municipal Pound and Waste Transfer Station are not constrained by the establishment of potentially conflicting development within proximity to the facilities.

To ensure that any development on land abutting or in close proximity to the Echuca & District Livestock Exchange; Municipal Pound and Waste Transfer Station is not detrimentally affected with respect to noise, odour or other environmental effects generated from these facilities.

3.004/04/2014
C86**Permit requirement**

A permit is not required to:

- Construct a building or construct or carry out works associated with any use other than Accommodation, Child Care Centre, Education Centre, Hospital, Office, or Place of assembly.
- Extend an existing building provided the floor area of the extension is less than 50 square metres.

Referral of application

An application must be referred in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that clause.

Application requirements

An application must be accompanied by supporting documentation and/or plans demonstrating:

- That the siting of the proposed buildings and works will not adversely affect or be affected by the continued operation of the Echuca & District Livestock Exchange; Municipal Pound and Waste Transfer Station facilities.

4.0

04/04/2014
C86

Decision guidelines

Before deciding on an application, the responsible authority must consider:

- Whether the proposal will adversely affect the ongoing operation of the Echuca & District Livestock Exchange; Municipal Pound and Waste Transfer Station.
- Whether the proposal may be detrimentally affected by noise and odour generated by the Echuca & District Livestock Exchange; Municipal Pound and Waste Transfer Station operations.
- The proximity of the proposed development to the Echuca & District Livestock Exchange; Municipal Pound and Waste Transfer Station.
- Whether the proposal includes appropriate measures to address potential environmental effects generated by the Echuca & District Livestock Exchange; Municipal Pound and Waste Transfer Station operations.

19/01/2006
VC37**SCHEDULE 2 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as ESO2.

EASTERN TREATMENT PLANT BUFFER AREA**1.0**19/01/2006
VC37**Statement of environmental significance**

The Eastern Treatment Plant provides sewage and wastewater treatment facilities for most of eastern Melbourne. The inappropriate establishment or siting of odour-sensitive uses could impact on the operation of the Treatment Plant.

2.019/01/2006
VC37**Environmental objective to be achieved**

- To ensure that the use and development of land around the Eastern Treatment Plant is compatible with the Plant's operation.
- To regulate the establishment and siting of odour-sensitive uses so that the impact of any odour from the Eastern Treatment Plant is minimised.
- To exclude uses that require the presence of a large number of people over an extended period of time.

3.019/01/2006
VC37**Permit requirement**

A permit is not required to:

- Conduct agricultural activities, including ploughing and the construction of a farm gate, outbuilding or dam.
- Construct a building or construct or carry out works undertaken by, or on behalf of, a municipal council, public authority or utility service provider in the exercise of any power conferred on them under any Act.
- Remove, destroy or lop any vegetation.

An application must be referred to the referral authority specified in Clause 66.04 or a schedule to that clause.

4.019/01/2006
VC37**Decision guidelines**

Before deciding on an application, the responsible authority must consider:

- The proximity of the site to the Treatment Plant.
- The sensitivity of the proposed use to odour that may be generated from the Treatment Plant.
- The availability of ameliorative measures on the site to reduce the impact of odour.
- The number of people likely to use the proposed facility.
- The availability of similar facilities outside the overlay area.
- The potential for the proposed facility to expand and attract additional people.
- The degree of choice a person has to remain on the site.
- The length and frequency of stay of any person on the site.

19/01/2006
VC37

SCHEDULE 1 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as ESO1

RADIO AUSTRALIA ENVIRONMENTAL SIGNIFICANCE AREA

1.0

19/01/2006
VC37

Statement of environmental significance

The Shepparton Radio Australia transmission station is a major short wave installation. It features a number of high powered transmitters and has provision for future expansion if required.

The operation of the transmission station can cause interference to domestic appliances including radio and television reception close to the site.

Development and use that might be incompatible with or adversely affected by the operation of the station should be restricted in its' close proximity.

2.0

19/01/2006
VC37

Environmental objective to be achieved

The intensity of residential development should be restricted to protect the installation from the consequences of any radio or electrical interference to landowners and safeguard the installation for unrestricted broadcast transmissions from Radio Australia.

3.0

19/01/2006
VC37

Decision guidelines

An application to develop land for residential purposes within the Radio Australia Environmental Significance Area must be forwarded for comment to the National Transmission Agency (or its successor).

Any proposal should not:

- Produce radio or electrical interference that could affect Radio Australia operations.
- Concentrate dangerous or volatile substances.
- Be impaired in its normal operation by radio or electrical interference due to the proximity of a major radio transmission station.

18/02/2010
C115**SCHEDULE 2 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as **ESO2**

SHEPPARTON WASTE WATER TREATMENT COMPLEX ENVIRONMENTAL SIGNIFICANCE AREA**1.0 Statement of environmental significance**19/01/2006
VC37

The Shepparton waste water treatment complex provides sewerage treatment and waste water disposal for the Shepparton urban area including the major food processing industries of SPC, Campbell's Soups, Dairy Farmers Milk and Ducats Foods.

The complex's operation and expansion, particularly for additional land disposal of secondary treated effluent in lieu of discharge to the Goulburn River, is critical to the continued economic and environmental prosperity of Greater Shepparton.

Land within this overlay should not be developed for any purpose that might compromise the complex's continued operation or expansion for sewerage and waste water treatment and disposal.

2.0 Environmental objective to be achieved02/11/2006
C33

A buffer needs to be maintained around the complex to restrict the intensity of housing development in proximity to the complex and to direct residential development at an urban scale away from it. This will safeguard the complex's operations and avoid any future conflict with any residential expansion of Shepparton. A buffer will also protect existing and future landowners from effects of the complex.

3.0 Permit requirements18/02/2010
C115

An application for any development within this overlay must be referred in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that clause.

A permit is not required for:

- The construction of a building undertaken by or on behalf of Goulburn Valley Water which is required for the ongoing management and operation of the waste water treatment complex.
- Works undertaken by or on behalf of Goulburn Valley Water required for the ongoing operation and maintenance of the waste water treatment complex.
- Works undertaken by or on behalf of VicRoads required for construction of Goulburn Valley Highway – Shepparton Bypass between the Arcadia locality and Congupna locality on land within a Road Zone Category 1 and/or Public Acquisition Overlay 7.
- The removal, destroying or lopping of any vegetation within a Road Zone, Category 1 and/or Public Acquisition Overlay 7, required for the Goulburn Valley Highway – Shepparton Bypass between the Arcadia locality and Congupna locality.
- The construction of a building ancillary to the use of land for agriculture that is not a dwelling or a building for the storage of fuel, fertilisers, insecticides or similar chemicals.
- The construction of extensions or alterations to an existing dwelling where the floor area of the dwelling is not increased by more than 50m².

4.0 Decision guidelines

18/02/2010
C115

Land within this overlay should not be developed for any purpose that would:

- Increase the number of dwellings on the land, other than for a dwelling required for farming purposes.
- Be impaired in its normal operation by odour emission from the waste water treatment complex.

Before deciding on an application, the responsible authority must consider:

- Any comments from Goulburn Valley Water.
- The effect of seasonal or peak loadings of effluent treated at the complex on the amenity of the area.
- The effect of climatic conditions, including temperature, wind speeds and directions, on the amenity of the area.
- The need to protect the continued operation and expansion of the Shepparton waste water treatment complex.

18/02/2010
C115**SCHEDULE 3 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as ESO3

MOOROOPNA WASTE WATER TREATMENT COMPLEX ENVIRONMENTAL SIGNIFICANCE AREA**1.0 Statement of environmental significance**19/01/2006
VC37

The Mooroopna waste water treatment complex provides sewerage treatment and waste water disposal for the Mooroopna urban area including the major food processing industry of Ardmona Foods.

The complex's operation and expansion, particularly for additional land disposal of secondary treated effluent in lieu of discharge to the Goulburn River, is critical to the continued economic and environmental prosperity of Greater Shepparton.

Land within this overlay should not be developed for any purpose that might compromise the complex's continued operation or expansion for sewerage and waste water treatment and disposal.

2.0 Environmental objective to be achieved19/01/2006
VC37

A buffer needs to be maintained around the complex to restrict the intensity of housing development in its proximity and to direct residential development at an urban scale away from the complex. This will safeguard the complex's operations and avoid any future conflict with any residential expansion of Mooroopna. A buffer will also protect existing and future landowners from the consequences of effects of the complex.

3.0 Permit requirements18/02/2010
C115

An application for any development within this overlay must be referred in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that clause.

A permit is not required for:

- The construction of a building undertaken by or on behalf of Goulburn Valley Water which is required for the ongoing management and operation of the waste water treatment complex.
- Works undertaken by or on behalf of Goulburn Valley Water required for the ongoing operation and maintenance of the waste water treatment complex.
- Works undertaken by or on behalf of VicRoads required for construction of Goulburn Valley Highway – Shepparton Bypass between the Arcadia locality and Congupna locality on land within a Road Zone Category 1 and/or Public Acquisition Overlay 7.
- The removal, destroying or lopping of any vegetation within a Road Zone, Category 1 and/or Public Acquisition Overlay 7, required for the Goulburn Valley Highway – Shepparton Bypass between the Arcadia locality and Congupna locality.
- The construction of a building ancillary to the use of land for agriculture that is not a dwelling or a building for the storage of fuel, fertilisers, insecticides or similar chemicals.
- The construction of extensions or alterations to an existing dwelling where the floor area of the dwelling is not increased by more than 50m².

4.0 Decision guidelines

18/02/2010
C115

Land within this overlay should not be developed for any purpose that would:

- Increase the number of dwellings on the land, other than for a dwelling required for farming purposes.
- Be impaired in its normal operation by odour emission from the waste water treatment complex.

Before deciding on an application, the responsible authority must consider:

- Any comments from Goulburn Valley Water.
- The effect of seasonal or peak loadings of effluent treated at the complex on the amenity of the area.
- The effect of climatic conditions, including temperature, wind speeds and directions, on the amenity of the area.
- The need to protect the continued operation and expansion of the Shepparton waste water treatment complex.

18/02/2010
C115**SCHEDULE 4 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as ESO4

TATURA WASTE WATER TREATMENT COMPLEX ENVIRONMENTAL SIGNIFICANCE AREA**1.0 Statement of environmental significance**19/01/2006
VC37

The Tatura waste water treatment complex provides sewerage treatment and waste water disposal for the Tatura urban area including the major food processing industries of Tatura Milk Industries and Unifoods.

The complex's operation and expansion, particularly for additional land disposal of secondary treated effluent in lieu of discharge waterways, is critical to the continued economic and environmental prosperity of Greater Shepparton.

Land within this overlay should not be developed for any purpose that might compromise the complex's continued operation or expansion for sewerage and waste water treatment and disposal.

2.0 Environmental objective to be achieved19/01/2006
VC37

A buffer needs to be maintained around the complex to restrict the intensity of housing development in its proximity and to direct residential development at an urban scale away from the complex. This will safeguard the complex's operations and avoid any future conflict between it and any residential expansion of Tatura. A buffer will also protect existing and future landowners from the consequences of effects of the complex.

3.0 Permit requirements18/02/2010
C115

An application for any development within this overlay must be referred in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that clause.

A permit is not required for:

- The construction of a building undertaken by or on behalf of Goulburn Valley Water which is required for the ongoing management and operation of the waste water treatment complex.
- Works undertaken by or on behalf of Goulburn Valley Water required for the ongoing operation and maintenance of the waste water treatment complex.
- The construction of a building ancillary to the use of land for agriculture that is not a dwelling or a building for the storage of fuel, fertilisers, insecticides or similar chemicals.
- The construction of extensions or alterations to an existing dwelling where the floor area of the dwelling is not increased by more than 50m².

4.0 Decision guidelines18/02/2010
C115

Land within this overlay should not be developed for any purpose that would:

- Increase the number of dwellings on the land, other than for a dwelling required for farming purposes.
- Be impaired in its normal operation by odour emission from the waste water treatment complex.

Before deciding on an application, the responsible authority must consider:

- Any comments from Goulburn Valley Water.
- The effect of seasonal or peak loadings of effluent treated at the complex on the amenity of the area.
- The effect of climatic conditions, including temperature, wind speeds and directions, on the amenity of the area.
- The need to protect the continued operation and expansion of the Shepparton waste water treatment complex.

18/02/2010
C115

SCHEDULE 5 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as ESO5

MURCHISON WASTE WATER TREATMENT COMPLEX ENVIRONMENTAL SIGNIFICANCE AREA

1.0 Statement of environmental significance

19/01/2006
VC37

The Murchison waste water treatment complex provides sewerage treatment and waste water disposal for the Murchison urban area.

The complex's operation and expansion, particularly for additional land disposal of secondary treated effluent in lieu of discharge waterways, is critical to the continued economic and environmental prosperity of Greater Shepparton.

Land within this overlay should not be developed for any purpose that might compromise the complex's continued operation or expansion for sewerage and waste water treatment and disposal.

2.0 Environmental objective to be achieved

19/01/2006
VC37

A buffer needs to be maintained around the complex to restrict the intensity of housing development in its proximity and to direct residential development at an urban scale away from the complex. This will safeguard the complex's operations and avoid any future conflict between it and any residential expansion of Murchison. A buffer will also protect existing and future landowners from the consequences of effects of the complex.

3.0 Permit requirements

18/02/2010
C115

An application for any development within this overlay must be referred in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that clause.

A permit is not required for:

- The construction of a building undertaken by or on behalf of Goulburn Valley Water which is required for the ongoing management and operation of the waste water treatment complex.
- Works undertaken by or on behalf of Goulburn Valley Water required for the ongoing operation and maintenance of the waste water treatment complex.
- The construction of a building ancillary to the use of land for agriculture that is not a dwelling or a building for the storage of fuel, fertilisers, insecticides or similar chemicals.
- The construction of extensions or alterations to an existing dwelling where the floor area of the dwelling is not increased by more than 50m².

4.0 Decision guidelines

18/02/2010
C115

Land within this overlay not be developed for any purpose that would:

- Increase the number of dwellings on the land, other than for a dwelling required for farming purposes.
- Be impaired in its normal operation by odour emission from the waste water treatment complex.

Before deciding on an application, the responsible authority must consider:

- Any comments from Goulburn Valley Water.
- The effect of seasonal or peak loadings of effluent treated at the complex on the amenity of the area.
- The effect of climatic conditions, including temperature, wind speeds and directions, on the amenity of the area.
- The need to protect the continued operation and expansion of the Murchison waste water treatment complex.

24/06/2010
C44

SCHEDULE 2 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO2**.

MILDURA WASTE WATER TREATMENT PLANT AND REUSE CENTRE

1.0 Statement of environmental significance

19/01/2006
VC37

The Mildura Waste Water Treatment Plant and Reuse Centre, provides for the effective treatment of the wastewater generated by Mildura and nearby towns.

The overlay provides for the ongoing operation of the plant and disposal on the site and applies to the site and to all land so designated in the planning scheme map, generally within 200 metres of the southern boundary of the site.

2.0 Environmental objective to be achieved

19/01/2006
VC37

To ensure that any development on land abutting or in close proximity to the Mildura Waste Water Treatment Plant and Reuse Centre is not detrimentally affected in terms of noise, odour or other environmental effects generated by the Mildura Waste Water Treatment Plant and Reuse Centre.

To recognise that the Mildura Waste Water Treatment Plant and Reuse Centre will not be relocating.

To ensure that the future use and development of the Mildura Waste Water Treatment Plant and Reuse Centre is not detrimentally affected by allowing inconsistent and potentially conflicting development to occur within this overlay Area.

To implement appropriate provisions whereby the area is planned and developed in an orderly and proper manner.

3.0 Permit requirement

24/06/2010
C44

A permit is not required for:

- Extensions and alterations to an existing dwelling provided the extension is not greater than 50% of the existing floor area.
- Extensions or alterations to outbuildings including sheds and stables.
- A subdivision that does increase the number of lots and results in lots that are no smaller than the minimum subdivision size of the zone control.

Any permit granted under this overlay must contain a condition that the applicant and owner enter into a Section 173 Agreement with the responsible authority and water authority acknowledging the existence of the Mildura Waste Water Treatment Facility and Reuse Centre and the potential for impact from odour and other real and perceived amenity impacts.

4.0 Referral/Notice requirement

24/06/2010
C44

Before deciding on any application under this overlay area the responsible authority must refer the application in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that clause.

A referral agreement between the responsible authority and the referral authority may be in place that may affect the above requirement.

5.0

Decision guidelines

24/06/2010
C44

Before deciding on an application, the responsible authority must consider, as appropriate:

- the proximity of the proposed development to the Waste Water Treatment Plant and Reuse Centre;
- the sensitivity of the proposal to noise and odour that may be generated by the Waste Water Treatment Plant and Reuse Centre;
- the number of persons likely to use the facility proposed in the application;
- whether the development replaces an existing development, particularly an existing residence;
- the demand for such facilities and their availability outside the overlay area;
- the potential for the proposed development or subdivision to attract additional people to the area;
- the length and frequency of the stay of any person within the proposal;
- the comments of the water authority.

24/06/2010
C44

SCHEDULE 3 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO3**.

MERBEIN MUSHROOMS BUFFER AREA

1.0 Statement of environmental significance

19/01/2006
VC37

Merbein Mushrooms is a long established land use which has significant residual air emissions. Land uses and development sensitive to these emissions near the plant may result in land use conflicts.

2.0 Environmental objective to be achieved

19/01/2006
VC37

To minimise the potential for future land use conflict.

3.0 Permit requirement

24/06/2010
C44

A permit is not required for:

- Extensions and alterations to an existing dwelling provided the extension is not greater than 50% of the existing floor area.
- Extensions or alterations to outbuildings including sheds and stables.
- A subdivision that does increase the number of lots and results in lots that are no smaller than the minimum subdivision size of the zone control.

4.0 Referral/Notice requirement

24/06/2010
C44

Notice of application must be given in accordance with Section 52(1)(c) of the Act to the person or body specified as a person or body to be notified in Clause 66.06 or a schedule to that clause.

5.0 Decision guidelines

24/06/2010
C44

Before deciding on an application, the responsible authority must consider:

- The likely adverse effects of the existing industry or the inhabitants of any proposed buildings and works.
- The minimum distance the responsible authority will allow all new dwellings (other than a caretakers dwelling) to be sited from a nominated industrial land use.

24/06/2010
C44

SCHEDULE 4 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO4**.

INCOMPATIBLE LAND USE BUFFER AREA

1.0

Statement of environmental significance

24/06/2010
C44

There are a number of long established land uses in the municipality which have significant residual air emissions. Sensitive land uses in the vicinity of such activities can result in land use conflicts.

This schedule relates to the use of land for the following:

- Abattoir, Lot 1 LP 221865, being part of Crown Allotment 1 Section 89, Block F, Parish of Mildura, Gordon Avenue, Mildura South
- Concrete Batching Plant, Part Crown Allotment 19 of Section 114, Block F, Parish of Mildura, Sandilong Avenue, Irymple
- Asphalt and Crushing Plant, Crown Allotments 8, 9 and 10, Section 114, Block F, Parish of Mildura, corner Benetook Avenue and Twentieth Street, Koorlong.

2.0

Environmental objective to be achieved

19/01/2006
VC37

To minimise the potential for future land use conflict.

3.0

Permit requirement

24/06/2010
C44

A permit is not required for:

- Extensions and alterations to an existing dwelling provided the extension is not greater than 50% of the existing floor area.
- Extensions and alterations to an existing outbuilding, including sheds and stables.
- A subdivision that does not increase the number of lots and results in lots no smaller than the minimum subdivision size of the zone control.

The minimum distance for a new dwelling is defined by the extent of the overlay control. The responsible authority will discourage any new dwellings within this buffer.

4.0

Referral/Notice requirement

24/06/2010
C44

Notice of application must be given pursuant to Section 52(1)(c) of the Act to the person or body specified as a person or body to be notified in Clause 66.06 or a schedule to that clause.

5.0

Decision guidelines

24/06/2010
C44

Before deciding on an application, the responsible authority must consider:

- the likely adverse effects of the existing industry on the inhabitants of any proposed buildings and works.
- the minimum distance the responsible authority will allow all new dwellings, (other than a caretakers dwelling) to be sited from a nominated industrial land use.

15/10/2009
C69

SCHEDULE 3 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO3**.

TRAFALGAR SAND RESOURCE

1.0

19/01/2006
VC37

Statement of environmental significance

The Trafalgar area contains a sand resource that is considered to be of State significance and which has the potential for development as a sand supply region for the Melbourne area in the medium to long term. The adjoins in part the Sweetwater Creek Flora and Fauna Reserve. Environmental values of the area require appropriate planning protection.

2.0

19/01/2006
VC37

Environmental objective to be achieved

- To provide a basis for the long term protection of sand resources from sterilisation by inappropriate development.
- To provide a basis for the long term availability of sand resources for use by the community with minimal detriment to the environment.
- To assist in considering extractive industry values in long term strategic planning as well as local strategy plans.
- To ensure that planning or responsible authorities consult with all relevant agencies about land use proposals which may impact on the reduction of stone resources within these areas.
- To ensure uses of sand resource areas are compatible with the potential future extraction of the resources.
- To enable appropriate areas of sand deposits to be extracted in a manner which protects environmental and social values.
- To protect the water quality of adjacent watercourses and catchment.
- To provide for progressive rehabilitation of sand extraction sites to a condition suitable for an appropriate end use having regard to:
 - Environmental, agriculture or water quality issues.
 - Compatibility with adjacent land uses.

3.0

15/10/2009
C69

Permit requirement

A permit is not required for:

- Buildings and works involved with the construction, alteration or extension of a dwelling or dependent persons unit on the land.
- Buildings and works involved with the construction, alteration or extension of an outbuilding where that outbuilding has and will have a floor area less than 200 square metres.
- Earthworks ancillary to any of the above.

All applications for development must be referred in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that clause.

A permit is not required to remove, destroy or lop any vegetation if:

- The vegetation is not native vegetation.

- The vegetation is an environmental weed (as defined in the following table):

Common name	Botanical name
African Boxthorn*	<i>Lycium ferocissimum</i>
African Feather Grass*	<i>Pennisetum macrourum</i>
African Lily or Agapanthus	<i>Agapanthus praecox</i> ssp. <i>orientalis</i>
African Lovegrass*	<i>Eragrostis curvula</i>
African Olive	<i>Olea europaea</i> var. <i>cuspidata</i>
Alkante	<i>Pentaglottis sempervirens</i>
Alligator weed*	<i>Alternanthera philoxeroides</i>
American Aspen	<i>Populus tremuloides</i>
Angled Onion*	<i>Allium triquetrum</i>
Apple	<i>Malus</i> spp
Artichoke Thistle	<i>Cynara cardunculus</i>
Asparagus Fern	<i>Myrsiphyllum scandens</i>
Banana Passionfruit	<i>Passiflora tarminiana</i> (syn. <i>P. mollissima</i>)
Belladonna Lily	<i>Amaryllis belladonna</i>
Berry-flower Heath	<i>Erica baccans</i>
Black Locust	<i>Robinia pseudacacia</i>
Blackberry*	<i>Rubus fruticosus</i> spp. agg.
Blue Periwinkle	<i>Vinca major</i>
Blue Psoralea or Blue Butterfly	<i>Psoralea pinnata</i>
Bush	
Bluebell Creeper	<i>Sollya heterophylla</i>
Boneseed*	<i>Chrysanthemoides monilifera</i>
Bridal Creeper	<i>Asparagus asparagoides</i>
Bulbil Watsonia*	<i>Watsonia meriana</i> var. <i>bulbillifera</i>
Butterfly Bush	<i>Buddleia davidii</i> , <i>B. madagascariensis</i>
Cactus Pears	<i>Opuntia</i> spp.
Camphor Laurel	<i>Cinnamomum camphora</i>
Cape Broom*	<i>Genista monspessulana</i>
Cape Ivy	<i>Delairea odorata</i>
Cape Tulips*	<i>Moraea</i> spp.
Cape Wattle	<i>Paraserianthis lophantha</i> var. <i>lophantha</i>
Cedar Wattle	<i>Acacia elate</i>
Cestrum	<i>Cestrum elegans</i>
Cherry laurel	<i>Prunus laurocerasus</i>

Cherry Plum	<i>Prunus cerasifera</i>
Chilean Needle – grass*	<i>Nassella neesiana</i>
Common Bindweed*	<i>Convolvulus arvensis</i>
Common Dipogon or Dolichos	<i>Dipogon lignosus</i>
Pea	
Common Forget-me-not	<i>Myosotis sylvatica</i>
Cootamundra Wattle	<i>Acacia baileyana</i>
Cotoneaster	<i>Cotoneaster</i> spp.
Creeping Buttercup	<i>Ranunculus repens</i>
Darwin's Berberry	<i>Berberis darwinii</i>
Desert Ash	<i>Fraxinus angustifolia</i> ssp <i>angustifolia</i> (syn <i>F.oxycarpa</i>)
Dietes	<i>Dietes grandiflora</i> , <i>D.bicolor</i>
Drain Flat - sedge	<i>Cyperus eragrostis</i>
Drooping Prickly Pear*	<i>Opuntia monacantha</i>
Early Black Wattle	<i>Acacia decurrens</i>
English Broom*	<i>Cytisus scoparius</i>
English Ivy	<i>Hedra helix</i>
Euryops	<i>Euryops abrotanifolius</i>
Evening Primrose	<i>Oenothera stricta</i>
Evergreen Dogwood	<i>Cornus capitata</i>
Fennel*	<i>Foeniculum vulgare</i>
Firethorns	<i>Pyracantha</i> spp.
Flax Leaf Broom*	<i>Genista linifolia</i>
Fountain Grass	<i>Pennisetum setaceum</i>
Fragrant Violet	<i>Viola odorata</i>
Freesia	<i>Freesia alba</i> x <i>lechtlinii</i>
Gazania	<i>Gazania lineraris</i>
Giant Honey Myrtle	<i>Melaleuca armillaris</i>
Golden Wreath Wattle	<i>Acacia saligna</i>
Gorse*	<i>Ulex eiropaeus</i>
Great Mullein*	<i>Verbascum thapsus</i>
Harlequin Flowers	<i>Sparaxis</i> spp.
Hawthorn*	<i>Crategus monogyna</i>
Hemlock*	<i>Conium maculatum</i>
Himilayan Honeysuckle	<i>Leycesteria formosa</i>

BAW BAW PLANNING SCHEME

Holly	<i>Ilex aquifolium</i>
Honey Myrtle	<i>Melaleuca hypericifolia</i>
Italian Buckthorn	<i>Rhamnus alaternus</i>
Japanese Honeysuckle	<i>Lonicera japonica</i>
Karamu	<i>Coprosma robusta</i>
Karo	<i>Pittosporum crassifolium</i>
Kikuyu	<i>Pennisetum clandestinum</i>
Lantana*	<i>Lantana camara</i>
Laurestinus	<i>Viburnum tinus</i>
Manna Ash	<i>Fraxinus ornus</i>
Montbretia	<i>Crocasmia x crocosmiifolia</i>
Monterey Pine or Radiata Pine	<i>Pinus radiata</i>
Morning Glory	<i>Ipomoea indica</i>
Myrtle Leaf Milkwort	<i>Polygala myrtifolia</i>
New Zealand Mirror Bush or Taupata	<i>Coprosma repens</i>
Olive	<i>Olea europaea var. europaea</i>
Ox – eye Daisy*	<i>Leucanthemum vulgare</i>
Pampas Grass	<i>Cortaderai selloana</i>
Patersons Curse*	<i>Echium plantagineum</i>
Pepper Tree	<i>Schinus areira</i>
Peruvian Lily	<i>Alstromeria aurea</i>
Plum	<i>Prunus spp.</i>
Portugal Laurel	<i>Prunus lusitanica</i>
Prickly Pear*	<i>Opuntia aurantiaca</i>
Privet	<i>Ligustrum vulgare</i>
Quaking Grass	<i>Briza maxima</i>
Ragwort*	<i>Senecia jacobaea</i>
Sallow Wattle	<i>Acacia longifolia</i>
Shasta Daisy	<i>Chrysanthem maximum</i>
Silky Oak	<i>Grevillea robusta</i>
Smilax	<i>Myrsiphyllum asparagoides</i>
Spanish Heath	<i>Erica lusitanica</i>
Spear Thistle*	<i>Cirsium vulgare</i>
Spiny Rush*	<i>Juncus acutus</i>
St Johns Wort*	<i>Hypericum perforatum</i>

Sticky Hop Bush	<i>Dodonea viscosa</i>
Strawberry Tree	<i>Arbutus unedo</i>
Sugar Gum	<i>Eucalyptus cladocalyx</i>
Swamp Foxtail - grass	<i>Pennisetum alopecuroides</i>
Sweet Briar or Briar Rose or Wild Rose	<i>Rosa rubiginosa</i>
Sweet Pea	<i>Lathyrus latifolius</i>
Sweet Pittosporum	<i>Pittosporum undulatum</i>
Sycamore Maple	<i>Acer pseudoplatanus</i>
Tall Fleabane	<i>Conyza bonariensis</i>
Tiger Pear	<i>Opuntia aurantiaca</i>
Topped Lavender*	<i>Lavendula stoechas</i>
Tree Lucerne	<i>Cytisus palmensis</i>
Tree Tobacco	<i>Solanum mauritianum</i>
Tutsan*	<i>Hypericum androsaemum</i>
Wandering Trad (formerly Wandering Jew)	<i>Tradescantia fluminensis</i>
Water Hyacinth	<i>Eichhornia crassipes</i>
Watsonia	<i>Watsonia</i> spp.
Wheel Cactus*	<i>Opuntia robusta</i>
White Arum Lily	<i>Zantedeschia aethiopica</i>
White Sallow Wattle	<i>Acacia floribunda</i>
Wild Oat	<i>Avena fatua</i>
Willow Hakea	<i>Hakea salicifolia</i>
Willows*	<i>Salix</i> spp.
Wood Violet	<i>Viola riviniana</i>

* Declared noxious weeds – includes State Prohibited Weeds, Regionally Prohibited Weeds, Regionally Controlled Weeds and Restricted Weeds

4.0

19/01/2006
VC37

Decision guidelines

Before deciding on an application to develop land, the responsible authority must consider:

Interim uses of resources areas

- Whether the development of land within the area will adversely effect the future extraction of the underlying sand resource.
- The suitability of rehabilitation plans prepared for the site.

Water quality

- Whether all reasonable measures to ensure that the operation will not diminish the quality of any groundwater or any surface water beyond the site have been taken.

Transport infrastructure

- Whether a transport infrastructure plan has been prepared and the level of upgrading or financial contribution proposed.

A transport infrastructure plan will consider:

- The capacity of existing road infrastructure.
- The proposed heavy vehicle use emanating from the extractive industry.
- The carrying capacity and safety of alignment for heavy vehicles.
- The drainage, bridges and stormwater infrastructure.
- The demonstrated need for road improvements.
- The apportionment of cost with other heavy vehicles users.
- Whether the upgrading is required as a direct consequence of quarry vehicles.

Landscape quality

- Whether measures have been taken to ensure that the proposal does not have an adverse visual impact.

Appendix D. State Resource Overlay and schedule

44.07

19/01/2006
VC37

STATE RESOURCE OVERLAY

Shown on the planning scheme map as **SRO** with a number.

Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To protect areas of mineral, stone and other resources, which have been identified as being of State significance, from development that would prejudice the current or future productive use of the resource.

44.07-1

19/01/2006
VC37

Statement of resource significance

A schedule to this overlay must contain a statement of the significance of the resource in the area affected by the schedule.

44.07-2

19/01/2006
VC37

Management objective

A schedule to this overlay must contain a statement of the management objective to be achieved for the area affected by the schedule.

44.07-3

19/01/2006
VC37

Application requirements

An application under the zone to construct a building or construct or carry out works or subdivide land specified in a schedule to this overlay must be accompanied by a report which explains how the building, works or subdivision:

- Is consistent with the management objective specified in the schedule.
- Responds to the decision guidelines.

44.07-4

19/01/2006
VC37

Referral of applications

An application of a kind specified in a schedule to this overlay must be referred to the specified referral authority in accordance with Section 55 of the Act.

44.07-5

19/01/2006
VC37

Decision guidelines

Before deciding on an application of a kind specified in a schedule to this overlay, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The significance of the future productive use of the resource to the State.
- When the resource is likely to be required for extraction.
- The desirability of preventing any long term major capital development or intensive subdivision and associated residential development on the land which may adversely impact on the future productive use of the resource.
- Any other matters specified in the schedule to this overlay.

Notes: *Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land.*

Check the requirements of the zone which applies to the land.

Other requirements may also apply. These can be found at Particular Provisions.

Appendix E. Clause 52.08

52.0808/08/2012
VC87**EARTH AND ENERGY RESOURCES INDUSTRY****Purpose**

To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.

To ensure that mineral extraction, geothermal energy extraction, greenhouse gas sequestration and petroleum extraction are not prohibited land uses.

To ensure that planning controls for the use and development of land for the exploration and extraction of earth and energy resources are consistent with other legislation governing these land uses.

52.08-108/08/2012
VC87**Permit Requirement**

A permit is required to use and develop land for earth and energy resources industry unless the table to this Clause specifically states that a permit is not required.

Table of Exemptions

No permit is required to use or develop land for earth and energy resources industry if the following conditions are met:

Mineral exploration	<ul style="list-style-type: none"> ▪ Complies with Section 43(3) of the Mineral Resources (Sustainable Development) Act 1990.
Mineral extraction	<ul style="list-style-type: none"> ▪ Complies with Section 42(7) or Section 42A Mineral Resources (Sustainable Development) Act 1990; or ▪ Complies with Section 47A of the Electricity Industry Act 1993.
Stone exploration	<ul style="list-style-type: none"> ▪ Must not be costeaning or bulk sampling.
Stone extraction	<ul style="list-style-type: none"> ▪ Complies with Section 77T of the Mineral Resources (Sustainable Development) Act 1990.
Greenhouse gas sequestration exploration	<ul style="list-style-type: none"> ▪ Complies with Section 189 of the Greenhouse Gas Geological Sequestration Act 2008.
Greenhouse gas sequestration	<ul style="list-style-type: none"> ▪ Complies with Section 191 of the Geological Sequestration Act 2008.
Geothermal energy exploration	<ul style="list-style-type: none"> ▪ Complies with the Geothermal Energy Resources Act 2005.
Geothermal energy extraction	<ul style="list-style-type: none"> ▪ Complies with Section 62 of the Geothermal Energy Resources Act 2005.
Petroleum exploration	<ul style="list-style-type: none"> ▪ Complies with Section 118 of the Petroleum Act 1998.
Petroleum extraction	<ul style="list-style-type: none"> ▪ Complies with Section 120 of the Petroleum Act 1998.

Mineral extraction**Application requirements**

An application to use and develop land for mineral extraction must be accompanied by:

- A copy of a work plan or a variation to an approved work plan that has received statutory endorsement under section 77TD of the *Mineral Resources (Sustainable Development) Act 1990*.
- The written notice of statutory endorsement under section 77TD(1) of the *Mineral Resources (Sustainable Development) Act 1990*.
- Any conditions specified under section 77TD(3) of the *Mineral Resources (Sustainable Development) Act 1990*.

Referral requirements

Before deciding on any applications to use and develop land for mineral extraction the Responsible Authority must refer the application to the referral authorities specified under Section 55 of the *Planning and Environment Act 1987*.

Unless the referral authority is the Roads Corporation, the referral requirements of Clause 52.08-2 do not apply to an application to use and develop land for mineral extraction if a copy of the work plan or a variation to an approved work plan was previously referred to the referral authority listed in Clause 66 under section 77TE of the *Mineral Resources (Sustainable Development) Act 1990*.

Appendix F. Clause 52.09

52.09

22/08/2014
VC118

STONE EXTRACTION AND EXTRACTIVE INDUSTRY INTEREST AREAS

Purpose

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.

52.09-1

08/08/2012
VC87

Application

These provisions apply to planning permit applications for:

- The use and development of land for stone extraction.
- The use and development of land within an extractive industry interest area.
- The use and development of land within 500 metres of stone extraction.

52.09-2

08/08/2012
VC87

Permit exemptions for stone extraction

A permit to use and develop land for stone extraction will not be required if the conditions in the table to Clause 52.08-1 are met.

52.09-3

22/08/2014
VC118

Application requirements

An application to use and develop land for stone extraction must be accompanied by:

- A copy of a work plan or a variation to an approved work plan that has received statutory endorsement under section 77TD of the *Mineral Resources (Sustainable Development) Act 1990*.
- The written notice of statutory endorsement under section 77TD(1) of the *Mineral Resources (Sustainable Development) Act 1990*.
- Any conditions specified under section 77TD(3) of the *Mineral Resources (Sustainable Development) Act 1990*.

These requirements do not apply to an application to use and develop land for stone extraction which is exempt from:

- The requirement to obtain a work plan under Section 77G of the *Mineral Resources (Sustainable Development) Act 1990*, or
- The provisions of the *Mineral Resources (Sustainable Development) Act 1990* under Section 5AA of that Act.

52.09-4

22/08/2014
VC118

Referral Requirements

Before deciding on any applications to use and develop land for stone extraction the Responsible Authority must refer the application to the referral authorities specified under Section 55 of the *Planning and Environment Act 1987*.

Unless the referral authority is the Roads Corporation, the referral requirements of Clause 52.09-4 do not apply to an application to use and develop land for stone extraction if a copy of the work plan or a variation to an approved work plan was previously referred to the

referral authority listed in Clause 66 under section 77TE of the *Mineral Resources (Sustainable Development) Act 1990*.

52.09-5

08/08/2012
VC87

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, responsible authority must consider, as appropriate:

- The effect of the proposed stone extraction on any native flora and fauna on and near the land.
- The impact of the stone extraction operations on sites of cultural and historic significance, including any effects on Aboriginal places.
- The effect of the stone extraction operation on the natural and cultural landscape of the surrounding land and the locality generally.
- The ability of the stone extraction operation to contain any resultant industrial emissions within the boundaries of the subject land in accordance with the Regulations associated with the Mineral Resources (Sustainable Development) Act 1990 and other relevant regulations.
- The effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area.
- The ability to rehabilitate the affected land to a form or for a use which is compatible with the natural systems or visual appearance of the surrounding area.
- The ability to rehabilitate the land so it can be used for a purpose or purposes beneficial to the community.
- The effect of the proposed stone extraction on groundwater and quality and the impact on any affected water uses.
- The impact of the proposed stone extraction on surface drainage and surface water quality.
- Any proposed provisions, conditions or requirements in a work plan that has received statutory endorsement issued under the Mineral Resources (Sustainable Development) Act 1990.

52.09-6

08/08/2012
VC87

Permit conditions for stone extraction

A permit for the use and development of land for stone extraction must not include conditions which require the use to cease by a specified date unless either:

- The subject land is situated in or adjoins land which is being developed or is proposed to be developed for urban purposes.
- Such condition is suggested by the applicant.

A permit for the use and development of land for stone extraction must include conditions which are consistent with the requirements specified in Clause 52.09-7.

52.09-7

08/08/2012
VC87

Requirements for the use and development of land for Stone extraction

Boundary setback

Except with a permit, no alteration may be made to the natural condition or topography of the land within 20 metres of the boundary of the land. This does not apply to driveways, drains, bund walls or landscaping.

Screen planting

Shrubs and trees must be planted and maintained to screen activity on the site to the satisfaction of the responsible authority.

Parking areas

Parking areas must be provided for employees' cars and all vehicles used on the site to the satisfaction of the responsible authority.

52.09-8

22/08/2014
VC118

Notice of an application

Notice of the kinds of application listed below must be given under Section 52(1)(c) of the Act to the person or body specified as a person or body to be notified in Clause 66.05:

- An application to use or subdivide land or construct a building for Accommodation, Child care centre, Education centre or Hospital:

Within an Extractive Industry Interest Area.

On land which is within 500 metres of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.

- An application to construct a building or construct or carry out works on land for which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.

These requirements do not apply to an extension to buildings or works.