

**Grantville Quarry Permit Call-in
Bass Coast Shire Permit Application No. 120388-1**

Panel Report

Planning and Environment Act 1987

11 June 2021

Planning and Environment Act 1987

Panel Report pursuant to section 97E (4) of the Act
Grantville Quarry Permit Call-in

11 June 2021



Lisa Kendal, Chair



Trevor McCullough, Member



Gabby McMillan, Member

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Glossary and abbreviations

Amendment Application	Planning Permit Amendment Application from Dandy Premix Quarries to Bass Coast Shire Council
Applicant	Dandy Premix Quarries Pty Ltd
Biolinks Strategy	<i>Biodiversity Biolinks Strategy 2018</i> , Bass Coast Shire Council
CEMP	Construction Environmental Management Plan
Council	Bass Coast Shire Council
CSEP	Coarse Sand Extraction Pit
DAL	Distinctive Area and Landscape
DELWP	Department of Environment, Land, Water and Planning
DJPR	Department of Jobs, Precincts and Regions
DoT	Department of Transport
EIIA	Extractive Industry Interest Areas
EPA	Environmental Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth)
ERR	Earth Resources Regulation
existing planning permit	Planning Permit 120388
Extractive Resources Strategy	<i>Helping Victoria Grow – Extractive Resources Strategy 2018</i>
FMSEP	Fine – Medium Sand Extraction Pit
FTE	Full Time Equivalent
Future Vision Report	<i>A Future Vision for Grantville Quarry</i> (March 2021)
Joint Ministerial Statement	<i>Joint Ministerial Statement on Extractive Resources 2018</i>
MR Regulations	<i>Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019</i>
MRSD Act	<i>Mineral Resources (Sustainable Development) Act 1990</i>
Native Vegetation Guidelines	<i>Guidelines for the removal, destruction or lopping of native vegetation</i> , DELWP, 2017
NIEIR	National Institute of Economic and Industry Research
NIEIR Report 1	<i>Costs and benefits of a proposed sand pit at Grantville, Vic.</i> , 2012

NIEIR Report 2	<i>Continued operation and extension of the Dandy Premix Sand Quarry at Grantville: Economic and Social Impact, 2020</i>
NIRV	EPA Publication 1411 Noise from Industry in Rural Victoria
Paul Kelly Report	<i>Native Vegetation Removal Report, Detailed Pathway, Paul Kelly & Associates. Dec 2019</i>
PE Act	<i>Planning and Environment Act 1987</i>
PEM	EPA Publication 1191 Protocol for Environment Management – Mining and Extractive Industries
PPN89	Planning Practice Note 89 - Extractive Industry and Resources
Quarry	Grantville Quarry
Rehabilitation Plan	<i>Rehabilitation and Site Closure Plan, BCA Consulting, 2020</i>
SEPP AQM	<i>State Environment Protection Policy (Air Quality Management) 2001</i>
SEPP-N1	State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1
Site	1381-1395 Bass Highway, Grantville, which extends beyond the Work Authority boundary
VCAT	Victorian Civil and Administrative Tribunal
WA	Work Authority
Work Authority boundary	Work Authority 1488 boundary
Work Plan Variation	Grantville Quarry Statutorily Endorsed Work Plan Variation

Overview

Proposal summary

The Proposal	Grantville Quarry Permit Call-in
Permit Amendment Application	No. 120388-1
Brief description	<p>Dandy Premix Quarries Pty Ltd (the Applicant) is seeking to extend its sand mining operations at its Grantville Quarry.</p> <p>The Applicant has received an endorsed Work Plan Variation for Extractive Industry Work Authority No. 1488 issued by the Earth Resources Regulation branch of the Department of Jobs, Precincts and Regions.</p> <p>The Applicant is seeking to amend its planning permit to conform with this endorsed Work Plan Variation through Planning Permit Application 120388-1.</p>
Subject land	1381-1395 Bass Highway, Grantville
The Applicant	Dandy Premix Quarries Pty Ltd
Responsible Authority	Bass Coast Shire Council (Permit called in by the Minister for Planning)
Public notice	<p>Council directed the Applicant to give the following public notice:</p> <ul style="list-style-type: none"> - registered mail to 1,089 landowners and occupiers - notice on the land - notice in the South Gippsland Sentinel Times <p>The Planning Permit Amendment Application was advertised for a period of 28 days from 22 October 2020.</p>
Objections	<p>Number of Objections: 78 (including three late objections, one duplicate objection and two supplementary objections)</p> <p>See Appendix A</p>

Panel process

The Panel	Lisa Kendal (Chair), Trevor McCullough and Gabby McMillan
Directions Hearing	Videoconference, 21 December 2020
Panel Hearing	Videoconference, 22, 23, 24, 25, 30 and 31 March, and 1 6 and 7 April 2021
Site inspections	Unaccompanied, 29 March 2021 (guided by the Quarry site manager)
Parties to the Hearing	See Appendix B
Citation	Grantville Quarry PCI [2021] PPV
Date of this report	11 June 2021

Executive summary

The Proposal

The Grantville Quarry has been in operation since 2015, and has an existing Work Authority 1488 and planning permit to extract fine-medium sand from the site. Dandy Premix Quarries Pty Ltd is the occupier and operator of the Quarry and is the Applicant for the proposed expansion. The Applicant is seeking approval to extract approximately 30 million tonnes of sand of a total site wide resource of approximately 76 million tonnes, over a 30 – 40 year time horizon.

The Quarry is located at 1381 – 1395 Bass Highway, Grantville approximately one kilometre north of the township of Grantville. The Quarry currently supplies sand to Dandy Premix Concrete Pty Ltd, an associated family company which owns and operates five concrete batching plants to the south east of Melbourne, and supplies blended sand products across Melbourne and Victoria.

The Grantville Quarry has significant sand resource and is within Melbourne Supply Area Extractive Industry Interest Area 883998 and is on the current Extractive Industry Priority Project List.

The Proposal includes:

- expansion of the extent of the fine-medium sand extraction pit and extraction of medium-fine sand from below the water table
- extraction of sand from a new coarse sand extraction pit using dry extraction methods
- installation of a sand washing plant and slime dewatering plant to undertake a broader range of sands processing on site
- installation of a signalised intersection at the Quarry entrance
- increased truck movements from 120 to 240 per day at full production
- extension of operating hours in relation to sales loading and despatch, and the slimes dewatering process plant operations
- replacement of the section 173 Agreement with an agreement under section 69 of the *Conservation Forests and Lands Act 1987*, in relation to vegetation protection and revegetation requirements.

The *Mineral Resources (Sustainable Development) Act 1990* allows a work authority holder to seek to expand their operations through a work plan variation. A work plan variation must be statutorily endorsed prior to seeking a planning permit, if required.

A Statutorily Endorsed Work Plan Variation was issued for the Proposal by Earth Resources Regulation in May 2020, and the Applicant now needs a planning permit amendment before the Work Plan Variation can be finalised.

The Applicant lodged a Planning Permit Amendment Application (No. 120388-1) with Bass Coast Shire Council in July 2020. The permit application was called in and referred to a Panel by the Minister for Planning in November 2020.

Objections and issues

Public notice of the Proposal was given in October 2020, and a total of 78 objections were received.

Key issues raised in objections included:

- Ecology and environmental impacts
 - inconsistency with Council's *Biodiversity Biolinks Strategy 2018*

- poor performance of the Applicant with current revegetation commitments
- impact on rare and threatened species
- regulatory tools to secure vegetation offsets are inadequate
- lack of compliance with Council's Climate Emergency Declaration
- lack of consideration of impact on Ramsar listed Western Port biosphere
- consideration should be delayed until the review of the Marine and Coastal Policy and Distinctive Area and Landscape process has been completed
- Water and waterways
 - hydrological and geotechnical impacts – mining under the water table and impacts on ground stability, groundwater and surface water, including Western Port Bay
 - water quality and conservation, including issues with sand washing
- Traffic
 - traffic movement and volumes, including truck volumes and proposed introduction of traffic lights
- Site rehabilitation
 - inadequate bond
 - need for a final site rehabilitation plan that takes into account the surrounding environment and potential long term degradation of the environment
 - planning and implementation of progressive and end of life site rehabilitation
- Economic and community impacts
 - need to consider a Community Benefits Scheme to address environmental and community impacts
 - impact on the local economy of the town, and lack of local economic benefit
- Amenity
 - impact on township amenity, specifically visual amenity, traffic, hours of operation, noise and air pollution and associated health impacts
- Community consultation
 - issues with the length of time provided for consultation during COVID-19 and time to consider the extent of Proposal.

Overall assessment and overarching issues

The Panel considered three overarching issues to understand the strategic and policy context, and assessment requirements of the Proposal:

- significance of the site being on the Extractive Industry Priority Project List in a planning context
- policy balance and net community benefit
- relationship between the Work Plan and Planning Permit.

The Panel finds that the strategic significance of the sand resource is clear. Extractive industries have strong policy support, and this Proposal has been identified on the Extractive Industry Priority Project List which indicates significant resources and strategic location in relation to supply markets.

The purpose of the Extractive Industries Priority Project List is to streamline the approvals process, not exempt proposals from planning or other approvals requirements. Being on the Extractive Industries Priority Project list does not provide determinative policy support, and a full planning assessment is required, including a balanced assessment of policy considerations as required by the Planning Scheme.

The Panel concludes that on balance the Proposal is supported by State and local policy and will result in net community benefit.

The issue of policy balance has been challenging for the Panel, and there is a direct tension particularly between policies relating to extractive industries and native vegetation. The Proposal clearly represents strategic sand extraction that has policy support, however the Proposal also requires removal of a significant extent of native vegetation. The policy balance must be considered with reference to Clause 71.02-3 (Integrated decision making), which *“requires an integrated and balanced approach to planning decision making which focuses on net community benefit”*.

The Panel concludes that on balance the Proposal provides a net community benefit, however local community benefits rely on careful and considered management to ensure that local amenity and environmental impacts are acceptable. The delivery of long term net community benefits relies on ecological benefits that are in turn critically reliant on successful offset and revegetation programs.

Over the long term there is significant potential for local community benefit, however this will depend on the Applicant undertaking appropriate progressive and end of life rehabilitation in consultation with the local community.

In relation to what the planning permit must consider relative to the Work Plan, the Panel concluded that:

- conditions should be streamlined and avoid duplication
- conditions should be included on the planning permit that reinforce alignment and link the approvals
- to the extent possible, permit conditions should complement Work Plan conditions, or add an additional level of detail required to respond to the requirements of the Planning Scheme.

Where possible the detailed controls should be included in the Work Plan, and associated plans so these can be updated through an ongoing Work Plan management process with Earth Resources Regulation.

In recommending permit conditions, the Panel has considered whether:

- the matter is adequately addressed by the Statutorily Endorsed Work Plan Variation, or if further work is required before the Work Plan is approved by Earth Resources Regulation
- the existing planning permit conditions are adequate, or if new or amended planning conditions are required.

The approvals framework allows for the Work Plan Variation to be finalised following issue of the planning permit conditions, however the process is not clear for how the conditions influence any refinement of the final Work Plan Variation. To assist, the Panel has made recommendations for Earth Resources Regulation in finalising the Work Plan Variation.

Overall the Panel supports the Proposal and recommends that a planning permit be issued subject to its recommendations on conditions in Appendix G.

The Panel’s key findings in relation to the key issues are summarised below.

Ecology

The Panel concludes that the native vegetation corridor is likely to be irreversibly damaged by the Proposal. While it is not practicable to avoid impacts given the location of the coarse sand resource, there are opportunities to minimise impacts and vegetation loss, and to provide offsets where loss cannot be avoided.

It is critical that ongoing habitat connectivity is provided between the Gurdies Nature Conservation Reserve and Grantville Bushland Reserve. This habitat does not necessarily need to mirror the standard of existing remnant native vegetation, however it does need to support woodland dependent species.

In considering the impact on native vegetation the Panel has had regard to:

- balancing policy objectives
- avoidance and minimisation
- fragmentation and ecological value
- conservation protection mechanisms.

The Panel considers that the key outcomes to be achieved include:

- no net loss in native vegetation (namely, suitable offset arrangements) as a result of the expansion
- ongoing habitat connectivity between the Gurdies Nature Conservation Reserve and Grantville Bushland Reserve.

The Panel recommends further work to inform the site layout plan and operational activities, and the timing and sequencing is critical. Vegetation surveys and management plans must be prepared before the site layout plan and site rehabilitation requirements are settled, and recommendations from the Species Management Plan and Biodiversity and Vegetation Management Plan must be integrated into the site layout plan. The Panel considers it is critical that these aspects be resolved before vegetation removal commences at the site.

Consequential changes will be required to the existing section 173 Agreement to give effect to the Panel's recommendations and ensure there are no overlapping or conflicting obligations applying to the land. The process to end or amend the existing section 173 Agreement is separate from this application.

Cultural heritage

The Panel considers that there is some uncertainty about whether a Cultural Heritage Management Plan is required. The Responsible Authority needs to form a view on whether any parts of the expanded works would trigger a Cultural Heritage Management Plan before it grants the permit.

It is not clear to the Panel in practical terms how cultural heritage values would be protected, if discovered during extraction. If a Cultural Heritage Management Plan is not required, contingency plans should be included in the planning permit or Work Plan to ensure that operators on the site appropriately identify and protect any cultural heritage values.

Surface water and groundwater

The Panel concludes that the potential impacts of the Proposal on groundwater and surface water are acceptable and can be appropriately managed through the Work Plan Variation and planning permit conditions.

Traffic

The Panel concludes that potential amenity issues arising from additional truck traffic can be appropriately managed in planning permit conditions. The proposed installation of traffic signals is considered appropriate and provides net benefits for traffic through Grantville. The Panel makes recommendations relating to planning permit conditions.

Noise

The Panel considered two key aspects of potential noise emissions:

- noise emissions from expanded operations at the Quarry
- noise emissions associated with increased truck volumes and altered access arrangements.

The Panel accepts Mr Goddard's evidence that, subject to minimal operational mitigation measures, noise emissions from the site would not be unreasonable. These measures are reflected in the Work Plan Variation.

In finding the noise impacts of the expanded Quarry acceptable, Mr Goddard assumed that an extended 80 km/hour speed limit would be implemented. The Panel cannot know whether such a restriction will be imposed and cannot be certain whether indirect noise impacts resulting from expanded activities at the Quarry are acceptable.

Further assessment of baseline noise conditions is required before the expansion of the Quarry can commence, and any noise management plan prepared would then need to identify suitable mitigation measures, which in turn would need to be reflected in the Work Plan Variation.

The Panel acknowledges the community concern regarding increased operating hours. As part of the Applicant's community engagement planning, the Panel thinks it would prudent for the Quarry operator to be more proactive with its approach to noise monitoring.

Dust

The Panel concluded that the Proposal will result in additional dust emissions, however is unlikely to result in regulatory limits being exceeded. The Dust Management Plan should be updated to include the recommendations of Mr Pollock.

Landscape and visual amenity

The Panel concludes that the Landscape and Visual Assessment:

- is appropriate and conservative in its assessment of visual impact, but
- overlooked that Shutoff Road is a tourist route, and consequently may have understated its significance as a visual receptor.

The landscape and visual impact of the Proposal is acceptable on the understanding that the adverse impacts on the eastern ridgeline can be substantially or fully mitigated over time through land forming and planting. Further work is required to ensure that the short to medium term visual impact of the Proposal is acceptable, with specific reference to views from Shutoff Road.

The Panel considers that delaying assessment of the Proposal until the Distinctive Areas and Landscapes process has progressed is not justified.

The requirement for a Landscape Plan is recommended as a planning permit condition to manage landscape and visual impacts.

Rehabilitation and Site Closure Plan

The Panel concludes that the Rehabilitation and Site Closure Plan (March) should be reviewed by Earth Resources Regulation against the new guidelines, *Preparation of Rehabilitation Plans, Guideline for Extractive Industry Projects* (March 2021) to ensure that it contains adequate detail.

Progressive rehabilitation of the site will need to be aligned with the requirements of other site management plans and the preferred vision for the site. The Community Engagement Plan should include a clear obligation for community engagement in relation to the end of life vision and progressive rehabilitation of the site.

Issues relating to the rehabilitation bond are outside of the Panel's remit.

The Panel considers that the Rehabilitation and Site Closure Plan should be managed through the Work Plan Variation, and the Panel has provided a number of recommendations for consideration by Earth Resources Regulation.

Local economy and social impact

The Panel considers that consistent with the expectations Clause 21.03-7 (Extractive Industries) of the Planning Scheme, the known sand resources in the Grantville area will become increasingly important, and while the industry itself will not employ many workers, there will be economic benefit and jobs associated with transport and service and related activities.

The Panel considers that the economic appraisal submitted with the Proposal is limited and has understated the disbenefits. It is not possible to say whether the benefits have been overstated due to questions around the methodology being used, lack of comparative analysis and lack of consideration of the economic benefits of the natural environment.

No real social impact assessment of the Proposal has been undertaken and this is a deficiency in the Amendment application. The Panel considers that a genuine community engagement program can address many social effects resulting from the operation of the Quarry.

Community consultation and engagement

The Panel concludes that the Community Engagement Plan contained in the Work Plan Variation contains a satisfactory range of proactive and reactive actions to ensure adequate engagement. Reporting on implementation should form part of the Work Plan review process.

No planning permit conditions are required in relation to community consultation and engagement.

Planning permit conditions

Council and the Applicant were invited to submit preferred conditions, and a drafting session was held as part of the Panel process. Parties were invited to comment on Council's without prejudice preferred conditions.

As a matter of principle, the Panel considers that the amended planning permit needs to regulate matters that are relevant to the Amendment Application. However, it is working from an existing permit which has significant cross over with Work Plan requirements.

The Panel has detailed its recommendations on permit conditions in Appendix G of this Report. The Panel has focussed on the conditions which it considers are most critical to the

implementation of its recommendations or where there was a dispute between the parties. Where there was no dispute the Panel has provided no specific comment.

Recommendations

Based on the reasons set out in this Report, the Panel makes the following primary recommendations:

- 1. Grant amended planning permit No. 120388-1 for the expansion of Grantville Quarry in accordance with the Site Layout Plan (Drawing: NS-1903 Rev: 06/01/2020) subject to the Panel recommendations on conditions contained in Appendix G and other recommendations of this Report.**
- 2. That Earth Resources Regulation take into consideration the recommendations of this Report in finalising the Work Plan Variation.**

Based on the reasons set out in this Report, the Panel makes the following recommendations in relation to the granting of an amended planning permit:

- 3. Prior to granting an amended planning permit, confirm that a Cultural Heritage Management Plan is not required under the *Aboriginal Heritage Act 2006*.**
- 4. Reorder the recommended permit conditions in Appendix G into a more logical sequence.**

Further recommendations

Based on the reasons set out in this Report, the Panel makes the following further recommendations:

- 5. For consideration by Earth Resources Regulation in finalising the approved Work Plan:**
 - a) Note the need to update the Site Layout Plan and Rehabilitation and Site Closure Plan in the Work Plan Variation to integrate the recommendations from the Biodiversity and Vegetation Management Plan and Species Protection Management Plan, prior to approval of the Work Plan Variation.**
 - b) If a Cultural Heritage Management Plan is not required, include more specific contingencies to deal with the discovery of Aboriginal cultural heritage assets, in line with those recommended by Mr Clark, in the Work Plan Variation.**
 - c) Ensure that the recommendations from the Noise Management Plan required under the planning permit are integrated into the approved Work Plan Variation.**
 - d) Ensure that the potential health impacts of respirable crystalline silica particulates have been adequately investigated, and if required, include additional management procedures in the Dust Management Plan endorsed as part of the approved Work Plan Variation.**
 - e) Review the Rehabilitation and Site Closure Plan (March) against the new guidelines, *Preparation of Rehabilitation Plans, Guideline for Extractive Industry Projects* (March 2021).**
 - f) Include a Work Plan condition to ensure that progressive rehabilitation of the site is aligned with implementation of site specific management and work plans, including:**

- i. Biodiversity and Vegetation Management Plan**
 - ii. Species Protection Management Plan**
 - iii. Weed Management Plan**
 - iv. Construction Environmental Management Plan**
 - v. Landscape Plan.**
- g) Include a requirement and process in the Community Engagement Plan to undertake community engagement in relation to the end of life vision and progressive rehabilitation of the site.**
- h) Require a Final Site Rehabilitation Plan two years prior to the conclusion of the final stage of extraction in the coarse sand extraction pit.**
- i) Update the Community Engagement Plan to include correct references to the requirements and sections of the *Mineral Resources (Sustainable Development) Act 1990* and *Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2019*.**

1 Introduction

1.1 The Proposal

(i) Proposal description

The Proposal is the expansion of the existing Grantville Quarry (Quarry). Dandy Premix Quarries Pty Ltd is the occupier and operator of the sand extraction Quarry and is the Applicant for the Proposal (Applicant).

The Proposal seeks to amend the existing planning permit to:

- expand the extent of the fine-medium sand extraction pit (FMSEP) and extract medium-fine sand from below the water table
- extract sand from a new coarse sand extraction pit (CSEP) using dry extraction methods
- install a sand washing plant and slime dewatering plant to undertake a broader range of sands processing on site
- install a signalised intersection at the Quarry entrance
- increase truck movements from 120 to 240 per day at full production
- replace the section 173 Agreement Dealing No. AL599252K from the land at Lot 2 PS443067 Dunbabbinn Road, The Gurdies with an agreement under section 69 of the *Conservation Forests and Lands Act 1987*
- extend operating hours in relation to sales loading and despatch, and the slimes dewatering process plant operations (see Table 1).

The Applicant is seeking approval to extract approximately 30 million tonnes of sand of a total site wide resource of approximately 76 million tonnes. The Applicant has advised that the Proposal is expected to extend the productive life of the Quarry for the next 30 – 40 years, and under current approvals the sand resource will be exhausted by 2023.

The Proposal also requires the removal of native vegetation including large trees, triggering the need for an offset.

Table 1 Existing and proposed hours of operation

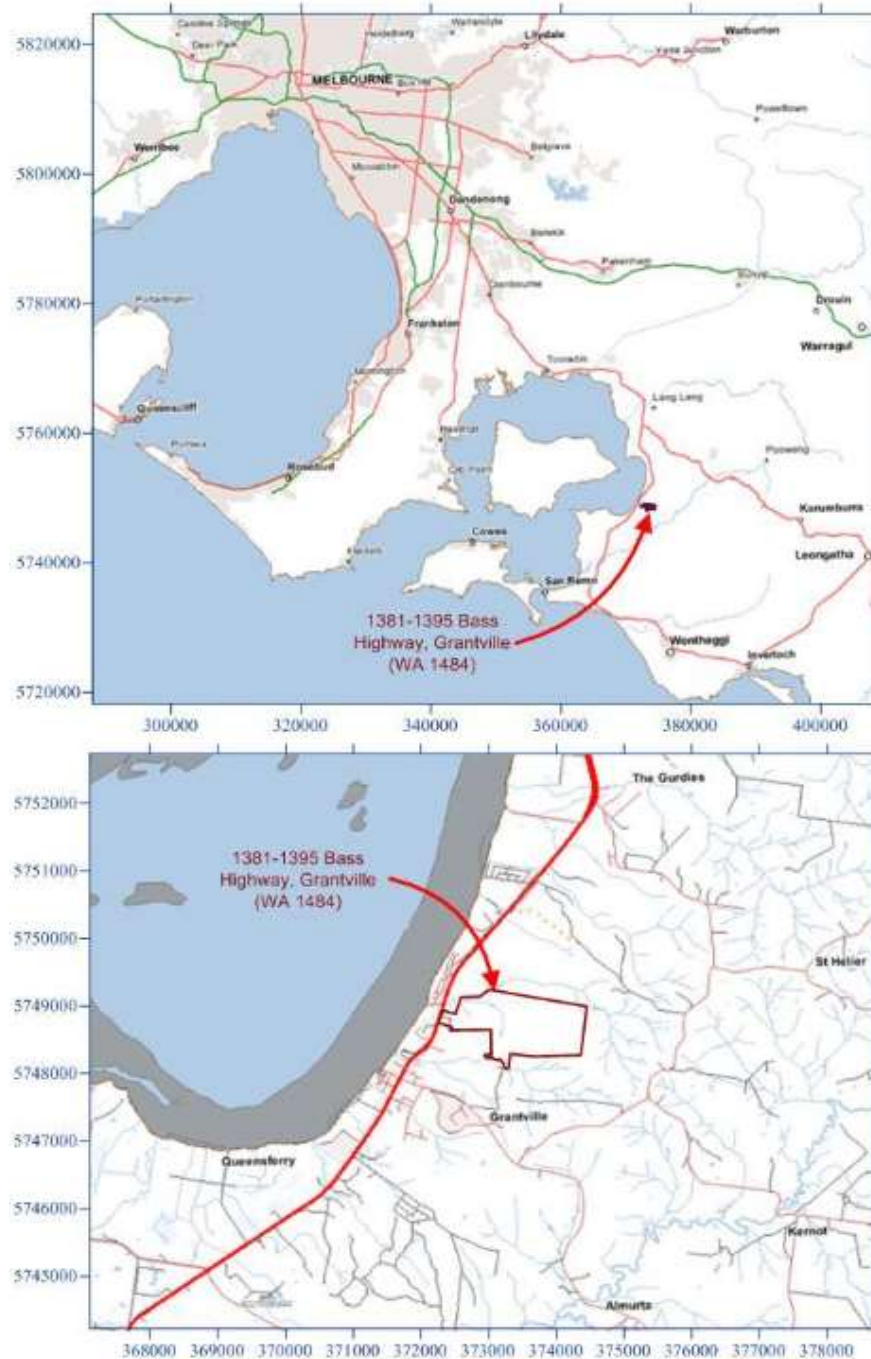
Operation	Monday to Friday - Current	Monday to Friday - Proposed	Saturday - Current	Saturday - Proposed
Site establishment and construction	6.00am-6.00pm	No change	6.00am-1.00pm	No change
Extraction	7.00am-6.00pm	No change	7.00am-1.00pm	No change
Sales (Loading and dispatch)	6.00am-10.00pm	No change	6.00am-1.00pm	6.00am-4.00pm
Processing	6.00am-6.00pm	6.00am-2.00am	6.00am-1.00pm	6.00am-10.00pm*
Repairs and maintenance	6.00am-10.00pm	No change	6.00am-10.00pm	No change

* Only the Water Clarifier/Thickener, Mud Buffer Tank and Dewatering Belt Press will operate between 6.00pm - 2.00am Monday to Friday and 1.00pm - 10.00pm Saturday

(ii) Site location

The Quarry is located at 1381 – 1395 Bass Highway, Grantville approximately one kilometre north of the township of Grantville (see Figure 1).

Figure 1 Location of site



Source: Planning Report, FocusCDS Consultants, July 2020

(iii) The site and extent of proposed works

The site and extent of the Proposal is shown in Figure 2.

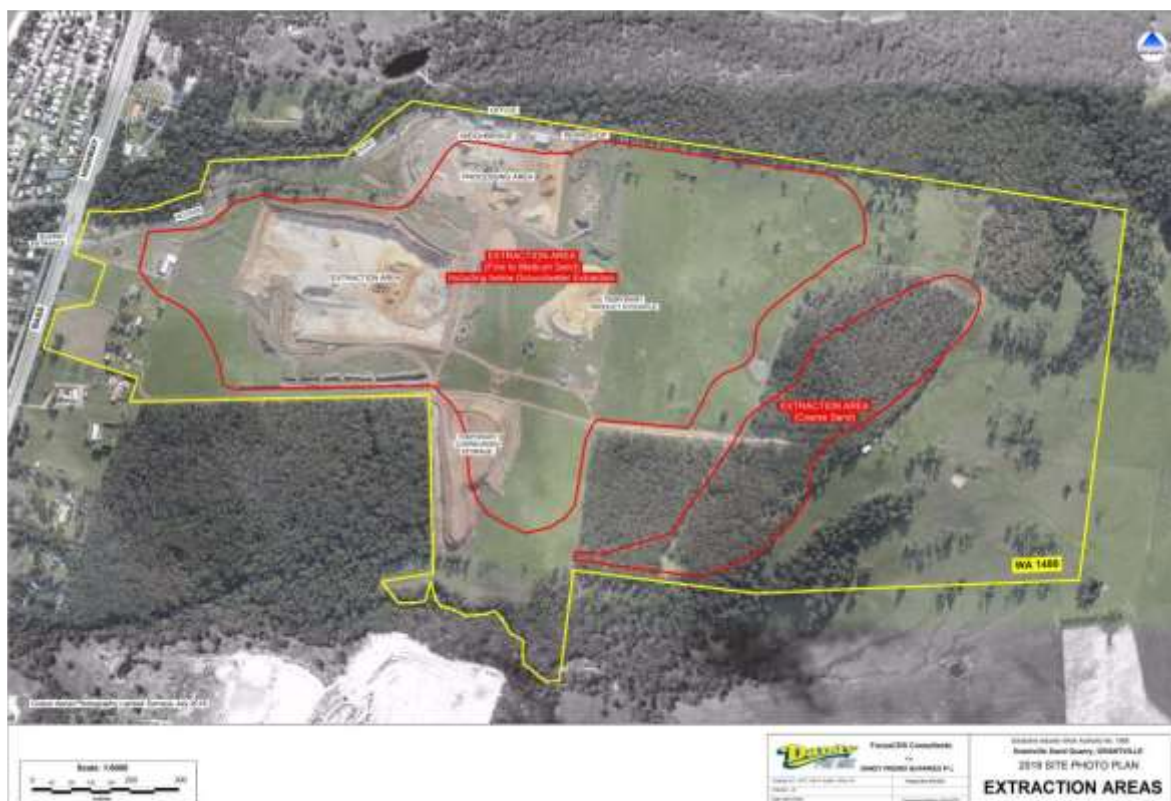
The site is approximately 156 hectares and irregular in shape with a frontage to Bass Highway of approximately 285 metres, an easterly depth of approximately 2,177 metres and a variable north-

south dimension of between 490 metres and 1,137 metres. In addition to the Quarry operations, the site contains one dwelling and associated outbuildings.

The western portion of the land is moderately undulating and sits within the coastal plain between Western Port Bay and the Strzelecki Ranges to the east. An ephemeral tributary to Deep Creek is located within this western part of the site. The eastern portion of the land is undulating and forms part of the foothills to the Strzelecki Ranges. The site elevation ranges from 120 metres AHD (Australian Height Datum) on the ridge to the east to less than 10 metres AHD at the western end of the Deep Creek tributary.

The central western portion of the site includes a large area of remnant vegetation. Across the western most part of the site there are scattered trees and patches of remnant vegetation.

Figure 2 Site and extent of proposed extraction



Yellow: Work Authority 1488 boundary, Red: Proposal expansion extent

Source: Planning Report Volume 1, FocusCDS Consultants, July 2020

To the north of the site, the land known as Lot 2 Dunbabb Road, The Gurdies (under the same ownership of the subject site) is largely covered by high quality native vegetation and is traversed by Deep Creek.

There are smaller rural allotments fronting onto Bass Highway along the southern portion of the site, along with heavily vegetated Crown Land (Grantville Bushland Reserve). A sand extraction facility operated by Grantville Sand and Gravel (Work Authority 470) exists further south of the site. Colbert Creek flows in a westerly direction to Western Port Bay.

The eastern portion of the site is largely undulating pasture, with scattered trees and patches of vegetation extending beyond the east of the site. The Bass Highway runs along the western boundary of the site, and to the north west is an established residential area.

The site consists of six titles including:

- Lot 1, TP 398939V (Vol 05390 Folio 031)
- Crown Allotment 176B Parish of Corinella (Vol 07824 Folio 032)
- Lot 2, PS 300991J (Vol 10031 Folio 148)
- Lot 4, PS 604744H (Vol 11044 Folio 475)
- Lot 5, PS 604744H (Vol 11044 Folio 476)
- Lot 1, TP 515206V (Vol 08869 Folio 053).

Section 173 Agreements under the *Planning and Environment Act 1987* (PE Act) apply to protect areas of native vegetation and require revegetation on the site¹ (see Chapter 5).

Lot 176B PP2453, Lot 1 TP398939 and Lot 1 TP515206 are all lands within an area of Aboriginal Cultural Heritage Sensitivity (see Chapter 6).

(iv) Sand resource

The Quarry has significant sand resource and is within Melbourne Supply Area Extractive Industry Interest Area 883998 (EIIA 883998) and is on the current Extractive Industry Priority Project List (Priority Project List). Quarries on the Priority Project List will be given priority planning consideration (see Chapter 4.1).

(v) Existing approvals

The Quarry has been operating since 2015 following the grant of Work Authority 1488 by Earth Resources Regulation (ERR) and the issue of Planning Permit 120388 (existing planning permit) by Bass Coast Shire Council (Council) in 2013.

The Quarry currently supplies sand to Dandy Premix Concrete Pty Ltd, an associated family company which owns and operates five concrete batching plants to the south east of Melbourne, and supplies blended sand products across Melbourne and Victoria.

Existing approvals allow for extraction of fine-medium sand from above the water table in accordance with an approved Work Plan.

The Applicant received a Statutorily Endorsed Work Plan Variation (Work Plan Variation) with conditions from ERR on 29 May 2020.²

The Work Plan Variation was referred to the following authorities as required under the *Mineral Resources (Sustainable Development) Act 1990* (MRSD Act):

- Southern Rural Water – no objection and conditions issued
- Melbourne Water – no objection and conditions issued
- Country Fire Authority (CFA) – no objection and conditions issued
- Department of Environment, Land, Water and Planning (DELWP) – no objection and conditions issued
- Heritage Victoria.

The Applicant is now seeking an amended planning permit.

¹ A section 173 Agreement Dealing No. AF196772F applies to Lot 5 PS604744H only, with all six titles being subject to Section 173 Agreement Dealing No. AL599252K.

² Document 1i) – Attachment.

(vi) Notice, referrals and objections

The Planning Permit Amendment Application (Amendment Application) was placed on public notice in accordance with section 52(1) of the PE Act for 28 days by:

- registered mail to 1, 089 landowners and occupiers sent on 22 October 2020
- signs being placed on the land on 23 October 2020
- an advertisement in the South Gippsland Sentinel Times on 29 October 2020.

In response to public notice, a total of 78 objections were received (see Appendix A), including one duplicate objection³, two supplementary objections⁴ and three late objections. The objections raised a variety of issues primarily relating to amenity, traffic, environmental and water issues (see Chapter 2).

No authorities were given notice under section 52 of the PE Act.

Under Section 55 of the PE Act, the Amendment Application was referred to the Environment Protection Authority (EPA) and Department of Transport (DoT). EPA did not object to the Amendment Application and did not issue conditions, and DoT did not object subject to conditions relating to traffic volumes, traffic signals and noise mitigation.

Council's environment team objected to the Amendment Application on the basis that it conflicted with the *Biodiversity Biolinks Strategy 2018* (Biolinks Strategy) adopted by Council.

1.2 The Panel process and other matters

(i) Call-in

The Minister for Planning called in the Amendment Application under section 97B (1)(a) of the PE Act on 22 November 2020. DELWP, on behalf of the Minister for Planning, referred the objections to the Panel under section 97E(1)(a) and 97E(1)(b) of the PE Act on 27 November 2020.

(ii) Directions

The Panel directed that DELWP address in submission at the Hearing:

- a) a summary of the strategic and regulatory context, including relevant legislation and the role of relevant authorities and agencies
- b) any relevant considerations resulting from declaration of Bass Coast as a 'Distinctive Areas and Landscape' and the Bass Coast Statement of Planning Policy (SPP) which is under preparation.

(iii) Extension of time to provide expert witness statements

On Thursday, 4 March 2021, Equipe Lawyers on behalf of the Applicant, requested leave of the Panel to submit expert evidence reports by Wednesday, 10 March instead of Friday 5 March 2021 as required by the Panel directions. The Panel received feedback from two submitters who contested the request for leave.

With consideration of whether any party would suffer prejudice whether there was sufficient time for parties and the Panel to review the material and with regard to the Planning Panels Victoria's

³ Objection 46

⁴ Objections 63 and 64

Guide to Expert Evidence, the Panel determined to grant leave to the Applicant to file the evidence reports by Wednesday, 10 March 2021.⁵

(iv) Drafting session

On the final day of the Hearing, the Panel held a without prejudice⁶ drafting session on the planning permit conditions. Several parties provided suggested drafting comments, including DELWP (Document 79), Council (Documents 85 and 86), the Applicant (Documents 83 and 84) and individual objectors (Document 78 and 87). The planning permit conditions are discussed in Chapter 11.

(v) Independence of experts

The issue of independence of experts and associated weighting of evidence was raised throughout the Hearing by Council, who submitted:⁷

... that the Applicant's witnesses, apart from those who completed peer reviews of the application materials and assessments (ie. Aaron Organ and Chris De Silva), are not independent in their support of the Application and their relationship with the Applicant.

Council cited *SMA Projects Pty Ltd v Yarra CC and Ors* (Red Dot) [2013] VCAT⁸ 436 and argued that:

... the level of weight that ought to be afforded to the evidence (where such prior involvement is evident) be substantially reduced.

In its Interim Submission⁹ the Applicant referred to the Panel's Guide to Expert Evidence and submitted that experts at the hearing who have had prior involvement with the Proposal could assist the Panel to a greater level of detail, and there is no basis to accord less weight to their evidence.

In closing, the Applicant rejected Council's claim and stated that it was not possible for experts who have had previous involvement in the Proposal to be absolutely impartial. He noted, however, that a number of experts have offered criticisms and recommendations for improvement. The Applicant noted that no expert evidence had been tabled by any other party, and so it was not a fair criticism.

Whilst the Panel agrees with Council that experts involved in preparation of the Proposal may lack impartiality, it accepts the expertise of the witnesses, and agrees with the Applicant that the experts offered helpful suggestions for improvements. The Panel also comments that it would have been helpful to have counter evidence to assist with interrogating the issues.

1.3 The Panel's approach

In this Report the Panel is providing advice to the Minister for Planning on whether an amended planning permit should be issued, and if so under what conditions. The Panel also provides comment on matters for consideration in reviewing the Work Plan Variation.

⁵ Document 23

⁶ In other words, not pre-supposing that an amended planning permit would be granted

⁷ Document 61, Section 3

⁸ VCAT – Victorian Civil and Administrative Tribunal

⁹ Document 59

In forming its views, the Panel has considered all referred written objections, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. The Panel has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. Material considered by the Panel included the Amendment Application and Work Plan Variation, and associated background reports. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

Appendix A includes a list of all documents tabled during the Panel process.

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

There are a number of issues not specifically addressed the Report. This is intentional as, whatever the merits of those issues raised, they fall outside the remit of the Panel.

2 Identification of issues

2.1 Summary of issues raised in objections and submissions

Objections and submissions on the Proposal raised many issues.

(i) Bass Coast Shire Council

Council does not support the Amendment Application in its current form on the basis of the following key issues:

- the Proposal directly conflicts with Council's Biolinks Strategy and will result in the destruction of a key compartment of bushland between The Gurdies Nature Reserve and the Grantville Bushland Reserve
- the Applicant has not delivered on revegetation works required by the existing planning permit
- the Work Plan Variation may not have the requirements for a binding rehabilitation plan, liability assessment or appropriate bond which is currently at \$90,000
- it does not give due consideration to the local environmental and community impacts
- a Community Benefits Scheme should be required to address the environmental and community impacts
- the site is within five kilometres of the Ramsar listed Westernport Biosphere and appears dismissive of issues arising from water table penetration such as the resulting 14 per cent reduction of flow into Deep Creek
- a decision should be delayed until the Marine and Coastal Policy is completed
- Bass Coast Shire was declared a Distinctive Area and Landscape (DAL) for its natural environment legacy. Industry is inconsistent with the Shire's natural environment based visitor economy and the economic assessment fails to address the impact on the Region's visitor economy
- the Proposal is at odds with the Council's Climate Emergency Declaration and its stated intention to increase its vegetation cover.

Council acknowledged that the Biolinks Strategy and the Climate Emergency Declaration had not yet been incorporated into the Planning Scheme, and therefore may not be duly considered by the Planning Panel.

Council indicated that it would only consider supporting the Amendment Application if its revised draft conditions were adopted (see Appendix H).¹⁰

Council resolved that the following amendments to the application would be required to be considered further:

- commitment to a final site rehabilitation plan that takes into account the surrounding environment and potential long term degradation of the environment
- determination of an adequate bond

¹⁰ Council Part A submission (Document 38)

- work commencing on the CSEP requiring the clearing of vegetation to be contingent on revegetation areas being established to a level adequate to serve as a biolink, as per the original section 173 Agreement.

The issues raised by Council are unresolved.

(ii) The Applicant

The key issue for the Applicant is securing a planning permit amendment to allow it to finalise its Work Plan Variation with ERR.

(iii) Individual and community group submitters

The key issues raised by submitters were:

- biodiversity:
 - impact on habitat and biolinks, protection of rare and threatened species and regulatory tools proposed to secure vegetation offsets
 - implementation and monitoring of the current Conservation and Revegetation Plan
- hydrological and geotechnical impacts – mining under the water table and impacts on ground stability, groundwater and surface water, including Western Port Bay
- water quality and conservation, including issues with sand washing
- progressive and end of life site rehabilitation
- traffic movement and volumes, including truck volumes and proposed introduction of traffic lights
- impact on township amenity, specifically relating to visual amenity, traffic, hours of operation, noise and air pollution and associated health impacts
- impact on the local economy of the town, and lack of local economic benefit
- consideration of local policies and strategies, and implications of Bass Coast being declared as a DAL
- community consultation – issues with the length of time provided for consultation during COVID-19 and time to consider the extent of Proposal.

Issues raised in objections and submissions are unresolved.

2.2 Issues dealt with in this report

This report deals with the issues under the following chapter headings:

- Policy context and approvals framework
- Overarching issues
- Ecology
- Cultural heritage
- Surface and groundwater issues
- Offsite Amenity (Traffic, Noise and operating hours, Dust, Landscape and visual amenity)
- Rehabilitation and site closure plan
- Other issues (Local economy and social impact, Community consultation and engagement)
- Planning permit conditions.

The Panel's recommended planning permit conditions are included in Appendix G.

3 Policy context and approvals framework

3.1 Strategic planning policy

(i) Planning and Environment Act 1989

Victorian planning objectives

The following objectives of planning are relevant to the Proposal, as set out in section 4(1) of the (PE Act):

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

Distinctive Areas and Landscapes

The *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018* was passed to recognise Victoria's most distinctive natural and cultural landscape values. The municipality of Bass Coast, including a 600 metre buffer seaward from the coast, was declared a Distinctive Area and Landscape (DAL) under Part 3AAB of the PE Act in October 2019 (see Figure 3).

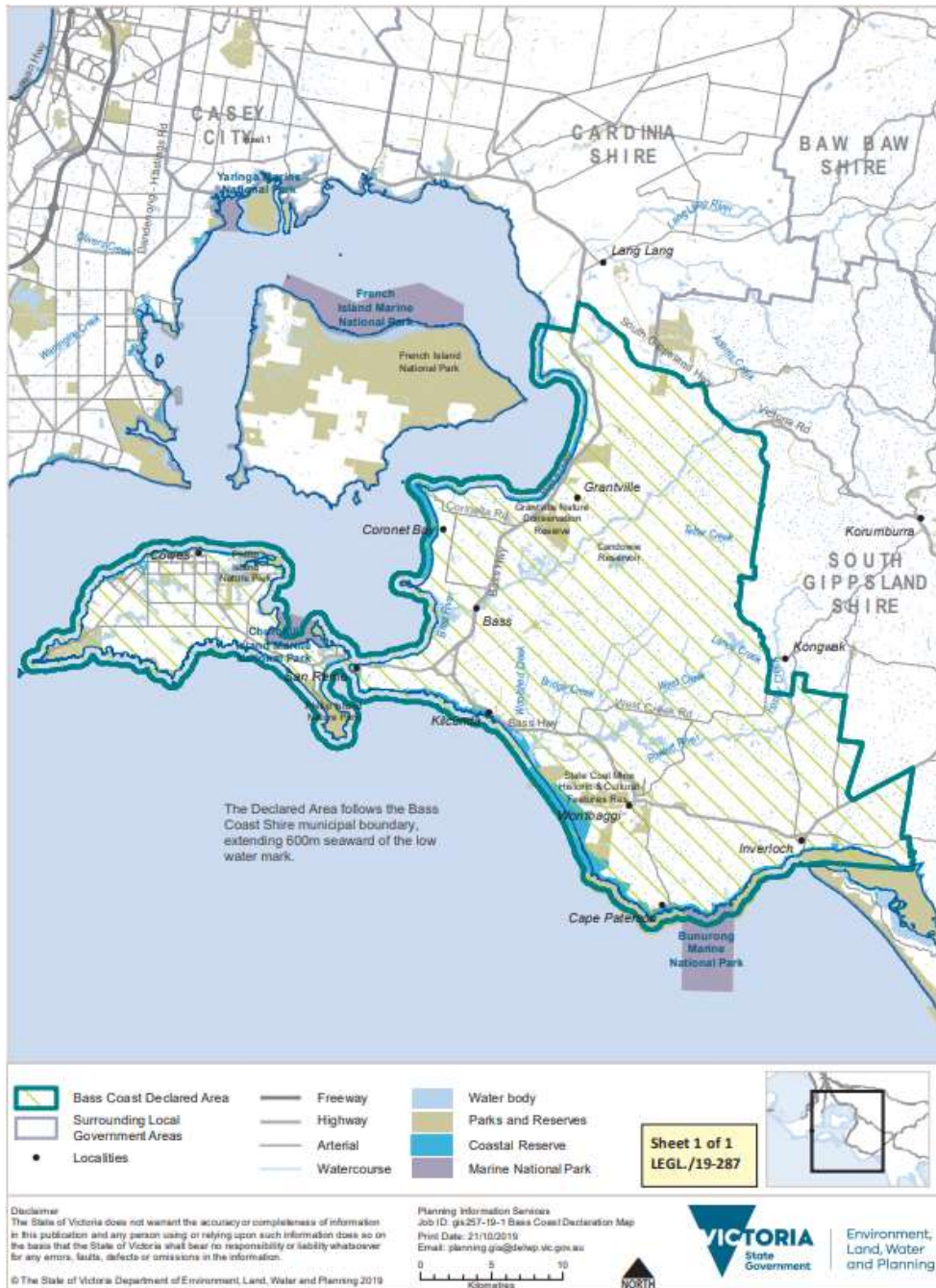
The objectives are to:

- recognise the importance of distinctive areas and landscapes to the people of Victoria and to protect and conserve the environmental, social and economic value of these areas
- enhance conservation of the environment including unique habitats, ecosystems and biodiversity
- promote cross-government coordination by enabling the integration of policy development, implementation and decision making
- recognise the connection and stewardship of Victoria's Traditional Owner communities.

A draft Statement of Planning Policy is currently being developed by DELWP in partnership with Council and the Bunurong Land Council, and is expected to be released for public consultation in the first half of 2021¹¹.

¹¹ Document 45

Figure 3 Bass Coast declared boundary map



Source: DELWP submission (Document 45)

(ii) Policy framework

The strategic planning framework is relevant for assessing the Amendment Application. The relevant policies and planning scheme provisions are discussed below.

Plan Melbourne

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

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Outcomes that are particularly relevant to the Proposal are set out in Table 2.

Table 2 Relevant parts of Plan Melbourne

Outcome	Directions	Policies
1. Melbourne is a productive city that attracts investment, supports innovation and creates jobs	1.4 Support the productive use of land and resources in Melbourne's non-urban areas	1.4.2 Identify and protect extractive resources (such as stone and sand) important for Melbourne's future needs
4. Melbourne is a distinctive and liveable city with quality design and amenity	4.5 Plan for Melbourne's green wedges and peri-urban areas, which are required to protect extractive industries.	4.5.2 Protect and enhance valued attributes of distinctive areas and landscapes

Gippsland Regional Growth Plan

The Gippsland Regional Growth Plan provides broad direction for land use and development across the region, including Bass Coast Shire. Its objectives include:

- establish a framework for strategic land use and settlement planning that can sustainably accommodate growth
- identify important economic, environmental, social and cultural resources to be protected, maintained or developed
- provide direction for accommodating growth and change including residential, employment, industrial, commercial, agriculture and other rural activities
- show which areas of land can accommodate growth and which are to be preserved
- identify opportunities for supporting regional level infrastructure, providing an essential contribution to the long term sustainability of the region.

State Planning Policy Framework

The following clauses in the State Planning Policy Framework are relevant to the Amendment Application.

Clause 11.03-4S – (Coastal settlement) seeks to plan for sustainable coastal development and includes strategies to protect areas between settlements for non-urban use and avoid development on ridgelines, primary coastal dune systems and low-lying coastal areas. It includes as policy documents the Victorian Coastal Strategy (2014) and the Gippsland Regional Growth Plan (2014).

Clause 12.01-1S (Protection of Biodiversity) seeks to assist the protection and conservation of Victoria's biodiversity. Strategies include to:

- ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity, including consideration of, cumulative impacts, fragmentation of habitat and the spread of pest plants, animals and pathogens into natural ecosystems
- avoid impacts of land use and development on important areas of biodiversity
- consider impacts of any change in land use or development that may affect the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites.

Clause 12.01-2S (Native vegetation management) seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. Strategies include:

- ensure decisions that involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*, DELWP, 2017 (Native Vegetation Guidelines):
 - avoid the removal, destruction or lopping of native vegetation
 - minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided
 - provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

Clause 12.02-1S (Protection of coastal areas) seeks to recognise the value of coastal areas to the community, conserve and enhance coastal areas and ensure sustainable use of natural coastal resources by:

- ensuring development protects and seeks to enhance coastal biodiversity and ecological values
- ensuring development is sensitively sited and designed and respects the character of coastal settlements
- maintaining the natural drainage patterns, water quality and biodiversity in and adjacent to coastal estuaries, wetlands and waterways
- protecting cultural places, including Aboriginal places, archaeological sites and historic shipwrecks.

Clause 12.02-3S (Bays) seeks to improve the environmental health of the Port Phillip Bay and Western Port and their catchments by reducing major environmental pressures associated with urban growth and development within the Port Phillip Bay and Western Port catchments by improving the quality of stormwater entering waterways, particularly that emanating from construction sites and road development.

Clause 12.05-1S (Environmentally sensitive areas) seeks to protect and conserve environmentally sensitive areas by, including Western Port and Port Phillip Bay and their foreshores.

Clause 12.05-2S (Landscapes) seeks to protect and enhance landscapes and significant open spaces that contribute to character, identity and sustainable environments by ensuring:

- sensitive landscape areas such as the bays and coastlines are protected
- development does not detract from the natural qualities of the significant landscape areas.

Clause 13.04-2S (Erosion and landslip) seeks to protect areas prone to erosion, landslip or other land degradation processes by:

- identifying areas subject to erosion or instability in planning scheme and when considering the use and development of land
- promoting vegetation retention, planting and rehabilitation in areas prone to erosion and land instability.

Clause 13.05-1S (Noise abatement) seeks to assist in the control of noise effects on sensitive land uses by ensuring that development is not prejudiced and community amenity is not reduced by

noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 13.06-1S (Air quality management) seeks to assist in the protection and improvement of air quality by ensuring that there is suitable separation between land uses that reduce amenity and sensitive land uses.

Clause 13.07-1S (Land use compatibility) seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts by ensuring that use or development of land is compatible with adjoining or nearby land uses and by avoiding or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.

Clause 14.02-1S (Catchment planning and management) seeks to assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment with relevant strategies including:

- consider the impacts of catchment management on downstream water quality and freshwater, coastal and marine environments
- retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway to:
 - maintain the natural drainage function, stream habitat and wildlife corridors and landscape values
 - minimise erosion of stream banks and verges
 - reduce polluted surface runoff from adjacent land uses
- undertake measures to minimise the quantity and retard the flow of stormwater from developed areas
- require appropriate measures to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins
- ensure that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses
- ensure land use and development minimises nutrient contributions to water bodies and the potential for the development of algal blooms
- require appropriate measures to restrict sediment discharges from construction sites
- ensure planning is coordinated with the activities of catchment management authorities.

Clause 14.02-2S (Water quality) seeks to protect water quality by ensuring that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges and to protect the quality of surface water and groundwater resources, rivers, streams, wetlands, estuaries and marine environments.

Clause 14.03-1S (Resource exploration and extraction) encourages exploration and extraction of natural resources in accordance with acceptable environmental standards includes strategies to:

- provide for the long term protection of natural resources in Victoria
- protect the opportunity for exploration and extraction of natural resources where this is consistent with overall planning considerations and acceptable environmental practice
- ensure planning schemes do not impose conditions on the use or development of land that are inconsistent with the MRSD Act.

Clause 14.03-1S (Resource exploration and extraction) requires consideration of:

- *Mineral Resources (Sustainable Development) Act 1990*
- *Melbourne Supply Area - Extractive Industry Interest Areas Review* (Geological Survey of Victoria Technical Record, 2003/2).

Clause 15.03-2S (Aboriginal cultural heritage) seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance. Includes strategies to:

- identify, assess and document places of Aboriginal cultural heritage significance, in consultation with relevant Registered Aboriginal Parties, as a basis for their inclusion in the planning scheme
- provide for the protection and conservation of pre-contact and post-contact Aboriginal cultural heritage places
- ensure that permit approvals align with the recommendations of any relevant Cultural Heritage Management Plan approved under the Aboriginal Heritage Act 2006.

Clause 17.01-1S (Diversified economy) Includes an objective to strengthen and diversify the economy and strategies to facilitate growth in a range of employment sectors, improve access to jobs closer to where people live and support rural economies to grow and diversify.

Local Planning Policy Framework

The following clauses in the Local Planning Policy Framework are relevant to the Amendment Application.

Clause 21.01 (Municipal Profile) sets out key strategic directions for settlement, built and natural environment, environmental management, economic development, housing, landscape and infrastructure.

Clause 21.03-7 (Extractive Industries) identifies that the known sand resources at The Gurdies-Grantville area will become increasingly important for concrete sand supplies in metropolitan Melbourne over the next 20 years. Although extractive industry itself may not employ many workers, the transporting of material, the associated service activities and related industrial activities provide employment opportunities for the local population. Includes objectives to:

- ensure the long term protection of known and potential sand resources
- effectively manage extractive industry in response to surrounding land uses and the natural environment.

Clause 21.04 (Environment) identifies a number of key issues facing the municipality, including:

- halting the decline and fragmentation of indigenous vegetation. Conserving and enhancing of the municipality's biodiversity
- balancing the competing interests of protecting existing habitat and development pressures
- maintaining water quality by better managing erosion, agriculture, forestry and urban uses.

Clause 21.04-3 (Biodiversity Conservation and Habitat Protection) includes objectives to:

- effectively manage and conserve the Shire's biologically diverse natural environment as an ecologically sustainable resource for present and future generations
- discourage development in locations, which impacts or conflicts with the quality and sensitivity of the natural environment
- minimise impacts on areas with high habitat value

- identify and protect good quality vegetation stands throughout the municipality
- control pest plants and animals throughout the municipality
- protect the Western Port Ramsar listed wetland, Anderson Inlet and the Marine National Parks.

Clause 21.05 (Landscape and Built Form) provides an overview of landscape, defines character areas and includes a range of objectives and strategies to ensure that land use and development protects coastal and hinterland landscapes and views.

Clause 21.08 (Moderate growth settlements) provides guidance for settlements within Grantville.

Clause 22.02 (Hilltop, ridgeline and prominent coastal landform protection) seeks to ensure the protection of the visual qualities of prominent landforms and ridges are important to maintaining the landscape qualities of the Shire.

Clause 22.06 (Non-agricultural uses in the Farming Zone policy) seeks to identify a preferred mix of land uses and to promote appropriate land use in the Farming Zone. It seeks to discourage non-agricultural uses in the Farming Zone, other than those that support agriculture.

(iii) Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

Zones

The land is in the Farming Zone. The purposes of the Zone are to:

- provide for the use of land for agriculture
- encourage the retention of productive agricultural land
- ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture
- encourage the retention of employment and population to support rural communities
- encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision
- provide for the use and development of land for the specific purposes identified in a schedule to this zone.

The land is adjacent to a Road Zone Category 1. The purposes of the Zone are to:

- identify significant existing roads
- identify land which has been acquired for a significant proposed road.

Overlays

The land is subject to the Bushfire Management Overlay. The purposes of the Overlay are to:

- ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire
- identify areas where the bushfire hazard warrants bushfire protection measures to be implemented
- ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

Other provisions

Clause 52.08 (Earth and Energy Resources Industry) seeks to:

- encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards
- ensure that geothermal energy extraction, greenhouse gas sequestration, mining and petroleum production are not prohibited land uses
- 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 52.09 (Extractive Industry and Extractive Industry Interest Areas) seeks to ensure that:

- use and development of land for extractive industry does not adversely affect the environment or amenity of the area during or after extraction
- excavated areas can be appropriately rehabilitated
- stone resources, which may be required by the community for future use, are protected from inappropriate use and development.

Clause 52.17 (Native Vegetation) seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

Clause 65 (Decision guidelines) states that because a permit can be granted does not imply that a permit should or will be granted, the Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 71.02-3 (Integrated decision making) requires an integrated and balanced approach to planning decision making which focuses on net community benefit. It states:

Society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure. Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development.

Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

(iv) Planning practice notes

Planning Practice Note 89 Extractive Industry and Resources (PPN89) was published in February 2020 and seeks to provide greater understanding and awareness of the importance of extractive industries. It provides information and guidance about:

- the current extractive industry approvals process
- protecting existing extractive industry operations
- protecting Victoria's extractive resources
- the Victorian Government's initiatives for improving the regulation and protection of extractive industry and resources.

The extractive industry approvals framework is explained in Chapter 3.3 and Appendix D.

3.2 Extractive industries policy

(i) Mineral Resources (Sustainable Development) Act 1990

The purpose of the MRSD Act is to encourage mineral exploration and economically viable mining and extractive industries which make the best use of, and extract the value from, resources in a way that is compatible with the economic, social and environmental objectives of the State.

Amongst others, the objectives of the MRSD Act include:

- encouraging and facilitating exploration for minerals and fostering the establishment and continuation of mining operations
- establishing a legal framework aimed at ensuring that risks are appropriately managed, consultation is effective and appropriate, land is rehabilitated, just compensation is paid for use of private land, conditions enforced and dispute resolution procedures effective.

(ii) Extractive industry plans and guidance

Helping Victoria Grow – Extractive Resources Strategy (2018)

The *Helping Victoria Grow – Extractive Resources Strategy* (Extractive Resources Strategy) was developed to help ensure that high quality extractive resources continue to be available at a competitive price to support Victoria's growth.

The objectives of the Extractive Resources Strategy include to:

- take immediate short term action to ensure a sufficient supply of extractive resources is available to meet Victoria's immediate infrastructure construction requirements
- provide secure and long term access to extractive resource areas of strategic importance to the State
- maintain and improve Victoria's competitiveness and provide greater certainty for investors in the extractives sector
- prioritise and implement improvements to streamline regulatory approval processes in the short term
- raise community understanding about the role of extractive resources in supporting Victoria's growing population and build confidence in the regulatory performance of the sector
- encourage leading-practice approaches to sustainability, environmental management and community engagement
- encourage and support innovation in exploration, extraction and the end use of landforms after quarrying.

The Strategy includes priority actions for implementation under six broad themes, including resource and land use planning.

Joint Ministerial Statement on Extractive Resources (2018), and Priority Project List

The *Joint Ministerial Statement- Extractive Resources- Rock Solid Foundations for Victoria's Growth* (Joint Ministerial Statement) was released in 2018 to guide implementation of six priority actions of the Extractive Resources Strategy. It commits to the following:

- streamlining approval processes to expand production
- protecting the continuity of supply

- applying the agent of change principle to quarries
- providing better guidance to industry and local government
- identifying and protect extractive resources of strategic importance
- reducing the environmental impact of quarrying and deliver landscapes for the community.

It includes a priority to streamline approvals to expand quarry production through a Project Priority List. This list was developed to identify and give priority planning consideration to existing quarries that are of strategic importance because they contain significant accessible resources close to Metropolitan or regional markets.

The criteria for inclusion on the Project Priority List include:

- the site contains significant accessible resources and is well located to markets
- the application needs timely consideration and coordination of separate approval processes
- the issues do not justify an Environmental Effects Statement process
- consideration of the application by the Minister under another Act would be facilitated by referral of the application to the Minister.

Extractive Industry Interest Areas

Extractive Industry Interest Areas (EIIA) are defined in the Melbourne Supply Area: Extractive Industry Interest Areas report (originally dated 1996 and updated in 2003¹²).

EIIAs are recognised in State planning policy at Clause 14.03-1S (Resource exploration and extraction).

The purpose of EIIAs is to:

- provide a basis for long term protection of sand and stone resource from sterilisation by inappropriate land uses
- provide a basis for ensuring the long term availability of sand and stone resources for use by the community and at minimal detriment to the environment
- assist in considering extractive industry values in long term strategic planning and local strategic plans
- ensure that Planning and Responsible Authorities consult with all relevant agencies about land use proposals which may impact on reduction of sand and stone resources within these areas
- create an awareness that extractive industry is possible land use in these areas.

EIIAs do not:

- provide statutory protection for sand and stone resources
- allow extractive industry as of right unless specified by planning schemes
- imply that future extractive industry will be confined to these areas
- preclude the use and development of land for other purposes.

¹² Melbourne Supply Area – Extractive Industry Interest Areas Review, Geological Survey of Victoria Technical Record 2003/2, Department of Primary Industries

EIIAs apply to land identified as likely to contain stone resources of sufficient quantity and quality to support commercial extractive industry operations, and further investigations are recommended.

Preparation of Work Plans and Work Plan Variations - Guideline for Extractive Industry Projects (2020)

The *Guideline for Extractive Industry Project* provides guidance on the preparation of work plans, work plans variations and administrative updates to meet the requirements of the MRSD Act.

Helping Victoria Grow: Extractive Resources in Victoria, Demand and Supply Study, 2015-2050 (2016)

The study forecasts demand and supply of extractive resources State wide to 2050, by resource type and by each of Victoria's 79 local government areas.

Regional Sand Extraction Strategy – Lang to Grantville (1996)

The executive summary of the Regional Sand Extraction Strategy states:

The Lang to Grantville region contains significant sand resources which are likely to be in great demand in future. There are a wide range of complex environmental, social and economic issues which have been considered in the development of this Regional Sand Extraction Strategy.

Some issues (such as noise and impact on surface water quality) can be addressed by measures such as specific planning provisions for new sand extraction operations. However, other issues (such as where sand lies beneath sites of high environmental significance) prompt careful consideration of whether it would be desirable to prohibit sand extraction in certain parts of the region.

The overall aim of the strategy is to ensure protection of sand resources in the Lang Lang-Grantville area and provide for:

- the extraction of these resources; and
- the rehabilitation of sites in a manner which protects significant environmental, economic and social values of the area.

The overall aim is developed by creation of specific objectives for a number of components accompanied by policies designed to achieve the objectives. The separate components of the Strategy, their objectives and an outline of their respective policies follow.

EPA Protocol for Environmental Management, Mining and Extractive Industries (December 2007)

The Protocol for Environmental Management (PEM) is an incorporated document of the *State Environment Protection Policy (Air Quality Management) 2001 (SEPP AQM)*. It supports the interpretation of SEPP AQM and sets out the statutory requirements for the management of emissions to the air environment arising from activities undertaken in the operation of mining and extractives sites, based on the guiding principle of best practice.

All mining and extractive industries must comply with SEPP AQM.

Clause 21.03-7 (Extractive Industry) requires extractive industries to consider the PEM to minimise impacts on the environment and surrounding areas.

3.3 Extractive industry approvals framework

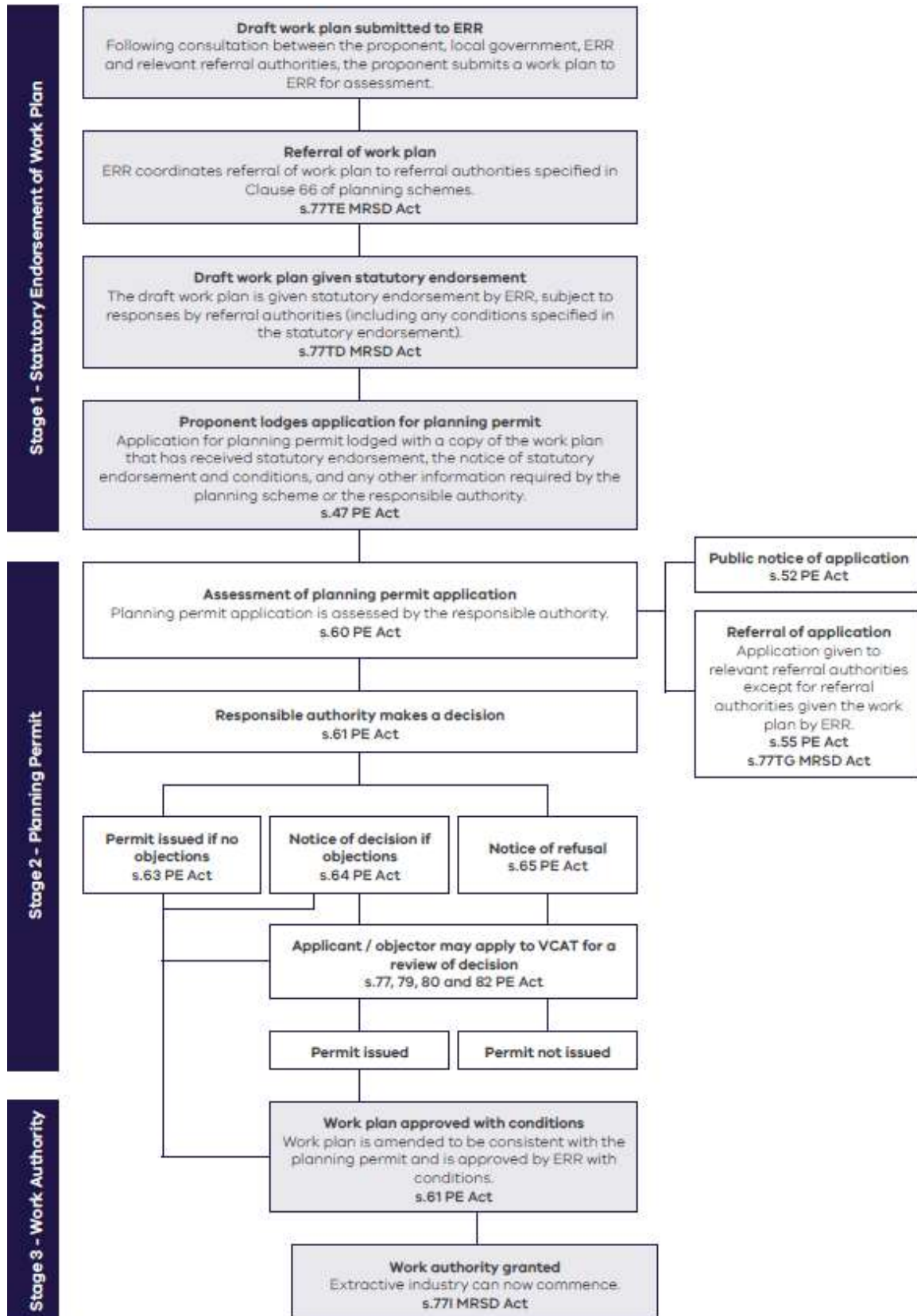
The MRSD Act allows a work authority holder to seek to expand their operations through a work plan variation. A work plan variation must be statutorily endorsed prior to seeking a planning permit, if required.

Figure 4 provides an overview of the process, including:

- statutory endorsement of a work plan under the MRSD Act
- issue of a planning permit under the PE Act
- final work plan approved and work authority granted under the MRSD Act.

A detailed overview of the extractive industries approval framework is explained in Appendix D.

Figure 4 Summary of extractive industry approval process



Source: Planning Practice Note 89

3.4 Planning permit triggers and assessment considerations

In its submission, DELWP¹³ provided an overview of permit triggers and application requirements (see Table 3). The Responsible Authority is required to consider all relevant decision guidelines as detailed in Appendix E.

Table 3 Summary of permit triggers and application requirements

Zones	Permit/Application Requirement(s)
Clause 35.07 Farming Zone	A permit is required to extend the use and develop the land for extractive industry.
Clause 36.04-1 Road Zone Category 1	A permit is required to construct a building or construct or carry out works for a use in a Section 2 of Clause 36.04-1.
Overlays	Permit/Application Requirement(s)
Clause 44.06 Bushfire Management Overlay	The application does not trigger a planning permit under the overlay. A permit is required to construct a building or construct or carry out works associated with a series of uses specified in Clause 44.06-1 of the Bushfire Management Overlay. Earth and energy resources industry is not a use specified in this Clause so there is no requirement for a planning permit for buildings and works under the Bushfire Management Overlay.
Particular Provisions	Permit/Application Requirement(s)
Clause 52.08 Earth and Energy Resources Industry	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. The permit exemptions do not apply in this instance, therefore a planning permit is required.
Clause 52.09 Extractive Industry and Extractive Industry Interest Areas	Sets out the application requirements to be met when an application is made under Clause 52.08. The applicant has complied with the requirements and purpose of this Clause.
Clause 52.17 Native Vegetation	A permit is not required to remove, destroy or lop native vegetation, including dead native vegetation. Extractive Industry is listed in the table to this Clause and states that a permit is not required. <i>“Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of extractive industry in accordance with a work plan approved under the Mineral Resources (Sustainable Development) Act 1990 and authorised by a work authority under that Act.”</i>

Source: DELWP Planning Submission (Document 45)

¹³ Document 45

4 Overarching issues

This chapter addresses overarching policy and strategic matters including:

- significance of the site being on the Extractive Industry Priority Project List in a planning context
- policy balance and net community benefit
- relationship between the Work Plan and Planning Permit.

4.1 Extractive Industry Priority Project List

One of the matters that the Panel must consider is the significance and implications from a planning policy context of the Quarry being on the Priority Project List.

4.1.1 Background and context

Plan Melbourne identifies that Melbourne's demand for extractive resources is expected to almost double by 2051. It states¹⁴:

If not managed, urban encroachment, rural residential expansion and other incompatible development will constrain the operations of existing quarries and curtail future supplies of extractive resources—endangering Melbourne's medium- to long-term growth prospects. To secure a long-term supply of extractive resource materials at competitive prices, current extractive industries must be protected and future extractive resource areas must be identified.

The Extractive Resources Strategy, released in 2018, shows Bass Coast Shire as being one of the top 20 strategic resource local government areas in Victoria.

In 2018 the State Government released the Joint Ministerial Statement which included an initial Priority Project List (see Chapter 3.2(ii)). The Quarry is on the Current Project List (shown on the ERR website¹⁵), which states that Priority Project List identifies quarries that will be given priority planning consideration with the goal of halving approval times.

The ERR website explains how being on the list affects how a quarry project is considered and assessed:

The purpose of the Priority List is to ensure that approval processes are coordinated to avoid unnecessary delays. It does not exempt any quarries from planning or other approvals.

Inclusion in the Priority List does not guarantee approval. Quarries on the Priority List are still subject to rigorous assessment requirements and must comply with relevant legislation.

The Extractive Resources Strategy 2018 and Joint Ministerial Statement and Priority Project List are not recognised in planning schemes.

PPN89 clarifies the importance of extractive industries and the approvals process (see Chapter 3.3 and Appendix D).

¹⁴ Policy 1.4.2 - Identify and protect extractive resources (such as stone and sand) important for Melbourne's future needs

¹⁵ <https://earthresources.vic.gov.au/projects/extractive-industry-priority-project-list> (accessed 25 May 2021)

4.1.2 Evidence and submissions

(i) DELWP

DELWP submitted that inclusion on the Priority Project List includes a priority to streamline approvals, and that the:

...list was developed to identify and give priority planning consideration to existing quarries that are of strategic importance because they contain significant accessible resources close to Metropolitan or regional markets.

DELWP directed the Panel to the Priority Project List to understand the criteria for inclusion.

In response to a question from the Panel about relative value of the Quarry's sand resource in a State wide context, DELWP submitted:¹⁶

The specific volume of resource at the site is commercially sensitive information that cannot be reported publicly by the Department without the company's consent. Hence, a quantitative estimate of the value of the resource at the site is not available. However, the sand located within Bass Coast Shire (and the Lang to Grantville region) is considered as a strategically important resource for the State. Bass Coast Shire was ranked as the 19th highest strategic resource location in the Extractive Resources in Victoria: Demand and Supply Study 2015-2050 (PwC, 2016)

The application under consideration is located within the Extractive Industry Interest Area (EIIA) 883998 which identifies the primary extractive resource type being sand and gravel. EIIA's are areas likely containing sand and stone resources of sufficient quantity and quality to support commercial quarry operations. It is up to the private industry to determine the commerciality of any quarry operation.

(ii) Applicant

The Applicant submitted that the Quarry is located in EIIA 883998, and *"in recognition of its strategic importance to the Victorian economy, the quarry has been included on the Extractive Industry Priority Project List"*. He submitted that the Minister's call-in letter recognises that the construction sands at the Quarry are of strategic value.

The Applicant argued that the Panel should give significant weight to the site being a priority site, stating that if it was not a priority site, then the ordinary balance of considerations would apply, but this is not the case when it is a priority site. He contended that the decision makers should be attempting to facilitate sand extraction unless there are fundamentally good reasons not to.

In closing, the Applicant submitted that the Panel should not be side tracked into considering whether sand extraction in the area is needed, as the policy framework clearly does this.

Mr De Silva gave evidence that the value and extent of the additional sand resources is significant, has been rigorously identified and quantified, and is not in question. He also noted that it is located within the current Work Authority boundary.

In response to a question in the Witness Question Document, Mr De Silva noted that:

... the Joint Ministerial Position Statement and the State strategy both highlight the importance of sand as a resource and the objective to support continued supply from existing extractive sites.

In relation to the approval process, Mr De Silva advised that:

¹⁶ Document 57

- the extractive industry regulatory process had undergone significant reform over recent years and the Extractive Resource Strategy defines the contribution and importance of extractive resources to support infrastructure projects and growth
- the Extractive Resource Strategy *“explicitly seeks to recognise and protect current and future extractive industry sites to avoid shortage of supply of extractive materials, including sand, that are used to support the building and infrastructure construction industries”*
- the Joint Ministerial Statement aims to streamline approval processes to expand production and to protect the continuity of supply from existing quarries.

Mr De Silva emphasised that *“there is a clear and pressing State strategy objective to streamline approval processes to expand production”* with the qualification that this is guided by State policy *“to protect the opportunity for exploration and extraction of natural resources **where this is consistent with overall planning considerations and acceptable environmental practice**”* (Mr De Silva emphasis).

In response to a question submitted via the Witness Question Document¹⁷, Mr De Silva advised that there is no definition of ‘acceptable environmental practice’ and that he has used the term in the context that *“it is intended to represent those practises that are used by extractive industry and which are assessed by the relevant authorities as being appropriate”*.

(iii) Council

The Council resolution of 17 February 2021 stated that:

Significant and valid community concern about existing sand mines were raised by these objections, including for this site in Grantville and areas in the Bass Coast Shire earmarked for sand extraction as per the State Government Extractive Industry Priority Project List.

4.1.3 Discussion and conclusions

The ERR website states that the purpose of the Priority List is to ensure that approval processes are coordinated to avoid unnecessary delays. It does not exempt any quarries from planning or other approvals.

It also states that inclusion in the Priority Project List does not guarantee approval. Quarries on the Priority List are still subject to rigorous assessment requirements and must comply with relevant legislation.

The Panel understands and accepts the State significance of the sand resource at the Quarry, however, does not consider that this in any way diminishes the assessment obligations of the Responsible Authority. Consequently, the planning merits of the Proposal still need to be considered and assessed.

The Panel concludes that:

- The strategic significance of the sand resource to the State is clear.
- Being on the Priority Project List means that assessment of the Proposal must be prioritised, but does not provide determinative policy support for the Proposal.

¹⁷ Document 42 and Document 50

- The Proposal is still subject to a full planning assessment, including a balanced assessment of policy considerations as required by the Planning Scheme.

4.2 Policy balance and net community benefit

4.2.1 Evidence and submissions

Mr Drew submitted that the *Regional Sand Extraction Strategy 1996* was outdated and did not provide a sufficient basis for weighing up resource objectives compared with current biodiversity policy. Further, that the DAL process was imminent and that process was designed to reconcile competing policy objectives. He submitted that the Amendment Application should be deferred until that process was complete.

Mr O'Brien submitted that the need for the resource did not outweigh the biodiversity considerations and that it was not sustainable to extract sand from this site. Ms Heath Mennell submitted that the needs of extractive industries needed to be balanced against the needs of the environment.

The Applicant submitted that:

The Panel's role is to consider ... objections and report to the Minister about whether the proposed quarry expansion provides a net community benefit and is an acceptable outcome having regard to State, Regional and Local planning policies.

In relation to question of balancing competing policy objectives, the Applicant submitted that the Panel should place less weight on the Council's Biolinks Strategy as it did not form part of the Planning Scheme:

Council correctly notes the Plan is not a reference document or an incorporated document in the Bass Coast Planning Scheme. Accordingly:

- a. the Panel should not elevate the Plan to a status it does not have in the Planning Scheme; and
- b. less weight should be given to the Plan than clauses of the Planning Scheme such as:
 - i. clause 23.07 which includes "Objective 1 - To ensure the long term protection of known and potential sand resources"; and
 - ii. clause 52.17 which provides that a planning permit is not required for the removal of native vegetation due the applicable exemption for extractive industries.

In response to a question from the Panel about competing policy objectives, DELWP submitted¹⁸:

... the value of the resource is not a factor considered in a planning policy context. There is nothing in 71.02-3 that considers the value of a resource specifically. This clause is more about balanced decision making.

The Applicant relied on the evidence of Mr Natoli, who gave evidence in relation to rehabilitation plans for the site. He suggested that the establishment of a 24 hectare lake with revegetated surrounds, similar to that provided at the former quarry sand site Karkarook Park in Heatherton, would provide opportunities for passive recreation.

¹⁸ Document 57

The Applicant submitted that there are significant community benefits associated with the Proposal, and that it will result in a net community benefit.

In closing the Applicant submitted that Mr De Silva gave evidence confirming that:

The weight of evidence is tipped towards extractive industry and the balance is towards allowing extraction on relevant sites.

Referring to Mr De Silva's evidence, the Applicant stated that:

His uncontradicted opinion was that the proposed quarry expansion:

- a. will result in extraction of resources that are of value to the entire community of Victoria and will support the construction and infrastructure industries; and
- b. represents a more than acceptable planning outcome as it will deliver a net community benefit including continued supply of much needed resources in a manner that is consistent with Local and State Policy.

Mr De Silva considered that the installation of traffic signals will provide broader benefits to the community by removing trucks from Grantville township, and reducing travel times and costs, provision of a safe pedestrian crossing point and access to the bus stop.

Mr De Silva considered that there are significant community benefits that are associated with the Proposal which should be taken into account to determine whether there are interests beyond those that have lodged objecting submissions.

In its Part A submission¹⁹, Council submitted that relevant policies seek to:

- ensure that coastal development is balanced against the protection and conservation of biodiversity, environmentally sensitive areas and Aboriginal cultural heritage
- ensure that where development is approved, significant landscapes that contribute to the character, identity and sustainability of the environment, are protected
- protect community amenity, human health and safety by controlling noise effects on sensitive land uses
- protect and restore catchments, water bodies, groundwater and the marine environment
- develop and diversify the local and state economy
- explore, protect and utilise the natural resources such as sand for the interests of the State.

Council further submitted that, that the sand resources in the Gurdies-Grantville area for the provision of sand supplies for the concrete industry and the needs for Metropolitan Melbourne are recognised as important. However, while policies encourage exploration and extraction of natural resources, this is balanced against the need to adhere to high environmental standards. Policy also requires quarries to be located or designed to minimise impacts on areas of high landscape and environmental quality.

In relation to community benefit, Council's submissions focussed on the need for a local Community Benefits Scheme to offset the local environmental and community impacts of the sand extraction works.

¹⁹ Document 38

4.2.2 Discussion

The Panel agrees with the Applicant that its role is to consider objections and recommend to the Minister whether the Proposal provides a net community benefit and is an acceptable outcome having regard to policy.

The issue of policy balance has been challenging for the Panel. There is a direct tension between policies relating to extractive industries and native vegetation. The Proposal clearly represents strategic sand extraction which has policy support, however the Proposal also requires removal of a significant extent of native vegetation.

DELWP advised that the strategic value of the sand resource is not a factor in a planning policy context, and that consideration of policy must be done with reference to Clause 71.02-3 (Integrated decision making), which *“requires an integrated and balanced approach to planning decision making which focuses on net community benefit”*.

Extractive industries have strong policy support, and this Proposal has been identified on the Priority Project List which indicates significant resources and strategic locations in relation to supply markets.

The Panel has considered the biodiversity impacts in detail in Chapter 5, and makes a number of recommendations to protect native vegetation assets and maximise benefits if the Quarry expansion goes ahead.

In relation to the DAL, the Panel is required to consider the Proposal against ‘policy of the day’ and does not consider it appropriate to defer assessment of the Proposal until that process is complete. The DAL is discussed further in Chapter 8.4.

The Panel has considered net community benefits with regards to economic, social and environmental impacts, and with consideration of present and future generations.

The Panel concludes that on balance the Proposal provides a net community benefit in that it:

- will facilitate the extraction of important sand resources that are required for the construction and infrastructure industries, and close to areas of high demand
- create new jobs and associated expenditure
- upgrade road infrastructure.

The Panel has also found that local community benefits are contingent on careful and considered management to ensure that local amenity and environmental impacts are acceptable. A number of issues and mitigation measures are discussed and recommended in this report, including:

- biodiversity and vegetation
- noise, air quality and water
- cultural heritage
- landscape and visual amenity.

The delivery of long term net community benefits depend on the delivery of ecological benefits that are in turn critically reliant on successful offset and revegetation programs.

The Panel agrees with Mr Natoli that there is significant potential for local community benefit over the long term, however this will depend on the Applicant undertaking appropriate progressive and end of life rehabilitation in consultation with the local community.

There may be more immediate local community benefits, such as support for local interest and sporting groups, as suggested in the Community Engagement Plan. This is discussed further in Chapters 9 and 10.2.

4.2.3 Conclusion and recommendation

In conclusion, on balance the Proposal is supported by State and local policy and will result in net community benefit.

The Panel concluded that local community benefits rely on careful and considered management to ensure that local amenity and environmental impacts are acceptable.

Based on the reasons set out in this Report, the Panel makes the following primary recommendation:

Grant amended planning permit No. 120388-1 for the expansion of Grantville Quarry in accordance with the Site Layout Plan (Drawing: NS-1903 Rev: 06/01/2020) subject to the Panel recommendations on conditions contained in Appendix G and other recommendations of this Report.

4.3 Relationship between the Planning Permit and Work Plan

A key issue that the Panel needs to consider is what the planning permit must address relative to the Work Plan.

4.3.1 Background and context

PPN89 explains that most of the information required for assessment of a planning permit will be included in and addressed by a work plan that has received statutory endorsement. Statutorily endorsed work plans have been assessed by both ERR and relevant referral authorities and provide a “*substantial basis for regulating the use and development*”.

PPN89 advises that if a work plan is referred to a referral authority through the endorsement process then it cannot be referred again through the planning permit assessment process.

Referral authorities are required to consider requirements of the Planning Scheme in considering the extractive industry proposal. Subsequently, the final work plan will take account of any requirements of the planning permit.

PPN89 suggests that a condition be included on the permit to help streamline and reinforce alignment of requirements under the two Acts, and conditions are also suggested to link the approvals. The suggested conditions include:

The use and development must at all times be in accordance with any work plan approved under the *Mineral Resources (Sustainable Development) Act 1990*.

The use and development must not commence until a work authority is granted under the *Mineral Resources (Sustainable Development) Act 1990*.

This permit will expire if the work authority is cancelled under section 770 of the *Mineral Resources (Sustainable Development) Act 1990*.

The Statutory Endorsement Information for the Proposal, issued by the Department of Jobs, Precincts and Regions (DJPR) and submitted to Council with the Amendment Application²⁰, included the following condition:

In accordance with the requirements of Clause 66 of the Victorian Planning Provisions, the responsible authority is advised that the department (in its capacity as a Determining Authority under Section 55 of the Planning and Environment Act 1987) has considered the proposal within the last three months prior to the date of this letter and does not object to the grant of a planning permit subject to the following condition:

1. Any planning permit conditions imposed do not duplicate or copy the requirements contained within the attached Statutorily Endorsed Work Plan and accompanying conditions

The Panel invited parties to respond to the Applicant's preferred conditions. Written comments were provided by DELWP and Council, and the preferred conditions were discussed at the Drafting Session held on the last day of the Hearing.

Appendix G includes a consolidated list of preferred conditions from the Applicant and Council, includes recommendations on conditions from the Panel.

4.3.2 Evidence and submissions

(i) DELWP

In response to a question from the Panel about whether the draft Council conditions were consistent with PPN89, DELWP submitted that:

It appears that draft conditions of planning permit are not consistent with the Planning Practice Note 89.

Planning permit conditions should not duplicate or copy the requirements contained with the endorsed Work Plan variation.

...

It states that most matters relating to native vegetation and rehabilitation will be addressed by a statutorily endorsed work plan or another approval. For example:

- The work plan (and conditions) will set out either specific measures or a management framework for dealing with aspects such as noise, blasting, dust, vibration and rehabilitation.
- Native vegetation removal will have been assessed against the *Guidelines for the removal, destruction or lopping of native vegetation* by DELWP and conditions requiring appropriate offsets will be imposed on the work plan.
- The work plan will include a rehabilitation plan.
- If required, a Cultural Heritage Management Plan will address potential impacts on Aboriginal cultural heritage.
- The draft without prejudice conditions prepared by Council relating to construction management plan (condition 5) native vegetation (conditions 29 and 30) rehabilitation (condition 31), groundwater (conditions 43 and 44), duplicate what is included within the work plan.

DELWP made a written submission in relation to the Applicant's preferred conditions which suggested that a number conditions were dealt with by ERR, and therefore were not required in the planning permit (see Appendix F).

²⁰ From DJPR advising of statutory endorsement of the Work Plan (dated 29 May 2020) - Appendix 7 to Amendment Application

(ii) The Applicant

The Applicant submitted that a key issue that the Panel needed to consider was “*what was legitimately part of the planning process*”, and that the detail of the operations is in ERR’s control. The Applicant submitted that “*the planning permit can’t be the horse that pulls the cart*”, and while it is not black and white, the Responsible Authority must exercise discretion as to what goes into the planning permit to complement the Work Plan.

With reference to *SITA Australia Pty Ltd and PWM (Lyndhurst) Pty Ltd v Greater Dandenong CC [2007] VCAT 156*, the Applicant submitted²¹ that widely accepted principles include avoiding conflict between planning permits and work plans, and that regulation of the technical aspects of a quarry should be left to ERR, as the expert.

The Applicant also submitted that:

Given that the extended quarry will be developed and evolve over 30+ years, there are material advantages to placing detailed controls in the Work Plan and its associated management plans and other documents because:

- a. the Work Plan can be amended under the MRSD Act as the works are progressively undertaken and technology changes;
- b. the expert regulator can on its own initiative determine that an approved work plan be varied and direct the holder of a work plan to lodge an application for approval of the variation.

The Applicant summarised the evidence of Mr Natoli stating that:

... firstly, ERR inspectors monitor operations for compliance with the approved work plans and conditions and, secondly, ERR can require the operator to update the work plan to ensure that operations conform to acceptable practice and generally with best practice in the more recently approved quarries.

Mr De Silva gave evidence that:

Statutory endorsement of the draft Work Plan is the outcome of a ‘technical, environmental and operational’ assessment of the draft Work Plan which serves to assist the planning assessment process by narrowing the matters that need to be assessed as ‘overall planning considerations’ and to some extent ‘acceptable environmental practice’.

In this context, overall planning considerations might relate to a combination of site and broader strategic land use issues and/or compliance with State and Local Policy and strategies.

His opinion was that “*in terms of the form of the amended planning permit, the Panel process offers the opportunity to review the proposed conditions to draw a more definite distinction between the purpose of the amended Work Plan and the Planning Permit*”.

In terms of ‘acceptable environmental practice’ Mr De Silva suggested that there were two issues that warrant further consideration as part of the planning assessment:

- amenity issues specifically associated with the access arrangements and truck movements
- proposed vegetation removal and visual impact associated with the additional eastern most extraction area.

²¹ Document 59

During the Drafting Session, the Applicant made a number of suggestions to include additional conditions based on the recommendations of Mr Organ who gave evidence for the Applicant on ecology. The Applicant gave the opinion that the new conditions may be required through an amendment to the Work Plan Variation or as Planning Permit conditions.

(iii) Council

Council questioned whether it was appropriate for the Panel to rely on the Applicant's advice that many of the issues have been addressed through the Work Plan Variation, when it was evident through expert evidence that many critical elements of the Proposal were still unresolved.

In its Part B submission²², Council submitted that:

- the existing conditions on the Permit will remain on the Permit (where relevant) unless expressly requested to be removed as part of the Amendment Application
- the Proposal was required to be considered against all relevant decision guidelines in the Planning Scheme.

4.3.3 Discussion

The extractive industries approval framework provides for a streamlined assessment process, including coordination of referrals through the work plan and planning permit assessment processes. This is likely to be beneficial in reducing approvals assessment timeframes and for coordinating conditions.

The requirement to include conditions that align and link the approvals also helps to provide clarity, and the Panel has reviewed the conditions and made recommendations accordingly. This review has also occurred to avoid duplication, as required by the DJPR condition.

The submissions and evidence relating to the relationship between the Work Plan and Planning Permit suggest that whilst there is a desire and intent for there to be a clear distinction between the two, in practical terms this is very difficult to achieve. The Panel agrees with the Applicant that it is not black and white.

It is clear that a full planning assessment of the Proposal requires consideration of:

- the Work Plan Variation and associated documents
- conditions issued by ERR and referral authorities under the Work Plan Variation Process.

The process of determining suitable planning permit conditions is not as simple as 'filling the gaps' of those not included in the Work Plan. The Responsible Authority needs to assure itself that all planning matters have been considered and adequately addressed, regardless of whether the Work Plan has determined that the Proposal is satisfactory from a technical, environmental and operational perspective. Whilst it is appropriate that operational matters are assessed and conditioned by ERR through the Work Plan Variation, the land use planning implications of operational matters still need to be considered.

Mr De Silva advised that the planning assessment can be narrowed to focus on 'overall planning considerations' and to some extent 'acceptable environmental practice', and he suggested a limited number of specific issues for assessment. The Panel, however, considers that a full planning assessment of the Proposal is required, and consequently has reviewed 'acceptable

²² Document 61

environmental practice' in relation to each issue where relevant, and has made recommendations accordingly.

The Panel agrees with the Applicant that there are significant advantages to placing the detailed controls in the Work Plan and associated plans, to allow these to be updated through an ongoing Work Plan management process with ERR. The Panel has been mindful of this when making recommendations on permit conditions.

In recommending conditions, the Panel has considered whether:

- the matter is adequately addressed by the Statutorily Endorsed Work Plan Variation, or if further work is required before the Work Plan Variation is approved by ERR
- the existing planning permit conditions are adequate, or if new or amended planning conditions are required.

The approvals framework allows for the Work Plan to be finalised following issue of the planning permit conditions, however the process is not clear for how the conditions influence any refinement of the final Work Plan Variation. To assist, the Panel has made recommendations for ERR in finalising the Work Plan.

The Panel has reviewed the preferred conditions suggested by the Applicant, Council and parties, and recommendations are made in relevant chapters of this Report. The Panel has made recommendations on conditions in Appendix G.

4.3.4 Conclusions and recommendation

The Panel concludes that:

- Conditions should be streamlined, and duplication avoided.
- Conditions should be included on the planning permit that reinforce alignment and link the approvals.
- To the extent possible, planning permit conditions should complement Work Plan conditions, or add an additional level of detail required to respond to the requirements of the Planning Scheme.
- Where possible the detailed controls should be included in the Work Plan, and associated plans so these can be updated through an ongoing Work Plan management process with ERR.
- Planning permit conditions may require amendments to the final Work Plan Variation.

For the reasons set out in this Report, the Panel makes the following primary recommendation:

That Earth Resources Regulation take into consideration the recommendations of this Report in finalising the Work Plan Variation.

5 Ecology

5.1 The issues

The issues are whether:

- The proposed vegetation loss is consistent with biodiversity and native vegetation policy in the Planning Scheme
- whether fragmentation can be avoided and habitat connectivity can be maintained
- the timing and feasibility of any rehabilitation or revegetation is appropriate
- the vegetation loss can be avoided or minimised
- the cumulative impacts of the Proposal have been properly considered in terms of habitat loss over time
- the mechanisms proposed to give effect to any revegetation or offset commitments are appropriate.

5.2 Background and context

Existing planning permit and section 173 requirements

Dandy Premix Quarries Pty Ltd owns the site and the property to the north of WA1488, known as Lot 2 Dunbannin Road, Grantville, which abuts the Gurdies Nature Conservation Reserve.

The existing Quarry was permitted in a part of the site cleared of native vegetation and used for agricultural purposes, and no native vegetation removal was required.

The existing planning permit however includes conditions that require the establishment of vegetation corridors on the land, including:

- Condition 3 - preparation of a Conservation and Revegetation Sites Plan (see Figure 5)
- Condition 31 – requirement for the owner of the land to enter into a section 173 Agreement with Council and Department of Environment and Primary Industries (now DELWP) to ensure that the establishment, protection and maintenance of the native vegetation corridor across the Quarry site and Lot 2 Dunbannin Road, in accordance with the endorsed Conservation and Revegetation Sites Plan.

Condition 31 of the existing planning permit explicitly states that:

... the native vegetation values (existing and future) of such areas shall remain available to be used for the purposes of native vegetation offsets to the benefit of the subject land or other land where native vegetation losses are required to be offset.

The existing section 173 Agreement, which is now registered on the land, requires implementation of the Conservation and Revegetation Sites Plan:

- To establish and protect conservation areas 1, 2 and 3 as a 'Native Vegetation Corridor' within 12 months of commencing sand extraction.
- To establish and protect conservation area 4 as a 'Native Vegetation Corridor' within 10 years of commencing sand extraction.
- To establish and protect conservation area 5 as a 'Native Vegetation Corridor' at the completion of extraction.

The section 173 Agreement states that any ‘Native Vegetation Gains’²³ achieved in areas 1, 2, 3, 4 or 5, as shown on the Conservation and Revegetation Sites Plan, can be assigned by the owner to offset the removal of native vegetation from the land or any other land.

Figure 5 Conservation and Revegetation Sites Plan



Source: section 173 Agreement

Vegetation assessment and offset requirement

The Work Plan Variation and Amendment Application was prepared on the basis of the *Native Vegetation Removal Report, Detailed Pathway* report prepared by Paul Kelly & Associates in December 2019 (Paul Kelly Report).

The Paul Kelly Report states that:

- no native vegetation was required to be removed as part of establishing the Quarry as currently approved
- several vegetation quality assessments and flora survey assessments have been conducted since 2012, with the most recent in 2019, providing detailed vegetation quality data to assist with avoiding and minimising the amount and quality of native vegetation required for removal and offsetting
- the proposed management of the site is consistent with the Biolinks Strategy in that the “*long-term management planning for the Dandy Premix freehold is consistent with this*”

²³ Clause 2.1 of the section 173 Agreement defines ‘Native Vegetation Gains’ area as “*any native vegetation gains arising from establishing, securing and maintaining Native Vegetation Corridors, which can be identified as offset sites to offset the removal of native vegetation permitted under the Planning Scheme*”.

plan by ultimately providing a secure and sustainable linkage of improved vegetation quality across the site”, specifically the majority of the Dandy Premix freehold land will be managed in perpetuity for biodiversity conservation purposes, directed by an approved Offset Management Plan, and at the end of life the Quarry will be “rehabilitated to mimic the vegetation quality prior to removal”.

The Paul Kelly Report includes a plan showing the biological features at the site (see Figure 7).

The Paul Kelly Report states:

The limits of the proposed extraction site have been guided by several factors but significantly by the requirement to avoid and minimise the removal of native vegetation.

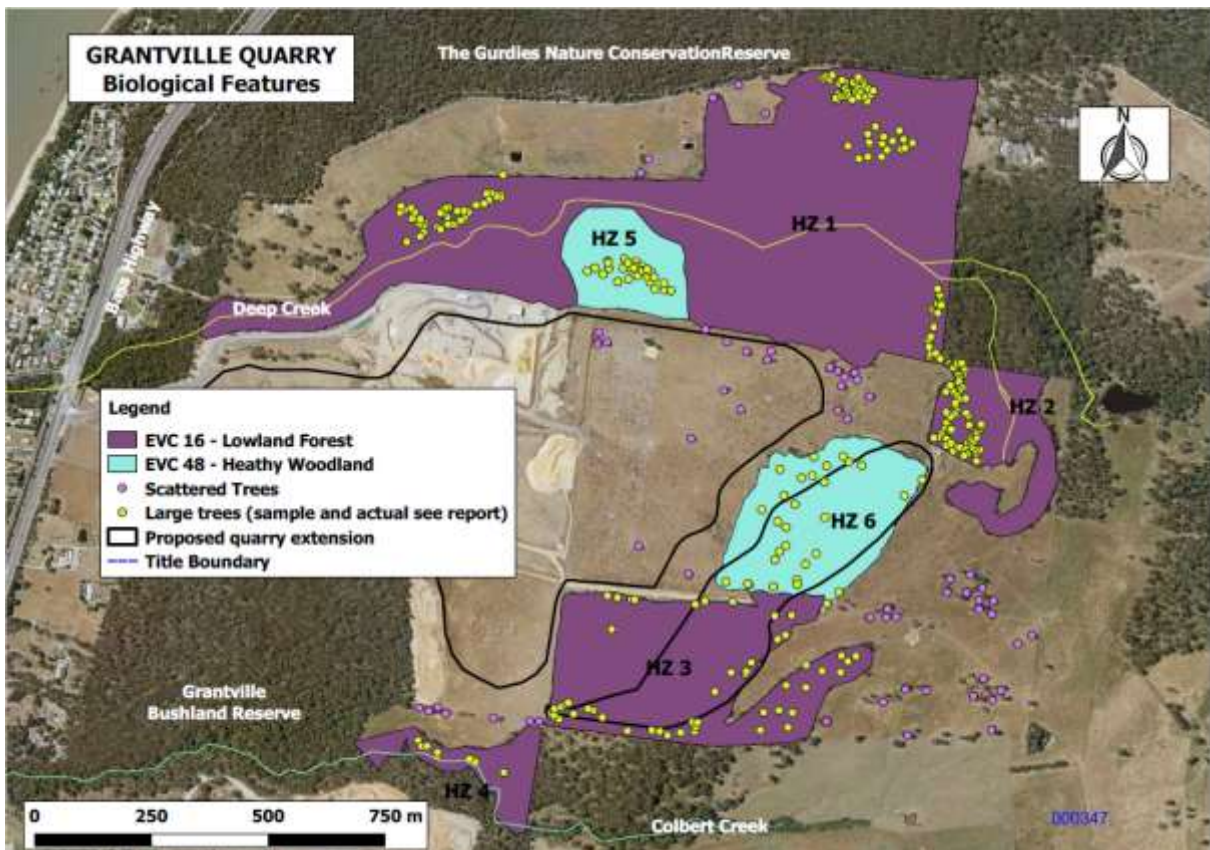
...

It is proposed to offset the removal on-site as part of the extensive conservation management of the entire site. It will be provided as First Party Offsets on Dandy Premix freehold adjoining WA 1488.

...

No feasible alternative to further avoid and minimise the removal of native vegetation to provide for the proposed quarry is considered practical. The sand resource has been extensively sampled and is located in a discrete band beneath the vegetation.

Figure 6 Biological Features plan



HZ = Habitat Zone

Source: Paul Kelly Report 2019, Appendix 1

With consideration of the Native Vegetation Guidelines, the Paul Kelly Report concluded that the proposed offset will exceed the offset requirements for the proposed removal of native vegetation (see Table 4).

Table 4 Offset requirement

Offset Requirements	Offsets Required	Offsets provided by First Party Offset Management Plan	Balance
Number of large trees	47 Large trees	247 Large trees	Excess of 200 Large trees
General habitat units	0.043 general habitat units Port Phillip and Westernport CMA, Bass Coast Shire 0.288 (minimum) Strategic Biodiversity Value	14.457 general habitat units Port Phillip and Westernport CMA, Bass Coast Shire 0.571 Strategic Biodiversity Value	14.414 general habitat units Exceeds minimum Strategic Biodiversity Value
Species habitat units	11.160 species habitat units for Orange-tip Finger-orchid <i>Caladenia aurantiaca</i>	13.051 species habitat units for Orange-tip Finger-orchid <i>Caladenia aurantiaca</i>	Exceeds Orange-tip Finger-orchid requirement by 1.891 species habitat units
	11.042 species habitat units for Strzelecki Gum <i>Eucalyptus strzeleckii</i>	12.998 species habitat units for Strzelecki Gum <i>Eucalyptus strzeleckii</i>	Exceeds Strzelecki Gum requirements by 1.956 species habitat units

Source: Native Vegetation Removal Report, Detailed Pathway, Paul Kelly & Assoc. 2019

Mr Aaron Organ was engaged by the Applicant to review the Paul Kelly Report and prepare an Expert Witness Statement for the Panel Hearing.²⁴ Mr Organ identified that further survey work would be required to confirm the scope of the native vegetation losses. Mr Organ made recommendations to further minimise vegetation loss and improve vegetation rehabilitation and conservation outcomes (see Chapter 5.3).

The Proposal

The Amendment Application proposes to undertake staged removal of approximately 12.988 hectares of native vegetation from the eastern part of WA1488, consisting of:

- portions of Habitat Zones 3 and 6 (see Figure 6), including 35 large trees
- 12 large scattered trees to facilitate expansion of the FMSEP and for construction of access routes.

Apart from the scattered trees, the vegetation proposed for removal is protected under the existing section 173 Agreement in area 5 of the endorsed Conservation and Revegetation Sites Plan.

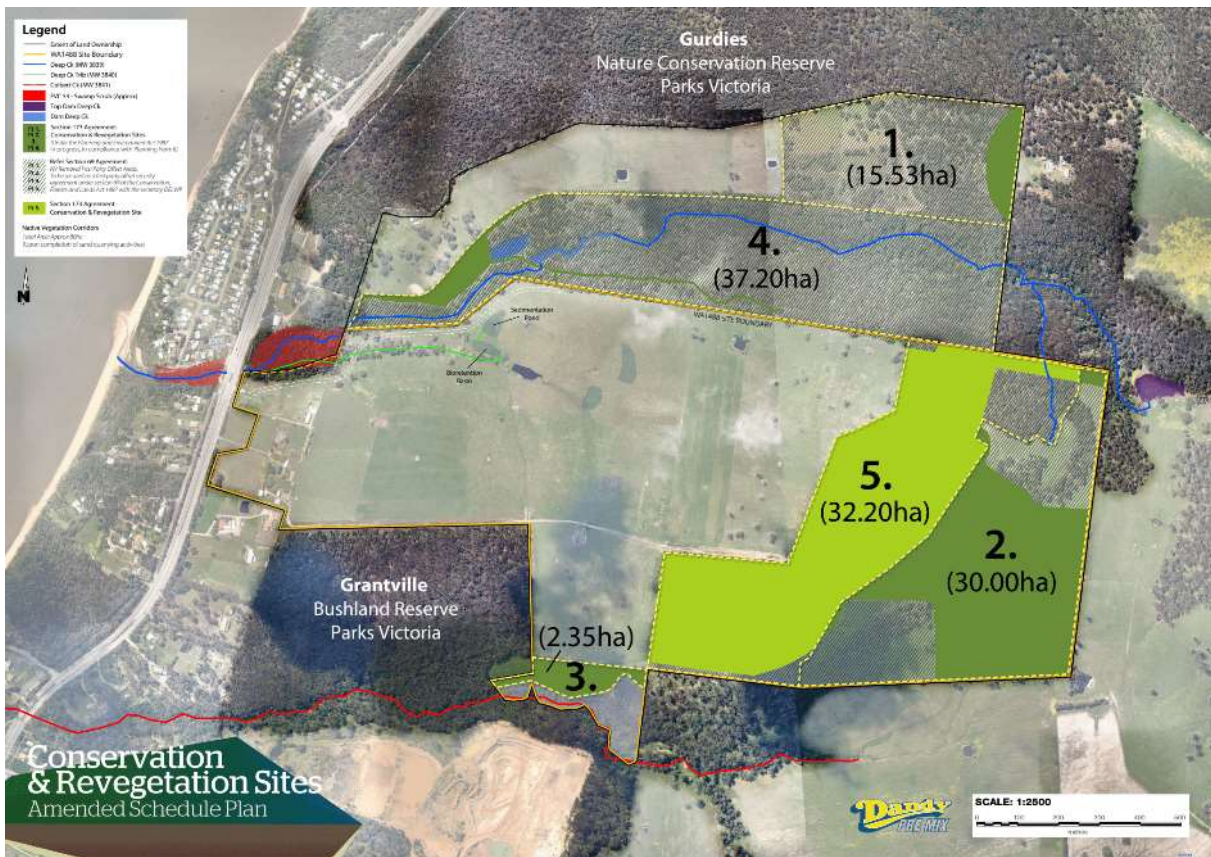
The Applicant indicated that the existing section 173 agreement would need to be altered. It submitted that offsets should be protected through a section 69 Agreement, rather than the section 173 agreement.

²⁴ Document 34

The Applicant submitted an updated Conservation and Revegetation Sites Plan (November 2020)²⁵ with the Amendment Application (see Figure 7), showing which areas are proposed to be set aside for:

- conservation and revegetation purposes and secured through an amended section 173 Agreement
- first party offset purposes and secured through a new section 69 Agreement.

Figure 7 Conservation and revegetation sites plan (Nov 2020)



²⁵ Document 74 - Conservation and Revegetation Plan Amended - Nov 2020

There were various and sometimes inconsistent descriptions of the mechanism proposed to secure the offset and conservation and revegetation outcomes in reports supporting the Amendment Application. The Panel sought clarification of both the Applicant and Council through the Panel process to clarify the preferred mechanism.

At the conclusion of the hearing, the Applicant and Council submitted preferred planning permit conditions which included a proposed combination of (see Appendix G):

- an amended section 173 Agreement to secure a native vegetation corridor, in accordance with a revised Conservation and Revegetation Sites Plan, with any areas to be provided as native vegetation offsets to be removed
- a new Agreement under section 69 Agreement of the *Conservation Forests and Lands Act* 1987 to secure native vegetation offsets.

The Panel notes that at the time of the hearing, no formal application had been made under section 178A of the PE Act to amend the existing section 173 Agreement.

Work Plan Variation requirements

The Work Plan Variation states:

The required offset will be secured through the management of existing native vegetation on private land owned or controlled by [Dandy Premix Quarry], being both within WA1488 and on the adjoining allotment to the north. This allotment abuts the Gurdies Nature Conservation Reserve. As part of the above [Paul Kelly] Report, an assessment of the available offset vegetation has been made and this will continue to be secured through an existing section 173 Agreement on title.

The Grantville Offset Management Plan has been prepared in relation to these offset areas and a copy is attached as part of the report.

The Work Plan Variation also includes requirements for a Rehabilitation and Site Closure Plan, which addresses ongoing pest plant and animal requirements (see Chapter 9).

DELWP requirements in the Work Plan Variation are detailed in Table 5.

Table 5 Work Plan Variation - DELWP requirements

Condition	Native vegetation removal and offsets
2.1	Any one undertaking works within WA1488 must be aware of and understand all relevant work plan conditions and associated statutory requirements or approvals
2.2	Native vegetation to be removed is a total of 12.988 hectares consisting of 2 patches of native vegetation including 35 large trees and 12 scattered large trees
2.3	To offset the native vegetation removal, native vegetation offsets must be secured as specified
2.4	Evidence that the required offset has been secured must be provided before native vegetation is removed through either: <ul style="list-style-type: none"> - An established first party offset site including a signed security agreement and management plan - Credit extracts allocated to the permit from the Native Vegetation Credit Register.
2.5	A copy of the offset evidence will be endorsed by the statutory authority and form part of the Work Plan and any associated planning permit

- 2.6 Where the offset includes a first party offset, the offset management plan must be to the satisfaction of the DELWP.

Construction management plans

- 2.7 Before any native vegetation removal or works start, a Construction Management Plan must be approved and will form part of the Work Plan and any associated planning permit and must include native vegetation protection measures during construction works and details of who is responsible for implementation and compliance.

Protection of retained vegetation

- 2.8 Without written consent, the following activities are prohibited within retained or protected native vegetation – vehicular or pedestrian access, trenching or soil excavation, storage or dumping of soil, materials, equipment or waste, entry or exit pits for services and any other actions or activities that may result in adverse impacts to retained native vegetation.

Source: Notice of Statutory Endorsement from ERR (dated 29 May 2021)

In relation to DELWP condition 2.2 (see Table 5), the Panel has identified a discrepancy between the Notice of Statutory Endorsement from ERR (dated 29 May 2021) and the referral response letter from DELWP to ERR (dated 1 May 2021), with the Notice of Statutory Endorsement incorrectly stating that the Proposal includes removal of two scattered large trees rather than twelve.

In its referral response letter to ERR (dated 1 May 2021), DELWP states that under the existing section 173 Agreement, of which both Council and Department of Environment and Primary Industries are signatories:

This Agreement does not prevent the area of the Subject Land identified and delineated as area 5 in the Schedule from being used or developed for other purposes in accordance with the Planning Scheme, including agriculture or the Sand Extraction Use, prior to its establishment as a Native Vegetation Corridor In accordance with clause 1.1.3.

Further that:

DELWP also recommends that the proponent seek to amend the existing s173 Agreement with the agreement of all parties to better reflect:

- the change of use resulting from this work plan variation, and;
- clarify the responsible authority's (Bass Coast Shire Council) requirements under permit 120388 and the existing revegetation and conservation areas. Changes should exclude any areas affected by any future first party offsets, should they be established on site to satisfy the mandatory offset requirements.

5.3 Evidence and submissions

(i) DELWP

DELWP advised that native vegetation removal was considered as part of the Work Plan Variation process. It noted that conditional consent was provided allowing the Applicant to provide first party offsets or purchase third party offsets.

DELWP submitted that the existing section 173 Agreement should be amended to better reflect any Work Plan Variation, to clarify Council's requirements under the permit and to reconcile existing revegetation and conservation commitments.

DELWP submitted a response to Council's without prejudice conditions and considered that conditions relating to native vegetation were best dealt with by ERR (see Appendix F).

(ii) Applicant

The Applicant submitted that the Proposal had been carefully designed to minimise the removal of natural vegetation, and to maximise the retention of vegetation in the CSEP through careful staging and progressive rehabilitation and revegetation²⁶.

Further, there is an endorsed Work Plan Variation in place that will:

regulate native veg removal and offsets (see clause 2), including by an offset management plan to the satisfaction of the Department of Environment, Land, Water and Planning (clause 2.6)

...

specifically provide for the protection of native vegetation (clause 2.8).

In response to questions from the Panel the Applicant submitted²⁷ that:

The DELWP conditions have specified the offset amount required but not the mechanism to be used to secure the offset, as such matters are normally left for finalisation after the grant of an approval. Nevertheless, it is understood that DELWP's preference for securing the approved first party offset ... is through a section 69 agreement and that the first party offset land be removed from the section 173 Agreement.

...

It is understood Council seeks to retain the operation of the section 173 Agreement over those parts of the subject land and adjoining land that are not required as native vegetations offsets and that will not be included in the section 69 Agreement.

The Applicant submitted an updated Conservation and Revegetation Sites Plan (Nov 2020)²⁸ to clarify the distinction between vegetation obligations that would be secured under each mechanism, stating that:

- there is no fundamental legal or practical inconsistency between the obligations contained in the existing section 173 Agreement and the Proposal to use a section 69 Agreement to secure offsets over the land that is also subject to the section 173 Agreement
- there are practical benefits in excluding the first party offset land from the existing section 173 Agreement and clearly demarcating the extent of the obligations of each instrument
- the Panel can be satisfied that if the amendments are approved and the work plan varied, that approved first party offsets will be appropriately secured.

The Applicant relied on the evidence of Mr Organ in relation to biodiversity matters. In preparing his evidence, Mr Organ reviewed the previous work of Mr Kelly, conducted a desktop assessment of ecological databases and undertook a site inspection of the study area, including the Work Authority 1488 area and Lot 2 Dunbannin Road.

²⁶ Document 59, para 5

²⁷ Document 71 – Applicant response to Panel Directions

²⁸ Document 74 - Conservation and Revegetation Plan Amended – Nov 2020

Mr Organ broadly agreed with the content of the Paul Kelly Report and adopted the report subject to the following:

- an updated Large tree assessment to confirm the extent of tree removal
- targeted surveys for significant flora species, including Green striped Greenhood and Cobra Greenhood
- an updated Native Vegetation Removal report.

Mr Organ also recommended the development of more specific biodiversity protection and management plans, including:

- Biodiversity and Rehabilitation Plan
- Species Protection Management Plan
- Weed Management Plan
- Construction Environmental Management Plan (CEMP).

At the Hearing Mr Organ gave the opinion that:

- while the proposed removal of Lowland Forest and Heathy Woodland is locally significant, it is not significant at a regional, State or National scale
- the existing vegetation provides habitat for woodland dependent species
- avoidance is difficult for quarrying activities and it will take a significant period of time (100 years) for the woodland areas to regenerate
- progressive rehabilitation should occur, and the paddocks subject to the section 173 Agreement should be revegetated within 6 - 12 months of any approval
- the change in substrate is likely to affect the ability of the woodland to regrow on top of the rehabilitated eastern pit
- if further surveys revealed any significant impact on Matters of National Environmental Significance protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the approval process under the EPBC Act could run in parallel with State approval processes.

Relying on Mr Organ's evidence that the patch of native vegetation at the eastern part of the site was 'semi-continuous', the Applicant argued that there is no complete 'biolink' at the site. The Applicant submitted that the habitat corridor identified in the Biolinks Strategy would be retained and enhanced.

(iii) Council

Council submitted that it needed to assess the Amendment Application against decision guidelines in the Planning Scheme, including:

- Clause 35.07-6 (Farming Zone) which requires consideration of 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
- Clause 65 (Decision Guidelines) which requires consideration against the planning policy framework, the extent and character of native vegetation and the likelihood of its destruction and whether native vegetation is to be or can be protected, planted or allowed to regenerate.

Council submitted that the Applicant had not thoroughly considered the impact of the Proposal on the biolink or addressed the impact of the vegetation loss in accordance with the strategic objectives of the Biolinks Strategy or the Planning Scheme.

Council contended that in contrast with claims in his written evidence, that Mr Organ:

... conceded in cross examination that habitat connectivity will be severed and there will be a considerable delay in the revegetation to the east to reach a point of maturity prior to offering any proper habitat linkage.

Council submitted that it was not fully satisfied that the biodiversity and revegetation measures proposed could be practically implemented, with specific concerns relating to:

- changes in the substrate which could affect the ability of the woodland area to regrow on top of the rehabilitated CSEP
- the native vegetation corridor, once removed, would never be the same as before or fully recover
- habitat connectivity in the interim phase relied on the successful revegetation of other parts of the site
- further assessments were required to understand the scope of the impacts, including surveys between May and June
- the rehabilitation of the site needs to be more concisely defined and able to be monitored so that there is effective rehabilitation and a corridor is reinstated.

Council submitted its preferred permit conditions 31 and 32 related to vegetation protection and management (see Appendix G).

(iv) Objectors

Several submitters considered that the Applicant had breached its existing planning permit conditions with regard to revegetation requirements under the section 173 Agreement.

Mr Drew made submissions on behalf of the South Gippsland Conservation Society, stating that the Proposal would result in habitat fragmentation and soil disturbance contrary to the objectives of local policy Clause 21.04-3 (Biodiversity Conservation and Habitat Protection).

Mr Drew submitted that the native vegetation corridor provided an important linkage for various species. He submitted that the use of clay and filter cake in the rehabilitation of the CSEP would impact on the ability for revegetation to occur. He submitted that the material would not provide a good substrate for woodland vegetation that was well adapted to well drained sandy soils. He submitted that the lack of success with existing vegetation trials on site illustrates how difficult revegetation can be, even when there is no alteration to the natural substrate.

Mr Drew submitted that the Applicant should consider alternative locations for the CSEP that avoid impacts on important vegetation and areas of potential habitat. Mr Drew submitted that the rehabilitation plan needed to be more specific so that the future owners of the land could be held accountable into the future for revegetation commitment.

Mr Drew submitted that in real terms, the revegetation and offsets proposed as part of the Amendment Application were no greater than what was already committed to under the existing planning permit.

Mr O'Brien submitted that the Proposal would result in the further loss of woodland in the region, and that the incremental loss of habitat overtime impacts on vulnerable flora and fauna. Mr O'Brien submitted that it would be preferable to extract coarse sand from an alternative site in a less sensitive environment.

Ms Heath Mennell submitted that the offset would be ineffective as it would not be possible to replace the woodland areas, and that the cumulative impacts of the project in the region needed to be properly considered.

Mr Rankine submitted that:

I understand that vegetation removal in itself at a quarry with a Works Authority may not be grounds for objection as there will be an ability to offset the loss by protecting other vegetation. The proponent however needs a Council permit to operate and the Council must consider all of its policies, plans and higher order legislation and protection of values and assets around that vegetation.

Mr Rankine also submitted that the Proposal ran contrary to commitments made as part of the original permit application, which did not propose vegetation removal. He referred to the Westernport Biosphere Plan and Healesville Nature Link Plan which identified the regional value of habitat corridors. He submitted that there was a likelihood that the Southern Brown Bandicoot (protected under the EPBC Act) could utilise the native vegetation corridor, maybe not now but into the future. Mr Rankine submitted that a precautionary approach should be adopted and the corridor should be retained as a 'life-line' for the future. Mr Rankine submitted that it was not clear how Mr Organ's ecological recommendations would be implemented.

Ms Callaghan submitted that the biolink was significant for fauna species. She supported the submissions of other submitters.

Mr Edge submitted that the Proposal would adversely affect the water quality in Deep Creek and that this could have associated impacts on aquatic biodiversity.

Ms Tobin submitted that the revegetation should be commenced early so that it could provide a suitable replacement corridor. She submitted that a long term view needed to be adopted when considering the impact of the Quarry on the environment.

5.4 Discussion

While a planning permit is not required under Clause 52.17 (Native Vegetation), the Panel is required to consider the Amendment Application with regard to relevant policy and decision guidelines in the Planning Scheme.

The Panel has considered whether the existing Quarry can be expanded in accordance with an 'acceptable environmental standard', which from a biodiversity perspective has required consideration of whether the Proposal:

- avoids and minimises native vegetation loss
- avoids fragmentation
- achieves no net loss (or even a net gain) in native vegetation.

The Panel has also considered the practical application of the proposed conservation protection mechanisms.

(i) Does the Proposal avoid and minimise vegetation loss?

Clause 12.01-1 (Protection of biodiversity) and the Native Vegetation Guidelines calls for an applicant avoid native vegetation loss in the first instance.

DELWP considers the proposed native vegetation loss acceptable, and has issued conditional approval of the Work Plan Variation requiring an offset be established.

Both the Paul Kelly Report and evidence of Mr Organ consider that the native vegetation loss is unavoidable.

With regard to avoiding and minimising native vegetation loss, the Paul Kelly Report states that the design process has been undertaken with regard to detailed vegetation survey work to minimise vegetation loss. Specifically, that the sand resource had been extensively sampled and is located in a discrete band beneath the vegetation, thereby limiting the avoidance opportunities. In his evidence Mr Organ acknowledged that it was difficult to avoid loss in circumstances where the resources are located underneath native vegetation.

The Panel accepts that there is limited opportunity to avoid the impacts on native vegetation immediately on top of the coarse sand resource.

Mr Organ identified the need for further survey work and management plans to inform the detailed design, which may minimise the loss of native vegetation. The Applicant agreed with Mr Organ and included detailed recommendations for these in its preferred conditions (see Appendix G).

The Panel agrees with Mr Organ, and considers it important that further detailed be undertaken to identify opportunities for avoidance or further minimisation of vegetation loss.

In order for this further work to meaningfully inform the site layout plan and operational activities, timing and sequencing is critical. The surveys and management plans must be prepared before the site layout plan and site rehabilitation requirements are settled. Any recommendations from the Species Management Plan and Biodiversity and Vegetation Management Plan must be integrated into the final site layout plan.

The Panel considers that the additional work as recommended by Mr Organ can be managed through permit conditions to the Amendment Application, and used to inform approval of the final Work Plan Variation.

The Panel notes that there is discrepancy between Condition 2.2 of Notice of Statutory Endorsement from ERR (dated 29 May 2021) and the referral letter response from DELWP to ERR (dated 1 May 2021) relating to the native vegetation permitted to be removed. This will need to be reviewed and amended through the Work Plan Variation process following completion of the further work proposed by Mr Organ.

(ii) Does the Proposal avoid fragmentation?

Several submitters were concerned about the loss of native vegetation on the basis that the existing vegetation corridor provides a biolink between the Gurdies and the Grantville Reserve. Submitters were of the opinion that the incremental loss of vegetation was resulting in habitat fragmentation and impacting on vulnerable flora and fauna. Further that the habitat value of the biolink was not accurately reflected in the Application material or Mr Organ's evidence, and considered that it could provide habitat for more significant species.

The Applicant argued that there was currently no complete 'biolink' at the site, and that the Proposal would retain and enhance a link consistent with the objectives of the Biolinks Strategy.

The Panel considers that while the native vegetation corridor is semi-continuous, in accordance with advice from Mr Organ, it still provides a habitat connection between the Gurdies and the Grantville Reserve and would primarily provide habitat for woodland dependent species.

The Panel considers that the proposed removal of native vegetation from the site will create further fragmentation across the landscape in the short to medium term, and the loss of the habitat corridor in its current form is likely to be irreversible.

Mr Organ gave the opinion that there is uncertainty about whether the new substrate (filter cake under top soil) will successfully regenerate the same ecological vegetation community. While he was uncertain as to whether the same type of woodland ecosystem could ever regenerate, he was confident that the revegetation could be successful, stating it happens all the time and it is “*not something revolutionary*”. Mr Organ gave the opinion that once the vegetation is re-established, even if in a different form, in the long term it will continue to provide habitat for woodland dependent species consistent with its current function.

On balance, the Panel accepts the evidence of Mr Organ that the existing vegetation corridor primarily provides habitat for woodland dependant species, and while the vegetation removal will result in habitat depletion in the short to medium term that in the long term it will continue to serve this ecological function.

The Panel considers that further ecological benefits may be achieved through implementation of the end of life vision for the site and the Rehabilitation and Site Closure Plan, as required by the Work Plan Variation. This is discussed further in Chapter 9.

Given the existing ecological function of the existing native vegetation proposed for removal to provide for the CSEP, it is recommended that rehabilitation of conservation area 2 on the Conservation and Revegetation Sites Plan (see Figure 5) occur immediately to maintain habitat connectivity. This is consistent with the evidence of Mr Organ, who suggested that the paddocks subject to the section 173 Agreement should be revegetated within 6 to 12 months.

Council and the Applicant proposed preferred conditions to secure conservation and rehabilitation obligations via an amended section 173 Agreement. The Panel generally considers this appropriate, and recommendations on conditions in Appendix G reflect this.

(iii) Can the vegetation removal be offset to achieve no net loss?

The Applicant has already committed under the existing permit to protect conservation areas within the Work Authority boundary and on adjoining property to the north, Lot 2 Dunbannin Road . This has created a challenge for the Panel in determining whether the Proposal will result in ‘no net loss’ in real terms.

A key issue for submitters was the effectiveness of existing conservation protections. A number of submitters, including Council have raised concerns about the enforceability of the section 173 Agreement. The Panel also has concerns about the existing mechanisms.

Offsets are required under the Native Vegetation Guidelines to ensure that there is no net loss of vegetation. Equally, it is important to maintain habitat connectivity between Gurdies and the Grantville Reserve. The Panel has considered the scope of existing revegetation requirements and offsets in two distinct parts to determine if native vegetation losses can be suitably mitigated in the Proposal, with consideration of:

- offset commitments under the Native Vegetation Guidelines.
- revegetation commitments and conservation improvements.

Offsets commitments under the Native Vegetation Guidelines

The Applicant has submitted that it is willing to offset the proposed native vegetation losses. It proposes to utilise the offsets already committed to under the section 173 Agreement. The Applicant has submitted that a section 69 Agreement would be a more suitable mechanism to protect that offset. The Panel notes that DELWP supports this proposal in principle.

The Panel has concerns about the practical operation of the offset mechanisms. It is not clear whether 'Native Vegetation Gains' have been established in conservation area 4 of the Conservation and Revegetation Sites Plan to an appropriate standard as required under the Native Vegetation Guidelines.

The Panel accepts the existing section 173 Agreement theoretically allows 'Native Vegetation Gains' achieved in areas 1, 2, 3, 4 or 5 to be assigned by the owner to offset the removal of native vegetation from the land or any other land. However, in the section 173 Agreement 'Native Vegetation Gains' area defined as:

... any native vegetation gains arising from establishing, securing and maintaining Native Vegetation Corridors, which can be identified as offset sites to offset the **removal of native vegetation permitted under the Planning Scheme.**

[Emphasis added]

It is not clear from the drafting of the section 173 Agreement whether it would also be possible to 'reassign' a 'Native Vegetation Gain' in one of the conservation areas to offset the removal of native vegetation where no permit was required under the Planning Scheme for its removal, as is the case in this Proposal. This is because the definitions section in the section 173 Agreements seems to anticipate that it could only be reassigned in response to native vegetation removal that required a planning permit.

It is critical that consequential changes are made to the existing section 173 Agreement to give effect to the Proposal and the Panel's recommendations, and ensure there are no overlapping or conflicting obligations applying to the land. This must occur through a separate statutory process which is outside the Panel's remit.

Existing revegetation and conservation commitments

There is already an obligation to establish and protect nominated conservation areas on the site. The Panel considers that the revegetation of these areas will serve multiple purposes, including providing habitat connectivity, landscaping value and visual screening. The standard²⁹ of revegetation will ultimately depend on its purpose. The Panel has assumed that not all revegetation will achieve a 'Native Vegetation Gain' within the meaning of the Native Vegetation Guidelines.

The site layout plan and rehabilitation plans must be developed having regard to the outcomes of the targeted species surveys and ecological management plans. The additional surveys and management plan are critical and any recommendations must be incorporated into the final approved Work Plan Variation.

Given the existing ecological role of the native vegetation under the CSEP it is recommended that rehabilitation of conservation area 2 of the Conservation and Revegetation Sites Plan must occur

²⁹ Standard in terms of its ecological make up and value

immediately to maintain habitat connectivity. This is consistent with the evidence of Mr Organ, who suggested that the paddocks subject to the section 173 Agreement (e.g. conservation area 2) should be revegetated within 6 to 12 months.

(iv) Securing outcomes to ensure no net loss or fragmentation

The Panel considers that the key outcomes to be achieved to meet the requirement of the Planning Scheme include:

- no net loss in native vegetation (namely, suitable offset arrangements) as a result of the expansion
- ongoing habitat connectivity between the Gurdies Nature Conservation Reserve and Grantville Bushland Reserve.

Further work is required to ensure these outcomes can be realised. Timing will be a critical factor and the work plan process will need to be informed by suitable biodiversity surveys and management plans. The Panel considers it is critical that these aspects be resolved before vegetation removal commences at the site.

The Panel considers that the further work can be managed through permit conditions to the Amendment Application, and used to inform approval of the final Work Plan Variation.

Consequential changes will be required to the existing section 173 Agreement to give effect to the Panel's recommendations and ensure there are no overlapping or conflicting obligations applying to the land. The Panel notes that the process to end or amend the existing section 173 Agreement is separate from this Amendment Application. The Responsible Authority must provide 'in principle support' for any changes to the section 173 Agreement, before that process can commence. If the Responsible Authority does not agree 'in principle' to changes to the section 173 agreement that process would halt.

5.5 Conclusions and recommendations

The Panel concludes:

- It is not possible for the Proposal to proceed and avoid native vegetation impacts, given the location of the coarse sand resource, but there is an opportunity to further minimise and offset impacts.
- Additional work is required to identify opportunities for avoidance or further minimisation of vegetation loss, and this work must be completed prior to site layout plan and operational management plans being finalised.
- The losses need to be offset in accordance with the Native Vegetation Guidelines.
- In the long term the vegetation corridor will still serve an ecological function, subject to the implementation of suitable revegetation and management.
- To protect against further fragmentation, revegetation of conservation area 2 on the Conservation and Revegetation Sites Plan must occur immediately to maintain habitat connectivity.
- Detailed surveys and management plans need to be prepared in advance of the work plan approval to ensure any recommendations are appropriately integrated into the approvals framework.

- To give effect to the Proposal and the Panel's recommendations, the existing section 173 Agreement will need to be reviewed. This can only occur through a separate statutory process.

The Panel recommends:

For consideration by Earth Resources Regulation in finalising the approved Work Plan Variation:

Note the need to update the Site Layout Plan and Rehabilitation and Site Closure Plan in the Work Plan Variation to integrate the recommendations from the Biodiversity and Vegetation Management Plan and Species Protection Management Plan, prior to approval of the Work Plan Variation.

The Panel's conclusions in relation to permit conditions are reflected in recommendations on conditions in Appendix G.

Several of these conditions deal with the ecological issues dealt with in this Chapter. Specific conditions have been included requiring:

- completion of targeted surveys and additional assessments as soon as practicable, including:
 - an updated Large tree assessment to confirm the extent of tree removal
 - targeted surveys for significant flora species, including Green striped Greenhood and Cobra Greenhood
 - updated Native Vegetation Removal report
- preparation of an Offset Management Plan, on the basis of the updated surveys and assessments once the offset obligation under the Native Vegetation Guidelines is known. The Offset Management Plan must be prepared in accordance with the Native Vegetation Guidelines to the satisfaction of DELWP. Important elements include the management actions over a 10 year period and then ongoing maintenance requirements in perpetuity
- preparation of a Biodiversity and Vegetation Management Plan and Species Management Plan, integrating updated survey information including:
 - specific management actions, timeframes and ongoing monitoring, reporting and review requirements
 - a requirement for the immediate commencement of revegetation in 'conservation area 2' in the Biodiversity and Vegetation Management Plan
- preparation of a Weed Management Plan and CEMP that has regard to the recommendations of the Biodiversity and Vegetation Management Plan and Species Management Plan.
- preparation and introduction of appropriate legal mechanisms used to secure offsets and revegetation to ensure that:
 - any offsets identified in the Offset Management Plan are secured at a first party offset site or a third party offset site
 - if a first party offset site is proposed to be used, any commensurate changes to the drafting of the existing section 173 Agreement would need to be made to enable this and ensure there are no overlapping or conflicting obligations
 - the ongoing revegetation and management commitments (e.g. excluding offsets) specified in the Biodiversity and Vegetation Management Plan and Species Management Plan must be secured via a legal agreement on title. Any commensurate

changes to the drafting of the existing section 173 Agreement would need to be made to enable this and ensure there are no overlapping or conflicting obligations

- any obligations or recommendations in the Weed Management Plan and CEMP must be integrated into the approved Work Plan Variation.

6 Cultural heritage

6.1 The issues

The issues are whether:

- a Cultural Heritage Management Plan is required under the *Aboriginal Heritage Act 2006* before a decision can be made on this Amendment Application
- the Quarry expansion will adversely impact on aboriginal cultural heritage values.

6.2 Policy context

(i) Aboriginal Heritage Act

A Cultural Heritage Management Plan is required under the *Aboriginal Heritage Act 2006* when a 'high impact activity' is planned in an area of 'cultural heritage sensitivity'. If a Cultural Heritage Management Plan is required for a particular activity, then a planning permit cannot be granted until a Cultural Heritage Management Plan has been approved for that activity.

The Responsible Authority must determine whether a Cultural Heritage Management Plan is required before it grants a permit (or an application to amend a permit) under the PE Act.

Since the original planning permit was granted in 2013, there have been changes to the Aboriginal Heritage Regulations 2018 which alter the definition of an area of cultural heritage sensitivity. Areas of cultural heritage sensitivity include land within 200 metres of a declared Ramsar wetland, within 200 metres of a waterway and within 50 metres of a registered cultural place. Aboriginal Victoria has an online mapping tool to identify these areas, however the tool is described as 'indicative and may not represent the true geographic extent as defined in the Regulations'.³⁰

(ii) Planning policy context

As outlined in Chapter 3.1(ii), Clause 15.03-2S (Aboriginal cultural heritage) of the Planning Scheme seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.

6.3 Evidence and submissions

Mr Clark gave evidence in relation to cultural heritage matters on behalf of the Applicant. His evidence focussed on obligations under the *Aboriginal Heritage Act 2006*.

In his evidence statement, Mr Clark identified that there had been a change in the extent of cultural heritage sensitivity mapping³¹ since the original permit was granted. He indicated that part of the site that appears to be within a 200 metre arc from the declared Ramsar wetland, had now been mapped as an area of cultural heritage sensitivity. Mr Clark considered that it would be prudent to alter the extent of the approved extraction pit so that it did not intersect the mapped area. Mr Clark indicated that he had not sought to address the legal status of the existing permit.

In response to questions from the Panel, Mr Clark indicated that he:

³⁰ <https://www.aboriginalvictoria.vic.gov.au/cultural-heritage-sensitivity> (accessed 15 April 2021)

³¹ As published on Aboriginal Victoria's online mapping tool.

- had not reviewed the defined waterways when preparing his evidence
- was unable to explain why waterways were marked in his original cultural heritage assessment of the site prepared in 2013.

Mr Clark gave evidence that in his view, there had been significant ground disturbance due to past agricultural practices at the site. He acknowledged that there is a risk that cultural heritage values could be anywhere but that the *Aboriginal Heritage Act 2006* regulates those matters. Based on his experience, there were no landforms or features that indicated a likelihood of the presence of Aboriginal cultural values at the site.

Mr Clark included provisional contingency plans in his witness statement designed to address practical matters as well as legal obligations under the *Aboriginal Heritage Act 2006*, such as unexpected discovery of cultural heritage. In oral evidence he indicated that they should form part of the approvals package.

The Applicant's position was that a Cultural Heritage Management Plan was not a mandatory requirement in this instance, given the Aboriginal Victoria mapping changes³² at the western part of the site were without legal foundation. Mr Gobbo submitted that the Applicant was, in any case, required to prove significant ground disturbance (under the Aboriginal Heritage Act), and that Mr Clark had addressed that matter satisfactorily.

The Applicant in closing confirmed that Deep Creek was not defined on the VICNAMES Register maintained by Land Victoria as a watercourse, thereby not meeting the definition of an area of cultural heritage sensitivity.

The Applicant submitted that the Applicant had an accrued right to undertake sand extraction in accordance with the 2013 permit:

At the time of the grant of the permit, there was a regime for deciding if a Cultural Heritage Management Plan was required. It was not required. Hence a right was acquired. The amended application is identical in terms of works in the 200m zone as the permitted works (see HB [192] as to the pit boundary). This analysis is consistent with the proposition that there is no mechanism under the Aboriginal heritage legislation for a retrospective Cultural Heritage Management Plan once works have commenced (see *Emily Kristina (Aust) Pty Ltd v Surf Coast Shire Council* [2011] VCAT 2445, [27]). Hence if the permit applicant goes no further west than the current permit, no Cultural Heritage Management Plan is required.

The Applicant submitted that the contingencies did not necessarily need to be included in any approval, given these obligations already existed under legislation.

At the Hearing, Council submitted that the Applicant had not satisfactorily proven that a Cultural Heritage Management Plan was not required for the expanded pit area. However, Council had earlier indicated that in its view a Cultural Heritage Management Plan was not required.

Council submitted that the primary question was whether there had been prior significant ground disturbance in the areas of cultural heritage sensitivity. It referred to the definition of significant ground disturbance at regulation 4 of the Aboriginal Heritage Regulations 2018. Council cited a number of VCAT decisions in its submission, and submitted:

Council submits, in accordance with the leading case which considered this issue, *Mainstay Australia Pty Ltd v Mornington Peninsula SC* (Red Dot) [2009] VCAT 145 33

³² As published on Aboriginal Victoria's online mapping tool

VPR 14 (Mainstay), that the decision maker must have regard to the following considerations in determining whether there has been 'significant ground disturbance':

- (a) common knowledge;
- (b) publicly available records;
- (c) further information from the applicant; and
- (d) expert advice or opinion.

Further, Council submits, in accordance with the decisions in *Architectural Plans and Permits v Banyule CC* [2011] VCAT 375, *Buckerfield v Macedon Ranges SC* [2011] VCAT 559, *Peter Wright and Associates v Banyule CC* [2011] VCAT 852 and *Giurina v Moreland CC* [2011] VCAT 1431 that the Applicant has the burden of proving, on the balance of probabilities, that the New Area has been subject to significant ground disturbance and satisfy the Mainstay considerations.

In conclusion, Council submitted that either a Cultural Heritage Management Plan should be prepared before a permit was granted, or that the application should be amended to avoid all areas of cultural heritage sensitivity.

Mr O'Brien questioned whether any local Aboriginal groups had been consulted to determine if there were any areas of cultural heritage significance.

6.4 Discussion

The Applicant presented evidence that focussed on its obligations under the *Aboriginal Heritage Act 2006*, rather than the how the Proposal met the objectives in the Planning Scheme.

The focus of evidence and submissions was on whether or not a mandatory Cultural Heritage Management Plan was needed.

Mr Clark accepted that he did not review the waterways as possible areas of cultural heritage sensitivity. Mr Clark did not consult with any local Aboriginal community groups regarding values on the site, instead relying on his own knowledge of landforms. Mr Clark did not provide a detailed explanation of why he thought that the site had been subject to significant ground disturbance.

There was no evidence presented to counter the views of Mr Clark. However he gave evidence that it would be 'prudent' to amend the proposed boundary of the western pit to avoid areas of cultural sensitivity that had been mapped since the original permit was granted in 2013, and that contingencies to deal with unexpected discovery of cultural heritage values should be incorporated into the procedures.

The Panel considers that there is some uncertainty about whether a Cultural Heritage Management Plan is required. The Responsible Authority needs to form a view on whether any parts of the expanded works would trigger a Cultural Heritage Management Plan before it grants the permit.

There were limited submissions in relation to the general impact of the Proposal on cultural heritage values. The Planning Scheme seeks to protect and conserve places of Aboriginal cultural heritage significance. The Applicant relied on the fact that the *Aboriginal Heritage Act 2006* would address cultural heritage values.

The Risk Management Plan that forms part of the Work Plan Variation identifies the potential disturbance of Aboriginal cultural heritage values as high. To mitigate this risk, the Risk

Management Plan states that the Quarry manager should be aware of obligations under the Aboriginal Heritage Act and contingency measures.

It is not clear to the Panel in practical terms how cultural heritage values would be protected, if discovered during extraction. It is unlikely that all operators at the site will be cognisant of cultural heritage values or remains unless this is documented in a procedure or plan. If a Cultural Heritage Management Plan is not required, the Panel considers that contingencies should be more explicitly described in the Work Plan Variation to ensure the objectives at Clause 15.03-2S (Aboriginal Cultural Heritage) of the Planning Scheme are met.

6.5 Conclusions and recommendations

The Panel concludes:

- The Responsible Authority should satisfy itself whether or not a Cultural Heritage Management Plan is required prior to issuing a planning permit.
- If a Cultural Heritage Management Plan is not required, contingency plans should be included in the permit or Work Plan Variation to ensure that operators on the site appropriately identify and protect any cultural heritage values.

The Panel recommends:

Prior to granting an amended planning permit, confirm that a Cultural Heritage Management Plan is not required under the *Aboriginal Heritage Act 2006*.

For consideration by Earth Resources Regulation in finalising the approved Work Plan Variation:

If a Cultural Heritage Management Plan is not required, include more specific contingencies to deal with the discovery of Aboriginal cultural heritage assets, in line with those recommended by Mr Clark, in the Work Plan Variation.

7 Surface and groundwater issues

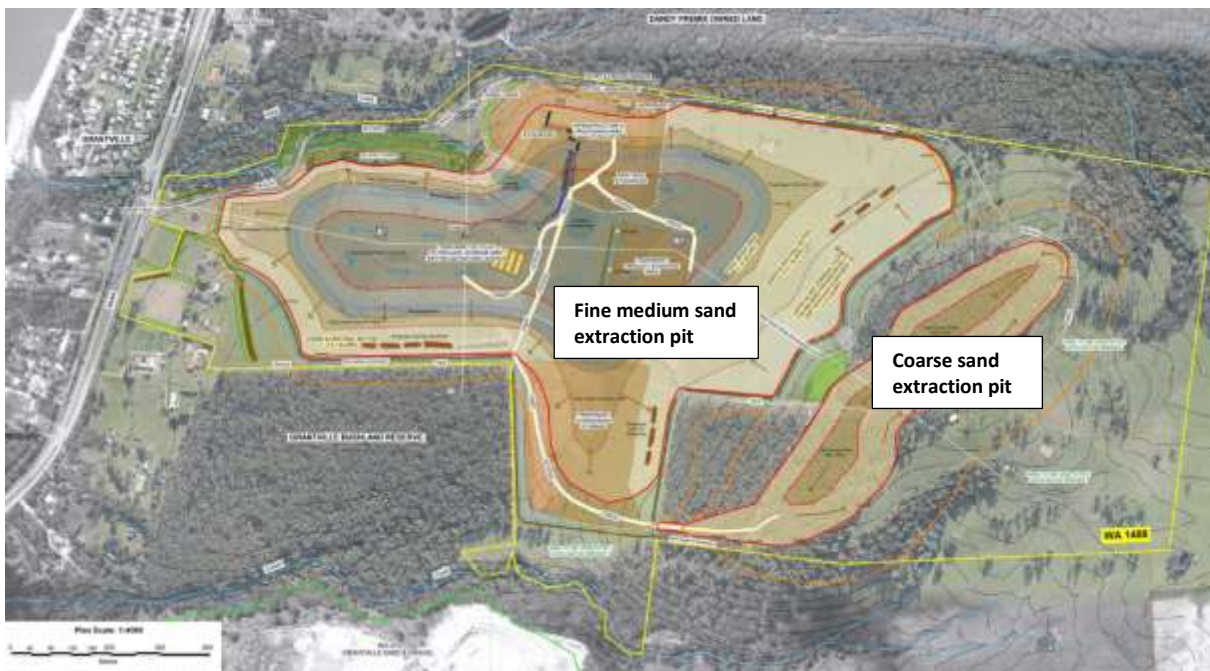
7.1 Site context

The site slopes down approximately 110 metres from east to west and currently the majority of the site drains through a farm dam, and through a sediment basin and bio-retention pond that overflows to a small tributary (MW3840) which in turn flows into Deep Creek. Western Port Bay is approximately 300 metres west of the existing Work Authority boundary.

The existing Work Authority authorises quarrying sand from a pit above the water table in the western portion of the site.

The Work Plan Variation proposes to enlarge the existing FMSEP and extract sand from below the water table. The resulting dredge pond within the FMSEP (see Figure 8) will cover about 24.1 hectares and contain about 3,500 megalitres of water. All runoff from the expanded pit will be collected in the pit, adding to groundwater volume but reducing surface water runoff flowing into Deep Creek from the upper portion of the site. The proposed CSEP would be over 40 metres above the water table.

Figure 8 Site layout plan



Surface water runoff from the upper portion of the site will be diverted around the FMSEP by use of a diversion swale. This is in order to comply with the requirements of the Regional Sand Extraction Strategy which requires:³³

In order to protect the quantity and quality of groundwater, a lake must not be permitted as an after-use of a sand pit when surface run-off from beyond the site is able to enter the lake.

³³ Regional Sand Extraction Strategy – Lang Lang to Grantville 1996 p3-10

Groundwater will be removed from the pond in a slurry (25 per cent sand and 75 per cent water) dredged from the pond and pumped to the sand washing plant for processing. Groundwater will also be pumped directly from the pond for sand processing make up water and for dust suppression. The Applicant has negotiated an 80.5 megalitre per year groundwater allocation on a temporary transfer basis.

The processing plant will include a sand wash plant, thickener and water clarifier, mud buffer tank, dewatering belt press, freshwater storage tank and recycled water storage tank.

The proposed processes to be employed in the operation of the Quarry, including water storage and usage, are set out in detail in the Work Plan Variation.³⁴ A detailed risk management plan is included in the endorsed Work Plan Variation, along with a surface water management plan.

7.2 Groundwater

7.2.1 The issues

Groundwater issues include:

- pit deepening below the water table will adversely affect the and damage the environment, including Deep Creek and Western Port Bay
- possible groundwater contamination from Quarry operations
- possible groundwater contamination from stormwater runoff
- impact on the quality and quantity of bore water for adjoining landowners
- possible contamination of Deep Creek and Western Port Bay from Quarry operations such as sand wash and fuel tank spills.

The key issue for the Panel is whether groundwater impacts can be acceptably managed, and if so what planning permit conditions should be applied relating to groundwater management.

7.2.2 Background

The groundwater on the site forms part of the Koo Wee Rup Water Supply Protection Area. No additional groundwater licences can be issued. A temporary groundwater licence transfer has been negotiated and approved by Southern Rural Water who have consented to the Work Plan Variation.

Groundwater resources are managed under the *Water Act 1989* with Southern Rural Water responsible for managing groundwater on the site. Groundwater quality is protected under the *Environment Protection Act 1970* administered by the EPA. The principal policy is the State Environment Protection Policy (Waters) 2018.

The hydrogeological assessment³⁵ carried out by John Leonard Consulting Services provided a hydrogeological model for the site that examined the topography, geological setting, movement of groundwater and contaminants, movement of surface water and interaction between surface water, groundwater and Western Port Bay. The detail of that report has enabled the Applicant and its consultants to have a comprehensive baseline understanding of the hydrogeology of the site and how that might be impacted by the Proposal. The assessment also analyses groundwater quality from bore samples conducted on the site.

³⁴ Document 59.1

³⁵ Included in Document 1h

Southern Rural Water requirements in the Work Plan Variation relevant to groundwater are shown in Table 6.

Table 6 Work Plan Variation - Southern Rural Water requirements

Condition	Requirement
3.1	All conditions of the Licence to Operate and Take and Use Licence must be complied with
3.2	Metering and water accounting process to be agreed by Southern Rural Water
3.3	Risk assessment to be prepared on the disposal of filter cake below quarry water level. To be approved by EPA and ERR
3.4	Groundwater Management Plan to be approved by Southern Rural Water and ERR. Must include identification and management of risks and groundwater monitoring program.

7.2.3 Evidence and submissions

The Applicant called the following expert witnesses on groundwater:

- Mr Leonard - Hydrogeology and groundwater
- Mr Condina - Surface water and groundwater quality.

The 2019 hydrogeological assessment carried out by John Leonard Consulting Services drew the following relevant conclusions:

- Work Authority 1488 is within Zone 7 Coastal Buffer of the Koo Wee Rup Water Supply Protection Area. Although the amount of groundwater that can be extracted annually from Zone 7 has been fully allocated, actual groundwater usage in Zone 7 has historically been less than 40 per cent.
- The water table is below the level of Deep Creek and other waterways in the vicinity of the site.
- There will be a net gain to the groundwater system from the Proposal due to direct rainfall infiltration to the larger medium and fine sand extraction pit. Local drawdown interference is therefore not expected.
- The findings of groundwater quantity and quality risk assessments were that most potential risks are in the Low Risk category (with the exception of fuel leak risk), and that Risk Mitigation measures would result in Low Residual Risks.
- While the current groundwater bore network was considered adequate to monitor bore water drawdown and quality, two additional bores were recommended.

Mr Leonard's evidence to the Panel drew from this earlier work and reiterated these points in his evidence. In summary his evidence was that the Proposal would not adversely impact groundwater quantity, groundwater quality, flow in Deep Creek, and/or discharge into Western Port Bay.

Mr Leonard gave an overview of his analysis of groundwater drawdown under worst case scenarios. His analysis was initially based on incorrect Quarry operating hours and, in response to questions raised by the Panel, he revised his water usage calculations. The revised calculations did not alter his conclusion that, although the Quarry operation may use in excess of the 80.5 megalitres per year temporary groundwater licence transfer, usage would more likely be limited by the permit limit of 240 truck movements per day, and in any case, there would be a net increase in groundwater from the Proposal due to the larger pit catchment.

Mr Leonard noted that the only high-risk ranking identified in the risk assessment related to potential leaking fuel tank or fuel spill. He noted that this could be reduced to a no/low ranking if his risk mitigation measures (such as proper storage and use of bunds) were adopted. In response to questions on this from the Panel he gave evidence that he was confident that the proposed mitigation measures would be effective in mitigating this risk.

It is proposed that the slimes produced from the sand washing activities will not enter the ground water but will be filtered, thickened and pressed to a filter cake and blended with overburden for use in rehabilitation.

Mr Leonard noted that filter cake will be mixed with other material and used to rehabilitate the Coarse Sand Extraction Pit and that filter cake will only be placed into the FMSEP when volumes exceed available site storage capacity and the filter cake cannot be used to rehabilitate the CSEP.

Mr Condina gave evidence that the flocculent and coagulant to be used in production of the filter cake are extensively used worldwide in wastewater and potable water treatment. He recommended that filter cake, leachate and pit water testing be undertaken monthly and that groundwater bores be monitored 6 times yearly.

Mr Condina gave evidence that monitoring to date shows there has been no or insignificant impact to both surface and groundwater from the development and the proposed further development is very unlikely to adversely impact on groundwater quality.

In response to questions from the Panel about the risks from leachate from the filter cake, Mr Condina gave evidence that groundwater quality depended on the metals in the filter cake and the filter cake, which is partly clay, was very efficient at absorbing metals onto the surface and holding those metals strongly.

Council submitted that the Applicant has not adequately addressed the issues with regards to hydrogeology, surface water and water quality. It submitted that the experts have not considered the impacts of climate change and of potential contaminants from the activities on the site. Council submitted that the evidence raises further questions with respect to leachate testing raised by Mr Condina's evidence.

Mr Edge raised several concerns about the evidence presented and what he saw as inconsistencies. He was concerned about the impact of potential groundwater contamination discharging to Deep Creek. The Applicant and Mr Leonard confirmed that the groundwater level is below that of Deep Creek and does not discharge into Deep Creek.

In closing, the Applicant submitted that Council's submissions about selected aspects of the water expert evidence are unhelpful and ignored that ERR, Melbourne Water and Southern Rural Water have assessed the Proposal and do not object subject to the required conditions included in the Work Plan Variation.

Proposed permit condition 44 requires a groundwater management plan to be submitted and approved by Southern Rural Water and the Responsible Authority. The ground water management plan must make provision of the ongoing monitoring of groundwater quality, flow and level for the life of the operation of the Quarry. Council proposed no change to the condition.

In the Applicant's preferred permit conditions (Document 83) it proposed to change the wording of condition 44 to refer to the Work Plan Variation as follows:

Groundwater management and monitoring must be undertaken in accordance with the Work Plan as approved and varied from time to time under the Mineral Resources (Sustainable Development) Act 1990.

7.2.4 Discussion

Both Council and the Applicant noted that the Proposal was referred to both Southern Rural Water and Melbourne Water. Both have consented subject to additional Work Plan Variation conditions.

Submitters have raised legitimate concerns about ensuring that groundwater flow and quality is not compromised by the Proposal. Several submitters including Council noted that there are still some unresolved issues around how the site will be designed and how processes will be managed. The Panel agrees that there are some issues relating to surface water management, management of accidental fuel spills and processes for monitoring and use of filter cake (for example) that do need further resolution to ensure that they do not adversely impact on groundwater systems.

The Panel notes however that the Work Plan Variation sets out conditions aimed at addressing these issues prior to and during the course of the operation of the expanded Quarry. In particular, the requirements for a groundwater management plan and risk management (including implementing mitigation measures) to be undertaken to the satisfaction of the relevant authorities provide comfort that this further, more detailed work must be done properly.

While there was some submitter criticism of the detail of the work done by the expert witnesses, no other expert evidence was called that challenged the rigour of the work or its conclusions. The Panel is satisfied that the evidence on groundwater stands scrutiny and any errors or oversights are minor and do not affect the overall conclusions that the Proposal will not have a detrimental impact on groundwater.

The Panel prefers the wording of permit condition 44 as proposed by the Applicant. The proposed direct reference to the Work Plan Variation is seen as a positive step that avoids any confusion about what standards might apply.

7.2.5 Conclusions

The Panel concludes:

- The potential impacts of the Proposal on groundwater are acceptable and can be appropriately managed through the Work Plan Variation.
- The wording proposed by the Applicant for planning permit condition 44 is preferred.

The Panel's conclusions are otherwise addressed by the recommended conditions in Appendix G.

7.3 Surface water

7.3.1 The issues

Surface water issues include possible:

- groundwater contamination from stormwater runoff
- contamination of Deep Creek and Western Port Bay from Quarry operations such as sand wash and fuel tank spills.

7.3.2 Background

A surface water and drainage assessment³⁶ conducted by Water Technology reviewed the surface water catchment runoff and site drainage arrangements and summarised a surface water balance to demonstrate the impact of the Proposal. The assessment reviewed earlier work done by Mr Craigie and concluded:

- The final development of the extraction areas will reduce surface water runoff to Deep Creek downstream of Bass Highway by 14 per cent.
- The Quarry expansion will have no significant or detrimental impact on the hydrological characteristics of Deep Creek, Westernport Bay and its environs.

The Applicant called the following expert witnesses:

- Mr Craigie - Surface water
- Mr Condina - Surface water and groundwater quality.

The Work Plan Variation includes the following Melbourne Water requirements relevant to surface water (see Table 7).

Table 7 Work Plan Variation - Melbourne Water requirements

Condition	Requirement
4.1	Existing 60 metre buffer to Deep Creek to be maintained
4.2	30 metre setback buffer from Waterway 3840 (Depp Creek tributary) must be adhered to, including vegetation zones
4.3	In accordance with the Surface Water Management Plan runoff water from the works area and roadways and access tracks must be directed to the excavation pits or treated by filtering in vegetated swale drains or through sediment traps prior to being discharged to the waterways or offsite
4.4	As stated in the Rehabilitation and Site Closure Plan once extraction has concluded the waterways and riparian vegetation must still be protected and the risk of sediment laden runoff from the site must be ameliorated
4.5	Melbourne Water accepts that the minor waterway/valley (Creek 3840) depression including the old farm dam upstream of the internal access road can be deleted

The Applicant noted that there is an existing statutorily endorsed Surface Water Management Plan.

7.3.3 Evidence and submissions

Mr Craigie provided expert evidence that drew from his earlier work and the Water Technology report. He made the following observations³⁷:

The existing surface water treatment assets, as conditioned and designed, are appropriate to manage all potential surface water impacts on MW 3840, Deep Creek and the Bay. There are no changes required to these assets under the Work Plan Variation application, nor are any additional assets required to manage surface water.

³⁶ Included in Document 1h

³⁷ Document 27 p1-2

The proposed sand washing operation will be a closed-loop cycle extracting groundwater water from the pit base and recycling the excess back into the pit. There is no connection of the sand washing plant to the surface water drainage system connected to Deep Creek. Therefore, the sand washing process cannot have any impact on surface water quality or quantity in Deep Creek or the Bay.

Mr Craigie summarised his evidence as follows:

- The projected loss of 134 megalitres per annum from MW3840 tributary catchment (compared to the currently approved Work Plan) will have no significant impact on the hydrological regime or refuge pools in the lower reaches of Deep Creek.
- Mean annual surface water discharge to the Bay via Deep Creek will be reduced by about 14 per cent compared to the current approved Work Plan. This will still be about 10 per cent in excess of that likely to have occurred under pre-European (forested) conditions in the catchment. Impacts on the Bay will be insignificant.

As noted in Chapter 7.1, surface water runoff from the upper portion of the site will be diverted around the FMSEP by use of a diversion swale. Mr Craigie confirmed that this swale would be designed to carry a 1 in 100 year rainfall event.

During Mr Craigie's submission to the Hearing, it became clear that there is a small trapped low point on the southeast corner of the site. The Panel noted that the swale would not be able to carry stormwater around this point to comply with the Regional Sand Extraction Strategy requirement.³⁸ Mr Craigie responded that, while it may be technically possible to collect runoff at the low point and pump it to the swale drain, it is likely to be more practical for this runoff to be drained into the pit. In response to questions from the Panel, Mr Craigie confirmed that the volume of runoff from this low point is likely to be low as the vegetated area above it will absorb the majority of any rainfall. Mr Craigie advised that water balance estimates prepared by Water Technology in their 2019 report allowed for this small area to be captured into the pit.

Mr Condina gave evidence that although there were elevated suspended solids and turbidity in tributary MW3840 and Deep Creek following rainfall runoff events, he considered the environmental significance and impact of this to be low. His evidence was that sediment and nutrients from runoff in to MW3840 and Deep Creek would be reduced because the catchment will be reduced, and the catchment will be mainly vegetated.

His evidence concluded that monitoring to date shows there has been no or insignificant impact to surface water from the development, and the proposed further development will on balance result in some improvement in surface water quality.

In answer to a question from the Panel about the risk of fuel and chemical spills, Mr Condina's evidence was that there were clear guidelines for fuel spill risks which, if implemented, would be best practice and minimise any risks.

Council submitted that there were several unresolved issues relating to surface water. It submitted that a comprehensive drainage plan has not been prepared, the experts have not considered the impacts of climate change and of potential contaminants from the activities on the site.

Council noted that the site is within five kilometres of the Ramsar listed Westernport Biosphere and submitted that the Amendment Application and evidence appears dismissive of issues such as

³⁸ See section 8.1 above

the resulting 14 per cent reduction of flow into Deep Creek. It submitted that the decision for the Amendment Application should be placed on hold until the review on the Marine and Coastal Policy is completed, although did not elaborate on which aspects of the Policy it considered were relevant.

In response to questions from the Panel about the status and any implications of the Marine and Coastal Policy, DELWP advised that the policy came into force on 6 March 2020, and guides decision makers in the planning, management and sustainable use of the coastal and marine environment (as defined by the *Marine and Coastal Act 2018*). Relevant chapters relate to traditional owners, ecosystems and habitats, cultural values and heritage sites and marine and coastal industries.

Mr Edge raised concerns about the impact of the Proposal on water quality in Deep Creek. He submitted that the level of monitoring and analysis undertaken by experts was inadequate. He submitted that higher levels of turbidity and suspended solids arising from the Proposal would impact on the Deep Creek environment. Mr Edge was not satisfied with the answers he received to the questions he put to witnesses.

Council provided without prejudice conditions 22 to 25 relating to drainage.

The Applicant's preferred permit conditions (Document 83) proposed to change the wording of conditions 23, 24, and 25 to directly refer to the Work Plan.

The Applicant proposed deletion of condition 22 (erosion and sediment control plan) as it is covered in the CEMP requirement.

7.3.4 Discussion

Both Council and the Applicant noted that the Proposal was referred to both Southern Rural Water and Melbourne Water. Both have consented subject to additional Work Plan Variation conditions as noted in Chapter 7.3.2.

Submitters have raised legitimate concerns about the impact of the Proposal on Deep Creek and Westernport Bay. Several submitters including Council noted that there are still some unresolved issues around how the drainage on the site will be designed. The Panel agrees that there are some issues relating to surface water management and management of accidental fuel spills that do need further resolution to ensure that they do not adversely impact.

The Panel notes that a surface water management plan has been included in the endorsed Work Plan Variation which includes a schedule of surface water monitoring.

The Panel notes that surface water drainage will be restricted to the area above the FMSEP. The considerably reduced volume of runoff is proposed to be filtered through the existing sediment basin and bio-retention pond before overflowing to MW3840 and in turn into Deep Creek. The Panel accepts the evidence that the existing system will easily handle the reduced runoff volume.

Site drainage relies on the diversion swale preventing runoff from the upper reaches of the site entering the FMSEP. The Panel accepts that this can reasonably be achieved. The Panel also accepts that the small 'trapped' low point near the southeast corner of the site can be managed. Given the likely low volumes of runoff from this area, the Panel accepts that the best approach is likely to drain the area into the pit.

The Panel notes the concerns of Mr Edge but accepts that the work done by the Applicant through Mr Craigie, which was reviewed by Water Technology and Mr Condina, has been done by

competent professionals. In the absence of contrary evidence called by Council or other parties, the Panel accepts the evidence presented.

The Work Plan Variation sets out conditions that further regulate surface water management for the Proposal. The Panel is satisfied that these conditions will enable surface water to be appropriately managed on the site.

The Panel notes the advice from DELWP is that the Marine and Coastal Policy has been in effect since March 2020. The Panel notes that the Policy applies to the site, being within 5 kilometres of the high-water mark, but as there were no submissions or evidence put to the Panel directly in relation to the Policy, it is not in a position to comment.

While the Panel believes that it would have been better if the Marine and Coastal Policy was considered in assessing the Proposal, the Panel does not believe this is fatal to the Proposal proceeding. Issues that might have been considered in the context of the Policy include: impacts on ecosystems and habitats; impacts on natural features and landscapes; cultural values and heritage sites; and managing coastal hazard risk. Each of these issues has been addressed, albeit without direct reference to the Marine and Coastal Policy.

The Panel prefers the wording of permit conditions 23, 24 and 25 as proposed by the Applicant. The proposed direct reference to the Work Plan Variation is seen as a positive step that avoids any confusion about what standards might apply. The Panel supports the deletion of condition 22.

7.3.5 Conclusions

The Panel concludes:

- The potential impacts of the Proposal on surface water are acceptable and can be appropriately managed through the Work Plan Variation and permit conditions.
- The wording proposed by the Applicant for planning permit conditions 23, 24 and 25 are preferred. Deletion of condition 22 is supported in favour of reference to erosion and sediment control in the CEMP.

The Panel's conclusions are otherwise addressed by the recommended conditions in Appendix G.

8 Offsite amenity

8.1 Traffic

8.1.1 The issues

The issues are:

- whether the proposed increased truck traffic and increased operating hours result in unacceptable traffic impacts
- what conditions should be included in the planning permit relating to traffic.

8.1.2 Background and context

The Proposal will see an increase in truck traffic from the Quarry from the current 120 trucks per day to a maximum (limited by permit condition) of 240 trucks per day. Entry and exit from the site will be via a signalised intersection on the Bass Highway.

Currently the right turn out of the Quarry to the north is prohibited, requiring trucks to travel 4.5 kilometres south through Grantville to U-turn and then head back through Grantville to the north. The Proposal includes altered access arrangements in and out of the quarry, with the introduction of a signalised intersection allowing trucks to enter and exit the site in both directions. This will avoid the need for quarry traffic to travel through Grantville, reducing the amount of trucks entering town.

8.1.3 Evidence and submissions

Traffic related issues raised by submitters included:

- the new traffic lights and higher volume of trucks will lead to increased congestion on Bass Highway and slower travel times through Grantville
- the proposed traffic lights will increase traffic accidents
- access problems for nearby residents
- noise, vibration and air pollution issues related to the higher volume of trucks and longer operating hours.

DoT did not object to the Proposal subject to a number of conditions that have been included on the permit including conditions requiring:

- installation of traffic signals at the access to Bass Highway
- various conditions requiring consultation with and approval by DoT
- costs of construction and maintenance being borne by the Applicant
- installation of early warning signage and engine braking signage
- preparation of an acoustic report and, depending on the outcome, implement mitigation measures to the satisfaction of DoT.

The Applicant relied on the evidence of Mr Turnbull. Mr Turnbull concluded that the Proposal would result in a net benefit to traffic conditions on the Bass Highway through Grantville due to the removal of 120 current truck movements, removal of the U-turn requirement and provision of a controlled pedestrian crossing across the Bass Highway for the bus stop on the eastern side of the Highway near the Quarry site. He summarised his evidence as follows:

As a result of the proposed changes to the existing conditions, there are a number of traffic engineering implications:

- There is a significant safety and amenity benefit to the township of Grantville as there is a significant reduction in the number of heavy vehicles which will travel through Grantville.
- The travel distance for vehicles travelling toward Melbourne is reduced by 9km. The need for vehicles to travel through Grantville and make an uncontrolled U - turn where there is an appropriate treatment, will be removed. Any circumstances where U – turn movements can be reduced or removed is in my view a significant safety benefit to the road network.
- The Bass Highway traffic will also be controlled by the proposed signals however, this will only be activated when there is a vehicle turning out from the minor approaches or pedestrian activation.
- The signalisation will provide a formal pedestrian crossing of Bass Highway which will allow for pedestrians to safely access the existing bus stop locations.
- There will be an improved level of function for the Bass Highway Service Road on the west side of the highway. As part of the signalisation of the intersection, the Service Road will be controlled and provided with a turning phase which will allow for safer turning movements towards Grantville.

Mr Turnbull recommended the adoption of the Applicant’s proposed permit conditions including reference to the relevant drawing number to *“Traffix Group Drawing Number 23730-01-01 Rev A dated 9 Feb 2021”*.

Mr Turnbull noted that a reduced speed limit to 80 kilometres per hour at the traffic signals and for some distance to the north would assist safety at the intersection and reduce traffic noise for nearby residents. He acknowledged that this was ultimately a decision for DoT.

In cross examination, Council asked Mr Turnbull about the most appropriate location for any reduced speed limit on Bass Highway. Mr Turnbull responded that in his view it would be desirable to extend an 80 kilometre per hour zone at least to the top of the hill to the north of the site, and potentially to beyond the intersection with Bonney Road, to avoid sight distance problems.

The Council officer report to Council acknowledged the benefits of reducing truck traffic in Grantville and providing an additional controlled pedestrian crossing of Bass Highway.

Mr Rankine questioned Mr Turnbull about cumulative impacts of multiple sets of traffic lights through Grantville. In response, Mr Turnbull said he had not considered other locations but did note the benefits of no longer requiring trucks to travel through Grantville, U-turn and travel back through the town.

Mr Hopkins raised concerns about whether vehicles turning out of Deep Creek Road might be blocked by cars queueing at the Quarry intersection. Mr Turnbull responded that he didn’t expect this to be a problem but noted that keep clear signs may assist if this did occur.

In closing Council supported the permit conditions proposed by DoT (condition 35) and supported a revised form of condition 4 which requires a Traffic Management Plan to be prepared.

The Applicant proposed that condition 4 be deleted on the basis that it is no longer necessary.

8.1.4 Discussion

Submissions raising concerns about traffic issues were primarily concerned about the amenity impacts of additional trucks on the Bass Highway north of the Quarry. The Panel accepts that the additional truck traffic on this section of road may create noise impacts. Truck noise can, however,

be mitigated and the Panel believes that the condition proposed by DoT to prepare a noise report and mitigate as required reasonably addresses this issue.

The Panel accepts Mr Turnbull's evidence that there will be benefits to traffic safety and congestion through Grantville south of the site due to the reduced truck movements and removal of the U-turn requirement.

The Panel agrees that the installation of traffic signals subject to the conditions required by DoT is appropriate and, on balance, will provide an improved traffic outcome. The Panel agrees with Mr Turnbull's assessment that the traffic lights will have minimal impact on through traffic. The lights will only be triggered by trucks exiting the Quarry (15 per hour), pedestrians crossing the Highway or vehicles on the service road. Mr Turnbull modelled the performance of the intersection and estimated average delays of 3.6 seconds to Highway traffic. This small delay is offset by the benefits of reduced traffic through Grantville to the south.

The Panel does not agree with the submissions that claimed that local traffic movements will be negatively affected. The Panel is of the view that access in and out of Deep Creek Street will be assisted by the creation of gaps when the traffic lights are activated. Access out of the service road on to Bass Highway will also be improved as vehicles will activate the new traffic lights.

The Panel notes the Applicant's preference to remove planning permit condition 4 (requirement for a Traffic Management Plan) but agrees with Council that the retention of a modified condition is preferred in order to address ongoing potential amenity issues that may arise from truck on the Quarry land and surrounding area.

The Panel makes no comment regarding speed limits on Bass Highway other than noting Mr Turnbull's evidence.

8.1.5 Conclusions

The Panel concludes:

- Potential amenity issues arising from additional truck traffic area can be appropriately managed in planning permit conditions.
- The proposed installation of traffic signals is appropriate and provides net benefits for traffic through Grantville.
- Planning permit condition 35 proposed by DoT is supported, subject to an updated reference to the traffic signal drawings.
- Planning permit condition 4 as proposed by Council in its Part B submission is supported.

The Panel's conclusions are otherwise addressed by the recommended conditions in Appendix G.

8.2 Noise and operating hours

8.2.1 The issues

The issues are:

- whether the increased truck traffic (and altered distribution of traffic) will result in unacceptable noise impacts
- whether expanded quarrying activities and extended operating hours result in unacceptable noise impacts
- what conditions should be included in the planning permit relating to noise.

8.2.2 Background and context

The Amendment Application seeks to extend existing quarrying operations at the site and increase the number of trucks visiting the site per day.

The key changes proposed that are relevant to noise considerations include:

- the extension of the Quarry's hours of operation
- the extension of quarrying activities further to the east
- introduction of wet sand extraction utilising a cutter suction dredge
- introduction of a new wet sand processing plant and dewatering plant
- an increase in the truck traffic from the quarry from the current 120 trucks per day to a maximum of 240 trucks per day (albeit with altered access arrangements that will reduce truck traffic in Grantville).

(i) Endorsed Work Plan Variation requirements

The Work Plan Variation includes a Risk Management Plan which identified all residences within 1000 metres as sensitive receptors. The three key risk events identified include:

- excessive noise at any sensitive receptor resulting from vehicle movements
- excessive noise at any sensitive receptor resulting from wash plant
- excessive noise any sensitive receptor resulting from excavating equipment.

The compliance standards identified in the Work Plan Variation include:

- Noise from Industry in Rural Victoria (NIRV-EPA Publication 1411) (NIRV)
- State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP-N1).

No proactive noise monitoring is proposed in the Work Plan Variation. Monitoring is proposed to be undertaken if directed by EPA, ERR or as a result of a complaint investigation process.

(ii) Existing planning permit condition

The existing planning permit includes the following condition:

Prior to the commencement of the use and development hereby permitted, a noise management plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. The plan must adopt all relevant recommendations of the Noise Emission Assessment by Watson Moss Growcott Acoustics Pty Ltd at Appendix 6 of the endorsed Work Plan.

State policy at Clause 13.05-1S (Noise Abatement) directs a Responsible Authority to consider other guidance as relevant, including:

State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 in metropolitan Melbourne.

A Guide to the Reduction of Traffic Noise (VicRoads 2003).

8.2.3 Evidence and submissions

Mr Goddard gave evidence on behalf of the Applicant. Mr Goddard explained that there were two main policy guidelines to inform the noise assessment. NIRV and SEPP-N1 regulate noise emissions from operations at the Quarry. Traffic noise is not assessed under those policies, so Mr Goddard assessed traffic noise separately.

Mr Goddard explained that a three-dimensional noise model had been developed for the site to assess compliance with the noise limits in NIRV at sensitive receptors. Mr Goddard's evidence was that by implementing minimal operational strategies, the expansion to Quarry operations could occur without exceeding NIRV noise limits.

Mr Goddard explained that he had considered the impact of the traffic changes, including the installation of a signalised intersection, on the noise environment. His evidence was:

These investigations have given no clear indication of elevated noise levels associated with operation of traffic light at a road junction, but during the site investigations it was noted that the great majority of trucks in general, including trucks related to the quarry industry, were a part of the general traffic noise environment without dominating it.

However, a small number of trucks, operated by independent operators not associated with Dandy Premix Pty Ltd, were identified which exhibited a significantly higher noise level than the majority of trucks, with a distinctive noise character that made these trucks prominently noticeable relative to all other traffic.

Mr Goddard recommended that there should be a reduction in the existing 100 km/hour speed limit to 80 km/hour, extending from the existing 80km/hour zone (south of the Quarry access) to north of the Bonnet Road intersection. Mr Goddard suggested that if there were still noise exceedances, further modelling could be undertaken and mitigation measures implemented.

Council submitted there were shortcomings in Mr Goddard's assessment in relation to the impact on the Stewart Street properties. It submitted that further noise monitoring should be completed in that location prior to the approval of the Proposal, and additional noise monitoring should be undertaken before the expanded use commenced with any necessary adjustments to the existing noise wall on the site.

Several submitters raised concerns about the noise impact on residential properties, including the noise impact of extended operating hours.

Mr Hopkins submitted that it was not clear how the VicRoads road noise policy would be assessed or triggered through this application process.

Ms Callaghan was concerned about the doubling of truck movements, and how this would affect noise emissions which were already close to the allowable threshold in some locations.

8.2.4 Discussion

There are two key aspects to consider:

- noise emissions from expanded operations at the Quarry (direct emissions from the site)
- noise emissions associated with altered truck volumes and altered access arrangements (indirect emissions from trucks as they enter and exit the site).

The modelling presented in Mr Goddard's evidence indicated that direct noise emissions from the expanded operations on site at nearby dwellings (within 1000 metres) will meet the relevant noise standards. The Panel accepts Mr Goddard's evidence that, subject to minimal operational mitigation measures, noise emissions from the site would not be unreasonable.

These measures are reflected in the Work Plan Variation. The Work Plan Variation also recognised that monitoring may be required in response to community complaints or as directed by EPA or ERR. The Panel considers that it is appropriate to rely on existing EPA regulation and the MRSD Act to manage direct noise emissions.

The Panel considers that further assessment of background noise should be undertaken at the Stewart Street properties before the expanded use commences. This will allow for a more meaningful assessment of any change in noise levels resulting from the expanded operations on the site. Any noise management plan prepared would then need to identify suitable mitigation measures, which in turn would need to be reflected in the Work Plan Variation.

The Panel acknowledges the community concern regarding increased operating hours. As part of the Applicant's community engagement planning, the Panel thinks it would prudent for the Quarry operator to be more proactive with its approach to noise monitoring.

Mr Goddard concluded that noise emissions from traffic would be acceptable on the basis of an extended 80km/hour speed limit zone. On its inspection of the site and surrounding residential areas, the Panel noted that there was a significant level of background noise. The Panel also noted that the existing noise wall on Bass Highway was quite low in some locations.

The Panel acknowledges concerns of Council and submitters in relation to noise emissions from traffic. However the Panel does not consider that more detailed noise monitoring is required before the Amendment Application is granted and the Work Plan Variation approved. The difficulty with imposing such an obligation is that it would be very difficult to isolate any increases in noise emissions with trucks exiting or entering the site from general increases due to traffic in the surrounding area.

The VicRoads Noise Policy provides guidance on when noise wall improvements on major roads need to be made. The Panel considers that this is the most appropriate process to rely on for any upgrades to the noise wall on Bass Highway.

The key regulatory control for direct noise emissions from the site is the Work Plan Variation. The regulatory control for more indirect noise emissions (for example resulting from increased truck traffic) is less clear. There appears to be a role for the planning permit to regulate off-site noise impacts that cannot be adequately managed through the Work Plan process.

There is already a planning permit condition which requires a noise management plan to be prepared. However, it is not clear how the noise management plan called for under the planning permit interacts with noise mitigation measures identified in the Work Plan Variation.

The Applicant has suggested that the noise management plan should simply reflect any noise requirements in the Work Plan Variation. The Panel considers that this approach may not provide a proper basis for managing indirect noise emissions from the expanded operations at the Quarry.

Indirect noise emissions should be addressed by an amended noise management plan condition on the permit. That condition should require a further assessment of baseline noise conditions before the expansion of the Quarry can commence. Then, any noise management plan prepared would need to identify suitable mitigation measures, which in turn would need to be reflected in the Work Plan Variation.

The Panel notes that one of the assumptions in Mr Goddard's assessment is that an extended 80km/hour speed zone would apply. Given the road is controlled separately by DoT, applying such a restriction would be outside the remit of this process.

8.2.5 Conclusions and recommendations

The Panel concludes:

- Further assessment of baseline noise conditions is required before the expansion of the Quarry can commence. However the Panel is satisfied that the direct noise impacts of the expanded operations on the site can be effectively mitigated.
- A noise management plan needs to be prepared which accounts for baseline noise conditions, ongoing monitoring and mitigation plans. The recommendations from the noise management plan need to be incorporated into the Work Plan Variation.
- Indirect noise impacts arising from quarry traffic can be dealt with in accordance with the VicRoads Noise Policy.

The Panel recommends:

For consideration by Earth Resources Regulation in finalising the approved Work Plan Variation:

Ensure that the recommendations from the Noise Management Plan required under the planning permit are integrated into the approved Work Plan Variation.

The Panel's conclusions are otherwise addressed by the recommended conditions in Appendix G

8.3 Dust

8.3.1 The issue

The issues are whether:

- the Proposal would result in excessive dust and associated impact on air quality
- the Dust Management Plan is adequate
- further investigation is required into the potential for health impacts from respirable crystalline silica.

8.3.2 Background and context

The Proposal will result in the potential for dust emissions, particularly sand extraction from the CSEP. The CSEP is, however, well separated from residences. The closest rural residence is approximately 1.2 kilometres to the south east. The separation distances to the nearest residences to the west remain the same. Specifically:

- the two nearest off-site dwellings are situated approximately 200 metres to the southwest and about 230 metres to the northwest.
- a few dwellings in a low density residential area are approximately 330 metres to the southwest.

Dust deposition gauges have been placed near residences at the western end of the site, and monitoring commenced in 2017.

The Applicant prepared an updated Dust Assessment (December 2019)³⁹ and associated Dust Management Plan that has been submitted with the Amendment Application. The objectives and performance indicators of the Dust Management Plan include:

- ensuring that no visible dust emissions generated by the quarry operations are detected beyond the site boundaries
- ensuring that dust emissions comply with the relevant guidelines in the PEM.

The Work Plan Variation includes a Risk Management Plan which includes a plan for the control of dust generated by the Quarry and quarrying activities. It requires compliance with the Dust Management Plan and standards in the PEM, SEPP AQM and *EPA Guideline Recommended Separation Distances for Industrial Residual Air Emissions* (EPA Pub 1518).

The Work Plan Variation also states that the Proposal will require groundwater to be extracted directly from the dredge pond for processing and dust suppression use.

ERR was not required to refer the Work Plan Variation assessment to the EPA. Council referred the Amendment Application to the EPA who responded that:⁴⁰

... it did not consider that the Application warranted referral under Section 55 and advised that the Work Plan Variation was submitted and approved. The EPA has accordingly confirmed that it does not object to the Application and no conditions were recommended by the EPA.

The existing planning permit includes a number of conditions relating to dust management (see Appendix G - Conditions 1c, 5, 12d, 14, 15, 16, 17 and 41).

DELWP submitted comments on Council's without prejudice conditions and considered that conditions relating to dust management were best dealt with by ERR.

8.3.3 Evidence and submissions

Mr Pollock gave evidence on behalf of the Applicant that the Proposal will result in additional sources of dust. However, Mr Pollock explained that the increase would be proportionally less than the increase in extraction due to deepening of the FMSEP, and retention of dust emissions within the pit, and the addition of wet extraction processes. He concluded that the Proposal was unlikely to exceed the regulatory limits⁴¹ for dust emissions.

The Applicant relied on the evidence of Mr Pollock and submitted that:

- dust deposition monitoring had been occurring since 2017, which showed compliance with the EPA requirements was easily met in all but some isolated instances
- the two results greater than the limit were adequately explained, specifically:
 - April 2017 (gauge 5) had been put down to works installing Transport Accident Commission (TAC) wire barriers on Bass Highway at that time
 - January 2020 which was probably due to bushfire plumes
- the proposed expansion will not cause the limits to be exceeded at these measurement stations

³⁹ *Dust Assessment, Proposed further development of sand extraction operations and introduction of sand washing and dewatering, 1381 – 1395 Bass Highway Grantville*, Environmental Science Associates, 14 December 2019

⁴⁰ Document 38 - Council's Part A submission

⁴¹ 4g/m²/month limit as specified in the EPA Protocol for Environment Management – Mining and Extractive Industries (EPA Pub 1191)

- the Dust Management Plan provides adequate measures to control emissions on the proviso that the Applicant engage a person/company in this field to adequately implement proactive procedures including training of staff.

In response to issues raised about the potential risk from exposure to respirable crystalline silica, Mr Pollock gave the opinion that while he expected the exposure of off-site residents to be well below the threshold of risk, he suggested an approach to sampling the dust to assess this.

The Applicant submitted that it agreed to implement the recommendation concerning getting further assistance from a meteorologist/forecaster. In relation to the Panel's considerations, the Applicant submitted that:

- this recommendation can be noted as a matter to be called up by the Dust Management Plan
- that nothing further is required in the planning permit.

The Applicant submitted preferred permit conditions in relation to dust management, as detailed in Appendix G, which recommend that dust management be primarily dealt with by ERR through the Work Plan Variation.

In accepting Mr Pollock's evidence, Council submitted that:

- the requirement for an experienced meteorologist/forecaster who could tailor a procedure specific for the Quarry to establish proper dust monitoring procedures should be reflected in either the planning permit or the Works Approval Variation
- in discussing respirable crystalline silica particulates, Council notes that this work has not been completed and Mr Pollock's conclusion is not based on any analysis.

Council addressed dust emissions in its without prejudice condition 14 (see Appendix G).

Several objectors⁴² were concerned with air quality due to excessive dust.

Mr Rankine submitted that dust impacts need to be properly assessed, including crystalline silica, stating that "*this was clearly glossed over*". Mr Rankine did however accept the evidence of Mr Pollock that it was not likely to be an issue.

Ms Doidge⁴³ submitted that she was also concerned about the risk of Silicosis and conditions seeking to ensure that the Dust Management Plan is implemented wasn't good enough as it could still have negative health impacts.

Mr Watson⁴⁴ submitted that he experiences sand deposits at his property on windy days, and is concerned about the increase in quarrying closer to the Bass Highway. He requested a solution that works better than the current situation.

8.3.4 Discussion

In relation to air quality and dust management, the Planning Scheme requires consideration of:

- Clause 13.06-1S (Air quality management), including EPA policy and guidelines referred to in that Clause

⁴² Objection 1, 4, 11, 12, 24, 30, 33, 38, 57, 58, 74

⁴³ Objection 59

⁴⁴ Objection 5

- the decision guidelines in Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas), specifically:
 - The ability of the proposed extractive industry to contain any emissions within the boundaries of the land in accordance with relevant legislation.
 - The effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area.

The Panel agrees with DELWP and the Applicant that dust management should primarily be dealt with by ERR through the Work Plan Variation, with any associated amenity issues included in the planning permit. The Panel recommendations on permit conditions are included at Appendix G.

In relation to the Dust Management Plan, the Applicant accepts Mr Pollock's recommendation to engage an expert to better inform dust management procedures, and this is included as a Panel recommendation for consideration by ERR.

The Panel acknowledges objector concerns with the health risks associated with crystalline silica. Mr Pollock's opinion was that there is low risk of exposure to respirable crystalline silica particulates in the dust, but this was not based on analysis of the dust samples. Mr Pollock conceded that this could be further investigated. The Panel recommends that ERR satisfy itself that this has been adequately investigated, and if required, additional management procedures to be included in the Dust Management Plan.

8.3.5 Conclusions and recommendations

The Panel concludes:

- The Proposal will result in additional dust emissions, however is unlikely to result in regulatory limits being exceeded.
- Issues of dust management are best dealt with by ERR through the Work Plan Variation approval process, with complementary conditions in the planning permit to address Planning Scheme matters.
- The Dust Management Plan should be updated to include the recommendation of Mr Pollock for the Applicant to engage an expert meteorologist to inform proactive management practices.
- ERR should satisfy itself that the risk associated with respirable crystalline silica particulates has been adequately investigated, and if required, additional management procedures to be included in the Dust Management Plan.

The Panel recommends:

For consideration by Earth Resources Regulation in finalising the approved Work Plan Variation:

Ensure that the potential health impacts of respirable crystalline silica particulates have been adequately investigated, and if required, include additional management procedures in the Dust Management Plan endorsed as part of the approved Work Plan Variation.

The Panel's conclusions are otherwise addressed by the recommended conditions in Appendix G.

8.4 Landscape and visual amenity

8.4.1 The issues

The issues are whether:

- the Landscape and Visual Assessment is adequate
- the landscape and visual impact of the Proposal is acceptable and will be adequately managed
- consideration of the Proposal should be delayed until the DAL process as progressed.

8.4.2 Background and context

The Applicant seeks to extract sand along the eastern ridgeline, which has higher visibility and landscape sensitivity than the existing operations.

The landscape and visual impacts of the current operations are managed through the planning permit conditions, specifically condition 2a of the current permit.

The *Grantville Sand Quarry Stage 2 Landscape and Visual Impact Assessment Final Technical Report*, July 2020 (Landscape and Visual Assessment) was prepared by Tract Consultants Pty Ltd as a supporting report for the Amendment Application and provides a technical evaluation of the potential landscape and visual effects associated with the Proposal.

Bass Coast was declared a DAL under the PE Act in October 2019. It seeks to provide long term direction for development whilst maintaining and enhancing the special characteristics of the declared area. The Statement of Planning Policy for Bass Coast has not yet been prepared.

In terms of local policy, Clause 22.02 (Hilltop, ridgeline and prominent coastal landform protection) seeks to protect the visual qualities of prominent landforms and ridges to maintain the landscape qualities of the Shire.

8.4.3 Evidence and submissions

DELWP

DELWP submitted that in accordance with the scoping report prepared for the DAL, Grantville is located within Landscape Character Area 1.1 Westernport Lowlands, which describes the landscape setting as:

Several discrete developed areas make up Grantville, extending from rolling foothills into the low-lying flats surrounding Westernport Bay at Queensferry. Existing flora reserves break up the developed areas and provide a buffer to development, while indigenous bushland vegetation throughout and adjacent to the town is important in softening the view from the Bass Highway, particularly on the entrances and exits to the town. Development near the coast is largely screened from views from Westernport Bay and local beaches by vegetation and topography. At the southern entry to town, a scenic gateway view is available from the Bass Highway.

The DAL discussion paper recognises the importance of the area's natural resources including mineral sands, and identifies a challenge in relation to *"the need for long term management and rehabilitation of mineral sands extractive areas"*.

In relation to landscape policy, the discussion paper flags that implementation of the State Planning Policy may include planning controls, land management strategies or other mechanisms.

Applicant

Mr Reilly gave evidence on landscape and visual impact impacts on behalf of the Applicant, and based on the *Grantville Sand Quarry Stage 2 Landscape and Visual Impact Assessment Final Technical Report*, July 2021 that he co-authored.

Mr Reilly's evidence was that the current operations result in no direct visual impacts on the surrounding area, including from the Bass Highway which is the most sensitive visual receptor. This is primarily because the low ridgeline in the western part of the site functions as a visual barrier to the Quarry.

Mr Reilly also gave evidence that:

The elevated eastern part of the site has a relatively higher visibility and landscape sensitivity than the lower western part of the site and requires a site-specific design and impact mitigation approach.

In terms of landscape impacts, Mr Reilly advised that the:

- proposed changes to the FMSEP would have no significant impact on landscape values
- removal of vegetation from the eastern ridgeline would have a moderate to high adverse impact on the landscape, depending on the degree of vegetation clearance.

Mr Reilly's visual impact assessment was based on a model that relied on "*the 'maximum development' scenario that would not actually exist due to progressive development of the quarry pits and progressive rehabilitation/revegetation*".

Of the viewpoints assessed, Mr Reilly advised that only camera viewpoint 1 from the Bass Highway was considered a sensitive visual receptor. He gave evidence that residential and tourist views are considered more sensitive.

When asked by Mr Drew whether Mr Reilly had taken into consideration that Shutoff Drive was a designated scenic tourist route, he responded that he was not aware of that and had not. Consequently, Mr Reilly had not considered Shutoff Road to be a sensitive visual receptor as he had considered it a local rural road with low levels of rural related use.

Mr Reilly concluded that the staged extraction and rehabilitation plan is appropriate, and that the adverse impacts on the eastern ridgeline can be "*substantially or fully mitigated over time through land forming and revegetation*".

In terms of mitigation of impacts Mr Reilly recommended that:

- retention of the western ridgeline is critical and mitigation planting is equally important
- existing vegetation areas east and west of the proposed upper pit should be maintained
- progressive rehabilitation of the Quarry stages should be undertaken as soon as possible to minimise the area of disturbed ground visible and to provide new screening layers in strategic locations relating to view corridors
- the height of overburden stockpiles should be minimised.

Mr Reilly opined that while the signalised intersection and increased truck movements would represent a cumulative visual impact, that this is not considered significant on the basis that the scale of change and concurrent development changes in the area.

Mr Reilly gave evidence that residual impacts relate more to landscape character than visual quality, and that his understanding of the Proposal is that the rehabilitated site would be a partly

clearer rural landscape – different, but a version of itself. Mr Reilly advised that he hadn't considering outcomes from an ecological perspective.

Mr Reilly considered that the lack of off-site visual impacts of the Proposal was consistent with the DAL objectives.

In response to questions from Council about the importance of timing of mitigation measures, Mr Reilly advised that he considered that the primary mitigation measure would be through landform, and that following sand extraction there is nothing to stop the landform being re-established, on the understanding that the landform would be slightly modified. He considered that revegetation programs would be important over the long term, however in the short term re-establishing landform and grassing would be an acceptable outcome.

Mr Reilly was unsure whether the bund proposed on the west of the CSEP was proposed to be vegetated from the outset, but indicated that he did not consider there would be an impact if it were not and the bund was removed over time.

From a planning perspective Mr De Silva gave evidence that visual impact associated with the additional eastern most extraction area was an issue that warranted consideration from a planning perspective. Mr De Silva suggested that visual impacts could be managed through progressive replanting and other works.

In relation to the DAL process, Mr DeSilva stated:

I see no reason to delay assessment of the current application given that there is considerable strategy and policy in relation to extractive industry in the region, the subject land is included on the priority project list and the proposal offers the opportunity (including plans for rehabilitation) to demonstrate positive application of the strategy and policy directions.

The Applicant relied on Mr Reilly's evidence and submitted that *"sand extraction is, and will continue to be, conducted within the Subject Site with minimal visual and other off-site impacts"*.

In response to questions from the Panel, the Applicant submitted that:⁴⁵

Mr Reilly confirmed in his oral evidence that no new visual modelling or photomontages were prepared to assist in developing the staging plan. The Landscape and Visual Impact Assessment was not based on any staging in the CSEP and depicted the full extraction in this location without any mitigation. Hence any mitigation measures adopted through the staging plan were considered to improve on the visual outcomes depicted.

The Applicant submitted that Mr Reilly gave very conservative and clear evidence that:

... while the removal of vegetation for quarrying in the CSEP will have an adverse impact on the landscape, depending on the degree of vegetation clearance, these impacts can be substantially or fully mitigated over time through land forming and revegetation the staged extraction and rehabilitation plan described in the Stage Plan is appropriate.

Council

Council submitted that it considered that the Proposal may have a greater effect on the character and landscape value of the area than that identified in Mr Reilly's evidence, on the basis that Mr

⁴⁵ Document 71

Reilly had used 'agricultural use' of the land as the base use, despite the presence of forested areas on the site. Council contended that Mr Reilly agreed that:

- another view point along the highway may have been warranted
- he had not taken Mr Organ's evidence into consideration
- he undertook analysis of the visual/landscape impact on a different understanding as to the presence of the interim sound bund
- he was unaware of the tourist route along Shutoff Drive.

Council also submitted that even though implementation of the DAL in the Planning Scheme has not yet progressed, Clause 65 of the Planning Scheme and Section 60 of the Act requires the Responsible Authority to consider any policy statement that has been adopted by a Minister.

Objectors

Several objectors raised issues relating to:

- visual impact from Bass Highway
- amenity resulting from the loss of rural land and bushland
- cumulative impacts of more trucks
- negative impact on tourism values and perceptions
- likely introduction of industrial character to the Grantville area - *“from a tranquil seaside village to an industrialised mining town”*⁴⁶
- concern about the Applicant’s capacity and past performance on landscape mitigation measures
- lack of certainty regarding rehabilitation outcomes.

Mr Watson⁴⁷ submitted that he had extreme concerns⁴⁷ regarding the visual effect from the Bass Highway and resultant devaluation of his properties. He proposed that dense vegetation should be planted to block the visual impact of this Proposal.

Ms Heath Mennell submitted that:

I am aware that the State Government is anxious to secure sand and gravel supplies to assist in the post-covid economic recovery of Melbourne. I understand that the company wishes to take advantage of this situation and improve its profits. However, I do not agree that this should be at the expense of the Bass Coast area, devastating the landscape which draws visitors from around the country and internationally. I would hate to see Bass Coast be ‘Distinctive’ because it turns into a moonscape of big, deep holes.

Several objectors submitted that the Proposal was at odds with the DAL, and requested that at least a decision on the Proposal be postponed until the DAL process is finalised.

Mr O’Brien and Mr Rankine submitted that the proposal was at odds with the vision and intent of the DAL.

Mr and Mrs Tobin submitted:

The State Government is close to the next stage of its Distinctive Areas and Landscapes. We ask the Hearing that, at the very least, they recommend to the Government that no decision be made about the Dandy Premix Quarries application

⁴⁶ Objection 37

⁴⁷ Objection 5

until after it finalises its Distinctive Areas and Landscapes legislation. This is only fair and respectful of local people and the Shire.

Mr Drew submitted that:

A feature of the DAL is also the quarantining of natural resources such as sand in the case of Bass Coast. The DAL is not expected to rule out sand mining from the region, on the contrary it is expected to positively make allowance for it. However, the DAL provides the opportunity to define a comprehensive regional solution to the conflicting interests of sand extraction and natural habitat for biodiversity, a contemporary one that communicates directly to the Planning Scheme.

Mr Drew recommended:

A final decision on planning permit application 120388-1 should be delayed until the completion of the imminent DAL Statement of Planning Policy so that the cumulative impacts of this and other sand mines in the area can be considered as a whole - which is the only way to account for cumulative impacts.

8.4.4 Discussion

The Panel is required to consider policy of the day – that is, policy that is currently in the Planning Scheme. As the DAL has not yet resulted in any changes to the Planning Scheme the DAL declaration does not require any specific consideration by the Panel. The Panel agrees with Mr De Silva’s view that there is no reason to delay assessment of the Proposal in light of the DAL.

In relation to landscape and visual amenity the Planning Scheme requires the Panel to consider:

- Clause 12.05-2S (Landscapes)
- Clause 21.05 (Landscapes and Built Form)
- relevant parts of Clause 52.09-2 (Extractive Industries and Extractive Industry Interest Areas) including the following decision guidelines:
 - The effect of the proposed extractive industry on the natural and cultural landscape of the surrounding land and the locality generally.
 - 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 existing planning permit contains condition 2a requiring a landscape and vegetation plan with the scope including planting required for ecological and visual amenity purposes. The Applicant and Council have made suggestions to amend this condition, with changes including (see Appendix G):

- being in accordance with the mitigation measures proposed by the Landscape and Visual Assessment report
- responding to the recommendations of Mr Reilly’s expert witness statement
- being in accordance with the Landscape and Vegetation plan prepared by Bass Coast Landcare Network (Spring 2013).

The Panel considers that combining the landscape and vegetation plans into one document has the potential to create confusion between the requirements of landscape works undertaken for visual amenity purposes and those undertaken for ecological reasons. The creation of distinct plans would assist with ensuring that the objectives and intended outcomes of each is clear.

The Panel’s preferred approach for managing revegetation planting is through a Biodiversity and Vegetation Management Plan as detailed in Chapter 5.

The Panel's preferred approach for managing visual amenity is through a Landscape Plan which is designed to mitigated impacts of the Proposal:

- with consideration of the staging plan for the CSEP
- which complements the Biodiversity and Vegetation Management Plan, to ensure that where possible that requirements of the plans are mutually beneficial
- with consideration of sequencing and timing of mitigation measures with respect to progressive rehabilitation of the site to minimise visual impact
- which incorporates the mitigation measures recommended in the Landscape and Visual Assessment and the expert witness statement of Mr Reilly.

The interrelationship between the two plans is critical and must be acknowledged in the planning permit conditions, and in the Work Plan Variation approval.

The Panel agrees with the Applicant that Mr Reilly's visual impact assessment was a conservative assessment as it did not take into account the planned progressive rehabilitation of the CSEP. Mr Reilly's evidence did not however take into account that Shutoff Drive is a tourist route, and consequently his assessment of this as a low sensitive receptor may not be accurate.

The Panel considers that the assessment of visual impact from Shutoff Drive should be reassessed to ensure that mitigation measures are implemented to adequately manage visual impact from this tourist route. This assessment will need to take into consideration multiple viewpoints along Shutoff Drive.

Mr Reilly gave the opinion that the most critical element of the rehabilitation plan in terms of visual impact was re-establishment of the landform, and that this may be grassed as a reasonable outcome prior to any further planting. The Panel considers that while this may be appropriate on the western side of the CSEP, planting on the eastern side may be a more significant mitigation measures. The need for this should be determined through a reassessment to visual sensitivity of the Shutoff Drive the tourist route.

The Panel considers it appropriate that the landscape and visual impacts of the Proposal are primarily managed through the planning permit conditions, and notes that there are complementary requirements relating to biodiversity management and site rehabilitation that are discussed in other chapters of this Report.

8.4.5 Conclusions

The Panel concludes:

- The Landscape and Visual Assessment:
 - is appropriate and conservative in its assessment of visual impact on the basis that it took into consideration the entire CSEP and did not adjust for the planned progressive rehabilitation in relation to the staging plan
 - overlooked that Shutoff Road is a tourist route, and consequently may have understated its significance as a visual receptor.
- The landscape and visual impact of the Proposal is acceptable, on the understanding that the adverse impacts on the eastern ridgeline can be substantially or fully mitigated over time through land forming and planting.
- Further work is required to ensure that the short to medium term visual impact of the Proposal is acceptable, with specific reference to views from Shutoff Road.
- Delaying assessment of the Proposal until the DAL process has progressed is not justified.

- The landscape and visual impacts can be managed through a Landscape Plan that should be included as a planning permit condition.

The Panel's conclusions are addressed by the recommended conditions 2a and 29 in Appendix G.

9 Rehabilitation and site closure plan

9.1 The issues

The issues are:

- whether the Rehabilitation Plan is adequate, specifically:
 - is there enough detail
 - are the environmental and revegetation outcomes adequate
 - are the progressive rehabilitation obligations clear
- whether there are adequate opportunities for community input into the vision for the Quarry end of life
- whether the bond is adequate.

9.2 Background and context

Decision guidelines under Clause 52.09 (Extractive Industries and Extractive Industry Interest Areas) include:

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.

Part 7 of the MRSD Act specifies requirements relating to Rehabilitation, including obligations and requirements of site rehabilitation plans and bonds.

The Work Plan Variation includes a Rehabilitation and Site Closure Plan with a primary objective to leave the site *“in a safe, stable and sustainable condition. The rehabilitated landform will include some backfilled excavation areas and a water filled pit”*.

The Rehabilitation Plan details the objectives, strategies, monitoring and reporting requirements as well as the operational and post-closure criteria, and includes the following priorities:

- surface drainage and erosion control
- maintaining appropriate / effective visual screens through plantation vegetation
- weed control and management
- pest animal control and management
- bushfire prevention and management.

The Site Rehabilitation Plan (see Figure 9) shows indicative cross sections of the rehabilitated site.

The Work Plan Variation states:

Progressive rehabilitation will be integrated into normal (e.g. weekly, monthly) operations as much as possible to maintain focus on the achievement of successful progressive rehabilitation outcomes. The backfilling/rehabilitation of terminal faces in the CSEP will not commence until extraction has reached final depth (floor level) in the north-eastern terminal face, which will be no longer than five (5) years after the commencement of CSEP extraction.

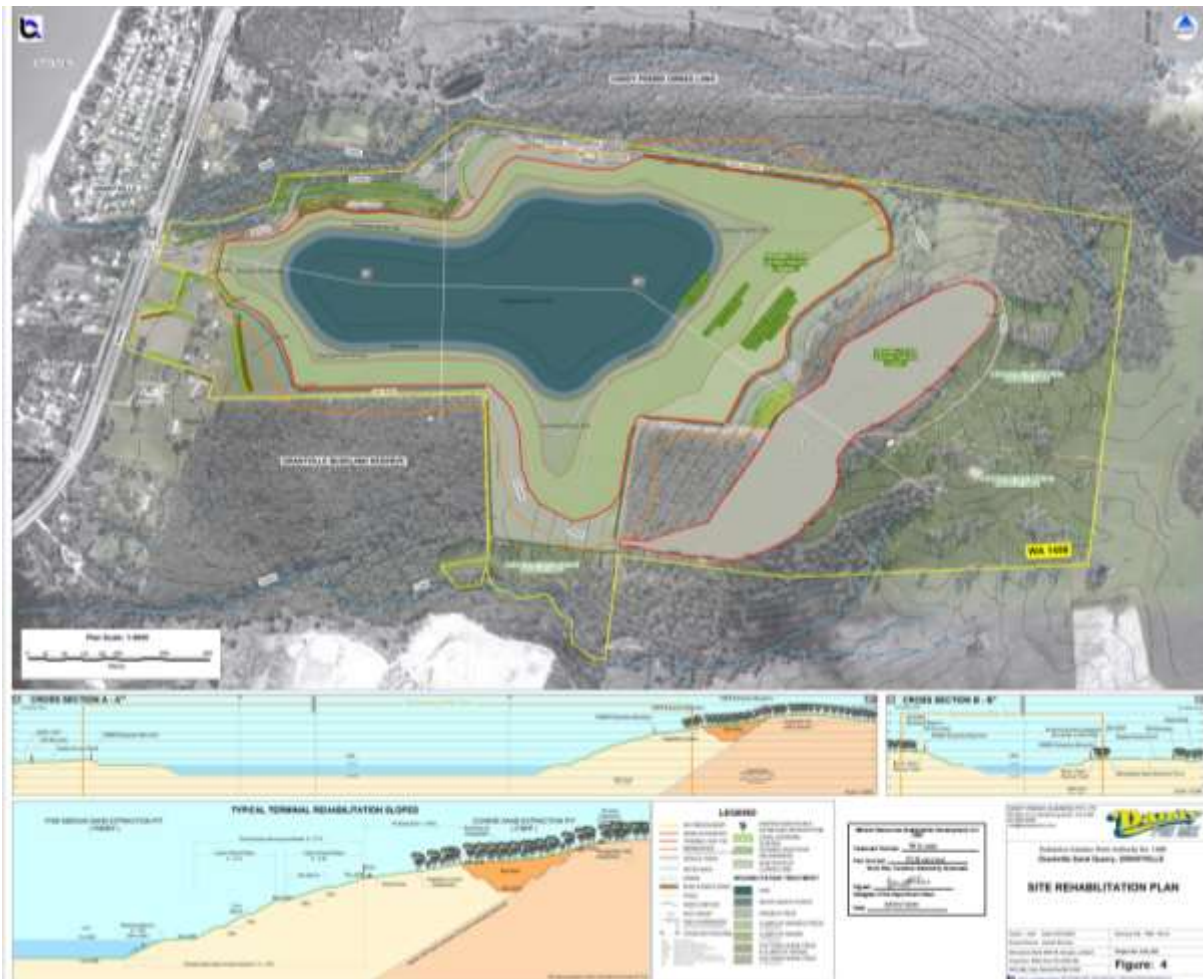
Due to the importance afforded progressive rehabilitation over the life of operations, it is anticipated that all final earthworks involved in rehabilitation of the Work Authority 1488 will be achieved within 12 months of the completion of sand extraction.

The existing planning permit includes conditions 31 and 39 that require:

- prior to the commencement of works, a staged enforceable rehabilitation plan be submitted to the Responsible Authority for approval. The plan must include a provision that works on site will cease if the staged rehabilitation program is not fully implemented
- rehabilitation works must be completed within 2 years of the cessation of sand extraction.

DELWP submitted comments on Council's without prejudice conditions and considered that conditions relating to site rehabilitation were best dealt with by ERR (see Appendix F).

Figure 9 Site rehabilitation plan



Source: Endorsed Work Plan Variation, Rehabilitation and Site Closure Plan (March 2020)

9.3 Evidence and submissions

(i) The Applicant

The Applicant submitted that⁴⁸:

The post-closure options for the subject site include a community asset similar to that achieved at the former sand quarry at Karkarook Park in Heatherton or as set out in the “A Future Vision for Grantville Quarry” document and the accompanying fly over video which has been prepared by the permit applicant.

⁴⁸ Document 59

In its reply to submissions⁴⁹, the Applicant advised that the principles underpinning the Rehabilitation Plan include:

- i. undertaking progressive rehabilitation at the earliest possible opportunity, including the backfilling and/or vegetating of any terminal batters and topdressing worked out areas
- ii. initially revegetating the final surfaces with pasture grass species to stabilise the surfaces and manage erosion
- iii. actively encouraging natural regeneration
- iv. identifying and planting out suitable areas with trees / shrubs or pasture grasses
- v. continually monitoring and evaluating the effectiveness of rehabilitation and revegetation and modify as necessary to continue to achieve the stated objectives.

The Applicant relied on the evidence of Mr Natoli, stating that:

- a. the Rehabilitation Plan which forms part of the endorsed work plan has undergone a rigorous assessment process by ERR and is best practice
- b. the work plan approval process, which includes posting a rehabilitation bond, along with ERR compliance inspections, will ensure that the rehabilitation is carried out appropriately
- c. rehabilitation bonds are:
 - i. calculated using a standard spreadsheet or calculator
 - ii. regularly re-assessed by ERR (every 3-4 years), based on the prevailing site conditions, to ensure an acceptable and sustainable outcome is achieved
- d. it is in the best interest of the operator to rehabilitate asap.

The Applicant submitted that it is intended to integrate progressive rehabilitation into normal operations, and that it is anticipated that all final earthworks involved in rehabilitation of Work Authority 1488 will be achieved within 12 months of the completion of sand extraction.

Mr Natoli suggested that the Community Engagement Plan and the Applicant's involvement in the Grantville Environmental Review Committee would provide opportunities to identify and consider options for site rehabilitation and end use, and that this flexibility will be important given the operating life of the Quarry.

In giving evidence on economic and social impacts, Dr Manning referred to the report *Continued operation and extension of the Dandy Premix Sand Quarry at Grantville: Economic and Social Impact* (June 2020) (NIEIR Report 2) which stated:

The Dandy Premix site therefore has wonderful long-term potential for regeneration and repurposing from a redevelopment perspective and could well become established as a recreational (tourism), commercial and residential gateway to not only Grantville, but effectively, the Bass Coast.

In relation to Council's submissions relating to the bond, the Applicant submitted that "*the amount of the bond is of course not a planning matter*". And that Council's submissions fail to recognise the requirement for the Minister to consult with the local government before determining the bond amount and returning a bond.

⁴⁹ Document 82, Permit Applicant's Reply to Submissions

(ii) Council

Council submitted that the Applicant had not thoroughly considered rehabilitation of the land in accordance with the objectives of the Biolinks Strategy or the Planning Scheme, and that the Panel must have regard to and consider the final rehabilitated form of the Land, in accordance with the decision guidelines under Clauses 52.09 and 35.07.

With reference to Mr Natoli's opinion that the proposed final rehabilitated landform will likely be a significant environmental improvement, Council submitted that:

... the final rehabilitated landform cannot be considered as an environmental improvement, given the ecological impact of removing of the Biolink and the fact that the habitat removal is unlikely to be fully re-established to the same vegetation and habitat level (as per Mr Organ's evidence).

In response to Mr Natoli's evidence, Council raised concerns that:

- without clear milestones, there was no certainty that the revegetation works will be completed progressively
- vegetation may not be re-established for 30-40 years, thereby disconnecting the biolink for an "ecologically significant period of time".

Council raised the VAGO⁵⁰ report in to ERR's management of rehabilitation plans and bonds:

It is Council's view that the Work Authority Plan endorsed by ERR does not contain the requirements for a binding rehabilitation plan, liability assessment or appropriate bond which is currently at \$90,000. Mr Natoli conceded that the current rehabilitation bond is insufficient, particularly given the revegetation required to re-establish the Biolink, and that it would be periodically reviewed.

Council proposed a new condition relating to Rehabilitation as detailed in Appendix G.

In expressing its final position, Council submitted that it was:

... particularly concerned about the timing of rehabilitation and revegetation, and the adequacy of any rehabilitation bond.

(iii) Objectors

Mr Drew submitted that the Rehabilitation Plan provided by the Applicant was not adequate on the basis that:

The concepts presented in the application do not amount to a rehabilitation plan. It is essential that a rehabilitation plan be fully defined and committed to from the outset. This is required to ensure Council and the community know and accept what is to be the final state of this land after commercial operations have ceased. This is also necessary to adequately define what is the appropriate rehabilitation bond and any deposit milestones.

Mr Drew submitted that the Rehabilitation Plan was ambiguous, and referenced the VAGO report which stated that:

Comprehensive and unambiguous plans are the first step to effective rehabilitation.

Mr Drew submitted that in light of the VAGO report, the *"Panel should not take for granted that the work plan endorsed by ERR and corresponding rehabilitation plan is consistent with the MRSD Act or will be enforced"*.

⁵⁰ Victoria Auditor General's Office (VAGO) Review Rehabilitating Mines (August 2020)

Further Mr Drew argued that the Site Rehabilitation Plan provided by the Applicant should be reviewed against the recently released guideline for the preparation of rehabilitation plans titled *Preparation of Rehabilitation Plans, Guideline for Extractive Industry Projects* (March 2021).

Mr Drew recommended that the following should be specified as conditions of permit:

- the rehabilitation plan ‘concept’ should be defined as a clear legal obligation
- register of a bond, determined with the updated bond cost calculator and consistent with the fully defined Rehabilitation Plan.

In relation to the bond, Mr Drew submitted that:

It is generally a sound principle to not duplicate regulation, and it is understood that the setting of bonds is the responsibility of ERR, as per PPN89. However, with knowledge of the “systemic failures” of ERR in administering rehabilitation, the Panel - on behalf of Council - should make follow up evidence of bond adequacy a condition of permit.

Ms Heath Mennell submitted that the Joint Ministerial Statement included as a priority action to “*Reduce the environmental impact of quarrying and deliver landscapes for the community*”. She stated that:

I cannot see how this proposed expansion ‘reduces the environmental impact of quarrying’. I’m not sure what ‘landscapes for the community means’ but I suspect it means that, after 30+ years of quarrying, the enormous hole will be filled with water for human use and bike tracks constructed for human use etc. As a current member of the community I would prefer that at least some of the landscape, especially the bio-link, be retained in its current state for the continued use of the existing diverse flora and fauna to use as habitat and green space which humans can share.

Mr Edge submitted that the bond amount was a paltry amount and applying an adequate bond really should be the responsibility of the State government.

Mr Hopkins submitted that little to no site rehabilitation seems to have taken place under the current permit, and questioned whether the required soil stockpiles had been retained on site for rehabilitation. He requested that audit of stockpiles should be undertaken.

Mr and Mrs Tobin submitted that:

Rehabilitation should ensure land be restored to pre-mining standard and not left as a deep hole in the ground. The size of hole to be left after rehabilitation must be stated, and, if considered unacceptable, should be rectified before a permit is granted. A rehabilitation bond must be large enough to cover the required rehabilitation should the mining company walk away from its commitments.

9.4 Discussion

The Panel notes that the Rehabilitation Plan and bond approvals sit clearly with ERR for approval as part of the Work Plan Variation, however the Planning Scheme requires consideration of whether the Rehabilitation Plan adequately considers natural systems or visual appearance of the surrounding area, and whether the land in its rehabilitated form can be used for a purpose beneficial to the community.

The Applicant has prepared and submitted two reports relating to site rehabilitation through the Panel process:

- Rehabilitation and Site Closure Plan (March 2020), which forms part of the Work Plan Variation, with a primary objective to leave the site in a safe, stable and sustainable condition

- A Future Vision for Grantville Quarry (March 2021) (Future Vision Report), which provides a concept for potential future use scenarios.

In relation to the Rehabilitation and Site Closure Plan, this is an operational plan which details the process and management requirements for achieving a safe and stable land form by the end of the Quarry's life. The Panel understands that there are a number of variables that will influence final land form, and accepts that the Rehabilitation Plan and cross sections are indicative.

Since preparation of the Rehabilitation Plan in March 2020, new guidelines have been released for the preparation of rehabilitation plans, and the Panel agrees with Mr Drew's recommendation for the Rehabilitation Plan to be reviewed against these updated guidelines to ensure that it contains adequate detail.

In relation to the Future Vision Report, the Panel understands that this as a conceptual plan showing opportunities for end of life use of the site. It provides a good foundation for community engagement and discussion around desired outcomes for the site, and is likely to evolve over time through consultation and in response to changing community expectations and needs.

Whilst the life of the Quarry is anticipated to be 30-40 years, it will be important to have a clear vision for the site and to ensure that progressive rehabilitation is designed to achieve the vision, on the understanding that this will be an iterative process as the vision evolves. The Panel considers there would be considerable merit in formalising a community engagement process to refine and progress development of a future vision for the site. This process should be a commitment in the Community Engagement Plan, and the Panel has made a recommendation for consideration by ERR accordingly, and included a complementary planning permit condition in Appendix G.

There was some discussion at the Hearing about the need to provide some certainty about the final land form and land use, and the Applicant recommended that:

Two years prior to the conclusion of the final stage of extraction in the coarse sand extraction pit a final landform and proposed land use plan must be submitted to the Responsible Authority.

The Panel supports this, and considers that the final plan should be informed by community consultation as discussed above.

Progressive rehabilitation of the site will need to be informed by the requirements of other plans, specifically those relating to biodiversity and landscape, as discussed in other chapters of this Report. Consequently the Panel recommends that the Work Plan Variation adequately cross reference these plans.

The community has also expressed a strong interest in this progressive rehabilitation, and it may be appropriate for community engagement relating to the vision to also capture progressive rehabilitation to ensure that the community is well informed.

The issue of adequate environmental and revegetation outcomes are addressed in other chapters of this Report.

The Panel acknowledges the concerns raised by Mr Drew in relation to adequacy of the regulation of site rehabilitation and bonds. However the VAGO report identifies systemic issues that are being managed through a separate process.

Several submitters and Council raised the issue that the rehabilitation bond is not adequate. The rehabilitation bond is determined by the Minister (see Appendix D) and is reviewed regularly. The

Panel notes that in the letter from DJPR advising of statutory endorsement of the Work Plan Variation (dated 29 May 2020),⁵¹ the Applicant was advised that the current rehabilitation bond requires review.

The Panel also notes that the Minister is required to consult with the relevant local government authority before determining or refunding a bond.

The Panel agrees with the Applicant that the rehabilitation bond is outside of the Panel's remit.

9.5 Conclusions and recommendations

The Panel concludes:

- The Rehabilitation and Site Closure Plan (March) should be reviewed by ERR against the new guidelines, *Preparation of Rehabilitation Plans, Guideline for Extractive Industry Projects* (March 2021) to ensure that it contains adequate detail.
- It is clear that there is a need for progressive rehabilitation in the Rehabilitation Plan.
- Progressive rehabilitation of the site will need to be aligned with the requirements of other site management plans and the preferred vision for the site.
- The Community Engagement Plan should include a clear obligation for community engagement in relation to the end of life vision and progressive rehabilitation of the site.
- The rehabilitation bond is outside of the Panel's remit.

The Panel recommends:

For consideration by Earth Resources Regulation in finalising the approved Work Plan Variation:

- a) **Review the Rehabilitation and Site Closure Plan (March) against the new guidelines, *Preparation of Rehabilitation Plans, Guideline for Extractive Industry Projects* (March 2021).**
- b) **Include a Work Plan condition to ensure that progressive rehabilitation of the site is aligned with implementation of site specific management and work plans, including:**
 - i. **Biodiversity and Vegetation Management Plan**
 - ii. **Species Protection Management Plan**
 - iii. **Weed Management Plan**
 - iv. **Construction Environmental Management Plan**
 - v. **Landscape Plan.**
- c) **Include a requirement and process in the Community Engagement Plan to undertake community engagement in relation to the end of life vision and progressive rehabilitation of the site.**
- d) **Require a Final Site Rehabilitation Plan two years prior to the conclusion of the final stage of extraction in the coarse sand extraction pit.**

The Panel's conclusions are otherwise addressed by the recommended conditions in Appendix G.

⁵¹ Appendix 7 to Amendment Application

10 Other issues

10.1 Local economy and social impact

(i) The issues

The issues are whether:

- the net economic benefit to the region has been demonstrated
- the economic appraisal has overstated the benefits and understated the disbenefits
- an adequate social impact assessment has been undertaken of the Proposal.

(ii) Background and context

In 2012 the Applicant engaged the National Institute of Economic and Industry Research (NIEIR) to report on the economic and social impact of the proposed Quarry. The report *Costs and benefits of a proposed sand pit at Grantville, Vic. (2012)* (NIEIR Report 1) was used as a background report during the original planning permit process.

In 2020 NIEIR was engaged to update the 2012 report in light of the proposed expansion. The updated report, the NIEIR Report 2, has been submitted with the Amendment Application.

(iii) Evidence and submissions

The Applicant

The Applicant relied on evidence from Dr Manning who was co-author of NIEIR Reports 1 and 2. Dr Manning adopted the NIEIR Report 2 as his evidence.

The NIEIR Report 2 concluded that expansion of the Quarry has the potential to extend the life of the Quarry by approximately 40 years, and the Proposal has a number of advantages for Bass Coast, including:

- Job generation
 - the construction industry, specifically sand quarrying, had been a bright spot in the Bass Coast economy since 2016
 - 8.4 full time equivalent (FTE) construction jobs and associated job growth for service and other industries
 - 15 FTE operational jobs in 2023-24, and associated jobs growth for service and other industries
 - expanded employment will provide opportunities for workers to upgrade their qualifications and incomes, and attract highly qualified personnel to the Shire
 - an estimate of upgrading skills and entrepreneurship has the capacity to generate, at 50 per cent probability, something like 13 further jobs
 - the employment increases will be accompanied by increases in gross value added in the Shire
- Environmental benefits
 - the proposed operations are well buffered from neighbouring landholders
 - the installation of traffic lights will minimise the effects of traffic on the Bass Highway
 - ongoing implementation of native vegetation plantings will provide additional screening and an improved visual appearance

- progressive rehabilitation will bring forward some of the benefits of the redeveloped site
- final remediation, including the retention and offset programme for native vegetation, will have created a continuous, more sustainable belt of lowland forest linking the Gurdies Nature Conservation Reserve with the Grantville Bushland Reserve via the eastern part of the property, and other public benefits associated with future use of the site
- Role in the construction industry
 - accords with State government strategy to maintain the supply of construction materials at affordable costs, provided that environmental and planning considerations are satisfied
 - continued supply of construction inputs at competitive prices across the Melbourne Supply Area and Bass Coast Shire.

Dr Manning clarified in his expert witness statement⁵² that the NIEIR Report 2:

- relied on data in the public domain and provided by the applicants, as no tests or experiments were required
- only considered the Bass Coast Shire, and that content in his Expert Witness Statement considered a broader area of impact
- included environmental material outside the scope of NIEIR's expertise, and that this *"material was included in support of the judgement that the environmental effects of the proposed quarry extension are not readily quantified as economic or social externalities (positive or negative) impinging on the residents of Bass Coast Shire"*.

Dr Manning gave evidence that:

- the extractive industries, including the Quarry, diversify the economic base of Bass Coast Shire, promoting stability and adding employment opportunities to those generated by tourism, retirement, commuting and agriculture
- the social effects of the Quarry derived from its economic effects principally as an employer, and that most employees will be drawn from Bass Coast Shire and surrounding municipalities
- the Quarry is located on private land and the public has no legal access. There are no social effects arising from changes to public access to the land
- the sand deposit along the Heath Hill fault has become the nearest source of supply for the eastern part of metropolitan Melbourne, and the potential supply region includes this area and much of West and South Gippsland
- due to its low value per tonne, transport costs are a significant component of the cost of the extracted material at the construction site
- extractive industries have long co-existed with tourism and agriculture in the Bass Coast, primarily because they were established in locations of low tourist and agricultural interest.

Dr Manning gave the opinion that refusal of the Proposal would result in:

- the construction industry in eastern Melbourne having to source sand from more distant deposits, which would drive up the price of the product

⁵² Document 35

- reduced competition in supply and consequent increased prices
- additional jobs will be lost to Bass Coast Shire, and demand for sand will be diverted to other quarries and may result in workers commuting from Bass Coast Shire for these jobs. However, the diversion is unlikely to be complete, since sand prices are likely to rise, resulting in reduced production due to the substitution of other materials for concrete and to reduced construction activity.

Dr Manning gave evidence that the proposed traffic lights will eliminate unnecessary truck travel *“costing approximately \$1.0 million a year, plus associated savings in environmental costs (greenhouse gas and other emissions and noise) particularly in Grantville town centre”*.

Further Dr Manning’s opinion was that while the removal of resource alters the local landscape, it was not necessarily for the worse. He stated that land use following quarrying often differs from the use prior to quarrying, and referenced sites in south-eastern Melbourne that have been quarried for sand and since rehabilitated for residential or open space uses.

Dr Manning estimated the capital value of the loss to the Victorian economy if the Proposal is refused would be, conservatively, \$221 million in 2020 prices.

In response to questions from the Panel about the methodology used for the social impact assessment, Dr Manning advised that he had approached it as an economist as this was his area of expertise.

In closing, the Applicant submitted that the work undertaken by Dr Manning:

- was not a social impact assessment as a social planner might do, as it focussed on the economic side
- the key point is that the social effects are minor, no objections raised social issues and no assessments were prepared by other parties
- the criticisms by Mr Drew of the evidence of Dr Manning were minor shortcomings and inconsequential
- local sand supply running out is imminent, and that there needs to be a local supply – local concrete batching is cost efficient, and the loss of this opportunity would result in adverse consequences.

Council

The Council report dated 17 February 2021 stated that *“the proposed extension of the extractive area is supported by policy relating to the utilisation of a valuable natural resource and the economic benefits”*.

Council submitted that in its view, *“Dr Manning’s statements are unsubstantiated by any empirical evidence, particularly in relation to the propositions made about the impact of Australia-China relations and housing estates. Mr Manning fails to provide any supporting data or evidence to support his positions”* and *“it was evident that Dr Manning had not undertaken any real social impact assessment of the proposal”*.

The Panel queried whether Council had satisfied itself in assessing social effects of the Proposal, as required by Section 60 (1) of the PE Act. Council responded that it did not consider that further analysis would tip the balance either way, as the Proposal is an expansion not a new proposal. It did not consider the degree of social impact unreasonable.

Objectors

Mr Drew⁵³ submitted on behalf of the South Gippsland Conservation Society that mining is a very small feature of the Bass Coast economy and Dr Manning's evidence made a number of misrepresentations, including:

The mining industry employment is conflated with that of construction to obscure the miniscule stature of the local mining industry.

Direct and indirect economic contributions of the proposed quarry expansion have been inflated by multipliers of dubious credibility, and inappropriately accounted for. Combined these speculative values represent some 51% of the indicated total project value add.

No account has been made of the value erosion of the local sand resource associated with increasing supply competition.

Absolutely zero economic disbenefits have been considered.

The incremental cost of transport is significantly overstated.

Mr Drew questioned Dr Manning's use of economic multipliers and referred the Panel to government reviews that have cautioned against the use due to known misuse and limitations. Furthermore, he submitted that in determining net value, economic disbenefits must be accounted for, and that none were considered by Dr Manning. He stated that *"the net economic impact of this, and perhaps other, sand mine development may very well be negative"*.

Mr Drew listed a number of economic disbenefits that should be assessed and quantified to provide a full picture of economic impact.

Mr Drew made two recommendations relating to economic impact and community benefit:

- The economic benefits of the proposal should be reviewed in order to determine if Bass Coast can expect a positive net benefit from the proposal.
- A comprehensive environmental protection and recovery program, spanning the whole Heath Hill Fault / Westernport Woodlands region, should be considered by way of community benefit.

Mr Rankine⁵⁴ submitted that he was concerned that industrialisation of the Shire's main entrance may have a negative impact on amenity, which is very important to the local and visitor economy and lifestyle.

Ms and Mr Tobin⁵⁵ were concerned that the Proposal did not take into consideration the *"long-term value of the natural bush to the economy"* and suggested that from an economic point of view, protecting the natural environment would give an economic return in public health and tourism in perpetuity.

Mr O'Brien⁵⁶ considered the Proposal inconsistent with the objectives, vision and strategic direction for the tourism economy as expressed in the Planning Scheme.

Ms Heath Mennell⁵⁷ objected to the Proposal on the basis that one of the reasons for approving existing planning permit was that it would provide significant economic benefits for the Shire, and that these are not evident.

⁵³ Objection 28 and Document 69 – South Gippsland Conservation Society Submission

⁵⁴ Objection 49

⁵⁵ Objection 2

⁵⁶ Objection 33

(iv) Discussion

In considering the economic and social impacts the Panel has taken into account the need to consider the Proposal against the objectives of the PE Act, as appropriate⁵⁷. Amongst other things the objectives provide for the economic use and development of land, and to balance the present and future interests of all Victorians with consideration of social and economic effects when decisions are made about the use and development of land.

Given that the sand resource at the Quarry is considered to be of State significance, with a supply market well beyond the Shire, it is likely that the NIEIR Report 2 with a focus on the local Bass Coast economy, has not fully assessed the economic effects associated with the Proposal.

While Dr Manning advised that he considered a broader area of impact in his Expert Witness Statement, the Panel considers the evidence limited as it focusses on job creation, does not offer any comparison (for example a 'no expansion' scenario), and does not identify any economic disbenefits.

The Panel found Mr Drew's critique of Dr Manning's evidence compelling, in particular his concern with the reliance on multipliers to determine broader economic value. While the Panel is comfortable with Dr Manning's conclusions relating to direct economic benefits, specifically job creation, it is less confident in the veracity of the extrapolated data and use of economic multipliers.

A number of objectors suggested that some economic value should have been given to the natural environment and its contribution to public health and tourism attraction. The Panel agrees this would have added value to the assessment.

The Panel notes that the basis of the environmental benefits identified in the NIEIR Report 2 is not clear, and Dr Manning advised they were outside of the area of expertise of NIEIR. On this basis the Panel affords no weight to the claims of environmental benefit as documented in the NIEIR Report 2. No independent assessment or alternative expert evidence was provided.

It is expected that the Proposal will result in an, albeit relatively small, increase in jobs both during construction and ongoing operations, and associated economic benefits both within the Bass Coast Shire and potentially surrounding municipalities. It is also clear that opening up the resource will assist with securing local sand supply for the eastern suburbs of Melbourne and potentially into Gippsland.

This is consistent with the expectations of local policy at Clause 21.03-7 (Extractive Industries) of the Planning Scheme which states that the known sand resources in the Grantville area will become increasingly important, and while the industry itself will not employ many workers, there will be economic benefit and jobs associated with transport and service and related activities.

The Panel agrees with Council's submission that Proposal is supported by policy relating to the utilisation of a valuable natural resource and associated economic benefits, and that further analysis would not tip the balance either way.

In considering the impact to the visitor economy and visual amenity being a detraction for tourists, the Panel agrees with Dr Manning that extractive industries have long co-existed with tourism and

⁵⁷ Document 77

⁵⁸ Clause 65 (Decision Guidelines) of the Planning Scheme

agriculture in the Bass Coast, and as an expansion to an existing Quarry the impacts should be minimal. Impacts specific to visual amenity are discussed in Chapter 8.4.

The Panel agrees with Council that Dr Manning provided no real social impact assessment of the Proposal. The preparation of a comprehensive social impact assessment would have been of assistance to the Panel, particularly in light of the requirement in the PE Act to balance the present and future interests of all Victorians. The Panel considers this a deficiency in the Amendment Application.

Aspects of social impact have been addressed through background reports and evidence of others, such as that relating to visual amenity, noise and air quality. These are addressed in other chapters in this Report. The Panel also considers that a genuine community engagement program may address many social effects resulting from the operation of the Quarry, and this is discussed further in Chapter 10.2.

The Panel acknowledges Dr Manning's comments on the delayed community benefits of site rehabilitation, and also Mr Drew's request for the Panel to recommend a comprehensive environmental protection and recovery program. This issue is discussed further in Chapter 9.

(v) Conclusions

The Panel concludes that:

- The economic appraisal is limited, has understated the disbenefits, and it is not possible to say whether the benefits have been overstated due to questions around the methodology being used, lack of comparative analysis and lack of consideration of the economic benefits of the natural environment.
- No real social impact assessment of the Proposal has been undertaken and this is a deficiency in the Amendment Application.
- A genuine community engagement program can assist with addressing many social effects resulting from the operation of the Quarry, as discussed in other chapters of this Report.
- It is expected that the Proposal will result in an, albeit relatively small, increase in jobs both during construction and ongoing operations, and associated economic benefits both within the Bass Coast Shire and potentially surrounding municipalities.
- The economic benefits of the Proposal are consistent with policy expectations.

10.2 Community consultation and engagement

(i) The issues

The issues are whether:

- community consultation and engagement in relation to the Proposal was adequate
- public notice of the Amendment Application was adequate
- the Community Engagement Plan is adequate
- a Community Benefits Scheme would be beneficial.

(ii) Background and context

To satisfy the requirements of the MRSD Act and *Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2010* (MR regulations), a Work Plan must include a satisfactory Community Engagement Plan (see Appendix D).

The MRSD Act states:⁵⁹

- a Work Plan must “include a plan for consulting with the community that demonstrates that the extractive industry authority holder will use appropriate and effective measures to consult with the community throughout the period of the extractive industry work authority and is prepared in accordance with the regulations and any guidelines issued by the Minister relating to such plans (a community engagement plan)”
- the holder of an extractive industry work authority has a duty to consult with the community throughout the period of the work authority by:
 - sharing with the community information about any activities authorised by the work authority that may affect the community
 - giving members of the community a reasonable opportunity to express their views about those activities.

The MR Regulations specify what is required to be included in the Community Engagement Plan.

PPN89 states:

The MRSD Act does not provide for a public notification process when work plans are statutorily endorsed, approved or varied. However, ERR encourages proponents to implement an effective consultation program that is appropriate to the location and the proposal, that is as part of developing a work plan. This consultation program should align with the community engagement plan required to be included in the work plan. Before making an application, a proponent may have already contacted a range of people when preparing their work plan for statutory endorsement.

The Applicant prepared a Community Engagement Plan (May 2012) that was endorsed as part of original approvals process. An updated Community Engagement Plan (February 2020) is included in the Work Plan Variation.

The updated Community Engagement Plan (2020) indicates that it has been revised based on updated stakeholder feedback, the Grantville Environmental Reference Committee experience and DJPR/ERR revised Community Engagement Plan requirements for the Work Plan Variation.

The Community Engagement Plan 2020 commits the Applicant to:

- inform, consult and involve the community on matters of public interest
- encourage informed discussion and input into decision making
- facilitate transparent decision making to build trust and respect.

The Community Engagement Plan summarises the community engagement activities undertaken for the original application and the Work Plan Variation, including:

- original application
 - over 30 separate community engagement activities were undertaken in the lead up to the issue of existing planning permit, including one Councillor briefing
- Work Plan Variation
 - three briefings of Councillors and Council officers and other authorities

⁵⁹ Sections 77G(3)(e) and 77K

- one presentation at the Grantville Environment Review Committee
- direct engagement with five landholders as part of the Southern Rural Water requirements for the groundwater licence approval process.

The Community Engagement Plan also states that the Applicant has been a regular participant in the Grantville Environment Review Committee, attending at least 22 meetings since 2012.

The existing planning permit conditions do not include any requirements relating to community consultation or engagement requirements.

(iii) Evidence and submissions

The Applicant submitted that public notice was given in accordance with section 52 of the PE Act.

When asked about the approach to community engagement in relation to the Proposal, Mr Natoli advised that he understood that it was dealt with through the planning notification process.

Mr De Silva advised that:

... the current and proposed future operations of the quarry are subject of regular review by The Grantville Environmental Review Committee. The Committee has been in operation for 12-15 years and was initially chaired by Earth Resources but is now independently chaired by (John Mitas) with a secretariat both of which are funded by Dandy. Members of the committee include Dandy, Bass Coast Shire Council (Councillor), Earth Resources representative and 7 community members.

In response to the issue of a lack of community engagement, the report to Council (17 February 2021) stated:

... the application was advertised to 1,089 Landowners and Occupiers. An advertisement was also placed in the Sentinel Times. No community consultation meetings or town meetings or presentations were made due to the COVID-19 restrictions in relation to public gatherings. It is considered that the extent of public notice undertaken was done in accordance with the requirements of the Planning and Environment Act 1987.

Council submitted that:

It is Council's view that a Community Benefits Scheme, like those required of disruptive projects such as wind farms, should be required to address the environmental and community impacts. Although evidence on social and economic impacts has been called, the consideration of a community benefits scheme does not appear to have been considered by the Applicant.

Several objectors were concerned that there had not been adequate community engagement in relation to the Proposal.

Ms and Mr Tobin⁶⁰ submitted that the Applicant put a lot of effort into community consultation for the original proposal, but "*virtually no community consultation*" for the current Proposal. They were concerned about the short time allowed for comment considering COVID-19 restrictions and difficulty downloading reports.

Ms Read on behalf of South Gippsland Conservation Society⁶¹ requested "*further time to fully understand the implications of the proposal in the context of planning and other relevant laws*".

⁶⁰ Objection 2

⁶¹ Objection 35

Mr and Ms McGauran⁶² submitted that the Community Engagement Plan must be activated so that residents can have a real dialogue with the company, and that the Applicant must respond to community concerns *“if the quarry and the residents are to co-exist. While the residents’ expectations need to be realistic, the quarry operator also needs to make every effort to minimise disruption to our lives”*.

Mr Rankine submitted:⁶³

I was impressed with the proponent at the time, in that they did their homework, consulted the community widely, listening and modifying the proposal before proceeding with their application. This new application does not demonstrate a proponent acting in the same way at all. In fact they are in many ways acting directly against their stance previously taken and this leads me to the following objections and requests of Council.

In relation to the Grantville Environmental Review Committee, Mr Rankine submitted that to his knowledge the group hasn’t met for nearly two years.

Mr Edge⁶⁴ submitted that *“community consultation is now non-existent”*.

(iv) Discussion

It appears that far less community consultation was undertaken in the lead up to the current Proposal than the original Work Plan and existing planning permit. This is understandable given that there is no legal obligation under the MRSD Act to give public notice of a Work Plan Variation, and the Proposal represents an expansion of existing operations.

It is evident however from objections that the community felt ill-informed about the Proposal for the Quarry expansion and considered that they had limited in opportunities to engage with the Applicant prior to the Amendment Application being lodged.

The Panel notes that the MRSD Act does not require public notification when work plans variations are statutorily endorsed, however ERR does encourage applicants to undertake a suitable community engagement program. The Panel considers that a more extensive program may have assisted with community understanding of the Proposal and to alleviate concerns.

The Community Engagement Plan includes a range of proactive and reactive actions to ensure the community is well informed and has opportunities to provide feedback on the Quarry operations.

In addition to the Grantville Environmental Review Committee, the Community Engagement Plan includes an objective to establish a Community Reference Group with a minimum of three representatives of the local community to provide input into the operations and provide feedback to the community. The Community Engagement Plan also includes an objective to support local community interest and sporting groups. The Panel considers these to be positive initiatives that may assist with meeting the community’s expectations regarding community engagement.

The Panel considers it appropriate to rely on the Community Engagement Plan which forms part of the Work Plan Variation. The Panel notes that Chapter 5 of the updated Community Engagement Plan (2020) includes references to incorrect or outdated sections of the MRSD Act and the MR Regulations, and these should be corrected prior to final approval of the Work Plan Variation.

⁶² Objection 11

⁶³ Objection 49

⁶⁴ Objector 26

The Panel also notes the Council resolution⁶⁵ which commits Council to pursuing the idea of a Community Benefit Scheme. The Panel makes no comment on the appropriateness of this mechanism, and considers this a matter for Council to continue to pursue separate to this Panel process.

(v) Conclusions and recommendations

The Panel concludes:

- The Community Engagement Plan contains a satisfactory range of proactive and reactive actions to ensure adequate engagement, and reporting on implementation of these should form part of the Work Plan review process.
- There would be value in extending the community engagement activities to involve the community in the end of life vision for the site, progressive rehabilitation, revegetation and noise monitoring, as discussed in other chapters of this Report.
- There are errors in referencing the MRSD Act and MR Regulations in the Community Engagement Plan that should be corrected before being approved.
- It is appropriate to rely on the Community Engagement Plan which forms part of the Work Plan Variation, and that no planning permit conditions are required.

The Panel recommends:

For consideration by Earth Resources Regulation in finalising the approved Work Plan Variation:

Update the Community Engagement Plan to include correct references to the requirements and sections of the *Mineral Resources (Sustainable Development) Act 1990* and *Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2019*.

⁶⁵ Council minutes, 17 February 2021

11 Planning permit conditions

11.1 Background and context

The Applicant, Council and DELWP provided without prejudice feedback on the drafting of amended permit conditions.

The feedback from the Applicant and Council are reflected in the document at Appendix G. The feedback from DELWP is included in correspondence at Appendix F.

Mr Hopkins and Mr Rankine made submissions in relation to the without prejudice conditions. Mr Rankine submitted that conditions relating to conservation protections and revegetation obligations needed to be tightened up. Mr Hopkins submitted that conditions relating to the hours of operation, traffic management and noise monitoring needs to be more stringent.

11.2 Discussion

The Panel has reviewed the conditions on the basis of its recommendations in earlier chapters. The Panel has had regard to the relationship between the Work Plan Variation and planning permit amendment.

As a matter of principle, the amended planning permit needs to regulate matters that are relevant to the Amendment Application. However, the Panel notes that it was working from an existing permit which had a significant cross over with Work Plan requirements. The Panel has focussed on the conditions which it considers are most critical to the implementation of its recommendations or where there was a dispute between the parties. Where there was no dispute the Panel has provided no specific comment.

The Panel has not attempted to reorder conditions. The Panel recognises that further work will be required if a permit is issued to ensure the conditions are logically ordered. The conditions which call for further work to inform the Site Layout Plan and rehabilitation sequencing should come earlier in the permit.

The Panel disagrees with DELWP's submission that native vegetation offsets and revegetation requirements should sit solely within the Work Plan Variation. These matters should be regulated through the planning permit given the policy significance of biodiversity consideration and submissions on this issue.

The Panel partly agrees with the submissions of Mr Rankine and Mr Hopkins in relation to the drafting of certain conditions. The Panel's view on each particular issue is discussed in other chapters, and the Panel's position on ecological, noise, traffic and operating hours are reflected in Appendix G.

The Panel considers that a key issue is the resolution of the ecological management requirements with respect to the existing section 173 Agreement. Many of the recommendations of the Panel cannot be effectively implemented until the existing section 173 Agreement is updated or replaced, to ensure there is no inconsistency between revegetation or conservation measures.

A separate statutory process must be completed to resolve this matter, which is outside of the Panel's remit.

11.3 Recommendation

The Panel recommends:

Reorder the recommended permit conditions in Appendix G into a more logical sequence.

Appendix A Objectors to the Proposal

No.	Objector	No.	Objector
1	Noel and Norma Allison	35	South Gippsland Conservation Society
2	Meryl and Hartley Tobin	36	Rhonda McGuinness
3	Clare Caughey	37	Brooke and Travis Winder
4	Lani Deppeler	38	Garry and Patricia Roberts
5	William Watson	39	Anne Heath Mennell
6	Maree and Peter Kratzer	40	Catherine Watson
7	Mark and Teresa Brady	41	Simon Blake
8	Shane Ellis and Kerryn Scanlan	42	Linda Nicholls
9	Henny Angleton	43	Liz and David Draper
10	Steve Fuller	44	Gail Callaghan
11	Hugh McGauran and Jeanette Dickson-McGauran	45	Janice Hughes
12	Harry Bulman	46	Harald and Elaine Hartelt (<i>duplicate objection to No.17</i>)
13	Russell R Turner	47	David Poynter
14	Lois Thompson	48	Elizabeth McDonald
15	Cassandra Eerden	49	Neil Rankine
16	Kieran Connolly and Rosemary Storey	50	Ricardo Simao
17	Harold and Elaine Hartelt	51	Victorian National Parks Association
18	Sheridan and Ray Muston	52	Brigitta Virgin
19	Stephen Scurrah	53	Ingrid Heese-Moorhoff
20	Mark and Rosi Whyte	54	Alan Tattersall and Karen Banks
21	Brendan Danckert	55	Nikitas and Helen Koumos
22	Rosalind Robertson	56	Peter McKenzie
23	Graham and Alice Campbell	57	Thien Tran
24	Richard Munro and DJ Byron	58	Angela Verhaar
25	Bernard Carr	59	Erica Doidge
26	Stephen Edge	60	Judith Green
27	Elaine Chase and Tania Ravbar	61	Lawrence O'Keeffe
28	Gerard Drew	62	Shirley Marshall
29	Gilbert Smith	63	Dan Hopkins and Maudie Harley
30	Janne Morrison	64	Stelios and Emma Karagiannis
31	Lauren Burns	65	Bruce Duncan
32	Peta Simao	66	John Reid
33	Tim O'Brien	67	Karen Sherry
34	Nadine Blake	68	Heather Campbell

No.	Objector	No.	Objector
69	June and George Karagiannis	74	Dan Hopkins and Maudie Harley (<i>supplementary to No. 63</i>)
70	Matt De Paauw	75	Stelios and Emma Karagiannis (<i>supplementary to No. 64</i>)
71	Deborah Starbuck		Robyn Arianrhod
72	Bhavani Rooks		Cathie Beenie
73	Linda Cuttriss		Allan George

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Department of Environment, Land, Water and Planning	Nihal Altuntas, Senior Planner and Michael Juttner, Director Development Approvals and Design of the Department of Environment, Land, Water and Planning
Bass Coast Shire Council	- David Vorchheimer of HWL Ebsworth Lawyers
Applicant – Dandy Premix Quarries Pty Ltd	Jeremy Gobbo QC and David Deller instructed by Andrew Natoli of Equipe Lawyers who called expert evidence on: <ul style="list-style-type: none"> - quarry operations and geology from Basil Natoli of BCA Consulting Earth Resources - traffic engineering from Henry Turnbull of Traffix Group - acoustic engineering from Neville Goddard of Watson Moss Growcott Acoustics - air quality from Tim Pollock of Pollock Environmental Consulting - ecology from Aaron Organ of Ecology & Heritage Partners - hydrogeology from John Leonard of John Leonard Consulting Services - surface water from Neil Craigie of Waterway Management Consultants - water quality from Pat Condina of Pat Condina & Associates - cultural heritage from Nicholas Clark of Clark Ecology - landscape and visual impact from Mark Reilly of Tract - economics and social impacts from Dr Ian Manning of National Institute of Economic and Industry Research (NIEIR) - planning from Chris De Silva of Mesh Planning
Anne Heath Mennell	
Dan Hopkins and Maudie Harley	
David Poynter	
Gail Callaghan	
John Reid	
Meryl Tobin	
Neil Rankine	
Save Western Port Woodlands	Tim O'Brien
South Gippsland Conservation Society	Gerard Drew
Stephen Edge	

Appendix C Document list

No.	Date	Description	Provided by
Pre-Hearing			
1	27/11/20	Letter – Department of Environment, Land, Water and Planning (DELWP) to Planning Panels Victoria (PPV) referring objections to a Panel including: <ul style="list-style-type: none"> a) Application to Amend Planning Permit b) Application Detail Form c) Application Cover Letter d) Planning Permit e) Section 173 Agreement f) Certificate of Title g) Work Authority h) Specialist Reports including: <ul style="list-style-type: none"> i. Town Planning Report ii. Native Vegetation Removal Report iii. Hydrogeological Assessment iv. Surface Water Management v. Landscape and Visual Impact Assessment vi. Traffic Engineering Assessment vii. Noise Emission Assessment viii. Dust Assessment ix. Economic and Social Impact Study x. Geotechnical Assessment i) Town Planning Report j) Vegetation Monitoring Report k) Landscape and Vegetation Plan l) EPA Referral Response m) Affected Properties List n) Advertising Notice o) Advertising Declaration p) Department of Transport Response q) Copy of objections 	Mr Juttner, DELWP
2	4/12/20	Directions Hearing Notification Letter	PPV
3	21/12/20	Regional Sand Extraction Strategy, Lang Lang to Grantville, Oct 1996 (excerpt)	Mr Rankine
4	23/12/20	Panel Directions, Distribution List and Timetable (version 1)	PPV
5	30/12/20	Email – Mr David Vorchheimer of HWL Ebsworth Lawyers on behalf of Bass Coast Shire Council (Council) to PPV advising of availabilities within timetable	Mr Vorchheimer on behalf of Council

No.	Date	Description	Provided by
6	19/1/21	Letter – DELWP to PPV referring late objections	Ms Altuntas, DELWP
7	29/1/21	Email – Mr Shantanu Joshi of HWL Ebsworth Lawyers on behalf of Council advising delay in Council decision	Mr Joshi on behalf of Council
8	“	Email – Mr Andrew Natoli on behalf of the Permit Applicant advising expert witnesses	Mr Natoli on behalf of Permit Applicant
9	23/2/21	Email – Mr Andrew Natoli advising of outstanding expert witnesses	Mr Natoli
10	26/2/21	Email – PPV to all parties advising of amended timetable and notification that Council not intending on calling expert witnesses	PPV
11	2/3/21	Panel Directions, Distribution List and Timetable (version 2)	PPV
12	3/3/21	Email – Mr Andrew Natoli advising of delay in providing expert witness statements	Mr Natoli
13	“	Email – Mr Tim O’Brien on behalf of Save the Wester Port Woodlands contesting delay in supply of expert witness statements	Mr O’Brien on behalf of Save the Wester Port Woodlands
14	“	Email – Ms Meryl Tobin contesting delay in supply of expert witness statements	Ms Tobin
15	“	Email – PPV to Mr Andrew Natoli seeking formal application of leave for delayed supply of expert witness statements	PPV
16	4/3/21	Email – Mr Andrew Natoli requesting leave to be granted to delay submission of expert witness statements	Mr Natoli
17	“	Email – Mr Tim O’Brien further contesting delay in supply of expert witness statements	Mr O’Brien
18	“	Email – PPV granting leave to Applicant to amend date to provide expert witness statements	PPV
19	5/3/21	Email – Mr Tim O’Brien requesting objection to grant of leave be recorded	Mr O’Brien
20	“	Email – PPV response to Mr Tim O’Brien regarding granting of leave	PPV
21		No document	
22	5/3/21	Email – PPV response to Mr Tim O’Brien advising Panel are considering his response and will respond formally	PPV
23	“	Letter – Ruling and statement of reasons for granting leave to file expert evidence by Wednesday 10 March	“
24	“	Evidence Statement – Henry Turnbull	Mr Natoli
25	“	Evidence Statement – Neville Goddard	“
26	“	Evidence Statement – Tim Pollock	“

No.	Date	Description	Provided by
27	“	Evidence Statement – Neil Craigie	“
28	“	Evidence Statement – John Leonard	“
29	10/3/21	Evidence Statement – Mark Reilly	“
30	“	Evidence Statement – Pat Condina	“
31	“	Evidence Statement – Nicholas Clark	“
32	“	Evidence Statement – Basil Natoli	“
33	“	Evidence Statement – Chris De Silva	“
34	“	Evidence Statement – Aaron Organ	“
35	“	Evidence Statement – Ian Manning	“
36	15/3/21	Part A Submission – Applicant	“
37	“	Plain English Summary – Neil Craigie	“
38	“	Part A Submission – Council	Mr Joshi
39	“	Email – PPV to all parties granting leave to extend Direction 14 and Direction 15 due dates	PPV
40	17/3/21	Panel Directions, Distribution List and Timetable (version 3)	“
41	18/3/21	Email – PPV to all parties reminding parties to provide questions in accordance with Direction 14	“
42	“	Letter – Witness Question Document	PPV
43	19/3/21	Letter – DELWP to PPV referring late objections	Ms Altuntas
44	“	Part B Submission – Applicant	Mr Natoli
45	“	Written Submission – DELWP	Ms Altuntas
Hearing Week 1			
46	22/3/21	Supplementary Witness Statement – Basil Natoli	Mr Natoli
47	“	Supplementary Witness Statement – Pat Condina	“
48	“	Supplementary Witness Statement – Neil Craigie	“
49	“	Supplementary Witness Statement – John Leonard	“
50	“	Supplementary Witness Statement – Chris De Silva	“
51	23/3/21	Letter – PPV questions for DELWP	PPV
52	24/3/21	Panel Directions, Distribution List and Timetable (version 4)	“
53	“	Panel Further Directions	“
54	“	Ektimo – Dust Disposition Analysis Report – March 2021	Mr Natoli
55	25/3/21	Email – Site visit recommendations	Mr Drew
56	“	Email – PPV email to all parties including site visit recommendations	PPV

No.	Date	Description	Provided by
Hearing Week 2			
57	29/3/21	Letter – DELWP response to questions of PPV	Ms Altuntas
58	30/3/21	Email – Request for additional submission time	Mr Drew
59	“	<p>Applicant – Interim Submission including attachments</p> <ul style="list-style-type: none"> a) Bass Coast C140 Panel Report b) Joint Ministerial Statement Extractive Resources c) Extractive Industry Priority Project List-Update September 2020 Fact Sheet d) Extractive Industry Priority Project List e) Planning Practice Note 89 Extractive Industry and Resources f) Staging and Rehabilitation Revegetation Plans 08 Feb 2021 g) Regional Sand Extraction Strategy - Lang Lang to Grantville Strategy h) Biodiversity Assessment and Management Guidelines i) Biodiversity Biolinks Strategy 2018 j) Crowd Spot Report Bass Coast Biolinks k) Bass Coast Discussion Paper March 2020 l) Future Vision for Grantville Quarry m) DELWP First Party Offset Approval n) Dust Deposition Analysis Report - March 2021 o) Bass Coast Landcare Network Monitoring Report - Section 173 Agreement - Grantville Quarry - January 2021 p) Bass Coast Landcare Network Monitoring Report Sites 1 and 3 Feb 2021 q) 2020 Site Photo Plan r) Conservation and Revegetation Plan Amended Rev 15 24 Sep 2020 s) Section Line Western Boundary t) Email from C Kimmings u) Access Photos v) Preparation of Rehabilitation Plans Guideline for Extractive Industry Projects 	Mr Natoli

No.	Date	Description	Provided by
59.1	“	Applicant – Work Authority 1488 and (2012) Work Plan and (2020) Work Plan Variation documents <ul style="list-style-type: none"> a) Work Authority No. 1488 and Schedule of Work Authority Conditions b) WA1488 Schedule of Site Specific Work Plan Conditions c) Work Plan for Extractive Industry Work Authority No. 1488 including attachments <ul style="list-style-type: none"> I. Copy of Land Titles II. Drainage and Water Quality Management III. Hydrogeological Assessment IV. Ecological Assessment V. Revegetation Species VI. Noise Emission Assessment VII. Air Quality – Dust Assessment VIII. Landscape and Visual Impact Assessment IX. Cultural Heritage Advice d) Environmental Monitoring Program and Community Engagement Plan e) Statutorily Endorsed Work Plan Variation 	“
60	“	Supplementary Witness Statement – Neil Craigie	“
61	“	Council Part B Submission –including attachments: <ul style="list-style-type: none"> a) Brough v Warrnambool CC [2013] VCAT 37 (editorial comment 46 VPR 257) b) Buckerfield v Macedon Ranges SC [2011] VCAT 559 c) Giurina v Moreland CC [2011] VCAT 1431 d) Mainstay Australia Pty Ltd v Mornington Peninsula SC (Red Dot) [2009] VCAT 145 33 VPR 14 e) Permits v Banyule CC [2011] VCAT 375 f) Peter Wright and Associates v Banyule CC [2011] VCAT 852 g) SMA Projects Pty Ltd v Yarra CC and Ors (Includes Summary) (Red Dot) [2013] VCAT 436 	Mr Joshi
62	“	Panel Directions, Distribution List and Timetable (version 5)	PPV
63	1/4/21	Council – Without prejudice conditions (marked)	Mr Joshi
64	“	Council – Without prejudice conditions (clean)	“
Hearing Week 3			
65	4/4/21	Submission – Anne Heath Mennell	Ms Heath Mennell
66	“	Submission – Stephen Edge	Mr Edge

No.	Date	Description	Provided by
67	5/4/21	Comments on without prejudice conditions – Dan Hopkins and Maudie Harley	Mr Hopkins
68	“	Submission – Dan Hopkins and Maudie Harley	“
69	“	Submission – South Gippsland Conservation Society	Mr Drew
70	“	Submission – Neil Rankine including attachments <ul style="list-style-type: none"> a) Flora and Fauna Study at the Holden Proving Ground, Lang Lang for Holden Ltd 2003 b) Wildlife monitoring c) Optimising concrete with recycled sand, aggregates 	Mr Rankine
71	“	Applicant – Response to Panel Directions of 24 March 2021	Mr Natoli
72	“	Submission – Meryl and Hartley Tobin	Ms Tobin
73	“	Applicant – Comments on without prejudice conditions	Mr Natoli
74	“	Conservation of Revegetation Sites Plan (11 November 2020)	“
75	“	Submission – Gail Callaghan	Ms Callaghan
76	6/4/21	Submission – Save Western Port Woodlands including attachments <ul style="list-style-type: none"> a) Monthly rainfall and annual averages (Nyora) b) Image 1 – Powerful Owl c) Image 2 – Powerful Owl 	Mr O’Brien
77	“	Supplementary Witness Statement – John Leonard	Mr Natoli
78	“	Comments on without prejudice conditions – Neil Rankine	Mr Rankine
79	“	Comments on without prejudice conditions – DELWP	Ms Altuntas
80	“	Email from Bass Coast Shire Council	Ms Tobin
81	“	Additional comments on without prejudice conditions – Dan Hopkins and Maudie Harley	Mr Hopkins
82	7/4/21	Applicant – Closing Submission including attachments <ul style="list-style-type: none"> a) Screen grab from VicNames (no result for Deep Creek) b) Amended Conservation and Revegetation Sites Plan (Nov 2020) c) 2020 Site Plan Top Soil and YIS Storage Areas 	Mr Natoli
Post Hearing Documents			
83	12/4/21	Applicant – Without prejudice conditions (marked)	Mr Natoli
84	“	Applicant – Without prejudice conditions (clean)	“
85	7/5/21	Council – Without prejudice conditions (marked)	Mr Joshi
86	“	Council – Without prejudice conditions (clean)	“

Appendix D Extractive Industry Approval Framework

Work Plan and Work Authority

Statutory endorsement of the work plan

A work plan must be prepared in accordance with the MRSD Act and contain the information required by the *Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2010* (MR regulations), including:

- a description of the nature and scale of the proposed extractive industry activities
- identification and assessment of risks the extractive industry activities may pose to the environment, to the public, or to nearby land, property or infrastructure (known as ‘quarrying hazard’)
- a risk management plan that specifies the measures the proponent will use to eliminate or minimise identified risks and monitor performance
- a rehabilitation plan that addresses the end use of the proposed quarry site and include proposals for rehabilitation, landscaping and revegetation
- a community engagement plan that identifies any community likely to be affected by the extractive industry activities and includes proposals for providing information to and receiving feedback from the community.

As stated in PPN89, typically the work plan and ERR conditions may include:

- topsoil management
- landform design
- noise
- dust control
- blasting (ground vibration)
- control of noxious weeds, pest animals and plant disease (invasive species)
- drainage and erosion control
- water storage and discharge control
- groundwater
- fire and hazardous materials management
- progressive rehabilitation.

If a planning permit is required, the work plan must first be statutorily endorsed in accordance with the MRSD Act. This includes a referral process to referral authorities specified in Clause 66 of planning schemes. If a work plan is given to a referral authority through the work plan endorsement process then it cannot be referred again through the planning permit assessment process.

PPN89 states that *“in this circumstance, it is appropriate for a referral authority in responding to a work plan to have regard to relevant matters under the planning scheme that provide guidance on the suitability of works”* and if a referral authority does not respond to ERR within 30 days it is taken to have not objected to the statutory endorsement.

ERR will only provide statutory endorsement of a work plan if:

- the plan meets appropriate standards for content, technical accuracy and risk assessment, and is satisfactory for submission with a planning permit application

no referral authority has objected to statutory endorsement.

Statutory endorsement must include conditions consistent with conditions specified by a referral authority.

Work plan approval

When a planning permit has been issued it reviewed by ERR to determine whether it aligns with the work plan and whether any changes may be required to be made to the work plan before it is approved.

The planning permit process is described below.

Granting of work authority

According to the PPN89:

A work authority will only be granted if the applicant has:

- an approved work plan (if required)
- entered into a rehabilitation bond
- complied with any relevant planning scheme and obtained any necessary planning permit
- obtained all necessary consents and other authorities required by or under the MRSD Act or any other Act
- obtained the consent of the Crown land Minister if the extractive industry is on Crown land.

The Minister may impose conditions on the grant of the work authority.

Variations to work plans

A work authority holder may seek to change or expand their operations or undertake some other operational change or modification to the approved works or practices.

A variation to an existing work plan will require approval under the MRSD Act if:

- the proposed work is not approved (new work) or is inconsistent with (changed work) the existing plan or work authority, and
- the new or changed work:
 - gives rise to a new or changed quarrying hazard which will significantly increase the risks posed to public safety, the environment, land, property or infrastructure; or
 - requires change to the community engagement plan; or
 - requires a change to the rehabilitation plan.

If the new or changed work plan requires a planning permit, a work plan variation must be statutorily endorsed in accordance with the process outlined above.

Rehabilitation and bond requirements

A work authority holder must rehabilitate land in accordance with an approved rehabilitation plan and work authority conditions (section 78A of the MRSD Act). Section 80 of the MRSD Act requires an applicant to enter into a rehabilitation bond for an amount determined by the Minister.

Bonds are provided as a guarantee that the land affected by an extractive industry will be adequately rehabilitated, and are used by the Minister to fund necessary rehabilitation works not satisfactorily completed by the WA holder.

If the work authority is on private land the Minister must consult with the local government before determining the bond amount or returning a bond.

Planning permit

Definitions

The following land use planning terms and definitions apply:

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.

Extractive industry: Land used for the extraction or removal of stone from land for commercial use, or to use the stone for building, construction, road or manufacturing works. It includes: the rehabilitation of the land the treatment of stone (such as crushing and processing) or the manufacture of bricks, tiles, pottery, or cement or asphalt products on, or adjacent to, the land from which the stone is extracted or removed.

When is a planning permit needed?

A planning permit is required for an extractive industry where it is permitted by the zone and a permit is required for use and development.

A planning permit is not required if an Environmental Effects Statement has been prepared under the *Environmental Effects Act 1978*.

Vegetation removal

According to PPN89:

A planning permit is not required to remove, destroy or lop vegetation to the minimum extent necessary to enable the carrying out of extractive industry in accordance with a work plan approved under the MRSD Act and authorised by a work authority.

Work Plan applications are referred to DELWP for assessment against the Guidelines for Native Vegetation. If a work plan is not required under the MRSD Act then a planning permit may still be required to remove vegetation.

What information is required?

Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas) includes application requirements including (not required if a work plan is not required):

- work plan or variation to an approved work plan
- written notice of statutory endorsement
- any conditions specified under the MRSD Act.

Additionally an application must be accompanied by:

- a site context plan
- development plan and description of the proposal
- if a permit is required for vegetation removal, application requirements are as contained in the Guidelines for Native Vegetation.

Notice and Referrals

As part of the assessment process the responsible authority must give:

- public notice of the application (under section 52 PE Act)

- the application to referral authorities, except for referral authorities given the work plan by ERR (section 55 PE Act and section 77TG MRSD Act).

Cultural Heritage Management Plan

A Cultural Heritage Management Plan is required if all or part of the land to be used and developed for extractive industry purposes is an area of cultural heritage sensitivity. The responsible authority must check if this is required under the *Aboriginal Heritage Act 2006*.

The responsible authority cannot issue a planning permit until it receives a copy of the approved Cultural Heritage Management Plan or issue a permit that is inconsistent with the approved Cultural Heritage Management Plan.

Assessment considerations

In assessing a planning permit requirement the responsible authority is required to take into consideration the purposes and decision guidelines of Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas).

The decision guidelines require consideration of:

- effects on the environment and landscape (native flora and fauna, natural and cultural landscapes, and groundwater and surface water quality)
- impacts on heritage (place of cultural and historic significance, and Aboriginal places)
- effects on amenity (vehicular traffic, noise, blasting, dust and vibration)
- the ability to contain emissions within the boundaries of the site
- rehabilitation of the site
- proposed provisions, conditions or requirements in a statutorily endorsed work plan.

Planning Permit Conditions

The responsible authority must⁶⁶ include conditions required by the planning scheme or a relevant determining referral authority, but cannot not include additional conditions which conflict with a planning scheme or referral authority condition.

Specifically related to extractive industries⁶⁷, a permit must:

- not include a condition that requires 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
 - or the condition is suggested by the Applicant
- include a condition that allows for a period of not less than five years for the use and development to commence before the permit expires (section 68 of the PE Act) unless a longer commencement period is required by the Applicant
- include conditions that are consistent with the requirements specified in Clause 52.09-6 (boundary setback, screen planting and parking).

PPN89 also states that a responsible authority “*may also include any other condition that it thinks fit. This may include conditions related to the hours of operation, landscaping and expiry of the permit*”.

⁶⁶ Section 62 of the PE Act

⁶⁷ Clause 52.09-5 of the Planning Schemes

Appendix E Decision Guidelines

Clause 35.07-6 (Farming Zone)

General issues

- The Municipal Planning Strategy and the Planning Policy Framework.
- 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.

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.

Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas)

Before deciding on an application to use and develop land for extractive industry, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The effect of the proposed extractive industry on any native flora and fauna on and near the land.
- The impact of the proposed extractive industry on sites of cultural and historic significance, including any effects on Aboriginal places.
- The effect of the proposed extractive industry on the natural and cultural landscape of the surrounding land and the locality generally.
- The ability of the proposed extractive industry to contain any emissions within the boundaries of the land in accordance with relevant legislation.
- 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 extractive industry on groundwater quality and the impact on any affected water uses.
- The impact of the proposed extractive industry on surface drainage and surface water quality.
- Any proposed provisions, conditions or requirements in a work plan that has received statutory endorsement under the Mineral Resources (Sustainable Development) Act 1990.

Clause 65.01 (Approval of an application or plan)

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.
- The Municipal Planning Strategy and the Planning Policy Framework. The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Appendix F DELWP comments on Applicant preferred conditions



Department of Environment,
Land, Water and Planning

Level 8, 8 Nicholson Street
East Melbourne, Victoria 3002
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Lisa Kendal
Panel Chair
Planning Panels Victoria
1 Spring Street
MELBOURNE VIC 3000

Dear Ms Kendal

GRANTVILLE QUARRY PLANNING PERMIT APPLICATION 120388-1 COMMENTS ON DRAFT WITHOUT PREJUDICE CONDITIONS

I refer to the above matter and provide comments below regarding Council's 'without prejudice' conditions:

Condition 1b- Primary Water Quality Management Work- dealt by ERR
Condition 1c- Dust control Management Plan- dealt by ERR
Condition 5- Construction Management Plan- dealt with Work Plan Variation
Conditions 7 and 9- duplicate
Conditions 12a-f- Environmental Policy- regulated by EPA
Conditions 14a and 14B- Dust- dealt with Work Plan Variation
Condition 22- Erosion and sediment control- dealt with Work Plan Variation
Condition 23- Soil erosion- dealt with Work Plan Variation
Condition 24- Run-off- dealt with Work Plan Variation
Condition 25- Surface water monitoring- dealt with Work Plan Variation
Condition 30- Native Vegetation- dealt with Work Plan Variation
Condition 31B- dealt with Work Plan Variation
New condition Rehabilitation- dealt with Work Plan Variation
Condition 44- Groundwater management Plan- dealt with Work Plan Variation
Condition 45- Groundwater- dealt with Work Plan variation
Condition 48- Expiry- Reword to *This permit will expire if the Work Authority is cancelled under Section 77O of the Mineral Resources (Sustainable Development) Act 1990*

Yours sincerely

Nihal Altuntas
Senior Planner

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to foi.unl@delwp.vic.gov.au or FOI Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 3002.



Appendix G Panel recommendations on conditions

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
1	The plans to be endorsed and which will then form part of the permit are:	The plans to be endorsed and which will then form part of the permit are:	The plans to be endorsed and which will then form part of the permit are:	<u>Panel comments</u> Retain
1a	Development Plan (Drawing: NS-1164 Rev: 3 24/05/2012) (Figure 5 of the endorsed Work Plan).	Site Layout Plan (Drawing: NS-1903 Rev: 0 6/01/2020)	Development Plan (Drawing: NS-1903 Rev: 0 6/01/2020)	<u>Panel comments</u> Amended sub-condition recommendations. It is anticipated that the Site Layout Plan will need to be revisited in response to additional ecological work and any recommendations in the proposed management plans. <u>Recommended wording of condition</u> The Site Layout Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .
1b	Primary Water Quality Management Works around processing and access track areas plan (Figure 7 at page 22 of the Endorsed Work Plan)		Primary Water Quality Management Works around processing and access track areas plan (Figure 7 at page 22 of the Endorsed Work Plan)	<u>Panel comments</u> Amended sub-condition proposed. It is anticipated that the 'access track plan' may need to be revisited in response to additional ecological work and any recommendations in the proposed management plans. <u>Recommended wording of condition</u> The Primary Water Quality Management Works around processing and access track areas plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .
1c	DPQ Dust Control Management Plan (Attachment 2 at Appendix 7 of the endorsed Work Plan)		DPQ Dust Control Management Plan (Attachment 3 Dust Management Plan Updated 12 December 2019)	<u>Panel comments</u> Amended sub-condition proposed. <u>Recommended wording of condition</u> The Dust Management Plan (or Dust Control Management Plan) as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .
1d	A Bass Highway Intersection Functional Layout Plan for an unsignalised intersection approved by Vic Roads pursuant to condition 35	A Bass Highway Intersection Functional Layout Plan (9 February 2021) contained in Appendix D of the expert witness statement of Henry Turnbull (March 2021) for a signalised intersection approved by Department of Transport pursuant to condition 36	A Bass Highway Intersection Functional Layout Plan (26 September 2012) for a signalised intersection approved by Department of Transport pursuant to condition 36	<u>Panel comments</u> Adopt Applicant version

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
1e	The Conservation and Revegetation plan required by condition 3 of this permit	The Revised Conservation and Revegetation Sites plan required by condition 3 of this permit	The Revised Conservation and Revegetation plan required by condition 3 of this permit	<p><u>Panel comments</u></p> <p>Delete and replace with Panel recommended wording</p> <p><u>Recommended wording of condition</u></p> <p>The Biodiversity and Vegetation Management Plan, Species Management Plan and Weed Management Plan integrated in the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p> <p>The Panel notes that the Offset Management Plan does not need to be referenced as an endorsed document as it will be secured by an on-title legal agreement.</p>
2	Prior to the commencement of the use and development hereby approved amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must show the following:	Prior to the expansion of the use commencing, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must show the following:	Prior to the commencement of the use and development hereby approved amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must show the following:	<p><u>Panel comments</u></p> <p>Adopt Applicant version</p>
2a	A landscape and vegetation plan, prepared by a qualified person, detailing the location of planting or establishment, botanical and common names, height at maturity of the vegetation (locally indigenous species) and ongoing management of the vegetation to be planted for the purposes of landscaping, screening, vegetation of drainage lines and for a flora and fauna corridor (linking the forested areas to the north and south of the Work Authority area).	<p>Landscape and Vegetation Plan</p> <p>A revised Landscape and Vegetation Plan, generally in accordance with the endorsed Landscape and Vegetation Plan (Spring 2013) prepared by Bass Coast Landcare Network, prepared by a qualified person, detailing the location of planting or establishment, botanical and common names, height at maturity of the vegetation (locally indigenous species) and ongoing management of the vegetation to be planted for the purposes of landscaping, screening, vegetation of drainage lines and for a flora and fauna corridor (linking the forested areas to the north and south of the Work Authority area). The plan must be prepared in accordance with the mitigation measure listed in the Landscape and Visual Impact assessment prepared by Tract Consulting dated 6 July 2020 and the recommendations contained in the expert witness statement of Mark Reilly (9 March 2021).</p>	A revised landscape and vegetation plan, prepared by a qualified person, detailing the location of planting or establishment, botanical and common names, height at maturity of the vegetation (locally indigenous species) and ongoing management of the vegetation to be planted for the purposes of landscaping, screening, vegetation of drainage lines and for a flora and fauna corridor (linking the forested areas to the north and south of the Work Authority area). The plan must be prepared in accordance with the mitigation measure listed in the Landscape and Visual Impact assessment prepared by Tract Consulting dated 6 July 2020.	<p><u>Panel comments</u></p> <p>This condition needs to deal specifically with landscaping from a visual amenity and screening perspective. While the landscape plan is related to conditions that call for rehabilitation and revegetation of parts of the site for ecological purposes, it should not duplicate requirements in the Biodiversity and Vegetation Management Plan, Species Management Plan or Weed Management Plan (which forms part of the Biodiversity and Vegetation Management Plan). The Panel recommends the following new condition.</p> <p><u>Recommended wording of condition</u></p> <p>Landscape plan</p> <p>A revised landscape plan, prepared by a qualified person, detailing the location of planting or establishment, botanical and common names, height at maturity of the vegetation and ongoing management of the vegetation to be planted for the purposes of landscaping, screening and vegetation of drainage lines.</p> <p>The plan must:</p> <ol style="list-style-type: none"> a) Be informed by a further landscape and visual assessment of the impact of the expansion when viewed from Shuntoff Road. The plan must incorporate any recommendations from that further landscape and visual assessment.

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
				<p>b) Consider and respond to the sequencing and timing of progressive rehabilitation of the site (including the coarse sand extraction pit) to minimise visual impact.</p> <p>c) incorporate the mitigation measure listed in the Landscape and Visual Impact assessment prepared by Tract Consulting dated 6 July 2020 and the recommendations contained in the expert witness statement of Mark Reilly (9 March 2021).</p> <p>d) complement the Biodiversity and Vegetation Management Plan (cross reference condition number) to ensure that, where possible that the requirements of the plans are mutually beneficial to landscape and ecological values.</p> <p>e) not duplicate or conflict with any revegetation or rehabilitation requirements in the Biodiversity and Vegetation Management Plan (cross reference condition number), Species Management Plan (cross reference condition number) and Weed Management Plan (cross reference condition number).</p> <p>all to the satisfaction of the Responsible Authority.</p>
2b	The inclusion of an acoustic fence of 4 metres in height along the western boundary of the property between the northern most point of the Bass Highway frontage of the land to the northern most point of the proposed access point from the Bass Highway. The fence must be designed and constructed to an appropriate standard as recommended by a qualified acoustic engineer and is designed to be sympathetic to the visual landscape all to the satisfaction of the Responsible Authority.	Deleted	Deleted	<p><u>Panel comments</u></p> <p>Agree to deletion. The fence has been constructed.</p>
3	Prior to the use commencing, a Conservation and Revegetation Plan must be submitted to the Responsible Authority for approval. The plan must identify the areas to be established, protected and maintained for wildlife corridors, conservation and revegetation purposes. The plan must also identify the implementation requirements, staging and timeframes pertaining to each area. Once endorsed, this plan will form part of the Section 173 Agreement required as per condition 31 of the permit.	<p>Revised Conservation and Revegetation Sites Plan</p> <p>Prior to the expansion of the use commencing, a revised Conservation and Revegetation Sites Plan must be submitted to the Responsible Authority for approval. The Conservation and Revegetation Sites Plan must:</p>	Prior to the expansion of the use commencing, a revised Conservation and Revegetation Plan must be submitted to the Responsible Authority for approval. The Conservation and Revegetation Plan must be generally in accordance with the Conservation and Revegetation Sites Plan endorsed on 18 November 2013 and must identify:	<p><u>Panel comments</u></p> <p>The existing condition needs to be completed redrafted. The new conditions recommended below may also need to be expressed as separate conditions or sub-conditions. The following replacement conditions are recommended.</p> <p><u>Recommended wording of condition</u></p> <p>Additional survey and assessment (Biodiversity Assessment Report)</p> <p>Targeted ecological surveys and additional ecological assessments must be completed by the permit holder prior to the expansion of the use and development hereby permitted or the approval of the Work Plan.</p> <p>These surveys must include:</p> <p>a) An updated Large tree assessment to confirm the extent of tree removal;</p> <p>b) A targeted survey of the site must be undertaken by a suitably qualified professional for the Green Striped Greenhood (<i>Pterostylis chlorogramma</i>) and the Cobra Greenhood (<i>Pterostylis grandiflora</i>) identifying the location of any such species on the land and recommending measures to address such species.</p>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
				<p>c) Updated Native Vegetation Removal report.</p> <p>Once complete, the results of these surveys and assessment must be documented in an Updated Biodiversity Assessment Report. That report must be prepared to the satisfaction of the Responsible Authority in consultation with the Secretary of DELWP and submitted to the Responsible Authority for approval.</p> <p>Offset Management Plan</p> <p>An Offset Management Plan must be prepared prior to the expansion of the use and development hereby permitted.</p> <p>The Offset Management Plan must:</p> <ul style="list-style-type: none"> a) respond to the outcomes of the Updated Biodiversity Assessment Report (cross reference condition number) b) be prepared in accordance with the Native Vegetation Guidelines. c) explain the relationship between the proposed offset areas and existing legal protections in place. d) identify monitoring, reporting and review obligations for offset areas, including responsibility for such activities. <p>The Offset Management Plan must be prepared to the satisfaction of the Responsible Authority in consultation with the Secretary of DELWP and submitted to the Responsible Authority for approval.</p> <p>Biodiversity and Vegetation Management Plan</p> <p>Prior to the expansion of the use and development hereby permitted, a Biodiversity and Vegetation Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Biodiversity and Vegetation Management Plan must address:</p> <ul style="list-style-type: none"> a) include a requirement for the immediate commencement of revegetation in 'conservation area 2' as labelled in the Conservation and Revegetation Site Plan endorsed under the original planning permit. b) explain the relationship between any first party native vegetation offsets (if identified in the Offset Management Plan), rehabilitation requirements and existing legal protections in place. c) objectives, performance targets, timeframes and responsibilities for the successful management and reinstatement of biodiversity across areas within the Work Authority identified to be established, protected and maintained for wildlife corridors, conservation and revegetation purposes d) protection, management, restoration and reporting requirements across the site e) A Weed Management Plan for the all areas within the Work Authority, prepared in accordance with the requirements of the Catchment and Land Protection Act 1994 and including a pre-clearance weed survey of the areas to be undertaken prior to any construction activities (native vegetation removal and coarse sand

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
				<p>extraction) to record the location of all noxious and environmental weeds and measures for ongoing control of noxious and environmental weeds (woody and herbaceous) in the coarse sand extraction pit and wildlife corridors, conservation and revegetation purposes.</p> <p>Once endorsed the Biodiversity and Vegetation Management Plan will form part of the permit and the expanded use and development must be undertaken in accordance with its requirements.</p> <p>Any Work Plan (including any Rehabilitation and Site Closure Plan) as approved or varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> must be consistent with the endorsed Biodiversity and Vegetation Management Plan and Weed Management Plan.</p> <p>Species Protection Management Plan</p> <p>Prior to the expansion of the use and development hereby permitted, a Species Protection Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Species Protection Management Plan must address:</p> <ul style="list-style-type: none"> (a) the Updated Biodiversity Assessment Report which documents the outcomes of the Green Striped Greenhood (<i>Pterostylis chlorogramma</i>) and the Cobra Greenhood (<i>Pterostylis grandiflora</i>) identifying the location of any such species on the land and recommending measures to address such species. (b) measures to (where practical) salvage native plants and animals and to minimise displacement and injury to native plants and animals in areas affected by native vegetation clearance works within the coarse sand extraction pit area during all phases of construction and extraction operations. (c) a vegetation clearance strategy for the area in which native vegetation is permitted to be removed, that sets out actions required prior to and during habitat clearing. (d) Specific recommendations in relation to any revisions required to the Site Layout Plan (including access routes) and Rehabilitation and Site Closure plan in the Work Plan. <p>Once endorsed the Species Protection Management Plan will form part of the permit and the expanded use and development must be undertaken in accordance with its requirements.</p> <p>Any Work Plan as approved or varied from time to time under the Mineral Resources (Sustainable Development) Act 1990 must be consistent with the endorsed Species Protection Management Plan or as amended from time to time.</p>
3a		Identify the areas to be established, protected and maintained for wildlife corridors, conservation and revegetation purposes.	The areas to be established, protected and maintained for wildlife corridors, conservation and revegetation purposes.	<p><u>Panel comments</u></p> <p>Delete. Replaced by new condition recommended above.</p>
3b		Identify the implementation requirements, staging	The implementation requirements, staging and	<p><u>Panel comments</u></p>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
		and timeframes pertaining to each area.	timeframes pertaining to each area.	Delete. Replaced by new condition recommended above.
		Identify areas to be provided as first party native vegetation offsets under an agreement pursuant to section 69 of the <i>Conservation Forests and Lands Act 1987</i> and to be removed from the section 173 Agreement under condition 31, as shown on the Conservation and Revegetation Sites – Amended Schedule Plan (11 November 2020).	Once endorsed, this plan will form part of the Section 173 Agreement required as per condition 31 of the permit.	<p><u>Panel comments</u></p> <p>Delete. This is addressed by separate condition.</p> <p>There will need to be a separate statutory process to resolve any inconsistency with the existing section 173 agreement.</p>
		Once endorsed, this plan will form part of the amended Section 173 Agreement required as per condition 31 of the permit.		<p><u>Panel comments</u></p> <p>Delete. This is addressed by separate condition.</p> <p>There will need to be a separate statutory process to resolve any inconsistency with the existing section 173 agreement.</p>
4	<p>Before the use and development starts a traffic management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. Traffic and parking operations on and in relation to the site must then conform to the endorsed plan. The plan must include (but not be limited to):</p> <ul style="list-style-type: none"> - Prohibiting the right turn vehicle movements exiting the land. - Queuing arrangements - Vehicle speed on the land. - Parking of trucks and other vehicles on the land. - Trucks exiting from the land and vehicle u-turns on a point to the south of the land as approved by VicRoads (and which must not utilise any Council controlled roads). - Conduct of truck drivers approaching and on the land. - Any other measures necessary and appropriate to minimise the impacts of vehicle movements on the amenity of the area. 	Not necessary	<p>Before the expansion of the use and development starts a revised traffic management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. Traffic and parking operations on and in relation to the site must then conform to the endorsed plan. The plan must include (but not be limited to):</p> <ol style="list-style-type: none"> a) queuing arrangements b) vehicle speed on the land c) parking of trucks and other vehicles on the land d) trucks exiting from the land e) conduct of truck drivers approaching and on the land f) any other measures necessary and appropriate to minimise the impact of vehicle movements on the amenity of the area. 	<p><u>Panel comments</u></p> <p>Adopt Council version.</p>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
5	<p>Prior to the commencement of any works, a construction management plan must be submitted to and approved by the Responsible Authority. The construction management plan must be developed to include (but not be limited to):</p> <ul style="list-style-type: none"> - Best practice or suitable equivalent surface water management during construction. - Construction Techniques for Sediment Pollution Control (EPA Publication No.275, May 1991). - Vehicle movements during construction. - Dust suppression measures. 	<p>Replaced by the new CEMP conditions as recommended by Aaron Organ.</p>	<p>Prior to the commencement of any works, a construction management plan must be submitted to and approved by the Responsible Authority. The construction management plan must be developed to include (but not be limited to):</p> <ul style="list-style-type: none"> a) Best practice or suitable equivalent surface water management during construction. b) Construction Techniques for Sediment Pollution Control (EPA Publication No. 275, May 1991). c) Vehicle movements during construction. d) Dust suppression measures. <p>Once endorsed, this plan will form part of this permit.</p>	<p><u>Panel comments</u></p> <p>The Panel agreed with condition recommended by Mr Organ, subject to some minor modifications. That condition is tailored to focus on ecological matters. The broader construction management measures relating to dust and vehicles are more appropriately dealt with via the WP Variation process.</p> <p>The following condition is recommended.</p> <p><u>Recommended wording of condition</u></p> <p>Construction Environmental Management Plan</p> <p>Prior to the expansion of the use and development hereby permitted, a Construction Environmental Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Construction Environmental Management Plan must address:</p> <ul style="list-style-type: none"> (a) Species/vegetation conservation strategies, daily monitoring, site specific rehabilitation plans, weed and pathogen management measures, for areas affected during construction of the expanded sand extraction operations. (b) Management and monitoring measures that are to be undertaken during the construction of the expanded sand extraction operations to minimise impacts to the environment. (c) An erosion and sediment control plan for the management of sediment pollution in accordance with EPA Publication 275 'Construction Techniques for Sediment Pollution Control' to the satisfaction of the Responsible Authority. <p>Once endorsed the Construction Environmental Management Plan will form part of the permit and the expanded use and development must be undertaken in accordance with its requirements.</p> <p>Any Work Plan as approved or varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> must be consistent with the endorsed Construction Environmental Management.</p>
6	<p>The use and development of the subject land must not commence until the Work Authority, including an Approved Work Plan, is issued pursuant to the Mineral Resources (Sustainable Development) Act 1990 unless with the written consent of the Responsible Authority and Department of State Development, Business and Innovation.</p>	<p>The use and development of the subject land must not commence until the Work Authority, including an Approved Work Plan, is issued pursuant to the Mineral Resources (Sustainable Development) Act 1990 unless with the written consent of the Responsible Authority and Department of Jobs, Precincts and Regions.</p>	<p>The use and development of the subject land must not commence until the Work Authority, including an Approved Work Plan, is issued pursuant to the Mineral Resources (Sustainable Development) Act 1990 unless with the written consent of the Responsible Authority and Department of State Development, Business and Innovation.</p>	<p><u>Panel comments</u></p> <p>Updated condition recommended.</p> <p><u>Recommended wording of condition</u></p> <p>The expanded use and development of the subject land must not commence until the Work Authority variation, including an Approved Work Plan, is issued pursuant to the Mineral Resources (Sustainable Development) Act 1990 unless with the written consent of the Responsible Authority and Department of Jobs, Precincts and Regions.</p>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations																																																						
7	The use and development of the land must at all times be generally in accordance with the endorsed plans (including management plans) forming part of this permit, to the satisfaction of the Responsible Authority.	The use and development of the land must at all times be generally in accordance with the endorsed plans (including management plans) forming part of this permit, to the satisfaction of the Responsible Authority.	The use and development of the land must at all times be generally in accordance with the endorsed plans (including management plans) forming part of this permit, to the satisfaction of the Responsible Authority.	<u>Panel comments</u> No comment. Existing condition can remain.																																																						
8	Prior to the use commencing, the acoustic fence must be erected to the satisfaction of the Responsible Authority.	Not necessary	Prior to the use commencing, the acoustic fence must be erected to the satisfaction of the Responsible Authority.	<u>Panel comments</u> Delete. This condition is now redundant as the fence has been erected.																																																						
9	The layout of the land, and the proposed works as shown on the endorsed plans, shall not be altered or modified (whether or not in order to comply with any Statute, Statutory Rule or Local Law or for any other reason) without the prior consent of the Responsible Authority.	Duplicates condition 7.	The layout of the land, and the proposed works as shown on the endorsed plans, shall not be altered or modified (whether or not in order to comply with any Statute, Statutory Rule or Local Law or for any other reason) without the prior consent of the Responsible Authority.	<u>Panel comments</u> Delete. It duplicates condition 7.																																																						
10	<p>Hours of Operation</p> <p>The permitted use (including the arrival and departure of heavy vehicles) must operate only between the following hours, except with the further consent of the Responsible Authority:</p> <table border="1" data-bbox="231 1039 801 1564"> <thead> <tr> <th>Activity</th> <th>Monday to Friday *</th> <th>Saturday *</th> </tr> </thead> <tbody> <tr> <td>Site establishment/Construction</td> <td>6am-6pm</td> <td>6am-1pm</td> </tr> <tr> <td>Extraction</td> <td>7am-6pm</td> <td>7am-1pm</td> </tr> <tr> <td>Processing</td> <td>6am-6pm</td> <td>6am-1pm</td> </tr> <tr> <td>Product loading and despatch</td> <td>6am-6pm</td> <td>6am-1pm</td> </tr> <tr> <td>Repairs and maintenance</td> <td>6am-10pm</td> <td>6am-10pm</td> </tr> </tbody> </table> <p>Notes: Public holidays excluded except for maintenance operations. Queuing must not occur on the Bass Highway.</p>	Activity	Monday to Friday *	Saturday *	Site establishment/Construction	6am-6pm	6am-1pm	Extraction	7am-6pm	7am-1pm	Processing	6am-6pm	6am-1pm	Product loading and despatch	6am-6pm	6am-1pm	Repairs and maintenance	6am-10pm	6am-10pm	<p>Hours of Operation</p> <p>The permitted use (including the arrival and departure of heavy vehicles) must operate only between the following hours, except with the further consent of the Responsible Authority:</p> <table border="1" data-bbox="834 1039 1403 1564"> <thead> <tr> <th>Activity</th> <th>Monday to Friday *</th> <th>Saturday *</th> </tr> </thead> <tbody> <tr> <td>Site establishment/Construction</td> <td>6am-6pm</td> <td>6am-1pm</td> </tr> <tr> <td>Extraction</td> <td>7am-6pm</td> <td>7am-1pm</td> </tr> <tr> <td>Processing</td> <td>6am-2am</td> <td>6am-10pm</td> </tr> <tr> <td>Product loading and despatch</td> <td>6am-10pm</td> <td>6am-4pm</td> </tr> <tr> <td>Repairs and maintenance</td> <td>6am-10pm</td> <td>6am-10pm</td> </tr> </tbody> </table> <p>Notes: Only the Water Clarifier/Thickener, Mud Buffer Tank and Dewatering Belt Press will operate between 6.00pm - 2am Monday to Friday and 1.00pm - 10pm Saturday (Public holidays excluded) except for maintenance operations.</p>	Activity	Monday to Friday *	Saturday *	Site establishment/Construction	6am-6pm	6am-1pm	Extraction	7am-6pm	7am-1pm	Processing	6am-2am	6am-10pm	Product loading and despatch	6am-10pm	6am-4pm	Repairs and maintenance	6am-10pm	6am-10pm	<p>Hours of Operation</p> <p>The permitted use (including the arrival and departure of heavy vehicles) must operate only between the following hours, except with the further consent of the Responsible Authority:</p> <table border="1" data-bbox="1436 1039 2006 1564"> <thead> <tr> <th>Activity</th> <th>Monday to Friday *</th> <th>Saturday *</th> </tr> </thead> <tbody> <tr> <td>Site establishment/Construction</td> <td>6am-6pm</td> <td>6am-1pm</td> </tr> <tr> <td>Extraction</td> <td>7am-6pm</td> <td>7am-1pm</td> </tr> <tr> <td>Processing</td> <td>6am-2am</td> <td>6am-10pm</td> </tr> <tr> <td>Product loading and despatch</td> <td>6am-10pm</td> <td>6am-4pm</td> </tr> <tr> <td>Repairs and maintenance</td> <td>6am-10pm</td> <td>6am-10pm</td> </tr> </tbody> </table> <p>Notes: Only the Water Clarifier/Thickener, Mud Buffer Tank and Dewatering Belt Press will operate between 6.00pm - 2am Monday to Friday and 1.00pm - 10pm Saturday (Public holidays excluded) except for maintenance operations.</p>	Activity	Monday to Friday *	Saturday *	Site establishment/Construction	6am-6pm	6am-1pm	Extraction	7am-6pm	7am-1pm	Processing	6am-2am	6am-10pm	Product loading and despatch	6am-10pm	6am-4pm	Repairs and maintenance	6am-10pm	6am-10pm	<u>Panel comments</u> Adopt Council version.
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11	Maintenance may be carried out outside the hours specified in condition 10 subject to and in accordance with the conditions and requirements of a Maintenance Management Plan which is to be	Maintenance may be carried out outside the hours specified in condition 10 subject to and in accordance with the conditions and requirements of a Maintenance Management Plan which is to be	Maintenance may be carried out outside the hours specified in condition 10 subject to and in accordance with the conditions and requirements of a Maintenance Management Plan which is to be	<u>Panel comments</u> No comment. Retain condition and all related sub-conditions below.																																																						

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	submitted for approval to the satisfaction of the Responsible Authority. The Maintenance Management Plan must specify what the maintenance activities are, including the location of those activities, and must demonstrate that such activities:	submitted for approval to the satisfaction of the Responsible Authority. The Maintenance Management Plan must specify what the maintenance activities are, including the location of those activities, and must demonstrate that such activities:	submitted for approval to the satisfaction of the Responsible Authority. The Maintenance Management Plan must specify what the maintenance activities are, including the location of those activities, and must demonstrate that such activities:	
11a	will not be audible outside the property boundaries; and	will not be audible outside the property boundaries; and	will not be audible outside the property boundaries; and	
11b	will not unreasonably affect the amenity of the area by way of light spill or otherwise.	will not unreasonably affect the amenity of the area by way of light spill or otherwise.	will not unreasonably affect the amenity of the area by way of light spill or otherwise.	
12	Environmental Policy The use and development of the land must at all times comply with:	Not necessary	Environmental Policy The use and development of the land must at all times comply with:	<u>Panel comments</u> Agree with the Applicant and DELWP that this is not necessary. Delete condition and all related sub-conditions below.
12a	Environment Protection Authority Protocol for Environmental Management: Mining and Extractive Industries;		Environment Protection Authority Protocol for Environmental Management: Mining and Extractive Industries;	
12b	State Environment Protection Policy - Waters of Victoria;		State Environment Protection Policy - Waters of Victoria;	
12c	State Environment Protection Policy - Ground Waters of Victoria		State Environment Protection Policy - Ground Waters of Victoria	
12d	State Environment Protection Policy - Air Quality Management;		State Environment Protection Policy - Air Quality Management;	
12e	State Environment Protection Policy No. N-1; and		State Environment Protection Policy No. N-1; and	
12f	Environment Protection Authority Best Practice Environmental Management - Environmental Guidelines for Major Construction Sites;		Environment Protection Authority Best Practice Environmental Management - Environmental Guidelines for Major Construction Sites;	
13	The use and development must be managed, to the satisfaction of the Responsible Authority, so that the amenity of the area is not detrimentally affected through the:	The use and development must be managed, to the satisfaction of the Responsible Authority, so that the amenity of the area is not detrimentally affected through the:	The use and development must be managed, to the satisfaction of the Responsible Authority, so that the amenity of the area is not detrimentally affected through the:	<u>Panel comments</u> No comment. Retain condition and all related sub-conditions below.
13a	transport of materials, goods or commodities to or from the land;	transport of materials, goods or commodities to or from the land;	transport of materials, goods or commodities to or from the land;	
13b	appearance of any building, or works or materials,	appearance of any building, or works or materials,	appearance of any building, or works or materials,	
13c	emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;	emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;	emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;	
13d	presence of vermin; or	presence of vermin; or	presence of vermin; or	
13e	other matters.	other matters.	other matters.	
14	Dust Prior to the commencement of the use and	Dust The use must at all times be managed in	Dust Prior to the expansion of the use and development	<u>Panel comments</u> The following condition is recommended.

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
	development hereby permitted, a dust management plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. The plan must be generally in accordance with:	accordance with dust management measures contained in the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .	hereby permitted, a revised Dust Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. The plan must be generally in accordance with:	<p><u>Recommended wording of condition</u></p> <p>Dust management plan</p> <p>Prior to the expansion of the use and development hereby permitted, a revised Dust Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority.</p> <p>The plan must:</p> <ul style="list-style-type: none"> - be generally in accordance with the draft Dust Management Plan, prepared by Environmental Science Associates included as Attachment 3 of the Revised Dust Assessment Report by Environmental Science Associates (dated 14 December 2019) - be informed by advice from suitability qualified meteorologist regarding proactive dust management practices, including specific operational mitigation measures. - include a mechanism for a suitability qualified meteorologist to provide ongoing operational advice as required. <p>Once endorsed the Dust Management Plan will form part of the permit and the expanded use and development must be undertaken in accordance with its requirements.</p> <p>Any Work Plan as approved or varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> must be consistent with the endorsed Dust Management Plan or as amended from time to time.</p>
14a	the Environment Protection Authority Protocol for Environmental Management: Mining and Extractive Industries; and	Not necessary	the Environment Protection Authority Protocol for Environmental Management: Mining and Extractive Industries; and	<p><u>Panel comments</u></p> <p>Agree with applicant. Delete.</p>
14b	the draft dust management plan, prepared by Dandy Premix Quarries included as Appendix 2 of the Dust Assessment Report by Environmental Sciences Associates (22 May 20 12) at Appendix 7 of the Endorsed Work Plan, to the satisfaction of the Responsible Authority.		the draft Dust Management Plan, prepared by Environmental Science Associates included as Attachment 3 of the Revised Dust Assessment Report by Environmental Science Associates (dated 14 December 2019) to the satisfaction of the Responsible Authority.	<p><u>Panel comments</u></p> <p>Delete. Replaced with condition above.</p>
15	The internal access road must be constructed, drained and the pavement sealed prior to the removal of any sand product from the land.	Not necessary.	The internal access road must be constructed, drained and the pavement sealed prior to the removal of any sand product from the land.	<p><u>Panel comments</u></p> <p>Agree with Applicant. Delete.</p>
16	At all times during the use of the Land for the purpose of sand extraction and processing an adequate water supply must be maintained for dust control measures in accordance with the endorsed dust management plan.	At all times during the use of the Land for the purpose of sand extraction and processing an adequate water supply must be maintained for dust control measures in accordance with the. Work Plan as approved and varied from time to time	At all times during the use of the Land for the purpose of sand extraction and processing an adequate water supply must be maintained for dust control measures in accordance with the endorsed dust management plan.	<p><u>Panel comments</u></p> <p>Adopt Applicant version.</p>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
		under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .		
17	All trucks entering and exiting the land, whether loaded or not, must have the load area tarped.	All trucks entering and exiting the land, whether loaded or not, must have the load area tarped.	All trucks entering and exiting the land, whether loaded or not, must have the load area tarped.	<u>Panel comments</u> No comment. Retain
18	<p>Noise</p> <p>Prior to the commencement of the use and development hereby permitted, a noise management plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. The plan must adopt all relevant recommendations of the Noise Emission Assessment by Watson Moss Growcott Acoustics Pty Ltd at Appendix 6 of the endorsed Work Plan.</p>	<p>Noise</p> <p>Prior to the expansion of the use and development hereby permitted, a revised Noise Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The revised Noise Management Plan must be consistent with any noise management provisions contained in Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p>	<p>Noise</p> <p>Prior to the expansion of the use and development hereby permitted, a revised Noise Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Noise Management Plan must include:</p> <ul style="list-style-type: none"> a) an assessment of the existing noise at the rear of the properties situated at 2 - 12 Stewart Street, Grantville (inclusive); and b) increased measures to protect the amenity in residents of the surrounding residential properties (including Stewart Street properties). <p>When approved the plan will be endorsed and will then form part of the permit. The Noise Management Plan must adopt all relevant recommendations of the Noise Emission assessment by Watson Moss Growcott Acoustics Pty Ltd dated 16 December 2019.</p>	<p><u>Panel comments</u></p> <p>Panel prefers a modified version of Council's condition. The following condition is recommended:</p> <p><u>Recommended wording of condition</u></p> <p>Noise Management Plan</p> <p>Prior to the expansion of the use and development hereby permitted, a revised Noise Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Noise Management Plan must include:</p> <ul style="list-style-type: none"> a) an assessment of the existing noise levels at the rear of the properties situated at 2 - 12 Stewart Street, Grantville (inclusive); b) establish a noise monitoring program to assess noise levels once the expanded use and development has commenced; c) identify noise emission thresholds (having regard to published guidance) and triggers for the consideration of any noise mitigation measures, including triggers for noise mitigation; d) a requirement for reverse beepers to be installed on mobile plant used within the site must be of a type and design that minimises potential offsite noise impacts and which, among other things, adjust relative to the ambient noise level; e) identify any noise mitigation measures and a program to implement such measures if nominated noise thresholds are exceeded. f) monitoring and reporting requirements (as specified in Condition Number 21) <p>Once endorsed the Noise Management Plan will form part of the permit and the expanded use and development must be undertaken in accordance with its requirements.</p> <p>Any Work Plan as approved or varied from time to time under the Mineral Resources (Sustainable Development) Act 1990 must be consistent with the endorsed Noise Management Plan or as amended from time to time.</p>
19	The use and development hereby permitted must at all times comply with:	Not necessary	The use and development hereby permitted must at all times comply with:	<u>Panel comments</u> Not necessary – delete.
19a	Environment Protection Authority 'Noise from Industry in Regional Victoria' ('NIRV' - EPA publication no 1411);		Environment Protection Authority 'Noise from Industry in Regional Victoria' ('NIRV' - EPA publication no 1411);	<u>Panel comments</u> Not necessary – delete.
19b	the endorsed noise management plan, and		the endorsed noise management plan, and	<u>Panel comments</u>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
				Not necessary – delete.
19c	Environment Protection Authority State Environment Protection Policy No N-1		Environment Protection Authority State Environment Protection Policy No N-1	<u>Panel comments</u> Not necessary – delete.
20	Reverse beepers installed on mobile plant used within the site must be of a type and design that minimises potential offsite noise impacts and which, among other things, adjust relative to the ambient noise level. The permit holder must use its best endeavours to ensure that the movement of vehicles around the site minimises the potential for offsite noise impacts.	Reverse beepers installed on mobile plant used within the site must be of a type and design that minimises potential offsite noise impacts and which, among other things, adjust relative to the ambient noise level. The permit holder must use its best endeavours to ensure that the movement of vehicles around the site minimises the potential for offsite noise impacts.	Reverse beepers installed on mobile plant used within the site must be of a type and design that minimises potential offsite noise impacts and which, among other things, adjust relative to the ambient noise level. The permit holder must use its best endeavours to ensure that the movement of vehicles around the site minimises the potential for offsite noise impacts.	<u>Panel comments</u> Retain this condition.
21	At 3 months, 6 months, 12 months and 3 years following the commencement of sand extraction the operator must provide a report prepared by a qualified acoustic consultant measuring compliance with the requirements of condition 19 during the operation of the quarry to the satisfaction of the Responsible Authority. In the event that the testing identifies any non-compliance, the operator must, within three months, obtain and implement any recommendations necessary to achieve compliance to the satisfaction of the Responsible Authority.	At 12 months and 3 years following the commencement of the expanded sand extraction and processing operations, the operator must provide a report prepared by a qualified acoustic consultant measuring compliance with the requirements of condition 18 during the operation of the quarry to the satisfaction of the Responsible Authority. In the event that the testing identifies any non-compliance, the operator must, within three months, obtain and implement any recommendations necessary to achieve compliance to the satisfaction of the Responsible Authority.	At 3 months, 6 months, 12 months and 3 years following the commencement of sand extraction the operator must provide a report prepared by a qualified acoustic consultant measuring compliance with the requirements of condition 19 during the operation of the quarry to the satisfaction of the Responsible Authority. In the event that the testing identifies any non-compliance, the operator must, within three months, obtain and implement any recommendations necessary to achieve compliance to the satisfaction of the Responsible Authority.	<u>Panel comments</u> Agree with applicant proposed condition content. This requirement should be cross referenced in the Noise Management Plan condition (Condition Number 18).
22	Drainage Prior to the commencement of any on-site works, a detailed erosion and sediment control plan for the management of sediment pollution must be prepared and submitted to the Responsible Authority for approval. All plans and subsequent works must be prepared and undertaken in accordance with EPA Publication 275 'Construction Techniques for Sediment Pollution Control' to the satisfaction of the Responsible Authority.	This condition is replaced by the CEMP recommended by Aaron Organ (see below).	Drainage Prior to the commencement of any on-site works, a detailed erosion and sediment control plan for the management of sediment pollution must be prepared and submitted to the Responsible Authority for approval. All plans and subsequent works must be prepared and undertaken in accordance with EPA Publication 275 'Construction Techniques for Sediment Pollution Control' to the satisfaction of the Responsible Authority.	<u>Panel comments</u> Delete. Covered in CEMP condition.
23	All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to minimise soil erosion as appropriate, to the satisfaction of the Responsible Authority.	Soil stabilisation and erosion control must be undertaken in accordance with the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .	All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to minimise soil erosion as appropriate, to the satisfaction of the Responsible Authority.	<u>Panel comments</u> Adopt Applicant version.
24	No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any tributary to the Deep Creek or to the Deep Creek directly. Pollution, sediment or litter traps must be proved as appropriate on site to the satisfaction of the Responsible Authority	Surface water management and water pollution controls must be undertaken in accordance with the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .	No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any tributary to the Deep Creek or to the Deep Creek directly. Pollution, sediment or litter traps must be proved as appropriate on site to the satisfaction of the Responsible Authority	<u>Panel comments</u> Adopt Applicant version.

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
25	Surface water monitoring must be undertaken as recommended in the Drainage and Water Quality Management Report at Appendix 2 of the endorsed Work Plan.	Surface water monitoring must be undertaken in accordance with the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .	Surface water monitoring must be undertaken as recommended in the Drainage and Water Quality Management Report (dated 22 May 2012) at Appendix 2 of the endorsed Work Plan.	<u>Panel comments</u> Adopt Applicant version.
26	Wastewater All wastewater must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval and be to the satisfaction of Council's Environmental Health Department.	Wastewater All wastewater must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval and be to the satisfaction of Council's Environmental Health Department.	Wastewater All wastewater must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval and be to the satisfaction of Council's Environmental Health Department.	<u>Panel comments</u> Unchanged
27	The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away from this area. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.	The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away from this area. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.	The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away from this area. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.	<u>Panel comments</u> Unchanged
28	Within 6 months of the completion of the fixed plan construction stage (and in any event within 3 years of the commencement of development) the permit holder must engage a suitably qualified person to prepare an audit report to satisfaction of the Responsible Authority. The audit report must assess compliance with the landscape and rehabilitation management plan, make recommendations for continual improvement and if it finds any areas of non-compliance, make recommendations to ensure compliance with that plan. The findings of the audit report must be implemented to the satisfaction of the Responsible Authority.	Not necessary given conditions 29 and 30	Within 6 months of the completion of the fixed plan construction stage (and in any event within 3 years of the commencement of development) the permit holder must engage a suitably qualified person to prepare an audit report to satisfaction of the Responsible Authority. The audit report must assess compliance with the landscape and rehabilitation management plan, make recommendations for continual improvement and if it finds any areas of non-compliance, make recommendations to ensure compliance with that plan. The findings of the audit report must be implemented to the satisfaction of the Responsible Authority.	<u>Panel comments</u> No comment.
29	Screening vegetation and landscape planting in accordance with the endorsed plans must be planted and maintained for the operational life of the quarry, to screen activity on the site to the satisfaction of the Responsible Authority.	Landscaping and screening vegetation and landscape planting in accordance with the endorsed Landscape and Vegetation Plan must be planted and maintained for the operational life of the quarry, to screen activity on the site to the satisfaction of the Responsible Authority.	Screening vegetation and landscape planting in accordance with the endorsed plans must be planted and maintained for the operational life of the quarry, to screen activity on the site to the satisfaction of the Responsible Authority.	<u>Panel comments</u> Adopt modified version of Applicant's wording. The following condition is recommended. <u>Recommended wording of condition</u> Landscaping and screening vegetation and landscape planting in accordance with the endorsed Landscape Plan (<u>cross reference condition number</u>) must be planted and maintained for the operational life of the quarry, to screen activity on the site to the satisfaction of the Responsible Authority.
30	Native Vegetation	Native Vegetation	Native Vegetation	<u>Panel comments</u>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
	<p>Screening vegetation, landscaping and revegetated areas (including drainage lines and the vegetation corridor) must be planted and maintained in accordance with the endorsed landscape and revegetation plan for the operational life of the quarry to the satisfaction of the Responsible Authority.</p> <p>Revegetation at the land must be generally in accordance with the plan titled Conservation and Revegetation Sites provided as part of the permit application materials and which identifies five areas for revegetation and protection.</p>	<p>Landscaping and revegetated areas (including drainage lines and the vegetation corridor) must be planted and maintained in accordance with the endorsed Landscape and Vegetation Plan and the plan Conservation and Revegetation Sites Plan endorsed under condition 3.</p> <p>(Delete from here and put into new Biodiversity and Rehabilitation Management Plan condition recommended by Aaron Organ, see below).</p>	<p>Screening vegetation, landscaping and revegetated areas (including drainage lines and the vegetation corridor) must be planted and maintained in accordance with the endorsed landscape and revegetation plan for the operational life of the quarry to the satisfaction of the Responsible Authority.</p> <p>Revegetation at the land must be generally in accordance with the plan titled Conservation and Revegetation Sites Amended Schedule Plan (Revision 15, dated 24 September 2020) provided as part of the permit application materials and which identifies five areas for revegetation and protection.</p> <p>The revegetation must be undertaken so as to provide sufficient vegetation cover of appropriate species to allow for the continuation and maintenance of a vegetation link between the Grantville Natural Reserve and the Gurdies Nature Conservation Reserve through the extraction period to the satisfaction of the Responsible Authority,</p>	<p>This condition is not necessary as native vegetation requirements will be addressed in earlier condition that calls for an Offset Management Plan, Species Protection Management Plan and Biodiversity and Vegetation Management Plan.</p>
<p>A (New)</p>		<p>Prior to the removal of sand product from the coarse sand extraction pit, a survey of the coarse extraction sand pit area must be undertaken by a suitably qualified professional for the Green Striped Greenhood (<i>Pterostylis chlorogramma</i>) and the Cobra Greenhood (<i>Pterostylis grandiflora</i>) identifying the location of any such species on the land and recommending measures to address such species.</p> <p>All such measures must be implemented to the satisfaction of the Responsible Authority.</p>	<p>Prior to the removal of sand product from the coarse sand extraction pit, a survey must be undertaken by a suitably qualified professional of the Green Striped Greenhood (<i>Pterostylis chlorogramma</i>) and the Cobra Greenhood (<i>Pterostylis grandiflora</i>) identifying the location of any such species on the land and recommending measures to address such species.</p> <p>All such measures must be implemented to the satisfaction of the Responsible Authority prior to the removal of sand product from the coarse sand extraction pit.</p>	<p><u>Panel comments</u></p> <p>Agree with requirement in principle. This has been integrated into earlier conditions which require additional surveys and the integration of that work into an Offset Management Plan, Species Protection Management Plan and Biodiversity and Vegetation Management Plan.</p>
<p>31</p>	<p>Prior to the removal of sand product from the land, an agreement under section 173 of the Planning and Environment Act 1987 must be entered into between the owner of the land, the Responsible Authority and the Department of Environment and Primary Industries, which ensures the establishment, protection and maintenance of the native vegetation corridor areas and drainage line (Melbourne Water 'Waterway 3840') delineated in green and numbered 1, 2, 3, 4 and 5 on the plan 'Conservation and Revegetation Sites Plan', as</p>	<p>Prior to the expansion of the extraction activities on the land as detailed in the amendments approved on [date], the existing section 173 Agreement that affects the land must be amended by:</p> <p>a) Removing those areas identified as first party native vegetation offsets on the revised Conservation and Revegetation Sites Plan endorsed under condition 3.</p>	<p>Prior to the expansion of the extraction activities on the land as detailed in the amendments approved on [date], the existing section 173 Agreement that affects the land must be amended by:</p> <p>a) Removing parts of areas 1, 2, 4 and 5 as detailed in the Conservation and Revegetation Sites Amended Schedule Plan (Revision 15, dated 24 September 2020) as being the offset areas for the</p>	<p><u>Panel comments</u></p> <p>This is a matter which must be addressed and resolved before the expansion can proceed. The requirement to secure native vegetation offsets should be addressed as part of the planning permit.</p> <p>The Panel notes that there will need to be separate process to end or amend the existing section 173 agreement to ensure that there is no duplication or conflict with new offsetting or rehabilitation requirements identified through the amended permit.</p>

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	<p>contained in the report entitled 'The Biodiversity and Ecology of Deep and Colbert Creeks, Grantville' prepared by Paul Kelly & Associates and dated March 2013, that is endorsed under condition 3 of this permit. The agreement is to provide that the native vegetation values (existing and future) of such areas shall remain available to be used for the purposes of native vegetation offsets to the benefit of the subject land or other land where native vegetation losses are required to be offset. The agreement must ensure the ongoing protection and maintenance of the vegetated areas in accordance with the staging specified in the plan save that area 4 will commence within 10 years after the commencement of the use in accordance with the Conservation and Revegetation Plan endorsed under condition 3, to the satisfaction of the Responsible Authority.</p> <p>The agreement must be registered on title.</p> <p>All costs associated with the preparation of the agreement shall be borne by the developer landowner. All costs incurred by the Responsible Authority associated with the preparation, negotiation, execution and recording of the agreement and any amendment to the agreement must be fully reimbursed prior to the registration of the agreement by Council.</p>	<p>b) Providing for the establishment, protection and maintenance of the native vegetation corridor generally in accordance with Condition 3 of this permit for area 3 and the balance of areas 1 and 2 not being the first party native vegetation offset areas to be protected and maintained under an agreement made pursuant to section 69 of the <i>Conservation, Forests and Land Act 1987</i>, as detailed on the Revised Conservation and Revegetation Sites Plan endorsed under condition 3.</p> <p>c) Requiring that the operator every 12 months for six years and thereafter every two years following the commencement of sand extraction approved by this amended permit, unless otherwise agreed in writing by the Responsible Authority, provide a report prepared by a qualified environmental or arboriculture consultant measuring compliance with the revegetation requirements of condition 30 during the operation of the quarry to the satisfaction of the Responsible Authority. In the event that the testing and assessment identifies any non-compliance, the operator must, within three months, obtain and implement any recommendations necessary to achieve compliance to the satisfaction of the Responsible Authority.</p> <p>d) Requiring the staged rehabilitation of area 5 commences within six (6) months of cessation of coarse sand extraction from each stage within area 5, in accordance with the Revised Conservation and Revegetation Sites Plan endorsed under condition 3 to the satisfaction of the Responsible Authority.</p> <p>The agreement must be registered on title.</p> <p>All costs associated with the preparation of the agreement shall be borne by the developer landowner. All costs incurred by the Responsible Authority associated with the preparation, negotiation, execution and recording of the agreement and any amendment to the agreement must be fully reimbursed prior to the registration of the agreement by Council.</p>	<p>coarse sand extraction area, and being identified as being covered by a Section 69 Agreement pursuant to Conservation and Forest and Land Act 1987 with the Secretary of DELWP.</p> <p>b) Providing for the establishment, protection and maintenance of the native vegetation corridor generally in accordance with Condition 3 of this permit for area 3 and the balance of areas 1 and 2 not being the offset areas as detailed on the Conservation and Revegetation Sites Amended Schedule Plan (Revision 15, dated 24 September 2020).</p> <p>c) Requiring that the operator every 12 months following the commencement of sand extraction approved by this amended permit, unless otherwise agreed in writing by the Responsible Authority, the operator must provide a report prepared by a qualified environmental or arboriculture consultant measuring compliance with the requirements of condition 30 during the operation of the quarry to the satisfaction of the Responsible Authority. In the event that the testing and assessment identifies any non-compliance, the operator must, within three months, obtain and implement any recommendations necessary to achieve compliance to the satisfaction of the Responsible Authority.</p> <p>d) Requiring the staged rehabilitation of area 5 commences within six (6) months of cessation of coarse sand extraction from each stage within area 5, in accordance with the Conservation and Revegetation Plan endorsed under condition 3 and the Rehabilitation Plan endorsed pursuant to condition 32, to the satisfaction of the Responsible Authority.</p> <p>The agreement must be registered on title.</p> <p>All costs associated with the preparation of the agreement shall be borne by the developer</p>	<p>It is recommended that the new condition be inserted.</p> <p><u>Recommended wording of condition</u></p> <p>Legal agreements to secure vegetation protections</p> <p>Prior to the expansion of the extraction activities on the land as detailed in the amendments approved on [date], the owner must enter into a legally binding agreement (such as a section 173 agreement or section 69 agreement under the <i>Conservation, Forests and Land Act 1987</i>) to give effect to the following:</p> <p>a) Secure the native vegetation offsets identified in the Offset Management Plan.</p> <p>b) Secure the ongoing revegetation obligations in the Biodiversity and Vegetation Management Plan and Species Protection Plan.</p> <p>That agreement must be registered on title.</p> <p>All costs associated with the preparation of the agreement shall be borne by the developer landowner. All costs incurred by the Responsible Authority associated with the preparation, negotiation, execution and recording of the agreement and any amendment to the agreement must be fully reimbursed prior to the registration of the agreement by Council.</p>

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			landowner. All costs incurred by the Responsible Authority associated with the preparation, negotiation, execution and recording of the agreement and any amendment to the agreement must be fully reimbursed prior to the registration of the agreement by Council.	
B (New formerly part of condition 31)		Prior to the expansion of the extraction area an agreement under Section 69 of the Conservation Forests and Lands Act 1987 must be entered into with DELWP and provide for the establishment, protection and conservation of the areas identified as native vegetation offsets on the Revised Conservation and Revegetation Sites Plan endorsed under condition 3.	Prior to the expansion of the extraction area an agreement under Section 69 of the Conservation Forests and Lands Act 1987 must be entered into with DELWP and provide for the establishment, protection and conservation of the area marked 1 and 4 on the Conservation and Revegetation Site Plan endorsed under this permit.	<p><u>Panel comments</u></p> <p>Replaced with condition above and subject to separate statutory process to end or amend existing section 173 agreement.</p>
C (New)		<p>Rehabilitation</p> <p>The use and subject land must be rehabilitated in accordance with the rehabilitation and site closure plan contained in the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p> <p>Two years prior to the conclusion of the final stage of extraction in the coarse sand extraction pit a final landform and proposed land use plan must be submitted to the Responsible Authority.</p> <p>Once approved, this plan will form part of the permit.</p>	<p>Rehabilitation</p> <p>Prior to the commencement of works a staged enforceable rehabilitation plan be submitted to the Responsible Authority for approval. The plan must set out details of staged rehabilitation of the coarse sand pit and include a provision that the works on site will cease if the staged rehabilitation program is not fully implemented.</p> <p>Once approved, this plan will form part of the permit.</p>	<p><u>Panel comments</u></p> <p>Panel prefers a modified version of the Applicant's condition. The following condition is recommended:</p> <p><u>Recommended wording of condition</u></p> <p>Rehabilitation and Site Closure</p> <p>The use and subject land must be rehabilitated in accordance with the Rehabilitation and Site Closure Plan contained in the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p> <p>Ensure that the Rehabilitation and Site Closure Plan is generally consistent with other endorsed plans, including:</p> <ul style="list-style-type: none"> • Biodiversity and Vegetation Management Plan • Landscape Plan. <p>Two years prior to the conclusion of the final stage of extraction in the coarse sand extraction pit a final landform and proposed land use plan must be submitted to the Responsible Authority.</p> <p>Once approved, this plan will form part of the permit.</p>
32	<p>Car Parking</p> <p>Prior to the commencement of any onsite works, detailed design plans relating to onsite car parking facilities must be submitted for approval to the satisfaction of the Responsible Authority. The plans</p>	Not necessary.	<p>Car Parking</p> <p>Prior to the commencement of any onsite works, detailed design plans relating to onsite car parking facilities must be submitted for approval to the satisfaction of the Responsible Authority. The plans</p>	<p><u>Panel comments</u></p> <p>Adopt Council version including all relevant sub-conditions.</p>

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	must address the following:		must address the following:	
32a	car parking layout;		car parking layout;	
32b	provision of adequate car spaces;		provision of adequate car spaces;	
32c	pavement type;		pavement type;	
32d	site drainage; and		site drainage; and	
32e	car space delineation.		car space delineation.	
33	Prior to the commencement of the use hereby permitted, car park facilities must be constructed by the developer in accordance with the approved plans.	Not necessary	Prior to the commencement of the use hereby permitted, car park facilities must be constructed by the developer in accordance with the approved plans.	<u>Panel comments</u> No comment.
34	Parking areas must be provided for employees' cars and all vehicles used on the land in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.	Not necessary	Parking areas must be provided for employees' cars and all vehicles used on the land in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.	<u>Panel comments</u> No comment.
35	<p>VicRoads</p> <p>The proposed access must generally be in accordance with the 'Traffix Design' Functional Layout' Plan, drawing No. G 13716A-04 (dated 17 July 2013).</p> <p>Before the commercial operation for the development approved by this permit, the following road works on the Bass Highway must be completed at no cost to and to the satisfaction of VicRoads:</p> <ul style="list-style-type: none"> • The existing bus stop must be relocated to the departure side of the access. • Truck access from the existing "U" turn to the site access will not be permitted without the further written consent of Vic Roads and subject to the provision of a revised functional layout plan to the satisfaction of Vic Roads. • Prior to works commencing on the site, a revised functional layout plan must be approved by VicRoads. • Before the commercial operation for the development approved by this permit, the following road works on the Bass Highway must be completed at no cost to and to the satisfaction of Vic Roads: <ul style="list-style-type: none"> ○ left turn deceleration lane ○ left-in left-out treatment ○ signing and line-marking ○ relocate the bus stop and provide 	<p>Department of Transport</p> <p>The proposed access must generally be in accordance with the Traffix Group, Functional Layout Plan (Drawing Number 23730-01-01 Rev A dated 9 February 2021). Prior to the operation of the quarry extension hereby approved, traffic signals are to be installed at the access from the Bass Highway to the satisfaction of the Head, Transport Victoria Prior to the increased traffic operation of the quarry, detailed functional layout plans in accordance with Eastern Regions Developer Funded checklists must be submitted and approved by the Head, Transport for Victoria.</p> <ul style="list-style-type: none"> a) Prior to works beginning in the road reserve, detailed plans in accordance with Eastern Regions Developer funded checklists must be submitted and approved by the Head, Transport for Victoria. b) Prior to the designs beginning, a pre-design meeting is required to be conducted with the Department of Transport, including the applicant's consultant that must attend. c) All costs associated with the design and installation of the traffic signals (and associated road infrastructure upgrades) is to be borne by the applicant. d) Costs associated with the traffic signals ten year maintenance agreement is to be 	<p>Department of Transport</p> <p>The proposed access must generally be in accordance with the Traffix Group, Functional Layout Plan (Drawing Number 23730-01-01 Rev A dated 9 February 2021)'. Prior to the operation of the quarry extension hereby approved, traffic signals are to be installed at the access from the Bass Highway to the satisfaction of the Head, Transport Victoria Prior to the increased traffic operation of the quarry, detailed functional layout plans in accordance with Eastern Regions Developer Funded checklists must be submitted and approved by the Head, Transport for Victoria.</p> <ul style="list-style-type: none"> a) Prior to works beginning in the road reserve, detailed plans in accordance with Eastern Regions Developer funded checklists must be submitted and approved by the Head, Transport for Victoria. b) Prior to the designs beginning, a pre-design meeting is required to be conducted with the Department of Transport, including the applicant's consultant that must attend. c) All costs associated with the design and installation of the traffic signals (and associated road infrastructure upgrades) is to be borne by the applicant. d) Costs associated with the traffic signals ten year maintenance agreement is to be 	<p><u>Panel comments</u></p> <p>Adopt revised conditions provided by Department of Transport and renumbered condition and updated to reflect Mr Turnbull's evidence.</p> <p>The following condition is recommended.</p> <p><u>Recommended wording of condition</u></p> <p>The proposed access must generally be in accordance with the Traffix Group, Functional Layout Plan (Drawing Number 23730-01-01 Rev A dated 9 February 2021). Prior to the operation of the quarry extension hereby approved, traffic signals are to be installed at the access from the Bass Highway to the satisfaction of the Head, Transport Victoria Prior to the increased traffic operation of the quarry, detailed functional layout plans in accordance with Eastern Regions Developer Funded checklists must be submitted and approved by the Head, Transport for Victoria.</p> <ul style="list-style-type: none"> a) Prior to works beginning in the road reserve, detailed plans in accordance with Eastern Regions Developer funded checklists must be submitted and approved by the Head, Transport for Victoria. b) Prior to the designs beginning, a pre-design meeting is required to be conducted with the Department of Transport, including the applicant's consultant that must attend. c) All costs associated with the design and installation of the traffic signals (and associated road infrastructure upgrades) is to be borne by the applicant. d) Costs associated with the traffic signals ten year maintenance agreement is to be borne by the applicant. e) Provide additional roadway lighting to V3 standard as part of the

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
	pathway.	<p>borne by the applicant.</p> <p>e) Provide additional roadway lighting to V3 standard as part of the intersection upgrades.</p> <p>f) Provide duplicated advanced warning signals (W3-V101 Signals Ahead) on the southbound carriageway.</p> <p>g) Provide additional signage 'avoid using engine brakes' be installed on the Bass Highway (northbound and southbound carriageways) to the satisfaction of the Head, Transport for Victoria.</p> <p>h) Provide an acoustic report prepared by a suitably qualified acoustic engineer demonstrating L10 (18 hour) sound contours for adjacent land uses prior to the installation of the traffic signals.</p> <p>(The presence of this condition means that there is no need to impose a separate condition for further testing at the rear of properties on the west side of Bass Highway).</p> <p>i) Complete additional acoustic testing which is to be conducted 6 months after the installation of the traffic signals and a further test once the quarry is at full operational level. If the results of any testing exceed the Department of Transport's intervention levels, mitigation measures are required to be undertaken by the applicant, to the satisfaction and approval of the Head, Transport for Victoria. The measures are to be implemented at no cost to the Department of Transport.</p>	<p>borne by the applicant.</p> <p>e) Provide additional roadway lighting to V3 standard as part of the intersection upgrades.</p> <p>f) Provide duplicated advanced warning signals (W3-V101 Signals Ahead) on the southbound carriageway.</p> <p>g) Provide additional signage 'avoid using engine brakes' be installed on the Bass Highway (northbound and southbound carriageways) to the satisfaction of the Head, Transport for Victoria.</p> <p>h) Provide an acoustic report prepared by a suitably qualified acoustic engineer demonstrating L10 (18 hour) sound contours for adjacent land uses prior to the installation of the traffic signals.</p> <p>i) Complete additional acoustic testing which is to be conducted 6 months after the installation of the traffic signals and a further test once the quarry is at full operational level. If the results of any testing exceed the Department of Transport's intervention levels, mitigation measures are required to be undertaken by the applicant, to the satisfaction and approval of the Head, Transport for Victoria. The measures are to be implemented at no cost to the Department of Transport.</p>	<p>intersection upgrades.</p> <p>f) Provide duplicated advanced warning signals (W3-V101 Signals Ahead) on the southbound carriageway.</p> <p>g) Provide additional signage 'avoid using engine brakes' be installed on the Bass Highway (northbound and southbound carriageways) to the satisfaction of the Head, Transport for Victoria.</p> <p>h) Provide an acoustic report prepared by a suitably qualified acoustic engineer demonstrating L10 (18 hour) sound contours for adjacent land uses prior to the installation of the traffic signals.</p> <p>Complete additional acoustic testing which is to be conducted 6 months after the installation of the traffic signals and a further test once the quarry is at full operational level. If the results of any testing exceed the Department of Transport's intervention levels, mitigation measures are required to be undertaken by the applicant, to the satisfaction and approval of the Head, Transport for Victoria. The measures are to be implemented at no cost to the Department of Transport.</p>
36	Road safety audits for the road works must be provided to VicRoads at functional layout, detail design and post opening.	Road safety audits for the road works must be provided to VicRoads at functional layout, detail design and post opening.	Road safety audits for the road works must be provided to VicRoads at functional layout, detail design and post opening.	<p><u>Panel comments</u></p> <p>No comment.</p>
37	Prior to commencement of the development or use hereby approved a truck wheel-wash must be installed at the property boundary to enable all mud and other tyre borne debris from vehicles to be removed prior to exiting the land.	Prior to commencement of the development or use hereby approved a truck wheel-wash must be installed at the property boundary to enable all mud and other tyre borne debris from vehicles to be removed prior to exiting the land.	Prior to commencement of the development or use hereby approved a truck wheel-wash must be installed at the property boundary to enable all mud and other tyre borne debris from vehicles to be removed prior to exiting the land.	<p><u>Panel comments</u></p> <p>No comment.</p>
38	No sand washing can occur on site at any time	Deleted	Deleted	<p><u>Panel comments</u></p>

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				Delete.
39	Retail sales of sand or sand products to the general public is not permitted	Retail sales of sand or sand products to the general public is not permitted	Retail sales of sand or sand products to the general public is not permitted	Panel comments No comment.
40	Rehabilitation works must be completed within 2 years of the cessation of sand extraction.	Rehabilitation works must be completed within 2 years of the cessation of sand extraction.	Rehabilitation works must be completed within 2 years of the cessation of sand extraction.	Panel comments No comment.
41	<p>The operator must advise the Responsible Authority 'in writing upon the quantity of sand transported from the land exceeding 500,000 tonnes in a 12 month period. Within 28 days of notice being given to the Responsible Authority the operator must provide an audit of compliance with the conditions of this permit, carried out by a suitably qualified and experienced independent consultant or consultants (including but not limited to surface water, acoustic, dust and traffic issues), to the satisfaction of the Responsible Authority.</p> <p>The audit must make recommendations for any further measures required to address any non-compliance with the permit or which are otherwise required to protect the amenity of the area. If the quantity of sand being transported from the land exceeds 500,000 tonnes for two or more consecutive 12 month periods, further audit reports must be provided at periods of no greater than 12 months apart for as long as the volume exceeds 500,000 tonnes.</p>	<p>The operator must advise the Responsible Authority 'in writing upon the quantity of sand transported from the land exceeding 800,000 tonnes in a 12 month period. Within 28 days of notice being given to the Responsible Authority the operator must provide an audit of compliance with the conditions of this permit, carried out by a suitably qualified and experienced independent consultant or consultants (including but not limited to surface water, acoustic, dust and traffic issues), to the satisfaction of the Responsible Authority.</p> <p>The audit must make recommendations for any further measures required to address any non-compliance with the permit or which are otherwise required to protect the amenity of the area. If the quantity of sand being transported from the land exceeds 800,000 tonnes for two or more consecutive 12 month periods, further audit reports must be provided at periods of no greater than 12 months apart for as long as the volume exceeds 800,000 tonnes.</p>	<p>The operator must advise the Responsible Authority 'in writing upon the quantity of sand transported from the land exceeding 750,000 tonnes in a 12 month period. Within 28 days of notice being given to the Responsible Authority the operator must provide an audit of compliance with the conditions of this permit, carried out by a suitably qualified and experienced independent consultant or consultants (including but not limited to surface water, acoustic, dust and traffic issues), to the satisfaction of the Responsible Authority.</p> <p>The audit must make recommendations for any further measures required to address any non-compliance with the permit or which are otherwise required to protect the amenity of the area. If the quantity of sand being transported from the land exceeds 750,000 tonnes for two or more consecutive 12 month periods, further audit reports must be provided at periods of no greater than 12 months apart for as long as the volume exceeds 750,000 tonnes.</p>	Panel comments Adopt Applicant version.
42	Trucks must not queue in the vicinity of the entrance to the land prior to the commencement of operations on any particular day.	Trucks must not queue in the vicinity of the entrance to the land prior to the commencement of operations on any particular day.	Trucks must not queue in the vicinity of the entrance to the land prior to the commencement of operations on any particular day.	Panel comments No comment.
43	The number of truck movements in respect of the land must not exceed 120 per day without the written consent of the Responsible Authority	The number of truck movements in respect of the land must not exceed 240 per day without the written consent of the Responsible Authority	The number of truck movements in respect of the land must not exceed 240 per day without the written consent of the Responsible Authority	Panel comments No comment.
44	Prior to the commencement of the development a groundwater management plan must be submitted to and approved by Southern Rural Water and the Responsible Authority. The ground water management plan must make provision of the ongoing monitoring of groundwater quality, flow and level for the life of the operation of the quarry.	Groundwater management and monitoring must be undertaken in accordance with the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .	Prior to the commencement of the development a groundwater management plan must be submitted to and approved by Southern Rural Water and the Responsible Authority. The ground water management plan must make provision of the ongoing monitoring of groundwater quality, flow and level for the life of the operation of the quarry.	Panel comments Adopt Applicant version.
45	The base of the extraction pit must not be excavated below RL10 without the further written consent of Southern Rural Water and the Responsible Authority.	Delete – a restriction to no excavation to below RL 75 is a nonsense and reflects an unfortunate typographical error in the planning application. In any event, the quarry depth is shown on the Site	The base of the extraction pit must not be excavated below RL75 without the further written consent of Southern Rural Water and the Responsible Authority.	Panel comments The following condition is recommended

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		Layout Plan which is to be endorsed under condition 1(a) and will be controlled through this endorsed plan.		<p><u>Recommended wording of condition</u></p> <p>The base of the extraction pit must not be excavated any further than what is allowed under the Work Plan as approved and varied from time to time under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p> <p>Further consultation may be required with Southern Rural Water to confirm its position.</p>
46	Southern Rural Water and the Responsible Authority must not consent to the excavation below RL10 unless they are satisfied that excavation will not occur below the upper level of groundwater (including likely variations to groundwater level).	Deleted	Deleted	<p><u>Panel comments</u></p> <p>Not required if the above condition is resolved.</p>
47	<p>Expiry</p> <p>This permit will expire if the use is not started within five years of the date of this permit. In accordance with Section 69 of the Planning and Environment Act 1987 an application may be submitted to the Responsible Authority for an extension of this period.</p>	Deleted	Deleted	<p><u>Panel comments</u></p> <p>No comment.</p>
48	This permit will expire of the Work Authority for the use issued under the provisions of the Mineral Resources (Sustainable Development) Act 1990 is cancelled in accordance with Section 77O of that Act.	Not necessary but refer to the DELWP wording.	This permit will expire of the Work Authority for the use issued under the provisions of the Mineral Resources (Sustainable Development) Act 1990 is cancelled in accordance with Section 77O of that Act.	<p><u>Panel comments</u></p> <p>Renumbered condition. Panel agrees to with condition suggested by DELWP.</p> <p><u>Recommended wording of condition</u></p> <p>This permit will expire if the Work Authorisation is cancelled under Section 77O of the <i>Mineral Resources (Sustainable Development Act 1990</i>.</p>
D (New)		<p>Biodiversity and Rehabilitation Management Plan</p> <p>Prior to the expansion of the use and development hereby permitted, a Biodiversity and Rehabilitation Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Biodiversity and Rehabilitation Management Plan must address:</p> <p>(a) objectives, performance targets, timeframes and responsibilities for the successful management and reinstatement of biodiversity across areas within the Work Authority identified to be established, protected and maintained for wildlife corridors, conservation and revegetation purposes on the Revised Conservation and Revegetation Sites Plan endorsed under</p>		<p><u>Panel comments</u></p> <p>Amended version of this condition inserted earlier in the permit.</p>

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		<p>condition 3 (excluding First Party Offset Areas).</p> <p>(b) protection, management, restoration and reporting requirements across the three distinct areas: i.e. 1) the central (upper eastern levels) fine-medium sand extraction pit area, 2) the north western frontage of the coarse sand extraction pit area and 3) revegetation areas (paddocks with scattered trees) to the north east and east of the coarse sand extraction pit area that will be extensively planted with a diversity of site indigenous flora species.</p> <p>(c) A Weed Management Plan, prepared in accordance with the requirements of the <i>Catchment and Land Protection Act 1994</i> and including a pre-clearance weed survey of the areas to be undertaken prior to any construction activities (native vegetation removal and coarse sand extraction) to record the location of all noxious and environmental weeds and measures for ongoing control of noxious and environmental weeds (woody and herbaceous) in the coarse sand extraction pit and wildlife corridors, conservation and revegetation purposes on the revised Conservation and Revegetation Sites Plan endorsed under condition 3 (excluding First Party Offset Areas).</p> <p>Once endorsed the Biodiversity and Rehabilitation Management Plan will form part of the permit and the expanded use and development must be undertaken in accordance with its requirements.</p>		
<p>E (New)</p>		<p>Species Protection Management Plan</p> <p>Prior to the removal of any native vegetation in the coarse sand extraction pit area hereby permitted, a Species Protection Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Species Protection Management Plan must address:</p> <p>(a) a survey of the coarse sand extraction pit area must be undertaken by a suitably qualified professional for the Green Striped Greenhood (<i>Pterostylis chlorogramma</i>) and the Cobra Greenhood (<i>Pterostylis grandiflora</i>) identifying the location of any</p>		<p><u>Panel comments</u></p> <p>Amended version of this condition inserted earlier in the permit.</p>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
		<p>such species on the land and recommending measures to address such species.</p> <p>(b) measures to (where practical) salvage native plants and animals and to minimise displacement and injury to native plants and animals in areas affected by native vegetation clearance works within the coarse sand extraction pit area during all phases of construction and extraction operations.</p> <p>(c) a vegetation clearance strategy for the area in which native vegetation is permitted to be removed, that sets out actions required prior to and during habitat clearing.</p> <p>Once endorsed the Species Protection Management Plan will form part of the permit and the expanded use and development must be undertaken in accordance with its requirements.</p>		
<p>F (New)</p>		<p>Weed Management Plan</p> <p>Forming part of the Biodiversity and Rehabilitation Management Plan above.</p>		<p><u>Panel comments</u></p> <p>A specific condition is not required if this is integrated in the Biodiversity and Rehabilitation Management Plan.</p>
<p>G (New)</p>		<p>Construction Environmental Management Plan</p> <p>Prior to the expansion of the use and development hereby permitted, a Construction Environmental Management Plan must be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Construction Environmental Management Plan must address:</p> <p>(d) Species/vegetation conservation strategies, daily monitoring, site specific rehabilitation plans, weed and pathogen management measures, for areas affected during construction of the expanded sand extraction operations.</p> <p>(e) Management and monitoring measures that are to be undertaken during the construction of the expanded sand extraction operations to minimise impacts to the environment.</p> <p>(f) An erosion and sediment control plan for the management of sediment pollution in accordance with EPA Publication 275 'Construction Techniques for Sediment Pollution Control' to the satisfaction of the Responsible Authority.</p>		<p><u>Panel comments</u></p> <p>Amended version of this condition inserted earlier in the permit.</p>

Condition number / Condition reference	Planning Permit 120388 Conditions	Applicant Proposed Without Prejudice Conditions as at 1 April 2021	Council Proposed Without Prejudice Conditions as at 1 April 2021	Panel comments and recommendations
		Once endorsed the Construction Environmental Management Plan will form part of the permit and the expanded use and development must be undertaken in accordance with its requirements.		