

Delegate Report – Planning Scheme Assessment



Planning Application No. P214-22

Responsible Officer: Nicole Embling, Senior Coordinator Planning

Conflict of Interest

After reading the definitions of a general or material conflict of interest as defined by the *Local Government Act 2020*, do you have a conflict of interest?

Yes ☐ No ☒

Application Details	
APPLICANT	Regional Planning Services
PROPOSAL	Use and development of land for Extractive Industry [Stone Extraction]
Property Details	
PROPERTY ADDRESS	138 Hearn's Road, Mansfield
LAND DESCRIPTION	Portion 103 Parish of Beolite TP277128M, Crown Allotment 64 TP264856 and Crown Allotment 66 TP283083X

Mansfield Planning Scheme and Context Assessment

Mansfield Planning Scheme seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the *Planning and Environment Act 1987*) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

Municipal Planning Strategy (MPS)

Clause 02.03-1 – Settlement

The settlement pattern in the Shire is characterised by Mansfield Township as the major urban centre, with a number of surrounding smaller settlements, significant areas for rural living and a number of isolated 'legacy' settlements principally located around the shores of Lake Eildon. The 4 major valleys: Upper Delatite, Upper Goulburn, Howqua and Jamieson provide a distinctive and valued landscape setting for all settlements.

Officer Response: The settlement pattern identified in the Mansfield Planning Scheme speaks directly to the importance of the Delatite Valley as a distinctive and valued landscape setting for all settlements.

Clause 02.03-2 – Environmental and Landscape Values (Landscapes)

The scenic value of the mountains, foothills, valleys and cleared grazing country is characteristic of the municipality and of intrinsic importance to its landscape.

Rural areas are acknowledged as one of the Shire's and the region's greatest assets. Significant for rural production as well as from a natural landscape perspective promoting tourism and attracting visitors to the Shire, many of the rural valleys are recognised as having significant landscape qualities unique to the State and worthy of protection.

Significant landscape and natural features include Mounts Buller, Stirling, Terrible and the Great Dividing Range, and parts of the Eildon and Alpine National Parks. Mount Buller and Mount Stirling are in the Alpine National Park.

Development along ridgelines or highly visible slopes can impact the landscape character of the area. Approaches to the mountains also need to be protected for their significance and high visual amenity, particularly the state significant Mount Buller and Mount Stirling alpine vista.

Council's strategic directions for environmental and landscapes values are to:

- Protect areas of remnant vegetation for their environmental, habitat and scenic values, including roadside vegetation, riparian environments, scattered trees and native grasslands.*
- Protect the landscape character of the Shire and significant landscape features including large old trees, visually significant ridges and view corridors.*
- Protect the environmental, landscape and visual significance of rural areas, mountain and environmental features and alpine approach areas.*

Officer response:

Three of the four proposed extractive work areas are located on Portion 103 which is identified as being within the significant landscape of the Alpine Approach. An assessment of the proposal has found that inadequate supporting information has been provided to demonstrate that the location of work areas coupled with the appearance and operation of works will not impact the scenic value of the mountains, foothills, valleys and cleared grazing country which is characteristic of the municipality and of intrinsic importance to this landscape. It is considered that there is no overriding policy support for the proposal, particularly where it cannot be satisfied, on the material provided, that the noise, dust, and extractive undertakings will not result in unreasonable impacts on the neighbouring properties, surrounding residents and broader Delatite Valley. The impact of noise is has not been quantified or technically measured/assessed. While the Farming Zone does not grant amenity rights it does not warrant that the amenity impacts are not properly considered, particularly for a use that proposed prolonged

work hours and practices that would generate noise (excavators/ large landscape rocks dropping into metal haulage trucks).

Clause 02.03-4 – Natural Resource Management (Agriculture)

Rural land is under increasing pressure for residential use and development not associated with the rural use of the land. Productive agricultural land must be maintained to remain agriculturally viable and ensure the ongoing ability to farm is protected. To do so, it is important that only marginal rural land in areas with a minimal visual impact be developed for small scale rural or rural living style development.

Maintaining large rural allotments in the rural zones plays a vital role in maintaining agriculture and rural amenity. A legacy from past decisions is the large number of ‘undersized’ lots created in rural areas for the purpose of rural residential living without the appropriate zoning changes to reflect that purpose. As a result, landowners have an expectation that those lots can be developed for dwellings. A balance needs to be struck between this and the need to protect agricultural land for agricultural use.

Council’s strategic directions for the management of agricultural land are to:

- Protect productive agricultural land from land fragmentation and incompatible use and development.*
- Protecting the on-going viability of agricultural land for agricultural purposes particularly from amenity conflicts arising from dwellings.*
- Support diversifying the agricultural base to include the development of viticulture, horticulture, and more intensified agricultural pursuits.*

Officer response:

The subject land is in an immediate area of existing Farming Zone which is predominantly being used for livestock (sheep and cattle grazing), pastures and viticulture. There are some larger pastoral farms with combined landholdings in the surrounding vicinity. The applicants have indicated that the proposed stone extraction on the land has been on the basis of pasture improvement and safety. The overall 4.37ha combined work area is considered a proportionally small percentage of the overall size of the parcels to pasture improve. No geological assessment of the yield of the works areas has been provided. No quantified agricultural assessment of the current pastoral activities and scientific supporting information has been provided to quantify or further elaborate on how or what percentage of benefit the extractive areas will provide to improving the existing pastures/ paddocks.

Submissions objecting to the proposal from local farmers, with similar mudstone seams, indicate that grazing animals can successfully coexist with rocks in situ. The applicant claimed that the mudstone prevents use of these areas for grazing. The submitters contradict this assertion and claim that stock are attracted to the pastures growing in symbiosis with the sedimentary rock. Suggesting they often rest there because of the extra warmth.

The rehabilitation and restoration process proposed for the four-extraction area appears to involve using the existing topsoil. In the absence of the rocks, there is concern that this may

result in erosion and depressions where the rock bulk has been removed. It will be exacerbated in drought and extreme weather conditions.

It cannot be satisfied that the proposal offers a low probability or cause for any land use degradation for future of agricultural activities.

Clause 02.03-4 – Natural Resource Management (Water and Declared Special Water Supply Catchments)

Council's strategic directions for catchment planning and management are to:

- *Protect the environmental significance and visual amenity of local water sources and Special Water Supply Catchments.*
- *Avoid development in catchments that is detrimental to water quality.*
- *Minimise the cumulative impact of onsite wastewater treatment systems on the water quality of Declared Special Water Supply Catchments.*

Officer response:

The proposed work areas are located within 100 m of several existing natural drainage lines but are more than minimum setbacks (20 m) required for the protection of water quality. The application was referred to Goulburn Murray Water, who provided a written conditional consent. Supporting information with the application provides minimal assessment of the drainage impacts on the site or beyond.

The application was supported by a Land Management Plan and Operations Plan which address how the applicant would prevent impacts from exposed work areas. This anticipates the use of straw bales for erosion and sediment control as well as revegetation and plantings. The assessment does not provide any further Hydrology assessment or Stormwater Management measures or anticipated volumes for assurance that these measures will ensure that the work areas will operate without detriment to the catchment's water quality. The steep topography coupled with the potential for wind exposure may make the extractive work areas at risk of erosion, this has not been addressed by the applicant.

Clause 02.03-7 – Economic Development (Tourism)

With the significant visual, cultural and environmental value of many areas in the Shire, tourism is a key local economic driver, particularly around nature-based, food and wine, (on- and off-road) bicycle tourism. Popular tourist destinations in and around Mansfield include:

- *Mount Buller, one of Victoria's most popular ski resorts.*
- *Mount Stirling, a very popular cross country skiing and bushwalking area.*
- *Lake Eildon, Lake Nillahcootie and local rivers, for water-based activities such as house boating, fishing and water skiing.*

Other key nature-based tourism infrastructure and recreational facilities include the Great Victorian Rail Trail (Australia's longest dedicated rail trail) and the Epic Mountain Bike trail on Mount Buller.

The proximity of Lake Eildon to Melbourne has also made its environs popular for the establishment of ‘weekenders’ and holiday homes, similarly to other local townships providing both close access to Melbourne, Mansfield infrastructure and services and nature.

The increasing number of visitors and added pressure to provide entertainment and recreation facilities that help reinforce Mansfield’s competitive advantage in the tourism sector can negatively impact the built and natural environment and landscape character of the area.

Council’s strategic directions for economic development are to:

- *Diversify the economic base, particularly to reinforce the role of the Shire as a year-round tourism destination.*
- *Provide sufficient retail/commercial and industrial land to meet demand.*
- *Support commercial and retail development that complements anticipated urban growth and infrastructure improvements.*
- *Support viable industrial business opportunities.*
- *Support environmentally sustainable industries as alternatives to the traditional forms of industry.*
- *Support the continued growth of the agricultural sector.*
- *Support traditional and emerging forms of agriculture.*
- *Attract high quality tourism development that is compatible with the environmental attributes and character of the area.*
- *Support Mount Buller as Victoria’s premier snow skiing destination.*
- *Minimise the negative impact that tourism can have on the built and natural environment.*

Officer response:

From the information provided and multiple site inspections to the property, it is considered that at least three of the proposed work areas would be visually elevated on the subject site. The site adjoins one of seven recommended gravel cycle routes that Mansfield Shire/ Tourism NE are proposing as an initiative which aims to create safe, enjoyable, gravel road cycling, ‘Gravel Cycle Project’. The proposed stone extraction site may negatively interface with this tourism route.

The Delatite Winery is another tourism location directly adjacent the subject site. Very minimal supporting information confirms what operational measures can be used to ensure the stone operation extractive areas avoid impact to existing sites operating for tourism and offering key tourism appeal.

This current application fails to fully acknowledge the tourism value of the visual landscape in which the subject site is located. The applicants contend that only one limited and distant view of the site from Mt Buller Road will allow views of the extraction work areas.

The Mansfield Shire strategic directions for economic development include to attract high quality tourism development that are compatible with the environmental attributes and character of the area. There is insufficient supporting information to confirm that the proposed work areas will not have inappropriate landscape prominence. The extraction area plans show works within elevated areas of the subject site. No dimensional landscape assessment or renderings of the proposed work areas confirm that these areas will not have detrimental impact to the broader significant visual landscape particularly from additional public view points (such as the Buller/ Stirling views at the intersection of Stoney and Pollards Road).

Planning Policy Framework (PPF)

Clause 12.05-2L – Significant Landscapes, Ridgelines and Alpine Approaches

Objective

To protect the environmental, landscape and visual significance of landscapes, alpine approaches and significant ridgelines, particularly in areas of high visual amenity.

Strategies

Minimise the environmental and visual impact of development including buildings, sheds, driveways and associated earthworks.

Site and design development to be responsive to the topography of the land and unobtrusive in the landscape.

Retain existing mature scattered native and exotic trees and encourage the use of substantial landscaping to further complement development and reduce the visual impact of buildings on the landscape.

Avoid development on visually exposed ridgelines, unless its visual impact can be minimised by using designs and colours that blend with or compliment the landscape.

Incorporate building setbacks from property boundaries, roads and waterways that are consistent with the scale of the building, site characteristics, and potential impact on the environment and rural activities conducted on the site.

Use building materials with external finishes that:

- Blend with the natural surrounding environment whether this be in natural form or via a tailored paint scheme that reflects the colours and textures evident in the natural environment.*
- Have a low reflectivity to minimise glare and visual impact.*

Policy Guidelines

Consider as relevant:

- Designing buildings located on or close to a visually exposed ridgeline to not exceed 1 storey or 6 metres in height from natural ground level.*

Officer response:

Three of the four proposed work areas on the subject land are identified as being within the significant landscape of the Alpine Approach through the applicable Significant Landscape Overlay. It is considered that the property has high visual amenity. Three of these proposed work areas are also elevated on the slope with Portion 103 (which rises from west to east). On this parcel the eastern property line is a localised high point in the undulating landscape and characterised with a line of established planted trees along the highest point at an elevation of approximately 492m. Three work areas will be visible from the broader surrounding landscape.

Whereby the highest edge elevation of these extractive work areas is at an elevation of 488m, with the cut descending to 470m.

The natural undulations of the surrounding landscape and vegetation currently provide for some visual buffer- but this is limited. The subject land is directly visible from its immediate surroundings. It is considered that Landscaping or screening plantings would serve minimal use in concealing site cuts with 16-18 m of elevation. Insufficient supporting information has been provided to address the significant landscapes, ridgelines and alpine approaches.

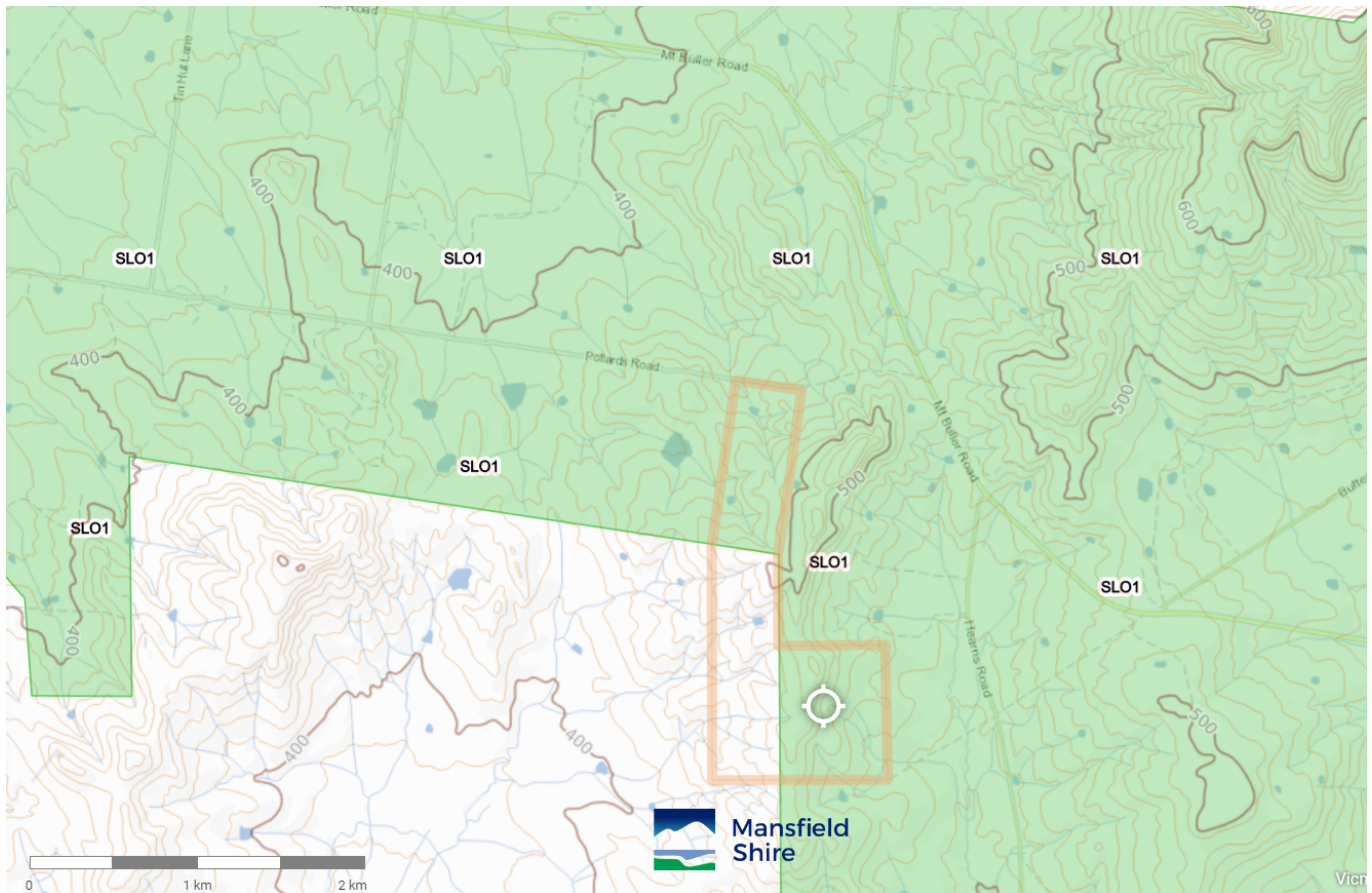


Figure 1: Significant Landscape Overlay with Contours

Clause 13.05-1S – Noise Management

Objective

To assist the management of noise effects on sensitive land uses.

Strategy

Ensure that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions.

Minimise the impact on human health from noise exposure to occupants of sensitive land uses (residential use, child care centre, school, education centre, residential aged care centre or hospital) near the transport system and other noise emission sources through suitable building siting and design (including orientation and internal layout), urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Officer response:

The application documents provide that there is sufficient unoccupied rural/farm land between the proposed extractive activities and the neighbouring sensitive uses (dwellings) to ensure that noise will not pose a risk to the amenity of the area. Figure 2 provides a map of surrounding sensitive land uses and dwellings. The nearest dwelling is approximately 600 metres east from the proposed stone extraction areas.

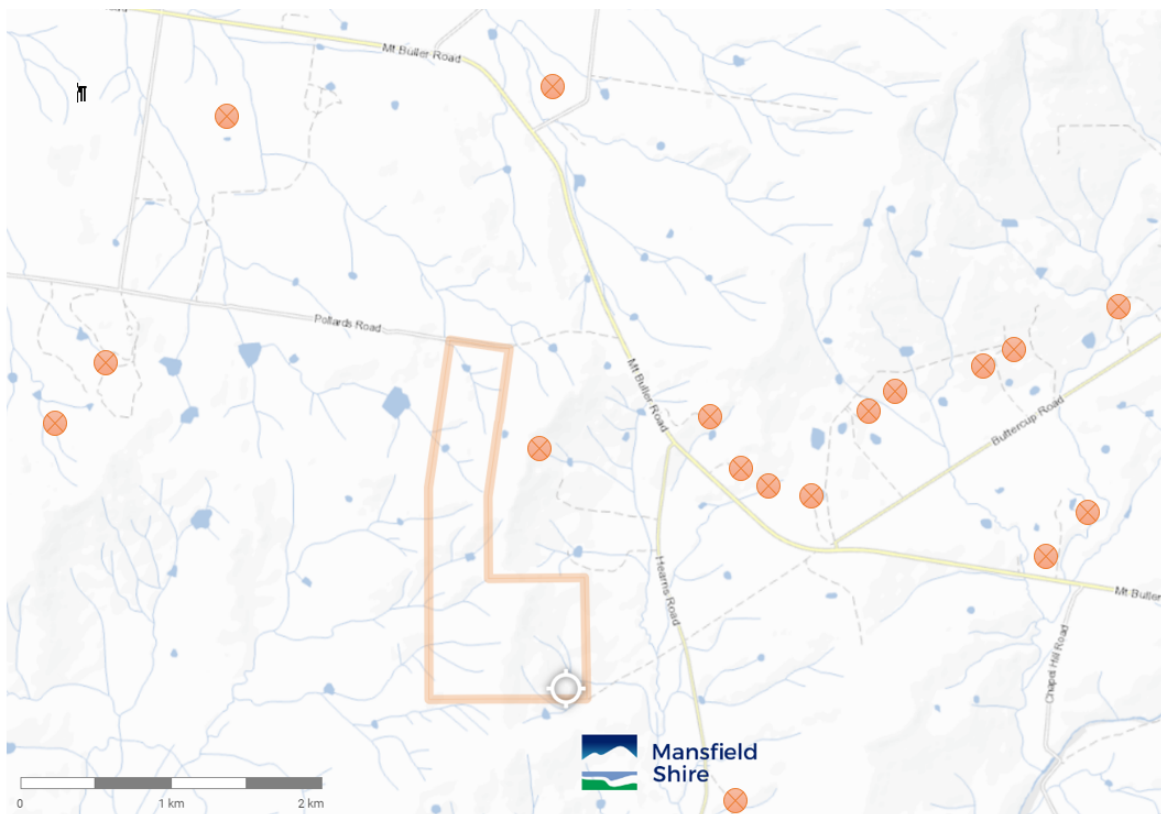


Figure 2: Location of nearby dwellings (Source: POZI Mapping/ Officer assessment)

As the application has not been supported by any formal noise impact assessment, the expected noise levels have not been able to be assessed. The full extent of noise impacts from the proposal is not known.

Clause 13.07-1S – Land Use Compatibility

Objective

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

Relevant strategies are:

- Ensure that use or development of land is compatible with adjoining and nearby land uses
- Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.

- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
- Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

Officer response:

The proposed stone extraction seeks approval for separate controlled stages to minimise negative impact on the surrounding land uses and amenity of the area. The work areas are to be rehabilitated to their initial status when work is completed. The location, scale and function of the proposed excavation works in the broader Farming Zone would not compromise the ability of surrounding agricultural land to operate or farm. It is considered that adverse off-site impacts from dust or sediment laden run-off need more rigorous supporting information.

Noise

The planning report assertion that the absence of blasting will ensure that noise and dust will not adversely impact the surrounding land. This is not supported by expert evidence and does not address that dust and noise can be emitted by other factors beyond blasting. The *Code of Practice for Small Quarries* addresses noise impacts as part of operational management with recommendations including:

- *Using bund walls for line-of-sight attenuation.*
- *Limiting hours generally to 7am-6pm (Monday to Friday) and 7am-1pm (Saturday).*
- *Maintaining access and internal roads in good condition.*
- *Identifying preferred truck routes to minimise nuisance noise.*
- *Maintaining and lubricating equipment.*
- *Locating materials processing in the least noise sensitive area.*
- *Fitting mufflers, housing or silencers.*
- *Fitting multi-frequency reverse beepers.*

No noise assessment report has been provided and the operational Plan provides limited noise mitigation measures.

Additionally, as the application is exempt from requiring a Work Authority the proposal would not be required to comply with the Code of Practice. Should a permit be issued it would be required to comply with any permit conditions imposed.

Dust

The effect of dust emissions is a matter to be considered under Clause 52.09. Further, the policy at Clause 13.06-1S relating to air quality seeks to ensure, where possible, that there is suitable separation between land uses that reduce amenity due to air pollutants and sensitive land uses (including residential land use).

There has been no dust impact assessment for the proposal. The location of the extraction work areas meets buffer distance requirements. The following areas have been addressed in the current submitted Operations Plan including:

- Minimising dust generation through limiting the movement of plant, equipment and deliveries to work areas and access tracks.
- Internal access track construction.
- Water cart onsite at all times.
- Dust suppression by wetting down the areas of operation with water truck.

Clause 14.01-1S – Protection of Agricultural Land

Objective

- *To protect the state's agricultural base by preserving productive farmland.*

Relevant strategies are:

- *Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*
- *Protect productive farmland that is of strategic significance in the local or regional context.*
- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *Prevent inappropriately dispersed urban activities in rural areas.*
- *Protect strategically important agricultural and primary production land from incompatible uses.*
- *Limit new housing development in rural areas by:*
 - *Directing housing growth into existing settlements.*
- *Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
 - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
 - *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
 - *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
 - *The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*
 - *Land capability.*
- *Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.*

Officer response:

This site is within an active farming valley. The application has been supported by a detailed Land Management Plan and Operations Plan which was amended 12 March 2025. The applicant contends that the stone removal will improve soil / pasture quality and allow for improved farming operations. No quantified assessment of the current pastoral activities and scientific supporting information has been provided to quantify this or further elaborate. The gained 4.32 hectares of land for pasture is a proportionately small area across a much larger farming estate.

Clause 14.02-1S – Catchment Planning and Management

Objective

To assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment.

Strategies

Ensure the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities.

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, and*
- 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.

Ensure that water quality infrastructure is designed to minimise risk of harm to surface waters and groundwater.

Officer response:

It is considered that the proposal has some propensity to increase sediment laden run off into waterways, water bodies and ground water. The application has received a written consent from Goulburn Murray Water.

Additional supporting information for stormwater management, assessment of hydrological impacts and mitigative measure has been found to be lacking.

Clause 14.02-1L – Catchment Planning and Management

Policy application:

This policy applies to land within a Declared Special Water Supply Catchment Area, as shown on the Mansfield Shire catchments map to this clause.

Strategies:

- *Minimise adverse impacts from wastewater management systems (both individually and cumulatively) on catchment health and water quality.*
- *Discourage land uses that would contribute to the degradation of downstream water quality.*
- *Discourage further development, particularly new rural residential estates on the lakes' shores.*
- *Support new development only where connection to reticulated sewerage infrastructure can be provided or it will not have a cumulative impact on nutrient and pathogen loads.*
- *Support redevelopment and extensions of existing unsewered dwellings only if an incremental cumulative benefit will be gained by way of upgrading the existing system.*
- *Incorporate integrated Water Sensitive Urban Design (WSUD) techniques and mitigation measures to reduce overall wastewater volumes and level of nutrients, pathogens and pollutants entering the catchment from use and development, particularly in high risk areas as per Schedule 1 to the Environmental Significance Overlay.*
- *Ensure any drainage scheme is consistent with the capability of the land.*

Comment

The subject land is in the area designated as the 'Upper Goulburn (Upper Delatite)' Catchment Area, as shown on the map below.

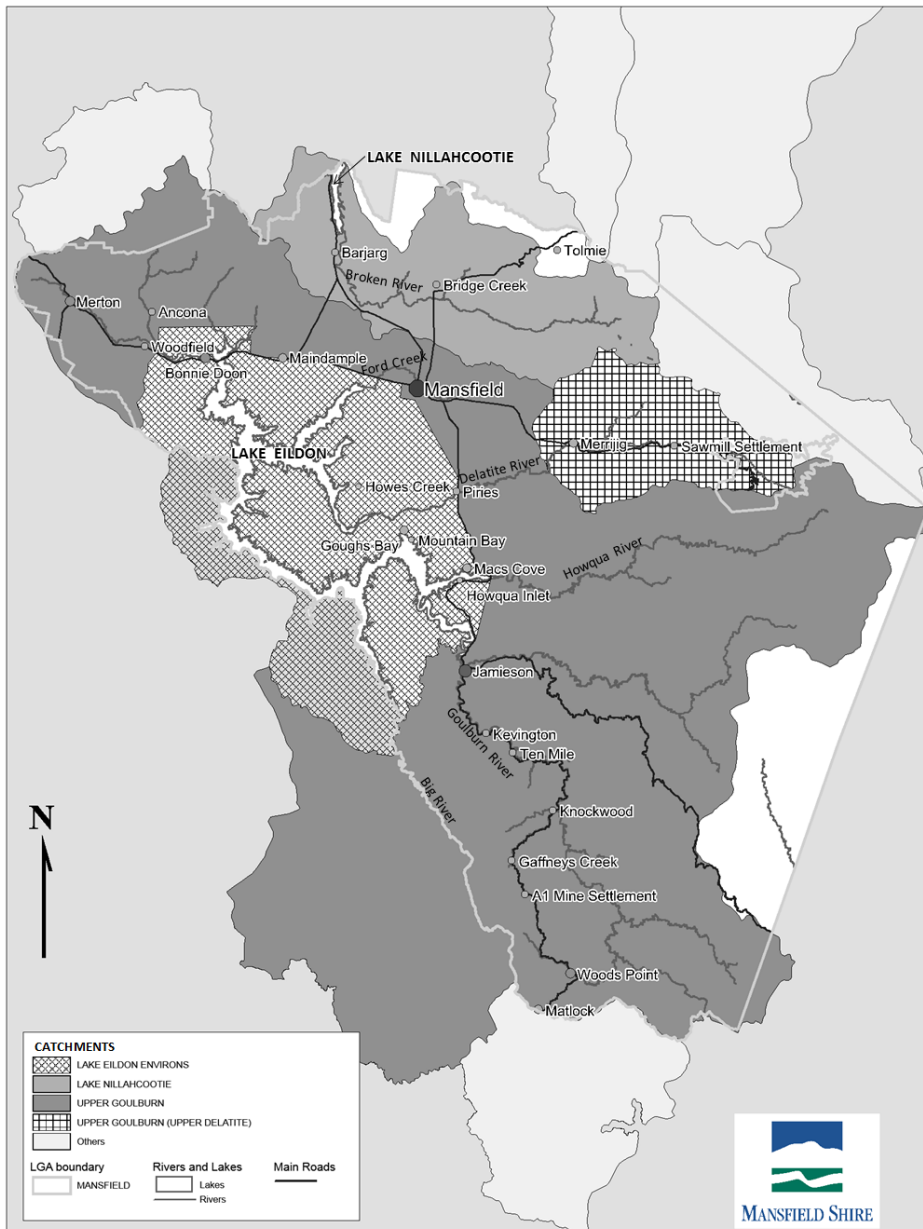


Figure 3: Mansfield Shire Council Catchment Area Map

Clause 14.02-2S – Water Quality

Objective

To protect water quality.

Strategies

Protect reservoirs, water mains and local storage facilities from potential contamination.

Ensure 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.

Discourage incompatible land use activities in areas subject to flooding, severe soil degradation, groundwater salinity or geotechnical hazards where the land cannot be sustainably managed to ensure minimum impact on downstream water quality or flow volumes.

Prevent the establishment of incompatible land uses in aquifer recharge or saline discharge areas and in potable water catchments.

Encourage the siting, design, operation and rehabilitation of landfills to reduce impact on groundwater and surface water.

Use the mapped information available from the Department of Energy, Environment and Climate Action to identify the beneficial uses of groundwater resources and have regard to potential impacts on these resources from proposed land use or development.

Officer response:

It is considered that the proposal has some propensity to increase sediment run off into waterways, water bodies and ground water. The application has received a written consent from Goulburn Murray Water.

Additional supporting information for stormwater management, assessment of hydrological impacts and mitigative measure has been found to be lacking.

Clause 17.01-1R – Diversified economy - Hume

Strategy

Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.

Officer response:

The proposal for extractive industry (stone extraction) for landscaping/ mudstone rock has a history within the Mansfield Shire. A handful of existing extractive operators have permits to remove mudstone boulders which are situated across a broad topographical a seam across the Shire. Each planning application is assessed on its merits and is considered to contribute to the ongoing diversification of economic activity with the Mansfield Shire.

Clause 17.03-2S – Sustainable Industry

Objective

To facilitate the sustainable operation of industry.

Strategies

Ensure that industrial activities requiring substantial threshold distances are located in the core of industrial areas.

Encourage activities with minimal threshold requirements to locate towards the perimeter of the industrial area.

Minimise inter-industry conflict and encourage like industries to locate within the same area.

Protect industrial activity in industrial zones from the encroachment of commercial, residential and other sensitive uses that would adversely affect industry viability.

Encourage industrial uses that meet appropriate standards of safety and amenity to locate within activity centres.

Support the retention of small-scale industries servicing established urban areas through appropriate zoning.

Provide adequate separation and buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards.

Encourage manufacturing and storage industries that generate significant volumes of freight to locate close to air, rail and road freight terminals.

Officer response:

The provision of adequate separation and buffer areas between sensitive and offensive industries and quarries. The EPA publication, '*Recommended separation distances for industrial residual air emissions*' is a relevant document to consider when making decisions. This is also referenced in the Code of Practice for Small Quarries. This planning scheme clause and the EPA publication are directly relevant to the consideration of the potential amenity impact, in this case in regard to dust from the proposed extraction work areas.

As noted in the EPA publication:

This guideline contains a list of recommended minimum separation distances that aims to minimise the off-site impacts on sensitive land uses arising from unintended, industry-generated odour and dust emissions. In some instances the appropriate separation distance may vary from that recommended in the guideline as a result of site-specific operational or environmental conditions.

The publication recommends a separation distance of 250 metres for a quarry that does not use explosives. In this case the separation distance can be met.

Clause 18.02-4S – Roads

Objective

To facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.

Officer response:

It is considered that the combined use of land for stock/ cattle grazing coupled with stone extraction has the propensity to increase impact onto the surrounding road network. The proposed number of truck haulage movements for stone extraction are four (4) per day. The application was referred to the Department of Transport, Regional Roads. The proposal has received a conditional consent requiring that vehicles must only access the site via Hearn's Road. No Traffic Impact Assessment was provided to support the application. The applicant indicates that they will maintain all internal site access routes to the proposed extractive work areas. The subject site access connection with Hearn's road would likely need to be upgraded for a Typical Semi or B Double Crossing. No trucks are to enter the site via Pollards Road. The

current maintenance of Pollards is as a seasonally trafficable local access road unsuitable for heavy haulage vehicles.

Zoning

Clause 35.07 – Farming Zone (FZ)

Purpose

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

Decision Guidelines

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

General issues

- *The 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.*

Accommodation issues

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

Environmental issues

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

Design and siting issues

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

Officer response:

The MPS and PPF have been addressed under separate headings in the body of the report. There is no overriding policy support for the proposal, particularly where it cannot be satisfied,

on the material submitted that the site can be managed to meet the relevant guidelines and will not result in unreasonable impacts on the surrounding landscape, surrounding residential uses.

The subject land is of an appropriate size to accommodate the proposed use and development. There are notable site constraints in terms of work areas within areas of landscape prominence coupled with some potential negative impact to established surrounding sensitive land uses, as referred to in the policy response of this report. The proposed stone extraction would minimally impact on the continued use of the subject land for other agricultural purposes.

The site will utilise the existing road access from Hearn's Road and internal gravel access tracks for vehicle access to the proposed extraction work areas.

Agricultural issues

It is acknowledged that the proposed development would remove a small portion of the subject land from agricultural production activities during extraction. Once the extraction of each Stage is completed the Operations Plan proposes rehabilitation to return the land to open pasture supplemented with some revegetation and grazing agriculture.

The location of the works is unlikely to impact on adjoining agricultural activities (or their potential), with the use and development generously setback from property boundaries. The nature of the use is not considered to unnecessarily impact agricultural expansions or economic viability of land owing to the existing development conditions on surrounding land.

Dwelling issues

The intent of this decision guideline is to ensure accommodation land uses do not impact agriculture. The proposal does not include any infrastructure or a dwelling on the land.

Environmental issues

The proposed extractive works are located in an area that has a number of drainage/ waterways. There has been minimal environmental technical detail provided. No fauna assessment of the subject work areas/ no geological or soils assessment/ hydrology review. The submitted plans detail the location of existing waterways on the land and the required setbacks for all works, which is a conditional requirement of GMW. It cannot be satisfied, on the material submitted that the site can be managed to meet the relevant guidelines and will not result in unreasonable environmental impacts on the surrounding environment.

Design and siting issues

It is apparent that the impact of works may cause unacceptable visual intrusion to the character and appearance of an area which is identified for its significance of natural scenic beauty. Overall, while the proposed use and development is considered to be generally consistent with the purpose and decision guidelines of the zone, however there is insufficient information to

determine that the scope of work will not *adversely* affect on the natural physical features and resources of the area, in particular on visual, soil and water quality.

Overlays

Clause 42.01 - Environmental Significance Overlay - Catchments at Medium Risk of Water Quality Impacts (ESO2)

Purpose

- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.*
- *To discourage development and works that contribute to the degradation of water quality and quantity.*

Statement of Environmental Significance

The Upper Goulburn, Lake Eildon Environs, Upper Goulburn (Upper Delatite) and Lake Nillahcootie catchments supply irrigation and potable water to nearby townships and downstream communities. Lake Eildon and Lake Nillahcootie are both used for recreational purposes.

The Mansfield Shire Domestic Wastewater Management Plan 2014 (as amended) risk analysis identifies areas of the municipality that are at high, medium and low risk of causing adverse impacts on potable water quality, public health and the environment.

Development in the areas where this schedule applies has a medium risk of causing adverse impacts to potable water quality, public health and the environment through increased nutrients, pathogens and sediment in waterways and water storages.

It is important that development is carefully managed to ensure there is no detriment to the catchment and cumulative benefits can be gained over time through improved management of wastewater and stormwater. This can be achieved through careful design and siting of development and works, management of wastewater generated by development and adoption of integrated water cycle management principles. As a result there should be incremental and cumulative reductions in nutrient, pathogen and sediment loads in water storages and waterways.

Officer response:

Pursuant to provision 3 of Schedule 2 to this Clause, a permit is required to carry out works. As has been previously discussed in this report the proposal includes basic mitigation measures to reduce the risk of water quality impacts from the extraction activities near waterways as part of an Operations Plan. The proposed work areas are located within 100 m of a number of existing natural drainage lines but are more than the minimum setbacks (20 m) required for the protection of water quality.

As aforementioned in this Planning Scheme against this proposal provides minimal assessment of the drainage impacts on the site or beyond. The application was supported by a Land Management Plan and Operations Plan which address how the applicant will prevent sedimentation impacts from exposed work areas. This anticipates the use of straw bales for erosion and sediment control as well as some revegetation works and plantings. The submission does not provide any groundwater Hydrology assessment or overland flow/ Stormwater Management measures or anticipated volumes for assurance that these measures will be managed without detriment to the catchment's water quality. The steep topography coupled with the potential for wind exposure may make the extractive work areas at risk of erosion, this has not been assessed or discussed by the applicant.

Clause 42.03 – Significant Landscape Overlay – Schedule 1, Alpine Approach Significant Landscape Area (SLO1)

Purpose

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify significant landscapes.*
- *To conserve and enhance the character of significant landscapes.*

Statement of nature and key elements of landscape

The alpine approach is characterised by a strong valley bordered by the alpine areas to the north, south and east. The views from the Mansfield – Mt Buller Road to surrounding mountains and ranges are impressive especially in the winter when there is spectacular snowy backdrop. The valley has a relatively flat floor with undulating pasture, ribbons of vegetation along roads, fences, the upper Delatite River (a Proclaimed Water Supply Catchment Area), creek lines and in scattered patches. The Crown Land boundary is an abrupt interface with the dense woodland, which visually helps define the unit. All these elements create an area that is a major asset for the Shire.

Landscape character objectives to be achieved

- *Identify and protect the visual values of the landscape of state significance on the approaches to mountains and ranges, including Mount Buller, Mount Stirling, Mount Timbertop and other significant mountains.*
- *Protect short and long distance views of Mount Buller from the Mt Buller Road, other approach roads and public viewpoints.*
- *Avoid the visual impact of buildings and works in the landscape.*
- *Minimise the visual impact of buildings and works by requiring setbacks from prominent visual areas, ridgelines and adjoining and nearby private land.*

Decision Guidelines

- *The Municipal Planning Strategy and the Planning Policy Framework.*

- *The statement of the nature and key elements of the landscape and the landscape character objective contained in a schedule to this overlay.*
- *The conservation and enhancement of the landscape values of the area.*
- *The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.*
- *The impact of the proposed buildings and works on the landscape due to height, bulk, colour, general appearance or the need to remove vegetation.*
- *The extent to which the buildings and works are designed to enhance or promote the landscape character objectives of the area.*
- *The impact of buildings and works on significant views.*
- *Any other matters specified in a schedule to this overlay:*
 - *The impact of the proposed buildings and works on the landscape including effect on landscape within and outside the land (due to siting, design, size, and colour and texture of external construction materials), flora and fauna, land form, heritage values, and views to the land from roads, other public viewpoints and private land.*
 - *The impact of buildings and works on views to the land from any road, public viewpoints and private land.*
 - *Effluent disposal systems and measures to improve water quality.*

Officer response:

The SLO1 has been applied to entire parcels of land which are within view from the Alpine Approach along Mt Buller Road and which have direct views to the alpine region. An assessment of the subject land has determined that it is visible from Mt Buller Road and properties within the SLO1 west of the site. The subject site has localised undulations and comprises three large parcels. The proposed extraction areas are most visible from properties to the west of the site, which are both within and outside the SLO1.

The proposed works are to be located on a slope in the undulating foothills of the Alpine Approach, the natural topography of the landscape in this area mostly shields the subject land from direct views within this significant landscape. Improved visual renderings are required to provide a more accurate representation of the scope of works in this landscape. The planning submission materials include an assessment with photographs taken from roads and public viewpoints. These clearly show that at least three of the four proposed work areas are directly within *the long distance views of Mount Buller and the alpine area*. It is of concern that the stone extraction may visually alter the high amenity viewscape of the Delatite valley and pastures.

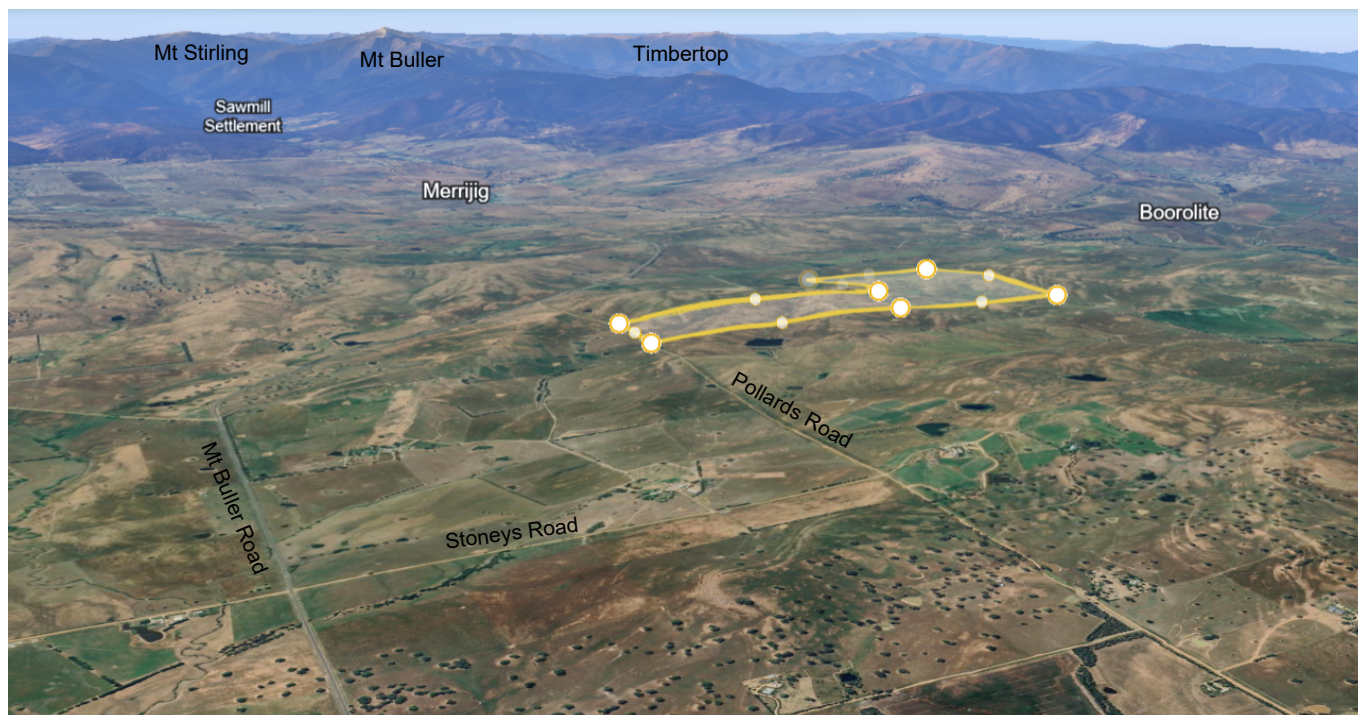


Figure 3: Google Earth mapping of the subject land (Council Assessment)

Given the above, the proposed development is considered to be inconsistent with the overlay purpose, the statement of nature and key elements of landscape, the landscape character objectives to be achieved and the relevant decision guidelines.

Particular Provisions

Clause 52.06 – Car Parking

Purpose

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Scope

Clause 52.06 applies to:

- *a new use; or*

- an increase in the floor area or site area of an existing use; or
- an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

Clause 52.06-5 Number of Car Parking Spaces Required under Table 1, does not specify car parking requirements for Extractive Industry, or Earth and Energy Resources. Therefore, Clause 52.06-6 Number of Car Parking Spaces Required for Other Uses applies.

Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority. This does not apply to the use of land for a temporary portable land sales office located on the land for sale.

Planning Practice Note 22 – Using the Car Parking Provisions (PPN22) states that, where a use is not specified in Table 1 in Clause 52.06, in another clause, or in a Schedule to the Parking Overlay, the responsible authority determines the number of car parking spaces to be provided in accordance with Clause 52.06-6. The responsible authority may determine the adequacy of parking based on policies, surveys, floor area, operational characteristics and locational characteristics.

Officer response:

The application does not refer to car parking and the plans do not nominate the provision of any car parking, however the site plan showing proposed internal accessways demonstrates areas of all-weather track to each Stage for the extractive works and the number of vehicles onsite would be very low. It is expected that the internal driveway and surrounding areas would be able to cater for the vehicle car parking, without requiring any specific separate constructed car parking area.

Clause 52.08 – Earth and Energy Resources Industry

Purpose

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

Permit requirement

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

Table of exemptions	
No permit is required to use or develop land for earth and energy resources industry if the following conditions are met:	
Extractive industry	Complies with Section 77T of the <i>Mineral Resources (Sustainable Development) Act 1990</i> .

Officer response:

The proposed extraction activities do not comply with Section 77T of the *Mineral Resources (Sustainable Development) Act 1990* as the extraction would be greater than 1 hectare in area, and the stone is proposed to be sold and taken off the land, therefore a planning permit is required.

Clause 52.09 – Extractive Industry and Extractive Industry Interest Areas

Purpose

- 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.*
- To ensure that excavated areas can be appropriately rehabilitated.*
- To ensure that stone resources, which may be required by the community for future use, are protected from inappropriate use and development.*

Application requirements

An application to use and develop land for extractive industry must be accompanied by:

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

These requirements do not apply if the proposed extractive industry is exempt from:

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

Decision Guidelines

- *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.*

Officer response:

Earth Resources Regulator has confirmed that the proposed extractive Industry meets the requirements for an exemption of the Small Quarries and is Exempt from the Work Plan requirements under MRSDA – Section 5AA of the *Mineral Resources (Sustainable Development) Act 1990*.

It is acknowledged that both Council officers and objectors have identified that amenity impacts, principally air and noise and visual are of primary concern. Planning Practice Note 89, *Extractive Industry and Resources*, acknowledges that these factors must be taken into account:

“In assessing the potential material detriment, the responsible authority should take into account that possible impacts from extractive industry, such as dust, noise, vibration and transport, may impact properties some distance away.”

The permit application and further information provided with the application is significantly deficient, such that the application should be refused, as it cannot be adequately assessed. Specifically including:

- No noise assessment.
- No dust or air quality assessment.
- No adequate detail or estimate of the volume of rock to be removed, storage of material.
- The amount of time it would take to extract the rock before supplies are depleted.
- Management of visual impact on the landscape.
- No assessment of the drainage impacts on the site or beyond.

General Provisions

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.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *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 environment, human health and 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.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

Officer response:

The matters at section 60 of the Act have been considered. The MPS and PPF have been addressed under separate headings in the body of the report. The proposal is not considered accordant with the relevant policy.

The proposed use and development considered to be generally inconsistent with the catchment management considerations of the Environmental Significance Overlay – Schedule 2. It has not been satisfactorily demonstrated that the stone extraction would not potentially adversely impact on the efficacy of the Lake Eildon Environs special water supply catchment area.

The proposed use and development is considered to be inconsistent with the landscape considerations of the Significant Landscape Overlay – Schedule 1. Insufficient supporting information has been provided to demonstrate that the proposal will result in an appropriate and orderly outcome for the site and surrounds. The limitations of the site are not sufficiently

addressed and it remains unclear how the operational stone extraction areas will protect the locational and environmental attributes of the site.

Based on the matters discussed above and throughout this report, the proposed use and development is not considered to be a positive land use planning outcome and the proposal is found to be inconsistent with the Mansfield Planning Scheme.

Conclusions

The proposal for use and development of land for extractive industry (stone extraction) is unlikely to be in keeping with the existing rural character of the area. The four proposed work extraction areas are not considered to be respectful of the existing uses and development on adjoining properties and would detract from the significant landscape and views to the alpine regions. The subject land is in a significant area recognised for its landscape views and prominence in the Delatite Valley which is a key contribution for tourism in the Mansfield Shire. The visual amenity, noise and dust impacts from the proposal would be significant and the application has not suitably demonstrated how these impacts could be mitigated. Additionally, the land is located in an area primarily used for productive agriculture and the proposal has not justified the benefit to agriculture. The assessment of the application has raised concerns about sediment and erosion control and the supporting documentation does not provide suitably detail to reduce the risk of water quality impacts.

The concerns raised through objector submissions have been considered in relation to the relevant planning policies. The scale of the shortfall in supporting material means that conditions cannot be recommended to ensure the proposal is an acceptable land use outcome without detriment to the surrounding landscape.

The proposal does not provide the core necessary supporting information to demonstrate accordance with the relevant provisions of the Mansfield Planning Scheme. The application is therefore recommended for refusal.