

Assessment against Planning Scheme



Planning Application No. P029-25
Property: 422 Ohalloran Road Bridge Creek
Responsible Officers: Nicole Embling, Senior Coordinator Planning

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.

Clause 02.03 – Strategic Directions

Clause 02.03-3 – Environmental risks and amenity

Due to climate change and climate variability, natural disasters and environmental hazards such as heatwaves, bushfires, floods and storms are likely to be more frequent and severe. This will present many challenges and some opportunities.

Due to the location and topography of the Shire buildings on ridgelines or prominent exposed areas are particularly vulnerable to natural hazards such as bushfire, flood and land slip.

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.*

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.*

Strategic Directions - Officer Response:

The strategic directions of the Mansfield Planning Scheme clearly sets out the challenges faced in relation to rural land use and development, particularly the competing pressures of residential land uses in areas of productive agricultural land. The subject land is considered productive agricultural land whereby more than 90% of the subject site will be able to continue being used for agriculture despite the proposal. The less than 9% of the land proposed to be temporarily removed from agricultural activities will be returned to agricultural land following completion of the extractive works. Due to the activities of the stone extraction and proposed rehabilitation of the land, it is likely that the 5ha of extraction area will see improved pastures.

Policy is clear in seeking to protect productive agricultural land from fragmentation, ensuring ongoing viability of agricultural land for agricultural purposes, and preventing land use conflict. The proposal is consistent with this policy as it will not impact on any existing or future agricultural activities on the subject land, adjoining or nearby properties.

Planning Policy Framework (PPF)

Clause 13.02-1S – Bushfire planning

Objective

- *To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.*

Officer response:

The subject land is partially within a Bushfire Management Overlay and is a declared BPA under the *Building Act 1993*. The site comprises minimal remnant vegetation.

The proposal includes ceasing operations on days of Total Fire Ban as means to address and reduce bushfire risk.

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 proposal has suitably addressed how noise impacts to nearby sensitive uses will be reduced, including through the hours of operation and with the proposed setbacks from boundaries of the works area. Some noise in the Farming Zone from machinery is considered reasonable.

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 impacts.*

Strategy

- *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

If approved, a 500-metre buffer around the subject land would be applied due to the requirement for a Work Authority. The buffer then ensures that any proposed development within proximity to the Work Authority is considered and would not impact on the approved extractive works and vice-versa. There are similar buffers applied to nine (9) existing sites in Mansfield Shire.

The dwellings nearest to the extraction site are more than 1,000 metres away.

Clause 14.01-1S – Protection of agricultural land

Objective

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

Relevant strategies

- *Identify areas of productive agricultural land, including land for primary production and intensive agriculture.*
- *Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.*
- *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.*
- *Protect strategically important agricultural and primary production land from incompatible uses.*
- *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:

Agricultural production is considered to be one of the most significant industries in Mansfield Shire, and as such productive agricultural land should be protected. In considering a proposal to use or develop agricultural land, the following factors listed above must be considered:

- *The desirability and impacts of removing the land from primary production, given its agricultural productivity.*

It is considered that this land is significant in an agricultural context due to its size and workable topography, especially when considering the total land holdings in the same ownership, which is estimated to be over 1,300ha (3410 acres).

- *The compatibility between the proposed or likely development and the existing uses of the surrounding land:*

There is an existing character of established farming properties, some with single dwellings, associated farm infrastructure and productive agricultural activities. The lots in the area are typically in excess of 40 hectares and it is therefore expected that agricultural activities will continue and conflicting uses and development would not be permitted.

Based on the above, the application is generally consistent with the objective and strategies of this clause.

Clause 14.01-2S – Sustainable agricultural land use

Objective

- *To encourage sustainable agricultural land use.*

Strategies

- *Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.*
- *Support the development of innovative and sustainable approaches to agricultural and associated rural land use practices.*
- *Support adaptation of the agricultural sector to respond to the potential risks arising from climate change.*
- *Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.*
- *Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.*
- *Support agricultural investment through the protection and enhancement of appropriate infrastructure.*
- *Facilitate ongoing productivity and investment in high value agriculture.*
- *Facilitate the establishment and expansion of cattle feedlots, pig farms, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.*
- *Ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.*

Officer response:

As discussed above, the proposal will enable the continued agricultural use of the land is not likely to impact the existing or future agricultural uses on adjoining and nearby land.

Clause 14.02-1S – Catchment Planning and Management

Objective

- *To assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment.*

Strategies to address this objective include to:

- *Ensure the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities.*
- *Undertake measures to minimise the quantity and retard the flow of stormwater from developed areas.*
- *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.*

Clause 14.02-1L – Catchment Planning and Management

Relevant strategies are:

- *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.*
- *Ensure any drainage scheme is consistent with the capability of the land.*

Clause 14.02-2S – Water Quality

Objective

- *To protect water quality.*

Relevant strategies are:

- *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.

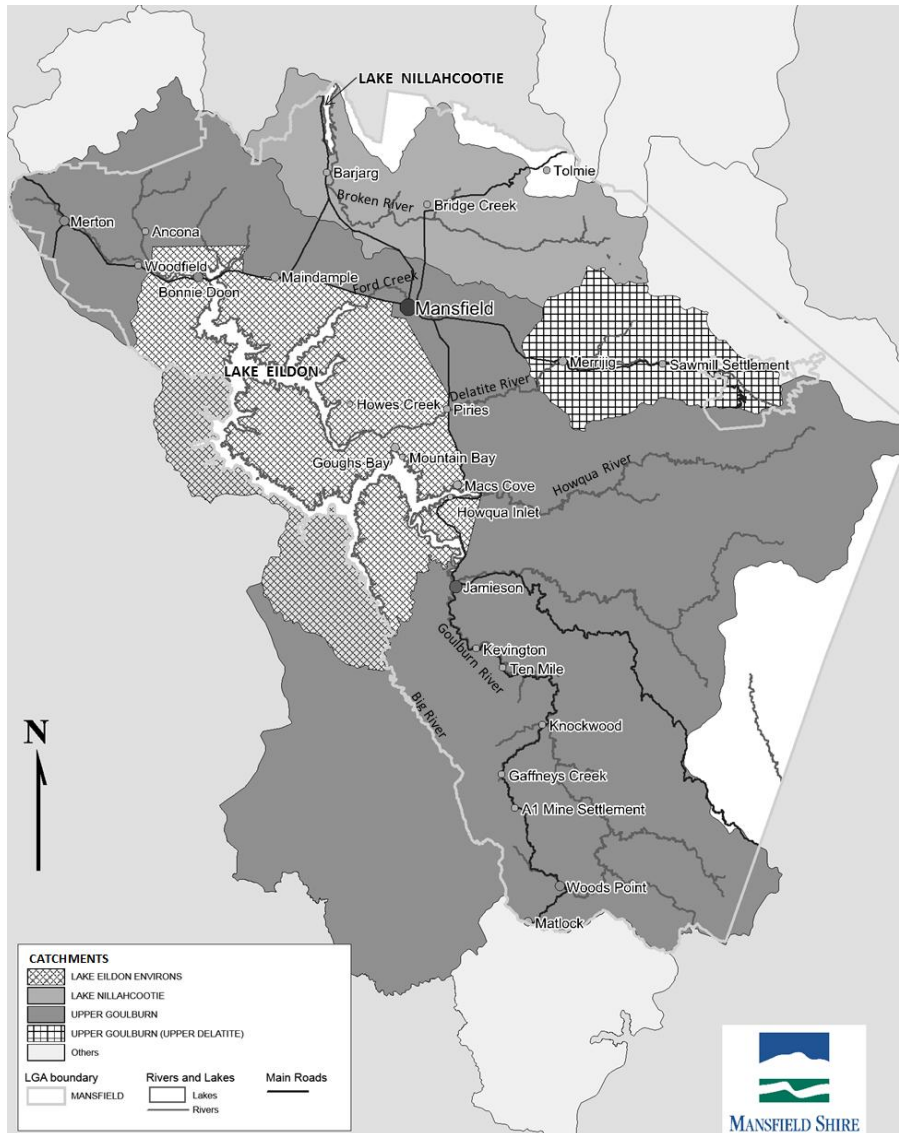


Figure 5: Map of catchments within Mansfield Shire

Officer response:

The subject land is within the Lake Nillahcootie water supply catchment area. A permit is triggered under the ESO, and the proposed development is not considered to impose any (additional) adverse impact on the water supply catchment area.

Clause 14.03-1S – Resource Exploration and Extraction

Objective

- To encourage exploration and extraction of natural resources in accordance with acceptable environmental standards.

Relevant Strategies

- *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.*
- *Recognise the possible need to provide infrastructure, including transport networks, for the exploration and extraction of natural resources.*
- *Ensure planning schemes do not impose conditions on the use or development of land that are inconsistent with the Mineral Resources (Sustainable Development) Act 1990, the Greenhouse Gas Geological Sequestration Act 2008, the Geothermal Energy Resources Act 2005, or the Petroleum Act 1998.*
- *Develop and maintain buffers around mining and extractive industry activities.*
- *Ensure planning permit applications clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the proponent of an extractive industry.*

Officer Response

The proposal is for the extraction of (mud) stone and is considered a minor application which falls within the Code of Practice for Small Quarries. The application has been assessed in detail against the provisions of the planning scheme and relevant Acts to ensure compliance. Resources Victoria have confirmed that the proposal requires a Work Authority, and an application has been accepted pending approval of a planning permit.

The extractive works will be able to occur without any major infrastructure works or transport routes being created and will utilise the existing farm tracks through the adjoining parcels of land, in the same ownership, to gain access from the Midland Highway.

As previously discussed, once a Work Authority is approved a 500-metre buffer around the land will be applied automatically.

Clause 14.03-1R – Resource Exploration and Extraction – Hume

Strategy

- *Support the availability of construction materials locally and consider measures to facilitate and manage their extraction.*

Officer Response

The proposal is for the extraction of mud stone, which is typically used for landscaping purposes.

Clause 15.03-2S – Aboriginal Cultural Heritage

It is policy to:

- *To ensure the protection and conservation of places of Aboriginal cultural heritage significance.*

Officer response:

The site is not located within an area of identified aboriginal cultural heritage sensitivity under the *Aboriginal Heritage Act 2006*. As such, a Cultural Heritage Management Plan (CHMP) is not required for this proposal.

Zoning

Clause 35.07 – Farming Zone (FZ1)

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.*

Relevant Decision Guidelines

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 make 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.*

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.*

Design and siting issues

- *Whether the use and development will require traffic management measures.*

Officer Response:

The subject land at approximately 63 hectares with an existing established all-weather vehicle access track connecting to the Midland Highway which would be capable of the proposed stone extraction in the designated 5-hectare area. The area for the extraction has been identified by a qualified professional as likely to have a significant amount of mud stone, covered with top soil that would be re-used through the rehabilitation process. The remainder of the land will not be impacted by the proposal and will continue being used for agricultural purposes. The 5-hectare proposal area will be temporarily removed from agricultural land uses whilst the extractive activities occur.

The application has demonstrated how soil and quality on the land and surrounds will not be impacted by the proposal and how native flora and fauna will be protected.

The Operation Plan details the maximum number of truck movements per day and provides a detailed Haul Route. The Officer Recommendation includes suitable conditions to ensure traffic management for the proposal.

On this basis it is considered that the proposal is consistent with the above purposes and the intent of the zoning.

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.*
- *In catchments identified as being at high risk of water quality impacts, the environmental objective to be achieved is to discourage development and works that potentially contribute to the degradation of water quality and quantity.*

Schedule 2 to Clause 42.01 relates to catchments at medium risk of water quality impacts.

Statement of Environmental Significance

The Upper Goulburn, Lake Eildon Environs and Upper Goulburn (Upper Delatite) and Lake Nillahcootie catchments supply irrigation and potable water to nearby townships and downstream communities. Lake Eildon is 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 high 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.

Environmental Objective to be Achieved.

- *To discourage development and works that potentially contribute to the degradation of water quality and quantity.*

Relevant Decision Guidelines

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

- *The statement of environmental significance and the environmental objective contained in a schedule to this overlay.*
- *The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.*
- *Any other matters specified in a schedule to this overlay.*
- *The comments of the relevant water authority.*
- *Whether the application meets the requirements of Clause 22.04 Managing Water Quality in Special Water Supply Catchments.*
- *Whether measures have been included to prevent increased surface water run-off or concentration of surface water run-off leading to increased nutrient loads, erosion, siltation, pollution of waterways, drains and other features.*
- *The potential for the proposed development to reduce water yields within the catchment.*

Officer response:

The subject land is within the Lake Nillahcootie special designated special water supply catchment area. There are some minor natural drainage lines through the subject land.

A referral to GMW was undertaken and it was determined by the authority that the application generally satisfies the relevant considerations subject to conditions relating to notification requirements if water quality or groundwater is impacted and that no excavation is to be undertaken within 30 metres of any waterway.

There is no removal, destruction or lopping of vegetation proposed.

Overall, the proposal general satisfies the considerations and purpose of this overlay.

Particular Provisions

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 *Mineral Resources (Sustainable Development) Act 1990*.

The formal acceptance from Resources Victoria have confirmed that the proposal requires a Planning Permit as the exemption does not apply.

Clause 52.09 – Extractive Industry and Extractive Industry Interest Area

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.

Clause 52.09 - Extractive Industry and Extractive Industry Interest Areas

52.09-4 Decision Guidelines	Assessment
<i>The effect of the proposed extractive industry on any native flora and fauna on and near the land.</i>	The subject land has some scattered native trees however, there are no trees within the proposed works areas. The subject land is currently, and will continue, being used for stock grazing which generally reduces the native fauna present on farming land. It is not expected that any native fauna will be impacted by the proposal.
<i>The impact of the proposed extractive industry on sites of cultural and historic significance, including any effects on Aboriginal places.</i>	The subject land is not within an Area of Cultural Heritage Sensitivity. In accordance with Section 24 of the <i>Aboriginal Heritage Act 2006</i> any aboriginal place or object discovered must be reported.
<i>The effect of the proposed extractive industry on the natural and cultural landscape of the surrounding land and the locality generally.</i>	The location of the subject land and proposed works is relatively sheltered from view and is in an area with minimal visual impact to surrounds and is therefore considered appropriate.
<i>The ability of the proposed extractive industry to contain any emissions within the boundaries of the land in accordance with relevant legislation.</i>	The submitted Operation Plan has sufficiently detailed how emissions will be contained and managed, including dust, noise and airborne emissions. The subject land is approximately 63ha and the proposed work area is less than 8% (5ha) of the lot and is located fairly centrally, limiting

	<p>impact to directly adjoining properties. It is noted that most of the adjoining parcels are within the same ownership.</p>
<p><i>The effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area.</i></p>	<p>The proposal does not include any blasting.</p> <p>The Operation Plan and Officer Recommendation restrict the proposal to no more than 4 full truck loads per day, limiting the impact of heavy vehicle traffic and additionally require all trucks to use the Haul Route as proposed.</p> <p>The proposed hours of operation are reasonable in the context of surrounding agricultural land uses, with no operations on weekends or Public Holidays and restricted hours being 7am to 4pm weekdays, with truck loading to occur only after 9am.</p> <p>The setback of the proposal from nearby dwellings will reduce potential impact from noise and vibration. The nearest dwelling is located more than 1,000 metres from the extraction area.</p>
<p><i>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.</i></p>	<p>The Operation Plan includes a detailed rehabilitation schedule for each Stage to be rehabilitated prior to commencement of works in the subsequent Stage. The rehabilitation is a requirement of the conditions in the Officer Recommendation.</p>
<p><i>The ability to rehabilitate the land so it can be used for a purpose or purposes beneficial to the community.</i></p>	<p>The subject land has historically been used for agricultural purposes, including stock grazing. This is proposed to continue during the extraction period and the Stages, once rehabilitated, will return to agricultural use.</p> <p>The operators also have a history of rock extraction on other parcels of land and have provided evidence of suitable rehabilitation, returning extracted areas back to productive agricultural uses.</p>
<p><i>The effect of the proposed extractive industry on groundwater quality and the impact on any affected water uses.</i></p>	<p>The proposed extraction areas have suitable setbacks from mapped waterways on the subject land and permit conditions by Goulburn Murray Water require immediate action should any works uncover groundwater.</p>
<p><i>The impact of the proposed extractive industry on surface drainage and surface water quality.</i></p>	<p>The Operation Plan includes relevant actions to restrict any impact to drainage lines, waterways and water quality. The Officer Recommendation includes suitable Engineering and Goulburn Murray Water conditions which would ensure water quality is not impacted by the proposal.</p>
<p><i>Any proposed provisions, conditions or requirements in a work plan that has received statutory endorsement under the Mineral Resources (Sustainable Development) Act 1990.</i></p>	<p>The proposal is exempt from the requirements of a Work Plan.</p> <p>The proposal will be required to be in accordance with an approved Work Authority.</p>

Permit Conditions for Extractive Industry

A permit to use and develop land for extractive industry must not include conditions which require the use to cease by a specified date unless either:

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

A permit to use and develop land for extractive industry must 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 under section 68 of the Act.*
- *Conditions that are consistent with the requirements specified in Clause 52.09-6.*

Requirements for Extractive Industry

The use and development of land for extractive industry must comply with the following requirements, to the satisfaction of the responsible authority:

- *Except in accordance with a permit, no alteration may be made to the natural condition or topography of the land within 20 metres of the boundary of land. This does not apply to driveways, drains, bund walls or landscaping.*
- *Shrubs and trees must be planted and maintained to screen activity on the land.*
- *Parking areas must be provided for employees' cars and all vehicles used on the land.*

Officer Response

The Officer Recommendation has included suitable conditions in accordance with the requirements.

The proposal is generally in accordance with the requirements and decision guidelines of this policy.

Conclusion

Having assessed the application against the relevant clauses of the Mansfield Planning Scheme, it is considered that the proposal is consistent with the state and local policies relating to agricultural land and extractive industries, as well as the Farming Zone's purposes and appropriate decision guidelines. The proposal represents an outcome that planning policy in the Mansfield Planning Scheme explicitly seeks, for a productive agricultural use with alternative uses not impeding farming and improving quality for future grazing.

The application is therefore recommended for approval.