

May 2018

# Extractive Industry (Sand) Report: Planning Implementation





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## Document review and quality control:

Version	Status	Date	Author	Issued
1.0	Draft	11 Aug 2017	S Davies	K Griffiths
2.0	Draft	29 Aug 2017	S Davies	K Griffiths
3.0	Draft	27 April 2018	S Davies	K Griffiths
4.0	Final	3 May 2018	S Davies	K Griffiths
5.0	Final	7 May 2018	S Davies	K Griffiths

## Executive Summary

The Department of Economic Development, Jobs, Transport and Resources (DEDJTR) estimates that the value of production generated from the 485 quarries in Victoria is around \$676 million per year. In a recent report released by DEDJTR the South Gippsland Shire local area has emerged as a critical location for hard rock, sand and gravel resources in Victoria. Given that urban encroachment and other competing land uses are a key threat to the extractive resource industry, South Gippsland Shire Council has sought to identify the most appropriate planning controls that could be used within the planning scheme to provide transparency as well as to provide a framework that delivers consistency for decision making.

This report has been guided by work undertaken by the State Government in relation to mapping, understanding and identifying sand as a key resource that requires protection. In particular, regard has been given to the following documents:

- Extractive Resources in Victoria: Demand and Supply Study 2015- 2050, PwC, May 2015 (Department of Economic Development, Jobs, Transport and Resources - DEDJTR).
- Demand analysis of extractive resources in Victoria, Ernst & Young, 2015 (DEDJTR)
- Melbourne Supply Area – Extractive Industry Interest Areas Review, Olshina & Burn, 2003 (Department of Primary Industries - DPI)
- Regional Sand Extraction Strategy: Lang Lang to Grantville, AGC Woodward-Clyde, 1996 (Department of Infrastructure - DOI)

As part of this report a review of a number of key planning scheme documents and Victorian Civil and Administrative Tribunal (VCAT) planning decisions has been undertaken to guide a robust approach to developing a proposed planning response. In reviewing these decisions, it has become clear that the State Resource Overlay (SRO) does not possess the appropriate planning permit triggers. As a result, tailored Environmental Significance Overlays (ESO) in combination with other planning tools should be employed to be able to efficiently protect extractive resources within the South Gippsland Shire.

This report recommends that South Gippsland Shire Council should:

1. Update the Planning Scheme in the following manner -
  - Update the MSS to include local content in relation to extractive resource industries;
  - Update the framework plan map in Clause 21.04 to include the Extractive Industry Interest Area (EIIA) and mining Licence Areas protection area in the policy map;
  - Include the EPA and DEDJTR as a recommending referral agency in Clause 66; and,
  - Apply tailored Environmental Significance Overlays to the extractive industry sand area and its buffer area to provide clear guidance with respect to extractive industries.
2. Consider applying similar resource protection and buffer controls to other high value resource areas in South Gippsland Shire.

## 1 Introduction

SD Planning has been engaged by South Gippsland Shire Council to review the most appropriate planning tools that could be used to identify and protect areas of sand and extractive resources deposits within the municipality.

## 2 Extractive Industry in and around Melbourne

Extractive resources, and in particular mineral and construction resources, are important to the development of our economy and community, particularly during times of high growth such as currently being experienced in metropolitan Melbourne. In the recent DEDJTR report it is estimated that the value of production generated from the 485 quarries in Victoria is around \$676 million per year. This value is likely to increase in coming years as projected population growth increases the demand for new infrastructure projects (notably transport projects) and residential developments to meet the housing demands of a growing population.

Extractive industry refers to the various industrial operations associated with the production, processing and distribution of stone resources such as rock, gravel, sand and clay. Stone extracted within the Melbourne region can be grouped into four main categories. These are hard rock, sand, clay, soft rock and gravel. The 1996 DOI report discusses the types of resources as follows;

- Hard rock is rock that is durable and strong and is generally used in building and road construction. Explosives are used as part of the onsite processes to break up the raw material before further processing. Types of hard rock in the Melbourne region comprises basalt, hornfels, granite and rhyolite. Large deposits of these hard rock are situated in and around Werribee, Melton, Whittlesea, Healesville, Yea, Berwick and Pakenham.
- Sand is mostly used in the manufacture of concrete and concrete products. Sand falls into two main categories depending on grain size: coarse sand which is used in concrete production and fine sand which is used in the preparation of mortar and other specialised products. Sand deposits are found in Bacchus Marsh, Heatherton, Cranbourne, Bass, Warragul and Trafalgar areas.
- Clay is used in the manufacture of bricks, pavers and roofing tiles. Clay deposits are not as plentiful as stone or sand deposits and are found in the Bacchus Marsh and Lilydale areas. Clay is used primarily in the brick making industry.

- Soft rock and gravel are used for low-grade products such as crushed rock sub base for unsealed roads. This rock is usually extracted without the use of explosives and can be found across the Melbourne area.

The exploration, assessment and viable economic extraction of these mineral resources relies on their potential commercial value at any particular time. Factors that contribute to the commercial value of the commodity includes:

- The physical nature i.e. bulk, mass, weight;
- Location and its access to road infrastructure as well as and distance to markets which impact on transport costs of the mineral resource;
- The actual costs of extraction; and,
- The existence and strength of the market.

A substantial component of the price of construction material is the cost of transporting the material from the site where it is extracted, to the site where it is used. This results in greater importance being placed on deposits that are close to key transport routes and drivers of growth (Melbourne in this instance) to minimise the distance between the resource and end-user construction sites. Where resource sites are unable to be used due to the unintended encroachment of inappropriate use and development, construction projects in that area will have to rely on resources from less accessible extraction sites, with a consequential impact of an increase in costs. Transport of resources over longer distances also increases road maintenance costs due to the wear and tear of trucks on roads.

### 3 Land Use Conflicts:

Extractive industries at times involve the use of an extensive range of plant and equipment which creates noise, dust and sometimes odour. In some instances, blasting is necessary to extract the material. By the very nature of the industry the stone and sand deposits are in situ and as a result need to be processed and worked onsite where they occur. This has meant in some cases that extractive industry operations have been subject to conflict between community, environmental and quarrying (industry) interests. In many instances urban development and dwellings have encroached into areas where the resource has been identified. This has resulted in a planning system that often



resorts in appeals to VCAT to mediate disputes, as well as tensions that are dealt with within the local government planning arena.

As Melbourne's geographical area (including its satellite townships) has expanded, urban areas have in many cases been allowed to expand close to operating quarries or over land with the potential for further stone extraction or resource development. This has resulted in many sources of quality stone close to the Melbourne market becoming constrained, or in some instances no longer available for extraction, resulting in the cost to the consumer being driven up.

#### 4 Extractive Industry in South Gippsland

In the recent publication *Extractive Resources in Victoria Demand and Supply Study 2016*, DEDJTR identified South Gippsland as a critical location for hard rock, sand and gravel resources in Victoria. This is largely due to the quality, amount of the resource available, limited urban pressures as well as proximity to the south eastern suburbs of Melbourne.

The report estimates that soil deposits within South Gippsland Shire can supply approximately 33% of the State's hard rock needs and accounts for 22% of its sand/gravel needs over the 2015-2050 period. The report also indicates that the deposits in the South Gippsland Shire are critical areas to be protected into the future (DEDJTR, 2016).

Figure 1 below depicts in broad summary form, the South Gippsland Shire's potential resources.

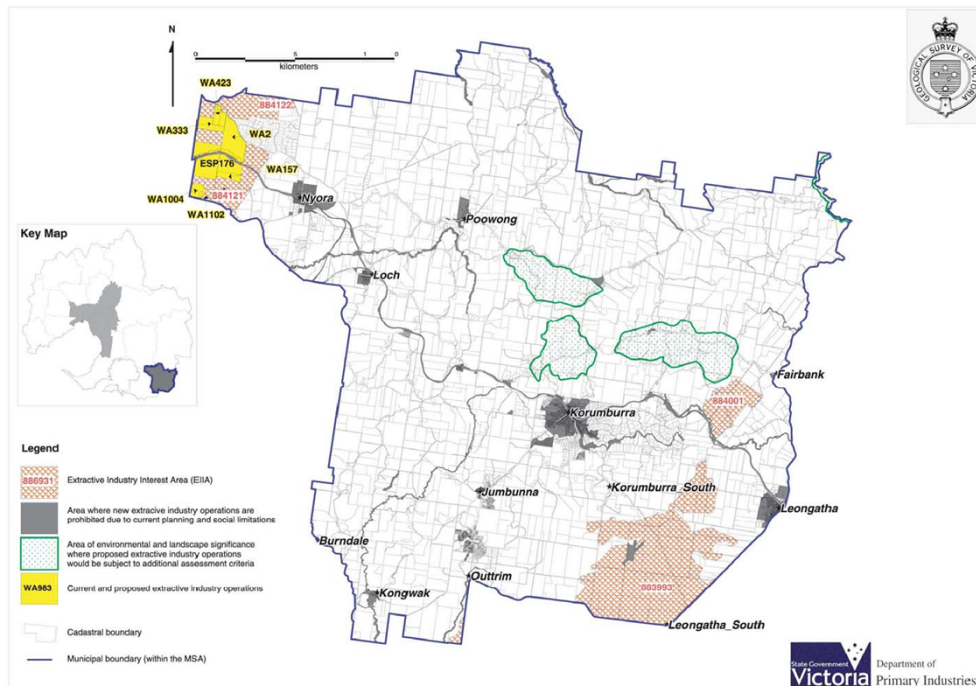


Figure 1: Key locations of sand and other extractive resource areas within (part) of South Gippsland Shire.  
 Source: Department Primary Industries

### 4.1 Sand Industry within Nyora

Nyora is identified as a critical location for sand resources, it is within the Lang Lang to Grantville 'sand belt' that crosses the northern portion of the Shire. Due to the competition between various land uses, notably dwelling developments, it has become increasingly important to clearly identify and protect extractive areas of strategic resource importance both in relation to existing mining operations and potential future operations.

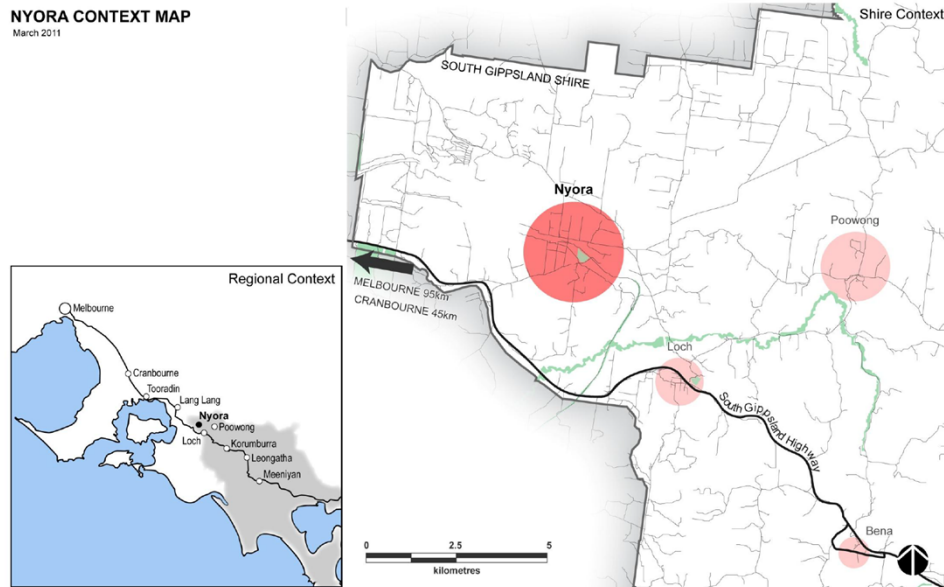


Figure 2: Nyora Context Map. Source: Nyora Structure Plan, Planisphere

Nyora is also the closest township to Melbourne within the South Gippsland Shire. Settlement of the area dates from the 1840s. The population has gradually increased since the mid-1990s; a result of new dwellings being developed in the area. In 2010 the South Gippsland Shire developed a structure plan for the Nyora township that identified it as a potential high growth town that will provide the opportunity for urban and rural residential development, largely accommodating commuters to Melbourne's south eastern suburbs. The Nyora Structure Plan states that;

*"Nyora is seen as a desirable 'rural residential' and lifestyle location within easy reach of the major Cranbourne, Narre Warren, Pakenham and Dandenong urban centres. An additional factor that makes Nyora and its hinterland attractive for possible residential development is that Nyora is surrounded by gently undulating farming land which can be assessed for possible rezoning."*

According to the 2016 census data the total resident population of the Nyora / Poowong district was 2,797 people, which is an 11.2% (277 people) increase from the 2006 census. This represents an average annual population change of 1.06% per year over the period. However, since the implementation of the Structure Plan and its associated residential rezoning of the Nyora township in 2016 it is anticipated that there will be further population pressure, given the increase in land available for residential growth.

During the development of the *Nyora Structure Plan*, the South Gippsland Shire developed a *Nyora Discussion Paper 2010*. The discussion paper noted the importance of protecting areas of

State significant sand resources and the buffer to sand mining opportunities to the west of Nyora. The map that was prepared as part of the discussion paper is outlined below;

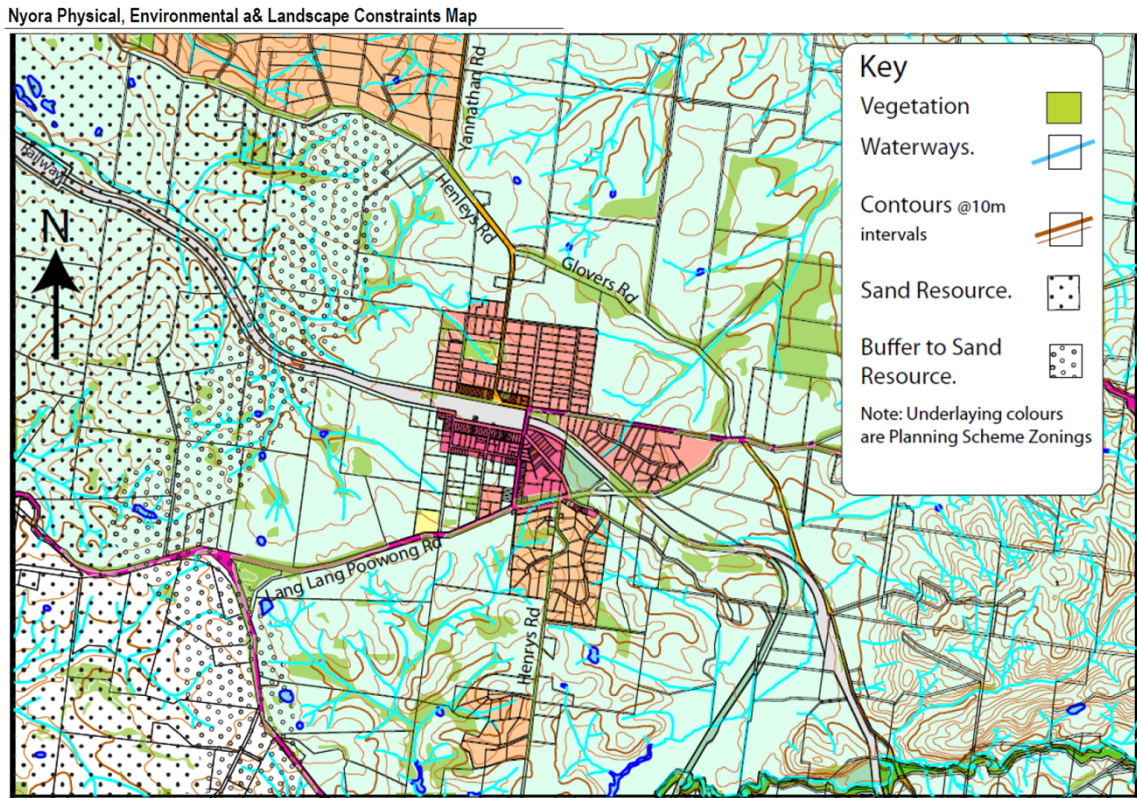


Figure 3: Environmental Constraints Map. Source: Nyora Discussion Paper, South Gippsland Shire

Recent growth and pressures on the area for development has reinforced the requirement on Council to identify the sand resources in the context of Nyora’s growth to ensure that an appropriate planning response is applied and managed. This approach would ensure that there are clear and transparent planning scheme tools to identify and seek to protect the sand resources from future urban encroachment.

The implementation of appropriate planning scheme tools to prevent the ad hoc encroachment of residential and other land uses will assist in ensuring that there is a continuous supply of construction material from the South Gippsland Shire to support the local supply chain and construction industry.

## 5 Legislative Frameworks, Requirements and Policies:

This section examines the treatment of constraints under the current Planning Scheme, and assesses the strengths and weaknesses of the current regulatory framework with respect to this issue.

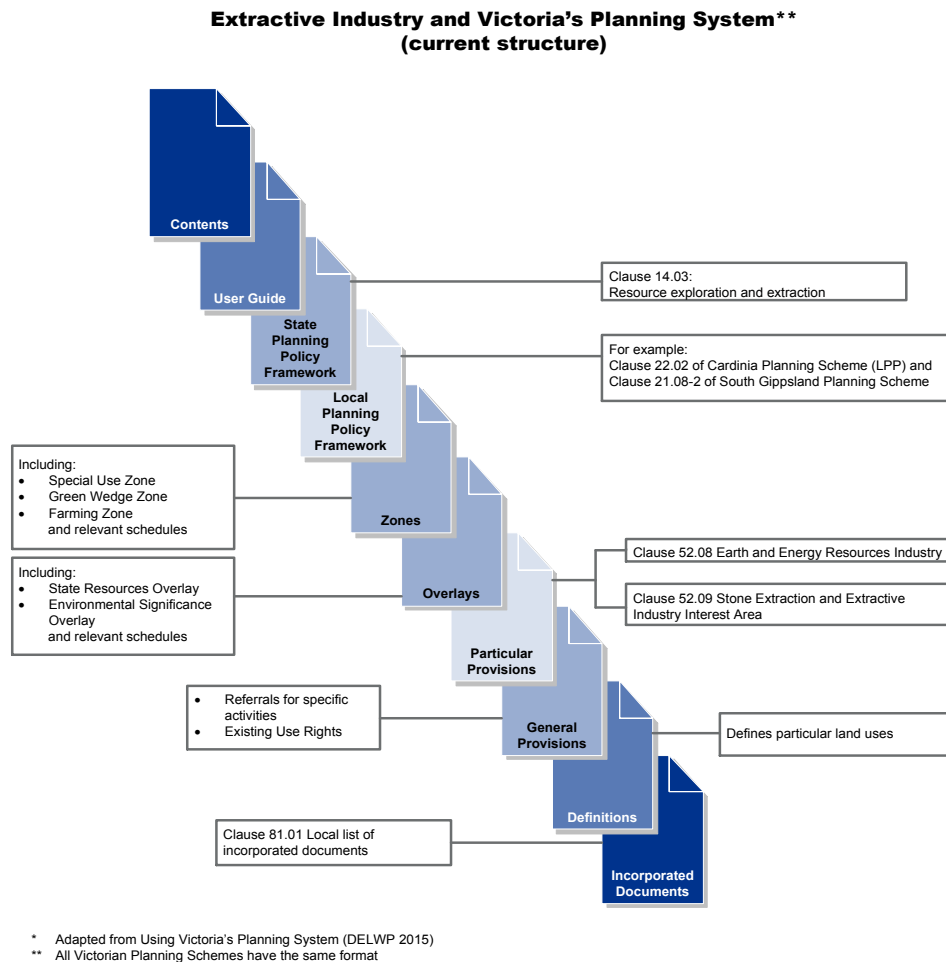


Figure 4 shows the structure and components of Victoria's current planning system and highlights where extractive industry is referenced in the planning system. Source 2016 Jacobs Report for DEDJTR

### 5.1 Legislative Requirements:

The extractive industry in Victoria is carried out under two Acts of Parliament; the *Planning and Environment Act 1987* and the *Extractive Industries Development Act 1995*. The main approval mechanism for extractive industry is a planning permit issued by the responsible authority which in most cases is Local Government, in some cases (although rare) the Minister for Planning is the responsible authority.

## 5.2 Strategies: Plan Melbourne

The issue of the need to protect extractive resources is addressed in the current Plan Melbourne. Direction 1.4 of the Plan is to support the *productive use of land and resources in Melbourne's non-urban areas*. As part of the discussion at Policy 1.4.2 it states *Identify and protect extractive resources (such as stone and sand) important for Melbourne's future needs*.

An excerpt from the Plan states as follows (emphasis added);

Extractive industry resources in green wedges and peri-urban areas need to be protected and carefully planned to provide for Melbourne's needs without impacting on local amenity. Effective strategic planning for these resources will increase industry certainty and improve community confidence.

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

The policy support within Plan Melbourne articulates the importance for strategic planning and resource identification to occur to protect extractive resources. The approach recommended is one that supports the process of identification and strategic planning that is recommended to the South Gippsland Shire.

## 5.3 State Planning Policies

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

Planning authorities (when considering planning scheme amendments) and responsible authorities (when deciding on planning permit applications) must take account of and give effect to the SPPF's general principles and specific policies. Table 2 below outlines and discusses clauses of the SPPF which are relevant to the subject land and extractive industry proposals.

Table 1: Relevant clauses in the SPPF

SPPF Clause	Planning objectives
<p><b>Clause 14.03- Resource exploration and extraction</b></p>	<p>Objective</p> <ul style="list-style-type: none"> <li>• <i>To encourage exploration and extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation.</i></li> </ul> <p>Strategies include;</p> <ul style="list-style-type: none"> <li>• Protect the opportunity for exploration and extraction of natural resources where this is consistent with overall planning considerations and application of acceptable environmental practice. Provide for the long term protection of natural resources in Victoria.</li> <li>• Recognise the possible need to provide infrastructure for the exploration and extraction of natural resources.</li> </ul> <p>Planning schemes must not impose conditions on the use or development of land that is inconsistent with the Mineral Resources (Sustainable Development) Act 1990, the Greenhouse Gas Sequestration Act (2008), the Geothermal Energy Resources Act (2005), or the Petroleum Act (1998).</p> <p>Planning permit applications should clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the proponent of an extractive industry.</p> <p>Buffer areas between extractive activities and sensitive land uses should be determined on the following considerations:</p> <ul style="list-style-type: none"> <li>• Appropriate limits on effects can be met at the sensitive locations using practical and readily available technology.</li> <li>• Whether a change of land use in the vicinity of the extractive industry is proposed.</li> <li>• Use of land within the buffer areas is not limited by adverse effects created by the extractive activities.</li> <li>• Performance standards identified under the relevant legislation.</li> <li>• Types of activities within land zoned for public use.</li> </ul> <p>Relevant reference documents include;</p> <ul style="list-style-type: none"> <li>• Mineral Resources (Sustainable Development) Act 1990</li> <li>• Melbourne Supply Area – Extractive Industry Interest Areas Review – Geological Survey of Victoria Technical Record 2003/2</li> </ul>
<p><b>13.04-1 Noise abatement</b></p>	<p>Objective</p> <ul style="list-style-type: none"> <li>• To assist the control of noise effects on sensitive land uses.</li> </ul>

	<p>Strategy include;</p> <ul style="list-style-type: none"> <li>• Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.</li> </ul>
<b>13.04-2 Air quality</b>	<p>Objective;</p> <ul style="list-style-type: none"> <li>• To assist the protection and improvement of air quality.</li> </ul> <p>Relevant strategies include;</p> <ul style="list-style-type: none"> <li>• Ensure that land-use planning and transport infrastructure provision contribute to improved air quality by: <ul style="list-style-type: none"> <li>○ Integrating transport and land-use planning to improve transport accessibility and connections.</li> <li>○ Ensure, wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses.</li> </ul> </li> </ul>
<b>11.10-1 A diversified economy</b>	<p>Objective;</p> <ul style="list-style-type: none"> <li>• To strengthen economic resilience by growing a more diverse economy and building on the region's traditional strengths through new investment, innovation and value-adding.</li> </ul> <p>Relevant strategies include;</p> <ul style="list-style-type: none"> <li>• Facilitate and manage access to earth resources where appropriate, including sand and stone, minerals and renewable energy potential.</li> </ul>

A review of the State Planning Policy Framework demonstrates that there is already significant policy support for the identification and protection of extractive industries.

#### 5.4 Particular Provisions

Particular provisions are specific prerequisites or planning provisions for a range of specific uses and developments. These planning controls apply in addition to the requirements of a zone or overlays. Therefore, in many instances a planning permit is not necessarily required by either of the particular provisions for works that are not otherwise triggered by a planning permit (i.e. dwelling on lot in excess of 40ha). However, consideration must be given to these particular provisions if a dwelling is otherwise triggered and notice should be given or the application referred in accordance with referral provisions.

Two particular provisions are relevant to extractive resource identification and protection. These are discussed in the Table below.



Table 2: Relevant Particular Provisions

Particular Provision	Planning objectives
<p><b>Clause 52.08 - Earth and Energy Resource Industry</b></p>	<p><b>Purpose</b></p> <p>The purposes of this provision are;</p> <ul style="list-style-type: none"> <li>• To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.</li> <li>• To ensure that mineral extraction, geothermal energy extraction, greenhouse gas sequestration and petroleum extraction are not prohibited land uses.</li> <li>• 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.</li> </ul> <p><b>Broader Requirements</b></p> <p>This clause provides an exemption for the need for a planning permit where an EES is required "Complies with Section 77T of the Mineral Resources (Sustainable Development) Act 1990."</p> <p>It outlines that an application to use and develop land for mineral extraction must be accompanied by:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• The written notice of statutory endorsement under section 77TD(1) of the Mineral Resources (Sustainable Development) Act 1990</li> <li>• Any conditions specified under section 77TD (3) of the Mineral Resources (Sustainable Development) Act 1990.</li> </ul>
<p><b>Clause 52.09 - Stone Extraction and extractive Industry Interest Areas</b></p>	<p><b>Purpose</b></p> <p>The purposes of this provision are;</p> <ul style="list-style-type: none"> <li>• To ensure that use and development of land for stone extraction does not adversely affect the environment or amenity of the area during or after extraction.</li> <li>• To ensure that excavated areas can be appropriately rehabilitated.</li> <li>• To ensure that sand and stone resources, which may be required by the community for future use, are protected from inappropriate development.</li> </ul> <p><b>Broader Requirements</b></p> <p>This clause also provides a range of decision guidelines and requirements for extractive industry.</p>

The clause also seeks to protect operating quarries and proposed quarries from the encroachment of incompatible uses.

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

- A copy of a work plan or a variation to an approved work plan that has received statutory endorsement under section 77TD of the Mineral Resources (Sustainable Development) Act 1990.
- The written notice of statutory endorsement under section 77TD (1) of the Mineral Resources (Sustainable Development) Act 1990.
- Any conditions specified under section 77TD (3) of the Mineral Resources (Sustainable Development) Act 1990. These requirements do not apply to an application to use and develop land for stone extraction which is exempt from:
  - The requirement to obtain a work plan under Section 77G of the Mineral Resources (Sustainable Development) Act 1990, or
  - The provisions of the Mineral Resources (Sustainable Development) Act 1990 under Section 5AA of that Act.

## 5.5 Analysis of existing Gippsland Councils Policy Framework

Planning Scheme	Zones	Overlay	Particular Provisions	SPPF	LPPF	Detail
South Gippsland			✓	✓	✓	Clause 21.08 – 02
Bass Coast	✓		✓	✓		Special Use Zone (SUZ)
Cardinia			✓	✓	✓	Clause 21.04-6 Clause 22.02
Baw Baw	✓	✓	✓	✓	✓	Special Use Zone (SUZ) Environmental Significance Overlay (ESO) Clause 21.06-9
Latrobe	✓	✓	✓	✓	✓	Special Use Zone (SUZ) - two State Resource Overlay (SRO) Clause 21.07-10

### 5.5.1 Extractive Industry Interest Areas

High value mineral earth resources are identified (mapped) across the State as Extractive Industry Interest Areas (EIIA). The purpose of the EIIA is to identify land that is likely to contain stone resources of sufficient quantity and quality to support commercial extractive industry.

With regard to land use planning, EIAs seek to:

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

EIAs do not remove the need for planning approval for extractive industry or prevent land being used for other purposes. EIAs have a degree of policy weight within all Planning Schemes, however, it is considered that a more robust and transparent approach would be to have the areas mapped and clearly defined through specific controls.

It is a well-established approach in land use planning to clearly articulate areas with an overlay; similar to the approach taken with respect to flooding or water catchment planning. This would ensure that there is a robust decision making framework and a series of tools that area clearly articulated to ensure that appropriate decision making strategies are undertaken.

#### 5.5.2 Existing Policy Framework: South Gippsland Shire Council

As previously discussed in this report, the South Gippsland Shire contains EIIA areas. The purpose of an EIIA is to identify land that is likely to contain sand and stone resources of sufficient quantity and quality to support commercial extractive industry.

The South Gippsland Planning Scheme currently relies on the existing planning policy framework in particular Clause 52.08 and 52.09 for the assessment of quarries and dwelling encroachment.

At Clause 21.08 the South Gippsland Planning Scheme does contain policy support for the protection of extractive industry and states that *"South Gippsland is well placed to strengthen and build upon its existing resources, assets and infrastructure to create new and diverse economic development opportunities in relation to extractive industries"*.

It contains an objective which states;

*"To encourage mining and extractive industry, processing and associated research in an environmentally responsible manner while ensuring that all land disturbed by mining and extractive industries is appropriately rehabilitated."*

The strategies stated are focused on protecting the area identified in the *Lang Lang to Grantville Regional Sand Extraction Strategy* and ensuring that quarrying activities are appropriately managed.

There are no other planning tools currently identified or applied in the South Gippsland Planning Scheme.

### 5.5.3 Existing Policy Framework: Bass Coast Shire Council

The Bass Coast Planning Scheme (BCPS) currently relies on the existing planning policy framework in particular Clause 52.08 and 52.09 for the assessment of quarries and dwelling encroachment.

The BCPS has also applied a Special Use Zone Schedule 2 (SUZ2) on two existing quarrying operations, one in Grantville and the other on Phillip Island.. The provisions of the SUZ state the purpose of the zone is to;

- *To recognize or provide for the use and development of land for earth and energy resources industry.*
- *To encourage interim use of the land compatible with the use and development of nearby land.*
- *To encourage land management practices and rehabilitation that minimizes adverse impact on the use and development of nearby land.*

There are a range of uses within the section 2 – permit required category. This includes amongst other uses agriculture, animal keeping and caretaker dwelling. The SUZ2 prohibits accommodation including a dwelling and other more intensive agricultural uses. There is also a planning permit exemption for works where the carrying out of works are necessary to comply with a direction or license under the *Dangerous Goods Act 1985* or other works approvals.

This tool was developed to protect existing extractive resource sites where the extent of the extraction operation is clearly defined and is not well suited to identifying and protecting resource areas that may be required in the future.

#### 5.5.4 Existing Policy Framework: Cardinia Shire Council

The Cardinia Planning Scheme currently relies on the existing planning policy framework in particular Clause 52.08 and 52.09 for the assessment of quarries and dwelling encroachment. Cardinia Shire Council have however, sought to protect and identify the sand extraction industry within the planning scheme through the application of a local planning policy which seeks;

*To protect sand resources in Lang Lang – Grantville area and to provide for the extraction of these resources and rehabilitation of sites in a manner which protects the significant environmental, social and economic values of the area.*

The policy sets out a range of policy guidelines which support the decision making of statutory planners when assessing new quarries and supporting industry applications.

The guidelines contain a series of requirements for decision making and matters to be considered in particular concerning amenity of existing dwellings and visual and environmental values within the area. The policy is silent with respect to new dwellings in the area and does not make any commentary concerning issues of encroachment on existing sand resources or impacts associated with urban expansion.

#### 5.5.5 Existing Policy Framework: Baw Baw Shire Council

The most comprehensive set of planning scheme controls in Gippsland relating to extractive industries, and in particular sand, were those of the Baw Baw Shire and Latrobe City Council's.

The Baw Baw Shire Planning Scheme has a range of existing tools that are used for the protection of extractive industry interest area; these policies in varying forms have been in the scheme since 1993 (former Naracan Shire). Their current planning scheme has a Special Use Zone Schedule 3 – Earth and Energy Resource Industry, an existing Environmental Significance Overlay Schedule 3 – Trafalgar Sand Resource and policy support in their MSS.

The Special Use Zone Schedule 3 – Earth and Energy Resource Industry is currently applied to two existing Boral quarries that are in operation. The purpose of the zone states that it is;

- *To recognize or provide for the use and development of land for earth and energy resource industry.*
- *To encourage interim use of the land compatible with the use and development of nearby land*
- *To encourage land management practices and rehabilitation that minimises adverse impact on the use and development of nearby land.*

The controls are very similar to the Bass Coast SUZ and also prohibits accommodation other than a caretaker's house and dependent person's unit.

The ESO is applied more broadly to the EIA area outside of Trafalgar. This map is also identified in the MSS at Clause 21.06-2 where Baw Baw Shire Council have sought to identify environmental constraints and opportunities. The objectives of ESO3 that relate to extractive industries are as follows -

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

The ESO exempts the requirement for a single dwelling on a lot within the area and sets out a range of decision guidelines with respect to buildings and works in the locality.

The Baw Baw Planning Scheme also has a detailed policy at Clause 21.06-9 Stone Resource, which seeks to protect significant stone (including sand) to ensure an adequate supply of stone into the future. The strategies that are set out to support this objective includes the requirement to ensure that uses within the area are compatible with future extraction and also recommends consultation with relevant agencies for decisions in these areas.

#### 5.5.6 Existing Policy Framework: Latrobe City Council

The Latrobe Planning Scheme also makes reference to various extractive industries including both coal and stone extraction. The Latrobe Planning Scheme also contains the State Resource Overlay (SRO) and is one of only two municipalities with the control in their scheme (Wellington Shire Council being the other).

The Latrobe Planning Scheme Municipal Strategic Statement contains the following clauses;

- Clause 21.07-3 which relates to Coal Resources and 21.07-4 Coal buffers.
- Clause 21.07-10 relates to Stone Resources. Its stated objective is to protect significant stone resources to ensure an adequate supply of stone in future years.

The Latrobe Planning Scheme also applies two different schedules of the Special Use Zone to areas of extractive industry; SUZ1 relates to Coal and Special Use Zone 6 relates to Earth and Energy Resources Industry. The overlay is the same as the SUZ applied within the Baw Baw and Bass Coast Planning Schemes where they apply to existing quarries and extractive industries.

The key difference between the Latrobe and other Planning Schemes is the use of the State Resource Overlay (SRO). The stated purpose of the SRO is to protect areas of mineral, stone and other resources, which have been identified as being of State significance, from development that would prejudice the current or future productive extraction of the resource. The decision guidelines that are set out within the overlay includes consideration being given to whether the resources is likely to be required, desirability of preventing any long term major development or intensive subdivision that would impact on the future productive use of the resource.



## 6 Planning Implementation Analysis

This section examines a range of possible planning controls that could be used to facilitate an appropriate planning response within the South Gippsland Planning Scheme to identify and manage the areas of significance.

There are a number of possible approaches that would provide a transparent system and planning framework. In order to make the most appropriate planning response a range of approaches have been considered.

As previously discussed EIAs have a degree of policy weight within the South Gippsland Planning Scheme, however, it is considered that a more robust and transparent approach would be to have the areas mapped and planning requirements clearly defined through specific controls. The premise of this report is that it is important to focus planning tools and ensure that strategic sites are identified and appropriate development is encouraged.

It is a well-established approach in land use planning to clearly identify land values, constraints and risks with an overlay; similar to the approach taken concerning flooding or water catchment planning. In relation to protecting earth resources this would ensure that there is a strong decision-making framework and a series of tools that are clearly articulated to ensure that appropriate decision-making strategies are undertaken.

### 6.1 Zones analysis: Special Use Zone

In considering a possible planning response for clearly articulating issues of protecting extractive resources the Special Use Zone has been considered however it is not recommended as the most ideal planning approach at this time.

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

*If a planning scheme includes land in a Special Use Zone for the purpose of recognising or providing for the use and development of the land for Extractive industry, the planning scheme must include the schedule that is currently utilized by the Baw Baw and Bass Coast Planning Schemes.*

The Special Use Zone has been applied to stone extraction in a number of planning schemes. These include quarries in the Trafalgar, Phillip Island and Grantville areas (amongst others). Currently, the Baw Baw, Bass Coast and Latrobe Planning Scheme's all use the Earth and Energies Resource Special Use Zone to identify extraction quarries and existing operations.

Application of the Special Use Zone is not appropriate as a broad brush approach when identifying potential areas for extraction. This schedule should be only used where land with an earth and energy resource has been identified and an alternate zone does not provide sufficient clarity around this use and development (DELWP – Form and Content, 2015). These limitations discourage the use of the Special Use Zone in the South Gippsland Planning Scheme given the desire to protect both existing and potential future extractive resource operations.

#### 6.1.1 Analysis:

The Special Use Zone provides for the use of land for specific purposes. The purposes and the land use requirements are specified in a schedule to the zone. This allows detailed land use requirements to be prescribed for a particular site. Development conditions (where they are necessary) are still set out in a permit rather than the planning scheme. Exemptions from notification and review can be provided in the zone if desired.

Practice Note 3: Applying the Special Use Zone sets out the understanding of when and where a Special Use Zone can be used. It can be used when either:

- an appropriate combination of the other available zones, overlays and local policies cannot give effect to the desired objectives or requirements
- the site adjoins more than one zone and the strategic intent of the site, if it was to be redeveloped, is not known and it is therefore not possible to determine which zone is appropriate.

When considering the application of the Special Use Zone, the practice notes also states that the following principles need to be understood:

- The complexity of planning requirements is reduced by keeping the number of zones used to a minimum.
- Planning scheme maps identify the statutory requirements which apply to land, not the particular land uses which happen to exist there.
- Detailed and complex site specific zones are discouraged in preference for clear policy guidelines as the primary tool for decision making on planning matters.
- The planning permit should be the principal method for land use or development approval.

While the use of the SUZ to identify land actively being mined or used for extraction has merit, this approach is not recommended because it would fail to capture EIA areas not currently being mined and furthermore, could not be applied to buffer areas where resources are not present.

## 6.2 Zones analysis: Farming Zone

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

In the Nyora region it is the zone applied to the areas where there is identified sand resources. It is noted that outside of the Melbourne metropolitan area, many operating quarries, proposed work authorities and EIAs are located in the Farming Zone.

It is considered that the Farming Zone is an appropriate zone to be used in sand extraction areas provided protection of the resources are triggered through another mechanism, such as an overlay.

## 6.3 Overlay analysis: State Resource Overlay

The State Resource Overlay (SRO) is a purpose-built overlay that can be applied to protect areas of mineral, stone and other resources, identified as being of state significance, from development that would affect the current or future productive use of the resource. While the SRO can be

used to protect significant stone resources, to date it has only been applied to the protection of the coal resources across the Latrobe Valley; it is currently used in both Wellington and Latrobe Planning Schemes.

This is considered to be a transparent planning control, however, through the analysis of VCAT decisions with respect to the current drafting of the SRO, it is clear that the overlay does not trigger the need for any planning permits. If this overlay was to be used by any new councils, there would need to be consideration given to a full redrafting of the overlay which is likely to be a complex and time consuming process. As a result, this overlay is not recommended..

### 6.3.1 Key VCAT decisions:

In undertaking this review, regard was given to VCAT decisions within the State Resource Overlay.

- IA & LE Goldie v LaTrobe CC [2001] VCAT 1493 (9 July 2001)
- Department of Economic Development, Jobs, Transport and Resources v LaTrobe CC [2016] VCAT 997 (23 June 2016)
- Groves v Latrobe SC [2015] VCAT 891 (19 June 2015)
- Goldie v Latrobe CC [2013] VCAT 172 (19 February 2013)

The VCAT cases have raised an interesting question about whether or not the SRO actually triggers a planning permit on its own merits. From the review of cases it appears that the overlay itself is a consideration but only where the development/use triggers a planning permit requirement from elsewhere in the planning scheme (i.e. Farming Zone). It does however, have requirements for referrals to the authority responsible for the resource (currently DEDJTR).

To highlight this point in Groves v Latrobe SC, in her findings Member Glynn states;

*I reiterate findings of Deputy President Horsfall in IA & LE Goldie v Latrobe[17] that the weight to be given to the location of the site in the State Resource Overlay is limited, as the overlay does not trigger the need for a permit for a dwelling or for the use of the land. However, the overlay does identify the site as within a location of State resource. Policy at Clause 11.08, 14 and 21.07 is to*

*protect this resource. The opposition of the proposal by the Department of Economic Development, Jobs, Transport and Resources therefore carries some weight.*

#### 6.4 Overlay analysis: Environmental Significance Overlay

This overlay seeks to address areas where the development of land may be affected by environmental constraints such as effects from noise or industrial buffer areas, as well as issues related to the natural environment. The schedule to the zone must clearly set out the environmental significance of the area and the resultant objective of the overlay.

Through the benchmarking process, analysis and review report, it is believed that the Environmental Significance Overlay (ESO) should be used to tailor a specific response that fits within the local context. This could be designed to exempt certain activities from requiring a planning permit where they support the use of the area, particularly with respect to the Farming Zone.

It is recommended that South Gippsland Shire Council implement two specific ESOs that seek to protect the extractive resources (in particular sand) but also considered a range of exemptions. One ESO should be applied to the resource area and the other to the buffer area. Draft ESOs have been prepared for discussion purposes and forms Attachment 1 to this report.

##### 6.4.1 Analysis:

The ESO is applied to areas of land when the development of land may impact on important environmental features or when land may be affected by environmental constraints. The ESO provisions are able to be tailored according to the particular circumstances of an issue. Relevant for comparison to the proposed ESO's, the South Gippsland Planning Scheme currently has an ESO that identifies water catchment issues across the municipality. This highlights its importance and triggers the requirement for various activities within the area. Importantly, the ESO can also be applied to land to identify a buffer area emphasising an environmental risk or amenity risk i.e. Burra Foods ESO or ESO's identifying waste water treatment plants.

The Baw Baw Planning Scheme has an ESO within the planning scheme which identifies the Trafalgar sand extraction areas. Anecdotally there has been varying degrees of success associated with protecting the sand resources and preventing urban encroachment in the area given that the overlay does not trigger a planning permit for the development of a new dwelling.

The benefit of applying the Environmental Significance Overlay is that the extractive industries production area and buffer areas would be clearly identified in the maps to the planning schemes (providing transparent identification of the planning issues to landowners and purchasers) and a clear set of controls guiding when a planning permit will be required and what agencies will be consulted in the assessment process.

The ESO provisions have been drafted to minimise their potential impact on landowners and include an extensive list of planning permit exemptions (including most dwelling additions), however a new dwelling will require a planning permit. The aim of both ESOs is not to prohibit the development of new dwellings, but to encourage the siting of dwellings in locations that can minimise their potential exposure to amenity impacts from mining operations. The development of more intensive forms of sensitive land uses (e.g. group accommodation / multi dwelling developments) are likely to be discouraged in the ESOs.

#### 6.4.2 Buffer Distances

As far as identifying the ESO extents it is considered that application of the overlay should extend over the entire significant extraction area plus 500m (a draft ESO application map is provided in the Attachment 1). This will ensure that any existing or future operations can continue to operate without issues of encroachment within the identified resource area. The tailored ESO schedule prepared should trigger a planning permit for buildings and works associated with sensitive uses (dwellings) and to ensure notice is given to the quarry operator and DEDJTR under the provisions of Section 52 of the *Planning and Environment Act*.

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

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

## 6.5 Referral Agencies

The key purpose of the referral process is to give a person or body whose interests may be affected by a permit application the opportunity to provide advice to the responsible authority about whether a permit should be granted. Referrals are integral to the application process and avoid the need for referral authorities to establish their own separate land use and development assessment and approval processes.

There are two types of referral authority: a determining referral authority and a recommending referral authority. Clause 66 of the planning scheme identifies the type of referral authority for each kind of application that must be referred.

Both types of referral authority can object to the granting of a permit, decide not to object or specify conditions to be included on a permit. However, the effect of that advice on the final outcome of an application is different for each type of referral authority.

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

In contrast, a responsible authority must consider the recommending referral authority's advice but is not obliged to refuse the application or to include any recommended conditions. A recommending referral authority can seek a review at the Victorian Civil and Administrative Tribunal if it objects to the granting of a permit or it recommends conditions that are not included in the permit by the responsible authority.

A section 55 referral may be appropriate where a particular type of use or development requires case by case consideration by the referral authority to ensure that:

- Implementation of a State Government policy or program is not adversely impacted, for example, the protection and management of Victoria's biodiversity or natural resources
- Relevant specialist and technical advice is made available to the responsible authority
- Proposed use or development will satisfy criteria or standards in other applicable legislation or regulations
- Public assets, for example infrastructure, public open space or waterways, are protected.

Having considered these factors it is considered appropriate for South Gippsland Shire Council to request that following agencies be made recommending referral authorities under the local provisions of the South Gippsland Planning Scheme;

- Environment Protection Agency (EPA) to provide comment regarding noise and other amenity impacts, and,
- Department of Economic Development, Jobs, Transport and Resources (DEDJTR) to provide comment regarding quality of extractive resources and consideration of any other licences/requirements applied to the land.

It is not appropriate to include privately owned mining companies as referral authorities in the planning scheme. If the approval of a planning permit might potentially affect the interests of a mining company (e.g. a new dwelling near a sand mining operation) Council can notify the mining company of the application in a similar manner to the notice provided to any other potentially affected adjoining / adjacent landowner or occupier.



## 7 Discussion

It is considered that there is significant strategic justification to support a planning scheme amendment to introduce controls to identify and acknowledge areas of extractive industry and resource areas.

The preferred option is to incorporate significant locations of extractive sand resources into planning schemes. It is considered appropriate to rely on the existing suite of planning tools available and not create any additional zones or overlays. This report has identified that the key tools are the:

- Environmental Significance Overlay
- Local Planning Policies
- Using section 66 to include referral requirements

Applying these tools involves the preparation of two new schedules to the Environmental Significance Overlay to identify existing resource areas and resource buffer areas. The draft ESO schedules (see Attachment 1) have been prepared in a generic manner and can be applied to all forms of earth resource and can be applied, at Council's discretion, to other areas at a future time if considered necessary.

A schedule to the Environmental Significance Overlay would:

- Complement the mapping within the planning scheme
- Outline the objective to be achieved
- Identify permit triggers for buildings and works associated with sensitive uses
- Provide a referral and / or notice requirement to DEDJTR
- Provide decision guidelines for Council to consider when deciding on applications within the overlay.

In addition to the implementation of the Environmental Significance Overlays, the local planning policy provisions could have clearer decision-making guidelines within the municipal strategic statement and/or supporting local planning policies. These policies should discuss decision making concerning sensitive uses (e.g. dwellings) as well as seek to protect against encroachment. Draft local policy changes are detailed in the attachments. The changes are not extensive however provide

targeted additional support for Council in its consideration of planning permit applications in the proposed ESO areas.

It is also considered appropriate to include the EPA and DEDJTR as referral agencies to assist with providing expertise to guide decision makers.

## 8 Conclusion and Recommendations

Since the 1970s there have been numerous reports that have concluded that stone extraction is critical to Melbourne and Victoria's development, with extractive industry products used in housing, commercial and industrial buildings and key infrastructure. The State Planning Policy Framework (SPPF) identifies the importance of protecting earth resources now and into the future. Despite this, many planning schemes (including the South Gippsland Planning Scheme) have not followed through on the directions of the SPPF to implement local provisions to effectively control how land is used and developed over and adjoining areas of resource significance. This lack of local level planning can result in incremental and ad hoc decision making that contributes to conflict and competition between the resource sector and competing land uses. If not properly managed over an extended time period, state significant earth resources may no longer be available for use. Were this to occur to Nyora's sand resources, it would have notable local and state consequences.

Based on our analysis of the need to protect resource areas of significance, together with a review of various planning instruments available, and a review of current use of zones by other planning authorities, there is already significant strategic justification to support a planning scheme amendment to introduce controls into the South Gippsland Planning Scheme.

The most practical approach consistent with the existing suite of planning tools is tailored ESO Schedules along with supporting statements within the Local Planning Policy Framework.

This report recommends that South Gippsland Shire Council should:

1. Update the Planning Scheme in the following manner -
  - Update the MSS to include improved local content in relation to extractive industries;
  - Update the framework plan map in Clause 21.04 to include the EIIA and Licence Areas protection area within the scheme;
  - Include the EPA and DEDJTR as a recommending referral agency in Clause 66; and,
  - Apply tailored Environmental Significance Overlays to the extractive industry sand area and its buffer area to provide clear guidance with respect to extractive industries.
2. Consider applying similar resource protection and buffer controls to other high value resource areas in South Gippsland Shire.

Attachment 1: Draft ESO Schedules

**SCHEDULE 10 TO CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAY**--/20--  
C--

Shown on the planning scheme map as **ESO10**.

**Extractive Industries Resource Areas****1.0 Statement of environmental significance**--/20--  
C--

The mineral deposits in South Gippsland are considered to be of State significance due to their quality, quantity and proximity to metropolitan Melbourne. It is estimated that mineral deposits within South Gippsland Shire can supply approximately 33 percent of Melbourne's hard rock needs and 22 percent of its sand and gravel needs over the period 2015-2050. Protecting the resource from the cumulative impact of incompatible uses over an extended time period is critical to protecting the economic viability of the resource.

The ESO10 works in conjunction with ESO11 which is applied to the buffer areas adjoining the resource area.

**2.0 Environmental objective to be achieved**--/20--  
C--

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

**3.0 Permit requirement**--/20--  
C--

A permit is not required to construct a building or construct or carry out works associated with:

- An extension to a habitable building where the extended floor area will be less than 100 square metres.
- A non-habitable outbuilding.
- Informal outdoor recreation.
- Commercial resource extraction.
- Earthworks.

A permit is not required to construct a building or construct or carry out works:

- Undertaken by, or on behalf of a municipality or public authority.
- Undertaken by a utility service provider in relation to the transmission or distribution of water (including waste water), gas, oil, or power.
- For bicycle pathways and trails.

A permit is not required to remove, destroy or lop any vegetation, including dead vegetation.

**4.0 Decision guidelines**--/20--  
C--

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The significance of the future productive use of the resources to the State.
- The desirability of preventing any long term major capital development or subdivision which may adversely impact on the future productive winning of the resource.
- The potential cumulative impacts of use and development on existing, or future access to, the extractive resources.
- Where Accommodation may be considered appropriate, the potential to design and site the development in a location that minimises amenity impacts from resource extraction.

--/20--  
C--

## **SCHEDULE 11 TO CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as **ESO11**.

### **Extractive Industries and Buffer Areas**

#### **1.0 Statement of environmental significance**

--/20--  
C--

The mineral deposits in South Gippsland are considered to be of State significance due to their quality, quantity and proximity to metropolitan Melbourne. It is estimated that mineral deposits within the South Gippsland Shire can supply approximately 22 percent of its sand and gravel needs over the period 2015-2050. Protecting the resource and buffer areas from the cumulative impact of incompatible uses over an extended time period is critical to managing the amenity interface and protecting the economic viability of the resource.

#### **2.0 Environmental objective to be achieved**

--/20--  
C--

- To encourage the siting and design of sensitive land uses in buffer areas to minimise the potential impacts from resource extraction operations.

#### **3.0 Permit requirement**

--/20--  
C--

A permit is not required to construct a building or construct or carry out works associated with:

- An outbuilding or extension to an existing building where the new or extended floor area will be less than 200 square metres.
- Informal outdoor recreation.
- Telecommunication facility.
- Commercial resource extraction.
- Earthworks.

A permit is not required to construct a building or construct or carry out works:

- Undertaken by, or on behalf of a municipality or public authority.
- Undertaken by a utility service provider in relation to the transmission or distribution of water (including waste water), gas, oil, or power.
- For bicycle pathways and trails.

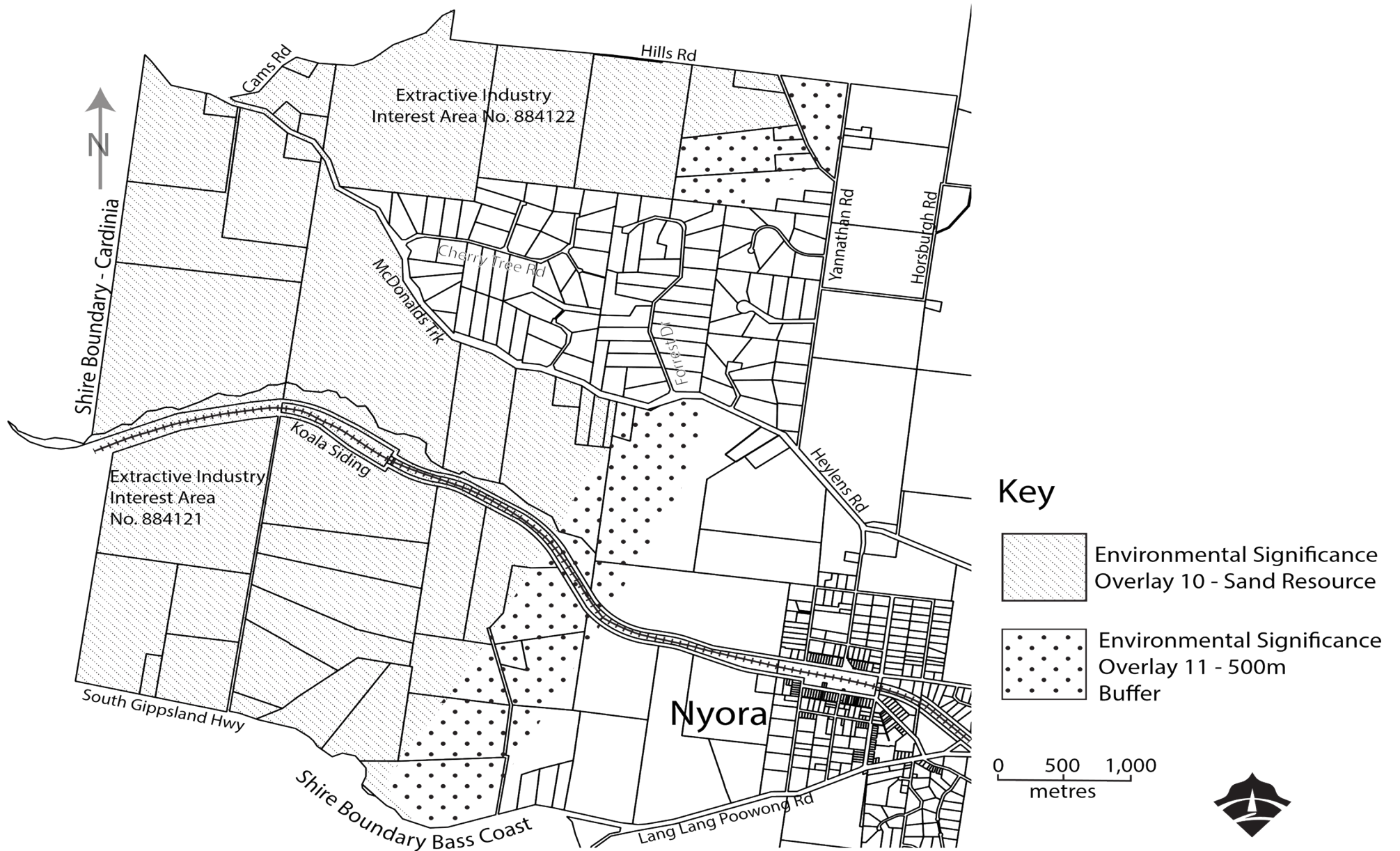
A permit is not required to remove, destroy or lop any vegetation, including dead vegetation.

#### **4.0 Decision guidelines**

--/20--  
C--

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The significance of the future productive use of the resources to the State.
- The desirability of preventing any long term major capital development or subdivision and associated residential development on the land which may adversely impact on the future productive use of the resource.
- The potential cumulative impacts of the proposed building and works on the extractive resources and whether or not they will prejudice the future extraction of the resources from the site.
- The potential for sensitive land uses in resource buffer areas, including dwellings, to be detrimentally affected by existing or expanding extractive industry operations.
- The potential to site sensitive land uses in a location that minimises amenity impacts from resource extraction.



Attachment 2: Draft changes to Clause 21.02



## 21.02 MUNICIPAL PROFILE

15/10/2015  
C77(Part 3)

### 21.02-1 Location

28/11/2013  
C68

The South Gippsland Shire covers an area of approximately 3297 square kilometres and is located about 100 kilometres south east of metropolitan Melbourne. It is situated on the south western boundary of the Gippsland region and abuts five municipalities: Baw Baw and Latrobe City to the north, Wellington to the east, Bass Coast to the south-west and Cardinia to the west. The Strzelecki Ranges form much of the Shire's northern boundary, while the coastline delineates the southern boundary.

### 21.02-2 History

28/11/2013  
C68

South Gippsland has a rich and diverse cultural heritage. The land was originally occupied by Aboriginal people from the Gunnai, Bun wurrung and Wurundjeri clans, however few places of aboriginal cultural heritage remain from the pre-contact period, and almost none from the post-contact period. The remaining places are therefore highly significant in demonstrating the indigenous history of the Shire. Examples of remaining aboriginal heritage places include the evidence of shell middens along the coast, artefact 'scatters' and 'scarred' trees.

The post-contact cultural heritage places in the Shire reflect the area's development and can be described through themes which provide an historical explanation of the existing physical fabric and land use patterns. The majority of post-contact heritage places reflect four key historic themes:

Early pastoralism and settlement

The development of railways

The development of agricultural industries (particularly dairying)

Coal and gold mining, which had a significant influence at Korumburra and Foster respectively

These key historic themes are demonstrated by a variety of cultural heritage places including rural homesteads and farm buildings, public and community buildings such as halls, churches and schools, railway infrastructure, and commercial and industrial buildings such as butter factories. Other examples include war memorials, which include Avenues of Honour, routes of early explorers such as McDonalds Track, and significant cultural landscapes such as Mossvale Park and the former Mossvale nursery.

### 21.02-3 People and settlement

15/10/2015  
C77(Part 3)

The Shire's population of 27,937 (ABS Estimated Resident Population 2014 update ) is spread across 26 settlements and 41 localities. The largest town within the Shire is Leongatha with a population of 5,332 (2011 ABS Census). Other significant towns are Korumburra 4,373, Mirboo North 2,296 and Foster 1,667 (2011 ABS Census).

Key demographic characteristics for South Gippsland are as follows:

- Population density in the Shire is greatest within the urban centres and in the area between Korumburra and Leongatha.
- There is considerable seasonal variation in the number of persons within the municipality due to the holiday homes (especially in the coastal towns) and the large influx of tourists during the summer months
- The proportion of the population in older age groups is increasing, consistent with an Australia-wide trend
- Household sizes are decreasing, in keeping with the trend for Victoria

- Just over half the Shire's population live outside urban areas
- There is also strong demand for dwellings outside the town areas by those seeking a more remote rural lifestyle
- The proportion of persons employed in the agricultural sector is considerably higher than for the Gippsland region
- Unemployment rates are lower than for both the Gippsland region and Victoria
- The proportion of people in the Shire born overseas is slightly lower than for the Gippsland region, and significantly lower than Victoria

#### **21.02-4 Environment**

28/11/2013  
C68

The Shire's natural beauty attracts residents and tourists from around the world.

South Gippsland is home to a diverse range of indigenous plants and animals. The Strzelecki Ranges contains warm temperate rainforest; the hills and plains are the home of the unique Giant Gippsland Earthworm; areas such as Corner Inlet support a wealth of marine, estuarine and freshwater plants and animals; and there are a large number of parks and reserves containing flora and fauna of State and national significance. The Shire contains areas of State, national and international natural significance, such as Wilson's Promontory National Park, Cape Liptrap Coastal Park, the Strzelecki Ranges, and Corner Inlet and Nooramunga Marine parks.

The Shire is characterised by a diverse topography of ranges, plains, low lying land and coastal areas. This has created some of Victoria's most picturesque landscapes ranging from the natural ruggedness and beauty of the coastline and beaches (including Wilson's Promontory, Cape Liptrap, Andersons Inlet, Waratah Bay and Corner Inlet), to the rolling hills of the agricultural districts and the tall tree forests of the Strzelecki Ranges.

A number of environmental challenges face the municipality, including:

The loss of biodiversity (native flora and fauna)

Land and water degradation

Ensuring sustainable land use and development occurs

Managing the environmental impacts resulting from climate change

#### **21.02-5 Natural resource management**

28/11/2013  
C68

The South Gippsland Shire's natural resources are essential for biodiversity, agriculture, industry and recreation. The Shire contains some of the most productive agricultural areas in Victoria and provides a substantial proportion of Victoria's milk and milk products as well as beef, prime lamb and timber products. Other forms of agricultural production include vegetables (for example, potatoes and snow peas), cereal cropping and grape growing. The relatively abundant rainfall and high quality agricultural soils of the area will likely continue to make the Shire attractive to agricultural producers.

#### **21.02-6 Built environment and heritage**

28/11/2013  
C68

The South Gippsland Shire is characterised by a variety of built heritage places including rural homesteads and farm buildings, public and community buildings such as halls, churches and schools, railway infrastructure, and commercial and industrial buildings such as butter factories. Other examples of heritage places include war memorials, which include Avenues of Honour, routes of early explorers such as McDonald's Track, and significant cultural landscapes such as Mossvale Park and the former Mossvale nursery.

### 21.02-7 Economic development

28/11/2013  
C68

Agricultural and associated manufacturing and service industry underpin the Shire's economy. The agricultural industry is supported by large dairy processing plants at Leongatha and Korumburra, with some value adding such as cheese production occurring on farms. Major saleyards are located at Koonwarra and abattoirs are at Foster and Poowong. Boutique farming is a small but emerging sector with activities such as alpaca rearing, olives, native bush food and organic food production have been introduced into the municipality in recent years.

Other important industries are timber production, the ESSO terminal at Barry Beach (which services the off-shore oil and gas platforms in Bass Strait) and extractive industry (sand, ~~and~~ gravel and stone) which have been identified as being of state significance. Manufacturing and retail sectors provide employment in the major towns and through value-adding activities.

Tourism also plays an important role in the Shire's economy, particularly within the major towns and coastal areas. The Shire's outstanding natural features, heritage significance and agricultural production leave it well placed to achieve growth in agri-tourism and eco-tourism.

### 21.02-8 Transport

15/10/2015  
C77(Part 3)

Three State highways—the South Gippsland, Bass and Strzelecki highways—serve South Gippsland. V-line buses serve commuters along the South Gippsland Highway to and from Melbourne throughout the week, and services also connect Leongatha to the Latrobe Valley via Mirboo North. Council community buses and cars in some towns provide additional services. Part of the former Great Southern Railway line still exists through much of the Shire and a tourist train operates between Nyora and Leongatha. The Shire contains one aerodrome located in Leongatha.

Although rail services to Melbourne remain discontinued, it is essential for the long term economic and social planning of the Shire that the option remains to return rail services in the future.

### 21.02-9 Infrastructure

28/11/2013  
C68

The towns of Korumburra, Leongatha, Foster, Mirboo North, Toora, Welshpool and Port Welshpool are serviced by reticulated sewerage and water. Other towns and coastal areas are only serviced by reticulated water or are not serviced.

### 21.02-10 Community services

28/11/2013  
C68

The Shire contains a range of community facilities and services to meet the needs of the community. Hospitals are located within the larger towns of Korumburra, Leongatha and Foster, while family, maternal and child health services are also provided in some of the smaller towns. Aged care facilities, such as nursing homes, are located at Korumburra, Leongatha, Foster, Mirboo North, Loch and Toora. A range of other facilities and organisations are provided throughout the Shire, including childcare centres, schools, community houses, libraries, public parks and reserves, community halls, sporting clubs and youth groups.

Attachment 3: Draft changes to clause 21.03

## 21.03 KEY ISSUES

13/10/2016  
GC31

The key issues for the South Gippsland Shire are:

### 21.03-1 Settlement

28/11/2013  
C68

- The need to recognise that the network of smaller rural towns throughout the Shire provide a valid alternative to the large settlements, particularly where reticulated services are provided
- The need to demarcate settlement boundaries and provide improved design guidance and control over development in coastal settlements, in order to protect settlement and coastal character as the pressure for development in these areas continues to increase
- The need to plan for housing and facilities to cater for anticipated population growth in the north-west of the Shire

### 21.03-2 Environmental and landscape values

28/11/2013  
C68

- The need to conserve the region's biological diversity
- The poor integration of public and private land management to provide a diversity of flora and wildlife refuge areas
- The need to closely regulate industry and farming practices to ensure environmental standards are maintained

### 21.03-3 Environmental risks

13/10/2016  
GC31

- The anticipated impact of climate change on the local environment, and the need to monitor and continue to plan for these impacts in the context of broader climate change policy and new knowledge
- Pressures for development and subdivision along the coast and other environmentally sensitive areas (including potable water supply catchments), and the associated impacts of vegetation clearing, introduction of pest plants and animals, erosion and a decline in water quality
- The incidence of landslip and erosion (particularly within the steep areas of the Strzelecki Ranges), flooding and drainage problems affecting certain areas of the Shire, and the potential risk of fire hazard to population and property in certain areas
- The negative impacts of pest plants and animals on the ecology of the area

### 21.03-4 Natural resource management

28/11/2013  
C68

- The need to protect and promote the importance of a strong agricultural base to the Shire's economy
- The need to preserve rural land for commercial scale agricultural production
- The need to protect the Shire's state significant sand and stone resources from incompatible use and development that may compromise current or long term extraction of resources.
- The diversification and restructuring of the agricultural industry through the development of more intensive farming, value-adding opportunities and the decline of traditional forms of agricultural employment

### 21.03-5 Built environment and heritage

15/10/2015  
C77(Part 3)

- The need to protect the character and significance of sensitive coastal landscapes, particularly landscapes of State or regional significance where there is a high level of pressure for development

- The total loss or detrimental damage to heritage places through inappropriate alterations or other works

### **21.03-6 Housing**

28/11/2013  
C68

- The need to raise the awareness of people who choose to live in rural areas that they must expect rural land uses and infrastructure levels as well as a rural amenity and lifestyle, while supporting living opportunities in rural areas throughout the Shire
- The need to provide diversity in housing types to accommodate decreasing household sizes and the ageing population
- The increasing pressure for housing development along the coast
- The need to avoid landscape and servicing issues arising from the development of dwellings in rural areas that are not reasonably connected to agricultural activities

### **21.03-7 Economic development**

28/11/2013  
C68

- The increasing interest in developing timber plantations on cleared farmland
- The need to provide sufficient industrial land to accommodate and encourage existing and future industrial opportunities based on the clean and green image set by the Shire
- Commercial pressures that may result in the fragmentation of the core commercial areas of the main towns
- The changing roles and functions of some of the small towns and villages and the need to encourage each town to develop its own identity to facilitate economic development
- The steady exodus of youth to larger centres to pursue employment and educational opportunities
- The need to improve education and employment opportunities for young people within the Shire
- The strong contribution of the tourism industry to the State and local economies
- The steady increase in the number of tourists visiting the area
- The significance of the natural and cultural environment and nature based activities for tourism
- The lack of a large tourist accommodation facility in the area, particularly in the vicinity of Wilson's Promontory

### **21.03-8 Transport**

28/11/2013  
C68

- The need to improve and maintain existing roads in order to support the future needs of the community, promote economic growth and protect the environment
- The lack of public transport opportunities, which restricts movement by residents through and from the Shire and limits the number of visitors to the area who do not have access to a vehicle
- The potential for an increase in truck traffic throughout the municipality as timber harvesting activities increase, and the impact this will have on the road network
- The development of a deep-water port at Barry Beach and the promotion of major economic development opportunities that will benefit from the deep-water port
- The need to upgrade the South Gippsland Highway, Strzelecki Highway and Grand Ridge Road for future tourism benefits to the Shire

### **21.03-9 Infrastructure**

28/11/2013  
C68

- The need to provide reticulated water and sewerage services and drainage improvements to many of the smaller towns and coastal villages to encourage population growth in the towns
- to improve and maintain existing infrastructure in order to support the future needs of the community, promote economic growth and protect the environment

- to accommodate large population fluctuations in some of the holiday towns and villages, which place different demands on infrastructure and services
- The need to encourage the development of alternative energy sources
- The development of a development contributions policy to guide infrastructure provision

**21.03-10 Community Services**

05/06/2014  
C80

- Economic pressures that affect the viability of existing community services
- The need to provide residents with access to services and facilities, including aged care, health, recreation and education, in an efficient and equitable manner
- Catering for the needs of an ageing population

**Reference Documents**

*The South Gippsland Housing and Settlement Strategy, 2013*

Attachment 4: Draft changes clause 21.08



## 21.08 NATURAL RESOURCE MANAGEMENT

28/11/2013  
C68

### 21.08-1 Agriculture

28/11/2013  
C68

#### Overview

Agriculture and associated agricultural manufacturing has always been the major industry within the Shire. Considerable opportunities exist to add value to primary produce and to diversify the base income of the rural sector and improve employment opportunities. The region's competitive strengths of rich agricultural soils, high rainfall and close proximity to Melbourne should be promoted to attract new industries complementary to the region's lifestyle.

#### Objectives and strategies

##### **Objective 1 To maintain a viable and sustainable agricultural industry as the corner stone to the Shire's economy and its future wellbeing**

- Strategy 1.1 Protect high quality agricultural land for primary production
- Strategy 1.2 Strongly discourage rural residential land use on lots over 4.1 hectares in agricultural areas
- Strategy 1.3 Strongly discourage the development of houses in old Crown township areas except where such lots form part of a sustainable farm or are adjacent to existing urban/serviced areas or have been approved for re-structure
- Strategy 1.4 Limit the impact of house lot excisions by strongly encouraging:
  - minimum log size of 0.4 hectares and a maximum lot size of 2 hectares for a house lot
  - residual lot to generally be a minimum of 40 hectares
- Strategy 1.5 Encourage and promote new and existing diverse and sustainable agriculture industries as an important contributor to the Shire's economy, including promoting the region as a premium 'green' products food bowl
- Strategy 1.6 Provide essential services to support agricultural production and economic development
- Strategy 1.7 Promote best practice agricultural land management which includes sustainable integration of economic and environmental needs
- Strategy 1.8 Ensure that the road network is capable of serving the transport needs of the farming community on an equitable basis
- Strategy 1.9 Promote sustainable land management through best practice, by encouraging the preparation and implementation of farm management plans addressing issues such as fire safety and prevention, safe storage and handling of dangerous goods, land management practices that address any significant environmental hazards, and diversification in crops and stock
- Strategy 1.10 Consider land capability when assessing applications for the use and development of rural land

##### **Objective 2 To support developing marine industries and farm forestry**

- Strategy 2.1 Support and facilitate the development of the marine industry in appropriate locations, such as wild harvest and aquaculture ventures
- Strategy 2.2 Support and facilitate the development of farm forestry in appropriate locations

## Implementation

The strategies relating to resource management – agriculture will be implemented through the planning scheme by:

### Policy guidelines

- Assessing applications for land use or development with reference to the Regional Catchment Strategies and the South Gippsland Rural Land Use Strategy (2011)
- Assessing subdivision of rural land that will facilitate more intensive agricultural land uses with reference to the recommendations of the South Gippsland Rural Land Use Strategy (2011)
- Applying a minimum subdivision size of 80 hectares in Farming Zone areas in accordance with the schedule to the Farming Zone
- Applying a minimum area for which no permit is required for a dwelling of 40 hectares in the Farming Zone
- Applying the Rural Dwelling local policy at Clause 22.05 to all applications for dwellings in the Farming Zone
- Applying the Rural Subdivision local policy at Clause 22.06 to all applications for subdivision in the Farming Zone

### Application of zones and overlays

- Applying the Farming Zone to areas outside the towns to protect land for primary production and to facilitate diversity in agricultural land uses

## 21.08-2 Extractive industry

28/11/2013  
C68

### Overview

South Gippsland Shire is well placed to strengthen and build upon its existing resources, assets and infrastructure to create new and diverse economic development opportunities in relation to extractive industry. **High quality sand and rock resources have been identified as being of state significance and must be protected for future use.**

### Objectives and strategies

**Objective 1 To encourage mining and extractive industry, processing and associated research in an environmentally responsible manner while ensuring that all land disturbed by mining and extractive industries is appropriately rehabilitated**

Strategy 1.1 Protect the area identified in the *Lang Lang to Grantville Regional Sand Extraction Strategy* in the north-west of the Shire for its significant regional sand resource

Strategy 1.2 Promote sand extraction, quarrying and mining activities that do not have significant adverse impacts on the environment

Strategy 1.3 Ensure the appropriate rehabilitation of mines and extractive industry sites at the completion of their use

## Implementation

Strategies for resource management – extractive industry will be implemented by:

### Application of zones and overlays

- Applying the Rural Activity Zone to areas outside the towns to protect land for primary production and to facilitate diversity in tourism based uses in an agricultural context
- Applying the Environmental Significance Overlay to the high value extractive resource areas and a buffer to these areas.

### Policy guidelines

- Assessing applications for land use and development in the north-west of the Shire are with reference to the Lang Lang to Grantville Regional Sand Extraction Strategy and the Extractive Resources in Victoria: Demand and Supply Study 2015-2050 May 2016 (Department of Economic Development, Jobs, Transport and Resources)

### Further strategic work

- Investigating the preparation of Gippsland Coalfields Area local policy including an overall framework plan for the resource
- Investigate the application of a Special Use Zone to land being used for resource extraction
- ~~Commissioning the~~ Collaborate with the Geological Survey of Victoria to undertake a report on the Extractive Industry Interest Areas to identify stone resources and to contribute to their use and development in a manner consistent with State wide protection of stone resources

Attachment 5: Draft changes to clause 66.04

**SCHEDULE TO CLAUSE 66.04**

11/05/2017  
 C88

Referral of permit applications under local provisions

Clause	Kind of application	Referral authority	Type of referral authority
On land identified as the Gippsland Coalfields Policy Area in the Local Planning Policy Framework	To subdivide land. To use land or to construct a building or construct or carry out works for a cemetery, educational centre, exhibition centre, function centre, golf course, hospital, industry (other than rural industry), major sports and recreational facility, shop or office with a gross floor area exceeding 2000 square metres, or accommodation if the total number of people to be accommodated exceeds 100 or the proposed development results in an increase of greater than 25 percent to the gross floor area of an existing accommodation building.	Secretary to the Department administering the <i>Mineral Resources (Sustainable Development) Act 1990</i>  Secretary to the Department administering the <i>Mineral Resources (Sustainable Development) Act 1990</i>	Determining referral authority Determining referral authority
Clause 3.0 of Schedule 3 to Clause 42.01 (ESO)	An application for development on Coastal Crown Land, as defined under the Coastal Management Act, 1995	The Secretary administering the Coastal Management Act, 1995	Determining referral authority
Schedule 2 to Clause 45.02 (AEO)	An application to use land under the schedule.	Airport owner	Determining referral authority
Clause 3.0 of Schedules 8, 9, 10 & 11 to Clause 43.02 (DDO)	An application for buildings or works specified in the schedules to the DDO's. This requirement can be set-aside subject to an application satisfying conditions or requirements previously agreed in writing between the responsible authority and the Secretary to the Department of Health and Human Services.	Secretary to the Department of Health and Human Services	Determining referral authority
Schedule 9 to Clause 42.01 (ESO)	An application for any development.	Department of Environment, Land, Water & Planning	Determining referral authority
Schedule 8 to Clause 42.01 (ESO)	An application to construct a building, or construct or carry out works, or subdivide land.	Environment Protection Authority	Recommending referral authority
Schedule 2 to Clause 42.01 (ESO)	An application for any development except for an application for a sign, fence, roadworks or unenclosed building or works ancillary to a dwelling.	South Gippsland Water Corporation	Determining referral authority

Clause	Kind of application	Referral authority	Type of referral authority
Schedule 10 & 11 to Clause 42.01 (ESO)	An application to construct a building, or construct or carry out works, or subdivide land.	Environment Protection Authority Department of Economic Development, Jobs, Transport and Resources	Recommending referral authority