

Hanson Construction Materials Pty
Ltd

Planning Review

Review of emerging planning issues
for the extractive industries in
Victoria

24 November 2017

This report takes into account the particular
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It is not intended for and should not be relied
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Job number 258755

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Executive Summary

Several government strategies and Parliamentary inquiries have recommended supporting extractive industry and protecting earth resources by minimising impact from urban development and planning system burden.

A recent decision by the Victorian Civil and Administrative Tribunal adds a possibly very disruptive and unsustainable land use consideration to the extractive industry. In this case, a quarry that had ceased active extraction but was maintained with the intention for future use was deemed to have its planning permit for the use of land for extraction expire under Section 68(2)(b) of the *Planning and Environment Act 1987* due to two years of discontinuous use. This finding is a concern to the industry as it contrasts with commercially sustainable industry practice and clauses in the Victoria Planning Provisions that support ongoing use of land for stone extraction.

There is industry concern that the discontinuation of extractive industry use can be applied retrospectively to currently operating extractive industry that, in the lifetime of the planning permit, has discontinued use for a period of two years due to periods of low demand. This would result in currently operating extractive industries having to cease operations while a planning permit is obtained. The flow on from this would impact local workforces, provide temporary supply shortfalls, increase cost of resources and potentially sterilise supply due to potentially changed land uses in the interface areas.

The most certainty in supporting extractive industry to remove the inconsistency between Section 62(2)(b) of the *Planning and Environment Act 1987* and extractive industry would be changes to legislation. It is recommended that the current Smart Planning VPP review offers a process to expedite the issue. It is recommended that this review improves the planning system for extractive industry use of land by:

- Amending the definitions in Clause 74 of the Victoria Planning Provisions to align with extractive industry practice, Clause 52.09-6 of the Victoria Planning Provisions and the Parliamentary Inquiry *Report on Planning Issues for Extractive Industries* recommendation that (p. xix) “*Planning approval should be for the life of the quarry.*”
- Supporting the clarification of the extractive industry use definition by a Ministerial Direction.
- Implementing Strategic Resource Areas as identified in the *Extractive Resources in Victoria, Demand and Supply Study 2015-2050* as outlined in the *Strategic Extractive Resources Areas and the Existing Planning System* (October 2016) report.

1 Introduction

1.1 Purpose of this report

The Victorian planning system provides a planning framework to support earth resource extraction (extractive industry) while protecting local amenity. Several government strategies and Parliamentary inquiries have recommended supporting extractive industry and protecting earth resources by minimising impact from urban development and planning system burden. This includes:

- *Plan Melbourne 2017-2050* (Department of Environment, Land, Water and Planning),
- *Inquiry into greenfields mineral exploration and project development in Victoria* (Parliament of Victoria, 2012),
- *Report on Planning Issues for Extractive Industries* (Parliament of Victoria, 1994), and
- *Extractive Resources in Victoria: Demand and Supply Study 2015-2050* (PwC May 2016) that was issued by the Victorian Department of Economic Development, Jobs, Transport and Resources (DEDJTR).

A recent decision at the Victorian Civil and Administrative Tribunal (VCAT), Reference no. P1914/2016, *Hillview Quarries Pty Ltd v Mornington Peninsula SC* [2017] 573 (referred to as VCAT decision P1914/2016 in this review) adds a possibly very disruptive and unsustainable challenge to land used for extractive industry. In this case a quarry had been discontinued and was being maintained with the intention for future use. In the VCAT decision it was determined that the land had been ‘inactive’ for extractive industry use for a two-year period and that the planning permit had expired in accordance with Section 68(2)(b) of the *Planning and Environment Act 1987* (the *Act*). This interpretation on what constitutes extractive industry is a concern to the industry as it contrasts with commercially sustainable industry practice and clauses in the Victoria Planning Provisions.

This document reviews the extractive industry land use ‘inactivity’ interpretation and recommends amendments to regulations to align the land use term with sustainable industry practice. Further, this review supports the protection of strategic resource areas to meet long term demand.

Chapter 2 of the report describes the planning framework for the extractive industry. Chapter 3 lists planning challenges related to extractive industries that have been identified in government reviews, including protecting resources and extraction activities from land use conflicts, and system reforms identified by the Department of Environment, Land, Water and Planning (DELWP). The extractive industry land use inactivity interpretation is added to this list of concerns.

Chapter 4 recommends reforms to the planning system that can manage the land use inactivity interpretation and Chapter 5 recommends how strategic extractive industry areas can be protected.

2 Extractive industry planning framework

The extractive industry is recognised as important for Victoria’s economic and social outcomes. The *Extractive Resources in Victoria: Demand and Supply Study 2015-2050* estimated that the value of production from quarries at the ‘quarry gate’ in 2014 was around \$676 million. The study highlights that local and affordable resources contribute to economic, social and environmental outcomes.

Plan Melbourne 2017-2050 recognises that the demand for extractive industries is expected to almost double by 2051, driven by the residential development sector and strategic projects.

The planning system provides a framework for a planning authority, such as a local government authority, to guide decision making on whether to issue a permit for extractive industries, detailed in this section.

2.1 Mineral Resources (Sustainable Development) Act 1990

Approval of a work plan is required under the *Mineral Resources (Sustainable Development) Act 1990* prior to the application for a planning permit under the *Planning and Environment Act 1987*. The *Mineral Resources (Sustainable Development) Act 1990* has the purpose “to encourage economically viable ... extractive industries which make the best use of resources in a way that is compatible with the economic, social and environmental objectives of the State.” Approval for a work plan is through an application to the Secretary of the DEDJTR.

2.2 Planning and Environment Act 1987

The *Act* provides a framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians. It sets out the objectives and structure of the planning system.

2.3 Victoria Planning Provisions

The Victoria Planning Provisions (VPPs) provide a consistent policy and structure for municipal planning schemes. The VPPs identify the types of use and development that require consent from a responsible authority and the policy to be considered when determining whether to issue a permit.

For the purpose of this review, Clause 72 (general terms) and 74 (land use terms) of the VPPs provide a number of definitions that are relevant to extractive industry. Of particular relevance to this review:

- *Earth and energy resources industry*
 - *Land used for the exploration, removal or processing of natural earth or energy resources. It includes any activity incidental to this*

purpose including the construction and use of temporary accommodation.

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

Clauses 52.08 and 52.09 of the VPPs require a permit for the use of land for stone extraction, with limited exemptions being available. Clause 14.03, 52.08 and 52.09 provide policy and decision guidelines to consider a planning permit application for the use of land for extraction. In general, the VPPs support the extraction of resources while protecting wider social and environment outcomes.

2.3.1 Clause 14.03 Resource exploration and extraction

Clause 14.03 supports the extractive industry through the objective “*To encourage... extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation.*” Relevant strategies are:

- *Protect the opportunity for ... 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*
- *Planning schemes must not impose conditions on the use or development of land that is inconsistent with the Mineral Resources (Sustainable Development) Act 1990*
- *Planning permit applications should clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the proponent of an extractive industry*
- *Buffer areas between extractive activities and sensitive land uses should be determined on the following considerations:*
 - *Appropriate limits on effects can be met at the sensitive locations using practical and readily available technology*
 - *Whether a change of land use in the vicinity of the extractive industry is proposed*
 - *Use of land within the buffer areas is not limited by adverse effects created by the extracted activities*
 - *Performance standards identified under the relevant legislation*
 - *Types of activities within land zone for public use*

Extractive Industry Interest Areas (EIIAs) have been referenced in the planning system since 1993. The purpose of EIIAs is to:

- *Provide a basis for the long term protection of sand and stone resources from sterilisation by inappropriate land uses,*
- *Provide a basis for ensuring the long term availability of sand and stone resources for use by the community and at minimal detriment to the environment,*
- *Assist in considering extractive industry values in long term strategic planning and local strategic plans (such as Municipal Strategic Statements),*
- *Ensure that planning or responsible authorities consult with all relevant agencies about land use proposals which may impact on the reduction of sand and stone resources within these areas, and*
- *Create an awareness that extractive industry is a possible land use in these areas.*

2.3.2 Clause 52.08 Earth and Energy Resources Industry

Clause 52.08.01 requires a permit for the use and development of land for extractive industry unless it is listed in a table of exemptions. Stone extraction is exempt if it complies with Section 77T of the *Mineral Resources (Sustainable Development) Act 1990*. This process relates to when an Environment Effects Statement process has been undertaken.

Clause 52.08 has the following purposes:

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

Clause 52.08-2 requires that an application for the use and development of land for mineral extraction must include copies of specified requirements under the *Mineral Resources (Sustainable Development) Act 1990*. This includes a copy of the work plan.

2.3.3 Clause 52.09 Stone Extraction and Extractive Industry Interest Areas

Clause 52.09 of the VPPs provides a framework to support the extraction of stone from interface issues within 500 metres of stone extraction while protecting the community from adverse environment and amenity outcomes.

It has the following purposes:

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

Clause 52.09-5 provides decision guidelines that consider social and environmental impacts.

Clause 52.09-6 requires that

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

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

2.4 Plan Melbourne 2017-2050

Plan Melbourne 2017-2050 guides the future development of Melbourne. The plan recognises the importance of earth resources to Melbourne's future growth. Policy 14.2 is to identify and protect extractive resources (such as stone and sand) important for Melbourne's future needs. It recognises the need for effective strategic planning to protect the supply of stone and sand through careful planning that does not impact on local amenity.

Action 18 of the *Plan Melbourne 2017-2050 Five-year Implementation Plan* is in the short term to protect the extractive industry in line with the findings of the *Extractive Resources in Victoria, Demand and Supply Study 2015-2050*.

3 Extractive industry planning challenges

Government reviews have identified a number of planning system challenges in supporting extractive industry while protecting local amenity. This includes the planning system preventing the sterilisation of the supply of resources from land use conflicts, system reforms identified by DELWP and a recent interpretation of the term extractive industry that conflicts with industry practice.

3.1 Protecting resources from land use conflicts

Plan Melbourne 2017-2050, the *Extractive Resources in Victoria: Demand and Supply Study 2015-2050* and the Parliament of Victoria's Economic Development and Infrastructure Committee's *Inquiry into greenfields mineral exploration and project development in Victoria* (2012) and *Report on Planning Issues for Extractive Industries* (1994) identified the encroachment of sensitive land uses as a challenge for extractive industry. The reports identify that a lack of protection of resources may sterilise or prevent future extractive industry development that would constrain supply, add significant operational costs and result in supply shortfalls.

The reports recommend a strategic framework that supports extractive industry and the protection of resources. For example, recommendation 6 of the *Inquiry into greenfields mineral exploration and project development in Victoria* (2012) was for the Victorian Government to develop “a state-wide integrated, strategic land use policy framework to better manage competing land uses in Victoria. This framework should be subject to periodic review given consideration to economic, social and environmental factors.”

To support long term protection, Recommendation 7 was “As part of the development of an integrated state-wide strategic land use framework, that the Victorian Government ensures studies are undertaken to determine areas of high prospectivity for extractives and future extractives needs in metropolitan Melbourne and regional Victoria.”

Recommendation 8 supports identifying these strategic areas in local planning schemes: “That the findings of the extractives prospectivity and future needs studies be incorporated into the state-wide strategic land use framework, be protected in local planning schemes, and have appropriate post-extractive use identified that are consistent with and sensitive to abutting areas.”

Areas of high prospectivity were identified in the *Extractive Resources in Victoria: Demand and Supply Study 2015-2050*. Based on the following four criteria, 15 critical strategic extractive resource areas (SRA) were identified:

- Threatened resource types: Resource types in short supply across the state
- Resource depletion: Supply is unable to meet allocated demand due to exhaustion of reserves
- Significant production: Strong supply locations supporting the State's future development

- Resources important to Melbourne: Resource locations that support strong demand in Melbourne

1) South Gippsland	2) Greater Geelong	3) Mitchell	4) Knox	5) Cardinia
6) Yarra Ranges	7) Whittlesea	8) Baw Baw	9) Wellington	10) Latrobe
11) Moorabool	12) Glenelg	13) Moyne	14) Corangamite	15) East Gippsland

3.2 DELWP VPPs reform

DELWP published *Reforming the Victoria Planning Provisions: A discussion paper* October 2017 (Smart Planning VPP review) with the purpose of seeking comment on:

- Proposed changes to the structure and operation of the VPP
- Proposed changes to specific provisions

Idea number 27 directly relates to extractive industry, as detailed in the table below.

Clause no. and title	Modification	Justification
52.08 Earth and Energy Resources Industry	<p>Review Earth and Energy Resources Industry having regard to the following:</p> <p>a) Review the role and function of the planning system in earth and energy resources and explore opportunities to minimise conflict and overlap with the Work Authority process under the <i>Mineral Resources (Sustainable Development) Act 1990</i></p> <p>b) Add a new sub-clause to 52.08 to specify that permits cannot be issued with conditions that duplicate or conflict with an approved work plan</p> <p>c) Combine the provision with Clause 52.09 Stone Extraction and Extractive Industry Interest Areas</p> <p>d) Rationalise the permit triggers and permit exemptions</p>	<p>Removing duplicate processes would simplify the planning system and ensure regulation is better targeted. Any change would need to ensure important community issues continue to be addressed. This would implement the 'land use focused' principle of a modern planning scheme.</p> <p>Combining this provision with Clause 52.09 Stone Extraction and Extractive Industry Interest Areas would 'group' similar issues within a single clause. These changes would improve the clarity of the VPP and increase its effectiveness, ensuring that resources are not taken up with duplicated processes.</p>

3.3 Extractive industry ‘inactivity’ issue

A recent concern that has not been identified in the government reviews is the issue from VCAT decision P1914/2016. In this decision it was interpreted that, where land with a planning permit to use land for extractive industry has ceased extraction for a period of two years, it is deemed to have discontinued use and therefore the planning permit expires under Section 68 of the *Planning and Environment Act 1987*, as shown below.

Section 68 (2) A permit for the use of land expires if

- a) The use does not start within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
- b) *The use is discontinued for a period of two years.***

In VCAT decision P1914/2016, the quarry had ceased operations and was being maintained with the intention for future use. It was determined by VCAT that there had been no active or passive use of the land for extractive industry and that the use had been discontinued for more than two years and the permit therefore expired.

As a consequence, should industry want to extend a period of non-activity it would need to do so through a planning permit application to extend the permit. There is no ability to extend the non-activity period to more than two years as referred to in the case of *Iluka Resources Limited v Horsham Rural CC* (Amended) [2017] VCAT 107 (27 January 2017).

The purpose of Section 68 of the *Act* is to provide a mechanism for the use of land to align with changes to the planning policy framework where a use has been discontinued. However, this does not align with the commercial nature of the industry.

Extractive industry is market driven and is cyclical nature. Extractive industry may need to be inactive or in activated due to private and public sector developments. This market nature was explicitly recognised in a previous 2006 VPP Practice Note (PN35) that was issued by the Victorian Government which stated that “*extractive industries can typically operate over many years including periods of no activity depending on the market demand for the stone resources.*” The VCAT decision interpretation on extractive industry use conflicts with industry practice.

There is industry concern that the discontinuation of extractive industry use can be applied retrospectively to currently operating extractive industry that, in the lifetime of the planning permit, had discontinued extraction use for a period of two years due to commercial needs. This would result in currently operating extractive industries having to cease operations while a planning permit is obtained. The flow on from this would impact local workforces, provide temporary supply shortfalls, increase cost of resources and potentially sterilise supply due to potentially changed land uses in the interface areas.

Further, the impact of the VCAT decision does not align with the planning policy or government strategies and Parliamentary inquiries that support planning permit approval to be for the life of the quarry.

The VCAT decision P1914/2016 further conflicts with the VPPs strategies to protect long term resource availability and Clause 52.09-6 which requires that

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

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

Further, the intention for a planning permit lasting for the life of the resource was identified in the *Report on Planning Issues for Extractive Industries* which recommends that (p. xix) “*Planning approval should be for the life of the quarry.*”

4 Recommendations to address discontinuation concern

This review recommends that a planning permit for the use of land for extractive industry should be aligned with common industry practice and the support for extractive industry as outlined in VPP clauses 14.03, 52.08 and 52.09 and in government strategies reviews. There are four streams of changes that could be made to support commercially sustainable extractive industry if discontinuing active extraction use is required. These are:

- Provide guidance on extractive industry use
- Exempt the need for a planning permit
- Decrease the complexity of obtaining a new permit
- Consent for extraction uses to be outside the *Planning and Environment Act 1987*

4.1 Guidance on extractive industry use

Similar to the former VPP Practice Note (PN35), guidance on normal extractive industry practice could be included in the *Act*, VPPs or in a Ministerial Direction. This would provide responsible authorities and VCAT with a broader understanding of extractive industry land use.

Mechanism	Appropriateness	Efficiency
<p><i>Planning and Environment Act 1987</i></p> <p>Change Section 68 (2)(b) to not apply to extractive industry.</p>	<p>This would allow for a planning permit for the use of land for extractive industry to continue after periods of two years of discontinued use without the expiry of planning permit.</p>	<p>This would require legislative change that would take approximately 1 year.</p>
<p>Ministerial Direction</p> <p>A Ministerial Direction could be introduced that confirms that extractive industry use includes periods where land has been maintained with the intention of later extraction.</p>	<p>Planning authorities must consider a Ministerial Direction. However, this would be guidance only. This could also be used to support other industry and community needs.</p>	<p>This could be changed on the agreement of the Minister for Planning.</p>
<p>VPP Clause 74 Land use terms</p> <p>The land use terms relating to extractive industry could be amended to reflect the continuing</p>	<p>This would extend the land use definitions to include land that is being maintained with the intention of future use.</p>	<p>This could be achieved through the Smart Planning VPP review.</p>

<p>use of land when it is being maintained for future use.</p> <p>Stone Extraction: <i>Land used or maintained for future extraction or removal of stone in accordance with the Mineral Resources (Sustainable Development) Act 1990.</i></p> <p>Earth and energy resources industry: <i>Land used for the exploration, removal or processing of natural earth or energy resources. It includes land that has been maintained for future extraction and any activity incidental to this purpose including the construction and use of temporary accommodation.</i></p>	<p>There may be a challenge as to what is classified as ‘maintained’.</p> <p>This would be appropriate for future periods of inactivity, but may not apply to previous periods of inactivity.</p> <p>Legal advice would be required to the retrospectivity of this change.</p>	
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4.2 Exempt the need for a planning permit

Clause 52.08.01 requires a permit for the use and development of land for extraction unless it is listed in a table of exemptions. Stone extraction is exempt if it complies with Section 77T of the *Mineral Resources (Sustainable Development) Act 1990*. This process relates to when an Environment Effects Statement process has been undertaken. However, this current mechanism is not appropriate in most cases due to the length of time and complex studies that are required to prepare an Environment Effects Statement. Additional exemptions could be included to provide an exemption from the need for a planning permit if was previously issued a planning permit and it expired under Section 68(2)(b) of the *Act*.

Mechanism	Appropriateness	Efficiency
<p>52.08 Earth and Energy Resources Industry</p> <p>Include an exemption from a planning permit if it was previously issued a planning permit and it expired under Section 68(2)(b) of the <i>Act</i>.</p>	<p>This would not be appropriate as the conditions on the expired permit would not be applicable if the use continued without a permit.</p>	<p>This could be achieved through the Smart Planning VPP changes.</p>
<p>62.01 Uses not requiring a permit</p> <p>Include extractive industry as a use that does not require a permit if it was previously issued a planning</p>	<p>This would not be appropriate as the conditions on the expired permit would not be applicable if the use continued without a permit.</p>	<p>This could be achieved through the Smart Planning VPP changes.</p>

permit and it expired under Section 68(2)(b) of the <i>Act</i> .		
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4.3 Decrease the complexity of obtaining a new permit

Changes could be introduced with limited notification to reduce the complexity of obtaining a new permit, if an existing permit was granted but expired due to Section 68(2)(b). This could be included into Clause 52.08 or 52.09.

Mechanism	Appropriateness	Efficiency
52.08 Earth and Energy Resources Industry or 52.09 Stone Extraction and Extractive Industry Interest Areas Include a simplified permit stream for permit applications that previously had a permit but expired due to Section 68(2)(b) of the <i>Act</i> .	This would provide a simplified process that could review changes in planning and interface uses. The process would need to support industry requirements and result in timely consent.	This could be achieved through the Smart Planning VPP changes.

4.4 Consent for extractive industry to be outside the Planning and Environment Act 1987

Section 68(2)(b) relates to planning permits where the use is inactivity for a period of two years. If consent was through the *Mineral Resources (Sustainable Development) Act 1990* and exempted through the *Planning and Environment Act 1987* the requirements of Section 68(2)(b) would not apply.

Mechanism	Appropriateness	Efficiency
Consent for extraction to be exempted in the VPPs if consent was through the <i>Mineral Resources (Sustainable Development) Act 1990</i>	Section 68(2)(b) of the <i>Planning and Environment Act</i> would not apply. A review of economic, social and environment impacts from this change would be required.	This would require a complex legislative change that would take approximately 1 year.

4.5 Recommended options

Changes to support the consent process for extractive industry have been supported through a number of government strategies and Parliamentary inquires. Improvements to relevant Acts of Parliament with the intention of supporting

extractive industry while minimising amenity impacts would provide the most certainty and community benefits. Due to the current DELWP VPP review, a timely change would be to update the definition of Earth and energy resources industry and stone extraction to better describe industry practice. Legal advice would be required on whether this change would resolve retrospective periods of inactivity. To support this recommended change a Ministerial Direction could be considered that confirms historical extractive industry use.

This would align the use with Clause 52.09-6 of the VPPs which requires that

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

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

Further, it would support the intention for a planning permit lasting for the life of the resource which was identified in the *Report on Planning Issues for Extractive Industries* and recommended that (p. xix) “*Planning approval should be for the life of the quarry.*”

5 Recommendations to protecting strategic extractive industry areas

The current protections under Clause 52.09 of the VPPs to protect extractive industry from inappropriate development through applying the provisions of 52.09 to planning permit applications for the use and development of land within 500 metres of stone extraction may not adequately protect extractive industry. This is because a sensitive use within 500 metres may be exempt from the need for a planning permit application or there may be oversight on the need for a planning permit as the interface areas do not appear on a planning scheme map. This inadequacy may lead to unplanned encouragements around approved and proposed work authorities.

Action 18 of the *Plan Melbourne 2017-2050 Five-year Implementation Plan* that supports the protection of extractive industry in line with the findings in the *Extractive Resources in Victoria, Demand and Supply Study 2015-2050*. The study recommends that the identification of strategic extractive resource areas (SRAs) against sound criteria that are protected through VPPs would enhance the protection of significant stone resources and promote more timely decision making. This is aligned with Parliamentary inquiries that supported the long term protection of resources.

Protecting strategic sites based on accessibility to areas of demand would reduce the need to transport product long distance by road which would provide wider economic, social and environmental benefits.

This review supports the recommendations to Minerals Development Victoria in the *Strategic Extractive Resources Areas and the Existing Planning System* (October 2016) report. This provided advice to how the planning system can protect the SRAs that were identified in the *Extractive Resources in Victoria, Demand and Supply Study 2015-2050*.

The report recommends the application of the Special Use Zone to the work authority areas within a SRA and an Environmental Significance Overlay within 500 of a works authority or a State Resource Overlay of a significant resource. These changes would protect existing extractive industry and future resource from being sterilised by competing land uses.

The suggested approach to identify and implement SRA's into Victoria's planning system, include:

- Identify and map SRAs
- Engagement and consultation
- Amend the VPP and planning scheme

6 Conclusion

The most certainty in supporting extractive industry to remove the inconsistency between Section 62(2)(b) of the *Planning and Environment Act 1987* and extractive industry would be changes to legislation. It is recommended that the current Smart Planning VPP review offers a process to expedite the issue. It is recommended that this review improves the planning system for extractive industry use of land by:

- Amending the definitions in Clause 74 of the Victoria Planning Provisions to align with extractive industry practice, Clause 52.09-6 of the Victoria Planning Provisions and the Parliamentary Inquiry *Report on Planning Issues for Extractive Industries* recommendation that (p. xix) “*Planning approval should be for the life of the quarry.*”
- Supporting the clarification of the extractive industry use definition by a Ministerial Direction.
- Implementing Strategic Resource Areas as identified in the *Extractive Resources in Victoria, Demand and Supply Study 2015-2050* as outlined in the *Strategic Extractive Resources Areas and the Existing Planning System* (October 2016) report.

7 References

Department of Environment, Land, Water and Planning (2017) *Plan Melbourne 2017-2050*.

Economic Development and Infrastructure Committee (2012) *Inquiry into greenfields mineral exploration and project development in Victoria*. Parliament of Victoria, Melbourne.

Environment and Natural Resources Committee (1994) *Report on Planning Issues for Extractive Industries*. Parliament of Victoria, Melbourne.

Jacobs (2016) *Strategic Extractive Resources Areas and the Existing Planning System*.

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