

# DELWP Planning Submission

## Grantville Quarry expansion Planning Permit Application 120388-1

Submission on behalf of the Department of Environment, Land, Water and  
Planning (Planning Portfolio)

March 2021

# 1. Introduction

1.1. This submission is made by the Department of Environment, Land, Water and Planning (DELWP) Planning Portfolio (DELWP Planning) in relation to amend planning permit application 120388-1 for the expansion of the Grantville Quarry.

1.2. This submission provides an overview of:

- The Minister’s role in determining the planning permit application;
- Background to the planning permit application, including a chronology of events;
- Information as directed by Planning Panels Victoria (PPV) in its letter of 2 March 2021, as follows:
  - a) A summary of the strategic and regulatory context, including relevant legislation and the role of relevant authorities and agencies.
  - b) Any relevant considerations resulting from declaration of Bass Coast as a ‘Distinctive Areas and Landscape’ and the Bass Coast Statement of Planning Policy (SPP) which is under preparation.

## 2. The Minister for Planning's role

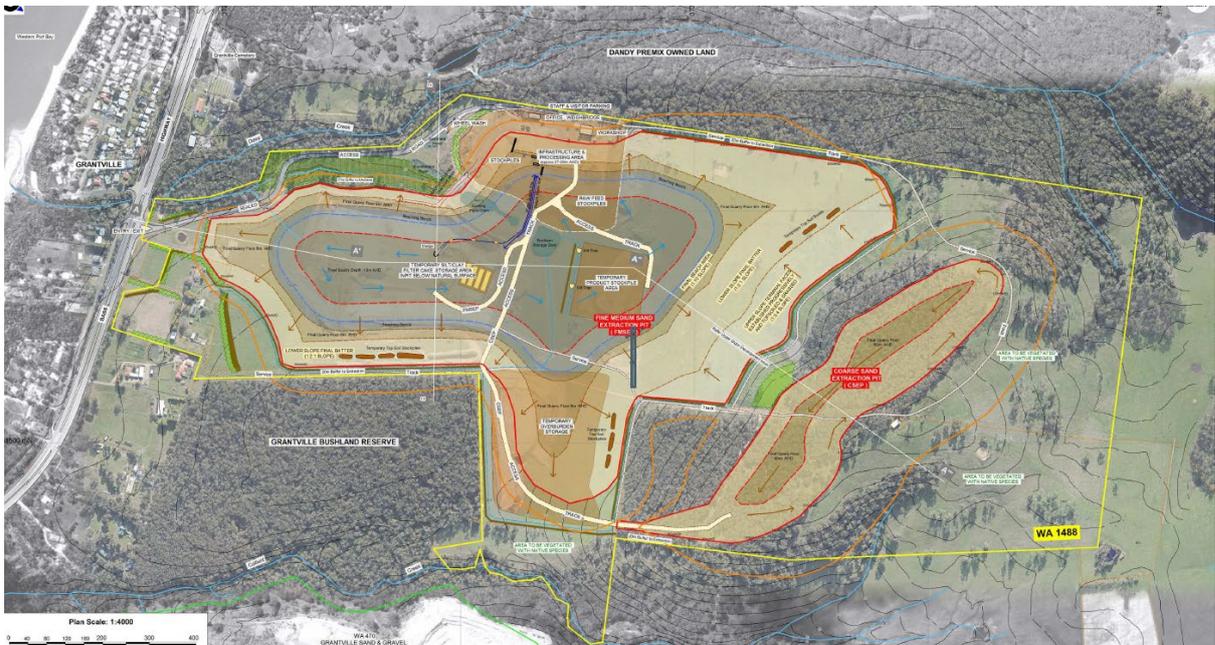
- 2.1. The application to amend planning permit 120388-1 was lodged with Bass Coast Shire Council on 7 July 2020. The application seeks to amend the existing permit granted 7 August 2013 to expand the operations of the quarry.
- 2.2. On 6 October 2020, Equipe Lawyers, on behalf of Dandy Premix, wrote to the Minister for Planning requesting that he call-in and decide the application under section 97B(1)a) of the *Planning and Environment Act 1987*.
- 2.3. On 22 November 2020, the Minister agreed to the request to call-in the application under section 97B(1)(a) of the *Planning and Environment Act 1987*. The Minister's letter of 22 November 2020 advised that:

*The construction sands at the subject site are of strategic value, as identified by the quarry's inclusion on the Extractive Industry Priority Project List. Their availability will contribute to the development of land within Metropolitan Melbourne, including the delivery of key public infrastructure projects. Therefore, I consider that the project raises major issues of policy and may have a substantial effect on the achievement planning objectives.*

- 2.4. Under sections 97E(1)(a) and 97E(1)(b) of the Act, the delegate of the Minister has referred objections and submissions, including late objections and submissions, to a panel appointed under Part 8 of the Act.
- 2.5. Under section 97E(4) of the Act, the panel must report its findings to the Minister setting out the panel's recommendations on the application.
- 2.6. The Minister for Planning will then decide whether to grant an amended permit.
- 2.7. DELWP Planning officers, as the Minister's representative, participate in the panel hearing to offer assistance in relation to administration of the application.
- 2.8. This submission does not provide a merits assessment of the application. DELWP Planning Portfolio does not offer a merits assessment for the following reasons:
  - The purpose of the panel is to both inform the Minister as responsible authority under the *Planning and Environment Act 1987* on the merits of the application. Under section 97F of the *Planning and Environment Act 1987*, the Minister may decide the permit application *after* considering the report of the panel, inferring that he must not have formed a predetermined conclusion prior to the panel's recommendations.

### 3. Site and Surrounds

- 3.1. The subject site is located at 1381-1395 Bass Highway, Grantville. It is located on the east side of the Bass Highway approximately 1km to the north of the Grantville township. The site is wholly within the local government area of the Surf Coast Shire.
- 3.2. The site is approximately 156 hectares and comprises of six titles:
  - Lot 1, TP 398939V, Vol 05390 Folio 819
  - Crown Allotment 176B Parish of Corinella, Vol 07824 Folio 032
  - Lot 2, PS 300991J, Vol 10031 Folio 148
  - Lot 4, PS 604744H, Vol 11044 Folio 475
  - Lot 5, PS 604744H, Vol 11044 Folio 476
  - Lot 1, TP 515206V, Volume 08869 Folio 053
- 3.3. The site has a frontage to Bass Highway of approximately 285 metres, made up of three titles. Each of these allotments comprise a dwelling and associated outbuildings.
- 3.4. The land is undulating to the west and sits within the coastal plain between Western Port Bay and the Strzelecki Ranges to the east. The land eastern part of the land is more undulating and forms part of the foothills to the Strzelecki Ranges. The site's elevation ranges from 120m AHD on the ridge, to less than 10m AHD at the western end of the Deep Creek tributary.
- 3.5. The site is predominately clear of vegetation except to the west, where there is remnant vegetation.



Site layout Plan

## 4. Proposal and Chronology

### Summary of Application

- 4.1. The proposal is for the amendment of the planning permit for the use of the land for sand extraction, buildings and works, and create access to a road in a Road Zone Category 1 in accordance with Work Authority 1488. A summary of the proposal to amend Planning Permit application 120388-1 as per the Council officer's planning report:
- The deepening of the existing fine – medium sand extraction area to a depth of 88m and extend the area of extraction to the east.
  - To extract coarse sand from an area to the upper eastern end of the existing extraction area to a depth of 55m.
  - Allow for the washing of sand and dewatering.
  - Expansion the area of extraction to the east of the site for the purposes of coarse sand extraction to a depth of 55m.
  - Extend the hours of operation.
  - Allow for trucks to turn right when exiting the site and the inclusion of traffic lights.
  - Amendment of conditions to allow for the replacement of Section 173 Agreement Dealing No. AL599252K from the land at Lot 2 PS443067 Dunbabin Road, The Gurdies with an Agreement under Section 69 of the Conservation Forests & Lands Act 1987

### Chronology of Application

Table 1 – Chronology of events

Date	Description
7 July 2020	Application to amend planning permit 120388-1 was lodged with Bass Coast Shire Council
6 October 2020	Equipe Lawyers, on behalf of Dandy Premix, wrote to the Planning Minister requesting the application be called in under <i>Section 97B of the Planning and Environment Act 1987</i> .
16 October 2020	Council directs applicant to give notice under Section 52 (1) of the Act 73 objections received
22 November 2020	Planning Minister agreed to the request to call-in the application under section 97B(1)(a) of the <i>Planning and Environment Act 1987</i> .
30 November 2020	Objections and submissions, including late objections and submissions, referred to PPV under sections 97E(1)(a) and 97E(1)(b) of the Act.
21 December 2020	Directions Hearing held

## 5. Planning Scheme

### Zoning and Overlays

- 5.1. The site is located within a Farming Zone.
- 5.2. The site abuts a Road Zone Category 1
- 5.3. The site is within a Bushfire Management Overlay

## Permit Triggers

Table 2 – Statutory controls

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

## Planning Policy Framework

- 5.4. The Planning Policy Framework (PPF) establishes planning principles for guiding decision making for planning applications across Victoria.
- 5.5. The following clauses of the PPF are relevant to the application.

**Table 3 – PPF clauses relevant to application.**

PPF Clause	
11.03-4S	Coastal settlement
12.01-1S	Protection of biodiversity
12.01-2S	Native vegetation management
12.02-1S	Protection of coastal areas
12.02-3S	Bays
12.05-1S	Environmentally sensitive areas
12.05-2S	Landscapes
13.02-1S	Bushfire planning
13.04-2S	Erosion and landslip
13.05-1S	Noise abatement
13.06-1S	Air quality Management
13.07-1S	Land use compatibility
14.02-1S	Catchment planning and management
14.02-2S	Water Quality
14.03-1S	Resource exploration and extraction
15.03-2S	Aboriginal cultural heritage
17.01-1S	Diversified economy

## Local Planning Policy Framework

5.6. The Municipal Strategic Statement (MSS) and Local Planning Policies (LPP) form the Local Planning Policy Framework (LPPF) that together outlines specific vision, goals, objectives, strategies and implementation plans for the local Council.

5.7. The following clauses of the LPPF are relevant to application.

**Table 4 – LPPF clauses relevant to the application.**

LPPF Clause	
<b>21 .01</b>	<b>Municipal Strategic Statement</b>
<b>21.03</b>	<b>Economic Development</b>
<b>21.04</b>	<b>Environment</b>
<b>21.05</b>	<b>Landscape and Built Form</b>
<b>21.08</b>	<b>Moderate growth settlements</b>
<b>22.02</b>	<b>Hilltop, ridgeline and prominent coastal landform protection</b>
<b>22.06</b>	<b>Non-Agricultural Uses in Farming Zone Policy</b>

## Incorporated Documents

Melbourne Supply Area: Extractive Industry Interest Areas 1996 Revision 2003.

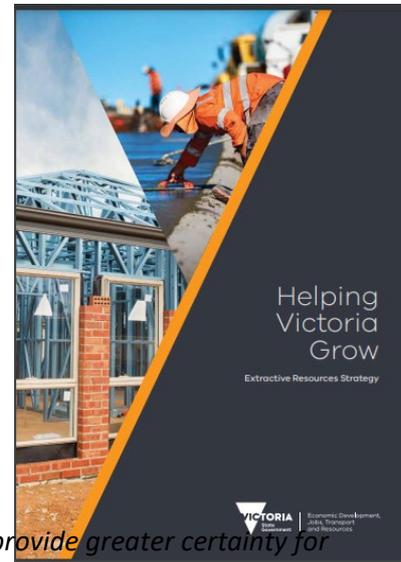
## 6. Strategic and Regulatory Context

### Extractive Resources Strategy

6.1. Helping Victoria to Grow- [The Extractive Resources Strategy 2018](#) was developed to ensure that high quality extractive resources continue to be available at a competitive price to support Victoria's growth.

6.2. The objectives of this Strategy are to:

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



6.3. The Strategy sets out priority actions to implement, through the following six themes:

- Resource and land use planning
- Transport and local infrastructure planning
- Efficient regulation
- Confident communities
- Environmental sustainability
- Innovative sector

- 6.4. As a part of implementing the priority actions in the Strategy, the [Joint Ministerial Statement- Extractive Resources- Rock Solid Foundations for Victoria's Growth](#) was released in 2018. It implements 6 priority actions of the Extractive Resources Strategy by committing to the following:
1. Streamline approval processes to expand production
  2. Protect the continuity of supply
  3. Apply the agent of change principle to quarries
  4. Provide better guidance to industry and local government
  5. Identify and protect extractive resources of strategic importance
  6. Reduce the environmental impact of quarrying and deliver landscapes for the community.
- 6.5. The Joint Ministerial Statement: Extractive Resources 2018 includes a priority to streamline approvals to expand quarry production through a *Project Priority List*. This list was developed to identify and give priority planning consideration to existing quarries that are of strategic importance because they contain significant accessible resources close to Metropolitan or regional markets.
- 6.6. The criteria for inclusion in the priority list include:
- *the site contains significant accessible resources and is well located to markets (Designated Extractive Supply Areas, Figure 1)*
  - *the application needs timely consideration and coordination of separate approval processes*
  - *the issues do not justify an Environmental Effects Statement (EES) process*
  - *consideration of the application by the Minister under another Act would be facilitated by referral of the application to the Minister.*
- 6.7. Grantville Quarry is included in the priority list.
- 6.8. [Planning Practice Note 89](#) was published in February 2020 to provide better guidance to industry and local government. It provides information regarding the extractive industry approval process and protecting extractive operations and resources. It seeks to provide greater understanding and awareness of the importance of extractive industries.
- 6.9. In order to identify and protect extractive resources (from competing land uses) of strategic importance, Extractive Industry Interest Areas (EIIA) was established. The purpose of EIAs is to:
- *Provide a basis for long term protection of sand and stone resource from sterilization 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)*

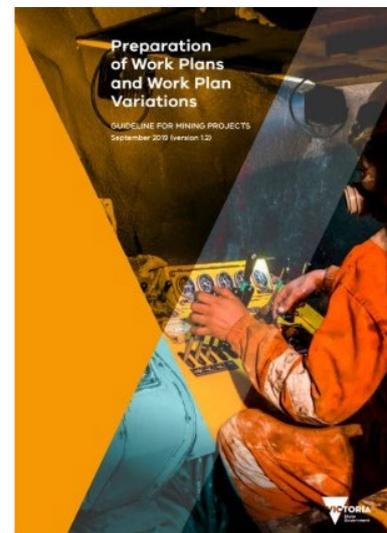
- *Ensure that Planning or Responsible Authorities consult with all relevant agencies about land use proposals which may impact on reduction of sand and stone resources within these areas; and*
- *Create an awareness that extractive industry is possible land use in these areas.*

6.10. EIAs are applied to land that has been identified as being likely to contain stone resources of sufficient quantity and quality to support commercial extractive industry operations. Grantville is located within EIIA 883998.

## 7. Role of relevant authorities and agencies.

### Extractive Industry Work Plan

7.1. *Preparation of Work Plans and Work Plan Variations- Guideline for Extractive Industry Projects- December 2020* was developed to provide guidance on the preparation of work plans, work plans variations and administrative updates to meet the requirements of the Mineral Resources (Sustainable Development).



7.2. The document states that, “*Before land can be developed for extractive industry;*

- *a **work plan** must be **statutorily endorsed** under the Mineral Resources (Sustainable Development) Act 1990 (MRSDA);*
- *a **planning permit** must be issued under the Planning and Environment Act 1987; and*
- *the **final work plan** must be approved, and a **work authority** granted, under the MRSDA.*

7.3. An approved work plan is one of the requirements for the grant of an Extractive Industry Work Authority to carry out works on land specified in the Work Authority (Section 771 of the MRSDA). An approved work plan variation is required where subsequent additional works are proposed on the Work Authority.

7.4. A work plan is a document that needs to:

- *describe the nature and scale of the proposed extractive industry activities*
- *identify and assess all risks the works may pose to the environment, to any member of the public, or to nearby land, property or infrastructure (known as a ‘quarrying hazard’)*
- *identify and assess all risks the rehabilitation works may pose to the environment, to any member of the public or to land, property or infrastructure in the vicinity of the rehabilitation activity (known as a ‘rehabilitation hazard’)*

- *include a risk management plan that specifies the control measures the work authority holder will use to eliminate or minimise all identified risks and monitoring to demonstrate compliance with performance standards*
- *include a community engagement plan*
- *include a rehabilitation plan.*

7.5. Statutory endorsement and approval of work plans and work plan variations under the MRSDA are administered by Earth Resources Regulation (ERR) within the Department of Jobs, Precincts and Regions (DJPR).

7.6. Making changes to an existing work plan or operation require a Work Plan variation. It is a document that seeks approval for changes in work that are not consistent with an existing approved work plan.

7.7. The draft Work Plan Variation for Grantville Quarry was endorsed by ERR on 29 May 2020 under section 77TD(1) of the MRSD.

7.8. A work plan variation serves two objectives:

1. **Assessment:** It allows ERR to assess whether a work plan variation should be approved and, if so, any conditions that need to be applied.
2. **Compliance:** It sets out the scope of the approved works and any requirements that must be met, including monitoring obligations.

7.9. If the proposed changes to work require planning permission (new planning permit or amendment of an existing planning permit) a work plan variation must first be statutorily endorsed before it is submitted the planning authority.

7.10. There are five key components of a work plan variation:

Component	Work plan variations
Description of how the proposed variation relates to the current approved work plan.	A description limited to the new or changing works and its setting within your licence boundary.
Description of new or changed mining hazard arising from the proposed changes to the work set out in the work plan that increases the risk to the environment, to any member of the public, to land, property or infrastructure (known as 'mining hazard').	A description of the mining hazards resulting from the new or any change in works.
Description of the proposed change(s) to the risks and risk management plan as a result of the new or changing works.	Consideration of the risks associated with the new or changing works.  Updates to your risk management plan to cover the new or changing works, which includes new or updated risk treatment plan(s) associated with the new or changed risks.
Community engagement plan	A plan that outlines plans for engagement with any community member or stakeholder impacted by the new or change in works.
Rehabilitation plan	Updates to your rehabilitation plan as required by the new or change in works.

- 7.11. A key feature of the statutory endorsement process is referral of the work plan to referral authorities specified in Clause 66 of Planning Schemes. Clause 52.09 (stone extraction) of the VPP contains a referral exemption. Referral requirements do not apply to an application to use and develop land for stone extraction if a copy of the work plan previously referred to the authority listed in Clause 66 of the VPP under section 77TE of the Mineral Resources (Sustainable Development) Act 1990 (MRSDA).
- 7.12. The work plan variation for Grantville was referred to the following referral authorities under Clause 66.02 of the Bass Coast Planning Scheme:
- Secretary of DELWP- Native vegetation (66.02-2)
  - Heritage Victoria- Heritage Act 2017 (66.02-8)
  - Secretary to DELWP- Crown land (66.02-8)
- 7.13. DELWP's response on behalf of the Secretary regarding native vegetation removal includes conditions that have been included in the Work plan variation. The conditional consent provides the proponent with consent to the proposed native vegetation removal, and the option to either continue pursuing establishment of first party offsets or purchase the necessary offsets to satisfy the requirements of the native vegetation regulation.
- 7.14. DEWLP Gippsland also recommends that the proponent seek to amend the existing S173 agreement with the agreement of all parties to better reflect:
- The change of use resulting from this work plan variation, and;
  - Clarify the Responsible Authority's (Bass Coast Shire Council) requirements under permit 120388 and the existing revegetation and conservation areas. Changes should exclude any areas affected by any future first party offsets, should they be established on site to satisfy the mandatory offset requirements.
- 7.15. Following the referral process, ERR will only provide statutory endorsement of a work plan if:
- *The plan meets appropriate standards for content, technical accuracy and risk assessment, and is satisfactory for submission with a planning permit application*
  - *no referral authority has objected to statutory endorsement.*
- 7.16. Once the work plan has been endorsed by ERR, the proponent may proceed to apply for a planning permit.
- 7.17. After a planning permit is issued, ERR will review the permit to determine whether it aligns with the work plan.

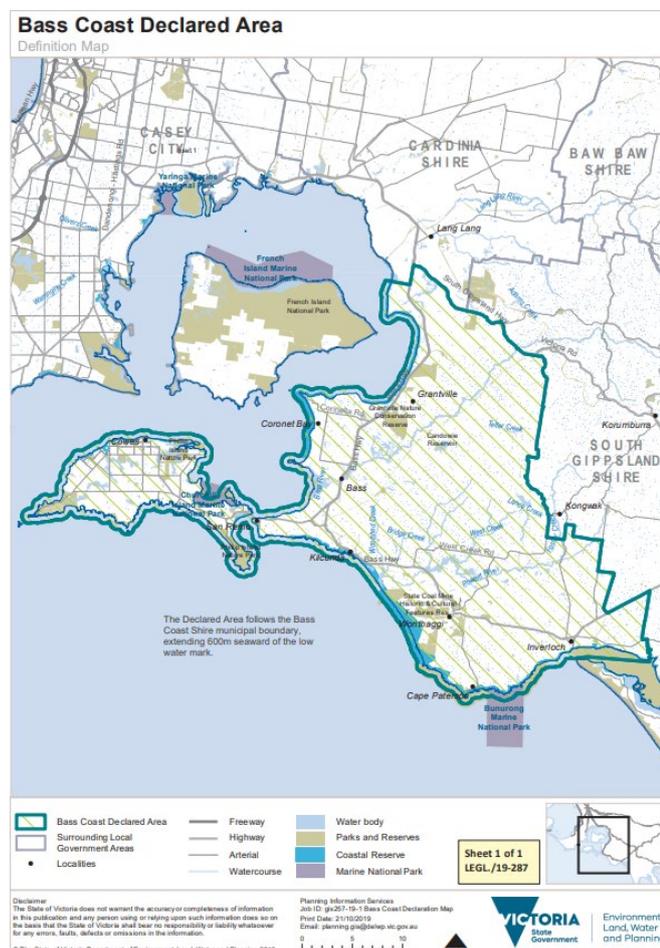
## 8. Bass Coast Distinctive Areas and Landscapes

8.1. Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018 was passed to recognise Victoria’s most distinctive natural and cultural landscape values. The Act aims to:

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

8.2. The municipal boundary of Bass Coast, including a 600 metre buffer seaward from the coast, was declared “Distinctive Area and Landscape” (DAL) under the Planning and Environment Act in October 2019. It seeks to provide long term direction for development whilst maintaining and enhancing the special characteristics of the declared area.

Bass Coast declared boundary map

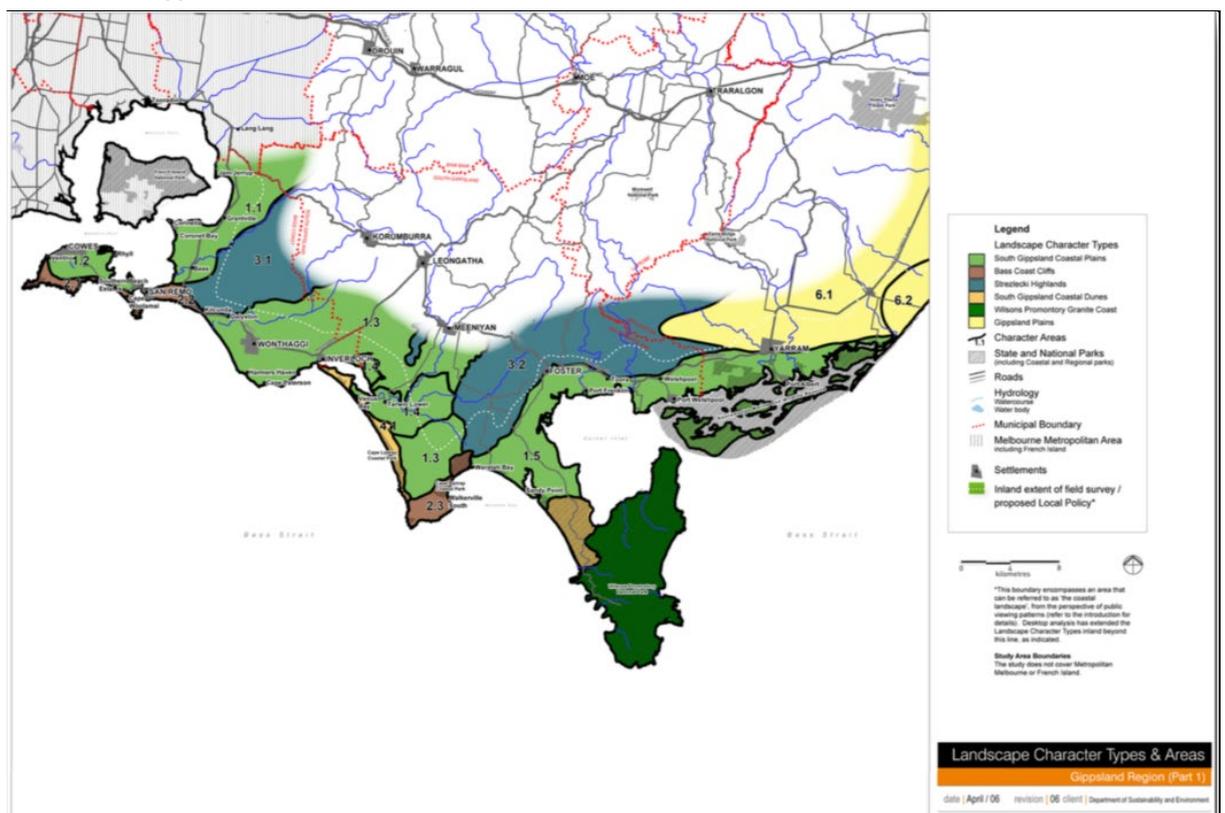


8.3. A draft Statement of Planning Policy (SPP) is being developed by DELWP in partnership with Bass Coast Shire Council and the Bunurong Land Council. It seeks to designate long term settlement boundaries to ensure growth does not encroach into important natural and rural landscapes and protect state significant attributes.

8.4. A scoping report was prepared by Claire Scott Planning (May 2019) *Bass Coast Distinctive Areas and Landscapes- Landscape Assessment Review Stage 1*. It uses the Coastal Spaces Landscape Assessment (2006) study on the characterisation and assessment of landscape value. Grantville is located within Landscape Character Area 1.1 Westernport Lowlands. It is described as follows:

- *This Character Area is located on the eastern edge of Westernport Bay. It is low-lying and mostly rural, with beaches, mangrove flats and coastal woodlands along a diverse coastal edge. Hills and rises near Corinella provide expansive views across Westernport Bay to French Island and Phillip Island. Inland, the Bass Highway is an important viewing corridor and the Bass Hills provide a topographic backdrop. The Character Area terminates in the south at the Anderson Peninsula, although it is likely to extend around Westernport Bay outside the study area for some distance to the north and west.*

**Landscape character Types and Areas**



8.5. Grantville’s landscape setting was described as below:

- *Several discrete developed areas make up Grantville, extending from rolling foothills into the low-lying flats surrounding Westernport Bay at Queensferry. Existing flora reserves break up the developed areas and provide a buffer to development, while*

*indigenous bushland vegetation throughout and adjacent to the town is important in softening the view from the Bass Highway, particularly on the entrances and exits to the town. Development near the coast is largely screened from views from Westernport Bay and local beaches by vegetation and topography. At the southern entry to town, a scenic gateway view is available from the Bass Highway.*

- 8.6. [A Discussion Paper](#) was released in March 2020. Challenges identified in the Discussion Paper include *“the need for long term management and rehabilitation of mineral sands extractive areas”*.
- 8.7. The Paper recognises the increased importance of the area’s natural resource. *“The area’s mineral sands resources are state-significant, and demand for sand for concrete will continue to increase to satisfy Victoria’s housing and infrastructure needs”*.
- 8.8. Under Economy and Infrastructure policy domain, one of the strategic directions includes *“To protect and enhance the economy and infrastructure of the Bass Coast DAL, the SPP may include planning controls, strategies, actions and/or mechanisms to protect state significant resources and assets, including the mineral sands resources, the Victorian Desalination Project and its associated pipeline infrastructure, and renewable energy opportunities”*.
- 8.9. Under Landscapes policy domain, it states *“To protect and enhance the significant coastal and rural landscapes of the Bass Coast DAL, the SPP may include planning controls, land management strategies and/or other mechanisms to:*
- *Protect significant rural and coastal landscapes through clear planning controls*
  - *Guide development within settlements to ensure it is sympathetic to the surrounding landscape through built forms controls*
  - *Protect key viewing corridors and vantage points*
  - *Protect green breaks between townships to avoid sprawl along the coast*
  - *Retain and increase native vegetation cover that contributes to significant landscapes*
- 8.10. The draft Bass Coast Statement of Planning Policy is expected to be released for public consultation in the first half of 2021 and will include a written public submissions process. DELWP is currently considering the best way to conduct public consultation while adhering to public health guidelines - more details will be announced soon.

## 9. Conclusion

- 9.1. The information provided in this submission is intended as background information and guidance to relevant strategic and regulatory context, including relevant legislation and context for the Grantville Quarry Panel.
- 9.2. Once the hearing has concluded and this panel has submitted its report to the Minister, the Minister will consider the recommendations of the panel and decide whether to approve, or refuse the application to amend planning permit 120388-1.