



COUNCIL FORUM

Notes

1 December 2015

Preface

When the Chief Executive Officer approves these Notes for distribution they are in essence "informal notes."

At the next Ordinary Meeting of Council the Notes will be received, subject to any amendments made by the Council.

The "Received" Notes are then signed off by the Presiding Person.

Attachments that formed part of the Program, in addition to those tabled at the Council Forum are put together as an addendum to these Notes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as a separate Confidential Noted Program Item.

Unconfirmed Notes

These notes were approved for distribution on 2 December 2015.



Stan Scott *FOR*
CHIEF EXECUTIVE OFFICER

Received Notes

These notes were received at an Ordinary Meeting of Council held on 15 December 2015.

Signed: *David A. Dees*

Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.

CONTENTS

1.	DECLARATION OF OPENING	1
2.	RECORDS OF ATTENDANCE/APOLOGIES	1
2.1	APOLOGIES	1
3.	DECLARATIONS OF INTERESTS	2
4.	PRESENTATIONS	2
4.1	Magpie Ridge Airpark Development Proposal.....	2
5.	PUBLIC QUESTIONS (relating to the contents of the program)	2
5.1	RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
5.2	PUBLIC QUESTION TIME	2
6.	PUBLIC SUBMISSIONS (relating to the contents of the program)	2
7.	AGENDA FORUM MATTERS.....	3
7.1	Revised Draft Council Policy M.6 – Dealing With Mining Proposals.....	3
8.	CONCEPT FORUM MATTERS.....	4
8.1	Trading in Public Places.....	4
8.2	Extractive Industry Local Law.....	4
9.	CHIEF EXECUTIVE OFFICER’S UPDATE.....	5
10.	CONFIDENTIAL MATTERS	6
10.1	Magpie Ridge Airpark Development Proposal.....	6
11.	SHIRE PRESIDENT'S UPDATE	6
12.	STATUS REPORTS.....	6
12.1	COMMITTEE MEETING STATUS REPORT	6
•	Shed Tenders.....	6
•	Toodyay Community Radio	6
12.2	PROJECT FOLLOW UP STATUS REPORT	6
•	Information Bay Project	6
•	Anzac Memorial Park Upgrade	6
•	Disability Car Parking Charcoal Lane.....	6
•	Sale of 16 Toodyay Street	6
•	Skate Park	6
•	Asset 733 – Public Library	7

NOTES OF COUNCIL FORUM
HELD IN COUNCIL CHAMBERS ON 1 DECEMBER 2015

- Long-term Items on the Project Status Report7
- Mrs O'Reilley's Cottage.....7
- Administration Building7
- Wicklow Shearing Shed7
- Rates Review7
- Works and Services Information7

13. MEETING CLOSURE.....8

ADDENDUM *with separate index follows Item 13.*

Shire of Toodyay

COUNCIL FORUM – 1 DECEMBER 2015

NOTES

1. DECLARATION OF OPENING

Cr Dow, Shire President, declared the meeting open at 4.08 pm.

2. RECORDS OF ATTENDANCE/APOLOGIES

Members

Cr D Dow	Shire President
Cr T Chitty	Deputy Shire President
Cr J Dow	
Cr K Wood	
Cr P Greenway	
Cr B Rayner	
Cr E Twine	
Cr S Craddock	

Staff

Mr S Scott	Chief Executive Officer
Ms C Delmage	Manager Corporate Services
Mr G Bissett	Manager Planning & Development (<i>arrived at 4.11 pm</i>).
Mr L Vidovich	Manager Works and Services
Mrs M Rebane	Executive Assistant

Visitors

J White

2.1 APOLOGIES

Cr R Welburn	
Ms A Bell	Manager Community Development

3. DECLARATIONS OF INTERESTS

The Chairperson advised that disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting as follows:

Cr Chitty declared an Impartiality Interest, in regard to Program Item 8.2 Extractive Industry Local Law, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

Cr Wood declared an Impartiality Interest, in regard to Program Item 8.2 Extractive Industry Local Law, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

4. PRESENTATIONS

The Shire President ruled that the meeting go behind closed doors in accordance with Section 5.23 (2) (b), (e) (ii) and 2 (f) (i), of the Local Government Act 1995.

There were no members of the public present except for the presenter. The doors to Council Chambers were closed at 4.09 pm.

4.1 Magpie Ridge Airpark Development Proposal

The Shire President ruled the meeting would come from behind closed doors at 4.41 pm.

There were no members of the public present. Mr White departed Council Chambers at 4.42 pm.

5. PUBLIC QUESTIONS (relating to the contents of the program)

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Council Forum held on 10 November 2015 there were no questions taken on notice.

5.2 PUBLIC QUESTION TIME

There were no public questions.

6. PUBLIC SUBMISSIONS (relating to the contents of the program)

There were no public submissions.

7. AGENDA FORUM MATTERS

7.1 Revised Draft Council Policy M.6 – Dealing With Mining Proposals

The CEO provided an overview of the background in relation to this item.

Points raised as follows:

- Council's Role (Advocacy) – Minimum Report Format;
- Community Views;
- Amendments were made to Policy;
- Social Impact Assessment;
- Other mining policies from other towns;
- The ability of Council influencing outcomes and representing the community; and
- Responsibility in getting the information out to the community in the hands of the proponent and not the Shire.

Cr Wood departed Council Chambers at 5.20 pm.

Cr Wood returned to Council Chambers at 5.24 pm.

Manager Corporate Services departed Council Chambers at 5.38 pm.

Manager Corporate Services returned to Council Chambers at 5.40 pm.

Guidance from Elected Members

That a report be presented for consideration by Council at a forthcoming Council Meeting.

8. CONCEPT FORUM MATTERS

8.1 Trading in Public Places

The CEO provided an overview of the background in relation to this item.

Points raised as follows:

- The necessity of a Policy;
- Opening up the Policy may lead to more itinerant traders traffic;
- Permits required for Information Bay Area;
- Enforcement of the Policy; and
- Permissions required for itinerant traders at Duidgee Park.

Clarification was sought.

Guidance from Elected Members

That the policy is not required to be reviewed.

The Shire President adjourned the meeting at 5.49 pm.

The Shire President resumed the meeting at 6.29 pm.

8.2 Extractive Industry Local Law

Cr Chitty declared an Impartiality Interest, in regard to Program Item 8.2 Extractive Industry Local Law, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007. Cr Chitty stated that "I have an interest that may be perceived as affecting my impartiality. The nature of my interest is that my family own an extractive industry licence but I have no financial interest. As a consequence, ethically there may be a perception that my impartiality on the matter may be affected. I declare I will remain at the meeting and objectively consider the matter on its merits."

Cr Wood declared an Impartiality Interest, in regard to Program Item 8.2 Extractive Industry Local Law, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007. Cr Chitty stated that "I have an interest that may be perceived as affecting my impartiality. The nature of my interest is that my family own an extractive industry licence but I have no financial interest. As a consequence, ethically there may be a perception that my impartiality on the matter may be affected. I declare I will

remain at the meeting and objectively consider the matter on its merits.”

Points raised as follows:

- Means of making sure there is sufficient bond;
- Increasing level of risk for licensee;
- Fee changeable on anniversary;
- Surveyors certificate every two years;
- Annual Report every year;
- Nature of the bond – Bond to be determined by setting a Rehabilitation Bond Policy of Council;
- Bank guarantee;
- Penalty Units;
- Can issues be addressed outside of the local law;
- Will the changes made to the current Extractive Industry Local Law justify commencing the process to adopt a new local law;
- Use the same trigger as for road contributions;
- (xvi) paragraph on page 92 of the program – justification of leaving wording in the local law;
- (c)(iv) paragraph on page 92 – justification as the owner has to have a permit/licence through the Department of Mines;
- (3) paragraph on page 93 – justification;
- (h) Points (iii) and (iv) on page 96 – keep these changes;
- Paragraph (4) and (5) on page 102 – keep these changes;
- (2)(a) authorised person reference page 101 – unnecessary;
- Paragraph (o) on Page 97 – link to road contributions; and
- Tweak or re-write Local Law?

Clarification was sought in relation to clauses (a), (b) and (c) written on page 58 of the program.

Guidance from Elected Members

That a report be presented for consideration by Council at a forthcoming Council presenting the local law providing clarification in regard to a set of changes in the local law and/or further options in light of above points raised.

9. CHIEF EXECUTIVE OFFICER’S UPDATE

The CEO did not provide a verbal update.

10. CONFIDENTIAL MATTERS

The Shire President ruled the meeting go behind closed doors.

There were no members of the public present. The Council Chambers were closed at 7.33 pm.

10.1 Magpie Ridge Airpark Development Proposal

The Shire President ruled the meeting come from behind closed doors.

The Council Chambers were re-opened at 7.43 pm. There were no members of public present.

11. SHIRE PRESIDENT'S UPDATE

The Shire President provided a verbal overview of public engagements, and meetings attended since the last Council Forum.

12. STATUS REPORTS

12.1 COMMITTEE MEETING STATUS REPORT

- **Shed Tenders**
New quotes have been received. Specifications tweaked.
- **Toodyay Community Radio**
No longer a tenant of the Community Depot Site.

12.2 PROJECT FOLLOW UP STATUS REPORT

- **Information Bay Project**
 - Intention to have it in place by March 2016.
- **Anzac Memorial Park Upgrade**
 - Plans ambitious – will come to Budget 2016/17.
- **Disability Car Parking Charcoal Lane**
 - Complete.
- **Sale of 16 Toodyay Street**
 - Staff congratulated on the good work for selling this block.
- **Skate Park**
 - How to acknowledge work and contribution of local contractors;

- Write detail of what was discussed; and
- Any other comments included.
- **Asset 733 – Public Library**
 - Clarification sought in relation to how insufficient space was that meant more internal storage spaces were required;
 - Original design actually showed where works could continue to create more storage areas;

Cr Wood departed Council Chambers 7.55 pm.

Cr Wood returned to Council Chambers at 7.57pm.

- Design being looked at to enable greater access to making the toilet area available to the public; and
- Availability of other Public Toilets
- **Long-term Items on the Project Status Report**
 - Duidgee Park Toilet; and
 - Other items where there is nothing to discuss – to be removed.
- **Mrs O’Reilley’s Cottage**
 - \$600 to get a new tarp – Manager Planning and Development to arrange.
- **Administration Building**
Awaiting Budget Review.
- **Wicklow Shearing Shed**
Due to Forum.
- **Rates Review**
Tourism operators concerned;
More information available from Admin Centre;
Administration commended in regard to the letter sent out;
Phasing in valuations; and
Differential Rating implications.
- **Works and Services Information**
Projects completed and which ones are in the pipeline.

NOTES OF COUNCIL FORUM
HELD IN COUNCIL CHAMBERS ON 1 DECEMBER 2015

Manager Works and Services advised that quite a few have been completed and an updated version to be supplied in the addendum to the notes of the Council Forum; and

Corners leading onto Leeming Road are corrugated and may need maintenance.

13. MEETING CLOSURE

The Shire President declared the meeting closed at 8.14 pm.



ADDENDUM

Attachments to Notes of

COUNCIL FORUM

1 December 2015

CONTENTS

AGENDA FORUM MATTERS **1**

7.1 Revised Draft Council Policy M.6 – Dealing With Mining Proposals **1**

Attachments

1. Revised Draft Council Policy M.6 –with changes tracked; 3
2. Revised Draft Council Policy M.6 –clean copy; 8
3. Schedule of submissions; and 32
4. *Confidential attachment* – submissions received in response to draft council policy *provided under separate cover.* N/A

CONCEPT FORUM MATTERS **47**

8.1 Trading in Public Places **47**

Attachments

1. Location Map 50

Extractive Industry Local Law **51**

Attachments

1. Extract from OCM Minutes 27 Oct 15; 53
2. DRAFT Extractive Industries Local Law – Clean Copy; 59
3. DRAFT Extractive Industries Local Law – Changes tracked; and 84
4. CURRENT Extractive Industries Local Law. 115

STATUS REPORTS

Committee Meeting Status Report 133

Project Follow Up Status Report (including Works) 135

ADDENDUM
ATTACHMENTS TO NOTES OF COUNCIL FORUM
HELD IN COUNCIL CHAMBERS ON 1 DECEMBER 2015

This Page has been Left Blank "Intentionally"

FORUM DISCUSSION PAPER

Date of Report:	24 November 2015
Name of Applicant / Proponent/s:	Shire of Toodyay
File Reference No.:	MIN1
Author:	Stan Scott – CEO
Responsible Officer:	Stan Scott – CEO
Previously Before Council:	January 2015 OCM March 2015 Council Forum
Nature of Council's Role in the matter:	Advocacy
Attachments:	<ol style="list-style-type: none">1. Revised Draft Council Policy M.6 – Dealing With Mining Proposals with changes tracked;2. Revised Draft Council Policy M.6 – Dealing With Mining Proposals – clean copy;3. Schedule of submissions; and4. Confidential attachment – submissions received in response to draft council policy provided under separate cover.

7.1 DRAFT Council Policy M.6 – Dealing with Mining Proposals

PURPOSE OF THE DISCUSSION PAPER

To present to Council DRAFT Council Policy M.6 – Dealing with Mining Proposals which has been revised to reflect community input.

BACKGROUND

At an Ordinary Meeting of Council held on 27 January 2015 Council resolved as follows:

That Council undertake public consultation on the proposed policy: *Engagement with Mining Proposals* and consider community submissions at the March Council Forum for consideration at the March Ordinary Meeting of Council.

In March 2015 Elected Members were provided with copies of all submissions received.

STRATEGIC IMPLICATIONS

The proposed policy sets a framework for Council participation which allows Council to fulfil its Advocacy role by ensuring that projects meet the highest environmental standards, but are also held to best practice standards in community engagement.

OFFICER COMMENT / DETAILS

Substantial input suggested we do not need a policy and there are other ways to inform the community. A policy however, has the benefit of being a long-term document, easily accessible by the community, setting out Council's position in broad terms. The proposed policy makes no commitment to support, or not support, mining in general nor any specific proposal. It does however state clearly the level of high expectations for proponents in terms of community engagement and impact assessment.

The revised policy also includes a new attachment for a template "Social Impact Assessment" used with permission of the copyright owner.

It is proposed that the policy be considered at the December Ordinary meeting and is presented here to allow for any final questions or suggestions before consideration for adoption.

Shire of Toodyay Policy Manual

POLICY MANUAL

POLICY NO	
PROCEDURE SUBJECT	DEALING WITH ENGAGEMENT WITH MINING PROPOSALS
FILE NUMBER	
ADOPTION DATE	
REVIEW DATE	

OBJECTIVES

To ensure that Council staff and the Community have an understanding of Council role in mining approvals;

To provide an agreed policy position for Council's advocacy with mining proponents and approval agencies.

BACKGROUND CONTEXT

In dealing with mining proposals Council ~~acknowledges notes~~ that:

- There ~~may be will be~~ no universal community view on any particular mining projects and that some people ~~may will~~ support and some people ~~may will~~ oppose any mining proposal;
- When a project is in close proximity to people's homes or to rural residential communities there is likely to be strong opposition from affected people;
- The Shire and the Toodyay community have has many community members with a very strong interest in and commitment to preserving Toodyay's environment and this commitment is articulated in the *Community Strategic Plan and the Environmental Plan*; and
- Council's does not have a general the power to approve or reject mining projects and Council's role will generally be one of advocacy.

Formatted: Font: Italic

Formatted: Font: Italic

Council's role in approvals for mineral projects is summarised at Attachment A. Council can be heard, influence and advocate but cannot approve or veto projects. Attachment A is a summary and is not intended to be an exhaustive discussion.

DEFINITIONS

Advocacy refers to Council advocating on its own behalf or on behalf of the community with another level of government or another body or agency. In the context of this policy it is advocating for the best interests of the Shire or the community by influencing other bodies or agencies which could include the EPA, Department of Minerals and Petroleum or a mining proponent.

Formatted: Font: Italic

Formatted: Font: Not Bold

Shire of Toodyay Policy Manual

As Low As Reasonably Practical (ALARP) For a risk to be ALARP it must be possible to demonstrate that the cost involved in reducing the risk further would be grossly disproportionate to the benefit gained

Formatted: Font: Bold, Italic

Formatted: Font: Not Bold, Not Italic

Mining Proposal means any proposed mining project other than an extractive industry that comes to the attention of the Shire, regardless of whether it has been formally referred for assessment or approval with relevant agencies. It does not include applications for prospecting or exploration licenses.

Formatted: Font: Bold, Italic

Quasi-judicial means the circumstances when Council determines an application or matter that directly affects a person's rights and Council has obligation to abide by procedural fairness, natural justice and the provisions of written legislation or legislative instruments such as Acts of Parliament, Regulations, Local Laws or planning instruments.

Formatted: Font: Bold, Italic

Right to be heard means a requirement that a State Agency in some circumstances must seek the view of the Local Government before taking a decision.

Formatted: Font: 12 pt, Italic

Formatted: Font: 12 pt

POLICY POSITION

Formatted: Font: Not Bold

Council supports citizens' rights to participate in the political debate including strong advocacy for their own position, so long as they respect the rights of others to hold contrary views.

Council performs a quasi-judicial role in relation to statutory planning matters and will perform that role in accordance with its legal obligations and adopted planning instruments.

To the extent possible within the constraints of its role, Council will do all in its power to ensure in relation to ~~for~~ any proposed mining project that:

- All reports, investigations and assessments are thorough and complete;
- That ~~benefits of any project to the local community are maximised and negative impacts on the community or other local industries such as agriculture and tourism are eliminated or minimised to be As Low As Reasonably Practical (ALARP) and benefits of any project to the local community are maximised and;~~
- That appropriate social offsets are provided that result in net community benefit to the electors, ratepayers and residents of the Shire;
- That environmental impacts are minimised to be ALARP and rehabilitation is thorough and complete and offsets are appropriate.

Formatted: Indent: Left: 1.27 cm, No bullets or numbering

 Shire of Toodyay Policy Manual

Council will participate in engagement activities with project proponents, subject to the proviso that it reserves the right to oppose, or advocate for changes or conditions to any development in line with the above principles.

Council delivers many services, projects, events and facilities. There may be occasions where these services, projects, events and facilities are sponsored or co-funded by a mining proponent. Such funding or sponsorship will not dilute Council's commitments as set out in this policy.

Council supports the implementation of a Social Impact Assessment [funded by the proponent](#) for any proposed mining project in line with the methodology set out in the publication '*Social impact assessment of resource projects*' published by the International Mining for Development Centre, and included as Attachment B to this policy. [The template "*Social Impact Assessment and Mining Proposals in WA*" at Attachment C is the preferred structure of the assessment.](#)

Formatted: Font: Italic

[Council supports transparency and full disclosure of project developments to the community as soon as is reasonably practicable within the constraints of proponents' continuous disclosure obligations. The Shire will not take on a proponent's responsibility to keep the community informed. Any Shire consultation activities will be in accordance with Council Policy M2 – Public Consultation.](#)

ATTACHMENTS

Attachment A – Council role in project approvals (Source – Civic Legal)

Attachment B - '*Social impact assessment of resource projects*', 2012, [Mining for Development: Guide to Australian Practice](#), International Mining for Development Centre

[Attachment C – "*Social Impact Assessment and Mining Proposals in WA*". 2008, Richard Riordan, downloaded from \[www.anthropologywa.org.au\]\(http://www.anthropologywa.org.au\)](#)

Formatted: Font: Italic

Adopted by Council Ordinary Meeting of Council _____

Shire of Toodyay Policy Manual

ATTACHMENT A – SUMMARY OF LG ROLE IN MINING PROJECTS

<u>Legislation or Statutory Instrument/Act</u>	<u>Administering body</u>	<u>Function</u>	<u>Local Government/LG role in relation to mining</u>
<i>Mining Act 1978</i>	Department for Minerals and Petroleum (DMP)	Land tenure (tenements), rent, bonds, royalties, Environmental Impact Assessments (EIA) s, inspections	Limited right to be notified and to be heard, no veto. Planning Scheme to be considered.
<i>Mines Safety and Inspection Act 1994</i>	DMP	Safety (project management plans)	Nil
<i>Environmental Protection Act 1986 (Part IV)</i>	Environmental Protection Authority (EPA) and OEPA	EIA (Ministerial Conditions)	Referral as DMA “decision making authority”, limited consultation role (environmental protection policies), officers may be able to prosecute for certain offences
<i>Environmental Protection Act 1986 (Part V)</i>	Department of Environment Regulation (DER)	Works approval to construct, pollution licence to commence operations for prescribed premises and clearing permits	Limited consultation role as “public authority”
<i>State Agreement Acts</i>	Department of State Development (Dept of State Dev)	<i>Large development projects (e.g. Mineralogy State Agreement)</i>	<i>Nil</i>
<i>Wildlife Conservation Act 1950</i>	Department of parks and Wildlife (DPaW)	Regulate “taking” of identified species	Conflict provision dealing with overlapping powers (requires certain consultation)

Shire of Toodyay Policy Manual

<u>Legislation or Statutory Instrument</u> <i>Act</i>	<u>Administering body</u>	<u>Function</u>	<u>Local Government role in relation to mining</u>
<i>Rights in Water and Irrigation Act 1914</i>	Department of Water (DoW)	Regulate access to water s5C (taking of water) and s26D (construction of bore) licences	Certain roles but not relevant to mining projects (watercourses & wetlands)
<i>Various planning Acts and schemes</i>	WA Planning Commission (WAPC) and Local Governments	Regulate land development	Extensive role in preparing planning schemes & development approval (but only consultation role under s120 of Mining Act)
<i>Aboriginal Heritage Act 1972</i>	Department of Aboriginal Affairs (DAA) (Dept of Aboriginal Affairs)	Protection of aboriginal sites	Nil
<i>CALM Act (Conservation and Land Management)</i>	DPaW	Manage State reserved lands	Certain roles but none relevant to mining projects (agreements to manage private land)
<i>EPBC Act 1999 (Cth)</i>	Department of the Environment (Commonwealth)	Controlled action approvals	Nil, although possible for certain officers to be inspectors
<i>Native Title Act 1993 (Cth)</i>	NNNT (National Native Title Tribunal)	Applies registration test to new native title claims and undertakes future act mediation and arbitral functions	Right to participate

Shire of Toodyay Policy Manual

POLICY MANUAL

POLICY NO	M6
PROCEDURE SUBJECT	DEALING WITH MINING PROPOSALS
FILE NUMBER	
ADOPTION DATE	
REVIEW DATE	

OBJECTIVES

To ensure that Council staff and the Community have an understanding of Council role in mining approvals;

To provide an agreed policy position for Council's advocacy with mining proponents and approval agencies.

CONTEXT

In dealing with mining proposals Council notes that:

- There may be no universal community view on any particular mining project and that some people may support and some people may oppose any mining proposal;
- ~~When a project is in close proximity to people's homes or to rural residential communities there (may be) is likely to be strong opposition from affected people;~~
- The Shire and the Toodyay community have a very strong interest in and commitment to preserving Toodyay's environment and this commitment is articulated in the *Community Strategic Plan* and the *Environmental Plan*; and
- Council's **does** not have a general power to approve or reject mining projects and Council's role will generally be one of advocacy **on behalf of electors, ratepayers and residents of the district. Council may through advocacy be able to influence the conditions imposed on projects by decision-makers.**

Council's **limited** role in **considering approvals for** mineral projects is summarised at Attachment A. Council can be heard, influence and advocate but cannot approve or veto projects. Attachment A is a summary and is not intended to be an exhaustive discussion.

DEFINITIONS

Advocacy refers to Council advocating on its own behalf or on behalf of the community with another level of government or another body or agency. In the

 Shire of Toodyay Policy Manual

context of this policy it is advocating for the best interests of the Shire **and** the community by influencing other bodies or agencies which could include the EPA, Department of Minerals and Petroleum or a mining proponent.

As Low As Reasonably Practical (ALARP) For a risk to be ALARP it must be possible to demonstrate that the cost involved in reducing the risk further would be grossly disproportionate to the benefit gained

Mining Proposal means any proposed mining project other than an extractive industry that comes to the attention of the Shire, regardless of whether it has been formally referred for assessment or approval with relevant agencies. It does not include applications for prospecting or exploration licenses.

Quasi-judicial means the circumstances when Council determines an application or matter that directly affects a person's rights and Council has obligation to abide by procedural fairness, natural justice and the provisions of written legislation or legislative instruments such as Acts of Parliament, Regulations, Local Laws or planning instruments.

Right to be heard means a requirement that a State Agency in some circumstances must seek the view of the Local Government before taking a decision.

POLICY POSITION

Council supports citizens' rights to participate in the political debate including strong advocacy for their own position, so long as they respect the rights of others to hold contrary views.

Council performs a quasi-judicial role in relation to statutory planning matters and will perform that role in accordance with its legal obligations and adopted planning instruments.

To the extent possible within the constraints of its role, Council will do all in its power to ensure in relation to any proposed mining project that:

- All reports, investigations and assessments are thorough and complete;
- That negative impacts on the community or other local industries such as agriculture and tourism are eliminated or minimised to be As Low As Reasonably Practical (ALARP) and benefits of any project to the local community are maximised and;
- That appropriate social offsets are provided that result in net community benefit to the electors, ratepayers and residents of the Shire;
- That environmental impacts are minimised to be ALARP and rehabilitation is thorough and complete and offsets are appropriate.

 Shire of Toodyay Policy Manual

Council will participate in engagement activities with project proponents, subject to the proviso that it reserves the right to oppose, or advocate for changes or conditions to any development in line with the above principles, and **will uphold its responsibilities under the *Local Government Act 1995* by representing the interests of electors, ratepayers and residents of the district.**

Council delivers many services, projects, events and facilities. There may be occasions where these services, projects, events and facilities are sponsored or co-funded by a mining proponent. Such funding or sponsorship will not dilute Council's commitments as set out in this policy.

Council supports the implementation of a Social Impact Assessment funded by the proponent for any proposed mining project in line with the methodology set out in the publication '*Social impact assessment of resource projects*' published by the International Mining for Development Centre, and included as Attachment B to this policy. The template "*Social Impact Assessment and Mining Proposals in WA*" at Attachment C is the preferred structure of the assessment.

Council supports transparency and full disclosure of project developments to the community as soon as is reasonably practicable within the constraints of proponents' continuous disclosure obligations. The Shire **is unable to will not** take on a proponent's responsibility to keep the community informed. Any Shire consultation activities will be in accordance with Council Policy M2 – Public Consultation.

ATTACHMENTS

Attachment A – Council role in project approvals (Source – Civic Legal)

Attachment B - '*Social impact assessment of resource projects*', 2012, [Mining for Development: Guide to Australian Practice](#), International Mining for Development Centre

Attachment C – "*Social Impact Assessment and Mining Proposals in WA*", 2008, Richard Riordan, downloaded from www.anthropologywa.org.au

Adopted by Council Ordinary Meeting of Council _____

Shire of Toodyay Policy Manual

ATTACHMENT A – SUMMARY OF LG ROLE IN MINING PROJECTS

Legislation or Statutory Instrument	Administering body	Function	Local Government role in relation to mining
<i>Mining Act 1978</i>	Department for Minerals and Petroleum (DMP)	Land tenure (tenements), rent, bonds, royalties, Environmental Impact Assessments(EIA) s, inspections	Limited right to be notified and to be heard, no veto. Planning Scheme to be considered.
<i>Mines Safety and Inspection Act 1994</i>	DMP	Safety (project management plans)	Nil
<i>Environmental Protection Act 1986 (Part IV)</i>	Environmental Protection Authority (EPA)	EIA (Ministerial Conditions)	Referral as DMA “decision making authority”, limited consultation role (environmental protection policies), officers may be able to prosecute for certain offences
<i>Environmental Protection Act 1986 (Part V)</i>	Department of Environment Regulation (DER)	Works approval to construct, pollution licence to commence operations for prescribed premises and clearing permits	Limited consultation role as “public authority”
<i>State Agreement Acts</i>	<i>Department of State Development DSD</i>	<i>Large development projects (e.g. Mineralogy State Agreement)</i>	<i>Nil</i>
<i>Wildlife Conservation Act 1950</i>	Department of parks and Wildlife (DPaW)	Regulate “taking” of identified species	Conflict provision dealing with overlapping powers (requires certain consultation)

Shire of Toodyay Policy Manual

Legislation or Statutory Instrument	Administering body	Function	Local Government role in relation to mining
<i>Rights in Water and Irrigation Act 1914</i>	Department of Water (DoW)	Regulate access to water s5C (taking of water) and s26D (construction of bore) licences	Certain roles but not relevant to mining projects (watercourses & wetlands)
<i>Various planning Acts and schemes</i>	WA Planning Commission (WAPC) & Local Governments	Regulate land development	Extensive role in preparing planning schemes & development approval (but only consultation role under s120 of Mining Act)
<i>Aboriginal Heritage Act 1972</i>	Department of Aboriginal Affairs (DAA)	Protection of aboriginal sites	Nil
<i>CALM Act (Conservation and Land Management)</i>	DPaW	Manage State reserved lands	Certain roles but none relevant to mining projects (agreements to manage private land)
<i>EPBC Act 1999 (Cth)</i>	Department of the Environment (Commonwealth)	Controlled action approvals	Nil, although possible for certain officers to be inspectors
<i>Native Title Act 1993 (Cth)</i>	NNNT (National Native Title Tribunal)	Applies registration test to new native title claims and undertakes future act mediation and arbitral functions	Right to participate

International Mining for Development Centre
Mining for Development: Guide to Australian Practice

Social impact assessment of resource projects

Daniel Franks



www.im4dc.org

The **International Mining for Development Centre** has been established to promote more sustainable use of minerals and energy resources in developing nations by assisting governments and civil society organisations through delivery of education and training, fellowships, research and advice. Our focus is on three core themes of Governance and Regulation, Community and Environmental Sustainability, and Operational Effectiveness.

Prepared by Daniel Franks
Senior Research Fellow
Centre for Social Responsibility in Mining
Sustainable Minerals Institute
The University of Queensland, Australia

The Centre for Social Responsibility in Mining (CSRMI) was established by the University of Queensland in 2001 in response to growing interest in and debate about the role of the mining and minerals industry in contemporary society.

This report does not necessarily represent the views or the policy of AusAID or the Commonwealth of Australia.



© 2012. This work is copyright to the International Mining for Development Centre (IM4DC), a joint venture between The University of Western Australia and the University of Queensland in partnership with the Australian Government through AusAID. It may be reproduced in whole or in part subject to the inclusion of an acknowledgment of the source and no commercial usage or sale. Reproduction for purposes other than those indicated above require written permission from the IM4DC Director, 35 Stirling Highway, Crawley, WA 6009, Australia.



Introduction

The social performance of resource projects has attracted greater attention and scrutiny from communities, governments and increasingly mineral and energy companies in recent times. **How the costs and benefits of resource development are distributed can have an enormous influence on the success of projects and this realisation has led to a strengthening of government and corporate policy with regard to social impact assessment (SIA), social responsibility and community relations.**

This paper describes aspects of the legislative and policy framework for the assessment and management of the social impacts of resource projects in Australia. Australian state governments have adopted varied approaches to the assessment and management of social impacts. The paper does not attempt to provide a comprehensive review of SIA policy in Australia, nor should it be used as a guide to the jurisdictional requirements. Instead the paper highlights the leading practice initiatives that have improved outcomes for the communities and social groups impacted by projects.

The paper begins with an outline of the social issues associated with resource development and an explanation of SIA and its importance. A range of case studies of initiatives and policies adopted by governments in Australia are summarised.

The importance of a policy environment that encourages good social performance

Experienced resource development companies with the capabilities to develop projects and a track record of being respectful and responsive in their dealings with governments, communities and civil society, are attracted to jurisdictions with clear and effective governance regimes. These companies have come to appreciate the economic, social and environmental challenges that mineral development can bring. They understand that irresponsible management of economic, social and environmental issues reduces the prospects for long-term success of developments and can lead to delays, shutdowns, and even the closure of projects.

The advantages for business and government of an effective policy regime for assessing and managing social impacts include:

- Ensuring developments contribute to economic growth and social development over the long-term;
- Attracting experienced and capable companies;
- Reducing project risks and providing greater certainty for investors, government, and society;
- Increasing long-term success and avoiding delays, shutdowns, and even the closure of projects;
- Identifying issues early, avoiding and reducing costs when compared to unplanned solutions, and incorporating unavoidable costs into feasibility, project development and planning;
- Planning for social and physical infrastructure;
- Informing and involving internal and external stakeholders and assisting to build trust and mutually beneficial outcomes;
- Improving the quality of life of employees and improving attraction and retention of skilled workers;
- Enhancing competitive advantage and reputation, by implementing innovative approaches, setting high standards for other businesses and leaving a positive legacy beyond the life of the project; and
- Complying with international principles and standards.

SOCIAL IMPACT ASSESSMENT OF RESOURCE PROJECTS

THE SOCIAL IMPACTS OF RESOURCE DEVELOPMENT

Resource development brings change. Projects have the potential to negatively impact the environments, communities and economies overlying and surrounding developments. Conversely, they also can bring opportunities through the conversion of the natural resource into financial resources, the development of social capacities and skills, infrastructure and business development, and the investment of those resources into environmental and social programs.

Economic, social and environmental changes are interlinked. The impacts on ecosystems, for example, can disrupt the environmental services that are provided by these ecosystems and the economies and livelihoods of people reliant on these services. Impacts are also dynamic. For example, new employment opportunities often considered a key benefit of projects may in fact lead to social challenges if the specialist skills required by the industry are not available locally or take time to develop through vocational training programs. Planned and un-planned in-migration of workers and the associated population growth can create greater demands on social services, such as health, education, housing and commerce as well as physical and social infrastructure. If managed well, population growth can be a driver for improved infrastructure and services, however, the long lead-time required to improve existing services and infrastructure has created challenges in many resource regions.

In-migration and demographic change can also challenge the social cohesion and customs of communities and disrupt social order. Where single male workers make up a significant proportion of the workforce, prostitution can be a common feature. Work camps can be a source of local dissatisfaction if not effectively integrated into local communities.

Developments also have the potential to disrupt existing land uses and industries, such as agriculture, tourism and fishing. As resource development activities grow, the demand for goods and services can lead to increases in prices. People working in service and agricultural industries, which commonly do not attract the same level of pay as resource sector workers, may not be in a position to afford these increased costs. At the same time resource development, if well planned, provides the opportunity to strengthen local businesses and economies and generate royalties and taxes.

The way in which change comes about also influences how that change is experienced by society. When stakeholders have an opportunity to actively participate in the decision-making of resource developments and ensure the project is consistent with their values and livelihoods, their experience of those developments tends to be more positive and their attitudes toward projects more supportive. Public participation may take the form of local community consultation, opportunities for civil society involvement in impact assessment processes, or more active participation such as involvement in ongoing community reference panels, or participatory environmental and social monitoring initiatives.

When stakeholders have an opportunity to actively participate in the decision-making of resource developments and ensure the project is consistent with their values and livelihoods, their experience of those developments tends to be more positive and their attitudes toward projects more supportive.

Table 1: Common change induced by mining that can lead to social impacts (Franks, 2011).

Social and Cultural Change	
Population and demographics	In-migration, out-migration, workers' camps, social inclusion, growth or decline of towns, conflict and tensions between social groups
Social infrastructure and services	Demands on and investment in housing, skills (shortages and staff retention), childcare, health, education, and training
Crime and social order	Corruption, domestic violence, sexual violence, substance abuse and trafficking, prostitution, change in social norms, pace of change for vulnerable communities
Culture and customs	Change in traditional family roles, changing production and employment base, effect of cash economy, reduced participation in civil society, community cohesion, sense of place, community leadership, cultural heritage
Community health and safety	Disease, vehicle accidents, spills, alcohol and substance abuse, pollution, interruption to traditional food supply, awareness and treatment programs
Labor	Health and safety, working conditions, remuneration, right to assemble, representation in unions, labor force participation for women
Gender and vulnerable groups	Disproportionate experience of impact and marginalization of vulnerable groups (e.g., women, disabled, aged, ethnic minorities, indigenous, and young), equity in participation and employment
Human rights and security	Abuses by security personnel (government, contractor, company), social disorder in camps, suppression of demonstrations, targeting of activists, rights awareness programs
Economic Change	
Distribution of benefits	Employment, flow of profits, royalties and taxes, training, local business spending, community development and social programs, compensation, managing expectations, equitable distribution across state/regional/local/ethnic/family groups, cash economy
Inflation/deflation	Housing (ownership and rents), food, access to social services
Infrastructure	Demands on, and investment in, roads, rail, ports, sewerage, telecommunications, power and water supplies
Socio-Environmental Change	
Pollution and amenity	Air (e.g., dust), water (e.g., acid and metalliferous drainage, cyanide, riverine and submarine waste disposal), noise, scenic amenity, vibration, radiation, traffic, government capacity to monitor and regulate
Resources (access/competition)	Land, mobility, water (groundwater, river, ocean), mineral resources (artisanal and small-scale mining), cultural heritage, forest resources, human, postmining land use
Resettlement	Consent and consultation for resettlement, compensation, ties to land, adequacy of resettlement housing and facilities, equity, postsettlement conditions, livelihoods
Disturbance	Disruption to economic and social activities (including by exploration), consultation for land access, frequency and timing, compensation
The Process of Change	
Community engagement	Consultation, communication, participation, empowerment, access to decision makers, transparency, timing, inclusiveness – particularly for vulnerable and marginalized groups – respect of customs and authority structures, reporting
Consent	Indigenous sovereignty/title (free, prior, and informed consent), community consent
Participation	Planning, development of programs, monitoring, selection of alternatives and technologies, operational aspects
Remedy	Grievance and dispute resolution, acknowledgment of issues, compensation, mitigation
Agreements	Equity, timely honoring of commitments, issues with delivery, duress, clarity of obligations, capacity and governance (including government capacity to respond to and manage change)
Community development	Participation, adequacy, appropriateness, capacity to facilitate, consistency, prioritization

SOCIAL IMPACT ASSESSMENT OF RESOURCE PROJECTS

WHAT IS SOCIAL IMPACT ASSESSMENT?

Social impact assessment (SIA) is a process for understanding and responding to the social issues associated with development.

SIA is focused on how to identify, avoid, mitigate and enhance outcomes for communities and is most effective as an iterative process across the life cycle of developments, rather than a one-off activity at the outset of mining (Vanclay 2003; Becker and Vanclay 2006; Franks 2011; Esteves et al.,).

While originally conceived as a tool for predicting impacts of proposed projects prior to development, SIA is now considered to include the systems and strategies undertaken during the implementation phases of a development (including exploration) to monitor, report, evaluate, review, and proactively respond to change.

A social impact is something that is experienced or felt (real or perceived) by an individual, social group or economic unit. Social impacts are the effect of an action (or lack of action) and can be both positive and negative. Social impacts are distinct from social change processes, partly because different social groups can experience social change differently depending on the circumstances (Vanclay, 2002).

Social impact assessment assists to: identify key issues from the perspective of those potentially impacted by projects; predict and anticipate change; and embed these understandings into ongoing systems and strategies to proactively respond to the consequences of development (Vanclay and Esteves, 2011).

The phases of social impact assessment

Social impact assessment can be considered as a number of distinct but iterative phases within an adaptive management process (Franks, 2011).

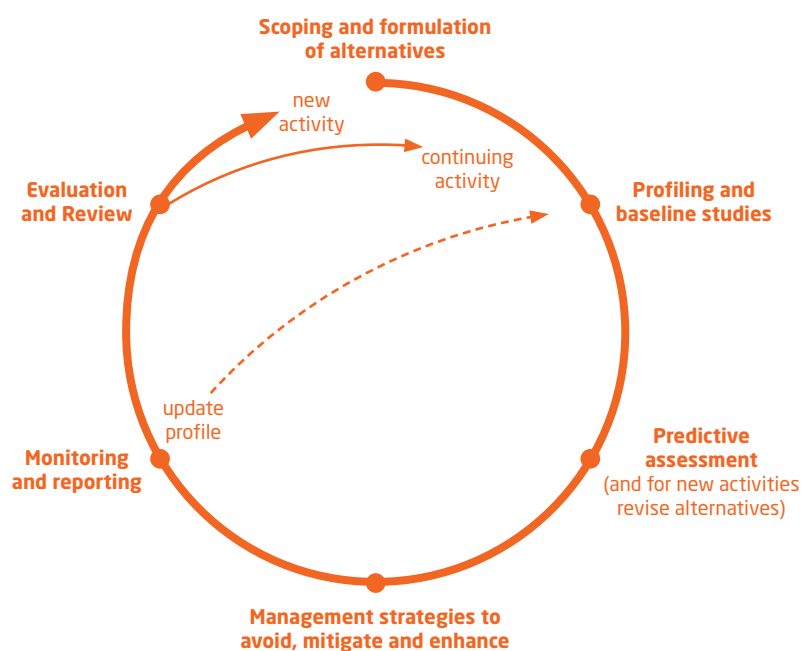
1 Scoping and formulation of alternatives

The scoping phase sets the parameters for the later phases of assessment and management by determining the scale, timing and focus of the assessment, ascertaining who is likely to be impacted and identifying the actions that are likely to result in impacts. Scoping will begin by defining the purpose of the assessment and identifying background material that may influence the assessment. Alternative options should be formulated for later analysis and an initial appraisal of the impacts of these alternatives undertaken. The output of the scoping phase may be the definition of the objective, scope, scale, priority issues and terms of reference for the phases of assessment and management to follow.

2 Profiling and baseline studies

Social profiling consists of understanding the communities and stakeholders potentially impacted by the activity through social and economic research. Profiling involves analysis of the social and economic characteristics of a region at a given point of time. Baselines are an appraisal of the state of a community or social group before an activity takes place. Baseline studies provide a benchmark against which potential impacts can be anticipated and change measured. After a review of secondary information, and the identification of knowledge gaps, a program for the collection of primary data is developed.

Figure 1: The phases of social impact assessment within an iterative adaptive management process (adapted after Franks, 2011).



3 Predictive assessment and revision of alternatives

During this phase, likely impacts are identified and predicted, and their scale and significance evaluated using technical and participatory methods. The choice of methods will depend on the nature of the activity and the phase of the resource development life cycle. The outcomes of predictive assessment and analysis are usually prioritised by their scale and level of significance. They are used to provide feedback to stakeholders as well as to engineers and project developers in order to modify and revise the project, and enable them to decide which proposed project alternative best achieves the objectives of the project while still enhancing social outcomes and avoiding negative impacts.

4 Management strategies to avoid and mitigate negative social impacts and enhance positive impacts

The outcomes of the predictive assessment must then be embedded across all aspects of the business. This may take the form of formalised social impact management systems, social programs and initiatives, site plans, agreements and development of standard operating procedures for high-risk issues. Examples of management procedures to address social issues include cultural heritage management plans, community reference groups, community trusts and funds, human rights and cultural awareness training (linked to human resources systems) and local sourcing and purchasing policies.

5 Monitoring and reporting

The monitoring and reporting phase involves collection, analysis and dissemination of information over time. This phase can assist in refining assessments, track the progress of social impact management approaches and identify changes needed, report to communities on how they are being impacted, and facilitate an informed dialogue around these issues.

6 Evaluation and review

The final phase is to evaluate and review the assessment and management processes. An active and dedicated process of evaluation and review – and importantly, the adjustment of actions – are fundamental features. The reconciliation of impacts predicted during the assessment phase with the actual impacts experienced during implementation will assist in refining and improving future approaches.

Social impact assessment (SIA) is focused on how to identify, avoid, mitigate and enhance outcomes for communities and is most effective as an iterative process across the life cycle of developments, rather than a one-off activity at the outset of mining.

SOCIAL IMPACT ASSESSMENT OF RESOURCE PROJECTS

The objectives of social impact assessment for resource projects

The policy and legislative instruments adopted by government should seek to encourage the following objectives. While this list is not exhaustive it does identify a number of issues that are distinctive about resource developments.

Life cycle approach

Resource developers should be encouraged to identify and respond to social impacts at all stages across the life cycle of resource developments with processes adopted to integrate social management into all aspects of a development.

Leaving a long term legacy

Developments should be encouraged to plan for outcomes that reach beyond the life of the operation and should tailor approaches toward enhancing post-resource development futures. Leaving a positive legacy goes beyond the mitigation of negative impacts - it means providing the broader region with something of value beyond the operation.

Engagement

Resource developments should be encouraged to undertake ongoing engagement with, and participation of, community and government. Where appropriate, active processes that seek community involvement in decision-making should be prioritised over passive methods of consultation.

Alignment

Resource developments should be encouraged to align activities with community and government planning and preferred futures through engagement.

Building capacities

Social investments and community development activities undertaken by resource developers should, where possible, seek to build the capacity of communities to undertake activities, and minimise dependency on resource companies.

Partnerships

Where appropriate, resource developers should be encouraged to partner with local and state government, communities, other operations and with other industries to address issues of concern and mutual interest.

Balance between operational and regional context

Resource developers should tailor their approaches to the individual operational context; however, they should also seek, where appropriate, to take a broader approach to ensure that the totality of impacts from other operations, industries and activities are considered, and that efforts to coordinate management, monitoring and mitigation are explored. This is particularly important in resource provinces where multiple operations are located together.

Coordination

A more strategic use of funds, trusts and other investments and activities, and a more coordinated approach across operations, government agencies and geographic regions should be encouraged.

Adaptive management and flexibility

Resource developments should be encouraged to be responsive to changing circumstances and increased knowledge and awareness of impacts over time. They should demonstrate continuous improvement.

SOCIAL IMPACT ASSESSMENT IN THE AUSTRALIAN CONTEXT

Under the Australian federal system, the regulation and development of natural resources are primarily the responsibility of Australia's state governments. The approval and assessment of resource development projects are done under state based legislation. Australian (federal) Commonwealth government legislation may apply for issues of corporations' law, Indigenous peoples and native title, and matters of national environmental significance (for example for issues where Australia has environmental treaty obligations).

Social impact assessment is almost exclusively defined under state based schemes. In the following sections a range of policies and case studies of initiatives adopted by governments in Australia are summarised.

Sustainable Resource Communities Policy - Queensland

The Sustainable Resource Communities policy was introduced in September 2008 and is designed to both maximise the opportunities presented by developments in Queensland resource regions and mitigate and avoid adverse impacts on community infrastructure. Community infrastructure refers to both soft and hard infrastructure around services and processes that enhance the social capacity of communities and may include infrastructure related to health, housing, youth, aged care, leisure, community safety facilities and road safety. The policy aims to improve the assessment and ongoing management of the social impacts of resource developments, provide for greater coordination and collaboration between stakeholders and address resource governance issues.

The policy introduced a dedicated social impact assessment (SIA) unit within the Queensland Government, emphasised greater links between SIAs, community plans and regional planning and introduced social impact management plans (SIMPs) to outline the forecasted changes to communities, the agreed strategies for addressing impacts, and the responsibility of various parties in relation to the management of social issues.

The policy is supported by a governance structure that reports to the Minister and includes community, government and industry representation. At the state level a partnership group has been assembled to share strategic information, develop and coordinate solutions, undertake research into best practice and assessment methodologies and facilitate cross-sector communication to improve the outcomes for resource communities in Queensland. At a resource province/region level, local leadership groups provide ongoing engagement, identify preferred strategies and programs to manage impacts, facilitate links with regional planning processes and develop projects that address the cumulative impacts of resource developments.

More about the policy can be found here:

<http://203.210.126.185/dsdweb/v4/apps/web/secure/docs/3072.pdf>

Impact statements for project approvals

Social impact assessment is required as part of regulatory approval processes for resource developments in most Australian jurisdictions. These SIAs are usually focused on predicting impacts related to a specific project and are integrated within environmental impact statements (EISs) as part of project level approval in each State.

Project level assessments consist of the same basic process:

- 1 The production of an initial advice statement (Queensland), application for approval (New South Wales), or environmental scoping document (Western Australia; which may be released for public comment) by the proponent that broadly outlines the scope of the proposal;
- 2 The development of a Terms of Reference (ToR; Queensland) or report detailing the environmental assessment requirements (New South Wales) to be covered in the assessment (in Queensland the ToR includes provision for public comment, while in NSW the requirements must take into account the views of other government agencies);
- 3 The production of the Environmental Impact Statement (Queensland and New South Wales) or Environmental Review and Management Program document (Western Australia) by the resource developer (which includes an assessment of social impacts);
- 4 A period of public review and comment, and if required by the relevant authority, a supplementary report to address issues raised by public submissions; and
- 5 An agency/Ministerial decision whether to approve the proposal and an environmental assessment report that provides an overview of the process and indicates whether the EIS has complied with the act.

The participatory and analytical methods employed within the SIA will depend on the context of the proposal and the impacts. While there may be context-based variations, some content will be common to SIAs. Social impact assessments should contain information about workforce (size, composition and sourcing, including contractors and sub-contractors); location (proximity to communities, community size, interaction with communities and non-resident workforce); timing (sequencing of development, ramp ups and ramp downs, and transition times); logistics corridors (road, air, rail and port networks); as well as details about any corporate policies and strategies (workforce accommodation, local employment, Indigenous employment, local procurement etc).

The accessibility of past assessments and supporting documentation is a key issue in some jurisdictions. The Western Australian Department of Mines and Petroleum includes documentation on mining proposals and past impact statements within a publicly available online minerals information database (Minedex). The documents are made available alongside details of mine sites and deposits, operational status and mineral resource estimates. By making available past impact assessments the database encourages consistency in practice and methodologies and facilitates comparative analysis of the studies.

SOCIAL IMPACT ASSESSMENT OF RESOURCE PROJECTS

Community engagement and involvement

Community engagement in the resources sector ranges from communication of the project proposal to stakeholders and the incorporation of stakeholder views to modify projects, to ongoing participation in assessment and management across the mine life cycle. Increasingly higher levels of engagement are expected by community and governments. **Community engagement and participation can assist in developing open, meaningful dialogue, and can influence decision making, build trust, legitimacy, capacities, address community concerns, manage expectations, tap local knowledge and negotiate mutually beneficial futures that are more sustainable and locally relevant.** The form and level of engagement will vary across the mining life cycle and the phases of social impact assessment.

The Australian Commonwealth and state Governments, through the Ministerial Council on Mineral and Petroleum Resources, and in collaboration with the Australian Petroleum Production and Exploration Association, the Australian Coal Association, the Minerals Council of Australia and the Australian Pipeline Industry Association, has developed a series of *Principles of Engagement with Communities and Stakeholders*. The five principles are:

1. **Communication:** Open and effective engagement involves both listening and talking
 - a) Two-way communication
 - b) Clear, accurate and relevant information
 - c) Timeliness
2. **Transparency:** Clear and agreed information and feedback processes
 - a) Transparency
 - b) Reporting
3. **Collaboration:** Working cooperatively to seek mutually beneficial outcomes.
4. **Inclusiveness:** Recognise, understand and involve communities and stakeholders early and throughout the process.
5. **Integrity:** Conduct engagement in a manner that fosters mutual respect and trust (MCMPR, 2005).

Further elaboration of each of these elements can be found in the code. http://www.ret.gov.au/resources/Documents/mcmpr/Principles_for_Engagement_with_Communities_and_Stakeholders.pdf

Community Engagement Plans - Victoria

The state of Victoria requires potential mineral licensee holders to prepare and document commitments made to communities affected by exploration and operational mining activities. Licensees have a duty to consult with communities proactively to build relationships that reflect the values of: trust, mutual respect, transparency and understanding. Communities need opportunities to provide feedback to the licensees on issues that are important to them as part of creating and maintaining a 'social license to operate'. This begins with a prescribed consultation process followed by the development of a Community Engagement (CE) Plan which 'clearly identifies the community and describes how, when and what engagement will occur with that community during all stages of the mining project.' These CE plans need to be approved by the Department of Primary Industries before a licensee has authority to develop a mining lease. In addition to guidance documents for potential mineral license holders the department has developed a landholder information booklet to answer frequently asked questions about the rights of landholders whose property is subject to exploration. Among the topics addressed are: the community consultation process; management of environmental impacts; considerations of public safety; and negotiation of access and compensation agreements.

<http://www.dpi.vic.gov.au/earth-resources/community-information/guidelines-exploration>

http://www.dpi.vic.gov.au/_data/assets/pdf_file/0016/28051/New-Landholder-Information0410.pdf

Community engagement and participation can assist in developing open, meaningful dialogue, and can influence decision making, build trust, legitimacy, capacities, address community concerns, manage expectations, tap local knowledge and negotiate mutually beneficial futures that are more sustainable and locally relevant.

Community Consultative Committees - New South Wales

Community consultative committees are reference groups that can provide a forum for generating feedback about operational and proposed activities. A significant proportion of mining operations in Australia have such committees. In NSW community consultative committees are a condition of approval by the Minister for Planning. The committees provide feedback on the project assessment, the implementation of the conditions of approval, the results of monitoring and annual environmental management reports, and review the resolution of community complaints. The committees may undertake site visits, advise on initiatives to which the company may contribute and liaise with committees from other mines to discuss common issues and respond to cumulative impacts.

Membership includes an independent chairperson, 3-5 representatives of the local community and other stakeholders, a representative of local government and 2-3 representatives of the mine. State government representatives are not part of the committee but can attend specific meetings at the request of the committee. Community representatives are chosen following advertisement in the local press. Meetings are to be held at least quarterly, with minutes recorded by company representatives and available to the public, usually through the company website. While the committee is encouraged to communicate with the broader community, only the Chairperson can speak publicly on its behalf.

For community consultative committees to be at their most effective, there needs to be strong governance and feedback mechanisms back to the broader community to provide an opportunity for input and to report on outcomes. There is also a need to ensure broad representation, including groups such as youth and aged organisations, local business, tourism, health, welfare, policing and education in addition to environment, government and community groups to ensure a range of issues are covered, while also keeping committees to a manageable size.

http://www.planning.nsw.gov.au/assessingdev/pdf/ccc_guidelines_2007.pdf

Social Impact Management Plans

Social Impact Management Plans (SIMPs) outline strategies undertaken during the implementation phases of a development (including closure) to monitor, report, evaluate, review and proactively respond to change. **SIMPs are increasingly becoming a requirement by governments and investors of projects.** They are usually developed as an outcome of the preparation of impact statements for project approvals and then periodically updated. The plan will respond to the priority social issues identified during the assessment. SIMPs should ideally articulate an internal company management system to respond to impacts in an adaptive way over the life cycle of projects.

In Queensland SIMPs are required to be submitted alongside SIAs for project approval. The plans are a stand-alone document that summarise the findings of the SIA and outline the ongoing management and monitoring of impacts. The Queensland Government has developed a guideline that outlines the requirements: <http://www.dlgs.qld.gov.au/resources/guideline/simp-guideline.pdf>

SOCIAL IMPACT ASSESSMENT OF RESOURCE PROJECTS

Regional and community development

Alongside local business development and employment, resource developers also typically have programs to support community activities, social infrastructure and services. Traditionally these programs have been part of a broader public relations profile, but in recent years there has been a shift toward a community and regional development approach that prioritises and coordinates investments with community needs and preferred futures.

Community and regional development programs present an opportunity to focus and coordinate investments at a site and regional level. Community development may be prioritised by the scoping, baseline and profiling, and predictive assessment phases of social impact assessment and, most importantly, through community participation. **Partnerships** are often the best way to facilitate local capacity building and development programs, social services and infrastructure (Kemp, 2009). Partnerships between organisations, service providers, governments, other resource companies and peak industry bodies can be effective in mobilising greater resources, leveraging investment and coordinating activities to respond to complex issues. Partners may also be better placed to deliver community development initiatives and community-led initiatives can build the capacity of communities and their organisations to avoid dependence on resource developers. Governments can play a key role to encourage more effective and aligned delivery of community and regional development.

Pilbara Cities Initiative - Western Australia

"Pilbara Cities" is a program that uses mining royalties to benefit isolated communities in the Pilbara region. The Pilbara hosts a significant proportion of Australia's iron ore, petroleum and natural gas developments. The vision for this 25 year, A\$1 billion development program is to promote quality regional living with modern services supporting strong local communities. Due to recent mining and related industrial activities, the Pilbara region has undergone a period of rapid population growth. Consequently, there is not enough affordable housing, community services, educational facilities, infrastructure or other amenities to meet the increased demand. This has placed enormous pressure on isolated regional towns which are already impacted by transient (fly-in fly-out) mining workforces. The initiative seeks to relieve these pressures by:

- Coordinating infrastructure development of water supply, wastewater management, road improvement, port and airport upgrades and expansion and telecommunications;
- Investing in community projects to improve healthcare, recreation facilities, cultural facilities and education opportunities;
- Planning for growth by managing the development of housing for people working in all sectors, investing in city centre revitalization projects, repackaging underutilised or surplus land for development of residential properties; and,
- Increasing both economic and industrial diversity so that the Pilbara is not solely dependent on mining and related industries for income over the long term.

Throughout all of these activities, the consultation and participation of Indigenous peoples is emphasised.

<http://pilbaracities.com/>

Clermont Preferred Futures – Queensland

Clermont is a small rural community of approximately 2500 people located 200km inland from Mackay, in the Bowen Basin, Queensland. The town was established prior to coal mining in the region. At Clermont, mining company Rio Tinto has worked closely with the local government and community to respond to requests for infrastructure development by supporting a community strategic planning initiative called Clermont Preferred Futures. The requests for infrastructure followed the decision by Rio Tinto to open a second mine (Clermont coal mine) near the existing Blair Athol mine, which is due to close in 2015, and the potential additional impacts that would arise from these transitions. Clermont has become dependent on the economic activity of the mine and the community visioning process provided an opportunity to target future investments to enable a positive post-mining legacy.

Led by the Isaac Regional Council (formerly the Belyando Shire Council), facilitated by the Institute for Sustainable Regional Development at Central Queensland University and sponsored by Rio Tinto, the community plan is a strategic framework to guide development in the community over the coming two decades and ensure investments meet community goals. The exercise was informed by a socio-economic baseline of the town. It consisted of stakeholder mapping, analysing the socio-economic characteristics of the region and the coverage of existing data, identifying previous work and existing plans and strategies and developing partnerships. A vision was developed from targeted community consultation and input from a diverse steering committee. An action plan was formulated and an officer appointed to coordinate implementation. The position is jointly funded between the local government and Rio Tinto. The plan is now used to guide community development and investment activities.

Impact and benefit agreements

Negotiated agreements may occur between resource developers and landholders, communities or Indigenous peoples. The most common type of negotiated impact and benefit agreements in Australia are Indigenous Land Use Agreements (ILUAs), which are provided for under the Native Title Act (more information on ILUAs and Native Title are available from the National Native Title Tribunal: <http://www.nntt.gov.au/Indigenous-Land-Use-Agreements/Pages/default.aspx>)

Negotiated agreements typically occur on a bi-lateral basis between resource developers and impacted parties, however the impetus for agreements and their content may be influenced by government policy. Examples include ILUAs or Conduct and Compensation Agreements in Queensland (see text box).

Agreements can include provisions about how impacts are to be addressed and the governance processes that manage the relationship between the parties. Negotiated agreements provide additional opportunities for communities to influence or participate in developments and there is scope for the agreements to be explicitly linked to the outcomes of SIAs (Esteves, Franks and Vanclay, forthcoming).

Conduct and Compensation Agreements - Queensland

In the state of Queensland, exploration and new mineral and energy development projects are expanding in number and geographical extent. It has therefore become increasingly necessary for the state government to balance the needs of the agriculture and resource sectors. In 2010, Queensland passed new legislation to provide consistent, transparent, balanced and equitable land access and compensation for both sectors through 'Conduct and Compensation Agreements'. These agreements distinguish between 'preliminary activities' and 'advanced activities' related to minerals or energy exploration. The new framework provides guidelines and support for both landholders and resource authority holders to deal responsibly and directly with one another as they negotiate a balanced and equitable agreement about the use of and compensation for privately owned parcels of land.

Landholders must be given advance notice of entry for preliminary mining-related activities that represent minor effects on landholders. A secondary and compensatory agreement must also be negotiated in person for advanced exploration activities that would significantly disturb a landholder's use of a property. The agreement must outline the proposed activities in advance. New land access laws and standard compensation and deferral agreement templates aim to assist in the negotiation and dispute resolution processes between landholders and exploration license holders. The government recommends that both parties seek independent legal advice as they advance through their negotiations since the framework does not, in itself, prevent or resolve disagreements.

http://mines.industry.qld.gov.au/assets/land-tenure-pdf/6184_landaccesslaws_guide_print.pdf

Aurukun Sustainability Framework - Queensland

The Aurukun Sustainability Framework was an initiative of the Queensland Government aimed at including community perspectives on sustainable development into feasibility studies and the long-term planning of a bauxite mine in Cape York. The case is an example where the acquisition of a mineral tenure (through an international competitive process) required the applicant to meet various social and economic criteria imposed by the state. The state was keen to apply best practices and drew from the past few decades of advances in the mineral sector (in terms of community engagement) along with international principles/guidelines. This case demonstrates that linking social impact issues with technical issues, early on and before an EIA is triggered, is not only important but possible.

The Queensland Government cancelled a mine lease over the bauxite resource that was located adjacent to Aurukun, a region primarily inhabited by Wik and Wik-Way peoples (Native Title holders) on Cape York. The previous tenement holder had not fulfilled the development agreement terms and the state decided to offer tenure to the resource on an international competitive basis.

The Queensland Government wanted to apply best practices, taken from previous stakeholder and industry research and development to address potential areas of environmental management and socioeconomic development deficit. The approach aimed to encompass community interests with sustainable development outcomes for the life cycle of the mine and ensure that the proposed evaluation process was defensible and transparent. Key features to address parties' perspectives and perceived risks included developing a guiding framework with baseline requirements for socioeconomic investigations through a sustainable development plan (SDP), and examining state and commonwealth government policy (including roles, responsibilities, and existing commitments toward sustainable development in the region).

Multi-stakeholder governance

Partnerships and multi-stakeholder working groups are an opportunity to facilitate cooperation around a particular goal and solidify ongoing collaboration to tackle complex problems. Partnerships can exist between project developers, state and local governments, community organisations, unions, etc. A number of Australian states have a policy framework that encourages partnerships for the resolution of social issues associated with resource development.

At a broad level, working groups can share strategic information, develop and coordinate solutions, undertake research into best practice methodologies and facilitate cross-sector communication. At an operational level, local working groups can provide ongoing engagement and feedback to project developers, identify and deliver preferred strategies, programs and projects to address impacts of concern.

At a broad level, working groups can share strategic information, develop and coordinate solutions, undertake research into best practice methodologies and facilitate cross-sector communication.

Moranbah Cumulative Impacts Group - Queensland

The Isaac Regional Council, in collaboration with key state government, coal industry, union and community representatives has established a multi-stakeholder reference group to develop and implement strategies for dealing with the cumulative impacts of mining on local amenity in the town of Moranbah. Moranbah is located in Queensland's Bowen Basin and is surrounded by underground and open cut coal mining operations. The group was established based on collective agreement that more could be done to improve the management of cumulative environmental and socio-economic impacts on the town; in particular, dust generation from multiple mining, petroleum, agriculture, land development and industrial minerals activities around the town.

With growth in mining activities around Moranbah, and the prospect of the generation of more dust, the group believes there is much to be gained from a proactive approach now, rather than a reactive approach later. Dust issues have not previously been sufficiently addressed, with the issue currently being dealt with by the regulation of individual mines based on a national standard not tailored to local conditions or perspectives. This system has led to a range of uncoordinated approaches being adopted to manage dust at individual mining operations, including real time monitoring, workforce monitoring, boundary monitoring, and near-to-site sensitive receptor monitoring. Compliance monitoring is currently largely complaint driven. The reference group is pursuing a collective voluntary approach, to supplement the existing regulatory system.

Pilbara Industry's Community Council - Western Australia

The Pilbara Industry's Community Council (PICC) is an industry-led, multi-stakeholder body in Western Australia. PICC consists of BHP Billiton Iron Ore, Chevron Australia, Fortescue Metals Group, North West Shelf venture, Rio Tinto Iron Ore, Woodside, the Commonwealth, Western Australian and local governments, Pilbara communities, and the Chamber of Minerals and Energy Western Australia. PICC has two current areas of work: an Indigenous employment program and a focus on improving towns. Recent projects include the development of employment and population forecasts for the region, a Pilbara Health Initiative and review of education. Multi-stakeholder working groups, such as PICC, offer opportunities to share strategic information, develop and coordinate solutions, undertake research into best practice and assessment methodologies and facilitate cross-sector communication. Multi-stakeholder working groups are well placed to focus on the management of social issues at a regional scale.

http://www.cmewa.com/In_the_Regions/PICC

Conclusion:

TOWARDS BEST PRACTICE

There are growing expectations from communities and governments on resource developers in the area of social performance. **Social impact assessment is an important process that can assist project developers to understand and respond to the changes induced by resource projects, and improve the outcomes for society.** SIA has traditionally involved the use of technical and participatory analytical methods to anticipate change but recent policy changes in Australia are also encouraging

the application of management and monitoring strategies across the life cycle of projects to minimise negative outcomes and maximise benefits. **The early consideration of social impacts, the alignment of activities with regional and community planning objectives, and meaningful participation of community in decision making are key features of a policy regime that will demonstrate best practice and support the sustainable development of resource communities.**

ACKNOWLEDGEMENTS

This paper has drawn in part from material and concepts previously published by the author (Franks, 2011; Browne, Franks and Kendall, 2011; Franks et al., 2009, 2010). The author would like to acknowledge the co-authors of this work for their assistance in the development of the ideas presented here. Carol Bond provided research assistance in the preparation of this document, which is greatly appreciated.

REFERENCES

- Becker, H and Vanclay, F (Eds). 2006. The International Handbook of Social Impact Assessment: Concept and Methodological Advances. Edward Elgar. Cheltenham UK. pp. 74-91.
- Browne, W., Franks, DM., & Kendall, G, 2011. The Foundations for Responsible Mining in Cambodia - Suggested Approaches. Phnom Penh, Cambodia: United Nations Development Programme.
- Esteves, A. M., Franks, DM., & Vanclay, F. (forthcoming). The State of the Art of Social Impact Assessment. *Impact Assessment and Project Appraisal*, special issue on 'Impact Assessment: a global review of the state-of-the art'.
- Franks, DM, Brereton, D, Moran, CJ, Sarker, T and T, Cohen. 2010. Cumulative Impacts - A Good Practice Guide for the Australian Coal Mining Industry. Centre for Social Responsibility in Mining & Centre for Water in the Minerals Industry, Sustainable Minerals Institute, University of Queensland. Australian Coal Association Research Program. Brisbane.
- Franks, DM, Fidler, C, Brereton, D, Vanclay, F and P, Clark. 2009. Leading Practice Strategies for Addressing the Social Impacts of Resource Developments. Centre for Social Responsibility in Mining, Sustainable Minerals Institute, The University of Queensland. Briefing paper for the Department of Employment, Economic Development and Innovation, Queensland Government. November. Brisbane.
- Franks, DM. 2011. Management of the Social Impacts of Mining. In P Darling (Ed.). SME Mining Engineering Handbook. Society for Mining, Metallurgy, and Exploration. Colorado. Chapter 23.4.
- Kemp, D. 2009. Community Relations in the Global Mining Industry: Exploring the Internal Dimensions of Externally Orientated Work, *Corporate Social Responsibility and Environmental Management*.
- Ministerial Council on Mineral and Petroleum Resources (MCMPR). 2005. Principles of Engagement with Communities and Stakeholders. Canberra.
- Vanclay, F. 2002. Conceptualising social impacts. *Environmental Impact Assessment Review*, 22 (3). pp. 183-211.
- Vanclay, F. 2003. International Principles for Social Impact Assessment, *Impact Assessment and Project Appraisal* 21(1): 5-11.
- Vanclay, F. and Esteves A.M. (Eds). 2011. *New Directions in Social Impact Assessment: Conceptual and Methodological Advances*. Cheltenham: Edward Elgar.



Contact

International Mining for Development Centre

Perth, Western Australia
Australia 6009
Email: admin@im4dc.org

www.im4dc.org

The Energy and Minerals Institute

The University of Western Australia
M460A, 35 Stirling Highway
Crawley, Perth
Western Australia, Australia 6009
Tel: +61 8 6488 4608
Email: emi@uwa.edu.au

The Sustainable Minerals Institute

The University of Queensland
St Lucia, Brisbane
Queensland, Australia 4072
Tel: +61 7 3346 4003
Email: reception@smi.uq.edu.au

Social Impact Assessment and Mining Proposals in WA

What is Social Impact Assessment

Social impact assessment (SIA) determines the social changes likely to occur as a direct or indirect result of a project. The SIA process involves:

- describing the existing social condition,
- predicting the social changes that may result from the project;
- assessing the significance of the predicted changes, and;
- Identifying ways of lessening potential impacts.

Assessments of social impacts are generally associated with five types of change:

- Demographic change including the size and composition of the resident population, influx of temporary work force or new recreational users, community facility and social infrastructure requirements;
- Economic change including new patterns of employment/income, local economic effects, real estate speculation, crime and public safety, accommodation and housing;
- Health and well-being changes including cultural, family, leisure, recreation and community health issues, needs of social groups, heritage & social amenity issues;
- Environmental change including alterations to land use, natural habitat and hydrological regime; and
- Institutional change including the structure of local government or traditional leadership, zoning by-laws or land tenure, legal issues.

Key to the SIA process is that any assessment of social impacts should be sensitive to the way in which impacts inter-relate.

Measuring Social Impacts

In undertaking a Social Impact Assessment it is necessary to go beyond identifying the impacts, but to measure or evaluate the impacts. This task includes analysis of:

- Directionality: some impacts may be positive for some people, while the same impact may be negative for other people;
- Certainty: the likelihood or probability of occurrence of impact;
- Frequency: how often the impact will occur;
- Severity: the magnitude and/or strength of impact;
- Chronicity: over what time period;
- Locality: area of impact;
- Susceptibility and vulnerability: how susceptible the community/environment is to impact;
- Mitigability: the potential of the impact to be mitigated and;
- Intractability: symbiotic and/or catalytic potential with other impacts and cumulative potential.

Mining Proposals in Western Australia

To develop mines in Western Australia it is necessary to first submit a [Mining Proposal](#) and obtain an approval under the *Mining Act 1978* (MA).

The Mining Proposal requires that information be included addressing the impacts of the proposal on:

- the social environment by highlighting the positive and negative social impacts of the mining proposal from a regional, State and local government perspective.
- the social environment in relation to heritage issues;
- on other land occupiers in the vicinity of the mining proposal, such as pastoralists, Shires, owners of reserves (DEC), private land owners, local community members, recreational groups and Aboriginal communities; and,
- the capacity of the proponents to ensure that the workforce are competent in, meeting all company environmental management commitments.

Social Impact Assessment and Mining Proposals in WA

Social Impact Assessment Process: The Sequential Process

A social impact assessment can be undertaken in a number of ways. For the purposes of Mining Proposals in WA a social impact assessment should consist of 5 key steps. These steps are outlined in the table below. In undertaking a social impact assessment it is beneficial to undertake the steps sequentially.

Step	Step Label	Description
1	Community Profiling	Involves making a working model of the community/ies to be examined. Socio-economic variables chosen should portray the various community groups and the type and strength of links between them. Methods: Power groups, community cohesion, social problems, economic structure including occupational structure, historical growth trends, quality of live indicators including demographic structure (including migration).
Feedback	2	Likely Impact Projection Involves projecting or forecasting likely future impact situations as a result of the proposal as originally planned. Forecasting: projecting images of the future through analysing probable social consequences of current trends and events. Methods: impact tree, social modelling scenario writing or storytelling, gaming and simulation.
	3	Impact Assessment Involves assessing the difference between the profile projections with and without the proposed intervention including next best option. Methods: Input / output, cost benefit analysis, surveys community involvement, factor analysis, social indicators, newspaper content analysis, matrix methods.
	4a	Alternative Project Evaluation including Mitigation Programs Involves comparison and evaluation of alternative project proposals as well as the recommendation of programs to enhance positive, and mitigate negative, social impacts. This means using a framework to compare social impacts. Strategies: Town / social planning, community development.
	4b	Best Recommendation Choice: best option/s, sensitivity analysis, option listing. Choice by: management, political process, community involvement, combination of above.
	5	Implementation Monitoring and Feedback Once the option has been selected an action plan needs to be developed, i.e., the option needs to be implemented. The process then needs to be monitored, so that we can learn from mistakes. Methods: Feedback. Also social monitoring by development company or local government authority. Post development field research.

Social Impact Assessment and Mining Proposals in WA

Social Impact Assessment Study

Regardless of the method by which a social impact assessment is undertaken, in order to include the relevant information in a Mining Proposal proponents should undertake a Social Impact Assessment Study. For the purposes of the Mining Proposal a suggested table of contents is set out below.

Table of Contents

1. Title
2. Executive Summary
3. Background
 - a. Purpose of the Study
 - b. The Study Area
 - c. Historical overview
4. Population Analysis
 - a. Population overview
 - b. Socio-economic characteristics of population
 - c. Population trends
 - d. Land availability
 - e. Dwelling availability
 - f. New dwelling projection
 - g. Population projection
5. Existing Infrastructure and Services Demand
 - a. Relevant to Local Government Authority or local area
 - b. Infrastructure services provided by state government agencies
 - c. Infrastructure services provided by commonwealth government agencies
 - d. Retail and commercial infrastructure and services
 - e. Community & social infrastructure and services, including health, education, & community support services
 - f. Gap analysis of existing community infrastructure
6. Project Requirements – Strategic & Community Infrastructure during Construction & Operation
 - a. Transport network
 - b. Energy supply
 - c. Water availability & associated infrastructure
 - d. Characteristic profile of project workforce
 - e. Land & accommodation for project staff & campsite
 - f. Project related community infrastructure requirements, including health & human services
 - g. Project related skills requirements
 - h. Gap analysis of additional project related requirements
7. Socio-economic Impact on Infrastructure & Community during Construction & Operation
 - a. Geographic boundaries of project impacts
 - b. Time frames for socio-economic impacts
 - c. Revenue costs and benefits for local authority
 - d. Revenue costs and benefits for state government
 - e. Social costs and benefits for local and business community
 - f. Project related impacts on local employment conditions
 - g. Impact on market values for residential properties & price projections
 - h. Amenity and visual landscape impacts
 - i. Projected impact upon closure of project
8. Possible Mitigation Measures
 - a. Proponent's Principles Framework for Mitigating Adverse Impacts
 - b. Proponent's mitigation commitments
 - c. Proponent's community engagement approach
9. Conclusion
10. Recommendations

No	Record	Name	Comment	Response
1	ICR31150		See attached changes to Policy document	
1.1			Comment 1: Suggesting better name for policy	Agree: <i>Dealing with Proponents of Mining Proposals</i> is a better description.
1.2			Comment 2: More clarity on what precisely the policy is referring to	Agree: Include definitions section. Include definition of 'mining proposal'
1.3			Comment 3: Advocacy means supporting mining proposals.	Disagree: Advocacy in this case means advocating for a position NOT advocating in favour of a proposal. Include definition of 'Advocacy'.
1.4			Comment 4: Background dot points are irrelevant.	Disagree: Could be renamed as context, but it is important to frame the policy position.
1.5			Comment 5: Delete	Disagree: There are supporters and opponents of mining development within the Shire
1.6			Comment 6: Delete	Disagree: The extensive discussion of buffer zones later in the submission is a clear indication that proximity to residences is a significant factor.
1.7			Comment 7: There is more than community interest in environmental matters, it is embedded in key Council documents.	Partly Agree: include reference to key strategic documents.
1.8			Comment 8: Advocacy means support for mining proposals	Disagree: See 1.3
1.9			Comment 9: Legal position in Attachment A is incorrect	Disagree: It is a summary so not an exhaustive discussion. Refers to Council's statutory role, not rights that are afforded to all citizens.
1.10			Comment 10: Contrary to Local Government Act.	Disagree: Misunderstanding of the intent of the word advocacy. See 1.3.

No	Record	Name	Comment	Response
1.11			Comment 11: Remove statement in relation to political debate	Disagree: Council has a leadership role and this statement is appropriate to that role.
1.12			Comment 12: Remove term 'quasi-judicial'. Outline actual legislative role of Council.	Disagree: This term has a clear and accepted meaning in local Government. Include this term in definitions. There is no value in restating legislative roles here.
1.13			Comment 13: Does not set out how Council will do this.	Partially agree. The extent of any Council investigation must be on a case by case basis as there will be financial implications.
1.14			Comment 14: Suggests alternative wording: "That benefits of any project to the local community are maximised and all potential negative social, cultural, heritage and community impacts are eliminated, managed to As Low As Reasonably Practical (ALARP) or minimised."	Partially Agree. Rewrite to take account of suggested inclusions. Reluctant to introduce a new term or acronym unless it adds value. ALARP and minimised seem to mean the same thing. ALARP is often used in safety systems and could be defined as: " <i>For a risk to be ALARP it must be possible to demonstrate that the cost involved in reducing the risk further would be grossly disproportionate to the benefit gained</i> " (Wikipedia).
1.15			Comment 15: How does Council achieve this (rehab and minimise environmental impacts)	Noted. In some ways this statement is aspirational and indicating that Council will take an active interest in EPA matters.
1.16			Comment 16: Suggest alternative wording.	Partially Agree. Rewrite to take account of suggested inclusions. See 1.14 re term ALARP.
1.17			Comment 17: New bullet point: "That appropriate social offsets are provided that result in net community benefit to the electors, ratepayers and residents directly affected by the mining proposal."	Partially Agree. Include new dot point with similar wording.

No	Record	Name	Comment	Response
1.18			Comment 18: needs inclusion of response to applications for exploration tenement.	Disagree. Definition at 1.2 should better define the intended scope of the policy.
1.19			Comment 19: The Shire President, CEO and Councillors are not entitled to have their own opinions.	Disagree. Local governments are representative democracies, and elected members are required to form an opinion on every matter that is considered by Council. You cannot do this without considering evidence and forming an opinion.
1.20			Comment 20: Suggesting that any co-funding of projects constitutes corrupt behaviour.	Disagree: Contributions to public goods or community projects are not the same as private benefits. For example both the Shire and BAJV sponsor the Toodyay Agricultural Show.
1.21			Comment 21: Should list best practice social and environmental guidelines such as EPA Guidance Statement 3.	Disagree: There is no point in restating guidelines that proponents are already bound by. There is an extensive environmental impact assessment regime. There is no obligation for social impact assessment, and we are seeking to apply one.
1.22			Comment 22: Fundamental s errors in legal position.	Disagree: the attachment was sourced from our legal advisors and was accompanied by a training session for Councillors. It is designed to be a summary, not an exhaustive discussion.
1.23			Mining Act 1978: Longer explanation of what is meant by a right to be heard.	Partially agree. Comment is outlining what a right to be heard means. Consider including in definitions.
1.24			Environmental Protection Act 1986 (Part IV): Local government et has the same rights as anyone else.	Partially agree: The summary was not intended to set out all the provisions of the act, only any special role or power afforded to Local Government that is not a general right afforded to everyone.

No	Record	Name	Comment	Response
1.25			Environmental Protection Act 1986 (Part V): Council can make a submission and appeal.	Partially Agree: See 1.24
1.26			Various Planning Acts and Schemes: LG must be consulted if contrary to a planning scheme.	Disagree: Only consultation role as described in the summary. Council can have a greater role in relation to pre 1899 titles because the Mining Act does not apply.
1.27			EPBC Act: Council can make submissions.	Disagree. See 1.24
2	ICR31171		<p>I am strongly opposed to the mining proposals and cannot comprehend why anybody would do it in such a pristine environment.</p> <p>The removal of Bauxite would have an irreversible and detrimental effect on our ground water supply. We do not have scheme water on our property. Bauxite is a natural conveyer and filter of water, the removal of it from the proposed site on Fernie Road will ruin our supply of water. Not to mention all the other disastrous effects on fauna and flora in our habitat.</p> <p>Referring to policy M.6 on page 3 in Rights in Water and Irrigation Act it states the LG role is "Certain role but not relevant to mining projects (watercourses & wetlands" . What do you mean by "LG"? Is LG referring to the Toodyay shire? I would have thought there would be a strong relevance to watercourses and wetlands?</p> <p>PLEASE do not let it go ahead!</p>	<p>Noted: Proponent indicates strong opposition to bauxite mining.</p> <p>Rights in Water and Irrigation Act – LG is an abbreviation for Local Government; that is Shire of Toodyay. Local Government’s role in the legislation does not extend to mining projects.</p>
3	ICR31175		See attached submission.	

No	Record	Name	Comment	Response
3.1			Policy as it stands would lead Council to not fulfilling its statutory obligations	Disagree. This is a policy framework. Every individual decision taken by Council is accompanied by specific advice on the particular matter to be considered.
3.2			General comment on policy.	Noted. The purpose of seeking community input is to produce a better policy.
3.3			Recommendation 1: reframe as Shire engagement with private industry land use developers.	Noted, but disagree. Mining is different and Council's statutory role in mining as a land use is different from other land uses, so it needs a different policy framework.
3.4			Finding 2: Policy Objective should bind Council and councillors.	Disagree: Council has the capacity to vary its own policies.
3.5			Finding 3: Policy is contrary to LG Guideline 12	Disagree: See 3.3. Nothing in the policy encourages or condones inappropriate behaviour.
3.6			Finding 4: Policy ignores other parts of the cycle of mining approvals.	Partially agree. See 1.2.
3.7			Finding 5: Ignores consultation obligations.	Partially agree. Include cross reference to consultation policy.
3.8			Recommendation 2: Redraft to apply to all developments not just mining.	Disagree: See 3.3
3.9			Finding 6: Meaning of Advocacy	Disagree: See 1.3
3.10			Finding 7: Does not refer to risks, legislated obligations or integrity.	Noted but Disagree. Legislative obligations are dealt with elsewhere.
3.11			Finding 8: Policy should not be specific to mining proposal.	Disagree: See 3.3
3.12			Recommendation 3: delete	Disagree
3.13			Finding 9: Suggested inclusions. Dealing with exploration tenements.	Noted. See 1.2 and 1.7 for proposed changes.
3.14			Findings 10-12, and Recommendation 4: Objection to how the different positions held by stakeholders is described.	Disagree: See 1.5. The word 'people' seems a sufficient descriptor in this context.

No	Record	Name	Comment	Response
3.15			Findings 13 -16 and Recommendation 5: Statement is meaningless and redundant and should be removed.	Disagree: The statement is to provide context and acknowledge that the impact of any project will be higher on those who are closer.
3.16			Findings 17 – 21 and Recommendation 6: Policy fails to acknowledge Councils own commitments to preserving the environment.	Partially Agree: See 1.7
3.17			Findings 22 -23 and Recommendation 7: Statement on Councils powers in relation to mining proposals is misleading and should be deleted.	Disagree: Council does not have the same powers on relation to mining projects as it does in relation to other land uses, and it will generally be an influencer rather than a decision maker.
3.18			Recommendation 8: That the policy should include a comprehensive discussion of all obligation in relation to engaging with private industry.	Disagree: A policy cannot override statutory or ethical obligations, and this approach would require them to be restated in every policy document.
3.19			Findings 24 – 26 and Recommendation 9. Council has no power to control how community members approach the debate or to make them respectful of others. Delete and replace with statement on roles and responsibilities of staff, elected members and Council.	Disagree. Even though Council cannot control community debate it does have a leadership role in trying to frame the community discourse.
3.20			Finding 27 – 29 and Recommendation 10:	Disagree. See 1.12 and 3.18.
3.21			Finding 30 and Recommendation 11: Reads this section as doing things to support a mining project rather than ensuring that the proponent meets its obligations.	Disagree: Perhaps for clarity replace the words “for any proposed mining project” with the words “in relation to any proposed mining project”
3.22			Finding 31 and Recommendation 12: Correctly notes that Council does not have the power to make proponents do these things	Partially agree. The purpose of advocacy is to get proponents to do things that they are not obligated to do, or to do things they are to a higher standard.
3.23			Finding 32-34 and Recommendation 13: Suggests that Council should abrogate its responsibility to the district and only represent those people directly affected.	Disagree: See 3.3
3.24			Finding 35-37, Recommendation 14.	Noted. See 3.13
3.25			Finding 38, Recommendation 15 and 16	Noted See 3.13

REVISED Schedule of Submissions
DRAFT Council Policy M6 – Engagement with Mining Proposals

hx: prepared for March 2015 Council Forum

No	Record	Name	Comment	Response
3.26			Finding 39, Recommendation 17. Contrary to legislation and should be deleted.	Disagree. See 1.20
3.27			Finding 40, Recommendation 18. Generally supports a Social Impact Assessment, but questions whether the adopted example of guideline is best practice. Questions who will fund the assessment.	Noted. Suggest inclusion of the words funded by the proponent. Include a template for what should be included in the SIA.
3.28			Finding 41, Recommendation 19. Suggests that some legislative instruments have been excluded.	Noted. See 1.23. The term <i>Various Planning Acts and Schemes</i> is intended capture the Planning and Development Act, regulations, State Planning Policies, Local Planning Strategy, Local Planning Scheme and local Planning Policies. Individual State Agreement Acts are enabling acts for particular projects and have no application outside the project. Local Government Guidelines are not legislative instruments.
				General Comments: The submission included repeated suggestions that underpinning guidelines and provisions of the LG Act be repeated throughout the document. The policy is framed on the assumption that the act will apply and that elected members and staff will behave ethically and in accordance with the guidelines under which they operate.
4	ICR31186		See attached submission.	
4.1			Strongly oppose the implementation of such a policy. Cannot find any other Shire that has a mining policy	Disagree: Both Coorow and Carnamah have adopted policies in relation to fracking. While not directly related to mining the principle is the same.

No	Record	Name	Comment	Response
4.2			Sets out what advocacy should achieve. Suggests referendum.	Partially agree. Some of the material may be useful in defining advocacy. Disagree about the need for or value of a referendum.
4.3			Agrees no universal community view, agrees that people closest to the project are likely to oppose, and suggests referendum to gauge.	See 4.2
4.4			Council's advocacy role needs to be defined.	See 1.3
4.5			Referendum needed for Council to effectively perform its quasi-judicial role.	See 4.2
4.6			Questions the need for a council policy to state what they should do anyway (ensure reports and investigations are thorough and complete). Believes policy is ONLY to allow engagement.	Noted, but disagree.
4.7			Claims that maximising benefits and minimising impacts is a quote from mining company.	Disagree.
4.8			Environmental impacts are the responsibility of EPA, Council should have some expertise after dealing with extractive industries.	Partly agree. Extractive industries are smaller scale and have different regulatory regime, including more power to the Shire.
4.9			Does not believe that Council should participate in engagement activities or have any social engagement with mining proponents, such as through TCCI. Councils only role should be opposing approvals and keeping community informed.	Disagree. Council and officers frequently engage with people without it affecting the capacity to deal appropriately and even-handedly with matters coming before council.
4.10			No sponsorship of co-funding with mining company acceptable unless or until they have a project approval.	Disagree. See 1.20
4.11			Makes a case for why the BAJV project should not be supported, and suggests that the social impact assessment is more suited to remote and Aboriginal communities.	Noted. See 3.27 regarding a proposed template for a Social Impact Assessment.
4.12			Proposed Scheme Amendment to make mining a prohibited or x use.	Disagree. Chittering have taken this approach but they acknowledge that, except for pre 1899 titles, this will have no effect.

REVISED Schedule of Submissions
DRAFT Council Policy M6 – Engagement with Mining Proposals

hx: prepared for March 2015 Council Forum

No	Record	Name	Comment	Response
4.13			Council should publish the entire legal advice.	Noted. It was never intended to be a comprehensive legal document, only a summary.
5	ICR31244		See attached submission.	See comments in relation to submission 4
6	ICR31280		I strongly oppose the implementation of such a policy as mining for the purpose of extracting minerals is an activity solely administered and licenced by the Department of Mines and Petroleum. Accordingly, at present the Shire does not have (and does not need) a formal mining policy – see attached submission.	Noted. Agree that Council does not approve or reject mining proposals but may have the capacity to influence the outcome.
7	ICR31281		See attached submission.	See comments in relation to submission 4
8	ICR31282			
8.1			Need a version of the Swan Valley Planning Act 1995, and related supporting documents.	Noted. The Swan Valley Planning Act provides no additional power in relation to the Mining Act. There will be a review of the Local planning Strategy and Local Planning Scheme later in 2015.
8.2			The policy proposal is intended to divert criticism from the CEO and Shire President in relation to previous contact and engagement with mining companies.	Disagree. There has been nothing inappropriate about any previous engagement.
8.3			No other Local Government has a mining policy.	See 4.1
8.4			Referendum to determine community views.	See 4.2
8.5			Advocacy for whom.	See 1.3

No	Record	Name	Comment	Response
8.6			Which reports, investigations and assessments? Deliberately vague?	Disagree. Term 'all' was intended to be broad and inclusive. Listing will always be incomplete.
8.7			How will council affect positive and negative impacts given lack of approval power?	This is what Council would hope to achieve through advocacy.
8.8			Environmental Impacts are the responsibility of the EPA.	The Shire has a right to be heard, and has all the rights of a natural person in participating in public EPA processes.
8.9			Does not support participation in enjoyment activities.	Disagree. See 4.9
8.10			Does not support sponsorship or co-funding by mining companies.	Disagree. See 1.20
8.11			Does not consider Social Impact Assessment model is relevant to Avon Valley.	Noted. See 3.27 regarding a proposed template for a Social Impact Assessment.
8.12			Mineral Futures Reach Cluster Report. Noted that not all potential benefits were realised.	Noted. CEO has direct experience of the Mid West in the period of the report. The report noted the limited bargaining power to Local Governments. The authors also have made fundamental factual errors in the report. Still some useful learning.
9	ICR31283		I strongly oppose the implementation of such a policy as mining for the purpose of extracting minerals is an activity solely administered and licenced by the Department of Mines and Petroleum. Accordingly, at present the Shire does not have (and does not need) a formal mining policy.	Noted.
10	ICR31284		I strongly oppose the implementation of such a policy as mining for the purpose of extracting minerals is an activity solely administered and licenced by the Department of Mines and Petroleum. Accordingly, at present the Shire does not have (and does not need) a formal mining policy.	Noted.

REVISED Schedule of Submissions
DRAFT Council Policy M6 – Engagement with Mining Proposals

hx: prepared for March 2015 Council Forum

No	Record	Name	Comment	Response
11	ICR31285		See attached submission.	
11.1			Complete opposition to council having any policy relating to mining.	Noted
11.2			Obligation for Local Government to be completely independent from private developers including mining companies	See 1.20
11.3			The Social Impact Assessment document is a mining company document and should not be used.	Disagree. It is a document produced by two universities and the Australian Government through AusAID.
11.4			Council should fund independent reports and not rely on documents produced by the proponent.	Disagree. This seems at odds with the view that the Shire should not have a position.
11.5			Policy seems at odds with the view that Council has a neutral stance.	Disagree. The policy seeks to set out a framework for how we deal with the issues around mining, not the conclusions that may result from that process.
12	ICR31286		See attached submission.	
12.1			Use of the term advocacy indicates support for mining.	See 1.3. Nothing in the policy is intended to indicate that Council will advocate IN FAVOUR of mining.
12.2			Co funding and sponsorship is creates a conflict of interest, and is code for obtaining funding for pet projects in exchange for Council's support.	Disagree. See 1.20. Separate policy on sponsorship could be a possibility.
12.3			Policy should contain commitment to inform community, indication that Council does not support anything that impacts on tourism, heritage or environment, planning policy should distinguish between mining and extractive industries.	Partly Agree. Council could do better at keeping community informed, but also need to recognise constraints in Mining Act.
13	ICR31287		See attached submission.	

No	Record	Name	Comment	Response
13.1			Attachment B seems to presume that mining is inevitable.	Disagree. There is a statutory requirement for an Environmental Impact Assessment, and the policy proposes that the same should apply to impacts on the community.
13.2			Other Councils do not have a policy.	See 4.1. While this relates to fracking the principles are the same.
13.3			There is bias in referring to positive impacts before negative impacts.	Disagree, but order can be reversed if it reduces the perception of bias.
13.4			Needs to include timely communication and distribution of information to the community.	Noted. The Shire is not responsible for doing community engagement on behalf of mining proponents.
13.5			Objective seems to wish to impose council views on the community. Suggested alternative.	Noted. Intention is to inform, not impose. Timing of dissemination important.
13.6			Advocacy can be misinterpreted. Should be clear that is on behalf of residents.	Agree. It can and has been misinterpreted. See 1.3
13.7			Background adds nothing to the policy.	Noted, but disagree. May be better labelled as context.
13.8			Dot points are repeating mining company rhetoric.	Disagree. These may be things that mining companies say they will do, but council has a role in ensuring that they deliver.
13.9			Engagement and sponsorship inappropriate.	Disagree. See 1.20
13.10			Social Impact Assessment Model is inappropriate.	Disagree. See 3.27 regarding a proposed template for a Social Impact Assessment
14	ICR31288		We are saddened to have to be responding to a proposed mining policy in our shire.	Noted. The Shire was the first to provide any substantive publicity of the possible development through input to our economic development

No	Record	Name	Comment	Response
			<p>It is less than a year that we bought our property which we rented for the previous four years. We love our lifestyle block in the bush and we are shocked to hear that bauxite mining is proposed on our doorstep.</p> <p>It is grossly unjust that we were not informed that we were buying into a proposed mining area. If we had been informed, we most certainly would not have bought our house in Morangup.</p> <p>Now we are stuck paying rates to a shire which seems to be set on accommodating miners and sanctioning the destruction of our landscape and environment.</p>	<p>plan. Most of country WA is covered with exploration leases. This area being assessed as genuinely prospective is a relatively recent development.</p>
15	ICR31289		<p>We are strongly opposed to the Shire of Toodyay adopting the above draft proposal. As per councils own admissions council has no authority over the approval, licensing and administration of mining proposals, it would therefore be an exercise in futility for council to adopt same. Council does not need to adopt a mining proposal policy to advise constituents of councils role is within the proposal process.</p>	<p>Noted.</p>
15.1			<p>Background. How can we attest to any of the background without a referendum to gauge community views?</p>	<p>A referendum is a very expensive way to determine community views, and can be significantly impacted by the phrasing of the question.</p>
15.2			<p>Policy arguments similar to those in previous submissions.</p>	<p>Noted</p>
16	ICR31290		<p>See attached submission.</p>	<p>See comments in relation to submission 4. For variations or new information see below.</p>

REVISED Schedule of Submissions
DRAFT Council Policy M6 – Engagement with Mining Proposals

hx: prepared for March 2015 Council Forum

No	Record	Name	Comment	Response
16.1			Any engagement with mining companies is unacceptable.	Disagree
17	ICR31291		See attached submission.	See comments in relation to submission11
18	ICR31292		See attached submission.	
18.1			Policy position agreed by whom.	Council policies are adopted by simple majority.
18.2			Use of the term advocacy suggests support for mining. .	Disagree. See 3.1
18.3			The objective of respecting human rights is missing	Noted. Does not seem relevant to this policy.
18.4			Preserving Toodyay's environment. Town or entire shire.	Entire Shire – the district of Toodyay.
18.5			Advocacy neglects the views of other parties.	Advocacy is an activity or a process.
18.6			No mention of transparency	Noted. Include transparency.
18.7			The term offsets is unclear.	Noted. Offset is used within DER and EPA assessments, and has the same meaning here.
18.8			How will council demonstrate that it has been assiduous in implementing any Social Impact Assessment for any proposed mining project?	Council would not be implementing, and would be expecting the proponent to undertake this work. See 3.27 regarding a proposed template for a Social Impact Assessment
19	ICR31151		See attached submission	
19.1			Should insist on seeing full independent environmental studies.	This is an EPA requirement. Council would participate in the public review process.

No	Record	Name	Comment	Response
19.2			There should be a referendum on large scale mining in the Shire.	A referendum is a very expensive way to determine community views, and can be significantly impacted by the phrasing of the question. Very difficult to justify when we cannot implement the outcome.
19.3			How can the Shire 'do all in its power' when there is a policy that permits mining.	We do not have the capacity to prevent mining, so we know mining is possible. The policy seeks to ensure any project is kept to the highest possible standard.
19.4			Long term effects of mining are unacceptable.	This is what the Environmental Impact Assessment should determine.
20	ICR31364		It would appear that the draft Policy Number M6 takes a very one-sided view of any proposed mining activity. In particular, it fails to address the need to balance the desire of people to enrich themselves as a result of any proposed mining activity against the risk that other people may be driven from their homes as a result of those mining activities.	Noted.
21	ICR31362		As Swan Shire ratepayers who will be greatly affected by bauxite mining in the southern section of the Felicitas development, we urge your council to consider the impact on our lifestyle too. That this policy is being formulated, with acknowledgement of possible future funds from the miners, is indeed worrying. Toodyay's future lies in tourism and farming and opening the gates to it becoming a mining community will be a decision that will be sorely regretted. Who will come for a drive through the hills to Toodyay is they have to travel through a bauxite mine? Allowing mining in our area is a foolhardy and short-sighted proposition that will not be feted in the future.	It is important to note that the purpose of the policy is not to allow mining or prevent mining. That is a matter for the state. It is to make it clear to proponents that we will be using the limited power and influence available to us to hold them to the highest possible standards.
22	ICR31363		I fully support the proposed mine at Morangup. I believe it would be good for the community.	Noted.

FORUM DISCUSSION PAPER

Date of Report:	3 November 2015
Name of Applicant / Proponent/s:	Planning and Development Services
File Reference No.:	PLA1
Author:	Graeme Bissett - Manager Planning and Development
Responsible Officer:	Stan Scott - CEO
Previously Before Council:	N/A
Nature of Council's Role in the matter:	Executive
Attachments:	1. Location Map.

8.1 TRADING IN THOROUGHFARES AND PUBLIC PLACES REVIEW OF MOBILE AND ITINERANT VENDORS LOCATION LIMITATIONS

PURPOSE OF THE DISCUSSION PAPER

For Council to review the area that Mobile and Itinerant Vendors are excluded from trading in in Toodyay under Administration Policy A.14 Trading in Thoroughfares and Public Places (Policy A.14).

BACKGROUND

On 26 September 2015, the Acting CEO gave written permission for an itinerant trader to trade as a 'fish van' for one day on a vacant block site next to the Freemason's Hotel (corner of Piesse St and Stirling Tce).

The reason the ACEO gave this permission for one day is that information was not available at the time (Saturday) so it was given as a temporary one day/one off direction with the advice that the matter would be further investigated the following week upon the CEO's return and consultation with the Manager Planning & Development.

The ACEO immediately advised the MPD and CEO who then followed the matter up the following week. The MPD advised that the area is classed as an "excluded zone", the definition of which is as follows:

"Mobile and itinerant vendors are not permitted to trade from the area bound by Stirling Terrace, Oddfellows Street, the railway line and Harper Road"

*(Refer to Location Map - **Attachment 1**).*

**Trading in thoroughfares and public places review
of mobile and itinerant vendors location limitations**
- continued

As this permission was only relevant for 26 September 2015, the mobile vendor was directed to trade outside this area as per Council Policy. This has resulted in a number of queries from the public as to why we are now preventing this.

The policy was adopted in 2011 and is complementary to the Shire's Local Law covering the same area. This forum item is in response to these queries and seeks Council's view on this provision in the policy.

CONSULTATION IMPLICATIONS

No formal consultation has taken place.

STRATEGIC IMPLICATIONS

This proposal does not contain any notable Strategic implications.

POLICY IMPLICATIONS

Council's Policy A.14 Trading in Thoroughfares and Public Places applies.

FINANCIAL IMPLICATIONS

This proposal does not contain any notable policy implications.

LEGAL AND STATUTORY IMPLICATIONS

The *Shire of Toodyay's Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* made under the provisions of the *Local Government Act 1995* apply.

RISK IMPLICATIONS

There may be a risk to Council's reputation if any changes are perceived negatively.

ENVIRONMENTAL IMPLICATIONS

This proposal does not contain any notable environmental implications.

SOCIAL IMPLICATIONS

This proposal does not contain any notable social implications.

OFFICER COMMENT / DETAILS

Council's A.14 policy provisions in relation to where Mobile and Itinerant Vendors can trade within the Toodyay town site effectively prevent direct competition

between established businesses within commercial premises and mobile businesses. This restriction is a form of protection for local businesses who have invested in Toodyay and have greater standing costs than mobile ones. It is believed it was put in place for this purpose.

This restriction could be seen as an unfair limitation, especially if the mobile business has no direct competitors. It could also be seen as a conflict with the national competition policy.

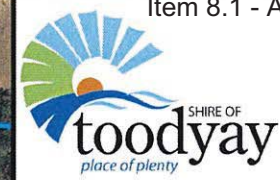
This restriction could also be interpreted as preventing unfair competition.

Members are asked to consider if these limitations are still relevant in part or whole. Should this limitation be modified in any way? Should mobile traders be permitted within this area if they do not directly compete with a local business or should mobile traders be able to operate from private land facing a street within this area with the Shire land owner's permission?

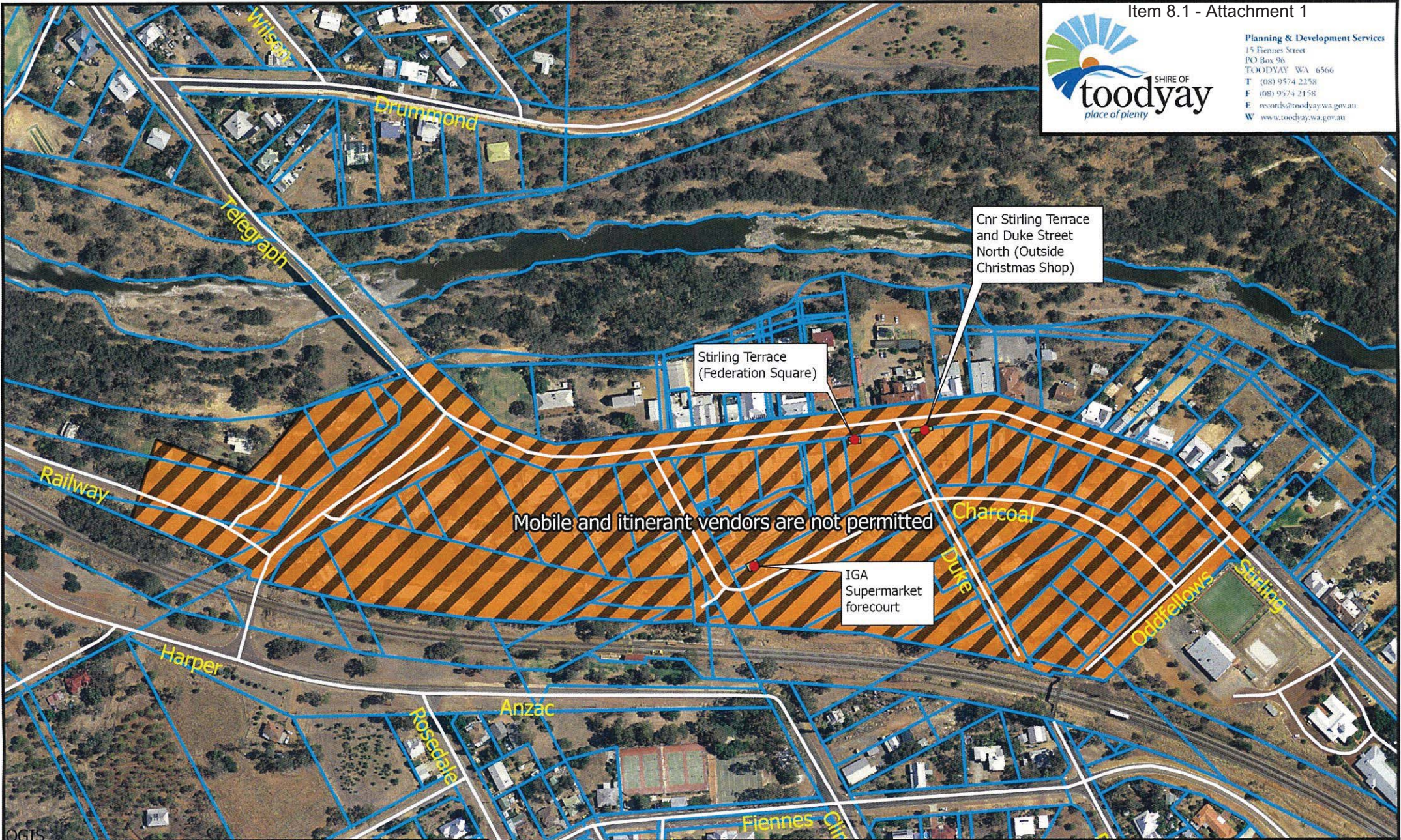
A way forward may be to seek comment from both the public and local businesses.

CONCLUSION




Guidance from Elected Members is sought on review of the scope of Mobile and Itinerant Vendors area of operation set within Toodyay Town site by the Administration Policy No A.14.



Planning & Development Services
15 Finnes Street
PO Box 96
TOODYAY WA 6566
T (08) 9574 2258
F (08) 9574 2158
E records@toodyay.wa.gov.au
W www.toodyay.wa.gov.au



Legend

-  Current Areas allowed for approved stallholders
-  Trading In Thoroughfares - Prohibited Area
-  Shire of Toodyay - Cadastre

SHIRE OF TOODYAY TRADING IN THOROUGHFARES LOCAL LAW

Policy A2: Trading in Thoroughfares and Public Places

FORUM DISCUSSION PAPER

Date of Report:	25 November 2015
Name of Applicant / Proponent/s:	Shire of Toodyay
File Reference No.:	LAW1
Author:	Stan Scott - CEO
Responsible Officer:	Graeme Bissett - MPD
Previously Before Council:	OCM – 27 OCT 15
Nature of Council's Role in the matter:	Legislative
Attachments:	<ol style="list-style-type: none">1. Extract from OCM Minutes 27 Oct 15;2. DRAFT Extractive Industries Local Law – Clean Copy;3. DRAFT Extractive Industries Local Law – Changes tracked; and4. CURRENT Extractive Industries Local Law.

8.2 EXTRACTIVE INDUSTRY LOCAL LAW

PURPOSE OF THE DISCUSSION PAPER

For Council to identify those parts of the DRAFT Extractive Industry Local Law which require change.

BACKGROUND

There has been an extensive process over several years reviewing elements of this local law including, at various times, seeking legal advice and input. The draft considered by Council in October was the last action by the dormant Local Laws Advisory Committee.

CONSULTATION IMPLICATIONS

The Local Law adoption process involves a statutory consultation process.

STRATEGIC IMPLICATIONS

The Strategic Community Plan identifies the Shire of Toodyay as having a “*more enabling regulatory system that is more consistent and user friendly*”. Local Laws are one of the Shire’s regulatory instruments.

POLICY IMPLICATIONS

Council already has a road contributions policy. Council has resolved that we develop a *policy for the determination of the amount of rehabilitation bonds*.

FINANCIAL IMPLICATIONS

The Local Law provides one of the bases for user charges for license fees, road contributions and rehabilitation bonds.

LEGAL AND STATUTORY IMPLICATIONS

The Local Law is adopted under the authority of the *Local Government Act 1995*, and must not exceed the authority of that head of power. The Local Law is subject to review and disallowance by the Delegated Legislation Committee of the WA Parliament.

RISK IMPLICATIONS

The greatest risk in this process is failing to meet one of the statutory requirements and having to restart the process from the beginning.

ENVIRONMENTAL IMPLICATIONS

The Local Law provides the basis for environmental bonds to ensure that rehabilitation is completed following cessation of operations.

SOCIAL IMPLICATIONS

This proposal does not contain any notable social implications.

OFFICER COMMENT / DETAILS

Council did not commence the formal adoption process for the Local Law. That process commences when Council makes a resolution in the form that was considered at the October Ordinary Meeting of Council.

It was clear from the outcome that Council was not happy with some of the form or substance of the Local Law. The question is whether Council wants to pursue a new Extractive Industries Local Law?

If yes, what elements of the draft Local Law require further revision? It is not proposed that Council attempt to redraft the Local Law in the forum. We hope that Council can instead **identify issues and preferred outcomes** so that staff can use that information to make the necessary changes for further consideration by Council.

EXTRACT FROM: MINUTES OF THE ORDINARY COUNCIL MEETING OF 27 OCTOBER 2015

COMMITTEE REPORTS

9.6.1 Local Laws Advisory Committee Recommendations

Date of Report:	1 October 2015
Name of Applicant / Proponent/s:	Local Laws Advisory Committee
File Reference:	LAW1
Author:	Stan Scott – Chief Executive Officer
Responsible Officer:	Stan Scott – Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Nature of Council's Role in the matter:	Executive
Attachments:	1. Extractive Industries Local Law 2015; and 2. Notice of Proposal to make a Local Law.
Voting Requirements:	Simple Majority

PURPOSE OF THE REPORT

To receive the recommendation made by the Local Laws Advisory Committee at their meeting held on 15 September 2015 and to consider the adoption of the *Extractive Industries Local Law 2015*.

BACKGROUND

In accordance with Council Policy A.17 – Council Consideration of Committee Recommendations “Recommendation from Council Committees will be considered by Council at the earliest opportunity.”

At a Local Laws Advisory Committee Meeting held on 15 September 2015 recommendations were made to Council as follows:

Recommendation 1 - Extractive Industry Local Law (amendments to local law)

That the Local Laws Committee make a recommendation to Council as follows:

That in Clause 4.3 (1) (e) the word “any” be replaced by the word “all”.

That throughout the local law the terms “restoration” or “restored” or “reinstated” or “restored or reinstated” be replaced by the words “rehabilitation” or “rehabilitated” as the context requires.

That in Clause 2.3 (3) (c) include the words “giving notice to” before the word “any”.

EXTRACT FROM: MINUTES OF THE ORDINARY COUNCIL MEETING OF 27 OCTOBER 2015

That in Clause 3.1 (7) (k) include the words "all surface water" after the words "management of".

That in Schedule 1 at 6.1 in the table of penalties the modified penalty be changed from "\$200" to "\$500"

That at 6.3 (2) the penalty be changed from "\$2,000" to "\$5,000".

That at 7.1 (1) (a) replace the words "is greater" with the words "not less".

That at 7.1 (1) (b) replace the words "the sum of" with the words "not less than"

Recommendation 2 - Extractive Industry Local Law (additions to local law)

The committee considered the tabled legal advice, and in light of that advice resolved as follows:

That a new Clause 5.1 (4) be inserted as follows:

The Local Government will, on the anniversary of the issue of a license, and on each subsequent anniversary, review the amount of the cash bond stipulated at 5.1 (1) to ensure that the cash bond is sufficient, and if necessary increase the cash bond.

Recommendation 3 - Rehabilitation Bonds Policy for Extractive Industries

That the Local Laws Committee make a recommendation to Council as follows:

That Council develop a policy of the determination of the amount of rehabilitation bonds.

Recommendation 4 - Adoption of Extractive Industry Local Law

The Local Laws Advisory Committee recommends to Council, subject to the preceding motions, the following:

That Council:

1. *Pursuant to section 3.12 of the Local Government Act 1995 resolves its intent to adopt the Shire of Toodyay Extractive Industries Local Law:*
 - (a) *The **purpose** of this local law is to prohibit the carrying on of an extractive industry unless by authority of a licence issued by the local government; regulate the carrying on of the extractive industry in order to minimise damage to the environment, roads and other peoples' health and property; and provide for the restoration and reinstatement of any excavation site.*
 - (b) *The **effect** of this local law is that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of this local law.*
 - (c) *The **justification** of this local law is to make provisions about the regulation and control of the operation of extractive industries within the Shire of Toodyay including licensing these activities and imposing conditions regarding operation and rehabilitation of extractive industry sites.*

EXTRACT FROM: MINUTES OF THE ORDINARY COUNCIL MEETING OF 27 OCTOBER 2015

2. *In accordance with the provisions of section 3.12(3) and (3a) of the Local Government Act 1995, advertise for public comment the proposal to adopt the Shire of Toodyay Extractive Industries Local Law as shown in Attachment 3.*
3. *Authorise the CEO to send to the Minister a copy of:*
 - (a) *The proposed local law (Attachment 1); and a*
 - (b) *Copy of the public Notice (Attachment 2).*

in accordance with the provisions of section 3.12 (3) of the Local Government Act 1995 as shown in Attachment 4.

4. *Authorise the CEO to provide a copy of the proposed local law, in accordance with the notice to any person requesting it in accordance with the provisions of section 3.12 (3) (c) of the Local Government Act 1995.*

CONSULTATION IMPLICATIONS

There has been no further consultation in relation to the recommendations made by the Local Laws Advisory Committee.

STRATEGIC IMPLICATIONS

Extractive Industries as a significant feature of the local area and make significant contributions to road maintenance.

POLICY IMPLICATIONS

The Committee requested that Council develop a policy of the determination of the amount of rehabilitation bonds. The Road Contribution Policy provided a formula with a sound basis for road charges. A similar approach to rehabilitation bonds will help protect Council and the community from excessive costs.

FINANCIAL IMPLICATIONS

The most significant cost from adopting a new local law relates to the state-wide advertising costs and cost of publishing the adopted local law in the government gazette. Collectively these costs will approximate \$3,500.

LEGAL AND STATUTORY IMPLICATIONS

The initial steps to be taken when making a valid Local Law, in accordance with Section 3.12 of the *Local Government Act 1995*, are noted as follows:

EXTRACT FROM: MINUTES OF THE ORDINARY COUNCIL MEETING OF 27 OCTOBER 2015

Steps	Reference	Action
1	3.12(2)	Presiding person gave notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner ¹ : (a) in the agenda of that meeting; and (b) in the minutes of that meeting.
2	3.12(3)(a)	State-wide public notice: (refer s.1.8 under this Act) Published in newspaper circulating generally throughout the State.
3	3.12(3a)	Local public notice: (refer s.1.7 under this Act) Published in a newspaper circulating generally throughout the State, and exhibited on a notice board of the local government's offices and every library in the district.
4	3.12(3)(b)	<u>Immediately after State-wide local public notice is published:</u> Send copy of <ul style="list-style-type: none"> • the proposed local law (in gazette-ready format) and • a copy of the State-wide public notice, to the Minister for Local Government and, where applicable, same copies sent to another Minister.

Statewide public notice is described in section 1.8 of the Local Government Act 1995. Where such notice is required to be given, section 1.7 applies except that the newspaper referred to in section 1.7(1) (a) is required to circulate generally throughout the State.

Local Public Notice is described in Section 1.7 of the *Local Government Act 1995* sets out the requirements for this form of notice. It must be –

- (a) published in a newspaper circulating generally throughout the district;
- (b) exhibited to the public on a notice board at the local government's offices; and
- (c) exhibited to the public on a notice board at every local government library in its district.

RISK IMPLICATIONS (including DAIP)

The existing Local Law is similar to most contemporary Extractive Industry Local Laws. There has been substantial work over several years developing the new Local Law and that time and expense could be wasted if we do not proceed.

ENVIRONMENTAL IMPLICATIONS

This proposal does not contain any notable environmental implications.

SOCIAL IMPLICATIONS

This proposal does not contain any notable social implications.

OFFICER COMMENT / DETAILS

EXTRACT FROM: MINUTES OF THE ORDINARY COUNCIL MEETING OF 27 OCTOBER 2015

Recommendations 1 and 2

The *Extractive Industries Local Law 2015 (Attachment 1)* was reviewed following the Local Laws Advisory Committee Meeting and the changes recommended to be made by the Committee have been included in the document presented.

Recommendation 3 - Rehabilitation Bonds Policy for Extractive Industries

The Committee requested that Council develop a policy of the determination of the amount of rehabilitation bonds. The Road Contribution Policy provided a formula with a sound basis for road charges. A similar approach to rehabilitation bonds will help protect Council and the community from excessive costs.

LOCAL LAWS ADVISORY COMMITTEE RECOMMENDATION

That Council develop a policy of the determination of the amount of rehabilitation bonds.

LOCAL LAWS ADVISORY COMMITTEE RECOMMENDATION ONE / COUNCIL RESOLUTION NO. 228/10/15

MOVED Cr Rayner

SECONDED Cr Greenway

That Council develop a policy for the determination of the amount of rehabilitation bonds.

MOTION CARRIED 9/0

Recommendation 4 - Adoption of Extractive Industry Local Law

The recommendation below has been reworded to meet the requirements contained within the guidelines provided by the Department of Local Government and Communities.

OFFICER'S RECOMMENDATION/LOCAL LAWS ADVISORY COMMITTEE RECOMMENDATION

That Council:

1. pursuant to section 3.12 of the *Local Government Act 1995*, proposes to make a local law titled "*Extractive Industries Local Law 2015*"
 - (a) *The **purpose** of this local law is to prohibit the carrying on of an extractive industry unless by authority of a licence issued by the local government; regulate the carrying on of the extractive industry in order to minimise damage to the environment, roads and other peoples' health and property; and provide for the restoration and reinstatement of any excavation site.*

EXTRACT FROM: MINUTES OF THE ORDINARY COUNCIL MEETING OF 27 OCTOBER 2015

- (b) *The **effect** of this local law is that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of this local law.*
- (c) *The **justification** of this local law is to make provisions about the regulation and control of the operation of extractive industries within the Shire of Toodyay including licensing these activities and imposing conditions regarding operation and rehabilitation of extractive industry sites.*
2. Advertise for public comment the proposal to make a local law titled “*Extractive Industries Local Law 2015*” as shown in Attachment 1, in accordance with the provisions of section 3.12(3)(a) and 3.12(3a) of the *Local Government Act 1995*;
3. Authorise the CEO to send to the Minister for Local Government, and any other Ministers (where applicable) immediately after State-wide and Local Public Notice is published, a copy of:
- (a) *The proposed local law (Attachment 1); and a*
 (b) *Copy of the State-wide public Notice (Attachment 2).*
- in accordance with the provisions of section 3.12 (3) (b) of the Local Government Act 1995.*
4. Pursuant to the provisions of section 3.12 (3) (c) of the *Local Government Act 1995*, authorise the CEO to provide a copy of the proposed local law, in accordance with the notice to any person requesting it.

Cr Craddock moved the Officer’s Recommendation be taken to a concept Forum for consideration.

Clarification was sought.

The substantive motion was put.

**OFFICER’S RECOMMENDATION/LOCAL LAWS ADVISORY COMMITTEE
 RECOMMENDATION/COUNCIL RESOLUTION NO. 229/10/15**

MOVED Cr Craddock

That Council take this Item to a Concept Forum for further consideration.

MOTION CARRIED 9/0



LOCAL GOVERNMENT ACT 1995

SHIRE OF TOODYAY

EXTRACTIVE INDUSTRIES

LOCAL LAW



Gazette Date: Page

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

TABLE OF CONTENTS

PART 1 - PRELIMINARY	2
DEFINITIONS	2
APPLICATION	2
REPEAL	3
PART 2 - LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY	4
EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE	4
APPLICATION FOR LICENCE	4
ADVERTISING THE PROPOSAL	7
PART 3 – DETERMINATION OF APPLICATION	9
DETERMINATION OF APPLICATION	9
PAYMENT OF ANNUAL LICENCE FEE	11
TRANSPORTATION	11
PART 4 - CANCELLATION AND RENEWAL OF LICENCE	13
LICENCE NOT TRANSFERABLE	13
CANCELLATION OF LICENCE	13
RENEWAL OF LICENCE	13
PART 5 - SECURED SUM AND ITS APPLICATION	14
SECURITY FOR REHABILITATION	15
USE BY THE LOCAL GOVERNMENT OF SECURED SUM	15
PART 6 - LIMITATIONS AND PROHIBITIONS	17
LIMITS ON EXCAVATION NEAR BOUNDARY	17
OBLIGATIONS OF A LICENSEE	17
BLASTING	18
PART 7 - MISCELLANEOUS PROVISIONS	20
PUBLIC LIABILITY	20
MINES SAFETY AND INSPECTION ACT AND ENVIRONMENTAL PROTECTION ACT	20
NOTICE OF CESSATION OF OPERATIONS	20
WORKS TO BE CARRIED OUT ON CESSATION OF OPERATIONS	21
PART 8 - OBJECTIONS & APPEALS	23
PART 9 – ENFORCEMENT	23
OFFENCES AND PENALTIES	23
FORMS	23
SCHEDULE 1 - PRESCRIBED OFFENCES	24

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Local Government Act 1995

Shire of Toodyay

Extractive Industries Local Law 2015

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the Council of the Shire of Toodyay resolved on2015 to make this local law.

Part 1 - Preliminary

DEFINITIONS

- 1.1 In this local law, unless the context otherwise requires -
- “**Act**” means the *Local Government Act 1995*;
 - “**AHD**” means the Australian Height Datum;
 - “**authorised person**” means a person authorised by the *local government* under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;
 - “**CEO**” means the Chief Executive Officer of the local government;
 - “**district**” means the district of the local government;
 - “**excavation**” includes quarry;
 - “**extractive industry**” means quarrying and excavating for any stone, gravel, sands, clay, limestone, loam or other material;
 - “**licence**” means a licence issued under this local law or any repealed local law of the local government relating to extractive industries;
 - “**licensee**” means the person named in the licence as the licensee;
 - “**Local Government**” means the Shire of Toodyay;
 - “**secured sum**” means the amount of the cash bond required to be paid by way of security under clause 5.1;
 - “**site**”, or “**excavation site**”, means the land specified by the local government in a licence;
 - “**stockpile**” means a deposit of excavated material that is stored for any purpose;
 - “**watercourse**” has the same meaning as defined under the *Rights in Water and Irrigation Act 1914*.

APPLICATION

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- 1.2 (1) The provisions of this local law –
- (a) subject to paragraphs (b), (c) (d) and (e) –
 - (i) apply and have force and effect throughout the whole of the district; and
 - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law.
 - (b) do not apply to the extraction of minerals under the *Mining Act 1978*;
 - (c) do not apply to the carrying on of an extractive industry on Crown land;
 - (d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and
 - (e) do not affect the validity of any licence issued under a local law repealed by clause 1.3 of this local law if that licence is currently in force at the date of gazettal of this local law.
- (2) In subclause (1)(d) 'land' includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in subclause (1)(d).

REPEAL

- 1.3 The local laws of the Shire of Toodyay relating to Extractive Industries published in the Government Gazette on 26 October 1984; 18 July 1986; 12 November 1993 and 1 November 1999 are repealed.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Part 2 - Licensing Requirements for an Extractive Industry

EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE

- 2.1 A person must not carry on an extractive industry –
- (a) unless the person is the holder of a valid and current licence; and
 - (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

APPLICATION FOR LICENCE

- 2.2 (1) A person seeking the issue of a licence in respect of any land must apply in the form determined by the local government from time to time and must forward the application duly completed and signed by both the applicant and all owners of the land to the local government together with –
- (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing –
 - (i) the existing and proposed land contours based on the AHD and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed internal roads or other means of vehicle access to and egress from the land and to public or private roads in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- encumbrances over, on, under or adjacent to or in the vicinity of the land;
- (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) 3 copies of a works and excavation programme containing –
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of roads to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise dust nuisance, erosion, watercourse siltation and dangers to the general public;

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation;
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby roads or other areas; and
 - (xvi) a description of the existing location and depth of hydrology conditions presented by a suitably qualified independent consultant.
- (c) 3 copies of a rehabilitation and decommissioning programme indicating –
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether rehabilitation of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) the method by which topsoil is to be replaced and revegetated;
 - (iv) how any face is to be made safe and batters sloped;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained and irrigated; and
 - (vii) the programme for the removal of buildings, plant, waste and final site clean-up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public road or such other land in the vicinity;

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (e) a certificate from a licensed surveyor certifying the correctness of –
 - (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
 - (f) copies of all land use planning approvals required under any planning legislation;
 - (g) the consent in writing to the application from the owner of the excavation site;
 - (h) any other information that the local government may require;
 - (i) the licence application fee specified by the local government from time to time; and
 - (j) a copy of the Certificate of Title for the subject land.
- (2) All survey data supplied by an applicant for the purpose of subclause (1) must comply with AHD and Australian Map Grid standards.
- (3) The local government may exempt a person who applies for a licence under subclause (1) from providing any or all of the data otherwise required under subclause (1) if, in the opinion of the local government, because of its location and size, the proposed excavation will not result in significant adverse environmental effects.

ADVERTISING THE PROPOSAL

- 2.3 (1) The local government must advertise a proposal that is the subject of an application under clause 2.2 unless –
- (a) clause 3.1(1) applies; or
 - (b) the proposal has been advertised as part of the planning approval process in respect of that proposal and all the information under clause 2.2 has been provided.
- (2) The local government may decide not to advertise a proposal to which paragraph (a) or (b) of subclause (1) applies.
- (3) A proposal is to be advertised by –

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (a) giving notice of the application to the owners and occupiers of all land adjoining the land on which it is proposed to excavate, and to any other owners and occupiers of land within an area determined by the local government as likely to be affected by the granting of a licence, and inviting them, within 21 days from the date of service of the notice, to object in writing to, or make written representations in respect of, the issue of the licence;
- (b) giving notice of the application to each authority or person having control or jurisdiction over any of the things referred to in clause 2.2(1)(a)(vii) and (viii) within 1000 meters from the boundaries of the land upon which it is proposed to excavate, and within any further area determined by the local government which is likely to be affected by the granting of a licence;
- (c) giving notice to any other person having an interest in the land as disclosed on the certificate of Title; and
- (d) giving local public notice of the application.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Part 3 – Determination of Application

DETERMINATION OF APPLICATION

- 3.1 (1) The local government may refuse to consider an application for a licence –
- (a) that does not comply with the requirements of clause 2.2, or
 - (b) where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government cannot determine an application for a licence if planning approval has not been obtained.
- (3) For the avoidance of doubt, the local government may consider an application for a licence in respect of land (while at the same time considering an application for planning approval for an extractive industry use of the same land), but cannot approve the application for a licence unless and until planning approval has first been obtained.
- (4) The local government, after considering any objections or representations made under clause 2.3 –
- (a) may refuse the application; or
 - (b) may approve the application –
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
- (5) Where the local government approves an application for a licence, it must –
- (a) determine the licence period, not exceeding 10 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (6) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of –
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June next, determined by the local government from time to time;

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (b) payment of the secured sum, if any, imposed under clause 5.1; and
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1 shall issue the licence to the applicant.
- (7) Without limiting subclause (2), the local government may impose conditions in respect of the following matters –
- (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access roads, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;
 - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
 - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the Local Government;
 - (g) the depths below which a person must not excavate;
 - (h) distances from adjoining land or roads within which a person must not excavate:
 - (i) the safety of persons employed at or visiting the excavation site;
 - (ii) the control of dust and wind-blown material;
 - (iii) the control of noise; and
 - (iv) the control of impacts on groundwater,
 - (i) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
 - (j) the prevention of the spread of dieback or other disease;
 - (k) the drainage of the excavation site and management of all surface water;
 - (l) the rehabilitation of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (m) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (n) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (o) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law including, but not limited to, an agreement under which the licensee must pay for any expenses incurred by the local government in repairing damage caused to a thoroughfare in the district by heavy or additional traffic associated with the operation of the extractive industry; and
- (p) any other matter for properly regulating the carrying on of an extractive industry.

PAYMENT OF ANNUAL LICENCE FEE

3.2 On or before 30 June in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

TRANSPORTATION

- 3.3 (1) The local government or an authorised person may prescribe by giving written notice to the licensee –
- (a) the route to be taken by the licensee for the transportation of materials from the site through the roads within the district;
 - (b) the route to be taken by the licensee for the transportation of materials to the site through the roads within the district;
 - (a) the tonnage limits to be transported along a particular route; and
 - (c) the times during which materials from the site may be transported through the roads within the district.
- (2) The licensee must enter into an agreement with the local government, to meet an agreed portion of the costs or

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

estimated costs, as determined by the local government, of repairs, maintenance or rehabilitation of any road where such costs are reasonably attributable to the transportation of materials from the site.

- (3) If a road on a route prescribed under subclause (1) is inadequate for the transportation of materials from the site, the local government may require the licensee to pay all or part of the costs or estimated costs, as determined by the Local Government, of upgrading the road to the standard required by the local government for these purposes.
- (4) Each licence is to be taken to be subject to a condition requiring the licensee to comply with this clause.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Part 4 - Cancellation and Renewal of Licence

LICENCE NOT TRANSFERABLE

4.1 A licence is not transferable.

CANCELLATION OF LICENCE

4.2 (1) The local government may cancel a licence where the licensee has –

- (a) been convicted of an offence against –
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry;
- (b) attempted to transfer or assign the licence;
- (c) failed to comply with a term or condition of the licence;
- (d) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
- (e) failed to pay the annual licence fee under clause 3.2; or
- (f) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).

(2) Where the local government cancels a licence under this clause –

- (a) the local government or an authorised person shall advise the licensee in writing of the cancellation;
- (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
- (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

RENEWAL OF LICENCE

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- 4.3 (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 120 days before the date of expiry of the licence and must submit with the application for renewal –
- (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.2(1) (b) and (c); and
 - (e) all other things referred to in clauses 2.2 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) If –
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,
- then the applicant shall not be obliged, unless otherwise required by the local government, to submit details of any of the things referred to in clauses 2.2 and 3.1.
- (4) Upon receipt of an application for the renewal of a licence, the local government may advertise the proposal for public comment in accordance with clause 2.3.
- (5) If the proposal is not advertised or, if it is advertised, at the conclusion of the public consultation process, the local government may -
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

Part 5 - Secured Sum and its Application

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

SECURITY FOR REHABILITATION

- 5.1 (1) For the purpose of ensuring that an excavation site is properly rehabilitated, the local government may require that –
- (a) as a condition of a licence; or
 - (b) before the issue of a licence,
- the licensee must give to the local government a cash bond, **bank guarantee or other security of a kind and in a form acceptable to the local government, in or for a sum or an amount to be determined by the local government.**
- (2) A bond required under subclause (1) is to be paid into a trust account established by the local government for the purposes of this clause and must be accompanied by a bonding agreement.
- (3) Subject to clause 5.2, any interest accrued in respect of the cash bond is to be returned to the licensee at the completion of the rehabilitation works required by the licence conditions of the site and in accordance with the bonding agreement.
- (4) The Local Government will, on the anniversary of the issue of a license, and on each subsequent anniversary, review the amount of the cash bond stipulated at 5.1 (1) to ensure that the cash bond is sufficient, and if necessary increase the cash bond.

USE BY THE LOCAL GOVERNMENT OF SECURED SUM

- 5.2 (1) If a licensee fails to carry out or complete the rehabilitation works required by the licence conditions either –
- (a) within the time specified in those conditions; or
 - (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,
- then –
- (a) the local government may carry out the required rehabilitation work or so much of that work as remains undone; and
 - (b) the licensee must pay to the Local government on demand all costs incurred by the Local government or which the Local government may be required to pay under this clause.
- (2) The Local government may apply the proceeds of any cash bond provided by the licensee under clause 5.1, and any interest

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

accrued in respect of the cash bond, towards its costs under this clause.

- (3) The liability of a licensee to pay the Local Government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Part 6 - Limitations and Prohibitions

LIMITS ON EXCAVATION NEAR BOUNDARY

- 6.1 Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within –
- (a) 50 metres of the boundary of any land on which the excavation site is located;
 - (b) 50 metres of any land affected by a registered grant of easement;
 - (c) 50 metres of any thoroughfare; or
 - (d) 100 metres of any watercourse.

Penalty \$5,000.

OBLIGATIONS OF A LICENSEE

- 6.2 A licensee must –
- (a) not remove any tree or trees, or shrub or shrubs within 100 metres (or such lesser distance as may be approved, in writing, by the local government or an authorised person) of the boundary of any road reserve on land in respect of which a licence has been granted, except for the purpose of constructing access roads, erecting buildings or installing plant for use in connection with the excavation and then only with the written approval of the local government or an authorised person and subject to any conditions which the local government may impose in accordance with clause 3.1;
 - (b) where the local government or an authorised person so requires, securely fence the excavation to a standard determined by the local government or the authorised person and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
 - (c) erect and maintain warning signs along each of the boundaries of the site to which the licence applies so that each sign –
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words “DANGER DEEP EXCAVATIONS KEEP OUT”,

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (d) except where the local government or an authorised person otherwise approves in writing, drain and keep drained to the satisfaction of the local government or the authorised person any excavation to which the licence applies so as to prevent the accumulation of water;
- (e) not store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the written approval of the local government or an authorised person and the Department of Minerals and Energy;
- (f) not fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (g) rehabilitate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (h) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (i) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence and, if the offence is of a continuing nature, a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

BLASTING

- 6.3 (1) A person must not carry out or permit to be carried out any blasting in the course of excavating unless –
- (a) the local government or an authorised person has otherwise given written approval in respect of blasting generally or in the case of each blast;
 - (b) subject to subclause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government or an authorised person, on Mondays to Fridays inclusive;
 - (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
 - (d) in compliance with any other conditions imposed by the local government concerning-

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (i) the time and duration of blasting;
- (ii) the purposes for which the blasting may be used;
- (iii) the methods of detonation and blasting;
- (iv) the types of explosives to be used; and
- (v) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000 for each offence and, if the offence is of a continuing nature, a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

- (2) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior written approval of the local government or an authorised person.

Penalty \$5,000.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Part 7 - Miscellaneous Provisions

PUBLIC LIABILITY

- 7.1 (1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government, in respect of any one claim relating to any of the excavation operations, in the sum –
- (a) that is not less than \$20,000,000 for any one claim, as determined by the local government or an authorised officer; or
 - (b) in any other case, not less than \$20,000,000 for any one claim.
- (2) The licensee shall provide to the local government –
- (a) within 14 days after the issue of the policy taken out under subclause (1), a copy of that policy; and
 - (b) within each days of each renewal date, evidence of that renewal.

MINES SAFETY AND INSPECTION ACT AND ENVIRONMENTAL PROTECTION ACT

- 7.2 (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must –
- (a) comply with all applicable provisions of that Act or those Acts; and
 - (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.
- (2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

NOTICE OF CESSATION OF OPERATIONS

- 7.3 (1) Where a licensee intends to cease carrying on an extractive industry –
- (a) temporarily for a period in excess of 12 months; or

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (b) permanently,
the licensee must, as well as complying with clause 7.4, give the local government not later than 1 week after those operations have ceased, written notice of the cessation and, in the case of a temporary cessation, details of the period of the intended cessation.
- (2) Where a licensee has given written notice to the local government of its intention to permanently cease carrying on an extractive industry on the site to which the licence applies, the licence is deemed to have expired on the date –
 - (a) that the licensee proposes to cease carrying on the extractive industry; or
 - (b) that the licensee ceases to carry on the extractive industry,whichever is the earlier.
- (3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

WORKS TO BE CARRIED OUT ON CESSATION OF OPERATIONS

- 7.4 Where the carrying on of an extractive industry on the site permanently ceases, or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee must, as well as complying with the provisions of clause 7.3 –
- (a) rehabilitate the excavated site in accordance with the proposals approved by the local government or an authorised person or in such other manner as the local government or the authorised person may subsequently agree in writing with the licensee;
 - (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is –
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) rock or material other than sand, the sides are sloped to a batter which, in the opinion of the local government or an authorised person, would enable the site to be left in a stable condition,

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government or an authorised person;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with local native vegetation indigenous to the area all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Part 8 - Objections & Appeals

- 8.1 When the local government makes a decision as to whether it will –
- (a) grant a person a licence under this local law; or
 - (b) renew, vary, or cancel a licence that a person has under this local law,
- the provisions of update to relevant legislation shall apply to that decision.

Part 9 – Enforcement

OFFENCES AND PENALTIES

- 9.1 (1) A person who breaches a provision of this local law commits an offence.
- (2) A person who commits an offence under this local law is to be liable, on conviction, to a penalty not exceeding \$5,000 and, if the offence is of a continuing later, to an additional penalty not exceeding \$500 for each day or part of the day during which the offence has continued.
- (3) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (4) The amount appearing in the final column of the Schedule directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

FORMS

- 9.2 For the purposes of this local law –
- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
 - (b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Schedule 1 - Prescribed Offences

Clause	Description	Modified Penalty (\$)
2.1	Carry on extractive industry without licence or in breach of terms and conditions	500
6.1	Excavate near boundary	500
6.2(a)	Removal of trees or shrubs near boundary without approval	500
6.2(b)	Gateways not kept locked where required	500
6.2(c)	Warning signs not erected or maintained as required	500
6.2(d)	Excavation not drained as required	500
6.2(e)	Store without required approval explosives or explosive devices	500
6.2(f)	Fill or excavate in breach of licence	500
6.2(g)	Failure to rehabilitate the site	500
6.2(h)	Failure to prevent emission of dust, noise etc	500
6.2(i)	Failure to comply with a condition of licence	500
6.3(1)(a)	Blasting without approval of the Local Government	500
6.3(1)(b)	Blasting outside times authorised	500
6.3(1)(d)	Blasting in breach of conditions imposed by the local government	500
6.3(2)	Blasting without approval on Saturday, Sunday or public holiday	500

Adopted at an Ordinary Meeting of Council of the Shire of Toodyay
held on 201_

Dated _____

The Common Seal of the Shire of Toodyay was affixed by authority of the Council.

MR S SCOTT, Chief Executive Officer
(or his delegate)
MR D DOW, President



LOCAL GOVERNMENT ACT 1995

Style Definition: Normal (Web)

Formatted

Formatted: Font: 12 pt

SHIRE OF TOODYAY

Formatted: Font: 24 pt

EXTRACTIVE INDUSTRIES

LOCAL LAW

Formatted: Font: 12 pt, Not Bold, Font color: Auto

Formatted: Left, Tab stops: 3.44 cm, Left

Formatted: Font: Not Bold



Gazette Date: 01/11/1999, page 1368-9..... Page

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

TABLE OF CONTENTS

Formatted: Font: 12 pt

PART 1 – PRELIMINARY 3

DEFINITIONS 3

APPLICATION 4

REPEAL 4

PART 2 – LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY 5

EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE 5

APPLICANT TO ADVERTISE PROPOSAL 5

APPLICATION FOR LICENCE 6

PART 3 – DETERMINATION OF APPLICATION 11

DETERMINATION OF APPLICATION 11

PAYMENT OF ANNUAL LICENCE FEE 13

PART 4 – TRANSFER, CANCELLATION AND RENEWAL OF LICENCE 13

TRANSFER OF LICENCE 13

CANCELLATION OF LICENCE 17

RENEWAL OF LICENCE 18

PART 5 – SECURED SUM AND APPLICATION THEREOF 20

SECURITY FOR RESTORATION AND REINSTATEMENT 20

USE BY THE LOCAL GOVERNMENT OF SECURED SUM 20

PART 6 – LIMITATIONS AND PROHIBITIONS 22

LIMITS ON EXCAVATION NEAR BOUNDARY 22

PROHIBITIONS 22

BLASTING 23

PART 7 – MISCELLANEOUS PROVISIONS 25

PUBLIC LIABILITY 25

MINES SAFETY AND INSPECTION ACT AND ENVIRONMENTAL PROTECTION ACT 25

NOTICE OF CESSATION OF OPERATIONS 26

WORKS TO BE CARRIED OUT ON CESSATION OF OPERATIONS 26

PART 8 – OBJECTIONS & APPEALS 28

PART 1 - PRELIMINARY 3

DEFINITIONS 3

APPLICATION 4

REPEAL 4

PART 2 - LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY 5

EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE 5

APPLICATION FOR LICENCE 5

ADVERTISING THE PROPOSAL 10

PART 3 – DETERMINATION OF APPLICATION 11

DETERMINATION OF APPLICATION 11

PAYMENT OF ANNUAL LICENCE FEE 13

TRANSPORTATION 13

PART 4 - CANCELLATION AND RENEWAL OF LICENCE 16

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

LICENCE NOT TRANSFERABLE 16
CANCELLATION OF LICENCE 17
RENEWAL OF LICENCE 18
PART 5 - SECURED SUM AND ITS APPLICATION 19
SECURITY FOR REHABILITATION 20
USE BY THE LOCAL GOVERNMENT OF SECURED SUM 20
PART 6 - LIMITATIONS AND PROHIBITIONS 22
LIMITS ON EXCAVATION NEAR BOUNDARY 22
OBLIGATIONS OF A LICENSEE 22
BLASTING 23
PART 7 - MISCELLANEOUS PROVISIONS 25
PUBLIC LIABILITY 25
MINES SAFETY AND INSPECTION ACT AND ENVIRONMENTAL PROTECTION ACT 25
NOTICE OF CESSATION OF OPERATIONS 26
WORKS TO BE CARRIED OUT ON CESSATION OF OPERATIONS 26
PART 8 - OBJECTIONS & APPEALS 28
PART 9 – ENFORCEMENT 28
OFFENCES AND PENALTIES 28
FORMS 28
SCHEDULE 1 - PRESCRIBED OFFENCES 30

Formatted: Font: 12 pt

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

Local Government Act 1995

Shire of Toodyay

Extractive Industries Local Law 2015

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the ~~local government~~Council of the Shire of Toodyay resolved on2015 to make ~~the following~~this local laws on the 24th day of ~~June 1999~~law.

Formatted: Font: Italic

Part 1 - Preliminary

Formatted: Font: 14 pt, Bold

Formatted: EILL Heading 1

DEFINITIONS

Formatted: Font: 14 pt

1.1 ~~1.1~~—In this local law, unless the context otherwise requires -

Formatted: Indent: Left: 0 cm, Hanging: 1.5 cm, Space After: 6 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.9 cm + Indent at: 2.54 cm

—“**Act**” means the *Local Government Act 1995*;

Formatted: Font: Not Bold

~~“carry on an extractive industry” means quarrying and excavating for stone, gravel, sand and other material;~~

Formatted: Font: Not Bold

“**AHD**” means the Australian Height Datum;

Formatted: Font: Italic

“**authorised person**” means a person authorised by the *local government* under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

Formatted: Indent: Left: 1.5 cm, Space After: 6 pt, Tab stops: Not at 1.25 cm

“**CEO**” means the Chief Executive Officer of the local government;

Formatted: Font: Not Bold

“**district**” means the district of the local government;

Formatted: Indent: Left: 1.5 cm, Space Before: 0 pt, Tab stops: Not at 1.25 cm

“**excavation**” includes quarry;

Formatted: Font: Not Bold

“**extractive industry**” means quarrying and excavating for any stone, gravel, sands, clay, limestone, loam or other material;

Formatted: Font: Not Bold

“**licence**” means a licence issued under this local law ~~or any repealed local law of the local government relating to extractive industries~~;

Formatted: Font: Not Bold

“**licensee**” means the person named in the licence as the licensee;

Formatted: Font: Not Bold

“~~local government~~**Local Government**” means the Shire of Toodyay;

Formatted: Font: Not Bold

“**secured sum**” means the ~~sum~~amount of the cash bond required to be paid ~~or the amount of a bond, guarantee or other~~ by way of security under clause 5.1;

Formatted: Indent: Left: 1.5 cm, Space Before: 0 pt, Tab stops: Not at 1.25 cm

“**site**”~~”~~, or “**excavation site**”, means the land specified by the local government in a licence;

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Indent: Left: 1.5 cm, Space Before: 0 pt

Formatted: Font: Not Bold

Formatted: Font: Not Bold

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

“stockpile” means a deposit of excavated material that is stored for any purpose;

“watercourse” has the same meaning as defined under the *Rights in Water and Irrigation Act 1914*.

APPLICATION

1.2 ~~1.2~~ (1) The provisions of this local law –

- ~~(a)~~ ~~(a)~~ subject to paragraphs (b), (c) ~~(d)~~ and ~~(d)~~–~~(e)~~ –
 - ~~(i)~~ ~~(i)~~ apply and have force and effect throughout the whole of the district; and
 - ~~(ii)~~ ~~(ii)~~ apply to every excavation whether commenced prior to or following the coming into operation of this local law;
- ~~(b)~~ ~~(b)~~ do not apply to the extraction of minerals under the *Mining Act 1978*;
- ~~(c)~~ ~~(c)~~ do not apply to the carrying on of an extractive industry on Crown land;
- ~~(d)~~ ~~(d)~~ do not apply to the carrying on of an ~~Extractive Industry~~ extractive industry on land by the owner or occupier of that land for use on that land; ~~and~~
- ~~(e)~~ ~~(e)~~ do not affect the validity of any licence issued under ~~the~~ local law repealed by clause 1.3 of this local law if that licence is currently in force at the date of gazettal of this local law.

~~1.2(2)~~ In ~~Subclause 1~~ ~~(subclause (1)(d))~~ ‘land’ includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in ~~Subclause 1~~ ~~(subclause (1)(d))~~.

REPEAL

1.3 ~~1.3~~ The local laws of the Shire of Toodyay relating to Extractive Industries published in the Government Gazette on 26 October 26, 1984; 18 July 18, 1986; ~~and~~ 12 November 12, 1993; ~~and~~ 1 November 1999 are repealed.

Formatted: Font: Italic

Formatted: Indent: Left: 1.5 cm, Space After: 6 pt, Tab stops: Not at 1.25 cm

Formatted: Font: Italic

Formatted: Indent: Left: 1.5 cm

Formatted: EILL Heading 2

Formatted: Left

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.9 cm + Indent at: 2.54 cm, Tab stops: 1.5 cm, Left

Formatted: Strong, Font: Times New Roman

Formatted: Strong, Font: Times New Roman

Formatted: Strong, Font: Times New Roman

Formatted: Subtitle, Left, Indent: Left: 3.5 cm

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted

Formatted: Strong, Font: Times New Roman

Formatted: Strong, Font: Times New Roman, Italic

Formatted: Strong, Font: Times New Roman

Formatted

Formatted: Strong, Font: Times New Roman

Formatted

Formatted: Strong, Font: Times New Roman

Formatted: Strong, Font: Times New Roman

Formatted: Strong, Font: Times New Roman

Formatted

Formatted: Strong, Font: Times New Roman

Formatted: Strong, Font: Times New Roman

Formatted

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Font color: Auto

Formatted: EILL Heading 2

Formatted

Formatted: Justified

Formatted: Font: 1 pt

LOCAL GOVERNMENT ACT 1995
 SHIRE OF TOODYAY
 EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

Part 2 - Licensing Requirements for an Extractive Industry

Formatted: Font: 14 pt, Bold

Formatted: EILL Heading 1

Formatted: Font: 14 pt

EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE

~~2.1~~ ~~2.1~~ A person must not carry on an extractive industry —

Formatted: Left, Indent: Left: 0 cm, Hanging: 1.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm

- (a) ~~(a)~~ unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Formatted: Strong, Font: Times New Roman

Formatted: Space Before: 6 pt, After: 6 pt

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

Formatted: Indent: Left: 1.25 cm, Hanging: 1.25 cm

Formatted: Indent: Left: 1 cm

APPLICANT TO ADVERTISE PROPOSAL

~~2.2 (1) Unless the local government first approves otherwise, a person seeking the issue of a licence must, before applying to the local government for a licence—~~

- ~~(a) forward by registered mail a notice in the form determined by the local government from time to time to—~~
 - ~~(i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government.~~
 - ~~(ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and~~
- ~~(b) as soon as practicable after complying with the requirements of paragraph (a)—~~
 - ~~(i) forward a copy of the notice to the CEO; and~~
 - ~~(ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.~~

~~2.2 (2) The local government may, within 14 days after receiving a copy of a notice referred to in sub clause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—~~

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

- ~~(a) in the form determined by the local government from time to time;~~
- ~~(b) the content, size and construction of which have been approved by the CEO;~~
- ~~(c) specifying particulars of the proposed excavation; and~~
- ~~(d) inviting objections or comments within 21 days from the placement of the notice.~~

APPLICATION FOR LICENCE

Formatted: EILL Heading 2

~~2.2~~ ~~2.3~~(1) A person seeking the issue of a licence in respect of any land must apply in the form determined by the local government from time to time and must forward the application duly completed and signed by both the applicant and ~~the owner~~all owners of the land to the ~~CEO~~local government together with –

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm, Tab stops: 1.5 cm, Left

~~(a)~~

~~(a)~~ 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing –

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

~~(i)~~ ~~(i)~~ the existing and proposed land contours based on the ~~Australian Height Datum~~AHD, and plotted at 1-metre contour intervals;

Formatted: Font: Bold

~~(ii)~~ ~~(ii)~~ the land on which the excavation site is to be located;

Formatted: Font: 12 pt

~~(iii)~~ ~~(iii)~~ the external surface dimensions of the land;

Formatted: Font: 12 pt

~~(iv)~~ ~~(iv)~~ the location and depth of the existing and proposed excavation of the land;

Formatted: Font: 12 pt

~~(v)~~ ~~(v)~~ the location of existing and proposed internal roads or other means of vehicle access to and egress from the land and to public or private roads in the vicinity of the land;

Formatted: Font: 12 pt

Formatted: Font: 12 pt

~~(vi)~~ ~~(vi)~~ the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;

Formatted: Font: 12 pt

Formatted: Font: 12 pt

~~(vii)~~ ~~(vii)~~ the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

~~(viii)~~ ~~(viii)~~ the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;

Formatted: Font: 12 pt

~~(ix)~~ ~~(ix)~~ the location and description of existing and proposed fences, gates and warning signs around the land; and

Formatted: Font: 12 pt

~~(x)~~ ~~(x)~~ the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;

Formatted: Font: 12 pt

~~(b)~~ ~~(b)~~ 3 copies of a works and excavation programme containing —

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

~~(i)~~ ~~(i)~~ the nature and estimated duration of the proposed excavation for which the licence is applied;

Formatted: Font: 12 pt

~~(ii)~~ ~~(ii)~~ the stages and the timing of the stages in which it is proposed to carry out the excavation;

Formatted: Font: 12 pt

~~(iii)~~ ~~(iii)~~ details of the methods to be employed in the proposed excavation and a description of any on-site processing works;

Formatted: Font: 12 pt

~~(iv)~~ ~~(iv)~~ details of the depth and extent of the existing and proposed excavation of the site;

Formatted: Font: 12 pt

~~(v)~~ ~~(v)~~ an estimate of the depth of and description of the nature and quantity of the overburden to be removed;

Formatted: Font: 12 pt

~~(vi)~~ ~~(vi)~~ a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;

Formatted: Font: 12 pt

~~(vii)~~ ~~(vii)~~ a description of the means of access to the excavation site and the types of roads to be constructed;

Formatted: Font: 12 pt

~~(viii)~~ ~~(viii)~~ details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;

Formatted: Font: 12 pt

~~(ix)~~ ~~(ix)~~ a description of any proposed buildings, treatment plant, tanks and other improvements;

Formatted: Font: 12 pt

~~(x)~~ ~~(x)~~ details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;

Formatted: Font: 12 pt

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

~~(xi)~~ ~~(xi)~~ a description of the measures to be taken to minimise dust nuisance, erosion, watercourse siltation and dangers to the general public;

Formatted: Font: Italic

Formatted: Font: 12 pt

~~(xii)~~ ~~(xii)~~ a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;

Formatted: Font: 12 pt

Formatted: Font: 12 pt, Italic

Formatted: Font: 12 pt

Formatted: Font: 12 pt

~~(xiii)~~ ~~(xiii)~~ a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;

~~(xiv)~~ ~~(xiv)~~ details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; ~~and~~

Formatted: Font: 12 pt

~~(xv)~~ ~~(xv)~~ a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby roads or other areas; and

Formatted: Font: 12 pt

~~(xvi)~~ ~~(xvi)~~ a description of the existing location and depth of hydrology conditions presented by a suitably qualified independent consultant.

~~(c)~~ ~~(c)~~ 3 copies of a rehabilitation and decommissioning programme indicating —

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

~~(i)~~ ~~(i)~~ the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;

~~(ii)~~ ~~(ii)~~ whether ~~restoration~~ rehabilitation and ~~reinstatement~~ rehabilitation of the excavation site is to be undertaken progressively or upon completion of excavation operations;

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

~~(iii)~~ ~~(iii)~~ the method by which topsoil is to be replaced and revegetated;

Formatted: Font: 12 pt

~~(iv)~~ ~~(iv)~~ how any face is to be made safe and batters sloped;

~~(v)~~ ~~(v)~~ the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;

Formatted: Font: 12 pt

Formatted: Subtitle, Left, Indent: Left: 3.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.77 cm

~~(vi)~~ ~~(vi)~~ how rehabilitated areas are to be maintained and irrigated; and

Formatted: Font: 12 pt

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- ~~(vii) (vi)~~ the programme for the removal of buildings, plant, waste and final site clean-up;
- ~~(d) (d)~~ evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public road or such other land in the vicinity;
- ~~(e) (e)~~ a certificate from a licensed surveyor certifying the correctness of —
 - ~~(i) (i)~~ the plan referred to in paragraph (a); and
 - ~~(ii) (ii)~~ the datum peg and related point referred to in paragraph (d);
- ~~(f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;~~
- ~~(f) (g)~~ copies of all land use planning approvals required under any planning legislation;
- ~~(g) (h)~~ the consent in writing to the application from the owner of the excavation site;
- ~~(h) (i)~~ any other information that the local government may require; ~~and~~
- ~~(i) (j)~~ the licence application fee specified by the local government from time to time; ~~and~~
- ~~(j) 2.3 a copy of the Certificate of Title for the subject land.~~
- (2) All survey data supplied by an applicant for the purpose of ~~subclause (1)~~ must comply with ~~Australian Height Datum~~ AHD and Australian Map Grid standards.
- (3) The local government may exempt a person who applies for a licence under subclause (1) from providing any or all of the data otherwise required under subclause (1) if, in the opinion of the local government, because of its location and size, the proposed

Formatted: Font: Italic

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Left, Space Before: 6 pt, After: 6 pt

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.5 cm + Indent at: 3.14 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Indent: Left: 0 cm, Hanging: 1.25 cm

LOCAL GOVERNMENT ACT 1995
 SHIRE OF TOODYAY
 EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

excavation will not result in significant adverse environmental effects.

ADVERTISING THE PROPOSAL

- 2.3 (1) The local government must advertise a proposal that is the subject of an application under clause 2.2 unless –
- (a) clause 3.1(1) applies; or
 - (b) the proposal has been advertised as part of the planning approval process in respect of that proposal and all the information under clause 2.2 has been provided.
- (2) The local government may decide not to advertise a proposal to which paragraph (a) or (b) of subclause (1) applies.
- (3) A proposal is to be advertised by –
- (a) giving notice of the application to the owners and occupiers of all land adjoining the land on which it is proposed to excavate, and to any other owners and occupiers of land within an area determined by the local government as likely to be affected by the granting of a licence, and inviting them, within 21 days from the date of service of the notice, to object in writing to, or make written representations in respect of, the issue of the licence;
 - (b) giving notice of the application to each authority or person having control or jurisdiction over any of the things referred to in clause 2.2(1)(a)(vii) and (viii) within 1000 meters from the boundaries of the land upon which it is proposed to excavate, and within any further area determined by the local government which is likely to be affected by the granting of a licence;
 - (c) giving notice to any other person having an interest in the land as disclosed on the certificate of Title; and
 - (d) giving local public notice of the application.

Formatted: EILL Heading 1

Part 3 – Determination of Application

DETERMINATION OF APPLICATION

~~3.1~~

~~3.1~~ (1) The local government may refuse to consider an application for a licence –

(a) that does not comply with the requirements of clause 2.3, ~~and in any event shall refuse an application for a licence 2, or~~

(b) where planning approval for an extractive industry use of the land has not first been obtained.

~~3.1~~(2) The local government ~~may, in respect of cannot determine an application for a licence if planning approval has not been obtained.~~

(3) ~~For the avoidance of doubt, the local government may consider an application for a licence -in respect of land (while at the same time considering an application for planning approval for an extractive industry use of the same land), but cannot approve the application for a licence unless and until planning approval has first been obtained.~~

~~(a) –~~

(4) ~~The local government, after considering any objections or representations made under clause 2.3 –~~

(a) ~~may~~ refuse the application; or

(b) ~~(b) –~~ ~~may~~ approve the application –

(i) ~~(i) –~~ ~~over~~ the whole or part of the land in respect of which the application is made; and

(ii) ~~(ii) –~~ ~~on~~ such terms and conditions, if any, as it sees fit.

~~3.1~~(3)(5) Where the local government approves an application for a licence, it must –

(a) ~~(a) –~~ ~~determine~~ the licence period, not exceeding ~~2+10~~ years from the date of issue; and

(b) ~~(b) –~~ ~~approve~~ the issue of a licence in the form determined by the local government from time to time.

~~3.1~~(4)(6) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of –

(a) ~~(a) –~~ ~~payment~~ of the annual licence fee, or the relevant proportion of the annual licence fee to ~~3+1+~~

Formatted: Font: Italic

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5 cm + Indent at: 2.53 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Font color: Auto

Formatted: Indent: Left: 0 cm, First line: 0 cm

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5 cm + Indent at: 2.53 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Indent: Left: 1.27 cm, Hanging: 1.27 cm

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Indent: Hanging: 1 cm, Left 5.9 ch, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5 cm + Indent at: 2.53 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5 cm + Indent at: 2.53 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

~~December~~30 June next, determined by the local government from time to time;

- ~~(b)~~ (b) — payment of the secured sum, if any, imposed under clause 5.1; and
- ~~(c)~~ (c) — the documents, if any, executed to the satisfaction of the CEO, under clause 5.1, shall issue the licence to the applicant.

~~3.1(5)~~(7) Without limiting subclause (2), the local government may impose conditions in respect of the following matters —

- ~~(a)~~ (a) — the orientation of the excavation to reduce visibility from other land;
- ~~(b)~~ (b) — the appropriate siting of access roads, buildings and plant;
- ~~(c)~~ (c) — the stockpiling of material;
- ~~(d)~~ (d) — the hours during which any excavation work may be carried out;
- ~~(e)~~ (e) — the hours during which any processing plant associated with, or located on, the site may be operated;
- ~~(f)~~ (f) — requiring all crushing and treatment plant to be enclosed within suitable buildings — to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the ~~local government~~Local Government;
- ~~(g)~~ (g) — the depths below which a person must not excavate;
- ~~(h)~~ (h) — distances from adjoining land or roads within which a person must not excavate;
 - ~~(i)~~ (i) — the safety of persons employed at or visiting the excavation site;
 - ~~(ii)~~ (ii) — the control of dust and wind-blown material;
 - ~~(iii)~~ (iii) — the control of noise; and
 - ~~(iv)~~ (iv) the control of impacts on groundwater.
- ~~(i)~~ (i) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
- ~~(j)~~ (j) — the prevention of the spread of dieback or other disease;

Formatted: Font: Italic

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2 cm + Indent at: 2.77 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2 cm + Indent at: 2.77 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

- (k) ~~(m)~~ —the drainage of the excavation site and ~~the disposal~~management of all surface water;
- (l) ~~(n)~~ —the ~~restoration~~ and ~~reinstatement~~the rehabilitation of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
- (m) ~~(o)~~ —the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (n) ~~(p)~~ —requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (o) ~~(q)~~ —requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; ~~and including, but not limited to, an agreement under which the licensee must pay for any expenses incurred by the local government in repairing damage caused to a thoroughfare in the district by heavy or additional traffic associated with the operation of the extractive industry;~~ and
- (p) ~~(r)~~ —any other matter for properly regulating the carrying on of an extractive industry.

PAYMENT OF ANNUAL LICENCE FEE

Formatted: Tab stops: 3 cm, Left

Formatted: EILL Heading 2

~~3.2~~ 3.2 —On or before ~~31 December~~30 June in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

Formatted: Indent: Left: 0 cm, Hanging: 1.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5 cm + Indent at: 2.14 cm, Tab stops: 1.5 cm, Left

~~Part 4 — Transfer, Cancellation and Renewal of Licence~~

~~TRANSFER OF LICENCE~~

~~4:TRANSPORTATION~~

~~(1-(1) —An application for the transfer of a licence must—~~

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (a) ~~be made in writing;~~
- 3.3 (b) ~~be signed)~~ The local government or an authorised person may prescribe by giving written notice to the licensee and the proposed transferee of the licence;
- (c) ~~the route to be accompanied~~taken by the ~~current licensee;~~
- (a) ~~(d)~~ ~~be accompanied by the consent in writing to the transfer~~licensee for the transportation of materials from the owner of the excavation site through the roads within the district;
- (b) ~~(e)~~ ~~include any information that the route to be taken by the licensee for the transportation of materials to the site through the roads within the district;~~
- (a) the tonnage limits to be transported along a particular route; and
- (c) the times during which materials from the site may be transported through the roads within the district.
- (2) The licensee must enter into an agreement with the local government may reasonably require; and, to meet an agreed portion of the costs or estimated costs, as determined by the local government, of repairs, maintenance or rehabilitation of any road where such costs are reasonably attributable to the transportation of materials from the site.
- (f) ~~be forwarded to the CEO together with the fee determined by the local government from time to time.~~
- 4.1 (2) ~~Upon receipt of any application for the transfer of a licence, the local government may—~~
- (a) ~~refuse the application; or~~
- (b) ~~approve the application on such terms and conditions, if any, as it sees fit.~~
- 4.1 (3) ~~Where~~
- (3) If a road on a route prescribed under subclause (1) is inadequate for the transportation of materials from the site, the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form may require the licensee to pay all or part of the costs or estimated costs, as determined by the Local Government, of upgrading the road to the standard required by the local government from time to time, signed by the CEO for these purposes.
- (4.1 (4) ~~Where the local government approves the transfer of a)~~
Each licence it shall not be required is to refund any part of the

Formatted: Font: Italic

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5 cm + Indent at: 2.14 cm, Tab stops: 1.5 cm, Left

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2 cm + Indent at: 2.77 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm, Tab stops: 1 cm, Left

Formatted: Font color: Auto

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

fees paid by the former be taken to be subject to a condition
requiring the licensee in respect of the transferred to comply
with this clause.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

Part 4 - Cancellation and Renewal of Licence

LICENCE NOT TRANSFERABLE

4.1 A licence is not transferable.

Formatted: Indent: Left: 0 cm, Hanging: 1.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 2 cm + Indent at: 2.63 cm

Formatted: EILL Heading 2

LOCAL GOVERNMENT ACT 1995
 SHIRE OF TOODYAY
 EXTRACTIVE INDUSTRIES LOCAL LAW

CANCELLATION OF LICENCE

4.2 ~~4.2~~(1) The local government may cancel a licence where the licensee has ~~—~~

- (a) ~~(a)~~ — been convicted of an offence against ~~—~~
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; ~~or~~
- (b) ~~(b)~~ — ~~transferred or assigned or attempted to transfer or assign the licence without the consent;~~
- (c) ~~(c)~~ — ~~failed to comply with a term or condition of the local government licence;~~
- (d) ~~(d)~~ — ~~(e)~~ — permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
- (e) ~~(e)~~ — failed to pay the annual licence fee under clause 3.2; or
- (f) ~~(f)~~ — failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).

~~4.2~~(2) Where the local government cancels a licence under this clause ~~—~~

- (a) ~~(a)~~ — the local government or an authorised person shall advise the licensee in writing of the cancellation;
- (b) ~~(b)~~ — the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
- (c) ~~(c)~~ — the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

Formatted: Font: Italic

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 2 cm + Indent at: 2.63 cm, Tab stops: 1.5 cm, Left

Formatted: Font: Bold

Formatted: Indent: Left: 3.5 cm, Space Before: 6 pt, After: 6 pt

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1 cm + Indent at: 2.01 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Font color: Auto

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1 cm + Indent at: 2.01 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

RENEWAL OF LICENCE

Formatted: EILL Heading 2

4.3-___(1) A licensee who wishes to renew a licence must apply in writing to the local government at least ~~45~~120 days before the date of expiry of the licence and must submit with the application for renewal ~~—~~

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Tab stops: 1.5 cm, Left

Formatted: Font: Bold

- (a) ~~(a)~~ —the fee determined by the local government from time to time;
- (b) ~~(b)~~ —a copy of the current licence;
- (c) ~~(c)~~ —a plan showing the contours of the excavation carried out to the date of that application;
- (d) ~~(d)~~ —details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses ~~2.32~~(1) (b) and (c); and
- (e) ~~(e)~~ —anyall other things referred to in clauses ~~2.32~~ and 3.1.

~~4.3~~(2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

~~4.3~~(3) If ~~—~~

Formatted: Font: Bold

- (a) ~~(a)~~ —an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
- (b) ~~(b)~~ —the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,

Formatted: Font: Bold

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1 cm + Indent at: 2.01 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

then the applicant shall not be obliged, unless otherwise required by the local government, to submit details of any of the things referred to in clauses ~~2.32~~ and 3.1.

Formatted: Indent: Left: 2.5 cm, Space Before: 6 pt, After: 6 pt, Tab stops: 3 cm, Left

~~4.3~~(4) Upon receipt of an application for the renewal of a licence, the local government may ~~—~~advertise the proposal for public comment in accordance with clause 2.3.

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

- (a) ~~(a)~~ —If the proposal is not advertised or, if it is advertised, at the conclusion of the public consultation process, the local government may -

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

- (a) refuse the application; or
- (b) ~~(b)~~ approve the application on such terms and conditions, if any, as it sees fit.

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1 cm + Indent at: 2.01 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

Part 5 - Secured Sum and ~~its Application Thereof~~

Formatted: Font: 14 pt, Bold

SECURITY FOR RESTORATION AND REINSTATEMENTREHABILITATION

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt

Formatted: EILL Heading 1

~~5.1~~ ~~5.1~~(1) For the purpose of ensuring that an excavation site is properly ~~restored or reinstated,~~ rehabilitated, the local government may require that —

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1 cm + Indent at: 1.63 cm, Tab stops: 1.5 cm, Left

- (a) ~~(a)~~ as a condition of a licence; or
- (b) ~~(b)~~ before the issue of a licence,

Formatted: Font: Bold

the licensee must give to the local government a cash bond, ~~bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum an amount to be~~ determined by the local government ~~from time to time~~.

Formatted: Indent: First line: 0 cm, Space Before: 6 pt, After: 6 pt

~~5.1~~(2) A bond required under subclause (1) is to be paid into a ~~fund~~trust account established by the local government for the purposes of this clause and must be accompanied by a bonding agreement.

Formatted: Indent: Left: 2.5 cm

(3) Subject to clause 5.2, any interest accrued in respect of the cash bond is to be returned to the licensee at the completion of the rehabilitation works required by the licence conditions of the site and in accordance with the bonding agreement.

(4) The Local Government will, on the anniversary of the issue of a license, and on each subsequent anniversary, review the amount of the cash bond stipulated at 5.1 (1) to ensure that the cash bond is sufficient, and if necessary increase the cash bond.

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

USE BY THE LOCAL GOVERNMENT OF SECURED SUM

Formatted: EILL Heading 2

~~5.2-~~(1) If a licensee fails to carry out or complete the ~~restoration and reinstatement~~rehabilitation works required by the licence conditions either —

Formatted: Indent: Left: 0 cm, Hanging: 2 cm, Tab stops: 1 cm, Left

- (a) ~~(a)~~ within the time specified in those conditions; or
 - (b) ~~(b)~~ where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,
- then —

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

(a) ~~(e)~~ the local government may carry out the required ~~restoration and reinstatement~~ rehabilitation work or so much of that work as remains undone; and

(b) ~~(d)~~ the licensee must pay to the ~~local~~ Local government on demand all costs incurred by the ~~local~~ Local government or which the ~~local~~ Local government may be required to pay under this clause.

~~5.2~~ (2) The ~~local~~ Local government may apply the proceeds of any ~~cash~~ cash bond, ~~bank guarantee or other security~~ provided by the licensee under clause 5.1, ~~and any interest accrued in respect of the cash bond~~, towards its costs under this clause.

Formatted: Indent: Left: 1 cm, Hanging: 1 cm

~~5.2~~ (3) The liability of a licensee to pay the ~~local government's~~ Local Government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

Formatted: Font: 12 pt

Formatted: Font: 1 pt

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

Part 6 - Limitations and Prohibitions

Formatted: Font: 14 pt, Bold

LIMITS ON EXCAVATION NEAR BOUNDARY

Formatted: Font: 14 pt

Formatted: EILL Heading 1

6.1 ~~6.1~~ Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within –

Formatted: Indent: Left: 0 cm, Hanging: 1.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm, Tab stops: 1.5 cm, Left

- (a) ~~(a)~~ 50 metres of the boundary of any land on which the excavation site is located;
- (b) ~~(b)~~ 50 metres of any land affected by a registered grant of easement;
- (c) ~~(c)~~ 50 metres of any thoroughfare; or
- (d) ~~(d)~~ 100 metres of any watercourse.

Formatted: Font: Bold

Penalty \$~~25~~,000.

PROHIBITIONS

~~6.2~~

OBLIGATIONS OF A LICENSEE

6.2 A licensee must –

Formatted: Indent: Left: 0 cm, Hanging: 1.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm, Tab stops: 1.5 cm, Left

- (a) ~~(a)~~ not remove any ~~tree or trees, or shrub~~ or shrubs within 100 metres (or such lesser distance as may be ~~allowed~~ approved, in writing, by the local government ~~or an authorised person~~) of the boundary of any road reserve on land in respect of which a licence has been granted, except for the purpose of constructing access roads, erecting buildings or installing plant for use in connection with the excavation and then only with the ~~express~~ written approval of the local government ~~or an authorised person~~ and subject to any conditions which the local government may impose in accordance with clause 3.1;
- (b) ~~(b)~~ where the local government ~~or an authorised person~~ so requires, securely fence the excavation to a standard determined by the local government ~~or the authorised person~~ and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (c) ~~(c)~~ erect and maintain warning signs along each of the boundaries of the site to which the licence applies so that each sign –
 - (i) ~~(i)~~ is not more than 200 metres apart;

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

- (ii) ~~(ii)~~ — is not less than 1.8 metres high and not less than 1 metre wide; and
- (iii) ~~(iii)~~ — bears the words “DANGER DEEP EXCAVATIONS KEEP OUT”;
- (d) ~~(d)~~ — except where the local government or an authorised person otherwise approves ~~otherwise~~ in writing, drain and keep drained to the ~~local government’s~~ satisfaction of the local government or the authorised person any excavation to which the licence applies so as to prevent the accumulation of water;
- (e) ~~(e)~~ — not store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the written approval of the local government or an authorised person and the Department of Minerals and Energy;
- (f) ~~(f)~~ — not fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (g) ~~(g)~~ — ~~restore and reinstater~~ rehabilitate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (h) ~~(h)~~ — take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (i) ~~(i)~~ — otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and, if ~~an~~ the offence is of a continuing nature, ~~to~~ a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

BLASTING

Formatted: EILL Heading 2

- 6.3 ~~6.3~~(1) A person must not carry out or permit to be carried out any blasting in the course of excavating unless —
- (a) ~~(a)~~ — the local government or an authorised person has otherwise given written approval in respect of blasting generally or in the case of each blast;
- (b) ~~(b)~~ — subject to ~~sub-clause~~ subclause (2), the blasting takes place only between the hours of 8.00am and 5.00pm,

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm, Tab stops: 1.5 cm, Left

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

or as determined by the local government or an authorised person, on Mondays to Fridays inclusive;

(c) ~~(e)~~ — the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994*, the ~~Environment~~*Environmental Protection Act 1986*, and all relevant local laws of the local government; and

Formatted: Font: Italic

Formatted: Font: Italic

(d) ~~(d)~~ — in compliance with any other conditions imposed by the local government concerning—

Formatted: Font: Bold

- (i) ~~(i)~~ the time and duration of blasting;
- (ii) ~~(ii)~~ the purposes for which the blasting may be used;
- (iii) ~~(iii)~~ — the methods of detonation and blasting;
- (iv) ~~(iv)~~ — the types of explosives to be used; and
- (v) ~~(v)~~ such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000.~~00~~ for each offence, and, if the offence is of a continuing nature, ~~to~~ a daily penalty not exceeding a fine of \$500.~~00~~ in respect of each day or part of a day during which the offence has continued.

Formatted: Indent: Left: 2.5 cm

~~6.3~~ (2) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior written approval of the local government or an authorised person.

Formatted: Font color: Auto

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Penalty \$~~25~~,000.

Formatted: Indent: Left: 2.5 cm

Formatted: Font: 1 pt

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

Part 7 - Miscellaneous Provisions

Formatted: Font: 14 pt, Bold

PUBLIC LIABILITY

Formatted: Font: 14 pt

Formatted: EILL Heading 1

7.1- (1) A licensee must have at all times a current public liability insurance policy taken out ~~in the joint names of the licensee and the local government indemnifying the licensee and the local government~~ ~~for a sum of not less than \$10,000,000~~ in respect ~~of any one claim relating to any of the excavation operations~~, in the sum —

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Tab stops: 1.5 cm, Left

(a) ~~7.1 that is not less than \$20,000,000 for any one claim, as determined by the local government or an authorised officer; or~~

(b) ~~in any other case, not less than \$20,000,000 for any one claim.~~

(2) The licensee shall provide to the local government ~~a copy of the policy taken out under sub clause (1),~~ —

(a) ~~within 14 days after the issue of the policy taken out under subclause (1), a copy of that policy; and shall provide to the local government evidence of renewal~~

(b) ~~within 14~~ each days of each renewal date, evidence of that renewal.

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.25 cm + Indent at: 2.89 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

MINES SAFETY AND INSPECTION ACT AND ENVIRONMENTAL PROTECTION ACT

Formatted: EILL Heading 2

7.2- (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must —

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Tab stops: 1.5 cm, Left

(a) ~~(a)~~ — comply with all applicable provisions of that Act or those Acts; and

Formatted: Font: Italic

(b) ~~(b)~~ — provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.

Formatted: Font: Italic

~~7.2~~ (2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

Formatted: Font color: Auto

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Font: Italic

Formatted: Font: Italic

Formatted: EILL Heading 2

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

NOTICE OF CESSATION OF OPERATIONS

7.3- (1) Where a licensee intends to cease carrying on an extractive industry —

- (a) ~~(a)~~ temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee must, as well as complying with clause 7.4, give the local government ~~written notice of the cessation~~, not later than 1 week after those operations have ceased, ~~written notice of the cessation and, in the case of a temporary cessation, details of the period of the intended cessation.~~

~~7.3~~(2) Where a licensee has given written notice to the local government of ~~the~~its intention to permanently cease carrying on an extractive industry on the site to which the licence applies, the licence is deemed to have expired on the date ~~such cessation is so notified.~~

- (a) ~~7.3 that the licensee proposes to cease carrying on the extractive industry; or~~
 - (b) ~~that the licensee ceases to carry on the extractive industry,~~
- ~~whichever is the earlier.~~

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

WORKS TO BE CARRIED OUT ON CESSATION OF OPERATIONS

7.4 Where the carrying on of an extractive industry on the site permanently ceases, or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee must, as well as complying with the provisions of clause 7.3 —

- (a) ~~(a)~~ ~~restore and reinstater~~rehabilitate the excavated site in accordance with the proposals approved by the local government or an authorised person or in such other manner as the local government or the authorised person may subsequently agree in writing with the licensee;

Formatted: Font: Italic

Formatted: Indent: Left: 0 cm, Hanging: 2.5 cm, Tab stops: 1.5 cm, Left

Formatted: Indent: Left: 2.5 cm, Space Before: 6 pt, After: 6 pt

Formatted: Font: 12 pt

Formatted: Body Text, Indent: Left: 2.5 cm, Space Before: 6 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Indent: Left: 1.25 cm

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm

Formatted: EILL Heading 2

Formatted: Tab stops: 1.5 cm, Left

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Indent at: 3.81 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

(b) ~~(b)~~—ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is —

(i) ~~(i)~~—sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and

(ii) ~~(ii)~~—~~limestone~~rock or material other than sand, the sides are sloped to a batter which, in the opinion of the local government or an authorised person, would enable the site to be left in a stable condition;

Formatted: Font: 12 pt

Formatted: Font: 12 pt

(c) ~~(c)~~—ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government or an authorised person;

(d) ~~(d)~~—ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;

(e) ~~(e)~~—erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;

(f) ~~(f)~~—remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and

(g) ~~(g)~~—break up, scarify, cover with topsoil and plant with ~~grass, trees and shrubs~~local native vegetation indigenous to the area all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.~~00~~ in respect of each day or part of a day during which the offence has continued.

Formatted: Indent: Left: 1 cm

Formatted: Font: 1 pt

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

Part 8 - Objections & Appeals

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt

Formatted: EILL Heading 1

8.1 ~~8.1~~ When the local government makes a decision as to whether it will ~~→~~

Formatted: Indent: Left: -0.02 cm, Hanging: 1.52 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm

(a) ~~(a)~~ grant a person a licence under this local law; or

(b) renew, vary, or cancel a licence that a person has under this local law,

Formatted: Font: Bold

Formatted: Space Before: 6 pt, After: 6 pt

the provisions of ~~Division 1 of~~ update to relevant legislation shall apply to that decision.

Part 9 – Enforcement

Formatted: Font: Bold

OFFENCES AND PENALTIES

9.1 (1) A person who breaches a provision of this local law commits an offence.

(2) A person who commits an offence under this local law is to be liable, on conviction, to a penalty not exceeding \$5,000 and, if the offence is of a continuing later, to an additional penalty not exceeding \$500 for each day or part of the day during which the offence has continued.

(3) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act and regulations 33 and 34.

Formatted: Font: 12 pt

(4) The amount appearing in the final column of the Schedule directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

FORMS

9.2 For the purposes of this local law –

(a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996* shall apply to that decision; and

Formatted: Indent: Left: 1.5 cm, Hanging: 1 cm, Space Before: 6 pt, After: 6 pt, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm, Don't allow hanging punctuation, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Font Alignment: Baseline

Formatted: Font: Italic

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

(b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Formatted: Font: Italic

Schedule 1 - Prescribed Offences

<u>Clause</u>	<u>Description</u>	<u>Modified Penalty (\$)</u>
<u>2.1</u>	<u>Carry on extractive industry without licence or in breach of terms and conditions</u>	<u>500</u>
<u>6.1</u>	<u>Excavate near boundary</u>	<u>500</u>
<u>6.2(a)</u>	<u>Removal of trees or shrubs near boundary without approval</u>	<u>500</u>
<u>6.2(b)</u>	<u>Gateways not kept locked where required</u>	<u>500</u>
<u>6.2(c)</u>	<u>Warning signs not erected or maintained as required</u>	<u>500</u>
<u>6.2(d)</u>	<u>Excavation not drained as required</u>	<u>500</u>
<u>6.2(e)</u>	<u>Store without required approval explosives or explosive devices</u>	<u>500</u>
<u>6.2(f)</u>	<u>Fill or excavate in breach of licence</u>	<u>500</u>
<u>6.2(g)</u>	<u>Failure to rehabilitate the site</u>	<u>500</u>
<u>6.2(h)</u>	<u>Failure to prevent emission of dust, noise etc</u>	<u>500</u>
<u>6.2(i)</u>	<u>Failure to comply with a condition of licence</u>	<u>500</u>
<u>6.3(1)(a)</u>	<u>Blasting without approval of the Local Government</u>	<u>500</u>
<u>6.3(1)(b)</u>	<u>Blasting outside times authorised</u>	<u>500</u>
<u>6.3(1)(d)</u>	<u>Blasting in breach of conditions imposed by the local government</u>	<u>500</u>
<u>6.3(2)</u>	<u>Blasting without approval on Saturday, Sunday or public holiday</u>	<u>500</u>

Adopted at an Ordinary Meeting of Council of the Shire of Toodyay held on _____ 201_____

Dated _____

The Common Seal of the Shire of Toodyay was affixed by authority of the Council.

MR S SCOTT, Chief Executive Officer
(or his delegate)
MR D DOW, President

Formatted: Indent: Left: 0 cm

LOCAL GOVERNMENT ACT 1995

SHIRE OF TOODYAY

EXTRACTIVE INDUSTRIES

LOCAL LAW



Gazette Date: 01/11/1999, page 1368-9

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

TABLE OF CONTENTS

PART 1 - PRELIMINARY	3
DEFINITIONS	3
APPLICATION	3
REPEAL	4
PART 2 - LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY	4
EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE.....	4
APPLICANT TO ADVERTISE PROPOSAL.....	4
APPLICATION FOR LICENCE.....	5
PART 3 - DETERMINATION OF APPLICATION	8
DETERMINATION OF APPLICATION	8
PAYMENT OF ANNUAL LICENCE FEE.....	9
PART 4 - TRANSFER, CANCELLATION AND RENEWAL OF LICENCE.....	10
TRANSFER OF LICENCE.....	10
CANCELLATION OF LICENCE.....	11
RENEWAL OF LICENCE	12
PART 5 - SECURED SUM AND APPLICATION THEREOF.....	13
SECURITY FOR RESTORATION AND REINSTATEMENT.....	13
USE BY THE LOCAL GOVERNMENT OF SECURED SUM.....	13
PART 6 - LIMITATIONS AND PROHIBITIONS.....	14
LIMITS ON EXCAVATION NEAR BOUNDARY	14
PROHIBITIONS	14
BLASTING	15
PART 7 - MISCELLANEOUS PROVISIONS.....	16
PUBLIC LIABILITY	16
MINES SAFETY AND INSPECTION ACT AND ENVIRONMENTAL PROTECTION ACT	16
NOTICE OF CESSATION OF OPERATIONS	17
WORKS TO BE CARRIED OUT ON CESSATION OF OPERATIONS	17
PART 8 - OBJECTIONS & APPEALS	18

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

Under the powers conferred by the Local Government Act 1995 and by all other powers, the local government of the Shire of Toodyay resolved to make the following local laws on the 24th day of June 1999

Part 1 - Preliminary

DEFINITIONS

1.1 In this local law, unless the context otherwise requires -

“**Act**” means the Local Government Act 1995;

“**carry on an extractive industry**” means quarrying and excavating for stone, gravel, sand and other material;

“**CEO**” means the Chief Executive Officer of the local government;

“**district**” means the district of the local government;

“**excavation**” includes quarry;

“**licence**” means a licence issued under this local law;

“**licensee**” means the person named in the licence as the licensee;

“**local government**” means the Shire of Toodyay;

“**secured sum**” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

“**site**” means the land specified by the local government in a licence.

APPLICATION

1.2 (1) The provisions of this local law –

- (a) subject to paragraphs (b), (c) and (d) -
 - (i) apply and have force and effect throughout the whole of the district; and
 - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
- (b) do not apply to the extraction of minerals under the Mining Act 1978;
- (c) do not apply to the carrying on of an extractive industry on Crown land;
- (d) do not apply to the carrying on of an Extractive Industry on land by the owner or occupier of that land for use on that land.

**LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW**

- (e) do not affect the validity of any licence issued under the local law repealed by clause 1.3 of this local law if that licence is currently in force at the date of gazettal of this local law.
- (2) In Subclause 1 (d) 'land' includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in Subclause 1 (d).

REPEAL

- 1.3 The local laws of the Shire of Toodyay relating to Extractive Industries published in the Government Gazette on October 26, 1984; July 18, 1986; and November 12, 1993, are repealed.

Part 2 - Licensing Requirements for an Extractive Industry

EXTRACTIVE INDUSTRIES PROHIBITED WITHOUT LICENCE

- 2.1 A person must not carry on an extractive industry -
 - (a) unless the person is the holder of a valid and current licence; and
 - (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

APPLICANT TO ADVERTISE PROPOSAL

- 2.2 (1) Unless the local government first approves otherwise, a person seeking the issue of a licence must, before applying to the local government for a licence -
 - (a) forward by registered mail a notice in the form determined by the local government from time to time to -
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government.
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii)

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and

- (b) as soon as practicable after complying with the requirements of paragraph (a) -
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.
- (2) The local government may, within 14 days after receiving a copy of a notice referred to in sub-clause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices -
 - (a) in the form determined by the local government from time to time;
 - (b) the content, size and construction of which have been approved by the CEO;
 - (c) specifying particulars of the proposed excavation; and
 - (d) inviting objections or comments within 21 days from the placement of the notice.

APPLICATION FOR LICENCE

- 2.3 (1) A person seeking the issue of a licence in respect of any land must apply in the form determined by the local government from time to time and must forward the application duly completed and signed by both the applicant and the owner of the land to the CEO together with –
- (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing -
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed roads or other means of vehicle access to and egress from the land and to public roads in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines,

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
- (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) 3 copies of a works and excavation programme containing -
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of roads to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the Environmental Protection (Noise) Regulations 1997;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby roads or other areas;
- (c) 3 copies of a rehabilitation and decommissioning programme indicating -
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) the method by which topsoil is to be replaced and revegetated;
 - (iv) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (v) how rehabilitated areas are to be maintained and irrigated; and
 - (vi) the programme for the removal of buildings, plant, waste and final site clean up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public road or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of -
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) the consent in writing to the application from the owner of the excavation site;
- (i) any other information that the local government may require; and

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (j) the licence application fee specified by the local government from time to time.
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) must comply with Australian Height Datum and Australian Map Grid standards.

Part 3 - Determination of Application

DETERMINATION OF APPLICATION

- 3.1 (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence -
 - (a) refuse the application; or
 - (b) approve the application -
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
 - (3) Where the local government approves an application for a licence, it must -
 - (a) determine the licence period, not exceeding 21 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
 - (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of -
 - (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 31st December next, determined by the local government from time to time;
 - (b) payment of the secured sum if any, imposed under clause 5.1; and
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1, shall issue the licence to the applicant.
 - (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters -
 - (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access roads, buildings and plant;

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (c) the stockpiling of material;
- (d) the hours during which any excavation work may be carried out;
- (e) the hours during which any processing plant associated with, or located on, the site may be operated;
- (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
- (g) the depths below which a person must not excavate;
- (h) distances from adjoining land or roads within which a person must not excavate;
- (i) the safety of persons employed at or visiting the excavation site;
- (j) the control of dust and wind-blown material;
- (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
- (l) the prevention of the spread of dieback or other disease;
- (m) the drainage of the excavation site and the disposal of water;
- (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
- (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
- (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
- (q) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
- (r) any other matter for properly regulating the carrying on of an extractive industry.

PAYMENT OF ANNUAL LICENCE FEE

- 3.2 On or before 31 December in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

**LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW**

Part 4 - Transfer, Cancellation and Renewal of Licence

TRANSFER OF LICENCE

- 4.1 (1) An application for the transfer of a licence must -
- (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) include any information that the local government may reasonably require; and
 - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may -
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

CANCELLATION OF LICENCE

- 4.2 (1) The local government may cancel a licence where the licensee has -
- (a) been convicted of an offence against -
 - (i) this local law; or
 - (ii) any other law relating to carrying on an extractive industry; or
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
 - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
 - (d) failed to pay the annual licence fee under clause 3.2; or
 - (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause -
- (a) the local government shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

RENEWAL OF LICENCE

- 4.3 (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and must submit with the application for renewal -
- (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3(1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.

- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).

- (3) If -
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,

then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.

- (4) Upon receipt of an application for the renewal of a licence, the local government may -
- (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

**LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW**

Part 5 - Secured Sum and Application Thereof

SECURITY FOR RESTORATION AND REINSTATEMENT

5.1 (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that -

- (a) as a condition of a licence; or
- (b) before the issue of a licence,

the licensee must give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.

(2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

USE BY THE LOCAL GOVERNMENT OF SECURED SUM

5.2 (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either -

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,

then -

- (c) the local government may carry out the required restoration and reinstatement work or so much of that work as remains undone; and
- (d) the licensee must pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

**LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW**

Part 6 - Limitations and Prohibitions

LIMITS ON EXCAVATION NEAR BOUNDARY

- 6.1 Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within –
- (a) 50 metres of the boundary of any land on which the excavation site is located;
 - (b) 50 metres of any land affected by a registered grant of easement;
 - (c) 50 metres of any thoroughfare; or
 - (d) 100 metres of any watercourse.

Penalty \$2,000

PROHIBITIONS

- 6.2 A licensee must -
- (a) not remove any trees or shrubs within 100 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any road reserve on land in respect of which a licence has been granted, except for the purpose of constructing access roads, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
 - (b) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
 - (c) erect and maintain warning signs along each of the boundaries of the site to which the licence applies so that each sign –
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words “DANGER EXCAVATIONS KEEP OUT”;
 - (d) except where the local government approves otherwise, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
 - (e) not store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Minerals and Energy;

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- (f) not fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (g) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (h) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (i) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

BLASTING

- 6.3 (1) A person must not carry out or permit to be carried out any blasting in the course of excavating unless -
- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
 - (b) subject to sub-clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
 - (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the Mines Safety and Inspection Act 1994, the Environment Protection Act 1986, and all relevant local laws of the local government; and
 - (d) in compliance with any other conditions imposed by the local government concerning-
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used;
 - (iii) the methods of detonation and blasting;
 - (iv) the types of explosives to be used; and
 - (v) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000.00 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

**LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW**

- (2) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.

Penalty \$2,000

Part 7 - Miscellaneous Provisions

PUBLIC LIABILITY

- 7.1 (1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
- (2) The licensee shall provide to the local government a copy of the policy taken out under sub-clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

MINES SAFETY AND INSPECTION ACT AND ENVIRONMENTAL PROTECTION ACT

- 7.2 (1) In any case where the Mines Safety and Inspection Act 1994 or the Environmental Protection Act 1986 applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must -
- (a) comply with all applicable provisions of that Act or those Acts; and
 - (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.
- (2) In this clause, the Mines Safety and Inspection Act 1994 and the Environmental Protection Act 1986 include all subsidiary legislation made under those Acts.

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

NOTICE OF CESSATION OF OPERATIONS

7.3 (1) Where a licensee intends to cease carrying on an extractive industry

-

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee must, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

- (2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.
- (3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

WORKS TO BE CARRIED OUT ON CESSATION OF OPERATIONS

7.4 Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee must, as well as complying with the provisions of clause 7.3 -

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is -
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any

LOCAL GOVERNMENT ACT 1995
SHIRE OF TOODYAY
EXTRACTIVE INDUSTRIES LOCAL LAW

- stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
 - (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
 - (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

Part 8 - Objections & Appeals

- 8.1 When the local government makes a decision as to whether it will -
- (a) grant a person a licence under this local law; or
 - (b) renew, vary, or cancel a licence that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Local Government (Functions and General) Regulations 1996 shall apply to that decision.



COMMITTEE MEETING STATUS REPORT

Containing any recommendations made to Council by Committees

Date / Committee	Item No	Title or Description of the Item	Resp. Officer	Resolution / Notes
22/10/15 CDMAC Mtg	5.3.1	Status Report – Membership	CEO	<ol style="list-style-type: none"> 1. Toodyay Community Radio be removed as a Committee Member; and 2. Toodyay Farmers Markets – Representative be appointed.
22/10/15 CDMAC Mtg	8.2	Shed Tenders	CEO	<ul style="list-style-type: none"> • Advise those who submitted tenders, that all would not be accepted – pricing not within budget. • Go back to open market and obtain new quotes which would also include local shed companies. • Outsource the concrete pads to obtain the best possible pricing. • Project Officer to undertake further discussion with groups to see where costs can be saved on their shed requirements. • Option/pricing for zinc walls to be obtained. • Option of sea containers for to be looked at
29/10/15 WAC Meeting	Minutes	There were no recommendations made to Council at this meeting.	MWS	N/A
3/11/15 BFAC Meeting	Minutes	There were no recommendations made to Council at this meeting.	CESM	N/A
19/11/15 MAC Meeting	Minutes	There were no recommendations made to Council at this meeting.	MC	N/A

This Page has been Left Blank "Intentionally"

ACTION / PROJECT / WORKS LIST

ORIGIN	PROJECT	DETAIL	RESPONSIBLE MANAGER	DELEGATED TO	PROJECT STATUS	BACK TO COUNCIL
	Information Bay Project	Plans Finalised. Quotes received. Handed over to the building department to complete. MCD investigating	CEO	MPD/MCD	Ongoing	N/A
	Community Depot	<ol style="list-style-type: none"> 1. Seek further quotes for the shed supply and construction with amended specifications as determined by the Community Depot Management Advisory Committee; 2. Seek separate quotes for the installation of concrete slabs from a local contractor 3. Remove Toodyay Community Radio from the membership of the Community Depot Management Advisory Committee. 4. Invite a representative of Toodyay Farmers Markets Inc to join the Community Depot Management Advisory Committee. 5. Alter remove some of the specifications with options for discussion with groups to include: <ul style="list-style-type: none"> • specify Roof to be zinalume; • overall shed sizes to be reduced; • use of railway building room for a group (see briefing note on Railway building & Community Radio); • insulation necessity; • whirlybird necessity; • PA door necessity; • windows / security mesh necessity; and • alternative structures. 	CEO	MCD	RFQs have gone out - closing 27/11/15	Dec 15 Forum
	Anzac Memorial Park Upgrade	Build up land for more standing room. Site survey completed and concept plans completed. Consultation with RSL ongoing. Budget review item for 2015/2016.	CEO	CEO	Budget review February/March 16	2015/16 Budget
	AROC Housing Initiative	Aged Persons Accommodation - all funding now secured. Concept plan quotes received. Architect has been appointed to create concept plans. MOU now executed.	CEO	CEO	Meet with Stakeholders and Architect 27/11/15	Feb 16 OCM
	Duke Street Toilets	Additional funding through Disability Services Commission has been requested. Plans Finalised. Construction Commenced	CEO	MPD/SBS	Ongoing	N/A
	Bendigo Bank Carpark	Works have not commenced. Completion expected prior to March 2016.	CEO	MWS	Ongoing	N/A
	Charcoal Lane Disability Car parking	Completed except for bollards.	CEO	MWS	Awaiting delivery and placement of bollards	N/A
	Sale of Shire land -16 Toodyay Street	Sold for \$94,000. Settlement Due towards end of November.	CEO	MPD	Completed	N/A
	Entry Statement	Handed over to the building department to complete	CEO	MPD	Construction has commenced	N/A
	Skate Park - Stage II	Council approved final tender with increased budget at Septemebr 2015 OCM. Met with Stephen Ferguson who will coordinate local labour etc. Handed over to Works 2/11/15. Acknowledge local contractor involvement.	CEO	MCD	Construction has commenced	N/A
	Asset No.733 - Public Library	(a) Provide additional internal storage by the erection of internal walls; (b) Investigate the feasibility of providing a public toilet/s.	CEO	MPD	N/A	TBA 2016/17 Budget

ORIGIN	PROJECT	DETAIL	RESPONSIBLE MANAGER	DELEGATED TO	PROJECT STATUS	BACK TO COUNCIL
OCM 25/08/2015	Asset No.729 – Duidgee Park Toilet	That Administration prepare a plan to refurbish this facility including an upgrade of its disability accessibility in the 2016/2017 Annual Budget.	CEO	MPD	N/A	2016/17 Budget
	Asset No.771 - Morangup Community Centre	The Administration investigate further storage options in consultation with the Morangup Progress Association and present options for consideration for the 2016/2017 Annual Budget.	CEO	MPD	N/A	2016/17 Budget
	Asset No.009 – Bendigo Bank - Lease expires 2020	The future of this property be reviewed post lease and if sold the existing public car park be subdivided to exclude it from sale.	CEO	MPD	N/A	2020
	Asset No.735 – Mrs O'Reilly's Cottage	(a) Carry out repairs to rectify storm damage, as a matter of urgency, and the property be leased and maintained for the term of the lease negotiated in accordance with the lease conditions; (b) The future of this property be reviewed at the end of the lease with Vet.	CEO	MPD/SBS	Architect appointed Specifications finalised. Tenders close 21/12/15	Jan 16 OCM
	Asset No.742 – Pavilion Change Rooms, Showgrounds	Review the future of this facility as part of an overall strategy for the existing Recreation/Showgrounds site.	CEO	MPD	Suggestion of inviting community groups to paint and perform general maintenance and upkeep to venue	Feb 16 Forum
	Asset No. 710 - Pelham Reserve Toilets	Within a 5-7 year time frame demolish & plan and construct a more contemporary accessible facility.	CEO	MPD	N/A	2020
OCM 25/08/2015	166/08/15 Administration Building	1. Engage an architect to prepare a report on the options for the future accommodation of the Shire's administrative functions. The report should consider the following: a) Feasibility of the development of the Connor's Cottage and Visitor Centre precinct into a future Administration Centre; b) Feasibility of extending or upgrading the existing old Courthouse Building (the current Shire Administration) including using the footprint of the exiting donga or extending into other areas of the site with low archaeological significance; c) The likely cost of these options compared to developing a new building. 2. Prepare a project plan as an interim measure for the relocation of the Planning and Development Department from the Donga to Connor's Cottage for consideration by Council. Graeme to circulate plans.	CEO	CEO	CEO - cost indications from architect.	March 16 Forum
	Museum/Wicklow Shed	Items have now been moved. Grant Application submitted on Friday 30 October, 2015.	CEO	MCD	Ongoing	Feb 16 Forum
	Rates Review	Initial letter sent to residents	CEO	MCS	Ongoing	Feb-16

WORKS & SERVICES					
15/16 Budget	T6435	Kubota F2880 Mower	MWS		Completed
15/16 Budget	1CYL243	Kubota Tractor	MWS		Completed
15/16 Budget	T0002	Toyota Hilux D/Cab	MWS		Completed
15/16 Budget	T6782	FUSO Canter Truck	MWS		
15/16 Budget	T6818	Ride on Vacuum Sweeper	MWS		Ordered
15/16 Budget	T0015	Mitsubishi Triton Utility	MWS		Completed
15/16 Budget	T0013	Mitsubishi Triton Utility	MWS		Completed
15/16 Budget	T6480	Mitsubishi Triton Utility	MWS		Completed
15/16 Budget	T0	Holden Caprice	MWS		
15/16 Budget	T0001	Toyota Hilux D/Cab	MWS		Ordered
15/16 Budget	1DVH931	Toyota Hilux D/Cab	MWS		Ordered
15/16 Budget		Sell Grader at Auction	MWS		Completed
15/16 Budget		Small Mower Trailer	MWS		Completed
15/16 Budget	Q140	Street Trees	MWS		Completed
15/16 Budget	Q162	Anzac Park Upgrade	MWS		Completed
15/16 Budget	Q032	Installation of Playground Equipment	MWS		
15/16 Budget	Q160	Water Tank at Sports Oval	MWS		
15/16 Budget		Additional Water Tank at Standpipe	MWS		
15/16 Budget	Q161	Survey and Design Cemetery	MWS		Surveying commenced
15/16 Budget	J0258	IGA Disability Parking Bays	MWS		Completed
15/16 Budget	A0004	Julimar Road	MWS		
15/16 Budget	A0021	Morangup Road	MWS		Waiting MRWA Approval
15/16 Budget	A0193	Clackline Road	MWS		Waiting MRWA Approval
15/16 Budget	A0194	Bindoon Dewars Pool Road	MWS		In Progress
15/16 Budget	A0197	Toodyay Bindi Bindi Road	MWS		Waiting MRWA Approval
15/16 Budget	E0004	Julimar Road	MWS		
15/16 Budget	B0009	Leeming Road	MWS		Completed
15/16 Budget	B0046	Church Gully Road	MWS		
15/16 Budget	B0048	Harders Chitty Road	MWS		
15/16 Budget	B0066	Henry Street	MWS		
15/16 Budget	B0107	Grevillea Place	MWS		
15/16 Budget	D0037	One Man Road	MWS		Completed
15/16 Budget	D0056	Racecourse Road	MWS		
15/16 Budget	D0093	Waters Road	MWS		
15/16 Budget	D0038	Library Car Park	MWS		
15/16 Budget	D0258	Charcoal Lane Carpark	MWS		Completed
15/16 Budget	D0061	Solar Lighting - Train Carpark	MWS		
15/16 Budget	D0006	Old Plains Road	MWS		In Progress
15/16 Budget	J0001	Mountain Park Submission	MWS		
15/16 Budget	J055	Bendigo Bank Carpark	MWS		
15/16 Budget		Bejoording Rural Street Numbering	MWS		Waiting Landgates Approval
15/16 Budget		Community Depot Carpark and Driveway	MWS		
15/16 Budget		Emulson Pump	MWS		Completed
15/16 Budget		Skid Steer Slasher Attachment	MWS		Completed
15/16 Budget		Pedestrian Roller	MWS		Completed
15/16 Budget		Replacement of Shire Repeater Antenna Coax	MWS		
15/16 Budget		Grab Rack for Backhoe	MWS		Completed
15/16 Budget	T4133	Stock Float	MWS		Completed
15/16 Budget		Stick Scanner	MWS		Completed
15/16 Budget		Strategic Fire Access and Emergency Egress Project - Majestic Heights	MWS		
15/16 Budget		Strategic Fire Access and Emergency Egress Project - Wandoo Circle	MWS		
15/16 Budget		Morangup Verge Mulching - Stage 1	MWS		
15/16 Budget		Independent Review of Strategic Fire Egress	MWS		Completed
15/16 Budget		FCO Review	MWS		Completed
15/16 Budget		Firebreak Order Review	MWS		Completed
15/16 Budget		Community Information Session - Workshops	MWS		Completed
15/16 Budget		Review of Emergency Directory	MWS		Completed
15/16 Budget	J0002	Flora Bays x 7	MWS		
15/16 Budget		Reserve Management Plans - Condition Report	MWS		
15/16 Budget		Reserve Management Plans - Management Plan	MWS		
15/16 Budget		Firebreak Inspections	MWS		Completed
15/16 Budget		Reserve Weed Spraying	MWS		Completed
15/16 Budget		Reserve Firebreaks	MWS		Completed
15/16 Budget		Firebreak Contractor List	MWS		Completed
15/16 Budget		Commodity Route Funding	MWS		Completed
15/16 Budget		Regional Bicycle Network Grant	MWS		Completed
15/16 Budget		State and National Blackspot Funding	MWS		Completed
15/16 Budget		Sale fo Surplus Plant and Equipment (AD)	MWS		Completed
15/16 Budget		Air Operated Grease Gun	MWS		Completed
15/16 Budget	C063	Oil Bund for Works Depot	MWS		Completed
15/16 Budget		Servicing of Fire Vehicles	MWS		Completed
15/16 Budget		Vehicle Safety Recall	MWS		Completed