



Local Planning Policy 7: Mining & Resource Extraction

1. Introduction

1.1 This Local Planning Policy:

- a) Has been prepared and adopted pursuant to Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations)*.
- b) Applies to all development applications for Industry – Extractive, Mining Operations, and Mining Operations on Minerals to Owner land¹ under the Shire of Toodyay's Local Planning Scheme.
- c) Subject to clause 1.2, does not apply to development that is exempt from the need for approval pursuant to:
 - i. Part 7 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; or
 - ii. Section 6 of the *Planning and Development Act 2005*; or
 - iii. Section 120 of the *Mining Act 1978*.

1.2 The Shire of Toodyay will have due regard to this Policy when:

- a) Assessing and determining development applications for Industry – Extractive, Mining Operations, and Mining Operations on Minerals to Owner land; and
- b) Providing recommendations or advice in respect of such proposals where the Shire of Toodyay is not the decision-maker.

2. Objectives

2.1 The objectives of this Policy are to:

- a) Prescribe the Shire's minimum information requirements, standards for assessment, and determination of development applications to which this Policy applies.
- b) Ensure that Industry – Extractive, Mining Operations, and Mining Operations on Minerals to Owner land are appropriately located, designed, operated, managed and closed to mitigate the impacts of those activities on sensitive land uses, environmental qualities, established agriculture, and rural landscape amenity.

¹ Minerals to Owner land refers to freehold land created before 1 January 1899. Except for gold, silver and precious metals, all mineral rights in such land are held by the landowner, not the Crown. The *Mining Act 1978* does not apply to mining operations on Minerals to Owner land and, as such, the mining or extraction of metals and minerals (other than gold, silver and precious metals) on that land will require development approval from the Shire of Toodyay.



- c) Maximise the local benefit of Industry – Extractive, Mining Operations, and Mining Operations on Minerals to Owner land.
- d) Supplement the provisions relating to Industry – Extractive in the Shire’s Local Planning Scheme² and State Planning Policy 2.5: Rural Planning (SPP 2.5)³.

3. Definitions

Basic Raw Materials (BRM) Has the same meaning given to it in SPP 2.4.

Borrow Pit Means a hole, pit or excavation that has been dug for the purposes of removing gravel, clay and sand used in construction.

Deemed Provisions Means the provisions contained in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Development Application Means a development application to which this Policy relates, being for Industry – Extractive, Mining Operations, or Mining Operations on Minerals to Owner land.

Development Footprint Means the extent of a lot (vertically and horizontally) proposed to be used or developed for a proposal, regardless of whether that land is actively used for extraction of materials or for purposes ancillary thereto, such as filling, clearing, laydown, stockpiling, storage, bunding, handling, treating, processing, loading, parking, access or egress to the subject land.

Exclusion areas Has the same meaning given to it in SPP 2.4.

Industry – Extractive Has the same meaning given to it in the Shire of Toodyay Local Planning Scheme.

Mining Operations Has the same meaning given to it in the *Mining Act 1978*

Proposal Means the proposed development of Industry – Extractive, Mining Operations, or Mining Operations on Minerals to Owner land.

Sensitive Land Use Has the same meaning given to it in the Environmental Protection Authority’s *Guidance Statement 3 – Separation Distances between Industrial and Sensitive Land Uses (2005)*.

Significant Geological Supply (SGS) Has the same meaning given to it in SPP 2.4, referring to the highest-priority extraction areas for BRM.

Visual Impact Has the same meaning given to it in the Western Australian Planning Commission manual – *Visual Landscape Planning in Western Australia (2007)*.

² Clauses 32(61) – 32(63) of Local Planning Scheme No. 5

³ Section 1 of SPP 2.5 states that SPP 2.5 supersedes SPP 2.4 for the Shires of Gingin, Chittering, Northam and Toodyay.



4. Policy Requirements

4.1 Application

4.1 Pursuant to clause 63(1)(d) of the Deemed Provisions, every development application must be accompanied by the plans and information specified in Appendix 1⁴ of this Policy in addition to the requirements of Clauses 62 and 63 of the Deemed Provisions.

4.2 Pursuant to clause 63A(1)(b)(ii) of the Deemed Provisions, if a development application fails to meet the information requirements described in clause 4.1, the Shire may give written notice to the applicant requiring an amended application or to provide further accompanying material before it can be accepted.

4.2 Advertising

4.2.1 Every development application will be treated as a 'complex application', as defined by clause 1 of the Deemed Provisions.

4.2.2 Before determining a development application, the Shire will advertise the proposal for public comment:

- a) In accordance with the advertising requirements for a 'complex application' under clause 64 of the Deemed Provisions;
- b) Having regard to the Shire's Local Planning Policy – Advertising of Planning Proposals; and
- a) By inviting comment on the proposal from every landowner within 1,000 metres of the development footprint, as defined by this Policy⁵.

4.3 Assessment

4.3.1 In accordance with clause 32(61) of the Shire's Local Planning Scheme No. 5, the Shire will only support a development application where:

- a) The extraction of minerals or basic raw materials does not adversely affect the environment or amenity in the locality of the operation during or after excavation;
- b) Due consideration is given to the rehabilitation and sequential use of extraction areas early in the planning process; and
- c) Proposals comply with all relevant legislation, policies, guidelines and codes of practice applicable at the time.

These three circumstances are expanded and elaborated on by clauses 4.3.2, 4.3.3 and 4.3.4 below, respectively.

⁴ Appendix 1 consolidates the minimum development application requirements from Clause 32(62) of the Shire's Local Planning Scheme No. 5, SPP 2.4 and SPP 2.5.

⁵ The Shire has the right to extend the advertising requirements beyond 200m, pursuant to clause 64(3)(b)(ii) of the Deemed Provisions.



4.3.2 When assessing a proposal's impact on the environment and amenity of a locality, the Shire will:

- a) Have regard to any public submissions and referral responses received in respect of the proposal;
- b) Consider whether the proposal's development footprint adequately achieves the separation distances recommended in the Environmental Protection Authority's *Guidance Statement 3 – Separation Distances between Industrial and Sensitive Land Uses (2005)*;
- c) Consider whether any potential adverse impacts⁶ are satisfactorily mitigated;
- d) Consider whether the proposed hours of operation are appropriate in the context of the locality having regard to the nature and scale of the development;
- e) Not support any proposal that may adversely affect sites of cultural or historic significance on or near the land;
- f) Not support any proposal where in the Shire's opinion, the local road network is incapable of accommodating the proposal beyond fair wear and tear, unless the applicant is prepared to upgrade the road network and/or otherwise ameliorate the proposal's impact on that network;
- g) Need to be satisfied the proposal will not adversely impact sensitive environmental features⁷;
- h) Need to be satisfied the proposal achieves appropriate horizontal separation distances between extraction, water supply infrastructure and other engineering requirements;
- i) Have regard to any specialist assessment or advice which the Shire may obtain to inform its determination of the application⁸;
- j) Not support any proposal which in the Shire's opinion would have an unacceptable visual impact in the locality⁹;
- k) Preference the extraction of resources identified within an SGS area over resources not having this designation;
- l) Consider whether clearing required for the proposal is likely to gain approval;
- m) Need to be satisfied the proposal would not generate the potential for conflicts with adjoining rural activities; and
- n) Consider whether bushfire risks have been satisfactorily addressed, having regard to the nature, scale and intensity of development proposed.

4.3.3 When considering the future use of the subject land post-extraction, the Shire will:

- a) Consider whether the applicant has satisfactorily demonstrated the proposal's staging and sequential progression towards the ultimate development footprint;
- b) Consider whether the applicant satisfactorily incorporates the progressive rehabilitation, restoration, and repurposing of extracted or disturbed areas over the course of the development;
- c) Need to be satisfied that the proposed future use(s) of the subject land is viable and compatible with the Shire's planning framework, and the objectives for and amenity of the locality;

⁶ Potential impacts include but are not limited to dust, noise, vibration, drainage, surface and ground water quality/quantity, light emissions, traffic, odour and visibility.

⁷ Sensitive environmental features include water courses, groundwater, remnant bushland, and high quality flora and fauna habitats.

⁸ Pursuant to regulation 49 of the *Planning and Development Regulations 2009*, the Shire may recover from the applicant any costs and expenses incurred in determining the application, including advertising, environmental assessment, computer modelling, and other specialist technical advice.

⁹ Assessment of visual impact will be guided by the WAPC's manual – *Visual Landscape Planning in Western Australia*



- d) Need to be satisfied that the pursuit of a future use(s) would not prematurely conclude commercial extraction of the material or resource from the subject land;
- e) Need to be satisfied that proposal achieves appropriate vertical separation distances to groundwater for the intended future land use(s);
- f) Consider whether the applicant has committed to regular reporting of progress towards the ultimate development footprint; and
- g) Need to be satisfied that the proposed future use(s) of the subject land is achievable having regard to the nature, scale and duration of rehabilitation and restoration needed to render the subject land safe and fit for alternate use(s) upon cessation of the development.

4.3.4 To ascertain if a proposal complies with relevant legislation, policies, guidelines and codes of practice, the Shire will have regard to:

- a) Its Local Planning Scheme and in particular any provisions relating to Industry – Extractive, and the use and development of land in the subject Zone of the application;
- b) This and any other relevant Local Planning Policy; and
- c) The matters to be considered under clause 67 of the Deemed Provisions.

4.3.5 The Shire will not support a Prescribed Premises application under Part V of the *Environmental Protection Act 1986* (EP Act) for any proposal to which this Policy relates if:

- a) Development approval is required for that proposal but has not been granted;
- b) Development approval was granted for that proposal but is not being complied with;
- c) Development approval was granted for that proposal but has lapsed; or
- d) Approval of the application under Part V of the EP Act would be contrary to the Shire's Local Planning Scheme or any development approval granted thereunder.

4.4 Approval

4.4.1 If the Shire decides to grant approval to a development application, then its approval may include conditions relating to any one or more of the following:

- a) Compliance with submitted plans, information and documentation, with or without any amendments required by the Shire;
- b) Provision of and compliance with further plans, information and documentation, with or without any amendments required by the Shire;
- c) Undertaking regular monitoring and reporting of factors including but not limited to road condition, progress towards the ultimate development footprint, rehabilitation and revegetation;
- d) Location, construction and timing of access roads, buildings, plant, stockpiles and equipment;
- e) Days and hours of operation;
- f) Containment of parts of the development within buildings or other enclosures;
- g) Screening of parts of the development;
- h) Prescribing a maximum development footprint;
- i) Specifying the minimum setback distance of the development footprint from other properties;
- j) Control of dust and wind-blown material;
- k) Planting, care and maintenance of vegetation for the purposes of screening and progressive rehabilitation; and
- l) Any other conditions the Shire considers valid and necessary.



APPENDIX 1

Minimum Information Requirements Checklist

Information Required	Provided (Y/N)
1. Location and Site plan(s) drawn at an appropriate scale and including:	
<ul style="list-style-type: none"> a) The location of the site including street names, lot numbers, north point and the dimensions of the site; b) The existing land contours based on the Australian Height Datum at one metre intervals of the subject site and its immediate surroundings; c) The proposed land contours resulting from extraction. Contours should be based on the Australian Height Datum, and be set at one metre intervals; d) Details of the proposed quantity of material to be extracted per month, per annum and total approved volume based on the difference between the existing and proposed contours; e) Details of the portion of the lot or lots depicting where the disturbance area and extraction area will be located; f) Existing and proposed vehicular access/egress points and thoroughfares for vehicle movements within the site and intended haulage routes off the site; g) If the proponent is not the landowner, confirmation of the means by which a right of access will be secured over the subject land to the development site for the duration of the proposal. h) The location of existing and proposed buildings structures, installations and other areas of the site intended for – storage and maintenance (including washdown) of plant, equipment, machinery and materials; ; offices, ablutions and staff rooms; processing plants; power generation/supply; effluent disposal; and fuel or chemical storage; i) The location and dimensions of proposed stockpile areas; j) The location of existing power lines, telephone cables and associated poles and pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easements or other encumbrances over, on, under or adjacent to the site; k) The location and description of existing and proposed fences, gates and warning signs around the land; l) The location, number, dimensions and layout of all car parking spaces intended to be provided; m) The location, height and type of all existing environmental features, including watercourses, wetlands and native vegetation on the site; and n) The structures and environmental features that are proposed to be removed. 	
2. Works & Excavation Program addressing the following:	



<ul style="list-style-type: none"> a) The nature and estimated duration of the proposed excavation for which the approval is applied; b) The stages and the timing of stages in which excavation is proposed; c) A sequential series of site plans that depict the intended horizontal and vertical extent (in AHD) and timing of excavation at intervals of no more than two years; d) Details outlining the methods applied in excavating materials from the site; e) A detailed description of any on-site processing works; f) A description of the methods by which existing environmental features are to be cleared; g) A description of the methods by which topsoil and overburden is to be removed or stockpiled; h) A description of the means of access to/egress from the excavation site and the types of thoroughfares to be constructed within the site; i) Details of the anticipated number and size of trucks entering and leaving the site each day; j) A description of any proposed buildings, treatment plant, tanks and other improvements; and k) A detailed description of any measures to be undertaken in minimising adverse visual impacts from adjoining properties or the public domain. 	
3. Management Plan(s) addressing the following:	
<ul style="list-style-type: none"> a) Site description and analysis; b) The existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site; c) Strategic and statutory planning requirements; d) Identification of the environmental values and those requiring protection; e) That extractive industry operations are adhering to designated separation distance and will not adversely affect or be impacted by sensitive land uses; f) Proposed transport routes uses and site access details, and likely traffic volumes; g) Sequential land use and stage plan for the rehabilitation of the site for its intended long-term use and h) Compliance with any other considerations as outlined in the BRM guidelines. i) Fire management plan if not in a Bushfire Prone Area, then SPP 3.7 Bushfire Planning is to be followed; j) Surface water hydrology assessment to determine stormwater drainage pattern and management pre-excavation and post excavation; 	



<p>k) Noise Management Plan that demonstrates how the proposed Extractive Industry (and any associated operations) satisfies the Environmental Protection (Noise) Regulations 1997;</p> <p>l) Vibration attenuation</p> <p>m) Dust management plan to include:</p> <ul style="list-style-type: none"> i. Dust suppression methods; and ii. Location of stockpile areas relative to prevailing winds. <p>n) If blending is proposed as part of an Extractive Industry operation – a description of materials and substances required to be brought onto the site for blending purposes;</p> <p>o) Traffic impact report – Traffic Assessment (WAPC Transport Assessment Guidelines for Developments Volume 4: Individual Developments (Trial & Evaluation) August 2006); and</p> <p>p) Groundwater hydrology assessment to include;</p> <ul style="list-style-type: none"> i. Assessment of groundwater depths and profiles; ii. The location and monitoring of bores; and iii. Impact assessment of groundwater use for nearby wetlands and water dependant ecosystems. <p>q) Environmental management that addresses the following –</p> <ul style="list-style-type: none"> i. Measures to protect existing vegetation ii. Manage acid sulphate soil iii. Control dieback iv. Manage fire and flood risk v. Manage storm water run-off and water quality vi. Drainage details vii. Handling, treatment and disposal of wastes viii. How the Extractive Industry will be managed to reduce its impact on nearby land parcels with significant environmental attributes <p>r) Screening measures including the location and method</p>	
<p>4. Rehabilitation and decommissioning report addressing the following:</p>	
<p>a) The anticipated sequential land use of the site and the means by which this would be achieved following the completion of all extraction;</p> <p>b) Restoration and reinstatement of the site both progressively and upon completion of excavation operations;</p> <p>c) Method by which matters to accommodate future land uses will be provided and maintained;</p> <p>d) Method by which topsoil is to be replaced, revegetated and maintained;</p>	



<p>e) A landscaping plan including the number and types of vegetation to be planted and maintained;</p> <p>f) A concept for the removal of buildings, plant waste and final site cleanup</p> <p>g) A Pit Rehabilitation and Closure Plan in accordance with the Department of Mines and Petroleum and Environmental Protection Authority (EPA) <i>Guidelines for Preparing Mine Closure Plans (2015)</i>.</p>	
5. Other	
<p>The Shire, at its discretion, may require the following additional information:</p> <p>a) A list of all chemicals and substances to be brought on-site, to be used for the purpose of crushing, blending and/or manufacturing.</p>	

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