

# Extractive Industries and Waste Disposal

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## Introduction

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This Policy may be cited as Local Planning Policy – Extractive Industries and Waste Disposal an LPP.

The Local Planning Policy does not bind the Shire of Toodyay in respect of any application for development approval, but the Shire of Toodyay will have due regard to the provisions of this Local Planning Policy and the objectives which the policy was designed to achieve before making its determination.

The purpose of this Policy is to outline standards and other guidance in relation to development of Extractive Industries, in accordance with the purpose and provisions of the current Local Planning Scheme.

### Relationship of this Policy to the *Shire of Toodyay Extractive Industries Local Law 2008*

The Shire of Toodyay requires an extractive industry licence to be issued under the provisions of the Shire of Toodyay Extractive Industries Local Law 2008 (the 'EI Local Law') together with a land use planning (development) approval before extraction can take place.

An application for an extractive industry licence should be applied for at the same time as the development application.

## Objective

- To protect the economic viability of agriculture and rural smallholding areas within the Shire of Toodyay.
- To retain the rural character of the area by preventing the operation of such activities in a manner detrimental to the amenity and/or environment of the area during or after extraction.
- To specify the minimum requirements to be included in any application for an extractive industry and guide applicants accordingly.
- To ensure that proposed haulage routes and road hierarchy are satisfactory to support an extractive industry without affecting the sustainability of the Shire's road assets.
- To provide for the most appropriate siting and manner of operation of extractive industries to meet the varied needs of the community.
- To provide Council and prospective developers with guidelines for the processing of applications for extractive industries.
- To protect the environmental and landscape values and qualities of Toodyay with its diverse economy ranging from rural production, horticultural production to tourism.
- To allow for the consideration of extractive industries in appropriate locations and to ensure such industries are operated in a correct and appropriate manner.
- To set out the requirements for applicants making an application for approval of an extractive industry clearly and simply.

## Scope

This Local Planning Policy is applicable to all proposals for extractive industry upon suitably zoned land, except for those activities outlined in 'Exemptions' below.

## Definitions

| Term                      | Definition  |
|---------------------------|---|
| Act                       | <i>Planning and Development Act 2005</i>  |
| Acid Sulphate Soils (ASS) | Any naturally occurring soils or sediment containing iron sulphides   |
| Adjoining                 | Refers to any land or owner of land which abuts an application site or is separated from it only by a road, pathway, driveway or similar thoroughfare.  |
| Agriculture               | The science or practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products. This includes:<br>Cropping, animal husbandry including dairying and feedlots, flowers/plants/tree nurseries, apiaries and horticulture.    |
| Basic Raw Materials (BRM) | Basic Raw Materials are considered to be materials that are used in the construction industry for both private and public works such as housing, site preparation, concrete and cement manufacturing, railway and road construction. These materials include sand, stone, clay, hard-rock and gravel aggregate. |
| Borrow pit                | A borrow pit is a term used in construction for a hole, pit or excavation that has been dug for the purposes of removing gravel, clay and sand used in a construction project. This includes an excavated area where material has been dug for use as fill at another location.                                 |
| CEO                       | Chief Executive Officer   |
| Committed Area            | In relation to a Shire extractive industry or basic raw material resource, any extraction area which is being worked or has been periodically worked provided the removal of the resource does not increase the surface area of the pit currently under consideration.  |
| Council                   | The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008</i> .   |

| Term                           | Definition  |
|--------------------------------|---|
| Development                    | <p>The development or use of any land, including any demolition, erection, construction, alteration of or addition to any building or structure on the land and the carrying out on the land of any excavation or other works and in the case of a place to which a Conservation Order made under section 59 of the <i>Heritage of Western Australia Act 1990</i> applies, also includes any act or thing that –</p> <p>(a) Is likely to change the character of that place or the external appearance of any building; and</p> <p>(b) Would constitute an irreversible alteration to the fabric of any building.</p> |
| Environmentally Sensitive Area | <p>Those areas where the land could be subject to restriction on the extraction of basic raw materials for an environmental or conservation reason. For example, ESAs could be classes or areas of native vegetation where the exemptions for clearing vegetation under the <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i> (Clearing Regulations) do not apply. This includes any area as defined in <i>Environmental Protection (Environmentally Sensitive Areas) Notice 2005</i></p>  |
| Extraction Area                | <p>The extent of land proposed to be used for ground-disturbing activities.</p>   |
| Extractive Industry            | <p>An industry which involves the extraction, quarrying or removal of sand, gravel, clay, rock, limestone, soil, or similar material from the land, not excluded by the Mining Act, and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted.</p>   |
| General Access Vehicle (GAV)   | <p>General access vehicles are rigid and combination vehicles that meet a set of standard design requirements, sit within mass and dimension limits, and generally don't need a permit to operate on roads.</p>   |
| Level of Service (LoS)         | <p>Level of service is a measure of the quality of service of transportation infrastructure as set out by Austroads. Level of service may be used as a tool to measure changes in condition, also relating to increase in vehicle use, or expected quality of the infrastructure and the system uses the letters A through F, with A being best and F being worst.</p>  |
| MDR                            | <p>Manager Development and Regulation</p>   |

| Term                      | Definition   |
|---------------------------|--|
| Mining Act 1978           | Outlines the law as it relates to mining, and for incidental and other purposes. Until recently the Mining Act has applied to the land area of the Western Australia and, by arrangement with the Commonwealth, the first three nautical miles of the territorial sea from the baseline.                                   |
| Mining Proposal           | 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.                                   |
| Operational Area          | The extent of land proposed to be used for extraction and all associated activities.   |
| Rehabilitation Plan       | A plan which details the developer commitments to rehabilitate/reconstitute the site through landform and vegetation planting measures in order to restore the pre-existing ecosystem as far as is practicable.  |
| School Bus Route          | Any public road utilised on a daily basis by a licensed school bus operator to transport children to and from an educational establishment registered by the Education Ministry of Western Australia.  |
| Sensitive Land Use        | Has the same meaning as in the <i>Environmental Protection Authority - Guidance Statement 3 - Separation Distances between Industrial and Sensitive Land Uses</i> .  |
| Tourist Attraction        | A building or group of buildings and associated facilities and including other non-built facilities substantially used for the attraction, accommodation and servicing of tourists, and includes wineries, cellar door sales, food and rural produce tasting and experiential attractions available to the general public. |
| Visual Impact             | Has the same meaning as in the Western Australian Planning Commission manual – <i>Visual Landscape Planning in Western Australia (2007)</i> .  |
| Waste Disposal Industries | The Class I and Class II Waste Disposal Industries operated out of Lot 11 Chitty Road and Lot 1 Salt Valley Road.  |

## Policy Statement

This Policy seeks to classify extractive industry applications into three (3) distinct classes, whereby Council's application requirements would differ according to class.

## 1. Council's position on extractive industries

The Council's position on extractive industry is that:

- (a) Extractive industry should not take place in environmentally or culturally sensitive areas;
- (b) Opportunity for negotiated outcomes statement;
- (c) Extractive industry should not result in a degraded quality of life for any resident or visitor in either the short or long term, whether through amenity or health impacts;
- (d) Sensitive land uses should not be permitted to encroach on extractive industry operations such that they may be exposed to negative impacts;
- (e) Because the availability of basic raw materials is important to the economic well-being of the Shire, new development should not be permitted that would prevent the exploitation of viable deposits of basic raw material, unless removal of that material would result in unacceptable impacts on an existing or future community – for example, removal of sand from a site that will later require landfill to achieve a future planned use;
- (f) Sufficient notice should be given of any project that will require such large quantities of any particular basic raw material that there is a risk of creating a significant local supply shortage, to enable approvals to be put in place for additional sources of that material for local consumption. To this end, the Shire will continue to engage relevant State Government agencies and project proponents to encourage such collaboration.

## 2. Exemptions from the Policy

This policy does not apply to the following:

- (a) The extraction of basic raw materials on Crown land (including reserves and pastoral leases), which are covered by *the Mining Act 1978*.
- (b) The extraction of basic raw materials to a depth of no more than 1m and an area of no more than 1ha where the material is to be used for improvements on the same property as a borrow pit, municipal purposes or road construction.

## 3. Approval Requirements


Council Development Approval is required for new applications

Where a new extractive industry is proposed, or an existing industry is to be increased in size over what was originally approved, Development Approval by full Council is required prior to the industry commencing/extending. An Application for Development Approval is required to be lodged in accordance with Council requirements and scheduled fees.

## 4. Consultation

Where Council is prepared to consider an application to commence or renew an extractive industry:



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- (a) The applicant must lodge an accurate precis of the proposal for circulation to residents in accordance with the advertising requirements of Shire's Local Planning Policy – Advertising of Planning Proposals. The precis should contain an accurate site map which outlines in graphic form the proposal, including the phasing of the proposed excavation and subsequent rehabilitation measures.
  - (b) A comprehensive statement of the proposals including details relating to dust and noise suppression measures, water usage and water sourcing location of access points, traffic routes, number of daily truck movements and their capacity, excavation management procedures, the time period associated with any staging, duration times of excavation, specific rehabilitation measure and the future desired land use of the property.
  - (c) Upon receipt of the precis as outlined above, Council's Development and Regulatory Department, if satisfied with the content of the precis, shall in accordance with the provisions of the Local Planning Policy – Advertising of Planning Proposals, notify ratepayers likely to be affected by the proposal, which will include a copy of the precis of the proposed development. Advice of the proposal is to be forwarded to the elected members. Cost of advertising is to be borne by the applicant.

#### **4.1 Officer consideration**

After initial assessment by Shire officers to ensure the required information has been submitted and the application can be considered, the application will be advertised by the Shire in a local newspaper and public submissions invited, to be received by Shire, within 21 days of advertising. As part of the advertising process, all landowners within 2000 metres of the proposed operational area of the extractive industry site will be notified, as will other interested parties, as deemed appropriate.

- (a) As deemed appropriate, the proposal may be referred to the following authorities for comment and recommendations:
  - Department of Biodiversity, Conservation and Attractions (DBCA);
  - Department of Water and Environmental Regulation (DWER);
  - Department of Planning, Lands and Heritage (DPLH);
  - Department of Primary Industries and Regional Development - Agriculture and Food (DPIRD);
  - Department of Mines, Industry Regulation and Safety (DMIRS);
  - Main Roads WA (MRWA).

#### **4.2 Council consideration**

Council will not consider the application for development or the renewal of an excavation licence until:

- (a) The submission period for public comment has expired. In this regard the MDR shall be granted authority by Council to extend the submission period, if after discussion with the CEO, the Manager of Development and Regulation believes such action is in the public interest.

- (b) Council is satisfied in respect to an application to renew the excavation licence that all rehabilitation requirements and/or commitments have been fulfilled.

Matters to be considered by Council

In considering any application, Council will have regard for the following matters:

- (a) Merits – each application be examined on its individual merit having regard for the existing land uses, topography of the land, and its specific location;
- (b) Whether the site is in a visually significant location such as on a ridge, close to a national park or nature reserve, visible from a major road, tourist destination or scenic route;
- (c) Compatibility with adjoining land uses;
- (d) Noise, dust and vibration abatement measures;
- (e) Proximity and buffers to water courses;
- (f) Drainage implications including surface and groundwater impacts;
- (g) Whether the application proposes the clearing of significant remnant vegetation;
- (h) Intended end use of the land and future planning for the area under Council's Local Planning Strategy;
- (i) Rehabilitation measures;
- (j) Weed control;
- (k) Environmental management and measures proposed to be undertaken by operators to address environmental issues;
- (l) Whether the access roads proposed are suitable for the volume of traffic and type of heavy vehicles proposed;
- (m) Whether the site has access to major roads, and whether the existing roads to be used by trucks are in good condition;
- (n) Proposed road haulage route and whether the use of any state controlled roads are proposed;
- (o) Size of trucks and number of truck movements;
- (p) Existence of other extractive industry or heavy haulage-associated use in the vicinity;
- (q) Details of the storage of fuel and flammable materials on the site;
- (r) The storage of toxic materials (if any);
- (s) Details of containment and control measures in the event of spillage;
- (t) Material to be excavated, including maximum depth of excavation, area to be open at any one time and expected pit life; and

- (u) Consistency with the purposes and relevant considerations of Special Control Areas in the Scheme.

## **5. Extractive Industry Classification**

In order to determine what level of information is required for an extractive industry application, a three-class rating system has been developed ranging from Class 1 (small scale) to Class 3 (commercial). As stipulated in Table 1 below, a Class 3 extractive industry would require more information than a Class 1, as the potential impacts of the development are likely to be more profound. The criteria for each of the three Classes are detailed below, along with common examples pertinent to each Class.

### **5.1 Class 1**

An Application can be given a Class 1 rating where the following applies:

- (a) The size of the extraction site is less than or equal to 7500m<sup>2</sup> or 0.75 hectares
- (b) Maximum depth of excavation does not exceed 1.5 metres

Examples of a Class 1 Extractive Industry would include the short-term extraction of gravel or sand for localised construction purpose such as the maintenance of gravel roads, and the construction of dwellings and driveways.

### **5.2 Class 2**

An application can be given a Class 2 rating where the following applies:

- (a) The size of the extraction site is between 0.75 hectares and three (3) hectares
- (b) Maximum depth of excavation does not exceed 3 metres

Example of a Class 2 Extractive Industry would include the regular extraction of sand, gravel or limestone to supply the local market, predominantly for the local building industry. Many of the medium to large building companies have exclusive use of such extraction pits (either owned or leased), in order to construct driveways, and provide clean fill to housing sites across the Toodyay Region.

### **5.3 Class 3**

An application is given a Class 3 rating where the following applies:

- (a) All others which are greater than three (3) hectares in size or 3 metres in depth – or both.

Example of a Class 3 Extractive Industry would include the full-time extraction of sand, gravel or limestone for the purposes of supplying the local, state and international markets. A classic example would be a large lime quarry, which is likely to excavate to a depth in excess of 10-15 metres and be open for several years depending on the level of resource.



## 6. General Development Requirements

Notwithstanding the specific requirements as detailed within Table 1, the following general requirements shall apply to all extractive industry proposals:

- (a) No excavation is to occur within 200 metres of a residence not located on the subject property;
- (b) Buffers in accordance with EPA requirements to be accommodated within the boundaries of the subject property;
- (c) The proposed pit is to be setback a minimum of 30 metres from any public road;
- (d) No excavation is to occur within 50 metres of a water course or body;
- (e) The clearing of remnant vegetation to access basic raw materials is discouraged, however where vegetation is affected as part of the proposal Council will consider the advice from the Department of Water and Environmental Regulation;
- (f) Any extractive industry should not be located within visually obvious locations (locations obvious from major roads, townsites and tourist nodes);
- (g) Class 1 and 2 industries are to provide a written statement verifying that they have complied with all conditions of their planning scheme consent at the time of annual renewal. Class 2 industries may be asked to comply with the Local Law requirements applying to Class 3 operations in regard to annual renewal requirements; at the time of licence approval where the type or size of operation dictates a higher level of monitoring is required.
- (h) New development shall be sited and designed to ensure that known reserves of basic raw materials and minerals shown on the following plans are not unreasonably precluded from future extraction.

## 7. Information applicable to each Class

The following Table (Table 1) dictates what information is required for each extractive industry class. Before referring to Table 1 the applicant should determine the Class (Class 1, 2 or 3) of their application as outlined above. .

### 7.1 Table 1: Extractive Industries – Application Requirements

Information required when applying for an Extractive Industry Licence – (Class 1 – 3)

Key – 'X' = not required, '✓' = required, & 'D' = subject to detail.

| <i>Information Required with Application</i>  | <i>Class 1</i> | <i>Class 2</i> | <i>Class 3</i> |
|---|----------------|----------------|----------------|
| <b>(A) Three (3) copies of site plan to a scale between 1:500 and 1:2000 showing:</b>                                 |                |                |                |
| (i) The existing and proposed land contours based on the Australian Height Datum and plotted at 1m contour intervals. | D              | ✓              | ✓              |

| <i>Information Required with Application</i>   | <i>Class 1</i>                          | <i>Class 2</i>                     | <i>Class 3</i> |
|--|---|------------------------------------|----------------|
| <b>(A) Three (3) copies of site plan to a scale between 1:500 and 1:2000 showing:</b>  |   |                                    |                |
| (ii) Description of Land which the extractive industry 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 thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in proximity to 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 encumbrances over, on, under or adjacent to or in proximity to the land. | ✓                                       | ✓                                  | ✓              |
| (viii) The location of all existing dams, watercourses, drains or sumps on or adjacent to the land.  | D (only in vicinity of extraction site) | ✓                                  | ✓              |
| (ix) The location and description of existing and proposed fences, gates, and warning signs around the land.   | D                                       | D (only in vicinity of major road) | ✓              |
| (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.   | D                                       | ✓                                  | ✓              |

| <i>Information Required with Application</i>  | <i>Class 1</i> | <i>Class 2</i> | <i>Class 3</i> |
|---|----------------|----------------|----------------|
| <b>(A) Three (3) copies of site plan to a scale between 1:500 and 1:2000 showing:</b>                       |                |                |                |
| (xi) The water requirement and sourcing thereof throughout the duration of the proposed site and operations | ✓              | ✓              | ✓              |

| <i>Information Required with Application</i>  | <i>Class 1</i> | <i>Class 2</i>                                       | <i>Class 3</i> |
|---|----------------|--|----------------|
| <b>(B) Three (3) copies of a works and excavation program containing:</b>   |                |  |                |
| (i) The nature and estimated duration of the proposed extraction for which the licence is applied.                                | ✓              | ✓  | ✓              |
| (ii) The stages and the timing of the stages in which it is proposed to carry out the extraction.                                 | X              | (Only if extraction site is greater than 2 hectares) | ✓              |
| (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 the 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. | ✓              | ✓  | ✓              |

| <i>Information Required with Application</i>  | <i>Class 1</i>                        | <i>Class 2</i>  | <i>Class 3</i> |
|---|---------------------------------------|---|----------------|
| <b>(B) Three (3) copies of a works and excavation program containing:</b>   |                                       |   |                |
| (vii) A description of the means of access to the excavation site and the types of thoroughfares to be constructed.   | D                                     | ✓   | ✓              |
| (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.                              | D                                     | ✓   | ✓              |
| (ix) A description of any proposed buildings, treatment plant, tanks, and other improvements.   | (only in vicinity of extraction site) | ✓   | ✓              |
| (x) Details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained.   | D                                     | ✓   | ✓              |
| (xi) A description of the measures to be taken to minimise noise, 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. | D                                     | (applicable where remnant vegetation and water-courses are found on the property) | ✓              |

| <i>Information Required with Application</i>   | <i>Class 1</i>  | <i>Class 2</i> | <i>Class 3</i> |
|--|---|----------------|----------------|
| <b>(B) Three (3) copies of a works and excavation program containing:</b>  |   |                |                |
| (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.         | (Applicable if remnant vegetation will be affected by the proposed excavation site) | ✓              | ✓              |
| (xv) A description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas. | ✓   | ✓              | ✓              |

| <i>Information Required with Application</i>   | <i>Class 1</i> | <i>Class 2</i> | <i>Class 3</i> |
|--|----------------|----------------|----------------|
| <b>(C) Three (3) copies of a rehabilitation and decommissioning program indicating:</b>  |                |                |                |
| (i) The objectives of the program, having due regard to the nature of the surrounding area and 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) How each face is to be made safe and batters sloped.   | D              | ✓              | ✓              |

| <i>Information Required with Application</i>  | <i>Class 1</i>  | <i>Class 2</i> | <i>Class 3</i> |
|---|---|----------------|----------------|
| <b>(C) Three (3) copies of a rehabilitation and decommissioning program indicating:</b>                   |   |                |                |
| (iv) The method by which topsoil is to be replaced and revegetated.                                       | ✓   | ✓              | ✓              |
| (v) The number and type of trees and shrubs to be planted and other landscaping features to be developed. | (only applicable where remnant vegetation has been cleared) | ✓              | ✓              |

## 8. Determining suitability of proposal

In determining the suitability of any extractive industry proposal for a particular site, the following Development Criteria will be assessed. If the Acceptable Development Criteria are met the proposal may be considered more appropriate. If the Acceptable Development Criteria are not met, then the proponent must demonstrate how the proposal still meets the Performance Criteria.

### 8.1 Table 2: Extractive Industries – Development Criteria

| Performance Criteria  | Acceptable Development   |
|---|--|
| Element: Amenity  |  |
| <ol style="list-style-type: none"> <li>1. Development does not prejudice the productive use of agricultural land on site or in the surrounding locality.</li> <li>2. Development does not unduly disrupt surrounding residents by way of vehicular traffic, noise, blasting and dust vibration.</li> <li>3. Consultation has occurred with the local community and relevant government departments.</li> <li>4. The site can be rehabilitated in a way that is compatible with the long-term planning for the site and surrounding area.</li> </ol> | <ol style="list-style-type: none"> <li>1. Development is located away from sensitive land uses unless appropriate measures can be taken to ameliorate adverse impacts.</li> <li>2. Hours of operation are limited to 7am to 7pm Monday to Friday and 7am to 1pm on Saturday. No operation on public holiday days.</li> <li>3. Extraction of material occurs from only one site per property at any one time.</li> <li>4. Sites are filled with clean material only.</li> </ol> |



| Performance Criteria  | Acceptable Development  |
|---|---|
| <b>Element: Environmental</b>   |   |
| <p>1. Development is located so as to minimise impact upon native flora and fauna; groundwater quality, quantity, and use; surface drainage and surface water quality including discharge of sediment and sites of cultural and/or historic significance on or near the land.</p>   | <p>1. Development does not prejudicially affect native flora and fauna; groundwater quality, quantity, and use; surface drainage and surface water quality including discharge of sediment and sites of cultural and/or historic significance on or near the land.</p> <p>2. Dieback is managed in accordance with Best Practice Guidelines Management of Phytophthora Dieback in Extractive Industries (2005 – Dieback Working Group).</p> <p>3. Sites can be suitably rehabilitated in accordance with an agreed management plan.</p>   |
| <b>Element: Buffers</b>   |   |
| <p>1. Development is sited in accordance with the principles of <i>Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 Separation Distances between Industrial and Sensitive Land Uses</i></p> | <p>1. Quarry of hard rock (including blasting), crushing and screening - requires a buffer distance of 1000m.</p> <p>2. Quarry (not hard rock). Processing rock ore etc. by blasting, grinding and milling works – material processed by grinding, milling, or separated by sieving, aeration etc. - requires a buffer distance of 1000m.</p> <p>3. Quarry (no blasting) - material processed by grinding, milling, or separated by sieving, aeration etc. - requires a buffer distance of 500m.</p> <p>4. Sand and limestone extraction no grinding or milling works - Requires a buffer distance of 500m.</p> |

| Performance Criteria  | Acceptable Development   |
|---|--|
| <b>Element: Visual Impact</b>   |  |
| 1. Development is unobtrusive and does not prejudicially affect the natural landscape.  | 1. Development is to be visually <b>unnoticeable</b> in the landscape when viewed from major travel routes.  |
| <b>Element: Transport</b>   |  |
| 1. Development satisfactorily addresses the following issues:<br>(a) Proximity to and interaction with school bus routes;<br>(b) Conditions and nature of roads to be used;<br>(c) Impact on higher traffic volume on higher risk roads;<br>(d) Size of trucks and number of truck movements;<br>(e) Access points to the operation site;<br>(f) Existence of any other extractive industry or heavy haulage in the vicinity and cumulative effects on the transport network; and<br>(g) Comments of Main Roads WA. | 1. Development is located in proximity to heavy haulage routes.<br>2. Development which does not utilise school bus routes for haulage purposes.<br>3. Development where a road maintenance agreement has been entered into with the Shire prior to operation, or where financial contributions have been made to ensure the upgrading of roads where necessary to improve the standard of access. |

## 8.2 Compliance with mine safety requirements

Council will require the Extractive Industry to always comply with all relevant requirements of the *Mines Safety and Inspection Act 1994* and Regulations.

## 8.3 Requirement to obtain Vegetation Clearing Permit

Where the extractive industry necessitates the removal of native vegetation, the applicant is required to seek and obtain a Vegetation Clearing Permit from the Department of Environment and Conservation in accordance with the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

It is the responsibility of the applicant and/or landowner to ensure compliance with the Clearing Vegetation Regulations.

## **8.4 Requirement to obtain registration of licence for a Prescribed Premise**

The extractive industry may require registration or a licence as a 'prescribed premise' from the Department of Environment Regulation under Part V of the Environmental Protection Act 1986 (Environmental Protection Regulations, 1987, Schedule 1) if:

- (a) Category 12: Licensing is required if the material is screened, washed, crushed, ground, milled, sized or separated and more than 50,000 tons/annum is processed.
- (b) Category 70: Registration is required if the material is screened, washed, crushed, ground, milled, sized or separated and more than 5000 tons/annum but less than 50,000 tonnes per annum is processed.
- (c) Category 80: Registration is required if non-metallic minerals are being processed (crushed, ground, milled or separated) and more than 100 tonnes/annum is processed.

## **8.5 Environmental protection requirements**

Where the Extractive Industry is located within a Public Drinking Water Source Area, the operation is to comply with the Department of Water and Environmental Regulation Water Quality Protection Note No. 15.

## **8.6 Weed and disease management plan**

Council will require the operator to develop in consultation with the Department of Water and Environment Regulation, a management plan to control the spread of noxious weeds and diseases.

## **8.7 Security for Site Restoration and Reinstatement**

For the purpose of ensuring that an excavation site is properly restored and/or reinstated, the Shire of Toodyay shall require that the operator (licensee) give to the Shire of Toodyay a bond, bank guarantee or other security, of a kind and in a form acceptable to the Shire of Toodyay, in or for a sum determined by the Shire of Toodyay in accordance with the adopted Schedule of Fees and Charges at the time of application and/or extension.

## **9. Requirement for an Extractive Industry Licence under the Shire's *Extractive Industries Local Law 2008***

Where Council has granted Development Approval for an extractive industry, the operator must apply for an Extractive Industry Licence under the provisions of Council's Extractive Industries Local Law 2008. A person must not carry on an extractive industry unless the person is the holder of a valid and current licence.

Approval for an Extractive Industry Licence is not transferable unless written approval is granted by Council and provided all conditions of the existing approval are met.

On or before 30th June in each year, a licensee shall pay to the Shire the annual licence fee determined by the Shire of Toodyay from time to time.

## 10. Compliance System

Annual audits are undertaken by Shire Staff or consultants to review compliance with extractive industry licence conditions. Any costs associated with this inspection and auditing process will be at the expense of the licence holder. During audits areas of non-compliance are recorded. These areas of non-compliance will be determined to be minor, major or critical as per this policy and assigned points accordingly. The length of licence will be calculated on the total number of non-compliance points accumulated at the most recent audit undertaken in the six months prior to licence renewal. Points achieved in a previous audit will be added to the total score if there has been no action to become compliant or work towards a solution on non-compliance issues.

### 10.1 Non-Compliance Points:

The points for each category of non-compliance are:

| Rating   | Points    |
|----------|-----------|
| Critical | 10 points |
| Major    | 5 points  |
| Minor    | 1 point   |

### 10.2 Length of Licence

The length of licence will be determined by the total score of non-compliance as follows:

| Points Scale      | Term of Licence                               |
|-------------------|---|
| 0 – 2 points      | 5 years                                       |
| 3 – 5 points      | 3 years                                       |
| 5 – 10 points     | 1 year  |
| 11 or more points | Six months * this must be resolved by Council |

### 10.3 Category of Non-Compliance

Scoring of non-compliance against conditions will be determined by one of two systems. Firstly, some conditions will have to be placed on the licence as a critical, major or minor category at the time the extractive industry licence is approved. This is the score non-compliance will receive for these conditions. The categorisation of these conditions will be determined as per Table 3. Other conditions will not have a category placed against them as it is the

severity and number of non-compliances that will affect the rating. These will be determined at the time of audit using Table 4.

**10.4 Table 3**

| Category      | Community concern  | Compliance history of operator   | Consequence   |
|---------------|--|--|---|
| Minor (1)     | None or little valid community concern within the past 2 years on this issue.  | No major or critical non-compliance relating to this issue in the past 5 years and all issues remedied.  | No significant environmental impacts would occur from non-compliance.   |
| Major (5)     | Valid community concern within the past 2 years by up to 3-5 affected residents.   | Major or critical non-compliance history relating to this issue in the past 5 years, but all issues have remedied.   | Significant environmental impacts would occur from non-compliance that could be remedied in the short term (1 month).     |
| Critical (10) | Valid community concern has been raised and significant concerns have been demonstrated to the Shire within the past two years by more than 3-5 affected residents a year. | Non-compliance history relating to this issue in the past 5 years which exceeds 3 major non compliances or one critical non- compliance and has been remedied or any non- compliance that has not been remedied. | Significant environmental impacts would occur from non-compliance that could not be remedied in the short term (1 month). |

**10.5 Table 4**

| Condition  | Critical (10)  | Major (5)                          | Minor (1)  |
|--|--|------------------------------------|--|
| <b>Plans Required</b><br>e.g. vegetation, landscape, water, noise, dust. | No plan submitted for approval and 3 months has passed since first licence and site works commence or due date as specified in licence conditions. | Plans submitted over 30 days late. | Plan submitted prior to commencement of site works for approval or due date as specified in licence conditions but not of approval standard a present. |
|  | Requests ignored for plans.  |                                    | OR plans submitted between 10-30 days late.  |

| Condition  | Critical (10)   | Major (5)  | Minor (1)   |
|--|---|--|---|
| <b>Site Operations</b><br>Requirements relating to site operations e.g. water quality testing, blasting notification, dust management.               | No notification to the Shire within 5 working days of confirmation of critical or major non-compliance and/or no written report within one month with evidence to satisfy the MDR that measures have been undertaken to prevent a recurrence. | Notification to the Shire within 5 working days of confirmation of critical or major non-compliance and written report within one month with evidence to satisfy the MDR that measures have been taken to prevent a recurrence.  | Notification to the Shire within 24 hours of confirmation of critical or major non-compliance and written report within 5 working days with evidence to satisfy the MDR that measures have been undertaken to prevent a recurrence. |
| <b>Site Management and Operations</b><br>Requirements relating to site management e.g. watercourses, weed management.                                | Non-compliance occurred and remedial action undertaken by next audit or no notification of breach of licence condition received for critical or major non compliances.  | Non-compliance occurred and not remediated or no commencement of actions to remedy if long term approach, required within 12 weeks of non-compliance occurrence<br>OR<br>No communication and reporting on remediation being undertaken provided to the Shire on a major or critical non-compliance. | Non-compliance occurred but remediated or commence actions to remedy if long term approach required within 4 weeks of occurrence and this is supported in writing to the Shire.   |
| <b>Site Operations and General Compliance with Development Approval and Licence Conditions:</b><br>Operation and cartage outside of permitted times. | Non-compliance occurred and remedial action undertaken by next audit or no notification of breach of licence condition received for critical or major non compliances.  | Non-compliance occurred and not remediated or no commencement of actions to remedy if long term approach, required within 12 weeks of non-compliance occurrence  | Non-compliance occurred but remediated or commence actions to remedy if long term approach required within 4 weeks of occurrence and this is supported in writing to the Shire.   |



| Condition  | Critical (10)  | Major (5)   | Minor (1)   |
|--|--|---|---|
| Pit area exceeding approved area.<br>Operations outside of approved area.<br>Production exceeding permitted tonnage. |  | OR<br>No communication and reporting on remediation being undertaken provided to the Shire on a major or critical non-compliance.   |   |
| <b>Rehabilitation Condition</b><br>e.g. revegetation site stabilisation.   | Revegetation not completed in accordance with approved plans and licence conditions.<br>OR<br>Revegetation not commenced or there has been no effort to rectify areas of revegetation. | Revegetation not completed in accordance with approved plans and licence conditions, but report submitted to the Shire with a plan of action and timeframe commitment to complete required works. | Revegetation not being completed within proposed timeframe but has been commenced in accordance with approved plans. This excludes where genuine attempts to undertake revegetation has occurred but failed and is being replanted at the next appropriate planting season. |

## 10.6 Licence Conditions Approval

The proposed licence conditions will be drafted and sent to the operator prior to them being presented to Council for adoption. The proposed licence conditions will be sent to the operator with a minimum of three weeks to comment. These comments will be taken into consideration in determining or recommending the licence approval.

## 11. Audits

The frequency of full site audits is determined by the risk of the operation as established in the assessment of the length of the licence.

### 11.1 Table 5

| Total audit score | Length of licence | Frequency of site audits |
|-------------------|-------------------|--------------------------|
|-------------------|-------------------|--------------------------|

| Total audit score | Length of licence | Frequency of site audits |
|-------------------|-------------------|--------------------------|
| 0 – 2             | 5 years           | 1/year – Every 12 months |
| 3 – 5             | 3 years           | 1/year – Every 12 months |
| 6 – 10            | 1 year            | 2/year – Every 6 months  |
| 11+               | 6 months          | 2/year – Every 6 months  |

## 11.2 Audit Notification

The Shire will notify the operator of an audit, in writing, and provide at least two weeks' notice. Notification will include a copy of the audit schedule outlining areas the operator will be audited. This will allow the operator two weeks to provide or seek any clarification on any areas listed in the audit. The process for audits is detailed below:

- (a) Compliance Audit Only (May for 6- and 12-month licences and October for 3 and 5 year licenses).
- (b) Written notification sent to operator advising of site inspection minimum 2 weeks prior with audit assessment sheet attached.
- (c) Site audit undertaken by Shire Officers and/or contractors against current extractive industry licence and development approval. Shire appointed consultants performing this task will be at the expense of the licence holder.
- (d) Operators sent a letter advising of any non-compliances within 2 weeks of site audit and given due dates for remediating areas of non-compliance.

## 11.3 Audit and Assessment of Licence lengths (October)

- (a) Written notification sent to operator advising of site inspection a minimum 2 weeks prior with audit assessment sheet attached.
- (b) Site audit undertaken by Shire Officers and/or contractors against current extractive industry licence and planning approval Shire appointed consultants performing this task will be at the expense of the licence holder.
- (c) Assessment for length of licence undertaken in accordance with Tables 3-5 using completed audit results.
- (d) Draft assessment including recommendation of licence length sent to operator by 7 November for comment.
- (e) Comments due back from operators by 21 November.
- (f) Mediation between operator and officers undertaken if there is disagreement and option given to operator to attend December Concept Forum to present issue/s to Council.

- (g) Item put to December Ordinary Council Meeting on the length of the extractive industry licence for decision with both officers' recommendation and any comment provided on audit and assessment results from the operator.

## **12. Approval process for documents required in licence conditions:**

- (a) Where documents are required to be submitted by a date as set out in licence conditions, the Shire will acknowledge receipt of those documents within 5 working days and will assess the documents within 3 months of receipt.
- (b) Further information or modifications may be requested from the Shire which will also be assessed within 3 months of receipt.
- (c) Where documents are acknowledged as being received by the Council but are not assessed within 3 months of receipt they will be deemed to be approved.
- (d) Plans will not be accepted for assessment within 3 months of the licence renewal date.

## **13. Cost Recovery for Consideration of Applications**

The Shire shall seek to recover from proponents to the maximum extent practicable, the costs associated with the assessment of proposals. The costs that the Shire shall seek to recover shall include but not be limited to the following:

- (a) costs and expenses of advertising the application and advertising matters related to the application.
- (b) costs and expenses of any specific assessment that is required in relation to the application, for example, environmental assessment.
- (c) costs and expenses for the provision of a survey report to establish road conditions prior to the extractive industry licence being granted.
- (d) costs and expenses of consultation procedures required in relation to the application.
- (e) costs and expenses of technical resources and equipment such as computer modelling.
- (f) costs and expenses of specialist advice required in relation to the application, for example, advice in relation to heritage matters.
- (g) costs associated with audit of compliance conditions
- (h) costs associated with the preparation of legal agreements
- (i) costs associated with the erecting and ongoing maintenance of road safety signage

The Shire shall reserve the right to require an applicant to pay estimated costs and expenses that may be incurred by the local government before the costs and expenses are actually incurred. Where any moneys paid in advance by an applicant to a local government for estimated costs or expenses that are not incurred by the local government are to be refunded to the applicant upon a formal determination being made on the application.

**Cost recovery shall also apply to all costs and expenses associated with monitoring during the life of the project including audits and pit closures.**

## **14. Road Maintenance**

Those portions of Shire of Toodyay controlled roads affected by the activities relating to an Extractive Industry site shall be maintained to a standard acceptable to the Shire of Toodyay at the licensee's cost.

To achieve this, the licensee shall pay an annual road maintenance contribution equivalent to an amount specified within the Shire of Toodyay's Annual Schedule of Fees and Charges, for expenses incurred by the Shire of Toodyay for the repair and maintenance of Council's roads.

The road maintenance contribution shall be based on the estimated tonnage of material to be transported to and from the Extractive Industry site. This figure is calculated using the length of Shire controlled roads travelled, number of truck movements, the type of vehicles being used.

The road maintenance contribution shall be made annually for the lifetime of the facility, the conclusion of which will be marked by the completion of all rehabilitation works to the satisfaction of the Shire of Toodyay.

Payment of the road maintenance contribution shall be made in advance, with the first payment due upon the commencement of operations. Thereafter, payment may be made on a quarterly basis.

A report detailing all activities and tonnages of material transported to and from the Extractive Industry site for the financial year period ending 30th June is to be submitted to the Shire of Toodyay by 31st July each year.

The advance payments made through the year shall be reconciled against the actual activities and additional payments shall be sought or credited as appropriate.

Road maintenance contributions for Extractive Industries within the Shire of Toodyay are applicable from the date of effect of this policy.

*Note: These provisions are in addition to the requirements of the Shire of Toodyay Extractive Industry Local Law as amended. All applications are still required to satisfy the requirements of the Shire of Toodyay Extractive Industry Local Law as amended.*

## **15. Rehabilitation**

After excavation of BRM, land will need to be stabilised to suppress sand and dust, which may include revegetation.

All revegetation should be conditioned on the approval, and generally carried out in accordance with an approved revegetation plan.

Rehabilitation is to be undertaken on an ongoing basis for worked areas. Any exhausted/worked areas in excess of 2 hectares need to be reshaped, ripped, topsoil re-spread, dry seeded and a dust suppressant applied to hold the soils in place until the first rains occur. Rehabilitation needs to occur before new excavation.

On-site revegetation may be conducted when cleared land is no longer required for the purpose for which it was cleared. It is important for revegetation projects to be guided by a plan appropriate to the specific conditions and requirements of the site.

The revegetation plan should be prepared in consultation with an environmental specialist with appropriate expertise in revegetation techniques and experience specific to Western Australian conditions.

## **15.1 Pit Rehabilitation Plan**

A Pit Rehabilitation Plan is to be submitted and approved by the Shire of Toodyay in writing. This plan is to address the following issues:

- (a) Restrict the area of open pit to 2 hectares. Larger pits may be considered for extraction where the applicant can demonstrate that it will not have any detrimental impact on the environment or amenity of the area (by lodging a detailed environmental management plan).
- (b) How the portions of land subject to extraction are to be rehabilitated (following each stage of extraction) to allow for future rural use and shall include:
  - (i) Flattening the land;
  - (ii) Spreading of stockpiled topsoil (capable of supporting seed and plant re-growth);
  - (iii) Forming stable battered banks not to be steeper than 1 in 5; and/or
  - (iv) Revegetation using native trees, shrubs and groundcovers / undergrowth.

The pit rehabilitation plan should be developed and executed in accordance with the advice and principles contained in the *DBCA Guidelines for the Management and Rehabilitation of Basic Raw Material Pits (2008)*

## **15.2 Rehabilitation Bond**

For the purpose of ensuring that an excavation site is properly restored or reinstated the Shire will as a condition of approval require the payment of a rehabilitation bond, in accordance with the Shire's Schedule of Fees & Charges.

The proponent must give to the Shire a bond, bank guarantee or other acceptable security, prior to the commencement of operations. The bond will be held in trust pending the satisfactory rehabilitation of the excavation area and site in general, in accordance with the approved Rehabilitation and Decommissioning Plan. Rehabilitation works are to be monitored and information reported to the Shire demonstrating the progress and success of rehabilitation for a two-year period from the conclusion of rehabilitation.

Should the operator fail to carry out or complete the required rehabilitation works within the 60 days of the cessation of excavation, or longer period as agreed to by the Shire, the Shire may carry out or cause to be carried out or complete the required rehabilitation works. The Shire will then use the

rehabilitation bond towards these costs and recover any balance of costs directly from the proponent.

## Reference Information

- [Austroads - Guide to Traffic Management Part 3: Transport Studies and Analysis Methods](#)
- State Planning Policy No.2.4 – Basic Raw Materials;
- [Guidance for the Assessment of Environmental Factors Western Australia \(in accordance with the Environmental Protection Act 1986\) Environmental Protection Authority No. 3 June 2005 Separation Distances between Industrial and Sensitive Land Uses](#)
- EPA Guidance Statements No.3, 51 and 56
- Department of Environment and Conservation Guideline for the Development and Implementation of a Dust Management Program 2008;
- EPA Guidelines for the Prevention of Dust and Smoke from Land Development Sites in Western Australia 1996;
- WAPC - Basic Raw Materials Proponents' Manual 2009; and
- State Planning Policy 2.8 - Bush Forever.
- [Management of Phytophthora Dieback in Extractive Industries \(2005 – Dieback Working Group\).](#)
- DBCA Guidelines for the Management and Rehabilitation of Basic Raw Material Pits
- [Visual Landscape Planning in Western Australia \(2007\)](#)
- Shire of Toodyay Strategic Community Plan – Toodyay 2028

## Legislation

- *Planning and Development Act 2005*
- *Planning and Development Regulations 2009*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- Environmental Protection (Noise) Regulations 1997;
- Environmental Protection (Clearing of Native Vegetation) Regulations 2004;

## Associated documents

Application documentation

## Version control information

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