Extractive Industries

Local Planning Policy 3

Citation

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 (LPP) – 3 Extractive Industries.

Introduction

The purpose of this policy is to ensure that extractive industries are suitably located where they will not cause unacceptable disruption to amenity, the environment or the proper functioning of the transport network in the Shire of Augusta Margaret River (the Shire).

Objectives

Development should result in the following objectives being met:

- Basic raw materials are available for infrastructure in an efficient and environmentally sustainable manner.
- Extractive industries do not adversely affect the environment or amenity of the locality during or after extraction. The existing landscape character and agricultural or tourism land uses are maintained and protected during the operation of the extractive industry and at the conclusion.
- Extractive industries are located in the most appropriate areas of the Shire where land use conflicts can be avoided, where transport infrastructure will adequately service the project and where deposits of raw materials are close to markets.
- Extractive industries are sited and operated to meet the varied needs of the community.
- Extraction occurs where the available haulage routes and road hierarchy are satisfactory or can be upgraded by the proponent to support an extractive industry without affecting the sustainability of the transport resource or the safety of road users.
- Extractive Industries ensure that the environmental and cultural attributes of a site are not unreasonably impacted.
- Proponent's control and minimise the operational impacts of extractive industry on neighbouring land including dust, noise, spread of dieback, vibration, drainage, vegetation and land clearing by the application of development standards, conditions of approval and operational requirements.
- Extractive industries avoid areas of agricultural value and any agricultural land used for extractive industries is suitably rehabilitated for productive use or environmental benefit at the conclusion

Application of this Policy

The policy is applicable to all proposals for extractive industry upon suitably zoned land, with the exception of:

- Extraction of basic raw materials coming under the definition of Mining which is exempt from the requirement to obtain planning approval by virtue of Section 120 of *The Mining Act 1978*.

- In providing advice on any mining proposal and its consistency with the provisions of LPS1, regard will be given to the expectations of amenity and environmental effects set out by this policy.
- Extraction of materials ancillary to normal rural activity, where for use on the same site, and where no processing of the material is required.
- Extraction of basic raw materials coming under the definition of Public Works. Notwithstanding that there is no requirement to obtain development approval for a public work, it should be undertaken in accordance with the requirements of this policy.

Interpretation

For the purpose of this policy terms used have the following meaning:

"basic raw materials" means sand (including silica sand, clay, hard rock (including dimension stone), limestone (including metallurgical limestone), agricultural lime, gravel, gypsum and other construction and road building materials.

"environmentally sensitive area" means those areas where the land could be subject to restriction on the extraction of basic raw materials for an environmental or conservation reason.

"industry – extractive" means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

(a) the processing of raw materials including crushing, screening, washing, blending or grading; and

(b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.

"major tourist routes" means Bussell Highway, Caves Road, Brockman Highway and the main east-west connector roads between Caves Road and Bussell Highway.

"school bus route" means 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 Western Australian Department of Education.

"sensitive land use" shall have the same meaning as contained within the Environmental Protection Authority publication Guidance for the Assessment of Environmental Factors: *Separation Distances between Industrial and Sensitive Land Uses*, No. 3 June 2005.

"visual impact" shall have the same meaning as contained within the Western Australian Planning Commission publication – *Visual Landscape Planning in Western Australia November 2007.*

Relationship to Relevant State Legislation

- Notwithstanding the requirement for an approval to be obtained under the Scheme, a works approval or license application with the Department of Water and Environmental Regulation (DWER) may be required under Part V of the *Environmental Protection Act 1986* (*EP Act*).
- Extractive Industries may be categorised as 'Prescribed Premises', as per Schedule 1 of the *Environmental Protection Regulations 1987* (EP Regulations). The extractive industry categories that trigger the Regulations are:
  - Screening, etc. of material: premises (other than premises within category 5 or 8) on which material extracted from the ground is screened, washed, crushed, ground, milled, sized or separated. 50000 tonnes or more per year.

- Screening, etc. of material: premises on which material extracted from the ground is screened, washed, crushed, ground, milled, sized or separated. More than 5000 but less than 50000 tonnes per year.

- Where extraction requires a works approval, the agency responsible for monitoring the applicant's compliance with management plans is concerned with management of pollution of all types is DWER.
- Where extraction does not require a works approval, the Shire will impose conditions which require the applicant to abide by the requirements of any approved plans which act to control the management of pollution of all types, to the satisfaction of the Shire.
- A referral to the Environmental Protection Authority under Part IV of the EP Act may be required where the Extractive Industry may have a significant impact on the environment.
- A permit may also be required from the Department of Biodiversity and Attractions (DBCA) for the removal or disturbance of Threatened and Priority Flora or Fauna under the *Biodiversity Conservation Act 2016* and the *Biodiversity Conservation Regulations.* Commonwealth Government approval under the *EPBC Act* if nationally significant (protected) fauna, plants, habitats or places could be impacted.
- Any application that involves development on land near a state controlled road, high traffic volumes, or proposed use of Restricted Access Vehicles (larger than 19 metre semi-trailer, 42.5 tonne) will be referred to Main Roads Western Australia (MRWA) for comment. If Council has any reservations over the proposed traffic route or potential traffic impact, it may also seek MRWA advice.

State Planning Policy 2.4

This policy is to be read in conjunction with the relevant provisions of State Planning Policy 2.4 – *Planning for Basic Raw Materials* (July 2021) and the associated *Planning for Basic Raw Materials Guidelines* (July 2021) including the relevant provisions of Part 4 of the guidelines relating to the assessment of proposals for extractive industries.

Penalties for non-compliance

- The *Planning and Development Act 2005* (the Act) sets out a formal legislative process for Local Government to utilise.
- If guilty of an offence pursuant to the Act, the liable penalty for which is $200,000 and in the case of a continuing offence, a further fine of $25,000 for each day of the offence. In the case of businesses/ co-operation and company the penalty is $1,000,000, and in the case of a continuing offence, a further fine of $125,000 for each day of the offence.
- Where a premises is licensed or registered by DWER under the EP Act, community members can report suspected breaches to DWER's 24 hour Pollution Watch hotline – 1300 784 782 or use the Online reporting form.
- The Shire undertakes annual audits of existing Extractive Industry premises where any non-compliances are identified and penalised accordingly.

Policy Provisions

Performance Criteria	Acceptable Development
Element: Amenity	
PC1.1.1 Development does not prejudice the productive use of agricultural land or tourist accommodation on site or in the surrounding locality. PC1.1.2 Development does not unduly disrupt surrounding residents by way of vehicular traffic, noise, blasting, vibration, dust or visual amenity. PC1.1.3 Consultation has occurred with the local community and relevant government departments.	AD 1.1.1 Development is located away from **sensitive landuses** unless appropriate measures can be taken to ameliorate adverse impacts. AD 1.1.2 Hours of operation are limited to 7am to 5pm Monday to Friday and 8am to 1pm on Saturdays. No operations on Sundays and recognised public holidays. AD 1.1.4 Extraction of material occurs from only one site per property at any one time. AD 1.1.5 Sites are filled with clean material only.
Element: Environment	
PC1.2.1 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. PC1.2.2 Extractive Industry to be prohibited in areas of rare and endangered flora and fauna, threatened or poorly represented ecological communities. PC1.2.3 Proximity to water resources in the catchment including watercourses, wetlands, drains and dams and the need for surface drainage and groundwater management plans. PC1.2.4 Disturbed areas in excess of 2ha need to be reshaped, ripped, top soil respread, dry seeded and a dust suppressant applied to hold the soils in place until first rains occur.	AD 1.2.1 Development does not prejudicially effect 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 the land. Where relevant an extractive industry is to incorporate a wetland buffer and be setback a minimum of 100m from all wetlands. AD 1.2.2 Acid Sulphate Soil Risks Assessment required in areas with soil with a risk of Acid Sulphate Soils as determined in the DWER's Guideline – *Identification and investigation of acid sulfate soils and acidic landscapes*. AD 1.2.3 Dieback is managed in accordance with Best Practice Guidelines – *Management of Phytophthora Dieback in Extractive Industries* (Dieback Working Group Inc 2021). AD 1.2.4 The site is able to be rehabilitated in a way that is compatible with the long term planning for the site and surrounding area. Rehabilitation is to be undertaken on an ongoing basis for completed cells. Where clearing of native vegetation has occurred, revegetation shall be undertaken in such a way to recreate and restore the native vegetation of the site and enhance environmental linkages within and beyond the site.

	AD 1.2.5 A revegetation plan prepared by a suitably qualified environmental specialist in revegetation techniques and experience specific to Western Australian conditions shall be prepared in accordance with DWER's publication *'A Guide to Preparing Revegetation Plans for Clearing Permits (2018).'*
Element: Buffers	
PC1.3 Development is sited in accordance with the principles of State Planning Policy 4.1 State Industrial Buffer Policy and Guidance Note 3 – *Separation Distances Between Industrial and Sensitive Land Uses* (EPA – 2005).	AD 1.3.1 Quarry of hard rock (including blasting), crushing and screening - requires a buffer distance of 1000m; or AD 1.3.2 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; or AD 1.3.3 Quarry (no blasting) - material processed by grinding, milling or separated by sieving, aeration etc. - requires a buffer distance of 500m; or AD 1.3.4 Gravel extraction processed by grinding, milling or separated by sieving, aeration etc. – requires a buffer distance of 500m; or AD 1.3.5 Sand and limestone extraction no grinding or milling works - requires a buffer distance of 500m.
Element: Visual Impact	
PC1.4 Development is unobtrusive and does not prejudicially affect the natural landscape.	AD 1.4.1 Development is to be visually inevident in the landscape when viewed from major tourist routes. AD1.4.2 Outside of major tourist routes, development is to comply with the visual management guidelines of the Council's Local Planning Strategy and State Planning Policy 6.1 – Leeuwin Naturaliste Ridge (if applicable). AD1.4.3 A vegetative screen of an appropriate width depending on the size and life of the extractive industry shall be provided to assist with visual impacts and help mitigate dust impacts. Vegetation should be of substantive size to provide an appropriate screen during the operation of the industry.

	AD1.4.4 Noise mitigation bunds or stockpiles are not to be of size or height so as to cause unacceptable visual impact when viewed from neighbouring properties or public roads.
Element: Transport	
PC1.5 Development satisfactorily addresses the following issues in a Traffic Impact Assessment: • Proximity to and interaction with school bus routes; • Conditions and nature of roads to be used; • Impact on higher traffic volume on higher risk roads; • Size of trucks and number of truck movements; • Access points to the operation site; • Existence of any other extractive industry or heavy haulage in the vicinity and cumulative effects on the transport network; and • Comments of Main Roads WA. • Maintenance and standards of the roads.	AD1.5.1 Development is located in proximity to heavy haulage routes. AD1.5.2 Development which does not utilise school bus routes for haulage purposes. AD1.5.3 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.
Element: Compliance	
PC1.6 If non-compliances are identified, during audits of existing and approved Extractive Industries by the Shire or by other means, any application for renewal may only be granted a maximum term of 12 months. PC1.7 Non-compliance with an approval granted for an extractive industry, or activities undertaken to facilitate an extractive industry without prior planning approval will result in the Shire commencing enforcement measures to ensure compliance.	AD1.6.1 Where approval for extraction is granted, the maximum term shall be a period of not more than 5 years. AD 1.6.2 Operators will be required to provide an annual Audit of Compliance detailing such things as: • duration and volume of crushing; • tonnage of sand removed from the site; • average and maximum haulage vehicle movements • Pre and post extraction surveys (where rehabilitation occurs on a staged basis.

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