

LOCAL PLANNING POLICY

LPP21: EXTRACTIVE INDUSTRY

<i>Responsible Department</i>	Development Services
<i>Resolution Number</i>	C.3003
<i>Resolution Date</i>	19/04/2017
<i>Next Scheduled Review</i>	2021
<i>Related Shire Documents</i>	Local Planning Scheme No. 6
<i>Related Legislation</i>	Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015

OBJECTIVES

The primary objectives of this Policy are to:

- Assist Council in determining applications for Extractive Industries by providing general guidelines and outlining matters Council will have regard for in assessing applications;
- Outline the information to be provided by applicants when requesting Development Approval for Extractive Industry;
- Provide for appropriate 'buffers' between Extractive Industries and sensitive land uses;
- Protect and maintain the existing landscape character, native vegetation, productive agricultural uses and general amenity of the Shire;
- Ensure those portions of Shire of Northam controlled roads affected by the activities relating to Extractive Industries are maintained to a minimum acceptable standard at no extra burden of cost to Council;
- Prescribe an annual road maintenance contribution, applicable to all Extractive Industries within the Shire of Northam, for recovery of expenses towards maintenance and repair of roads due to heavy and/or extraordinary traffic associated with the operation of an Extractive Industry, in keeping with Sections 84 and 85 of the Road Traffic Act 1974; and

- Ensure that the prescribed road maintenance contribution correlates with activity and usage of the Shire of Northam road network.

PRELIMINARY

Authority to prepare and adopt a Local Planning Policy

Schedule 2, Part 2, clause 3(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) allows Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Shire's Local Planning Scheme No.6 (the Scheme) area.

This policy will be made effective once Council has completed the process stipulated in clause 4(1) up to and including clause 4(4) of the Regulations.

Relationship of this Policy to the Scheme

If a provision of this Policy is inconsistent with the Scheme, the Scheme prevails. This Local Planning Policy is not part of the Scheme and does not bind Council in respect of any application for development approval. However, Council shall have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Relationship of this Policy to the Shire of Northam Extractive Industries Local Law 2008

The Shire of Northam requires an extractive industry licence to be issued under the provisions of the *Shire of Northam 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.

If a provision of this Policy is inconsistent with a provision of the EI Local Law, the Policy prevails to the extent of the inconsistency.

APPLICATION OF THE POLICY

Definition of Extractive Industry

For the purposes of this Policy, the definition of "extractive industry" as provided in Schedule 1 of the Scheme applies, namely "...an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land 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, but does not include industry – mining”

Application and Exemptions

The purpose of this Policy is to provide development controls for the establishment, operation and rehabilitation of Extractive Industries in the General Industry, Rural and Rural Smallholding zones as identified by the Scheme.

This policy does not apply to the commercial extraction of minerals for which the approval of the Department of Mines and Petroleum under the *Mining Act 1978* (as amended) is required.

APPROVAL REQUIREMENTS

Council Development Approval 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.

Information to be submitted with Application

The following information in the form of a ‘Pit Management Plan’ is to be provided with the Application for Development Approval:

- a) A plan showing the location any existing and proposed excavation of the land showing distances to property boundaries, water courses, remnant vegetation and buildings;
- b) Details of the material to be excavated, including maximum depth of excavation, area to be open at any one time and expected pit life;
- c) Details of the proposed number and size of trucks entering and leaving the site each day/week/month (as appropriate) and the route of routes to be taken by those vehicles;
- d) A description of the measures to be taken to minimise dust nuisance, erosion, watercourse salinity and dangers to the general public;
- e) Demonstrating that any sensitive land uses (e.g. residences) within 0.5km - 1km of the site will not be adversely affected;
- f) Details of measures to be taken as appropriate to minimise impacts on groundwater quality, visual pollution, flora and fauna and sites of cultural or heritage significance;
- g) Details of the storage of fuel and flammable materials on the site;

- h) What rehabilitation/reinstatement of the excavation site is to be undertaken upon completion of the extraction, including a cost estimate of the rehabilitation/reinstatement works from an independent contractor / consultant; and
- i) Any other information that Council may require in considering the application.

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) Material to be excavated, including maximum depth of excavation, area to be open at any one time and expected pit life; and
- s) Consistency with the purposes and relevant considerations of Special Control Areas in the Scheme.

Requirement for an Extractive Industry Licence under Shire of Northam 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 of Northam the annual licence fee determined by the Shire of Northam from time to time.

DEVELOPMENT GUIDELINES

1. Boundary setbacks

The following setbacks will generally be applied to excavation areas/pits:

- A minimum of 75 metres to any road or thoroughfare;
- A minimum of 50 metres to any property boundary in a different ownership; and
- A minimum of 50 metres to any water course or stands of remnant vegetation.

2. Buffers

Generic buffers to sensitive land uses

Table 1- Generic buffers

Industry	Description of Industry	Buffer distance (m)
Clay extraction or processing	Mining, extraction or processing of clay	500 – 1,000 depending on size

Extractive Industry – hard rock	quarrying (including blasting), crushing and screening	500 - 1,000 depending on size
Extractive Industry – sand, gravel & limestone	no grinding or works	300 - 500 depending on size

3. Compliance with mine safety requirements

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

4. 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.

5. 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:

- 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.
- 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.
- 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.

6. 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.

7. Weed and disease management plan

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

8. Pit Rehabilitation Plan

A Pit Rehabilitation Plan is to be submitted and approved by the Shire of Northam in writing. This plan is to address (but not be limited to) the following issues:

- 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).
- 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:
 - Flattening the land;
 - Spreading of stockpiled topsoil (capable of supporting seed and plant re-growth);
 - Forming stable battered banks not to be steeper than 1 in 5; and/or
 - Revegetation using native trees, shrubs and groundcovers / undergrowth.

9. Security for Site Restoration and Reinstatement

For the purpose of ensuring that an excavation site is properly restored and/or reinstated, the Shire of Northam shall require that the operator (licensee) give to the Shire of Northam a bond, bank guarantee or other security, of a kind and in a form acceptable to the Shire of Northam, in or for a sum determined by the Shire of Northam from time to time.

10. Road Maintenance Contribution

Those portions of Shire of Northam controlled roads affected by the activities relating to an Extractive Industry site shall be maintained to a standard acceptable to the Shire of Northam at the operator's (i.e. licensee's) cost. The licensee shall pay an annual road maintenance contribution equivalent to an amount specified as shown at **Table 2** below for expenses incurred by the Shire of Northam for the repair and maintenance of Shire of Northam controlled roads.

Table 2 - Road maintenance contribution

Tonnes per annum	Fee per tonne
Less than 2,000 tonnes per annum	Nil
2,000 tonnes to 40,000 tonnes per annum	50c per tonne
>40,000 tonnes per annum (per tonne)	As negotiated at time of application (minimum of 50c per tonne)

The road maintenance contribution shall be based on the estimated tonnage of material to be transported from the Extractive Industry site.

The road maintenance contribution shall be made annually for the lifetime of the facility.

Payment of the road maintenance contribution shall be made in advance, with the first payment due upon the commencement of operations and thereafter on an annual 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 Northam by 31st July each year.