

LPP009 – Local Planning Policy – Extractive industries

1. Citation

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). This Policy may be cited as Local Planning Policy No. 9 *Extractive industries*.

2. Purpose

The Shire has significant deposits of basic raw materials, including limestone, sand, granite and gravel. The proximity and volume of these materials to major developments and infrastructure projects lends to lower transport costs and reliability of supply. The supply of these materials is recognised as playing a critical role in contributing to the future growth and development of the Perth, Peel and South West regions.

A well designed, located and operated extractive industry can supply much needed resources for decades and work in harmony with the locality. The Shire strongly supports extractive industry development where it meets the four principles of sustainable development: economic, social, environmental and governance.

The purpose of this Policy is to set the tone for the sustainable development of extractive industries to ensure that they are:

- Located and designed appropriately; and
- Operated in accordance with best practice.

This Policy aims to provide transparency and clear expectations around assessment of new proposals and the review or renewal under either an extractive industry licence or development application.

The Shire will also give due regard to this Policy when considering its response to proposals under the *Mining Act 1978*.

3. Objectives

The objectives of this Policy are to:

1. Protect basic raw material resources in significant geological supply areas and operating extraction sites by avoiding encroachment from incompatible land uses.
2. Ensure that the extraction of basic raw materials avoids and mitigates any adverse impacts on the community, water resources and biodiversity values.
3. Protect and maintain the landscape character, productive agricultural land and the general amenity of an area with the appropriate location of operations.
4. Avoid and mitigate the operational impacts of extractive industry, including pollution and emissions.
5. Ensure that development does not have an unacceptable impact on the environmental attributes of an area and achieves nature positive outcomes during and upon completion of operations.
6. Achieve a high level of surface and sub-surface water protection.

7. Maintain or enhance efficiency and safety along transport routes.
8. Ensure that the proposed location and operations are compatible with the road hierarchy, or the road network can be upgraded and maintained to a minimum acceptable standard at no burden of cost to the Shire.
9. Protect land identified as 'Priority Agricultural Land' and ensure that agricultural uses throughout the local government area are not impacted or sterilised during operations or post mining.

4. Definitions

Restoration/Rehabilitation refers to the activities following extraction activities. This includes the process of repairing the damage done to make a site safe and stable and creating a landscape that can support self-sufficient future uses of the land.

Separation distance means the distance recommended by the Environmental Protection Authority (EPA) to separate a source of emissions from sensitive land uses. Separation distances are determined in accordance with the EPA Guidance Statement No.3 - *Separation Distances between Industrial and Sensitive Land Uses* and should guide the establishment of transitional land uses that ensure the protection of community health, safety and amenity.

The separation distance has been established as the shortest distance between the boundary of an impacting land use (such as industrial) and the boundary of a sensitive land use (residential, for example). Separation distances provide protection to sensitive land uses from an impacting land use but also protect the impacting land use from encroachment of incompatible land uses.

Sensitive land uses means land uses that are residential or institutional in nature, where people live or regularly spend extended periods of time. These include dwellings, short-stay accommodation, schools, hospitals and childcare centres and generally exclude commercial or industrial premises.

Transport impact assessment (TIA) means an assessment that determines the types and level of transport-related impacts on the community and amenity that may be generated from development and necessary mitigation actions. TIA guidelines support transport planning information, the level of information required and the format in which it should be presented for consideration.

Threatened Ecological Community (TEC) means:

- (a) a threatened ecological community as defined in the *Biodiversity Conservation Act 2016* section 5(1); or
- (b) any other ecological community listed, designated or declared as threatened, endangered or vulnerable under or for the purposes of a written law; or
- (c) a listed threatened ecological community as defined in the Commonwealth Environment Act section 528.

5. Policy application

This Policy and Guidelines apply to all extractive industries development, including new proposals, amendments and renewals determined under either the *Planning and Development Act 2005* or the Shire's Extractive Industries Local Law.

In considering a mining proposal, determined under the *Mining Act 1978*, the Shire will give due regard to this Policy.

6. Information requirements

Information required as part of a new development application or as part of a renewal is contained within the attached Guidelines.

7. Policy provisions

Development should comply with the following measures.

7.1 General policy provisions

Development is to be consistent with and demonstrate compliance with the objectives specified in this Policy and the provisions contained within the Guidelines.

Approval period

For the purpose of the applicant's long-term planning, the Shire is prepared to consider the granting of a development approval or extractive industry licence for a period of up to five years. The approval or licence may specify conditions which need to be met prior to commencement of operations as well as conditions which are to be met on an ongoing basis.

The purpose of the five year approval or licence period is to ensure that operations are occurring in a compliant manner, management plans are functioning as intended and the operations are not negatively impacting the social, economic or environmental characteristics of the area.

Notwithstanding this requirement, an approval for a period exceeding five years may be issued where the extraction material is basalt/hard rock and subject to the conditions of operation being reviewed on a five year interval to respond to changing circumstances.

Hours of operation

Hours of operation apply to all activities including, but not limited to, the clearing, blasting, extraction, processing, stockpiling, rehabilitation and transport.

Hours of operation shall generally be limited to between 7am and 5pm Monday to Friday only. No Sundays or public holidays.

The Shire may consent to Saturday operations subject to:

- Where outside the setbacks nominated for sensitive land uses – 8am and 1pm.
- Where within the setbacks nominated for sensitive land uses - The work being for rehabilitation purposes only, e.g. reshaping, topsoil spreading, watering and reseeding or planting. The use of deep ripping with heavy machinery on a Saturday will generally be prohibited due to noise concerns and Saturday rehabilitation will only be permitted provided complaints are not received from nearby land owners, in which event the approval may be removed or varied.

Staging and restoration/rehabilitation timing

The area of the pit to be open at any one time shall be no greater than two (2) hectares. Rehabilitation shall be undertaken on an incremental, staged and ongoing basis for worked areas. This shall not be left to the end of extraction operations over the property.

Prior to the commencement of the next stage of extraction, all exhausted/worked areas need to be reshaped, ripped, topsoil respread, dry seeded and a dust suppressant applied to hold the soils in place until the first rains occur.

Planting of tubestock shall occur during the next available winter.

Financial security for restoration/rehabilitation works

The Shire will only accept a financial security that accrues interest. This shall be lodged prior to the commencement or continuation of works. Securities that do not accrue interest, are not appropriate. A security must accrue interest, given that restoration/rehabilitation works may not be completed for a prolonged period of time and inflation will effectively reduce the value of the security held. The aim is to retain a financial incentive for the operator to undertake the required works.

This shall be informed by the restoration/rehabilitation plan with a detailed and itemised breakdown of costs. An additional 25 percent security shall be added to provide a financial incentive for successful works and in case the Shire is required to complete the works.

A legal agreement, generally a rehabilitation bond agreement or deed shall be entered into by both the Shire and the operator, prior to the commencement of works. This shall address the security being held and outline the conditions of release and/or use. All costs associated with the drafting, review and execution shall be borne by the operator.

A minimum of three summers shall pass following the completion of each stage of the rehabilitation works to ensure adequate survival and longevity, prior to any part of the bond or security being returned.

Annual fee

An annual fee will be applicable to all approvals, generally imposed on the Licence. This is designed to cover the costs of administration and regulatory functions of the Shire, including ensuring the compliance of operations and an annual inspection.

Annual compliance report

All approvals will be subject to a condition that requires the operator to submit an annual compliance report by 30 June of each year. This shall report on compliance with each of the conditions imposed and include a detailed pit survey, completed by a licenced surveyor.

Setbacks

Shall be setback a minimum of 50 metres from all property boundaries. This includes, but is not limited to, stockpiles, topsoil, pit and incidental structures.

Road deterioration

Extractive industries can create a concentration of heavy vehicles accessing local roads to traverse from the site. This concentration of heavy vehicles can cause damage to local roads and result in safety and efficiency problems and a cost burden to the local government if not appropriately addressed.

Where a transport route is located along an unsealed road, the road shall be upgraded to an appropriately sealed standard. The cost of deterioration for roads shall be passed onto the extractive industry, as the source of the heavy traffic. The *Shire's Road Deterioration Preservation Funding for Extractive Industries* calculator provides a consistent and transparent process which includes industry standard formulas that can be used to calculate the value of deterioration of the pavement for a given number of truck movements.

7.2 Land use compatibility

Objectives:

- (a) Proximity and management techniques ensure that off-site impacts are mitigated to protect sensitive land uses, surrounding landholder amenity and environmental characteristics.

- (b) The scale and nature of operations in the context of the surrounding area is sympathetic and responsive.
- (c) Management techniques clearly demonstrate how pollution and emissions are prevented.
- (d) 'Priority Agricultural Land' and other agricultural land uses will not be impacted.

Refer to the Guidelines for the policy provisions.

7.3 Environment

Objectives:

- (a) The proposal will result in a nature positive outcome during and upon completion of operations.
- (b) Threatened Ecological Communities are not adversely impacted.
- (c) Remnant native vegetation, ecological linkages and fauna foraging, nesting and roosting sites are protected and enhanced.
- (d) Water dependent ecosystems are protected.
- (e) The spread of dieback is prevented.
- (f) Sufficient measures are in place to prevent weeds that are 'Declared' and 'Weeds of National Significance' from establishing and spreading.
- (g) Acid Sulfate Soils are not triggered.

Refer to the Guidelines for the policy provisions.

7.4 Visual amenity

Objectives:

- (a) Protect landscapes with high aesthetic value and encourage the restoration of degraded landscapes.
- (b) Protect rural landscape vistas from the introduction of industrial land uses that detract from the visual amenity, especially by means of open pits and stockpiling of material.
- (c) Consider the capacity of landscapes to absorb development and the need for careful planning, siting and design in a way which is sensitive to the character of the landscape.

Refer to the Guidelines for the policy provisions.

7.5 Transport

Objectives:

- (a) Safeguard school bus routes from an increased risk to safety, especially where children may be waiting for pick up or being dropped off.
- (b) Existing Shire roads have the capacity and capability to handle expected vehicle types and volumes.

- (c) Ensure that the projected traffic volumes and types do not prejudice road safety or capacity.
- (d) Ensure that the Shire is not financially or resource burdened by increased road deterioration.

Refer to the Guidelines for the policy provisions.

Division		Planning			
Policy Number		LPP009			
Contact Officer		Coordinator Regulatory & Development Services			
Related Legislation		Planning and Development (Local Planning Schemes) Regulations 2015			
Related Shire Documents		Local Planning Scheme No. 7			
Risk Rating	Low	Review Frequency	As required	Next Review	When Required
Date Adopted		Click or tap to enter a date.			
Amendments					
Date	Details of Amendment				Reference
Click or tap to enter a date.					