

Introduction

The Shire of Capel recognises the supply of basic raw material as an important contributor to the economic development of the Shire as well as the wider South West Region and a critical component of the land development process.

This Policy establishes the Shire's position in relation to the sustainable location, management and rehabilitation of Extractive Industries where they will not cause disruption to amenity, the environment or the proper functioning of the transport network.

The Policy also details the Shire's approach to application requirements and assessment of development applications including groundwater resource protection, batter slopes, rehabilitation, bonding and ongoing monitoring in accordance with the policy objectives.

This Local Planning Policy has been adopted by the Shire of Capel in accordance with the provisions of Schedule 2, Part 2, Div. 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

Purpose

The objectives of this Policy are to:

1. Ensure extractive industries do not adversely affect the environment or the amenity of the locality during or after extraction.
2. Ensure extractive industries are in the most appropriate locations.
3. Ensure volumes of extraction occurs where the available haulage routes and road hierarchy are satisfactory or can be upgraded to support an extractive industry without affecting the safety of road users and the sustainability of the transport network.
4. Achieve a high level of staged rehabilitation to native vegetation where required or where clearing of remnant native vegetation is proposed and approved.
5. Achieve a high level of groundwater resource protection.
6. Clearly outline matters required to be addressed by proponents.
7. To provide clarity of the development assessment process for proponents and the broader community.
8. Inform the community and stakeholders of the importance of a rigorous assessment process and the reasoning for the Shire's policy stance.

Application

This Local Planning Policy applies to all extractive industry proposals within the Rural, Priority Agriculture and General Industry zones applicable under the Shire of Capel Local Planning Scheme No.8 (Scheme 8) except in the following circumstances:

- a) Extraction of material coming under the definition of Mining which is exempt from the requirement to obtain development 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 Scheme 8, regard will be given to the expectations of amenity and environmental effects set out by this Policy.
- b) Extraction of materials ancillary to normal rural activity, where for use on the same site and where no processing of the material is required.
- c) Extraction of material that falls under the definition of Public Works. Notwithstanding there is no requirement to obtain development approval for a public work, it should be undertaken in accordance with the requirements of this policy.

This policy has due regard to and is to be read in conjunction with the following:

- State Planning Strategy 2050.
- Greater Bunbury Strategy 2013.
- Greater Bunbury Region Scheme, Strategic Minerals and Basic Raw Material Resources Policy 2018.
- Statement of Planning Policy No.2 Environment and Natural Resources Policy.
- State Planning Policy No. 2.4 Basic Raw Materials (2021) including:
 - Explanatory note: SPP 2.4 Planning for Basic Raw Materials.
 - Planning for Basic Raw Materials Guidelines.
- State Planning Policy 2.5 Rural Planning (2016).
- Shire of Capel Local Planning Strategy.
- Planning Bulletin 94 Approval Requirements for Public Works and Development by Public Authorities.
- Environmental Protection Authority Guidance Statement No. 3 Separation Distances between Industrial and Sensitive Land Uses 2005.

In relation to this Local Planning Policy and the Shire of Capel Local Planning Scheme No.8, the definition of an extractive industry is defined as:

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

“Land Degradation” is defined under the Soil and Land Conservation Act 1945 as *‘soil erosion, salinity, eutrophication and flooding; and the removal or deterioration of natural or introduced vegetation, that may be detrimental to the present or future use of land.’*

“Tandem Drive 4 Network” refers to the prime movers and trailer combinations as part of the restricted access vehicle (RAV) categories. Category 4 relates to 4A – A double vehicles with a maximum length of 27.5 metres, and maximum mass of 88.5 tonnes.

Prior to application lodgement, landowners and applicants are encouraged to discuss all development proposals with Shire officers including making a presentation to the Shire’s Development Coordination Unit to determine whether the terms and requirements of this policy apply.

Policy Statement

In determining the suitability of any extractive industry proposal for a particular site, the following policy measures 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.

Performance Criteria	Acceptable Development
Element: Amenity	
<p>PC1.1.1 Development is to demonstrate a negligible impact on the amenity of residential areas by way of vehicular traffic, noise, dust, blasting and vibration.</p> <p>PC1.1.2. Development does not result in land degradation, or a landform that prejudices the productive end use of the site in accordance with the objectives of the zone.</p>	<p>AD1.1.1 Hours of operation are limited to 7am to 7pm Monday to Friday and 7am to 1pm on Saturday. No operation on Sundays or recognised public holiday days.</p> <p>AD 1.1.2 Development is located, designed and rehabilitated compatible with long-term planning and environmental protection.</p>
Element: Environmental	
<p>PC1.2.1 With advice from relevant state government departments, development is located to minimise the 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>PC1.2.2 Development is located and managed to minimise the spread of Phytophthora (Dieback).</p> <p>PC1.2.3 Development is located and managed to achieve a high level of surface and groundwater resource protection to provide soil depth for rehabilitation, future land use and a buffer against groundwater contamination and exposing groundwater.</p> <p>PC1.2.4 Final excavation batters to achieve</p>	<p>AD1.2.1 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>AD1.2.2 Dieback is managed in accordance with Best Practice Guidelines – Management of Phytophthora Dieback in Extractive Industries (2005 – Dieback Working Group) as detailed within an agreed Dieback Management Plan.</p> <p>AD1.2.3 Excavation shall not occur within 2 metres of the estimated maximum ground water level.</p> <p>AD1.2.4 Batter slopes with gradients up to 1:6</p>

<p>rehabilitated slopes compatible with future land use, existing soil structure, topography, and positive environmental outcomes.</p> <p>PC1.2.5 Development is located and managed to achieve a high level of staged rehabilitation.</p>	<p>when rehabilitated to pasture for agricultural land uses and/or native revegetation.</p> <p>AD1.2.5 Sites to be rehabilitated in accordance with an agreed Environmental Management Plan and Rehabilitation Implementation Plan prepared and implemented in accordance with application and bonding requirements as specified in Appendix 1 of this Policy. For hard rock extraction sites, an end-of-life pit plan is to be provided and agreed upon between the Shire and applicant at least 5 years prior to the expiration of the approval's validity.</p>
Element: Buffers	
<p>PC1.3 Development to demonstrate satisfactory mitigation and management measures in accordance with SPP4.1 Industrial Interface and Guidance Note 3 – Separation Distances Between Industrial and Sensitive Land Uses (EPA – 2005</p>	<p>AD1.3.1 Buffer distances to be in accordance with Guidance Note 3 – Separation Distances Between Industrial and Sensitive Land Uses (EPA – 2005).</p>
Element: Visual Impact	
<p>PC1.4 Through Development of an adopted Rehabilitation Plan, the final landform shall not have a significant detrimental impact on visual amenity of the landscape when viewed from surrounding sites.</p>	<p>AD1.4.1 Visual screening to be provided through retention of existing vegetation and /or provision of an appropriate landscaping screen/bund to the satisfaction of the Shire. No walls or solid fences will be considered.</p>
Element: Transport	
<p>PC1.5 Development satisfactorily addresses the following issues:</p> <p>PC1.5.1 The proposed haulage route is not to have a detrimental impact on safety and amenity of residents, and local road users.</p> <p>PC1.5.2 The application is accompanied by a Traffic Management Plan to demonstrate that haulage periods that conflict with school pick and drop off times are acceptable in their impact to the safety of the road network.</p> <p>PC1.5.3 The applicant is to demonstrate that the haulage traffic will not have adverse impacts on the locality by virtue of noise, dust pollution, and</p>	<p>AD1.5.1 Haulage is to be wholly contained to the 'Tandem Drive 4' Network route, as identified by Main Roads Western Australia.</p> <p>AD1.5.2 Haulage traffic is to be proposed at times of the day which will minimise conflict with school pick up and drop off hours (7:30am-9am and 2:30pm-4pm Mondays to Fridays)</p> <p>AD1.5.3 Where available, haulage traffic is to utilise road networks which have a sealed surface, and appropriate designed to accommodate the proposed vehicle types.</p> <p>AD1.5.4 Development application is accompanied by a Traffic Impact Assessment that demonstrates the local road network capacity is sufficient to</p>

<p>safety, and that suitable arrangements be made by the developer to ensure the road is maintained to an appropriate standard.</p> <p>PC1.5.4 Development does not create hazards to other road users, impact on sustainability of the transport network, nor negatively impact on the amenity of the residences along the route, in terms of:</p> <ul style="list-style-type: none"> • 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. 	<p>accommodate the additional traffic and proposed truck volumes generated by the development.</p>
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Procedure

Any approval will be for a period of up to 10 years (no excavation to occur within 3 years of the date in which the approval expires) after which the use must cease unless a further application for Development Approval is granted by the Council and an application for an Extractive Industry Licence has been approved by the Shire.

Notwithstanding the above, any initial approval for a hard rock Extractive Industry application will be for a period of up to 20 years after which the use must cease unless a further application for Development Approval is granted by the Council and an application for an Extractive Industry Licence has been approved by the Shire.

Before carrying out any development, any other licences, permits or approvals required must be obtained in accordance with any other law. The Shire will only issue an extractive industry licence under the Local Law once all conditions requiring clearance prior to the commencement of development are approved by both the Shire’s Development Services, and Projects, Engineering, and Assets.

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Reviewer:		Legislation:	Local Government Act 1995 Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015
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Amended:		Risk:	
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Appendix 1 - Extractive Industry Application Requirements and Assessment Processes

Introduction

Appendix 1 to the Policy details extractive industry application requirements and assessment processes.

The Shire of Capel requires:

- An application for Development Approval for the land use of Industry Extractive.
- Application for an Extractive Industry Licence.
- Where applicable, a Greater Bunbury Region Scheme application for Planning Approval.

Application Requirements

To enable consistent lodgment of applications and assessment of any proposal by the Shire, government referral agencies, the community and the Council, the following information is required to be submitted.

A. Development and Extractive Industry Licence applications report detailing the following:

Executive Summary

1. Introduction

2. Background information including:

- a. Location, area and property ownership
- b. Landuse and zoning
- c. Soils and topography
- d. Groundwater
- e. Surface water
- f. Flora and vegetation
- g. Dieback
- h. Fauna
- i. Crown land and reserves
- j. Heritage
- k. Surrounding residents
- l. Existing utilities and services

3. Planning framework (including Extractive Industry Local Law)

4. Proposed development

- a. Summary of works (including material to be excavated)
- b. Extraction area and setbacks
- c. Resource availability and duration of operations
- d. Staging and timing
- e. Clearing methods
- f. Topsoil handling
- g. Excavation methods

- h. Depth and extent of excavation
- i. Site access, haulage routes and destinations
- j. Number and size of trucks per day/week
- k. Onsite machinery (type of equipment, maintenance and truck refuelling)
- l. Operating hours (including crushing, blasting and excavation)
- m. Proposed infrastructure
- n. Public danger signage and fencing
- o. Survey information – evidence that a datum peg has been established on the land
- p. Proposed end landuse
- q. Decommissioning Plan
- r. Traffic Impact Assessment
- s. Justification for variation from Shire requirements

5. Environmental management

- a. Stormwater management plan
- b. Vegetation Clearing Plan including DWER clearing application documentation and status
- c. Groundwater Management including evidence of onsite bore monitoring during winter/spring months for a 2 (two) year period
- d. Noise management plan (including noise assessment where applicable)
- e. Dust management plan
- f. Hydrocarbons and Chemicals
- g. Weed and Dieback (including weed and dieback management plans where applicable)
- h. 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
- i. 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
- j. Aboriginal heritage
- k. Visual impact
 - i. Major roads
 - ii. Tourist routes/interest points
 - iii. Surrounding properties

6. Rehabilitation Implementation Plan

- a. Introduction
- b. Background
 - i. Site location
 - ii. Extraction works
 - iii. Objectives of rehabilitation
- c. Environmental Context
 - i. Landform and soils
 - ii. Hydrology
 - iii. Pre-existing vegetation assessment
 - iv. Pathogens
 - v. Site stability
 - vi. Herbivores
 - vii. Dieback status
 - viii. Climate (including climate change and consequences for revegetation)
 - ix. Existing and future uses
- d. Risk Assessment
- e. Implementation Strategy
 - i. General (including signage, fencing and protection works and staging of works)
- f. Advance Planning and Management
 - i. Vegetation retention and clearing
 - ii. Topsoil recovery (including existing and future stockpiles and topsoil construction)
 - iii. Erosion management
 - iv. Mulch supply (including site generated and imported mulch)
 - v. Native seed, cutting and transplant recovery
 - vi. Seedling supply and advance ordering
 - vii. Dieback management
- g. Implementation Methodology

- i. Weed management
 - ii. Surface preparation (including bulk earthworks, topsoil respreading, erosion management, ripping/scarification, seedbed preparation, and coarse woody debris)
 - iii. Shire Hold Point – final contours to be achieved and confirmed by survey before spreading topsoil
 - iv. Mulching
 - v. Fence installation - pest management
 - vi. Access track/s
 - vii. Species selection and plant allocation
 - viii. Provenance seed collection and supply
 - ix. Seed propagation
 - x. Direct seeding
 - xi. Seedling planting
 - xii. Works schedule
- h. Post Installation Management
 - i. Rehabilitation monitoring and performance criteria
 - ii. Site maintenance
 - iii. Completion criteria and success targets
- i. Resourcing and Budgets
- j. Contingency and Management Actions
- k. Record keeping, auditing, and reporting
- l. Revisions
- m. References
- n. Appendices:
 - i. Extraction plan
 - ii. Species list and allocations
 - iii. Risk assessment
 - iv. Management zones
 - v. Works schedule
 - vi. Record keeping templates (including maintenance, herbicide application, seeding and planting, revegetation monitoring, photo monitoring points and monitoring, budget monitoring and Shire auditing checklist and documentation)
 - vii. Implementation budget

7. Conclusion

8. Application plans detailing the following:

- a. An **Existing Contour and Feature Plan** of the excavation site to a scale of between 1:500 and 1:2000 on A1 sheet certified by a licensed surveyor showing:
 - i. The existing land contours based on the Australian Height Datum and plotted at 1 metre contour intervals extending beyond the extraction area by at least 40 metres.
 - ii. The Lot number and area of the land on which the excavation site is to be located
 - iii. Survey Datum Peg detail.
 - iv. The location and external surface dimensions of the existing and proposed excavation of the land, marked in stages no greater than 2 hectares in area which must not be within:
 - 1. 20 metres of property boundary
 - 2. 40 metres of any dedicated public road reserve
 - 3. 50 metres of any watercourse, wetland or swamp
 - 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 the vicinity of the land.
 - vi. The location of buildings, treatment plant, tanks, bores 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 the vicinity of the land.
 - viii. The location of all existing bores, dams, watercourses, drains or sumps on or adjacent to the land.
 - ix. The location and description of existing fences, gates and warning signs around the land.

- 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.
 - xi. The direction of the working face ensuring that only 1 stage is cleared at a time, followed by excavation and rehabilitation. The clearing of stage 3 should not occur until the recontouring of stage 1 is complete awaiting planting.
 - xii. The location of all existing trees and vegetation.
- b. A **Finished Development Plan** of the excavation site to a scale of between 1:500 and 1:2000 on A1 sheet showing:
- i. The proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals extending beyond the extraction area by at least 40 metres.
 - ii. The location and area of the existing and proposed excavation of the land, marked in stages no greater than 2 hectares in area which must not be within:
 1. 20 metres of property boundary
 2. 40 metres of any dedicated public road reserve
 3. 50 metres of any watercourse, wetland or swamp
 4. 2 metres from the known highest winter water table level
 - iii. The location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land.
 - iv. The location of buildings, treatment plant, tanks, bores and other improvements and developments existing on, approved for or proposed in respect of the land.
 - v. 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 the vicinity of the land.
 - vi. The location of all existing bores, dams, watercourses, drains or sumps on or adjacent to the land.
 - vii. The location and description of existing and proposed fences, gates and warning signs around the land. The area must be securely fenced with warning signs not more than 200 metres apart.
 - viii. The location of proposed rehabilitation areas and levels of revegetation.

Advertising process

Within Scheme 8, Industry Extractive is an 'A' land use that requires an application to be advertised prior to determination by the local government. The Local Law specifies a minimum 21-day advertising period including the requirement for a newspaper notice.

Table 1 details the required consultation for Development and Extractive Industry Licence applications consistent with LPP6.7 Community Engagement.

Table 1 - Extractive Industry applications advertising processes

Method	Advertising process
Letters to affected surrounding owners/occupiers	21 days advertising period to landowners generally within 500m - EPA Guidance Statement No.3 sets out distances to be used.
Referral to Government Agencies	42 days referral period by letter and/or emails with Shire website link to application
Newspaper notice	Notice placed in local newspaper for 2 consecutive weeks
Website notice	Complete application placed on Shire website for 21 days
Sign at subject site	21 days
Copy at front counter	21 days

The cost of advertising is to be met by applicants.

Security for rehabilitation

To ensure that an excavation site is properly restored and rehabilitated, the local government will require that as a condition/before the issue of an Extractive Industry Licence, the licensee shall provide to the local government a bond or bank guarantee of a kind and in a form acceptable to the local government, for a sum determined by the local government. This security will be held by the local government for all areas which are disturbed until they are fully restored, rehabilitated and proved sustainable. All bonds and bank guarantees must be accompanied by a Rehabilitation Bond Agreement.

The bond or bank guarantee value shall be in accordance with Council adopted fees and charges.

Road deterioration

Extractive Industries can create a concentration of heavy vehicles accessing local roads to traverse from the site entrance to the closest arterial main road. This concentration of heavy vehicles can cause road damage to local roads and the cost of any deterioration is to be passed on to the Extractive Industry, as the source of the heavy traffic.

The Shire of Capel Extractive Industries Local Law 3.1(5) (q) requires the licensee to enter into an agreement with the local government, by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the Licence.

The Shire's Road *Deterioration Preservation Funding For Extractive Industries* calculator provides a consistent and transparent process and the Shire has reviewed the agreement to include industry standard formulas that can be used to calculate the value of deterioration of the pavement for a given number of truck movements. This is based on the West Australian Local Government Association (WALGA) publications:-

- *User Guide, Estimating the Incremental Cost Impact on Sealed Roads from Additional Freight Tasks; and/or*
- *User Guide, Estimating the Incremental Cost Impact on Unsealed Local Roads from Additional Freight Tasks*

Main Roads Western Australia requirements

Applications for sites with direct access to highways and major roads under the control of Main Roads WA will be subject to referral to Main Roads WA. An approval of an extractive industry may increase the number and size of vehicles entering or exiting a highway or major road under the control of Main Roads Western Australia. The upgrading of site access may be required including slip lanes and turning pockets. These upgrades would require Main Roads approval and the applicant would be financially liable for all construction costs.

Amending a condition of development approval

As per Clause 77 of the *Planning and Development Regulations 2015*, the owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to amend or delete any condition to which the approval is subject.

CI77(3) states that the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.

It is of the Shire's opinion that any 'minor' amendment to the wording of a planning condition may be entertained through formal written request, as opposed to the lodgement of a planning application to amend a previous approval. The nature and extent of the change must be considered 'minor' and will be at the Shire's discretion.

To apply for a minor amendment to the wording of a planning condition, the applicant is required to provide their written request to info@capel.wa.gov.au, and await formal correspondence on the outcome. Changes to the licence will follow suit.