

1. INTRODUCTION

Clause 6.7.1 of Town Planning Scheme No.2 (“the Scheme”), ‘Industry – Extractive’ means an industry which involves:

- “(a) *the extraction, quarrying or removal of sand, gravel, clay, soil, rock, stone, minerals, or similar substance from the land, and includes the treatment, storage and management of those materials, or the manufacture of products from those materials on, or adjacent to the land from which the materials are extracted.*
- (b) *the production of salt by the evaporation of salt water.”*

Industry - Extractive is also referred to as Extractive Industry in this Planning Procedure.

2. STATEMENT OF INTENT

The purpose of this Planning Procedure is to set out the statutory requirements under which the City considers Extractive Industry Development Applications, pursuant to the Scheme and having regard to state and federal legislation.

3. PLANNING PROCEDURE

3.1 Policies/Guidelines

All applications for Extractive Industries shall be assessed by the City in accordance with the following documents:

- State Planning Policy No.2.4 – Basic Raw Materials;
- 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;*
- *Environmental Protection (Noise) Regulations 1997;*
- *Environmental Protection (Clearing of Native Vegetation) Regulations 2004;*
- *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992;*
- WAPC - Basic Raw Materials Proponents’ Manual 2009; and
- State Planning Policy 2.8 - Bush Forever.

3.2 Permissibility

The Zoning Table (Table No.1) in the Scheme indicates the permissibility of Extractive Industries within various zones throughout the municipality.

The permissibility of an Extractive Industry under the Scheme is summarised as follows:

- (a) The use is not permitted in the ‘Rural Zone’ unless the Council has exercised its discretion by granting Development Approval after following a process of community consultation in accordance with clause 64 of the deemed provisions of the Scheme.
- (b) The use is not permitted on Lot 500 Paganoni Road, Karnup unless the Council has exercised its discretion by granting Development Approval (Additional Use).

- (c) In accordance with clause 27 of the deemed provisions, Council is to have due regard to the provisions of the relevant Structure Plan in determining an application for Development Approval.
- (d) The use is not permitted in all other zones.

3.3 Development Approval

An Extractive Industry constitutes 'development' under the Planning and Development Act 2005 and therefore the following Development Approvals are required:

- (a) Approval to Commence Development pursuant to clause 60 of the deemed provision of the Scheme; and
- (b) Approval to Commence Development under the Metropolitan Region Scheme from the WAPC, only where the land is zoned 'Rural' in the MRS. The Council has delegated authority from the WAPC to grant approvals (with or without conditions) and issue refusal decisions pursuant to the MRS, only where the land is not zoned 'Rural' in the MRS.

Note 1: Section 157 of the PD Act provides that when the WAPC has approved a subdivision of land to which a planning scheme relates, that approval is to be taken by the responsible authority under the planning scheme of the carryout of works necessary to enable the subdivision of that land.

3.4 Matters to be Addressed

3.4.1 Issues

An application for Development Approval must include information, where relevant, to those matters listed in clause 63 of the deemed provision of the Scheme to be considered by the City and measures to address:

- Environmental impacts;
- Water supply;
- Buffers to sensitive land uses;
- Visual impacts;
- Dust impacts;
- Noise impacts to sensitive land-uses;
- Explosives – use/duration, storage and transport;
- Traffic/Road impacts – access, routes, frequency, maintenance of roads and vehicle types;
- Places of Cultural Heritage Significance;
- Rehabilitation and end use;
- Fuel storage;
- Rural land designated Urban or Future Urban and sequential land use;
- Post Excavation Site Levels; and
- Staging and excavation method.

3.4.2 Setbacks

3.4.2.1 The following minimum excavation setbacks are to be applied to Extractive Industries:

- (a) 40 meters to a road reserve, watercourse or other public reserve boundary;
- (b) 20 meters to all other lot boundaries and land affected by a grant of easement; and

- (c) 50 meters from regionally significant vegetation identified within a Bush Forever site, Conservation Category Wetland or Environmental Protection Policy Wetland.

Unless otherwise determined by the City.

3.4.2.2 The setback area shall compromise remnant vegetation, which shall remain undisturbed except for:

- (a) Access ways for entering and leaving the Extractive Industry site;
- (b) Firebreaks as may be required under the Bush Fires Act;
- (c) Re-vegetation to reinstate or supplement remnant vegetation, to provide an effective visual screen from adjoining and nearby public and private owned land; and
- (d) Public and private utility infrastructure.

3.5 Advertising

Extractive Industry applications are treated as a major land use application that must be advertised in accordance with the requirements of Council's Planning Procedure 1.3 - Community Consultation and clause 64 of the deemed provisions of the Scheme.

3.6 Referrals

- 3.6.1 All applications will be referred to the Department of Water, Environment and Regulation for comment before being determined by Council, in accordance with clause 68 of the deemed provisions of the Scheme.
- 3.6.2 Where an Extractive Industry proposed on land or abuts a Category 1, 2 or 3 Primary or Regional Road Reservation, it shall be referred either to Main Roads WA or the Department of Planning, Lands and Heritage, as applicable, for comment and recommendation, before being determined by Council.
- 3.6.3 The City will refer applications for Extractive Industries in the 'Rural' zone (in the MRS) to the WAPC and provide its recommendations to the WAPC.

3.7 Approval Period

The consideration of a renewal of Development Approval will be subject to the City being satisfied that there are no adverse environmental impacts and off-site impacts to neighbouring properties. The City will also consider if there have been any breaches of development conditions, and if there are any unresolved matters.

3.8 Other Approvals

An Extractive Industry Licence is not required as the City of Rockingham Extractive Industries Local Law (2000) has been repealed. Where the extraction of sand is required to prepare the land for subdivision and the WAPC have granted a current Subdivision Approval, Development Approval will not be required.

An application to clear Native Vegetation to the Department of Water, Environment and Regulation is also required, prior to clearing pursuant to the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. An exemption does not apply within the City as the Scheme was not formally assessed by the Environmental Protection Authority prior to gazettal.

3.9 Information Requirements

3.9.1 Application Information

Applications for Development Approval for the establishment or extension of Extractive Industry uses shall be made on the form prescribed by the Council (and WAPC MRS Form 1 if applicable). The application shall be signed by owner(s) is to include five copies of plans and must address the information requirements listed under Clause 63 of the deemed provisions of the Scheme and the following:

- (a) Five copies of an Environmental Management Plan addressing the following:
 - Visual impact assessment;
 - Details of any blasting;
 - The identification and location of neighbouring houses within buffer;
 - Habitat Study which includes a Spring Survey, assessment of existing vegetation and a Fauna Study (as required);
 - Dust Management Plan; and
 - Acoustic Consultants Report.

- (b) Five copies of a Traffic Management Plan addressing the following:
 - Impact on traffic composition and volume;
 - Road capacity and analysis to accommodate heavy haulage traffic;
 - Road Maintenance (on and off-site);
 - Access/Egress locations;
 - Frequency of vehicle movements;
 - Capacity and axle size of vehicles; and
 - Modifications to road design and vehicle access points.

- (c) Five copies of an Excavation Management Plan addressing the following:
 - Site plans showing all improvements (proposed and existing), drainage, services and access arrangements;
 - Details of existing and proposed contours;
 - Duration, staging and timing of the excavation;
 - On-site processing and excavation methodology;
 - Method for removing overburden and undertaking stockpiling;
 - Evidence of access to ground water supply or alternative water supply for dust suppression; and
 - Public safety associated with fencing the excavation site and warning signage.

- (d) Five copies of a Rehabilitation and Decommissioning Plan addressing the following:
 - Objectives of the Plan in the short-term (pre-initial planting), long-term (post maintenance phase) and end land use of the site;
 - Restoration and reinstatement of the excavation site;

- The method by which top soil is to be replaced and soil management;
- The number and type of trees and planting to occur;
- Target densities for rehabilitation;
- How rehabilitation areas are to be maintained and irrigated;
- Contingency for replacement of dead plants; and
- Monitoring.

(e) A synopsis report suitable for reproduction and distribution by the City during advertising of the proposal.

4. NON COMPLIANCE

A breach of Development Approval conditions based on the approved application will be dealt with in accordance with the Planning and Development Act 2005 and/or Planning Procedure 1.7 - Infringement Notices.

5. APPEAL

If an applicant is aggrieved by a determination, there exists a right of review by the State Administrative Tribunal (SAT) in accordance with section 252 of the Planning and Development Act 2005. An application must be made to SAT within 28 days of the determination.

6. INTERPRETATIONS

For the purpose of this Planning Procedure, the following term shall have the same meaning as in Town Planning Scheme No.2:

WAPC means the Western Australian Planning Commission constituted under the Planning and Development Act 2005.

Council means the Council of the City of Rockingham.

For the purpose of this Planning Procedure, the following terms are defined as follows:

'Scheme': means City of Rockingham Town Planning Scheme No.2.

'Basic Raw Materials': means sand (including silica sand), clay, hard rock, limestone (including metallurgical limestone) and gravel and other construction and road building materials.

'EPA' Guidance Statement No.3': Environmental Protection Authority's Guidance Statement No.3: *Separation Distances between Industrial and Sensitive Land Uses, and is intended as a guide only.*

'EPA' Guidance Statement No.56': Environmental Protection Authority's Guidance for the Assessment of Environmental Factors - Terrestrial Fauna Surveys for Environmental Impact Assessment in Western Australia No.56 - June 2004.

'Sensitive Land Use': means a land use sensitive to emissions from industry and infrastructure. Sensitive land uses include residential development, hospitals, hotels, hostels, caravan parks, schools, nursing homes, child care facilities, shopping centres, playgrounds and some public buildings. Some commercial institutional and industrial land uses which require high levels of amenity or are sensitive to particular emissions may also be considered "sensitive land uses".

Examples include some retailing outlets, offices and training centres, and some types of storage and manufacturing. This term has been derived from the EPA Guidance Statement No.2.

7. ADOPTION

This Planning Procedure was adopted by the Council at its ordinary Meeting held on 27 April 2011 and amended by the City on 4 October 2018.