

## PLANNING INFORMATION SHEET – EXTRACTIVE INDUSTRIES

### **PURPOSE OF THIS INFORMATION**

This information sheet has been prepared to assist landowners in the Shire of Kent who are considering or may be approached by private companies or contractors seeking to extract sand, gravel or other basic raw materials from their properties on a commercial basis for future development projects. Landowners should be aware of all relevant town planning, local law and environmental considerations before proceeding with any works or entering into any formal agreements.

### **1. Town Planning Requirements**

Under the terms of the Shire of Kent Local Planning Scheme No.3 the extraction and sale of basic raw materials for commercial purposes including sand, gravel, clay, limestone, hard rock and shale from any land classified 'Rural', 'Rural Smallholding' or 'Cultural and Natural Resource' zone requires the Shire's development approval prior to any works being undertaken.

The use of any 'Rural', 'Rural Smallholding' or 'Cultural and Natural Resource' zoned land for this purpose falls under the use class 'Industry - Extractive' which is defined in Local Planning Scheme No.3 as follows:

*"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."*

It is significant to note the Shire's development approval is not required for the extraction of basic raw materials by government agencies from privately owned 'Rural', 'Rural Smallholding' or 'Cultural and Natural Resource' zoned land where these resources are used for public works related purposes (e.g. the construction or maintenance of public roads, infrastructure or community facilities). Consultation with the Shire is however required prior to the commencement of any extraction works to confirm compliance with the requirements of Local Planning Scheme No.3 and the ability to proceed.

If basic raw materials are proposed to be extracted and sold from any 'Rural', 'Rural Smallholding' or 'Cultural and Natural Resource' zoned land for private commercial purposes (e.g. building construction including houses, commercial and industrial buildings, wind farms, solar farms, bulk grain handling and storage facilities and so on) a development application is required and must be approved by the Shire prior to the commencement of any extraction works.

A copy of the Shire's latest development application form and checklist that explains the relevant information requirements for development applications is available on the Shire's website (see the sub-heading 'Application Forms and Guides in the following website link.....[Building & Planning | Shire of Kent](#)).

In addition to the Shire's usual information requirements all development applications for extractive industries must include the following additional information to assist the Shire's assessment and final determination of the application:

- A detailed description of the proposed development including excavation details, estimated volumes of material to be extracted and the duration and staging of all proposed extraction works;
- Site description and analysis;
- Strategic and statutory planning requirements;
- Identification of key environmental values and those requiring protection;
- Minimum buffer separation distance requirements to sensitive land uses;
- Water supply requirements, availability and management;
- Dust and noise management measures;
- Potential visual impacts and proposed mitigation measures;
- Proposed transport routes, relevant restricted access vehicle ratings and site access details;
- Traffic impact assessment and traffic management plan;
- Sequential land use and a staging plan for the rehabilitation of the site for its intended long-term use once all extraction works have been completed; and
- Compliance with any other considerations of relevance as outlined in the Basic Raw Materials Guidelines published by the Western Australian Planning Commission.....[Planning fact sheets, manuals and guidelines](#).

It is important to note the establishment, extension or expansion of an extractive industry in the Shire without the local government's formal development approval is an offence under the *Planning and Development Act 2005*. A person who commits an offence under this Act may be liable to a fine of up to \$200 000 and, in the case of a continuing offence, a further fine of up to \$25 000 for each day during which the offence continues.

It should also be noted the Shire does not have an Extractive Industries Local Law and therefore a development application is the only approval required from the Shire to establish and operate an extractive industry unless any new buildings are proposed to be constructed to support the proposed use in which case septic tank and building permit applications may also be required.

## 2. **Road Use and Transport Impacts**

When assessing a development and extractive industries licence application for an extractive industry the Shire must ensure any local roads proposed to be used are suitable for increased heavy vehicle traffic, will not be damaged or give rise to any traffic safety concerns. Consultation with Main Roads WA may also be required. It is therefore expected the required development application will contain sufficient information demonstrating any extractive industry proposal will not have any negative impacts on the local road network or traffic safety. A traffic impact assessment and traffic management plan prepared by a suitably qualified traffic consultant may therefore be required in support of the application.

When granting the necessary approval the Shire may impose conditions requiring the following:

- Road upgrade works prior to the commencement of development and/or any remedial works that may be required in the event of any unforeseen or extraordinary damage to the local road network after development has commenced;
- Payment of a road maintenance contribution or bond;
- Restrictions on vehicle types and sizes as well as operating days and times;
- Implementation of suitable dust suppression measures; and
- Installation of road safety signage and/or the use of escort vehicles when considered necessary.

## 3. **Environmental and Licensing Matters**

Extractive industry operations that involve the extraction of 50,000 tonnes or more of basic raw materials are categorised as a 'Prescribed Premises' in Schedule 1 of the *Environmental Protection Regulations 1987*. An application to the Department of Water and Environmental Regulation for a works approval is therefore required pursuant to Part V, Division 3 of the *Environmental Protection Act 1986* and *Environmental Protection Regulations 1987*. Any queries relating to works approvals and licenses should be directed to the Department at [info@dwer.wa.gov.au](mailto:info@dwer.wa.gov.au) or 6364 7000.

If the clearing of any native vegetation is required to accommodate an extractive industry a Native Vegetation Clearing Permit may also be required under Part V, Division 2 of the *Environmental Protection Act 1986*. Information regarding Native Vegetation Clearing Permit application requirements are available via the following website link..... [Native vegetation clearing permits | Western Australian Government](#).

## 4. **Aboriginal Heritage**

Extractive industries have the potential to damage or destroy places of Aboriginal cultural heritage significance. As such before undertaking any development for this purpose landowners need to check the State Government's Aboriginal Cultural Heritage Inquiry System (ACHIS) to confirm if their property contains any registered sites of Aboriginal cultural heritage significance..... [Find Aboriginal cultural heritage in WA](#).

If there is no risk of harm to Aboriginal heritage from the proposed extractive industry operations, no approval is required from the State Government pursuant to the requirements of the *Aboriginal Heritage Act 1972*. The *Aboriginal Heritage Act 1972 Guidelines* published by the State Government are available to assist landowner's determine whether an intended land use poses a risk of committing an offence under the Act..... [Aboriginal Heritage Approvals](#).

## 5. **Landholder Responsibilities and Considerations**

Landowners should:

- not allow extraction to commence until all required statutory approvals have been secured;
- ensure any private companies or contractors who plan to undertake extraction works hold adequate public liability insurance and any legal agreements clearly allocate liability and rehabilitation obligations;
- seek independent legal and financial advice before signing any legally binding agreement; and
- consider any potential implications for biosecurity, weed management and rehabilitation of the site following completion of all extraction works.

## 6. **Who to Contact**

If any landowner is considering the extraction and sale of basic raw materials from their land they are encouraged to contact the Shire's Chief Executive Officer on 9851 9780 or [ceo@kent.wa.gov.au](mailto:ceo@kent.wa.gov.au) for further information regarding the relevant approval requirements and key considerations that must be addressed.