Council Agenda

10 February 2021

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 10 FEBRUARY 2021

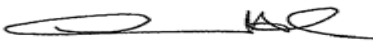
TO: **THE MAYOR AND COUNCILLORS**

NOTICE is given that a meeting of the Council will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 10 February 2021, commencing at 5.30pm.

Your attendance is respectfully requested.

DISCLAIMER

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.



MIKE ARCHER

CHIEF EXECUTIVE OFFICER

29 January 2021

CITY OF BUSSELTON

AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 10 FEBRUARY 2021

TABLE OF CONTENTS

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

2. ATTENDANCE

Apologies

Approved Leave of Absence

Nil

3. PRAYER

4. APPLICATION FOR LEAVE OF ABSENCE

5. DISCLOSURE OF INTERESTS

6. ANNOUNCEMENTS WITHOUT DISCUSSION

Announcements by the Presiding Member

7. QUESTION TIME FOR PUBLIC

Response to Previous Questions Taken on Notice

Public Question Time For Public

8. CONFIRMATION AND RECEIPT OF MINUTES

Previous Council Meetings

8.1 Minutes of the Council Meeting held 27 January 2021

RECOMMENDATION

That the Minutes of the Council Meeting held 27 January 2021 be confirmed as a true and correct record.

Committee Meetings

8.2 Minutes of the Policy and Legislation Committee Meeting held 27 January 2021

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 27 January 2021 be noted.

9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

Petitions

9.1 PETITION: REZONING GEOGRAPHE BAY ROAD, DUNSBOROUGH LOTS TO R60

RECOMMENDATION

That Council receive the petition from Mr Tony Sharp on behalf of the Dunsborough Progress Association, requesting the rezoning of Geographe Bay Road, Dunsborough from R80 to R60.

A petition was received from Mr Tony Sharp on behalf of the Dunsborough Progress Association (the Petitioner) on 20 January 2021 regarding the rezoning of Geographe Bay Road, Dunsborough from R80 to R60.

The requirements for a petition to be heard by Council are set out by clause 6.9(1) of the City of Busselton *Standing Orders Local Law 2018* (the Standing Orders), specifically that it:

(a) be addressed to the Mayor;
(b) be made by electors of the district;
(c) state the request on each page of the petition;
(d) contain the name, address and signature of each elector making the request;
(e) contain a summary of the reasons for the request;
(f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
(g) be respectful and temperate in its language.

The Presiding Member has the discretion to accept the Petition for consideration if it meets a majority of the above requirements.

The Petition was lodged by the Petitioner at the City's Community Access Session on 20 January 2021 and was addressed attention to the Mayor. The subject of the Petition is the rezoning of Geographe Bay Road, Dunsborough, and this is stated on each page of the Petition.

The Petition is purportedly signed by 747 people, all of who are identified, by name and address, as electors of the district, and who are located within the area the subject of the Petition. The Petitioner has deleted any reference to signatories whose address is outside the district and not included them in the final number of petitioners (noting the number of petitioners is not a requirement to the receipt of a Petition).

The Petition meets the requirements of clause 6.9(1)(g), that is, the petition is respectful and temperate in its language. The Petition was presented by the Petitioner in person, and it will be assumed that this is the name and contact address for which notice to the petitioners can be given.

Although a summary of the reasons for the Petition is not contained in the Petition, as required by clause 6.9(1)(e), the Petitioner presented an outline of the reasons with the Petition at the Community Access Session. The Petitioner's presentation containing the summary is attached.

It is officers' advice that the Petition meets the majority of the requirements of the Standing Orders and it is therefore open to the Presiding Member to accept the Petition for consideration.

It is relevant to note that a Notice of Motion has been received which deals substantially with the same matter as the Petition. This Notice of Motion will be considered at this meeting (see item 18.1 of this Agenda) and contains an officers' report in response. It is therefore recommended that the Petition be received by Council only.

Dunsborough & Districts Progress Association

Presentation of Petition to Rezone to Council. Jan 20, 2021

Tony Sharp, on behalf of the DPA

Thank you for your time. I'm here today on behalf of the Dunsborough Progress Association to present a petition from the Dunsborough and Busselton electors requesting the council rezone the lots along Geographe Bay Rd from R80 to R60. In effect, the goal is to limit building height to no more than three stories. (See map)

In 2016 this area, as part of the Omnibus Amendment 1, was zoned R80 from R15, along with a large section of the centre of Dunsborough. As it was an Omnibus amendment it included a number of issues and I think it is fair to say the height issue perhaps didn't get the publicity it deserved. There were 23 submissions opposed to the change, including one non-resident and 5 in favour, of which three were not residents but were obviously concerned about the value of their investments.

In response to the complaints the city said the changes were based on the "Dunsborough Town Centre Conceptual Plan', which was endorsed by the Council in January 2014. And the increased density was "considered *essential* to accommodate and support the viable and desirable future growth of Dunsborough per se." "Essential" was highlighted and as justification quoted the Leeuwin Ridge Planning policy forecast of 20,000 residents. Overall, the city's response, in my view, was an excellent overview of the planned future development of Dunsborough and it is unfortunate it didn't get higher visibility at the time. It concluded with "The City is committed to continuing constructive engagement with the local community to ensure 'transitional' improvements to the Dunsborough town centre are well-founded, well-consulted, **broadly supported** and highly successful."

The DPA certainly understands the need for higher density to accommodate growth but we, along with the rest of the community believe 4 stories is not essential and will have a serious negative impact on the town. Four stories is definitely NOT broadly supported by the community.

One important technical benefit of going to R60 is that it gives some guarantee of limiting overshadowing by new developments of its neighbours. R60 limits the shadow cast at midday of the winter solstice to 50% of the adjoining property. R80 does not, so it would appear #80 3d *Geographe Bay Rd will be in deep shade for a large part if not most, of the day. Imagine if that* was your house.

After two Saturday markets, talking to a few hundred people, only two were unwilling to sign the petition and I believe one of those was not a resident.

We strongly regret we didn't take up this issue sooner and the catalyst unfortunately was the RJDAP hearing in December when one of the Perth based panelists said that as the rezone was relatively recent the community must have been supportive. It was evident then that the community's view must be made clearer.

In regard to the proposed four story development adjacent to Seymour Park, the Planning Minister's Policy Advisor told us this week that regarding the DAP decision " due regard will be given to the compatibility of the development with its setting, including its relationship with development on adjoining land, and the likely effect of building bulk, height, scale, orientation and overall appearance of the development. "

As you can see (image two) this 4 story development has zero compatibility with its setting. Zero.

You will probably be told by the planners that you should wait until the Activity Centre Plan and the Townsite Strategy are complete. By then it will probably be too late. Definitely too late for the proposed development and probably too late for the rest of that block. We are hearing many stories of property owners being offered bundles of money to sell. We realise, getting the amendment through the WAPC will take time but if the process is underway it will be easier to persuade the Perth based DAP members and the developers that the community and the City are opposed to 4 stories. We do think the whole issue of 4 stories in Dunsborough needs review and look forward to working speedily with the city in the Activity Centre Plan, but we accept this is a broader issue.

I'm really not sure why we have to be presenting this petition as there is already a regulation limiting the height of buildings within 150m of the medium high water mark to 9 meters or two stories. Unfortunately a city planning officer in the recent DAP application said this need not apply subject to the local government being satisfied that the building height is consistent with the relevant assessment criteria specified under clause 67 of the Deemed Provisions . Well it turns out paragraph M of the Deemed Provisions is exactly what the Policy Advisor was saying. It must be compatible with its setting. That is clearly not the case-it is compatible with a planner's vision and perhaps the 2014 Council's vision of the future. But not the community's.

We did not bring a large number of the community here today to make our point. But if you are unpersuaded we are happy to provide more input over the current weeks.

We have over 740 electors' signatures behind this petition. With time we could have almost all of the community. But don't take my word. We don't have a ward system here, so you all represent Dunsborough. Can I therefore ask you over the next two weeks to talk to 5 random Dunsborough residents and get their view. I understand the argument that you are elected to use your own judgement, but when the community is so strongly in favour of this rezoning, I hope you will reflect its views.

Thank you.

Presentations

Deputations

10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)

11. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY

12. REPORTS OF COMMITTEE

Nil

13. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 APPLICATION FOR DEVELOPMENT APPROVAL (DA 17/0866) - PROPOSED INDUSTRY - EXTRACTIVE (GRAVEL) - LOT 2 NUTTMAN ROAD AND LOT 3 CHAPMAN HILL EAST ROAD, CHAPMAN HILL

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Development / Planning Applications
BUSINESS UNIT	Development Services
REPORTING OFFICER	Statutory Planning Coordinator - Joanna Wilson
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Regulatory: To determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, and other decisions that may be reviewable by the State Administrative Tribunal
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Location Plan Attachment B Site and Development Plans Attachment C Application Material Attachment D Agency Responses Attachment E DWER Preliminary Assessment Report for Vegetation Removal Attachment F Response from Federal Department of Environment and Energy Attachment G Plan of Noise Sensitive Premises Attachment H Schedule of Submissions Attachment I Traffic Consultant Advice (initially related to an earlier application) Attachment J Updated Noise Impact Assessment

OFFICER RECOMMENDATION

That the Council determines:

A. That application DA17/0866 submitted for development of Industry – Extractive (Gravel) at Lot 2 Nuttman Road and Lot 3 Chapman Hill East Road is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.

B. That Development Approval is issued for the proposal referred to in (A) above subject to the following conditions –

GENERAL CONDITIONS:

1. The development hereby approved is permitted to operate for five years from the date of this Decision Notice or until 170,000 cubic metres volume of material has been extracted, whichever is sooner. The site shall be fully rehabilitated in accordance with an approved Rehabilitation Management Plan (as approved under condition 3.2) by the expiry date of this development approval.

2. The owner must ensure that the development is undertaken in accordance with the approved plans and the details contained within the Site and Development Plans and Application Material (Attachment B and C), other than as modified by the conditions below.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS:

3. The owner must ensure that no material is extracted from the site or any other works undertaken until the following plans/details have been submitted to, and approved by, the City:

3.1 Details of a Tree Protection Plan providing for temporary demarcation barriers to be erected to 15m from the crown drip zone of adjacent trees to protect the tree and root system from accidental machinery damage.

3.2 A Rehabilitation Plan, to be prepared by a suitably qualified natural revegetation practitioner, incorporating like for like revegetation for the area cleared and to be revegetated with native species to provide habitat for black cockatoos and shall include details of the following:

a) Description of the finished profile of the soils of the extraction area post extraction;

b) Final ground contours, finished profile with embankments not to be steeper than 1 in 5;

c) Proposed vegetation assemblage for the area post extraction, given the soil profile, topography and a description of the ecological values and functions that are expected to be returned to the revegetation offset site;

d) Staging of revegetation process;

e) Ripping and/or other treatments to the base of the pit;

f) Spreading of stockpiled topsoil;

g) Re-use of any stockpiled vegetation;

h) Planting methodology, native species list (mix of trees, shrubs and ground covers), planting densities;

i) Criteria for assessment of whether the revegetation has been satisfactorily completed; and

j) Weed management plan.

3.4 A revised Water Management Plan, including additional details regarding stormwater retention measures to prevent the flow of stormwater into neighbouring properties.

3.5 Details of warning signage to be erected along the transport route. Signage shall include signs on both approaches to the pit along Nuttman Road 100m from the access.

3.6 A Dust Management Plan, including details validating the water supply available for dust suppression to implement the approved and procedures associated with management of dust on the unsealed section of the haul route.

3.7 Details for the upgrading of the existing crossover to ensure that adequate sightlines are achieved.

3.8 Plans for the widening of Nuttman Road to:

a) a minimum unsealed carriageway width of 7.0 metres from the crossover to the subject site north to the sealed section of Nuttman Road; and

b) Widening of the sealed section of Nuttman Road to 6.2m with 0.80m gravel shoulders (7m formation).

(such plans shall specify the width, alignment, gradient and type of construction proposed for the upgrades, including all relevant horizontal cross-sections and longitudinal-sections showing existing and proposed levels, together with details of vegetation, pinch points and culverts and where necessary how such culverts will be upgraded).

3.9 A 3D Digital Terrain Model indicating the following in Australian Height Datum:

a) Existing ground levels;

b) Maximum extraction depths; and

c) Minimum final ground levels after rehabilitation.

3.10 The following bonds being provided to the City:

a) A road maintenance bond of $20,000 (being an unconditional bank guarantee) to ensure that the surrounding road network is maintained to the satisfaction of the City for the term of the extractive industry. Those portions of public roads affected by the activities related to the approval shall be maintained to a standard acceptable to the City at the cost of the owner. The City may use the bond to maintain the affected public roads as it deems necessary.

b) A dust bond of $6,000, which shall be held against satisfactory compliance with the Dust Management Plan.

c) A rehabilitation bond of $30,000, which shall be held against satisfactory compliance with Condition 3.2 of this approval.

d) Further to conditions 3.10 (a)-(c) (bond conditions), the bonds are to be accompanied by an executed legal agreement with the City at the full cost of the owner. The legal agreement shall include:

i. The ability for the City to be able to use the bond, or part of the bond as appropriate, and any costs to the City including administrative costs of completing or rectifying any outstanding works on site in accordance with the conditions of this development approval and any further costs;

ii. Written authorisation from the owner of the land that the City may enter the site at any time and permit the City to complete or rectify any outstanding work to the satisfaction of the City;

iii. If at any time part of the bond is called upon, used or applied by the City in accordance with the legal agreement, the restoration of the bond to the full amount required by these conditions; and

iv. The ability to lodge a caveat over the site to secure the City's interest.

PRIOR TO COMMENCEMENT OF EXTRACTION CONDITIONS:

4. The owner must ensure that no material is extracted until information setting out that and how the plans and details required by Conditions 2 and 3 have been implemented, has been provided to the satisfaction of the City, and the City has subsequently issued a 'Permit to Commence', confirming that extraction can commence.

PRIOR TO COMMENCEMENT OF EXTRACTION, OTHER THAN EXTRACTION FOR UPGRADES TO NUTTMAN ROAD:

5. Notwithstanding Condition 4 above, gravel can be extracted from and crushed on the site for the purpose of upgrading Nuttman Road and/or the crossover, in the following circumstances:

5.1 Where all plans, details and bonds required by Condition 3 have been provided to and approved by the City, and implemented to the satisfaction of the City; and

5.2 With the prior written approval of the City.

ONGOING CONDITIONS:

6. The owner must ensure that the plans, details and works undertaken to satisfy Conditions 1, 2, 3, 4 and 5 are subsequently implemented and maintained for the life of the development and, in addition, the following conditions must be complied with:

6.1 The development hereby approved shall be limited to: the excavation or movement of gravel from its natural state on the site; screening of material; crushing of gravel; transportation of gravel within or off the site; associated drainage works and access ways; and rehabilitation works. At no time shall any blasting works be carried out.

6.2 Operating hours, including the transportation of materials, shall be restricted to the hours between: 7.00am and 6.00pm Mondays to Fridays; and 7.00am and 1.00pm Saturdays for rehabilitation works only; and at no time on Sundays or public holidays.

6.3 Trucks going to and from the development are not to operate on Monday to Friday between the hours of 7.30am and 8.40am and between 3.20pm and 4.20pm on any given school day on a school bus route, or between other times as agreed in writing between the applicant and the local government.

6.4 The designated haulage route is to the Busselton Bypass, northwards along Nuttman Road to Walsall Road and then north along Chapman Hill Road. No other routes may be used, until trucks have reached the Busselton Bypass.

6.5 A maximum number of 50 truck movements (i.e. 25 trucks entering and 25 trucks exiting the site) shall be permitted on any operating day (i.e. Sundays and public holidays are not operating days). No truck movements are permitted on any other day.

6.6 Notwithstanding Conditions 6.4 and 6.5 above, should more than 50 truck movements per day and/or an alternative haulage route be proposed, a Traffic Management Plan is to be submitted to and approved in writing by the City; with the Plan being submitted to the City at least 7 working days prior to any haulage not consistent with Conditions 6.5 or 6.6 occurring.

Note: The City will only approve additional movements or alternate routes where it is determined that an acceptable Traffic Management Plan has been provided. The City will not approve additional truck movements and/or an alternative haulage route for more than 20 working days in any calendar year. Any additional days will require a Modification to Development Approval to be submitted to, and approved by, the City.

6.7 No more than 2 hectares shall be worked at any one time; this area shall then be rehabilitated in accordance with the approved details pursuant to Condition 3.2 concurrently with the extraction of the following 2 hectare area.

6.8 The lowest level of excavation shall always be a minimum of 300mm above the maximum water table level and no dewatering works are to be undertaken.

6.9 Further to condition 6.8 (level of extraction), the final land surface (after rehabilitation for pasture) should be 500mm above the maximum seasonal groundwater.

6.10 The approved Rehabilitation Plan shall be implemented and carried out in accordance with the approved details, including any notes placed thereon in red by the City.

6.11 The owner must submit to the City annually within three months of every anniversary of the issue of the Permit to Commence certificate a written report detailing the following to the satisfaction of the City:

a) A survey conducted by a licensed surveyor certifying:

i. The extent/size and location of the area which has been extracted;

ii. The extent/size and location of the area which has been rehabilitated;

iii. The extent/size and location of the area which is currently under operation;

b) Details as to which conditions of this development approval have been complied with and how the conditions have been complied with; and

c) No extraction operations, including stockpiling or transportation of extracted material, are to be undertaken on the site at any time when an annual written report is due and has not been submitted to the City.

6.12 No development (including any extraction) may be carried out at any time when any bond that is required to be in force and effect under Condition 3.8 is not in full force and effect.

ADDENDUM

Other than where specifically set out under this Addendum heading, this report (including attachments) and its recommendation is the same as an earlier report on this application considered by the Council at its 27 January 2021 ordinary meeting, at which time the Council resolved to defer consideration of the application to this (10 February) Ordinary Council Meeting pending a review of the detailed wording of the recommended conditions. As a result of that review, the following changes have been made to the recommended conditions:

1. The numbering for the conditions within recommended Condition 3 has been corrected (previously, there were two separate sets of conditions shown as 3.3 and 3.4).
2. What was the second Condition 3.4, now Condition 3.6, which related to validating water supply available for dust suppression has been modified - to require the submission of a distinct 'Dust Management Plan', including validation of water supply for dust suppression as per the previously recommended condition, and also specifying that the Dust Management Plan must address dust management along the unsealed section of the haul route.
3. What was Condition 3.8 (b), now Condition 3.10 (b), has been corrected so that the dust bond is held against satisfactory compliance with the Dust Management Plan, rather than the erroneous 'Condition 5.13'.
4. Within what was Condition 3.8 (d), now Condition 3.10 (d), a reference to 'conditions 3.8 (i)-(iii)' has been corrected to 'conditions 3.10 (a)-(c)'.
5. In Condition 6.7, reference to 'Condition 2' has been corrected to 'Condition 3.2'.
6. In Condition 6.10, reference to 'Rehabilitation Management Plan' has been corrected to 'Rehabilitation Plan' (as per Condition 3.2).

Further information / clarification is also provided in relation to several matters discussed prior to the Council resolving to defer consideration of the application, as follows:

1. A copy of the updated Noise Impact Assessment was provided to Mrs Cathy Howard, who had asked for a copy of that document. A copy of that document is also attached to this report (Attachment J). It should be noted that the assessment relates primarily to the proposed crushing of gravel on the site, which is subject of separate and additional regulation by the Department of Water and Environmental Regulation (DWER), in addition to regulation under the City's town planning scheme. DWER is in effect the primary regulator of noise impacts associated with the proposed crushing activity. As per verbal advice provided to Mrs Howard the City can, however, assist the proponents, neighbours and DWER if requested, by placing noise monitoring equipment on request – and subject to resourcing and prioritization.
2. The proponents were asked to indicate whether they would support additional conditions / controls on when crushing activity may take place, and advised they are not prepared to support such conditions. As per verbal advice to the Council on 27 January, officers do not consider that there is a reasonable planning basis for such conditions.
3. Mr Vernon Bussell asked questions about whether the sealed section of Nuttman Road could be extended if he was prepared to make a financial contribution towards that occurring. Mr Bussell was advised that it would not be reasonable to make that a condition of development approval, but that he, the proponents and the City could potentially discuss that opportunity separately, and that it may be an opportunity worth pursuing.
4. Mr Vernon Bussell also raised concerns that the school bus times condition (recommended Condition 6.3 above) related to outdated or incorrect school bus times. City officers have sought updated advice about school bus times, but had not received that information at time of publication. City officers envisage that updated advice will be available prior to the first Agenda Briefing Session (and the Community Access Session), and that officers will present an amended recommendation if necessary prior to the Council Meeting. It is noted, though, that school bus times can and do vary throughout the life of an extractive industry development approval, and the condition is drafted with that in mind.

EXECUTIVE SUMMARY

The City has received a development application for an 'Industry – Extractive' to extract, screen and crush 170,000m^3 of gravel at Lot 2 Nuttman Road and Lot 3 Chapman Hill East Road, Chapman Hill.

Due to the nature of the issues requiring consideration and the level of community interest, the application is being presented to Council for determination, rather than being determined by City officers acting under delegated authority. A significant period of time has elapsed since the application was subject of consultation (and re-consultation). The key reason that determination of the application was not appropriate until now is that further technical information was required to address issues that were raised through the consultation process.

Having considered the application, including submissions received in relation to the application, City officers consider that the application is consistent with the *City of Busselton Local Planning Scheme No. 21* and the broader, relevant planning framework including Local Planning Policy No. 2.3 – Extractive Industries (LPP2.3).

It is therefore recommended that the application be approved, subject to appropriate conditions.

BACKGROUND

The Council is asked to consider an application for 'Industry – Extractive' to extract, screen and crush 170,000m^3 of gravel at Lot 2 Nuttman Road and Lot 3 Chapman Hill East Road, Chapman Hill. The application was originally submitted in 2017 and, at that time, advertising was undertaken to adjoining properties. On receipt of agency/neighbour submissions, the application was 'put on hold' pending a conditional clearing permit being issued by the State Department of Water, Environment and Regulation (DWER); additional hydrology information and a noise impact assessment was also required.

The application was re-advertised in October 2019 with the additional information, however confirmation has only just been received from DWER that the noise impact assessment is acceptable.

Key information regarding the application is set out below:

1. **Landowner/s:** LCM Super Custodian No 1 Pty Ltd & Egerton-Warburton Custodian No 2 Pty Ltd. – Brian Baker

2. **Applicant:** Leeuwin Civil

3. **Site area:** 76.67ha

4. **General description of site:** Lot 2 Nuttman Road and Lot 3 Chapman Hill East Road are located towards the southern end of Nuttman Road, just north of the junction with Chapman Hill East Road. Lot 2 has frontage to Nuttman Road while Lot 3 has frontage to Chapman Hill East Road. The application site is located within the rural zone and the surrounding lots are predominately farmed, however there are a number of smaller lots within the vicinity of the site.

   Lot 3 is heavily vegetated whereas Lot 2 is predominately cleared with a clump of vegetation towards the middle of the lot. The proposed extraction area would be located on the boundary of the two lots and would result in the removal of some vegetation.

5. **Current development/use:** The lots are currently used for grazing and there is an existing dwelling and outbuildings on Lot 2.

6. **Brief description of proposed development:** The proposed development application is for the extraction of 170,000m^3 of gravel over 9.73ha and would include screening and crushing of the gravel on site. The depth of the extraction would be up to 2m below the existing surface.

   The proposed extraction would result in the removal of vegetation. The applicant has obtained a conditional clearing permit from (DWER).

   The proposed crossover has been amended after the close of the public advertising period, in order to address submissions. Access/egress to the site is now proposed in an area already cleared opposite the junction with Walters Road. The crossover and gravel section of Nuttman Road is required to be widened. The proposed haul route would be northwards along Nuttman Road and Chapman Hill Road until it reaches the Busselton Bypass.

7. **Applicable Zoning and Special Control Area designations:** The site is located within the Rural Zone.

8. **Land-use permissibility:** Industry – Extractive is an 'A' use in the Rural Zone, meaning that it is a use that may be permitted in the Zone at the reasonable discretion of the City, following a compulsory period of consultation and consideration of any submissions received. Under LPP2.3, the site is located within Policy Area 3, which is considered less constrained than other policy areas due to the primarily agricultural nature of the area.

The following attachments are provided:

1. Attachment A – Location Plan
2. Attachment B – Site and Development Plans
3. Attachment C – Application Material
4. Attachment D – Agency responses
5. Attachment E – DWER Preliminary Assessment Report for Vegetation Removal
6. Attachment F – Response from Federal Department of Environment and Energy
7. Attachment G – Plan of Noise-Sensitive Premises
8. Attachment H – Schedule of submissions
9. Attachment I – Traffic consultant advice

OFFICER COMMENT

The main issues considered relevant for detailed discussion in this report are the potential impact on the black cockatoo habitat as a result of the loss of vegetation, proposed haul route and the impact on the surrounding properties from dust, noise and disturbance. Each of these issues is addressed below.

Removal of Black Cockatoo Habitat / Vegetation

The development application was originally submitted in 2017. At that time, officers advised the applicant that in light of the extraction resulting in the removal of vegetation and the impact from the vegetation removal on the Baudin and Carnaby's Black Cockatoos, a clearing permit would be required to be obtained prior to the development application being determined.

The applicant subsequently submitted a clearing permit application to DWER. DWER undertook a preliminary investigation and provided support for the clearing subject to a development application being issued, with the inclusion of a fauna management condition, a rehabilitation condition and a weed and dieback management condition. Of note, is that the rehabilitation condition would require an equivalent area that has been cleared to be rehabilitated with native species in order to minimise the impact on black cockatoo habitat. The applicant has also submitted a referral to the Federal Department of Environment and Energy (DEE) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Department have advised that the proposed development is not a controlled action and does not require further assessment and approval under the EPBC Act before it can proceed. The letters from DWER and DEE are provided at Attachments E and F respectively.

As discussed above under Background, access was originally proposed to be adjacent to the northern boundary of Lot 2. Numerous submissions were received raising concerns that the proposed access would result in the removal of significant trees within the road reserve utilised by black cockatoos. As a result, the applicant has agreed to utilise an already cleared area opposite the junction with Walters Road, which has adequate sightlines and only minimal understorey vegetation would be required to be removed.

Haul Route

The proposed haul route would be northwards along Nuttman Road, Walsall Road and Chapman Hill Road until it reaches the Busselton Bypass. Many of the submissions have raised concerns that Nuttman Road is of insufficient width to accommodate the number of truck movements. The table below sets out key information about the haul route and the assessment of the application against the relevant planning framework (with the exception of the Chapman Hill Road section – which is a significant road - and the volume of traffic envisaged would not have any significant impact). Note that a maximum of up to 50 truck movements per day is proposed (but no truck movements on weekends or public holidays).

Section	Current standard	Current traffic volume	Proposed traffic volume (with development)	Key planning considerations	Recommendation
1. Walsall Road	Approx. 6.2m seal	Weekday average 91.1 vpd Total average 93.7 vpd	Weekday average – up to approx. 140 vpd	Road sufficient to cope with increased volume.	No road upgrade required.
2. Nuttman Road (sealed section)	Approx. 4.2m (single lane) seal, widening to approx. 6.0m at bends, with approx. 1m shoulders	Weekday average 64.4 vpd vpd Total average 65.8 vpd	Weekday average – up to approx. 115 vpd	Single lane seal not considered appropriate for significant truck movements, and development would result in volumes above 75 vpd threshold in LPP2.3. On basis of that and broader assessment, considered that upgrade to two lane seal appropriate.	Upgrade to two-lane (6.2m) seal, with constructed gravel shoulders.

3.Nuttman Road (unsealed section)	Approx. 6.5m gravel formation (narrower at some points)	Weekday average 29.5 vpd vpd Total average 32.0 vpd	Weekday average – up to approx. 80 vpd	Development would result in volumes above 75 vpd threshold in LPP2.3, but well below 150 vpd threshold in ARRB Guidelines. Once extraction has been completed, volume will also be well below what would be required to maintain a sealed road. On basis of that, considered that upgrade to 7.0m constructed gravel appropriate.	Upgrade to 7.0m gravel formation.

Further information regarding traffic impact assessment is set out below.

The City undertook traffic counts along Walsall and Nuttman Roads from 3 December 2020 to 22 December 2020. One traffic counter was installed along Walsall Rd and two along Nuttman Rd. The locations were as follows:

- Counter 1: Walsall Road - 100m southeast of the intersection with Chapman Hill Rd;
- Counter 2: Nuttman Road - 70m south of the intersection with Walsall Rd;
- Counter 3: Nuttman Road - 2.1km south of the intersection with Walsall Rd.

Over the time in which the data was collected the following average vehicles per day (vpd) were recorded:

- Counter 1: weekday average vpd 91.1, total average vpd 93.7;
- Counter 2: weekday average vpd 64.4, total average vpd 65.8;
- Counter 3: weekday average vpd 29.5, total average vpd 32.0.

The data that was collected also indicated that between 83.5% - 84.39% of the traffic was Class 1 vehicles as classified by the Austroad Vehicle Classification system; which includes vehicles up to 5.5m in length not towing anything (i.e. sedan, wagon, 4WD etc.). 3.4% - 12.0% were Class 2 vehicles including vehicles up to 5.5m towing a trailer, caravan or boat. The remainder of the vehicles, 11.5% - 13.1%, were larger vehicles and therefore of a higher class.

LPP2.3 states *"where extractive industry proposals on existing unsealed roads warrant sealing due to volumes exceeding 75 vpd as above, then the minimum upgrade shall be a seal of 6.2m".* Recent applications have considered the issue of upgrading to a sealed road and the City has previously sought advice from an independent traffic consultant. The traffic consultant advised that LPP2.3 should be given consideration for the requirements of road upgrades but, in part due to the age of the LPP, it does not reflect contemporary approaches, including Austroad Guidelines (see Attachment I for that advice).

The Austroad Guidelines detail standards for the design of sealed roads in Western Australia. As Austroad does not deal with unsealed roads, Main Roads advise that for guidance on the design of unsealed roads, reference is made to the 'ARRB Unsealed Roads Manual: Guidelines to Good Practice', 3rd edition March 2009-08-19 (ARRB Guidelines). Under the ARRB Guidelines, the carriageway requirements for roads with 'very low volumes' (less than 150vpd) is one lane with a carriageway width (including shoulders) of 5m–6m. This standard allows for vehicles to pass each other by riding half on the traffic land and half on the shoulders. ARRB Guidelines state that roads carrying 'heavy or long vehicles towing multiple trailers' (i.e. any vehicle greater in length or weight than an 'as-of-right' vehicle) should require additional road width in the order of 200mm per lane. It is considered that by requiring the carriageway width to be widened to 7m, adequate lane width is provided for two semi-trailers to pass. Taking into account the proposed maximum vehicle movements per day, it is considered that the likelihood of this occurring is relatively low, however, if this does occur it can be accommodated in the wider carriageway width.

There is not considered to be any planning basis on which to either refuse the application on traffic grounds, or require a more significant upgrade than what is recommended.

Impact on Neighbouring Properties / Winery

A number of concerns have been raised in relation to the potential impact of the proposal on the "residential amenity" of the area. The main emissions generated from an extractive operation that have the potential to have a detrimental impact upon the amenity of surrounding properties are noise and dust. In line with the requirements of the *Environmental Protection Act 1986*, it is necessary for individual operators to take all reasonable and practicable measures to prevent or minimise emissions from their premise. It is generally expected that, through appropriate site layout and design as well the implementation of adequate management plans, emissions from an individual extractive operation can be prevented from causing an adverse impact beyond the boundaries of the particular site. Generally, impacts will decrease with increasing distance from the source of the emission and therefore buffer distances are applied.

Gravel extraction and crushing of the scale proposed requires a works approval from DWER, and is required to comply with the *Environmental Protection Authority Guidance Statement No.3* (Guidance Statement). The Guidance Statement provides advice on generic separation distances between specific industries and sensitive land uses to avoid or minimise the potential for land use conflict. The distances outlined in the EPA Guidance Statement are not intended to be absolute separation distances, rather they are a default distance for the purposes of:

- identifying the need for specific separation distance or buffer definition studies; and
- providing general guidance on separation distances in the absence of site specific technical studies.

Where a lesser setback is proposed than that identified within the Guidance Statement, it is not adequate justification for an application to not be supported, but rather that site-specific investigations are to be undertaken and reports demonstrating that the separation distance will meet the acceptable criteria are to be submitted. Furthermore, enforceable management techniques should be applied to ensure an appropriate outcome.

DWER have advised the City that the extraction of gravel is not to be assessed against the hard rock requirements of the EPA Guidance Statement, therefore in relation to separation distances, the EPA Guidance Statement provides the following generic buffer distances applicable to this application:

- Gravel extraction (not including crushing): case by case; and
- Crushing of gravel: no set standard applies as not considered to be hard rock and therefore the 'crushing of building materials' buffer is applied at 1km.

The City's LPP2.3 states as follows in relation to setback distances:

> *Notwithstanding 6.2.1 and 6.2.2 above, the extraction of sand and limestone may be located less than 500m but generally no closer than 300m from a sensitive land use dependent upon the nature and scale of the operation and the content of a Dust and Noise Management Plan including consideration of the requirement for dust and noise measuring equipment to be installed within the site for the duration of the extraction process. However this will not apply to the extraction of basalt and other hard rock quarrying which requires greater setback distances (generally a minimum of 1000m) to a sensitive land use.*

A works approval has now been submitted to DWER with accompanying documents including a noise management plan. The City has referred the noise assessment to DWER (Noise Branch) and they requested some minor changes which have been undertaken by the applicant.

There are a number of dwellings sited 500m from the proposed extraction. A plan of noise-sensitive premises is provided as Attachment G. LPP2.3 states "No extractive is to be located within 500m of a residence where the owner or resident of such objects". The closest dwelling that has been noted on the plans (Lot 31) would be 350m from the proposed extraction site. Upon visiting Lot 31, it was noted that an outbuilding has been converted into habitable accommodation. The City has no records of a development application or building permit being issued for a dwelling at this site and no comments have been received from the occupier. Notwithstanding the absence of a valid approval for a dwelling, the noise assessment has included the outbuilding as a 'Receiver', and it concludes that full compliance is achieved for the proposed operations.

In regard to the remainder of dwellings surrounding the application site, the noise assessment considers the impact from the proposed use on all the surrounding properties. It concludes that the adjusted worst-case noise levels are below the day-time assigned noise levels for all the noise-sensitive premises.

A number of submissions have been received in respect of the impact on Whicher Ridge Winery which is located on the eastern side of Chapman Hill East Road. There would be approximately 915m from the closest extraction cell to the closest winery building on the lot. LPP2.3 considers the impact on tourist attractions and states that when an extractive industry is approved within 1km of an attraction, additional conditions to reduce amenity impact from noise and dust may be imposed. DWER have confirmed that in accordance with the Noise Regulations, a winery is considered a commercial premises not a sensitive receptor. In light of the conclusions of the noise assessment, it is considered that there is sufficient separation to ensure that there will not be an unreasonable impact on the winery.

Statutory Environment

The key statutory environment is set out in the Scheme, the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), Schedule 2 of which is the 'deemed provisions', which also functionally form part of the Scheme. The key aspects of the Scheme and Regulations relevant to consideration of the application are set out below.

Zoning

The site is zoned 'Rural'. The objectives of the 'Rural' zone are as follows:

a. To provide for the maintenance or enhancement of specific local rural character.

b. To protect broadacre agricultural activities such as cropping and grazing and intensive uses such as viticulture and horticulture as primary uses, with other rural activities as secondary uses in circumstances where they demonstrate compatibility with the primary use.

c. To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways, to protect sensitive areas especially the natural valley and watercourse systems from damage.

d. To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.

e. To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.

f. To provide for development and expansion of the viticultural, winemaking and associated tourism activities and other industries related to agricultural activities, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.

g. To provide for the extraction of basic raw materials, where appropriate.

The proposal is considered to satisfy the objectives of the zone.

Land-use and permissibility

The proposed land uses which is defined 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.

Industry - Extractive is identified as an 'A' or advertised use within the Rural zone.

Matters to be considered

Clause 67 of the deemed provisions within the Regulations sets out 'matters to be considered' by a local government in considering an application for development approval. The following matters are considered to be relevant to consideration of this application:

(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;

(c) any approved State planning policy;

(d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d); …

(g) any local planning policy for the Scheme area; …

(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

(n) the amenity of the locality including the following —

(i) environmental impacts of the development;

(ii) the character of the locality;

(iii) social impacts of the development;

(o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;

(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;

(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk; …

(s) the adequacy of —

(i) the proposed means of access to and egress from the site; and

(ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;

(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety; …

(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;

(y) any submissions received on the application; …

(zb) any other planning consideration the local government considers appropriate.

The proposal generally complies with the relevant provisions noted above.

Relevant Plans and Policies

Relevant plans and policies must be given due regard in assessing the application, but cannot and do not bind the local government in determining an application for development approval. Plans and policies considered in the assessment of the application are as follows:

Local Planning Policy 2.3 - Extractive Industries

LPP2.3 – Extractive Industries provides guidance regarding the extraction of basic raw materials. The application site is located within Policy Area 3. The elements of LPP5A that are considered particularly relevant to assessment of the application are as follows:

1. 4.2.2.3 Policy Areas 2 and 3:
Notwithstanding 6.2.1 and 6.2.2 above, the extraction of sand and limestone may be located less than 500m but generally no closer than 300m from a sensitive land use dependent upon the nature and scale of the operation and the content of a Dust and Noise Management plan

2. 4.2.2.5 Policy Areas 2 and 3:
Where an extractive industry is approved within 1km of a residence or tourist accommodation or attraction, additional conditions to reduce amenity impact from noise and dust may be imposed, including operating times.

3. 4.2.3 Environmental Impacts:
The potential impacts of an extractive industry will be assessed against the Scheme and the following criteria:

   a) If approvals or advice has been issued by Department of Environment and Conservation and if not the extent of remnant vegetation to be cleared, including road verges resulting from road widening and upgrading; and proximity to areas of declared rare or endangered flora and fauna (DRF) or threatened ecologic communities (TEC).

   b) Proximity to and significance of watercourses, drains, wetlands, and on-site and adjoining dams and need for surface drainage and groundwater management plans.

   c) Evidence of Dieback disease and the suitability of a Dieback Hygiene Management Plan. (The Dieback Working Group-Best Practice Guidelines should be referenced in the formulation of a dieback management plan, including the matters that should be addressed in the plan and the responsibilities for the operator to comply with best practice management techniques.)

   d) Comments or recommendations from the Environmental Protection Authority, Department of Agriculture and Food WA, the Department of Water or any other relevant government agency.

   e) Proposed end use of site, particularly if intending to revert to agricultural land.

   f) The extent of bedrock, underlying clay soil strata and/or ground water levels to a depth of 0.5 m below the base of the excavation area.

   g) Any other ecological or environmental issues that may be relevant.

4. 4.2.4.3 Policy Area 3:
Extractive industry to be effectively screened from all major tourist routes where the impact warrants screening.

5. 4.2.5 Route Assessment and Transportation:
The potential impacts of an extractive industry will be assessed against the Scheme and the following criteria:

   a) The outcomes of the Schedule 1 – Traffic Impact Assessment and Road Upgrading Guidelines.

   b) Any comments or recommendations from Main Roads WA.

   c) The impacts of haulage traffic noise, vibration and amenity loss on surrounding areas.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

Clause 64 of the deemed provisions sets out circumstances in which an application for development approval must be advertised, and also sets out the means by which applications may be advertised. Given the scale of the proposed development, it was considered appropriate to advertise the development application.

The purpose of public consultation is to provide an opportunity for issues associated with a proposed development to be identified by those who potentially may be affected. A development application should not be approved or refused based on the number of submissions it receives, rather all applications must be determined on the merits of the particular proposal, including consideration of any relevant planning issues raised through consultation.

The application was open for submissions from 22 November 2017 to 20 December 2017 and re-advertised with the additional information from 2 October 2019 to 24 October 2019. The application was advertised in the following manner:

1. Information regarding the application was posted on the City's website;
2. A portal was created using the City's *YourSay* platform for the online lodgement of submissions;
3. Letters were sent to all the land owners within 1km of the site; and
4. A notice was placed in a local newspaper on 2 October 2019.

Submissions were received from a total of 14 people. A schedule of submissions is provided as Attachment F. The schedule identifies who submissions were received from and summarises the submissions.

The submissions can generally be grouped as follows:

Objection

- The proposed access would be onto a dangerous section of Nuttman Road;
- Nuttman Road is not designed for heavy vehicles;
- Noise, dust and visual amenity concerns;
- Impact on winery and tourist attraction;
- Removal of feeding and breeding habitat for Black Cockatoos on site and road reserve;
- Revegetation unlikely to provide suitable replacement habitat for a long time.

Support

- Extraction of gravel subject to a revised access and road upgrades.

Where issues are raised which are not able to be considered, as they do not relate to the relevant planning framework, the comment provided (note comments have been grouped given the number of submissions received) indicates that, but does not provide further commentary or discussion. That does not necessarily suggest that the issues are not genuine issues of concern to the submitter or more broadly, but they are unfortunately not issues that can or should be addressed in the assessment of the application.

In addition to the above, the application was referred to DWER, Department of Biodiversity, Conservation and Attractions and the Department of Mines, Industry Regulation and Safety. The agencies' comments are provided as Attachment D.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. The key risk to the City is considered to be the potential reputational and environmental risk that may arise if the site is not managed in a manner consistent with the conditions of approval. Mitigation of that risk requires proactive and appropriately resourced compliance activity.

Options

As an alternative to the proposed recommendation, the Council could:

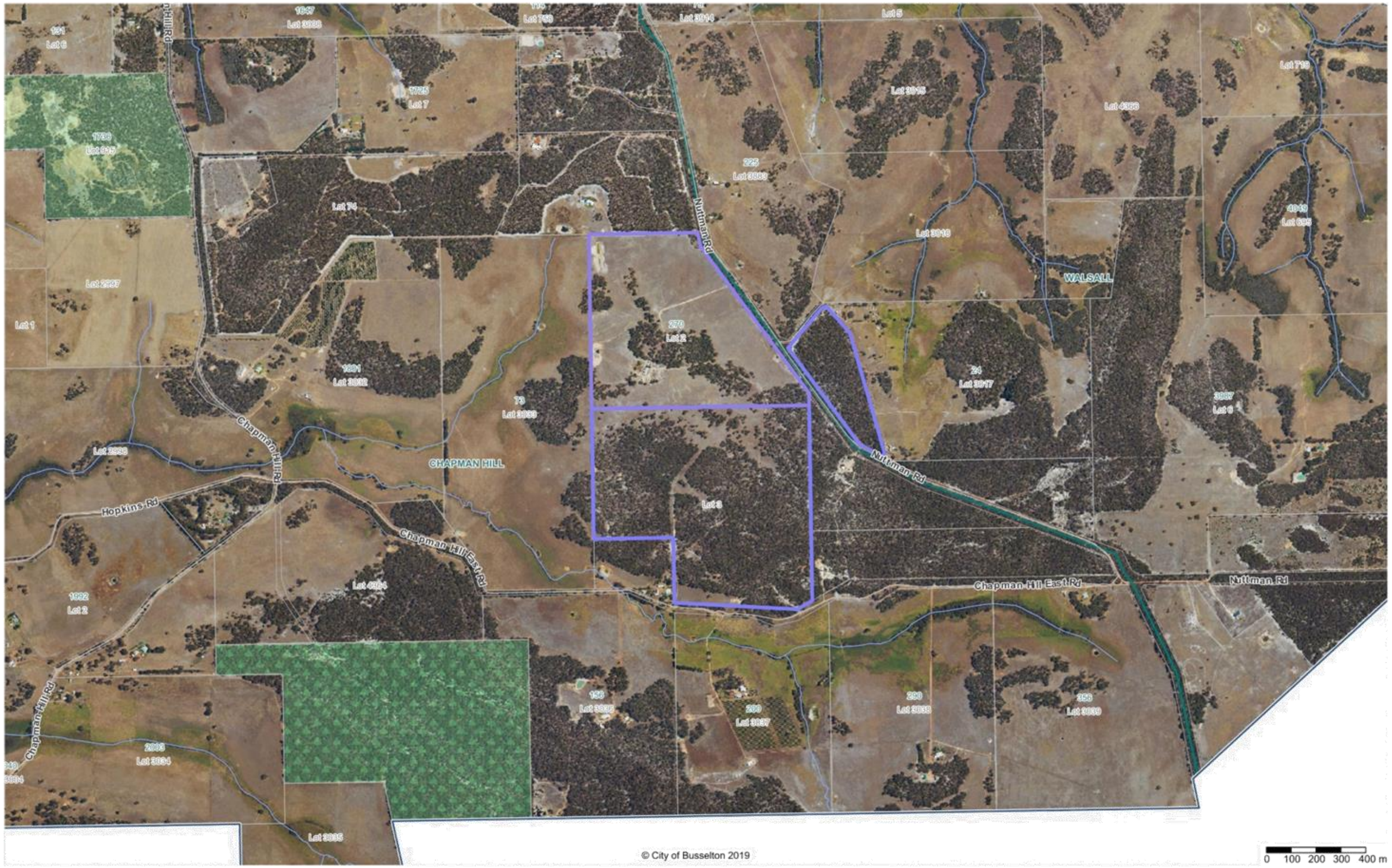
1. Refuse the proposal, setting out reasons for doing so; or
2. Apply additional or different conditions.

CONCLUSION

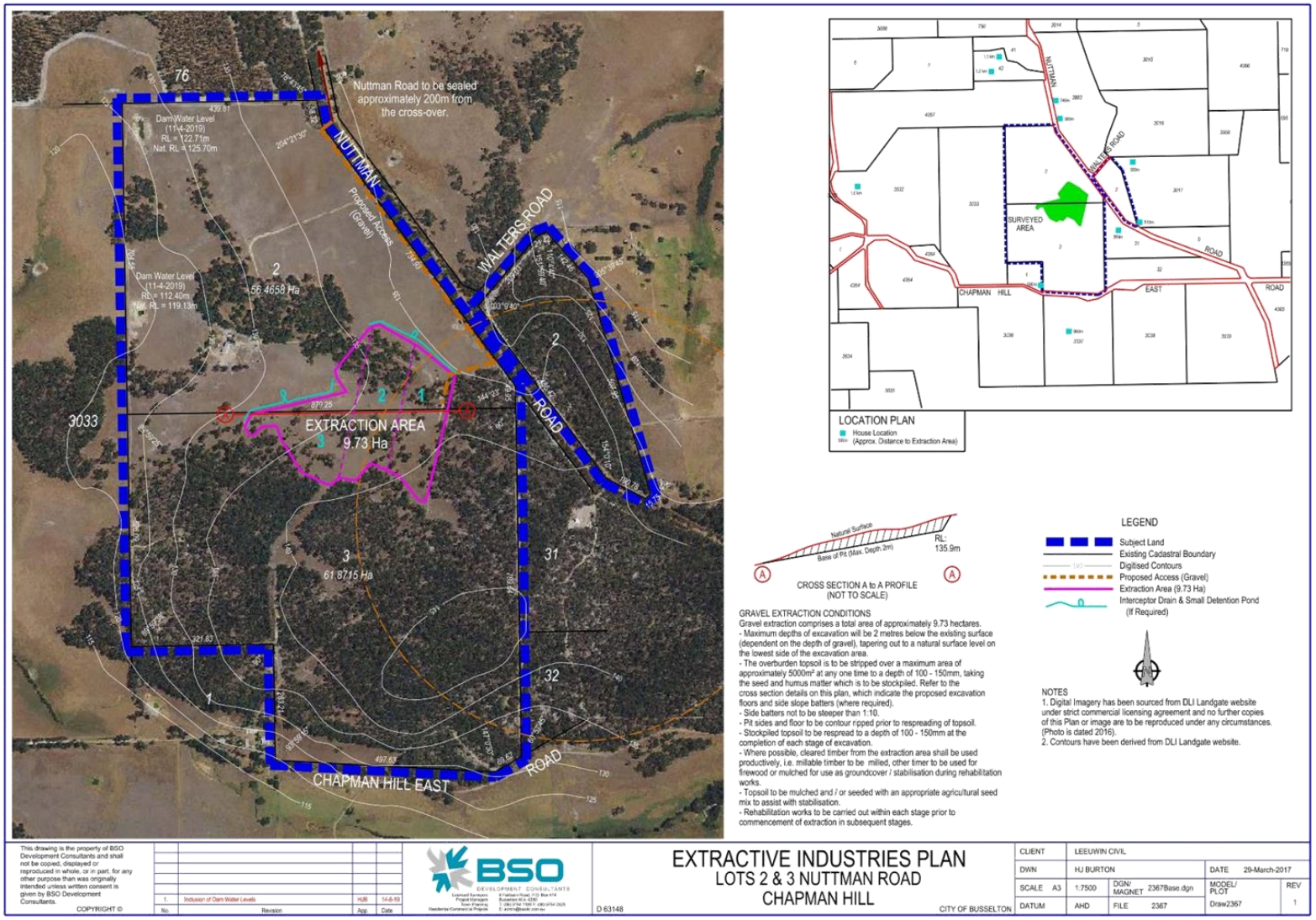
Subject to the inclusion of relevant conditions, the proposal is considered appropriate to support and it is accordingly recommended for approval.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The applicant and those who made a submission will be advised of the Council decision within two weeks of the Council meeting.



City of Busselton	Disclaimer: Every effort has been made to make the information displayed here as accurate as possible. This process is ongoing and the information is therefore ever changing and cannot be disseminated as accurate. Care must be taken not to use this information as correct or legally binding. To verify information contact the City of Busselton office.	8/11/2019 1:14044 @ A3L	N


Nuttman Road to be sealed approximately 200m from the cross-over.
NUTTMAN
Proposed Access (Gravel)
WALTERS ROAD
ROAD
Dam Water Level (11-4-2019) RL = 122.71m Nat. RL = 125.70m
Dam Water Level (11-4-2019) RL = 112.40m Nat. RL = 119.13m
56.4658 Ha
EXTRACTION AREA
9.73 Ha
61.8715 Ha
3033
31
32
CHAPMAN HILL EAST
ROAD
LOCATION PLAN
House Location
(Approx. Distance to Extraction Area)
SURVEYED AREA
CHAPMAN HILL
EAST
ROAD
Natural Surface
Base of Pit (Max. Depth 2m)
RL: 135.9m
CROSS SECTION A to A PROFILE
(NOT TO SCALE)
LEGEND
Subject Land
Existing Cadastral Boundary
Digitised Contours
Proposed Access (Gravel)
Extraction Area (9.73 Ha)
Interceptor Drain & Small Detention Pond (If Required)
GRAVEL EXTRACTION CONDITIONS
Gravel extraction comprises a total area of approximately 9.73 hectares.
- Maximum depths of excavation will be 2 metres below the existing surface (dependent on the depth of gravel), tapering out to a natural surface level on the lowest side of the excavation area.
- The overburden topsoil is to be stripped over a maximum area of approximately 5000m² at any one time to a depth of 100 - 150mm, taking the seed and humus matter which is to be stockpiled. Refer to the cross section details on this plan, which indicate the proposed excavation floors and side slope batters (where required).
- Side batters not to be steeper than 1:10.
- Pit sides and floor to be contour ripped prior to respreading of topsoil.
- Stockpiled topsoil to be respread to a depth of 100 - 150mm at the completion of each stage of excavation.
- Where possible, cleared timber from the extraction area shall be used productively, i.e. millable timber to be milled, other timer to be used for firewood or mulched for use as groundcover / stabilisation during rehabilitation works.
- Topsoil to be mulched and / or seeded with an appropriate agricultural seed mix to assist with stabilisation.
- Rehabilitation works to be carried out within each stage prior to commencement of extraction in subsequent stages.
NOTES
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2. Contours have been derived from DLI Landgate website.
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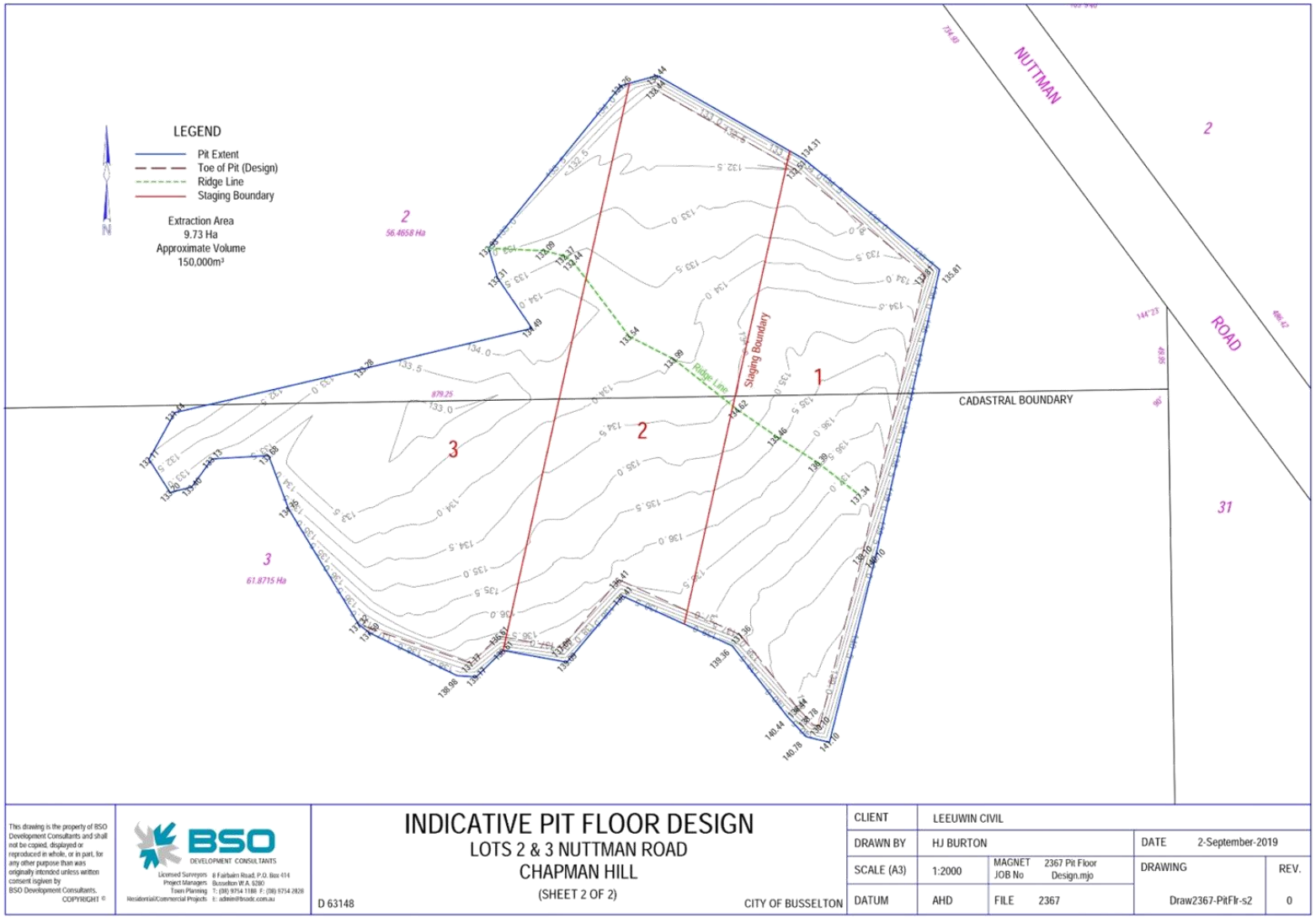
1. Inclusion of Dam Water Levels HJB 14-8-19
No. Revision App. Date
BSO DEVELOPMENT CONSULTANTS
EXTRACTIVE INDUSTRIES PLAN
LOTS 2 & 3 NUTTMAN ROAD
CHAPMAN HILL
D 63148
CITY OF BUSSELTON
CLIENT LEEUWIN CIVIL
DWN HJ BURTON
DATE 29-March-2017
SCALE A3 1:7500
DGN/ MAGNET 2367Base.dgn
MODEL/ PLOT Draw2367
REV 1
DATUM AHD
FILE 2367


LEGEND
Pit Extent
Toe of Pit (Design)
Ridge Line
Staging Boundary
Extraction Area
9.73 Ha
Approximate Volume
150,000m³
NUTTMAN
ROAD
CADASTRAL BOUNDARY
Staging Boundary
Ridge Line
2
56.4658 Ha
3
61.8715 Ha
1
2
3
31
879.25
INDICATIVE PIT FLOOR DESIGN
LOTS 2 & 3 NUTTMAN ROAD
CHAPMAN HILL
(SHEET 2 OF 2)
D 63148
CITY OF BUSSELTON
BSO
DEVELOPMENT CONSULTANTS
CLIENT LEEUWIN CIVIL
DRAWN BY HJ BURTON
DATE 2-September-2019
SCALE (A3) 1:2000
MAGNET 2367 Pit Floor
JOB No Design.mjo
DRAWING Draw2367-PitFlr-s2
REV. 0
DATUM AHD
FILE 2367

DEVELOPMENT APPLICATION AND WORKS APPROVAL APPLICATION

LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL

NOVEMBER 2020

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Document Control

Version	Date	Author	Reviewer
V1	04/06/2020	KMT	LW
Filename	2020_Nuttman Rd Works Approval Application		

Limitations

This report has been prepared by Accendo Australia Pty Ltd in accordance with the scope limitations provided in this report, or as otherwise agreed, between the Client and Accendo.

This report is strictly limited to the matters stated in it and is not to be read as extending, by implication, to any other matter in connection with the matters addressed in it.

This report has been prepared based upon data and other information provided by the Client and other individuals and organisations, most of which are referred to in the report, which Accendo has not independently verified or checked beyond the agreed scope of work. Accendo does not accept liability in connection with such unverified information.

The conclusions and recommendations in this report are based on assumptions made by Accendo described in this report where and as they are required. Accendo disclaims liability arising from any of the assumptions being incorrect.

The report is based on site specific conditions encountered and information received at the time of preparation of this report or the time that site investigations were undertaken. Accendo disclaims responsibility for any changes that may have occurred after this time.

The preparation of this report has been undertaken and performed in a professional manner, in consideration of the scope of services and in accordance with environmental consulting practices. No other warranty is made.

CONTENTS

TABLES

FIGURES

APPENDICIES

1 INTRODUCTION

1.1 Background

Leeuwin Civil Pty Ltd (the applicant) is proposing to extract gravel from a 9.73 hectare (ha) area (herein referred to as the subject site) located on Lots 2 and 3 Nuttman Road, Chapman Hill (refer to **Figure 1** and **2**).

It is anticipated that approximately 50,000 tonnes per annum of gravel will be processed. The proposal involves the crushing and screening of gravel within the subject site.

This report has been prepared by Accendo Australia, including information directly inserted from the BSO Consultants correspondence dated 31st October 2017.

1.2 Location and Layout Plans

The subject site is located on the southern boundary of Lot 2 and the northern extent of Lot 3 Nuttman Road. Both Lots 2 and 3 Nuttman Road are wholly owned by Mr Brian Baker (refer to **Appendix A** for Certificate of Title). Authorisation for Leeuwin Civil to act on the landowner's behalf for this proposal has been provided (refer to **Appendix B**).

The subject site is located in the municipality of the City of Busselton, approximately 16 km south of the Busselton central business district. The property is zoned 'Rural' pursuant to the City of Busselton's *Local Planning Scheme No. 21*. The proposed extractive industry is a permitted land use within this zone subject to development approval from the City of Busselton.

The enclosed location plan and site plan identify the proposed extraction areas quite clearly. The subject land is located within Extractive Industry Policy Area No. 3 – Extractive Industry Less Constrained. Extractive industry will be expected to be approved within Policy Area 3, where such operations can meet the requirements of these provisions and the Scheme, provided they do not impact on known areas of titanium mineralisation, nor have an adverse impact on Prime Agricultural land.

The property is well removed from areas known to contain titanium mineralisation.

1.3 Existing and Surrounding Landuses including Extractive Industry

Landuse abutting the boundaries of the subject land is rural based, predominantly grazing, dairying and pastoral landuses, as well as conservation/lifestyle properties immediately to the east.

The Location Plan shows the position of all residences located within one kilometre of the proposed extraction areas. The closest dwellings are to the east and south at distances of approximately 350 and more than 500 metres, they are well screened from the proposed extraction areas by almost continuous remnant vegetation.

1.4 Property Access

Access to the proposed extraction area is provided by Nuttman Road which is proposed to be upgraded by Leeuwin Civil Pty Ltd to an appropriate sealed standard and width, for approximately 200 metres. The trucks will then enter Lot 2 near its northeast corner and traverse this property along an internal gravel accessway which is to be built from the gravel resource to access the extraction area.

1.5 Visual Impact Management

It is anticipated that the gravel resource will be transported northwards to Chapman Hill Road, which then runs all the way to the Busselton Townsite. The landowners and contractor are committed to installing and maintaining all necessary signage along the haulage route should an approval be granted.

While the extraction area will be partly visible from Nuttman Road, it will be completely screened from all other directions. A row of trees could be retained along the north-eastern edge of the pit to further protect views from the roadway.

2 EXISTING ENVIRONMENT

2.1 Topography and Soils

The natural topography of the subject site increases in elevation in a south-easterly direction. The elevation ranges from 130 metres (m) Australian Height Datum (AHD) to 140 m AHD.

Soils across the subject site are mapped by Tille and Lantzke (1990) and are described as follows:

- Treeton hillslopes phase: Slopes with gradients generally ranging from 2-15% and gravelly duplex (Forest Grove) and pale grey mottled (Munglte) soils; and
- Treeton sandy slopes phase: Slopes (with gradients generally 5-10% but ranging from 2-15%) with deep bleached sands.

2.1.1 Acid Sulfate Soils

Acid Sulfate Soils (ASS) is the common name given to naturally occurring soil and sediment containing iron sulfides. They have become a potential issue in land development projects on the Swan Coastal Plain when the naturally anaerobic conditions in which they are situated are disturbed and they are exposed to aerobic conditions and subsequently oxidise. When oxidised, ASS produce sulfuric acid, which can result in a range of impacts to the surrounding environment. ASS that has oxidised and resulted in the creation of acidic conditions are termed "Actual ASS" (AASS), and those that have acid generating potential but remain in their naturally anaerobic conditions are termed "Potential ASS" (PASS).

Mapping prepared by the Department for Planning, Lands and Heritage to support the Western Australian Planning Commission's (WAPC's) Planning Bulletin 64: *Acid Sulfate Soils* (WAPC 2007) does not extend to the subject site. Accordingly, following a review of the *Australian Soil Resource Information System*, the subject site is mapped as having an 'Extremely Low Probability of Occurrence' for ASS (ASRIS 2013).

2.2 Hydrology

2.2.1 Groundwater

The subject site is located within the Busselton-Capel groundwater area as proclaimed under the *Rights in Water and Irrigation Act 1914* (RIWI Act).

During a geotechnical investigation of the subject site, several test pits were excavated to a depth of 3 m from October to the end of November 2015 (BSO 2015). During this investigation, groundwater was not encountered.

The Superficial Aquifer within the subject site forms an unconfined aquifer beneath the Swan Coastal Plain, with a thin saturated thickness of <5 m. The Superficial formation collectively includes the Tamala Limestone, Bassendean Sand, Guildford formation and Yoganup formation. Consequently, there is a large variation in permeability, salinity, recharge rates and soil type (DoW 2009).

The depth of the superficial layer decreases towards the Whicher Scarp, where it becomes a thin layer (0–3m) over the laterite, underlain by the Leederville Aquifer. The aquifer is fully recharged and saturated during the winter months resulting in large areas of water logging. However, the extensive drainage network captures and diverts most of the excess water. Groundwater salinity ranges from < 1000 mg/L towards the southern and western boundaries and increasing towards the coast to > 1000 mg/L (DoW 2009).

We are advised that a few test holes were excavated within the extraction area some time ago, to a depth of approximately 4 metres, and no groundwater was encountered. We do not know where these holes were dug and have not attempted to show the same on the application plan. The lack of water is no surprise, most of Lot 3 is dominated by a substantial ironstone and gravel ridge, this is why it has never been cleared for grazing (insert from BSO Consultants 2017).

There are two stock dams on Lot 2, adjacent to the western boundary, which depict quite different holding abilities. Both are excavated below the caprock layer, with the dam located in the northwest corner having a water level of 122.71mAHD, 2.99 metres below the ground surface of 125.7mAHD on 11th April 2019. There was an obvious water line visible on the wall of this dam at 123.74mAHD which represents its maximum water capacity – 1.96 metres below ground level. This dam also captures some inflow from surface run-off (insert from BSO Consultants 2017).

The second dam is located in a broad, shallow valley which drops away to the west, it had a water level of 112.4m AHD, 6.73 metres below the ground surface of 119.13m AHD. The landowner advises that its level increases by 9 feet (2.75 metres) and is always at least 12 -13 feet (3.98 metres) below ground level. This dam also captures some inflow from surface run-off (insert from BSO Consultants 2017).

This indicates that the groundwater becomes deeper below the ironstone ridge as you head southwards, until it becomes shallow again in the next valley down at Chapman Hill East Road (insert from BSO Consultants 2017).

Extraction of gravel will be to a depth of up to 2 metres, at least 2 metres above the anticipated maximum groundwater level in this area.

2.2.2 Surface Water

The subject site does not contain any defined wetlands (as classified within the *Geomorphic Wetlands of the Swan Coastal Plain* dataset) and is not located within a 'Public Drinking Water Source' area (SLIP 2019).

The subject site is located approximately 20 km south of Geographe Bay and 30 km east of the Indian Ocean. The closest drainage feature is a minor seasonal upper tributary of the Vasse River, approximately 650 m south and west of the subject site. Accordingly, the project will not impact any watercourses.

An attachment is included of an indicative pit floor design, whereby surface run-off will be directed in a westerly direction, consistent with the natural lay of the land. It is more than 300 metres in a west/northwest direction through pastured cattle paddocks before any of that run-off will exit the property, at a grade of just 3%. This will naturally filter any particles/discolouration which could leave the pit before exiting the property. It is not expected that any form of stormwater management will be required rather, large rainfall events will pond in the pit floor before naturally dissipating. The landowner and contractor will monitor this situation at all times and will remedy the situation if this is not the case (insert from BSO Consultants 2017).

No erosion is anticipated, this will be prevented by the gravelly nature of the soil on this ridgeline.

It is also acknowledged that a water licence will be required if water is utilised for dust suppression. This will be available in the two dams described above and a licence application will be lodged if this extractive industry application is approved (insert from BSO Consultants 2017).

2.3 Vegetation and Flora

The subject site is classified as being in a 'degraded' to 'completely degraded' condition (SW Environmental 2017) attributed to a history of agricultural land uses. Native flora species are predominately restricted to

Marri (*Corymbia calophylla*), Jarrah (*Eucalyptus marginata*) and occasional WA Sheoak (*Allocasuarina fraseriana*) (SW Environmental 2017). Given the condition of the subject site, no flora or vegetation of conservation significance is likely to occur within the subject site. The nearest Threatened Ecological Community (TEC) and Declared Rare Flora (DRF) species is mapped over 3 km north-west from the subject site (refer to **Figure 3**).

An application to clear 2.8 ha of remnant vegetation associated with this proposal has been submitted to the DWER (CPS 8746/1).

2.3.1 Regional Ecological Linkages

The South West Regional Ecological Linkages (SWREL) Technical Report (Molloy et al., 2009) shows that the subject site falls within areas identified as 1a: with an edge touching or <100m from a linkage (1.5 ha) or 1b: with an edge touching or <100m from a natural area selected in 1a (0.5 ha). The vegetation within the subject site is therefore considered to be part of a regional ecological linkage (refer to **Figure 3**).

The project however only involves the clearing of 2.8 ha (0.08%), two hectares of which is mapped as a part of SWREL linkage, of the 3,490 ha of native vegetation remaining within five kilometres of the subject site. Accordingly, the impacts of the proposed clearing on Regional Ecological Linkages or native vegetation within the context of the subject site will be negligible.

The subject site is not located within an ecological linkage as defined by Bush Forever, Perth Greenways and the System 6 Report.

2.3.1 Environmentally Sensitive Areas

Section 51B of the *Environmental Protection Act 1986* (EP Act) allows the Minister to declare an Environmentally Sensitive Area (ESA). Once declared, the exemptions to clear native vegetation under the regulations do not apply in these areas. TECs, areas within 50m of any DRF and defined wetland areas constitute ESAs. However, a number of other areas of environmental significance are also listed. Current declared ESAs are listed in the Environmental Protection (Environmentally Sensitive Areas) Notice 2005.

The subject site is not mapped within an ESA. The closest ESA is located approximately 3.2 km from the subject site (refer to **Figure 3**).

2.4 Fauna

In consideration of vegetation condition and species present within the subject site, fauna habitat is predominately restricted to black cockatoos (Forest Red-tailed black cockatoo (*Calyptorhynchus banksii naso*), Baudin's black cockatoo (*Calyptorhynchus baudinii*) and Carnaby's black cockatoo (*Calyptorhynchus latirostris*)). A *Black Cockatoo Habitat Assessment* (SW Environmental 2017) was undertaken within the subject site whereby it was identified that 2.8 ha of black cockatoo breeding and foraging habitat would be impacted by the proposal.

Accordingly, approval from the Commonwealth Department of the Environment and Energy (DotEE) was sought whereby it was determined that the proposed clearing is not a controlled action and therefore approval is not required pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) (refer to **Appendix C**).

2.5 Aboriginal Heritage

An online search for relevant Aboriginal heritage information was undertaken using the Department for Planning, Lands and Heritage (DPLH) *Aboriginal Inquiry System* that incorporates both the heritage site register and the heritage survey database (DPLH 2019). The Aboriginal Heritage Site Register is maintained pursuant to Section 38 of the *Aboriginal Heritage Act 1972* and contains information on over 22,000 listed Aboriginal sites throughout Western Australia.

Results of the database search revealed that no Aboriginal heritage sites are present within the extraction area. Nonetheless, it is important to note that Aboriginal heritage sites may still exist in or adjacent to the subject site that are not yet known, or may not yet been listed on the Aboriginal Heritage Register.

2.6 Sensitive Receptors

The Environmental Protection Authority's (EPA) *Guidance for the Assessment of Environmental Factors* (June 2005) provides generic separation distances to assist in the determination of suitable buffers where industry may have the potential to affect the amenity of a sensitive land use. In particular, for extractive industries, a buffer distance of 300 m to 500 m is recommended from sensitive land uses.

The closest residential dwelling to the subject site is 320 m to the south, as shown in **Figure 4.**

Land use abutting the boundaries of the subject land is rural based, predominantly grazing, dairying and pastoral land uses, as well as conservation/lifestyle properties immediately to the east.

3 MOBILE CRUSHING AND SCREENING PROCESS

3.1 Area of Disturbance

The gravel quarry will cover an area of approximately 9.73 ha with a maximum natural elevation of 140m AHD. Maximum depths of excavation will be approximately 2 m in the southern sectors, becoming much shallower as the extraction progresses northwards. Excavation will occur in three stages, each approximately 3.24 ha, over a five year period.

It is estimated that the total maximum volume of gravel to be removed from the three cells will be approximately 170,000 banked cubic metres and the landowners request that their permit be given the longest lifespan allowable (5 years).

3.2 Description Overview

All crushing equipment and infrastructure at the subject site will be fully portable to facilitate movement throughout the site required for staged quarrying operations. The following equipment could be present at the subject site throughout operations:

- Light vehicles;
- Excavator;
- Service truck;
- Mobile crushing and screening plant;
- Front end loader;
- Tip truck;
- Site office;
- Ablutions.

The commencement of operations is proposed in the second half of 2020 (subject to obtaining all approvals). The estimated construction costs to mobilise the crushing and screening equipment is $139,630 (refer to **Table 1**). The only cost associated with the infrastructure outlined in this works approval application is the hire and mobilisation of equipment to the subject site. Operating hours will be restricted to 7:00am – 6:00pm, Monday to Friday. It should be noted that the quarry will operate on a campaign and as needs basis.

Table 1. Estimated construction costs.

Timing	Details
Category	12 – Screening, etc. of material
Capacity Range	More than 50,000 but not more than 100,000 tonnes per year
Total Cost	Equipment Hire – $138,580.00 Mobilisation to site - $1,050.00 Total Cost - $139,630.00 More than $100,000 but not more than $150,000 - Rate 45
Total Fee	$1,827.00

The key project characteristics associated with the proposal are provided below in **Table 2**.

Table 2. Project characteristics.

Characteristic	Description
Quarry life	Five years
Total resource	Approximately 50,000 tonnes of gravel per annum
Project footprint	9.73 ha
Vegetation clearing	2.8 ha within extraction area (CPS 8746/1). No other vegetation clearing required.
Operating hours	7:00am – 6:00pm, Monday to Friday
Storage shed	A storage container may be located in the fenced compound for the overnight storage of valuable equipment.
Fenced compound	A compound area will be fenced to secure equipment and restrict public access.
Dump truck	A dump truck will be used to transport material within and from the site.
Water Tankers	A 10,000L water tanker or similar will be used for dust suppression on the access road and working floors as required.
Bulldozer (D8)	Topsoil will be stripped using a bulldozer to a maximum depth of 150mm. bulldozers will also be used for the movement of gravel and loading road trucks.
Excavator (325/330)	An excavator may be used for the removal of gravel material.
Loader (938/966)	Loaders will be used for the movement of gravel and loading road trucks.
Terex Finlay I-140 Impact Crusher	Used for the crushing of gravel.
Terex Finlay 693 Supertrak	Used for the screening of crushed gravel.
Anaconda Radial Stockpiler	Used for stockpiling crushed gravel.
Toilets	A portable toilet may be required onsite.
Generator	A generator may be required to provide power to a variety of equipment.
Water usage	Water will be trucked to the subject site as required.
Waste	All waste products will be stored in appropriate rubbish bins (recycling, putrescible, and hydrocarbons will be separated in lidded bins) and removed from site by a contractor at regular intervals and disposed of at the licensed landfill facilities. There will be no landfill on site

Onsite facilities will be kept to a minimum and importantly no fuel or chemicals will be stored onsite.

3.3 Mining Operations

It is anticipated that approximately 50,000 tonnes of gravel will be extracted each year, depending on supply and demand. The above factors suggest an average of seven additional truck movements per day but this will be dependent on demand.

The topsoil (nominally 15 cm of the soil profile) will be stripped and stockpiled behind the excavation face using a bulldozer or loader. Where possible and if the perimeter bunding is already present, topsoil will be

directly transferred to an area being rehabilitated. Overburden, if present, will be removed using a dump truck and stockpiled to the perimeter of the proposed pit area.

3.3.1 Gravel Extraction

The gravel within the subject site can be removed with an excavator or loader without the need for blasting. The material will then be crushed and screened to produce products of the correct size.

A summary of the proposed extraction activities is provided below:

- Prior to excavation commencing the site will be ground surveyed, the excavation footprint marked out and a 1 metre contour plan developed.
- Remove the vegetation cover by pushing it into windrows for use on the batters to minimise soil erosion and assist spreading on the final land surface as part of the final rehabilitation.
- All topsoil will be removed for spreading directly onto areas to be revegetated and screening or perimeter bunds. If direct spreading is not possible the topsoil will be stored in low dumps, for spreading at a later date.
- Soil and overburden will then be removed and either directly transferred to a rehabilitation area or stored in low dumps for later rehabilitation use.
- An excavator or front-end loader will be used to excavate the gravel material.
- The material will then be picked up by a rubber tyred loader and fed to the mobile crusher.
- A loader will then transfer the laterite rock into the crusher where it would be reduced to smaller sizes and transferred to an adjoining screener. The screener then sorts the gravel into various sizes for stockpiling. On an as needed basis, gravel product will be loaded on to road trucks of various configurations for transport off-site.
- All static and other equipment, such as crushers and screens (where used), will be located on the floor of the quarry to provide visual and acoustic screening.
- Upon completion of each section of quarry the section will be reformed and back filled, where subgrade material is available, to achieve the proposed final contours.
- At the end of excavation, the floor of the quarry will be deep ripped, covered by overburden and topsoil, and rehabilitated to a constructed soil.

The likely initial position of plant equipment (crushers, loaders and screeners) will be within the floor of the existing excavation area (refer to **Figure 5**); although as such equipment is mobile it could subsequently be relocated when needed for more effective positioning in relation to areas of excavation.

Stockpiles will be located on the floor of the pit and will be a maximum of 4 metres high, which, with the lowered elevation of the pit floor and perimeter bunding of topsoil, will mean that the stockpiles are not anticipated to be visible from Nuttman Road.

3.3.1 Rehabilitation

During operations, quarrying and rehabilitation will be undertaken progressively. Following quarrying of each stage, rehabilitation will be undertaken.

Upon completion of each cell, the following completion criteria will be achieved:

- A self-sustaining cover of pasture;
- Weed levels that are not likely to impact on the viability of the reconstructed soils; and
- A safe and stable landform suitable for the proposed future land use which will be productive, grazing pasturelands.

3.4 Crushing and Screening Equipment

3.4.1 Installation

Due to the mobile nature of the crushing and screening equipment, installation at the subject site will be very simple. The 'plug and play' equipment does not require earthworks or significant construction and therefore has a low risk of noise and dust generation during this phase.

3.4.2 Operation

The crusher and screening plant will be located on the pit floor during campaigns when gravel material is being produced. The mobile crushing and screening equipment used is modular and interchangeable. The crusher and screens can be configured differently for the production of several gravel products. The plant is equipped with dust covers for dust management.

3.5 Proposed Operating Times

Operation of the pit will be constrained between the hours of 7am and 6pm Monday to Friday, and it is not proposed to include public holidays. Should individual contracts require operation outside these times, our clients are committed to notifying Council accordingly, outlining the specific details of the contract.

It should also be noted that trucks may not operate on designated school bus routes between 7.30 – 8.40am and 3.20 – 4.20pm, Monday to Friday, during school periods. The pit operators will be careful to ensure compliance with these requirements.

3.6 Staging of Operation

The site plan shows clearly the proposed areas of excavation. Our clients are committed to rehabilitating the area upon completion of the extraction and this rehabilitation will be commissioned at an appropriate time of the season when the respread topsoil will germinate and stabilise quickly i.e.. during the months of late May to September. No more than 2.0 hectares of extraction area will be exposed at any time prior to rehabilitation commencing.

3.7 Number of Truck Movements Per Day/Week

Assessment of the estimated banked volume of 170,000 cubic metres against the truck movement calculations contained within the Policy, leads to an average removal volume of 131 truck cubic metres per day (five days per week over five years).

Based on the 19 cubic metre capacity of a semi-trailer, this equates to less than 7 additional truck movements per day, on the local road network. Obviously, this is likely to fluctuate however, at this stage, average truck movements are all that can be estimated.

3.8 Haulage Routes and Destinations

The haulage routes and destinations will be subject to specific contracts however for the most part, the resource can be transported anywhere once it reaches the Chapman Hill Road/Busselton Bypass intersection. Our clients are committed to advising Council of specifics as contracts are prepared.

4 ENVIRONMENTAL IMPACTS AND MANAGEMENT

The following factors are considered to represent the potential environmental and amenity impacts associated with the proposal:

- Hydrology;
- Dust;
- Noise
- Dieback and weeds; and
- Uncontrolled discharge of contaminants to land.

These environmental factors are discussed in more detail below, together with the proposed management actions.

4.1 Hydrology

4.1.1 Surface Water

The subject site does not contain any defined wetlands (as defined within the *Geomorphic Wetlands of the Swan Coastal Plain* dataset) and is not located within a 'Public Drinking Water Source' area (SLIP 2019). Furthermore, the subject site is situated on a broad ridgeline well removed from any defined drainage lines or watercourses.

Construction

The mobilisation and positioning of equipment associated with a Category 12 prescribed premises is not associated with any impacts to surface water, including stormwater runoff.

Operation

The operation of the screening and crushing plant will be a dry operation.

To minimise any potential impacts associated with sedimentation and erosion from stormwater runoff during the operation of the crushing and screening equipment, holding ponds for each Stage will be located at the base of the pits.

These ponds will be designed to retain surface water runoff from the two-hour 10 year average return interval storm event. Cut-off drains running along the base of the pit, parallel to the western boundary, will ensure all runoff is diverted into the detention ponds.

During excavation activities, the surface will be internally drained. A low bund will be installed down slope of any excavation area in the gravel, established from the wall of the pit to the edges of the excavation. The processing area will also be bunded by a low bund to ensure no surface water runoff occurs.

Risk Assessment

A risk assessment relating to surface water and stormwater runoff in consideration of the proposed management measures is provided below. The residual risk associated with sedimentation and erosion from stormwater runoff during the operation of the crushing and screening equipment is considered Low.

Table 3. Risk assessment associated with surface water and stormwater.

Hazard	Source of Hazard	Potential Impacts	Mitigation	Likelihood	Consequence	Residual Risk
Erosion and sedimentation	Uncontrolled and contaminated stormwater runoff	Erosion and sedimentation resulting in poor surface water quality.	Installation of holding ponds to retain surface water. Bunding of the process excavation area to ensure that stormwater is contained within the excavation footprint.	1	2	Low

4.1.2 Groundwater

Groundwater will not be extracted or dewatered during the operation of the quarry and therefore, no impacts to groundwater levels are proposed. There will be no interaction with groundwater given that the proposed maximum depth of excavations will be 2 m below ground level.

The extraction and processing of gravel is a chemically free operation with the liquids used being lubricants for machinery and fuel. There will be no storage of chemicals or fuel on the subject site.

Construction

The mobilisation and positioning of equipment associated with a Category 12 prescribed premises is not associated with any impacts to groundwater.

Operation

The operation of the screening and crushing plant will be a dry operation and is not associated with any impacts to groundwater.

4.2 Dust

In accordance with the EPA (2005) Guidance Statement No. 3 *Separation Distances between Industrial and Sensitive Land Uses*, the recommended separation distance between an extractive industry and a residential dwelling is 300-500m. As previously discussed, the closest dwellings are to the east and south at distances of approximately 350m and more than 500m, and they are well screened from the proposed extraction areas by almost continuous remnant vegetation.

Construction

The mobilisation and positioning of equipment associated with a Category 12 prescribed premises is not associated with any significant dust emissions.

Operation

Potential dust emissions may impact the amenity of nearby residents and the environmental values of the surrounding landscape. An assessment of dust emissions is provided below.

Wind Direction

During the summer months the dominant wind in the mornings is from the south-east at 10-14 knots, swinging to the south-west at 20-25 knots in the afternoon. During winter, the winds are most commonly 10-14 knots with no dominant prevailing direction. During storms, winds from the west and north-west can reach 40 knots (BoM 2020).

Dust Sources

The proposed extraction activities will involve the disturbance of soil and earthen material. Specifically, this may include the following activities:

- Earthworks during extraction activities;
- Topsoil stripping;
- Loading and transportation of material;
- Vehicle movement within the site;
- Crushing and screening of material; and
- Wind erosion of exposed surfaces.

These activities have the potential to generate dust that, if not adequately controlled, can cause nuisance and safety risks. In-pit operations tend to generate less dust than surrounding activities due to the reduced airflow within the pit. The removal and replacement of topsoil material has the highest risk associated with dust generation due to the large volumes of material involved and generally lower levels of soil moisture.

Risk Assessment

In accordance with the DWER's "*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*", a risk assessment for dust emissions has been prepared.

For a site that is generating uncontaminated dust, such as extractive industry sites, the site classification chart in Appendix 1 of the DWER guideline can be used for assessing the site risk. Appendix 1 also details the provisions and contingency arrangements for dust management which apply to each site classification score.

The site classification assessment is provided below.

Part A. Nature of site

Item	Score Options				Score
1.Nuisance potential of soil when disturbed	Very low - 1	Low – 2 *Soils with a dominant particle size corresponding to gravel size or larger have less potential of becoming airborne than finer particles such as fine sand.*	Medium - 4	High - 6	2

2. Topography and protection provided by undisturbed vegetation	Sheltered and screened - 1	Medium screening – 6 *The extraction area is extensively screened by remnant vegetation.*	Little screening - 12	Exposed and wind prone - 18	6
3. Area of site disturbed by the works	Less than 1ha - 1	Between 1 and 5ha – 3 *Only 2ha will be excavated at any time. Rehabilitation will be progressive denoting that the area of disturbed land will be limited to 2ha.*	Between 5 and 10ha - 6	More than 10ha - 9	3
4. Type of work being done	Roads and trenches - 1	Roads, drains and medium deep sewers - 3	Roads, drains, sewers and partial earthworks - 6	Bulk earthworks – 9 *Gravel extraction*	9
Total score for Part A					20

Part B. Proximity of site to other land uses

Item	Score Options				Score
1.Distance of other land uses from site	More than 1km - 1	Between 1km and 500m – 6	Between 100m and 500m – 12 *The closest dwellings are to the east and south at distances of approximately 350m and more than 500m.*	Less than 100m - 18	12
2. Affect of prevailing wind direction (easterly) on other land uses	Not affected - 1	Isolated land uses affected by one wind direction – 6 *The closest dwellings are to the east and south.*	Dense land uses affected by one wind direction – 9	Dense/sensitive land uses highly affected by prevailing winds - 12	6
Total score for Part A					18

Based on the risk assessment, a site classification score (A x B) of 360 has been provided. This results in a Classification 2 which is considered a low risk (score between 200 and 399 is considered low risk, DWER 2011). The provisions, contingency arrangements and monitoring requirements as specified by the DWER (2011) associated with a Classification 2 proposal are provided below.

Provisions:

The developer shall supply a contingency plan to the local government, which shall detail the activities to be undertaken should dust impact occur.

Contingency arrangements:

Include an allowance for water-cart operation, wind fencing and surface stabilisation during construction period for the purposes of dust suppression.

All areas of disturbed land should be stabilised to ensure that the disturbed area exposed at any time is kept to a practical minimum.

Monitoring requirements:

Complaints management system in place.

Notice to be erected at the site providing contact details of the person to be contacted.

Management Measures

Based on the results from the risk assessment and in consideration of the separation distances to sensitive receptors, the following dust management measures are proposed.

Exposed Surfaces

Dust from stockpiles, un-stabilised surfaces and access roads will be suppressed with water applied by an onsite watercart with a capacity of 15,000 L. Water will be trucked to the site from an offsite source.

The volumes of water required will be dependent on the prevailing weather conditions. An estimated volume of water required for dust suppression is provided below in **Table 4**.

Table 4. Parameters for estimated water requirements for dust suppression.

Parameter	Volume/Number
Truck movements in summer	Average of 7 movements per day (depending on demand)
Volume of watercart	15 kL
Estimated days of watercart operation	120
Estimated average daily use	45 kL
Estimated annual use	5,400 kL

Material Transport

Material transported from the subject site will be carried in truck bodies of various configurations. During transport of the gravel material, dust can be generated. Accordingly, the proponent will implement the following measures to reduce dust during product transportation:

- Truck loads will be covered with tarpaulin or similar.

Processing Material

Crushing, screening and stockpiling the gravel material has the potential to generate dust. The crushing and screening plant will be fitted with dust covers to prevent dust emissions from this operation.

Crushing and screening will be undertaken in designated areas with the greatest natural protection from winds (concealed at the lowest contours) which simultaneously minimise wind-borne dust emissions and dissipate noise emissions. Excavation and processing will be conducted on the floor of the pit, 2m below natural ground level behind the excavation face.

Rehabilitation

The proposed extractive industry operation is staged. Accordingly, rehabilitation will be undertaken sequentially and as soon as reasonably possible to reduce the exposed areas. Where rehabilitation is delayed (i.e. staged completion occurs in summer), additional dust control measures will be considered. This includes the application of a paper-water mixture to exposed surfaces to create a temporary crust and prevent wind-borne dust lift-off.

Summary

The potential impacts to amenity from dust emissions are considered low with the application of suitable management measures. A summary of these proposed management measures is provided in **Table 5**.

Table 5. Dust management measures.

Timing	Management Measure
Topsoil removal, excavation and rehabilitation activities	Stockpiles, where possible, will be limited to the anticipated cubic volume/vehicle movement for cartage on the following operating day.
	Stockpiles will be configured to accommodate easy access for watering/dust minimisation if required.
	Access roads and immediate extraction areas will be watered as required.
	Topsoil stockpiles and exposed areas will be watered and stabilised as required. Stabilisation techniques that will be considered depending on environmental conditions will include hydro-mulching.
	Timing of earthworks (daily and seasonally) will coincide with periods of low wind velocity as far as practicable. This will especially need to be considered during summer with the prevailing easterly winds.
	Truck loads to be covered by tarpaulins or similar.
	Crushing and screening plant to be fitted with dust covers at all times.
	Visual monitoring of dust will be ongoing throughout the day during operations. When dust emissions are observed, dust suppression measures will be implemented immediately.
	• Erect on-site signage directing public to make complaints to the relevant person. • Maintain a complaints register (refer to **Appendix D**). A Complaints Register will be established to record the date, nature, and resolution action of any complaints. • Complaints will be directed to the site supervisor for resolution. If the complaint is verified as being due to a site source, remedial action will be undertaken within 2 hours. The City will be advised of all complaints as soon as they are received.

Timing	Management Measure
	• If a compliant cannot be resolved within the 2 hour response period, it may be necessary to cease operations.

4.3 Noise

Noise from construction sites in Western Australia is governed by the *Environmental Protection (Noise) Regulations 1997*. The Regulations state that construction work can be carried out between 7.00am and 7.00pm on any day which is not a Sunday or a public holiday provided:

- The construction work is carried out in accordance with control of environmental noise practices set out in Section 6 of *AS 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites*.
- The equipment used on the premises is the quietest reasonably available.
- Construction outside these times and days if approved by the Chief Executive Officer of the Department of Water and Environmental Regulation (DWER).

As previously discussed, the EPA (2005) Guidance Statement No. 3 *Separation Distances between Industrial and Sensitive Land Uses* recommends a separation distance between an extractive industry and a residential dwelling of 300-500m. The closest dwellings are to the east and south at distances of approximately 350m and more than 500m.

Construction

The mobilisation and positioning of equipment associated with a Category 12 prescribed premises is not associated with any significant noise emissions.

Operation

The construction works will involve the use of machinery and equipment that will generate noise during operation. Sources of noise from the subject site will include:

- Machinery noise from equipment use.
- Noise from safety equipment (beepers on machinery).
- Noise from trucks departing the site.

Reversing alarms can represent significant nuisance noise to sensitive receptors. There are a number of alternatives to alarms that maintain a safe work environment and also comply with occupational health and safety legislation. Reversing alarms alert pedestrians when a vehicle is moving, however, given that no pedestrians will be onsite (private property), the applicant has committed to using flashing lights or a broadband alarm system as an alternative. The sound of a broadband alarm is much less intrusive by nature than the sound of a tonal alarm and tends to be masked by the background noise at a lesser distance. This will eliminate/reduce noise emissions associated with reversing alarms.

Noise Barriers

Noise impacts on sensitive receptors are dependent on distance and line-of-sight. The proximity to residential dwellings has been determined (refer to **Figure 4**). Topography and existing vegetation naturally create screening from noise, dust and visual impacts between the proposed extraction area and sensitive receptors to the subject site.

Distance, obscured landform and vegetation cover (primarily in the form of large trees) over at least 350m indicates that noise impact is expected to be manageable. To further ameliorate potential noise impacts, it is proposed to establish topsoil stockpiles around the periphery of the working pit.

Wind Direction

Annual wind data has been obtained from the Busselton Bureau of Meteorology station (ID: 009603), located approximately 15 km from the proposed extraction area. Speed and direction frequency wind roses indicate winds at Busselton are bimodal, with the two dominant directions of east and west. The land-sea breeze cycle dominates the prevailing winds of the region, particularly over summer, with moderate easterly winds in the morning and stronger southerly sea breezes in the afternoon commencing around noon and weakening during the evening. The sea breeze may occur in all seasons, although it is most frequent and intense during the summer months.

During the summer months the dominant wind in the mornings is from the south-east at 10-14 knots, swinging to the south-west at 20-25 knots in the afternoon. During winter, the winds are most commonly 10-14 knots with no dominant prevailing direction. During storm events, winds from the west and north-west can reach 40 knots.

Wind can carry noise greater distances than expected, or conversely disperse noise more quickly. With noise sensitive premises located in a south and east direction from the proposed extraction area, an analysis of the wind rose data has yielded the following conclusions:

- During the summer months, the morning prevailing easterly wind may direct noise in a westerly direction, whilst the afternoon sea breeze may direct noise in an easterly direction; and
- During the winter months, storm winds are from the west which may direct noise in an easterly direction.

Management Measures

The applicant will ensure that all noise emissions will comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* at all times. Management of the operational processes associated with the extractive industry can further reduce any adverse noise impacts.

Crushing and screening will be undertaken in designated areas with the greatest natural protection from winds (concealed at the lowest contours) which simultaneously minimise wind-borne dust emissions and dissipate noise emissions. Excavation and processing will be conducted on the floor of the pit, 2 metres below natural ground level behind constructed perimeter bunds.

Similarly, gravel excavation will occur below natural ground level. The excavation walls will act as a noise insulator for operations in the pits.

In addition, the management measures prescribed within **Table 6** will be implemented to reduce noise emissions as far as practicable.

Table 6. Management actions for noise.

Objectives	Action	Timing
Ensure staff, contractors, and subcontractors are aware of noise impacts.	Ensure all personnel are appropriately inducted prior to any site works.	Prior to construction works
Management of equipment and machinery noise.	• Establish a topsoil bund around the periphery of the working pit.	At all times

Objectives	Action	Timing
	• Use machinery and equipment with minimal noise output levels. • Ensure all machinery is regularly serviced as per the equipment's maintenance schedule. • Use flashing lights/broadband alarms instead of tonal reversing alarms on excavators/loaders. • Apply speed restrictions and a ban on exhaust braking if required.	
Minimise disturbance to local residents.	Maintain levels of noise and vibration in accordance with the *Environment Protection (Noise) Regulations 1997* and the *AS2436-2010 Guide to noise and vibration control on construction, demolition and maintenance sites*. This is to be achieved by implementing the above-mentioned management measures.	At all times
Management of Public Concerns	• Erect on-site signage directing public to make complaints to the relevant person. • Maintain a complaints register (refer to **Appendix D**). A Complaints Register will be established for the site to record the date, nature, and resolution action of any complaints. • Complaints will be directed to the site supervisor for resolution. If the complaint is verified as being due to a site source, remedial action will be undertaken within 2 hours. The City will be advised of all complaints as soon as they are received. • If a compliant cannot be resolved within the 2 hour response period, it may be necessary to cease operations.	At all times

Risk Assessment

A risk assessment to determine the residual risk associated with noise emissions is provided below. The risk assessment indicates that with the application of suitable management measures the potential risk associated with noise emissions is 'Low'.

Table 7. Risk assessment associated with noise emissions.

Hazard	Source of Hazard	Potential Impacts	Mitigation	Likelihood	Consequence	Residual Risk
Noise emission	Excavation machinery and processing	Noise impacts to neighbouring properties	Refer to Actions provided in **Table 6**.	1	2	Low

4.4 Hydrocarbons and Dangerous Goods Management

Hydrocarbons are the only dangerous goods that will be utilised within the proposed extraction area for the operation of machinery. However, storage of hydrocarbons on the subject site will not occur.

Construction

The mobilisation and positioning of equipment associated with a Category 12 prescribed premises is not associated with any uncontrolled discharges of contaminants to land.

Operation

There is the minor possibility for soil and water contamination as a result of incidental hydrocarbon leakages or spills during the operation/refuelling of machinery. In such instances the management measures specified below will be implemented. It is also noted that there are no watercourses within or in proximity to the extraction area.

Table 8. Hydrocarbon and dangerous goods management measures.

Timing	Management Measure
During quarry operations	Mobile refuelling of equipment and vehicles will be undertaken following set procedures to acceptably minimise the risk of spills and to ensure adequate containment and bunding is in place to contain any spills that may occur.
	Spill kits containing appropriate equipment for control, containment and cleanup of hydrocarbon and chemical spills will be available in appropriate locations onsite and maintained.
	No vehicles or machinery are to be serviced or cleaned within the extraction area.

Risk Assessment

A risk assessment to determine the residual risk associated with the uncontrolled discharge of contaminants is provided below. The risk assessment indicates that with the application of suitable management measures the potential risk associated with uncontrolled discharges is 'Low'.

Table 9. Risk assessment associated with the uncontrolled discharge of contaminants.

Hazard	Source of Hazard	Potential Impacts	Mitigation	Likelihood	Consequence	Residual Risk
Uncontrolled discharge of contaminants to land	Machinery	Contamination of soils and/or water	Refer to Management Measures provided in **Table 8**.	1	2	Low

4.5 Dieback (*Phytophthora cinnamomi*) and Weed Control

Given that native vegetation has largely been altered within the extraction area, dieback indicator species are largely absent and therefore it is not possible to detect whether dieback is present or absent. On this basis, it is reasonable to classify the subject site as 'uninterpretable', denoting that a precautionary management approach should be adopted.

Construction

The mobilisation and positioning of equipment associated with a Category 12 prescribed premises could be associated with the introduction/spread of dieback and weeds within the subject site. Accordingly, the management measures provided in **Table 10** are proposed.

Operation

The primary objective of dieback management during operations is to minimise the risk of entry of dieback to the subject site. The risk of transportation via vehicles and equipment is low given that sealed roads will be utilised prior to entering the site.

Management Measures

The management measures proposed for dieback and weed control are provided below within **Table 10**.

Table 10. Dieback and weed management measures.

Timing	Management Measure
Topsoil removal, excavation and rehabilitation activities	Training will be provided to all personnel during an initial safety and environment induction course. This will include an explanation of the specific requirements with regard to *Phytophthora* dieback management.
	Fencing and lockable gates will be maintained and used to control unauthorized access to the excavation area.
	Avoid moving surface material or fill material from weed infected areas to non-infested areas.
	As far as reasonable and practicable haulage vehicles are to be cleaned of all loose external soil and plant material prior to entry to and exit from the extraction area.
	Access to the subject site during operation will be restricted to the proposed roads. No other access points should be established. The access location and vehicle inspection point should be clearly sign posted.
	The extraction area will be managed to avoid ponding of surface water where vehicle access is required.
	Trucks will be loaded and covered to ensure there is no spillage of material during transport.

Risk Assessment

A risk assessment to determine the residual risk associated with dieback and weeds is provided below. The risk assessment indicates that with the application of suitable management measures the potential risk associated with dieback/weed introduction and spread is 'Low'.

Table 11. Risk assessment associated with dieback and weeds.

Hazard	Source of Hazard	Potential Impacts	Mitigation	Likelihood	Consequence	Residual Risk
Introduction/spread pf dieback and weeds	Importation of soil/plant material. Onsite movement of soil.	Impacts to the condition of remnant vegetation.	Refer to Management Measures provided in **Table 10**.	1	2	Low

5 CONCLUSION

Leeuwin Civil Pty Ltd is proposing to extract gravel from a 9.73 ha area located on Lots 2 and 3 Nuttman Road, Chapman Hill.

It is anticipated that approximately 50,000 tonnes per annum of gravel will be processed. The proposal involves the crushing and screening of gravel within the subject site. These activities will require a works approval and subsequent licence pursuant to Part V of the *Environmental Protection Act 1986*.

The following factors are considered to represent the potential environmental and amenity impacts associated with the proposal:

- Noise;
- Dust;
- Weeds;
- Stormwater discharge;
- Uncontrolled discharge of contaminants to land.

A risk assessment has been undertaken for the abovementioned factors in consideration of the proposed management measures whereby the potential environmental and amenity impacts are considered 'Low' for the proposal.

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APPENDIX A - Complaints Register

Complaints Register

Ref. No.	Date	Name & Address of Complainant	Time/Date of Complaint	Detail of Complaint	Summary of Actions Taken	Shire Notified	Person Responsible

ENVIRONMENTAL NOISE ASSESSMENT

OF

GRAVEL CRUSHING

3 August 2020

AES-890089-R01-1-03082020

Acoustic Engineering Solutions
www.acousticengsolutions.com.au

DOCUMENT CONTROL

Environmental Noise Impact Assessment

Prepared for:	**Leeuwin Civil Pty Ltd**
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Revision:	1
Date:	3 August 2020
Doc NO:	AES-890089-R01-1-03082020

Acoustic Engineering Solutions

ABN: 64 451 362 914

EXECUTIVE SUMMARY

Acoustic Engineering Solutions (AES) has been commissioned by Leeuwin Civil Pty Ltd to undertake an environmental noise impact assessment for the proposed gravel-extraction operation at lots 2 and 3 Nuttman Road Chapman Hill WA 6280. The aim of this assessment is to determine whether or not the noise emissions from the proposed operations would comply with the Environmental Protection (Noise) Regulations 1997 (the Regulations).

An acoustic model is created, and three operational scenarios are modelled:

Scenario 1: represents the topsoil strip.

Scenario 2: represents the extraction activities at cell 3.

Scenario 3: represents the activities to load and transport gravel away from the site.

Nine closest residential premises are selected for the assessments. Noise levels are predicted for worst-case meteorological conditions. The predicted worst-case noise levels are adjusted for their dominant characteristics according to the Regulations, and then assessed against the assigned noise levels set by the Regulations. The compliance assessment concludes that full compliance is achieved for the proposed gravel-extraction operations.

TABLE OF CONTENTS

1.0 INTRODUCTION

Leeuwin Civil Pty Ltd (Leeuwin Civil) proposes gravel-extraction and production at lots 2 and 3 Nuttman Road Chapman Hill WA 6280. Acoustic Engineering Solutions (AES) has been commissioned by Leeuwin Civil to undertake the environmental noise impact assessment of the proposed operations. The objective of this assessment is to determine whether or not the noise emissions from the proposed operations would comply with the Environmental Protection (Noise) Regulations 1997 (the Regulations).

The gravel-extraction and production are proposed for 3 months a year. Before the extraction and production, topsoil is stripped and stockpiled as water, visual and noise barriers around the pit edges. During this period, three personnel work on site on a day shift between 7am and 3:30pm on Monday to Friday excluding public holidays.

When the extraction and production stops, the gravel is loaded to trucks and then transported away from the site. These trucks run form 7 am to 5.30 pm on Monday to Friday excluding public holidays.

Figure 1 in APPENDIX A presents an aerial view of the proposed site and surround area while Figure 2 presents the locations of closest residences. Residence UR1 does not have approved by the local authority.

2.0 NOISE CRITERIA

Noise management in Western Australia is implemented through the Environmental Protection (Noise) Regulations 1997 (the Regulations). The Regulations set noise limits which are the highest noise levels that can be received at noise-sensitive (residential), commercial and industrial premises. These noise limits are defined as 'assigned noise levels' at receiver locations. Regulation 7 requires that "noise emitted from any premises or public place when received at other premises must not cause, or significantly contribute to, a level of noise which exceeds the assigned level in respect of noise received at premises of that kind".

Table 2-1 presents the assigned noise levels at various premises.

Table 2-1: Assigned noise levels in dB(A)

Type of Premises Receiving Noise	Time of Day	Assigned Noise Levels in dB(A)[1]		
		$L_{A\ 10}$	$L_{A\ 1}$	$L_{A\ max}$
Noise sensitive premises: highly sensitive area	0700 to 1900 hours Monday to Saturday	45 + Influencing factor	55 + Influencing factor	65 + Influencing factor
	0900 to 1900 hours Sunday and public holidays	40 + Influencing factor	50 + Influencing factor	60 + Influencing factor
	1900 to 2200 hours all days	40 + Influencing factor	50 + Influencing factor	60 + Influencing factor
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays	35 + Influencing factor	45 + Influencing factor	55 + Influencing factor
Noise sensitive premises: any area other than highly sensitive area	All hours	60	75	80
Commercial premises	All hours	60	75	80
Industrial and utility premises other than those in the Kwinana Industrial Area	All hours	65	80	90

For highly noise sensitive premises, an "influencing factor" is incorporated into the assigned noise levels. The influencing factor depends on road classification and land use zonings within circles of 100 metres and 450 metres radius from the noise receiver locations.

[1] Assigned level L_{A1} is the A-weighted noise level not to be exceeded for 1% of a delegated assessment period.
Assigned level L_{A10} is the A-weighted noise level not to be exceeded for 10% of a delegated assessment period.
Assigned level L_{Amax} is the A-weighted noise level not to be exceeded at any time.

2.1 CORRECTIONS FOR CHARACTERISTICS OF NOISE

Regulation 7 requires that that "noise emitted from any premises or public place when received at other premises must be free of:

(i) tonality;

(ii) impulsiveness; and

(iii) modulation.

when assessed under Regulation 9".

If the noise exhibits intrusive or dominant characteristics, i.e. if the noise is impulsive, tonal, or modulating, noise levels at noise-sensitive premises must be adjusted. Table 2-2 presents the adjustments incurred for noise exhibiting dominant characteristics. That is, if the noise is assessed as having tonal, modulating or impulsive characteristics, the measured or predicted noise levels have to be adjusted by the amounts given in Table 2-2. Then the adjusted noise levels must comply with the assigned noise levels. Regulation 9 sets out objective tests to assess whether the noise is taken to be free of these characteristics.

Table 2-2: Adjustments for dominant noise characteristics

Adjustment where noise emission is not music. These adjustments are cumulative to a maximum of 15 dB.			Adjustment where noise emission is music	
Where tonality is present	Where Modulation is present	Where Impulsiveness is present	Where Impulsiveness is not present	Where Impulsiveness is present
+5 dB	+5 dB	+10 dB	+10 dB	+15 dB

2.2 CONSTRUCTION NOISE

Regulation 13(1) states that construction work means "(g) the removal or reinstatement of vegetation or topsoil for the purpose of or in relation to a mining operation".

Regulation 13(2) states that Regulation 7 does not apply to noise emitted from a construction site as a result of construction work carried out between 0700 hours and 1900 hours on any day which is not a Sunday or public holiday if the occupier of the premises or public place, shows that

(a) the construction work was carried out in accordance with control of environmental noise practices set out in section 4 of AS 2436-2010 Guide to noise and vibration control on construction, maintenance and demolition sites; and

(b) the equipment used on the premises was the quietest reasonably available.

2.3 INFLUENCING FACTORS

Nine (9) closest residential premises surrounding the subject site are selected for detailed assessment, as shown in Figure 2 in APPENDIX A.

No major or secondary roads are located within 450m from any selected residential premises. Neither industrial nor commercial zone is present in the vicinity of the selected residential premises within 450m. The gravel pit (9.73 hectares) is at least 320m from UR1 and more than 500m from the other residences. The gravel pit is zoned as "industrial". Therefore, the influencing factor is zero for all of the closest residential locations.

Table 2-3 presents the day-time assigned noise levels for Monday to Saturday excluding public holidays.

Table 2-3: Day-time assigned noise levels (L_{A10}) in dB(A)

Closest Residents	Influencing Factor in dB	Day-time Assigned Noise Levels (L_{A10}) in dB(A) for Monday to Saturday
All Receivers	0	45

3.0 NOISE MODELLING

3.1 METHODOLOGY

An acoustic model is developed using SoundPlan v8.0 program, and the CONCAWE[2,3] prediction algorithms are selected for this study. The acoustic model is used to predict worst-case noise levels at the closest residential locations and generate worst-case noise contours for the surrounding area.

The acoustic model does not include noise emissions from any sources other than from the proposed gravel-extraction and production. Therefore, noise emissions from road traffics, aircrafts, animals, etc are excluded from the modelling.

3.2 NOISE MODELLING SCENARIOS

Leeuwin Civil advised that:

- Gravel extraction comprises three cells in a total area of approximately 9.73 hectares.
- During the gravel extraction period, three personnel work on site on a day shift between 7am and 3:30pm.
- In each cell it is estimated that 100mm of topsoil and overburden will be cleared.
- Maximum depth of extraction will be 2m below the existing surface depending on the depth of gravel.
- Topsoil and overburden are to be pushed to outer limits of cell, creating noise bund of approximately 2 metres in height.
- In each cell finished product is to be stockpiled to the East, to a height of 8 metres, as shown in Figure 3 in APPENDIX A.
- In each cell the production will take place to the West.
- The production equipment will be shift as required, but constantly in the order of crusher, feeding screener, feeding conveyor belt to stockpile.
- Not all equipment operates simultaneously; this is staged due to lack of staff and expense involved.
- Crushing and Screening of rock is generally undertaken in the months of June/August – due to work load and weather conditions.
- After the extraction stops, one personnel works on site to load gravel to trucks on day shift between 7am and 5:30pm. Then trucks transport the gravel away from the site.

Activities include:

- Topsoil strip using the following equipment:

[2] CONCAWE (Conservation of Clean Air and Water in Europe) was established in 1963 by a group of oil companies to carry out research on environmental issues relevant to the oil industry.
[3] The propagation of noise from petroleum and petrochemical complexes to neighbouring communities, CONCAWE Report 4/81, 1981.

  - A Scraper; and
  - A D10 Dozer.
- Mining, crushing and screening of rock using the following equipment:
  - A Excavator;
  - A Loader;
  - Jaw crusher;
  - Screening plant; and
  - Conveyor.
- Loading products into road trains using a Loader.

Based on the provided information, three operational scenarios are modelled:

Scenario 1: represents the topsoil strip.

Scenario 2: represents the mining, crushing and screen of rock.

Scenario 3: represents product loading.

For worst-case operations, all items of the mobile equipment are assumed to operate on the natural surfaces for scenarios 1 and 3 but at 1m below the surfaces for scenario 2. The fixed plant is assumed to sit on the pit floor (2m below the natural surface) for scenario 2.

The noises from the extraction activities at different cells will have different impacts on the closest residences. Since the extraction area is a small area and its diameter is much smaller than the distances to any of the closest residences, the difference of impacts will be small and insignificant. Scenario 2 represents the extraction activities occurring at cell 3.

3.3 INPUT DATA

3.3.1 Topography

The ground contours for the proposed site and surrounding area are provided by Leeuwin Civil in AUTO-CAD dwg format. The ground is assumed to be absorptive.

Neither buildings nor sheds are considered in the acoustic model.

3.3.2 Noise Sensitive Premises

In consulting with Leeuwin Civil, nine (9) nearest residential premises are selected for the assessment, as shown in Figure 2 in APPENDIX A.

3.3.3 Source Sound Power Levels

Table 3-1 presents the sound power levels of the equipment operated in the proposed gravel-extraction operations. These sound power levels were provided by Leeuwin Civil.

Table 3-1: Sound power levels.

Equipment	Octave Frequency Band Sound Power Levels in dB(lin)								Overall
	63	125	250	500	1k	2k	4k	8k	dB(A)
Scraper	108	113	105	109	108	107	101	95	**113**
D10 Dozer	115	114	101	105	104	102	94	88	**109**
Excavator	100	110	101	101	103	100	97		**107**
Loader	113	98	108	103	97	94	90	83	**105**
Jaw Crusher	104	103	103	104	104	100	99	93	**108**
Screener	101	101	101	101	100	102	101	100	**108**
Conveyor	77	77	77	79	76	70	61	55	**80**
Road Train	102	101	101	104	96	94	89	85	**104**

3.4 METEOROLOGY

SoundPlan calculates noise levels for defined meteorological conditions. In particular, temperature, relative humidity, wind speed and direction data are required as input to the model. For this study the worst-case meteorological conditions[4] are assumed, as shown in Table 3-2.

Table 3-2: Worst-case meteorological conditions.

Time of day	Temperature Celsius	Relative Humidity	Wind speed	Pasquill Stability Category
Day (0700 --- 1900)	20° Celsius	50%	4 m/s	E

[4] The worst case meteorological conditions were set by the EPA (Environmental Protection Act 1986) Guidance note No 8 for assessing noise impact from new developments as the upper limit of the meteorological conditions investigated.

4.0 MODELLING RESULTS

4.1 POINT CALCULATIONS

Table 4-1 presents the predicted worst-case A-weighted noise levels. The highest noise level is predicted at UR1 for scenarios 1 and 3 and at R3 for scenario 2.

Table 4-1: Predicted worst-case noise levels in dB(A).

Receivers	Predicted Noise Levels in dB(A)		
	Scenario 1	Scenario 2	Scenario 3
R1	38.5	36.7	16.9
R2	38.6	37.0	29.7
R3	41.2	39.6	32.2
R4	29.6	16.3	25.4
R5	41.7	23.8	35.2
R6	41.1	23.4	33.6
R7	36.6	34.3	29.0
R8	31.8	28.4	19.7
UR1	44.4	27.0	38.1

4.2 NOISE CONTOURS

Figure 4 to Figure 6 in APPENDIX A present the worst-case noise level contours at 1.5m above the ground. These noise contours represent the worst-case day-time noise propagation envelopes, i.e., worst-case propagation in all directions simultaneously.

Figure 5 in APPENDIX A indicates that the 2m topsoil bunds have little impact on the noise propagation towards R1 to R3.

5.0 COMPLIANCE ASSESSMENT

5.1 ADJUSTED NOISE LEVELS

Noises from the proposed fixed plant and mobile equipment are expected to exhibit tonality. According to Table 2-2, the predicted noise levels shown in Table 4-1 should be adjusted by adding 5 dB.

Table 5-1 presents the adjusted worst-case noise levels in dB(A).

Table 5-1: Adjusted worst-case noise levels in dB(A).

Receivers	Adjusted Noise Levels in dB(A)		
	Scenario 1	Scenario 2	Scenario 3
R1	43.5	41.7	21.9
R2	43.6	42.0	34.7
R3	46.2	44.6	37.2
R4	34.6	21.3	30.4
R5	46.7	28.8	40.2
R6	46.1	28.4	38.6
R7	41.6	39.3	34.0
R8	36.8	33.4	24.7
UR1	49.4	32.0	43.1

5.2 COMPLIANCE ASSESSMENT

Scenario 1 (topsoil strip) represents construction activities. As indicated in section 2.2, no assigned noise levels apply to scenario 1 as long as "*the construction work was carried out in accordance with control of environmental noise practices set out in section 6 of AS 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites*" and "*the equipment used on the premises was the quietest reasonably available*".

Scenarios 2 and 3 generate continuous noise emissions. All activities in this project are proposed for daytime only (between 7:00am and 5:30pm) on Monday to Friday excluding

public holidays. Therefore, noise emissions should be assessed against the day-time assigned noise levels L_{A10} for Mondays to Friday.

Table 5-2 presents the compliance assessment. It is shown that the adjusted worst-case noise levels are below the day-time assigned noise levels at all of the noise-sensitive premises for scenarios 2 and 3. This means that full compliance is achieved for the proposed operations.

Table 5-2: Compliance assessment.

Receivers	Assigned Noise Levels in dB(A)	Adjusted Noise Levels in dB(A)	
		Scenario 2	Scenario 3
R1	45	41.7	21.9
R2	45	42.0	34.7
R3	45	44.6	37.2
R4	45	21.3	30.4
R5	45	28.8	40.2
R6	45	28.4	38.6
R7	45	39.3	34.0
R8	45	33.4	24.7
UR1	45	32.0	43.1

APPENDIX A AERIAL VIEW

Client: Leeuwin Civil Pty Ltd
Project: ENIA of Gravel Crushing

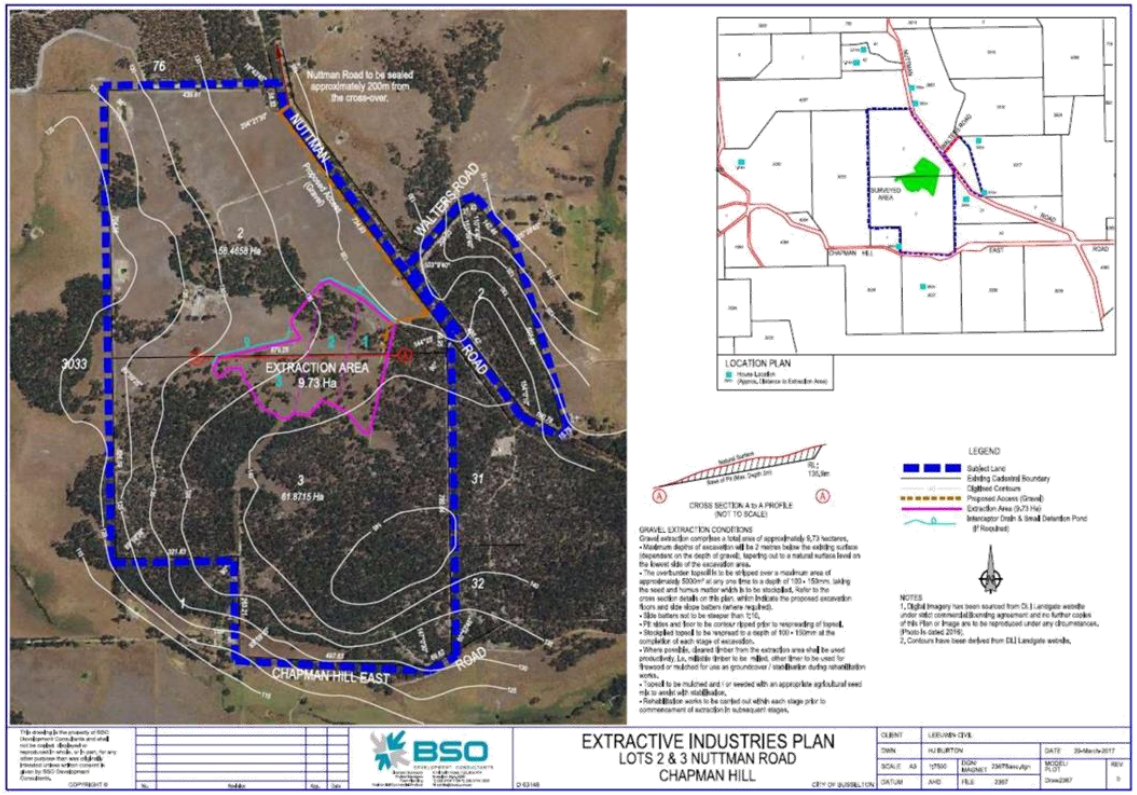

Figure 1: Aerial view of the subject site and surrounding area.

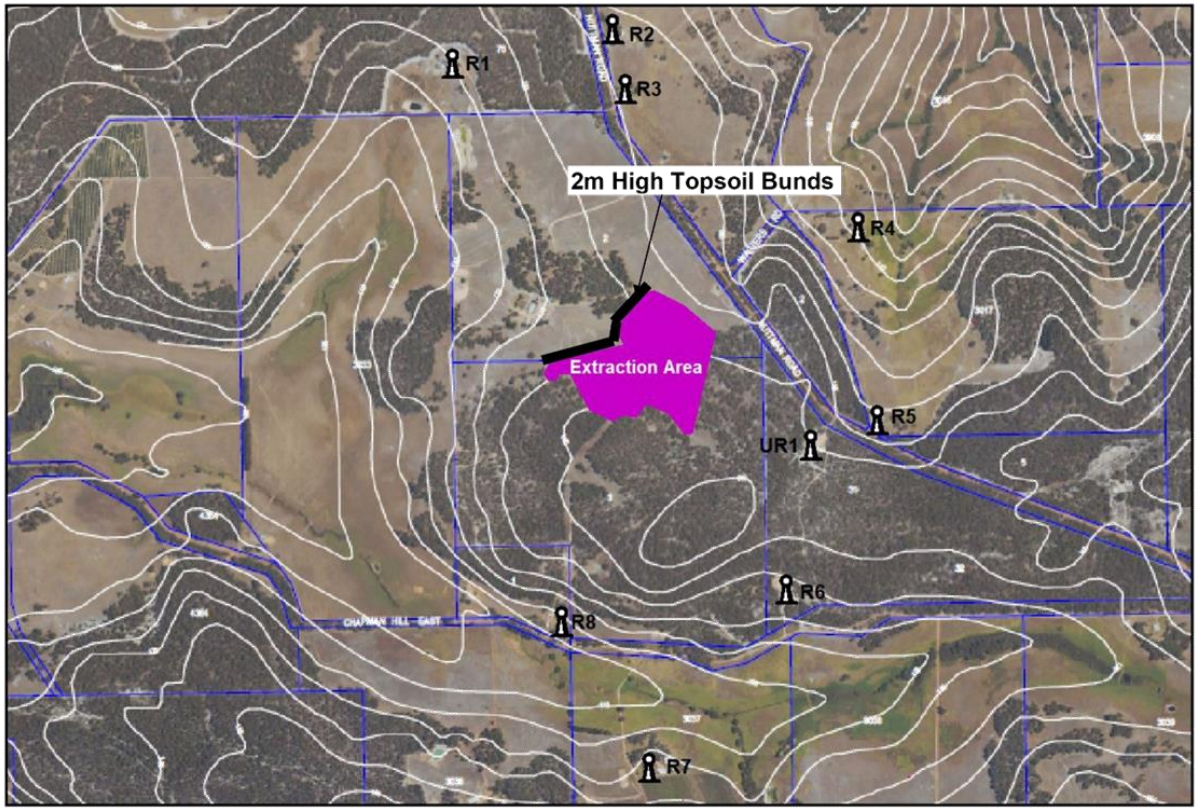

Figure 2: Locations of closest residences.

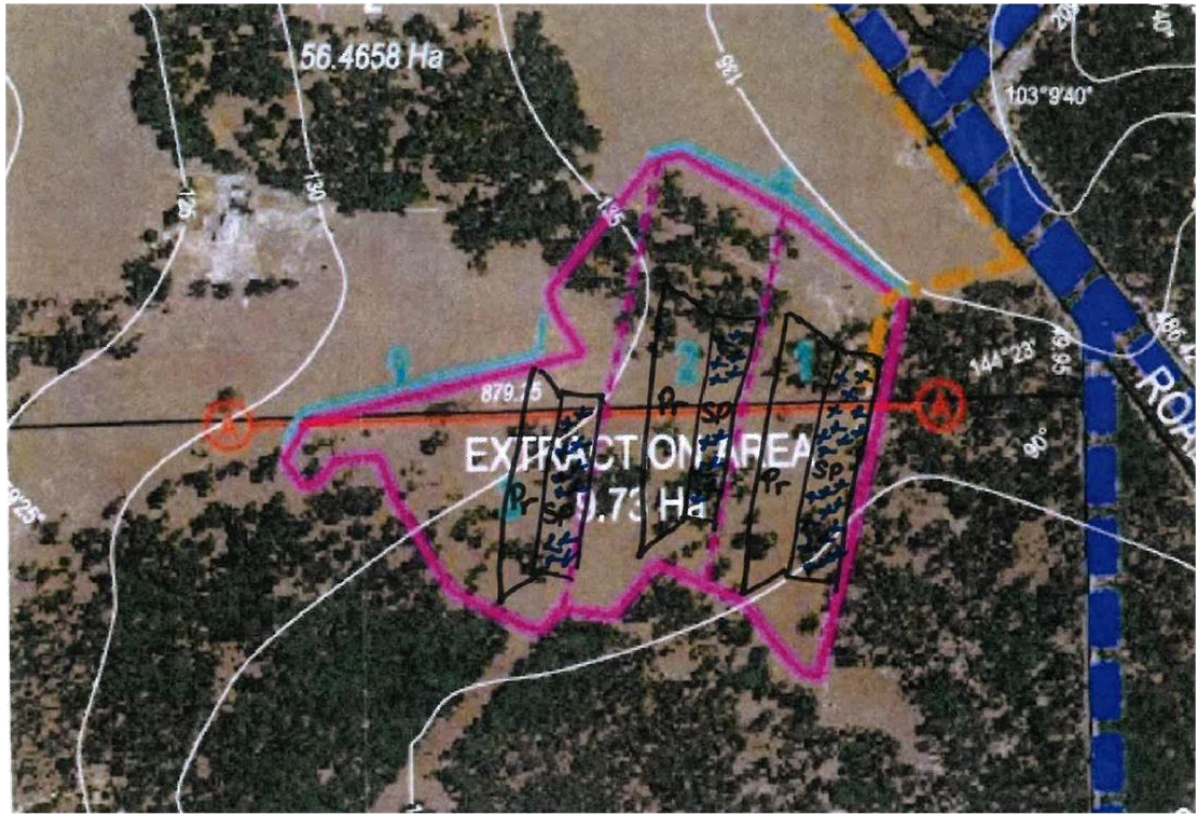

Figure 3: Locations of product stockpiles.

APPENDIX B NOISE CONTOURS

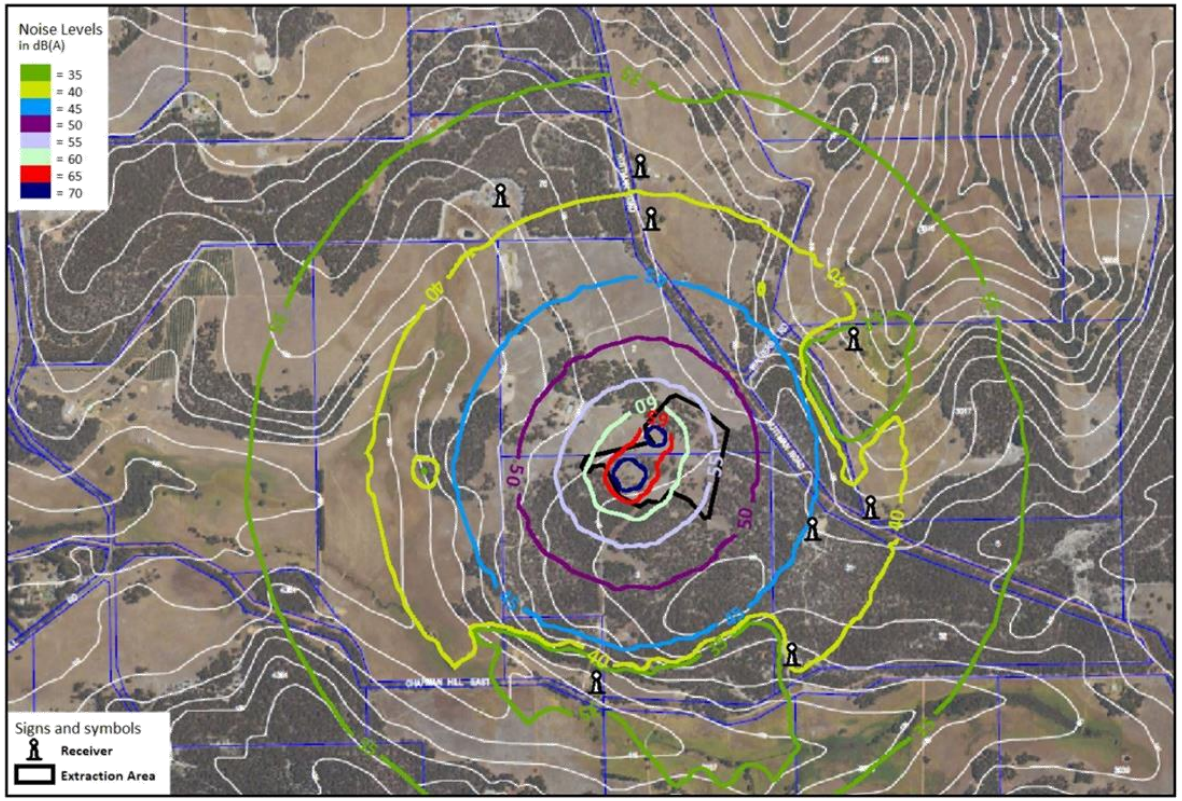

Figure 4: Worst-case noise contours for scenario 1.

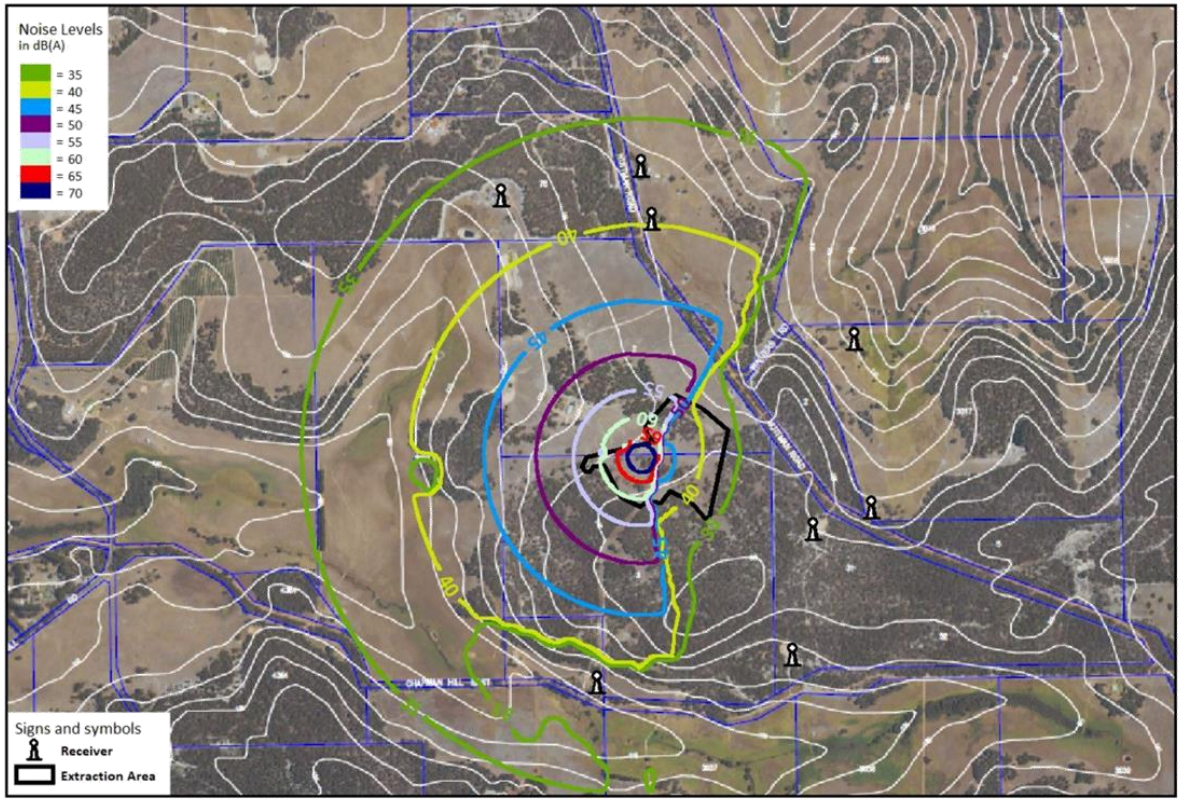

Figure 5: Worst-case noise contours for scenario 2.

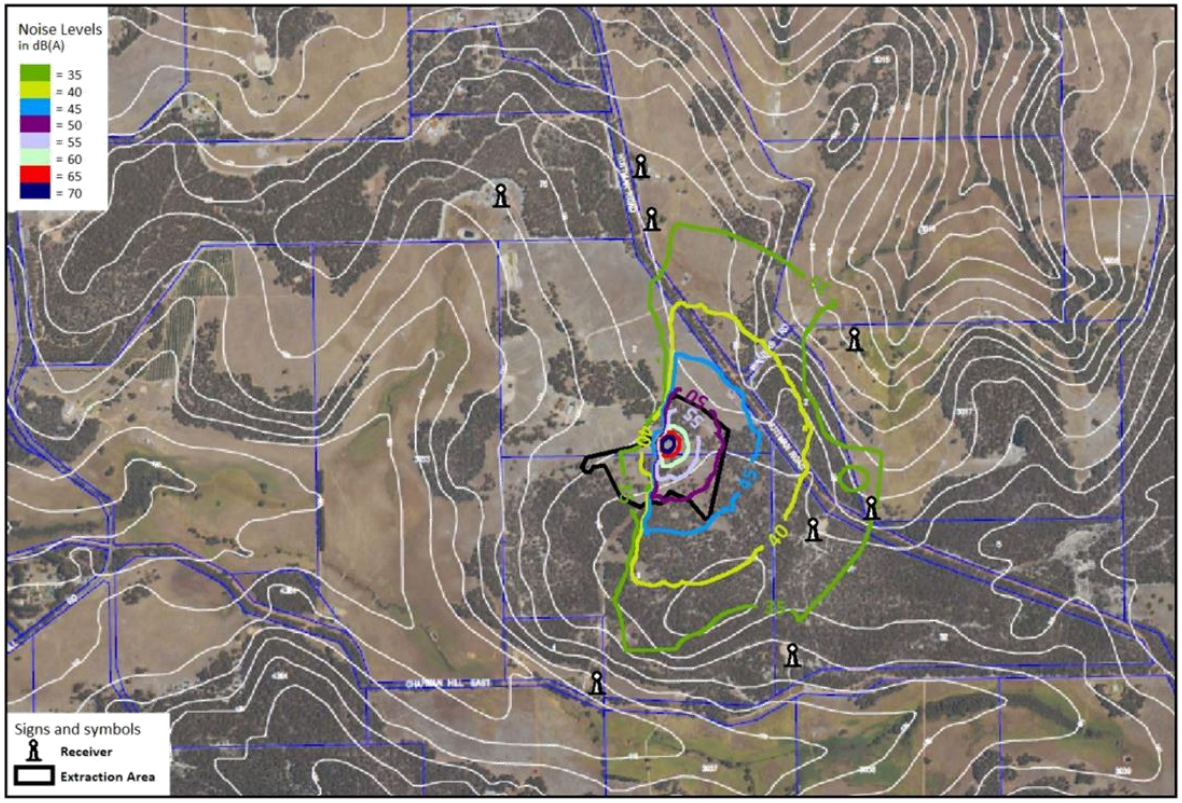

Figure 6: Worst-case noise contours for scenario 3.

From: Fiona Sharpe
Sent: Wed, 18 Nov 2020 13:57:26 +0800
To: Joanna Wilson
Cc: Lauren Fox
Subject: RE: APPLICATION FOR A WORKS APPROVAL REQUEST FOR FURTHER INFORMATION W6412/2020/1

Hi Jo,

We have received advice back from our noise branch on the revised noise assessment and were given the following advice:

I have reviewed the revised AES Noise Assessment report. The exact makes and models of major equipment items to be used in the proposed operation are now provided, as well as their sound power levels - either derived from the manufacturer specifications or provided by Accendo. The sound power levels now seem reasonable and more reliable.

It can be noticed that there are a number of significant changes in the proposed operation and the noise control measures, as below:

1. *Topsoil and overburden are to be pushed to the east pit edge to form a 2m high topsoil bund, which will stay there till the completion of the proposed project;*
2. *In each cell finished product is to be stockpiled to the East, to a height of 4m from the bottom of the pit;*
3. *A 5m high L-shaped bund will be built at about 3m away from the crusher and Supertrak; and*
4. *Crushing and Screening of rock are undertaken separately from the extraction, meaning no extraction activities occur when crushing and screening happen.*

My review of these newly proposed management and noise mitigation measures indicates that they will be able to effectively reduce the noise impact, particularly at the noise sensitive receivers located to the east and northeast of the proposed operation. The methodology of the noise modelling in AES revised report, including the topographic and meteorological data input and assumptions, seems reasonable and acceptable. The four operation scenarios selected for the noise modelling and compliance assessment seem reasonable. The predicted noise emission levels for each of the three operation scenarios also seem reliable.

Based on AES' assessment results, noise emissions from three of the operation scenarios will comply with the daytime assigned noise level at all neighbouring residences, even with the 5 dB penalty for tonality. I would not dispute this noise compliance assessment result.

I have noted that AES also assessed the potential vibration impact on the neighbouring residences. Due to the type of proposed operation and the buffer distances to the closest neighbouring residences, I would agree that vibration impact on the neighbouring residences will be insignificant. I would also agree that issues we raised previously have been adequately addressed.

However, it should also be noted that based on AES' assessment results, noise compliance will only be marginally achieved at a couple of sensitive receivers during the crushing and screening operation, if the noise is tonal. Due to the low ambient noise levels in the area as indicated in LGA's report, it is not likely that the tonality characteristic of the operational noise can be masked by the ambient noise. Hence the penalty for tonality is likely to be required. The low ambient noise levels also indicate that noise from the proposed operation will be easier to be detected by the neighbouring residents, which could be a source of complaint regardless if the noise complies with the assigned noise level or not. Hence, the proponent may still be required to look at opportunities of further reducing the noise emissions from the crushing and screening activities.

The applicant has stated that the bunds/stockpiles will approximately 2m above natural surface level (excluding the 5m L-shaped bund around crusher). So it seems there won't be 8 m bunds.

Given the advice from noise branch, we are including this in the assessment of the works approval with it likely to be issued but it will include conditions for them to monitor noise during operations and may potentially be required to implement further measures depending on the outcome.

Given the above, will you likely take this to the Council meeting on the 9th December?

Kind regards,
Fiona

Fiona Sharpe
Licensing Officer – Bunbury Office
Industry Regulation (Environment)
Please note my working days are Tuesdays-Thursdays

Department of Water and Environmental Regulation
Locked Bag 10, Joondalup DC WA 6919
T: (08) 9726 4112
E: fiona.sharpe@dwer.wa.gov.au | www.dwer.wa.gov.au

Government of **Western Australia**
Department of **Water and Environmental Regulation**

Technical (Review) Report

Advice on noise assessment report for the proposed gravel extraction development – Lots 2 and 3 Nuttman Road, Chapman Hill, prepared for the City of Busselton

Department of Water and Environmental Regulation
August 2020

Department of Water and Environmental Regulation
168 St Georges Terrace
Perth Western Australia 6000
Telephone +61 8 6364 7000
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National Relay Service 13 36 77
www.dwer.wa.gov.au

August 2020

Acknowledgements

For more information about this report, contact

Environmental Noise, Department of Water and Environmental Regulation.

Document control

Document version history

Version	Date	Description	Author	Reviewer
0.0	27/8/2020	Draft – internal review	JG	EB
1.0	31/8/2020	Final - Issued	JG	EB

Corporate reference

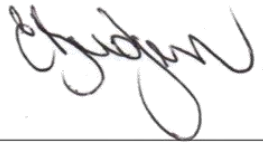
File number and/or name	File owner or custodian
DWERDT319819	South West Planning Advice Section

Author details

Name	Dr Jingnan Guo BSc (Physics), PhD (Mechanical Engineering)
Position title	Senior Environmental Noise Officer
Signature	Date 31/8/2020

Reviewer details

Name	Ms Emma Bridgeman BSc (Environmental Health)
Position title	Manager Environmental Noise
Signature	Date 31/8/2020



Contents

1. Introduction

This advice was prepared for the City of Busselton in response to a request for comment dated 12 August 2020 on the noise assessment report for a proposed gravel extraction development on Lots 2 and 3 Nuttman Road, Chapman Hill, in the City of Busselton.

2. Documentation

In support of this request, the City made the following document available which forms the basis of this technical expert advice. The City did not request any specific advice.

Material / document name	Author	Date
Environmental Noise Assessment of Gravel Crushing (AES-890089-R01-1-03082020) – prepared for Leeuwin Civil Pty Ltd	Acoustic Engineering Solutions	03/08/2020

3. Advice

The Environmental Noise Branch (ENB) of the Department of Water and Environmental Regulation has reviewed Acoustic Engineering Solutions' (AES) environmental noise assessment report. The methodology of the noise modelling, including the topographical and meteorological data input and assumptions, seem reasonable and acceptable. The three operational scenarios selected for the noise modelling and compliance assessment also seem reasonable.

However, ENB has identified the following issues:

1. The source sound power levels quoted for the noise modelling and presented in Table 3-1 are relatively low, although still within the reasonable range for the type of plant. For instance, a sound power level of 109 dB(A) was quoted for a D10 Dozer in AES' report, which is specified as 115 dB(A) (or 111 dB(A) with sound suppression package) in the manufacturer's specification. Although ENB is not able to comment on the sound power level quoted for other plant due to the lack of information on their models and makes, they seem to represent smaller and quieter models. It is understood that the sound power levels of major plant were provided by Leeuwin Civil. Leeuwin Civil may be required to reference their source of sound power levels to ensure reliability of the data;

2. Noise emission levels seem to be under-estimated, particularly for the topsoil removal (Scenario 1) and during the initial stage of the mining, crushing and screening (Scenario 2). It seems that the modelled noise levels shown in Table 4-1 for Scenario 2 might represent the situation whereby an 8 metre high

product stockpile is already in place, this may explain why the noise emission levels are very low at the noise sensitive premises located to the east. ENB's understanding is that the product is being gradually stockpiled to the height of 8 metres during the Scenario 2 operation, and the noise shielding effect will gradually increase with the height of the stockpile; and

3. The proposed operation will be on a site located in a remote rural area, where the existing ambient noise level is likely to be very low. Noise generated by the proposed operation may significantly increase the ambient noise levels at the neighbouring noise sensitive premises. This may be a source of complaint from the nearby community, regardless of whether the noise emissions comply with the assigned noise level or not. As an ambient noise assessment has not been conducted, this potential risk of noise impact may need to be considered further.

4. Limitations

Technical expert advice in any field is subject to various limitations. Important limitations to the advice include:

- No computer modelling was undertaken to verify AES' predicted results.

GOVERNMENT OF WESTERN AUSTRALIA

Department of **Biodiversity, Conservation and Attractions**

PARKS AND WILDLIFE SERVICE

Your ref: DA17/0866
Our ref: 41875 2018/002318
Enquiries: Tracy Teede
Phone: 9725 4300
Email: swlanduseplanning@dbca.wa.gov.au

Chief Executive Officer
City of Busselton
Locked Bag 1
BUSSELTON WA 6280

Attention: Jo Wilson

PROPOSED EXTRACTIVE INDUSTRY (GRAVEL) –
LOT 3 CHAPMAN HILL EAST CHAPMAN HILL

I refer to your emails dated 22 November 2017 and 28 March 2018 forwarding an extractive industry license application for the above location for the Department of Biodiversity Conservation and Attractions (DBCA) Parks and Wildlife Service comment.

The SW Environmental *"Black Cockatoo Habitat Assessment – Lots 2 and 3 Nuttman Road Chapman Hill"* dated May 2017 (SW 17) indicates that the site contains primary values for threatened black cockatoos, including trees with hollows suitable for potential black cockatoo nesting habitat which would be the most valuable trees, and other potential fauna nesting hollows.

The three species of black cockatoo's, Baudin's (Schedule 2), Carnaby's (Schedule 2) and the Forest red-tail (Schedule 3) are listed as threatened species under the Commonwealth of Australia's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and Western Australia's *Wildlife Conservation Act 1950* (WC Act 1950).

Parks and Wildlife Service South West Region notes reference in Section 1.5 of the application, that the proponent has lodged an application for a clearing permit with both the State's Department of Water and Environmental Regulation (DWER) and the Federal government's Department of the Environment and Energy.

DBCA expects that the environmental values that are likely to be impacted by the proposed sand extraction will be adequately considered through the assessment of the clearing permit, through which DBCA may provide advice to DWER. DBCA suggests that if development approval is provided then the approval should be subject to a clearing permit being issued.

Yours sincerely

Regional Manager
Parks and Wildlife Service

27 April 2018

South West Region
PO Box 1693, Bunbury, Western Australia 6230
Phone: (08) 9725 4300 Email: bunbury@dbca.wa.gov.au
dbca.wa.gov.au

From: Brendan Kelly
To: Enquiries - City of Busselton
Cc: Joanna Wilson
Subject: Extractive Industry (Gravel) – Lot 2 & 3 Chapman Hill East Road, Chapman Hill
Date: Wednesday, 6 November 2019 3:00:41 PM
Attachments: WQPN-15-Basic-raw-materials-extraction.pdf

6th November 2019
Our Reference: PA29752, DWERT308~62
Your Reference: DA17/0866
To: City of Busselton
From: Department of Water and Environmental Regulation.
Attention: Joanna Wilson

RE: Extractive Industry (Gravel) – Lot 2 & 3 Chapman Hill East Road, Chapman Hill

Dear Jo,

The referral of this extractive industry (EI) application to the Department of Water and Environmental Regulation (DWER) follows a previous referral, to which DWER responded on 20th December 2017 (Our ref. PA17448, your ref. DA17/0866).

At the time, DWER reviewed documentation prepared by BSO Consultants (BSO) dated September 2017 and recommended additional information be provided, as an addendum to the proponent's 'Water Management Plan' (WMP).

The new referral includes some additional information – Groundwater Discussion and Surface Water Management - as well as the original BSO document, albeit nearly two years after the initial application.

As previously advised, the proposed EI site is located within the 'Busselton Capel Groundwater Area' and the 'Geographe Bay Rivers Surface Water Area', both proclaimed under the *'Rights in Water and Irrigation Act 1914'*.

DWER identified a "moderate risk" in its original assessment, as follows:

- Potential interception of groundwater, noting that insufficient hydrogeological detail was provided,
- Water runoff (carrying sediment) from the extraction area via sheet flow during major storm events,
- Insufficient water to meet the needs of the proposed extraction, particularly water for dust suppression.

Further to our telephone conversation today, DWER has reviewed the latest referral and is able to provide the following advice.

Groundwater

Apart from references to water levels in local stock dams, no new information of significance has been provided with regards to groundwater levels beneath the EI site. However, the additional information states:

"Extraction of gravel will be to a depth of up to 2 metres, at least 2 metres above the anticipated maximum groundwater level in this area"

DWER has concluded that this reference to the EI achieving a 2 metre separation to the anticipated maximum groundwater level remains as a presumption.

Nonetheless, after reviewing the referral, DWER acknowledges that the risk of intercepting groundwater in this geological setting is **low**, where the extraction depth is no more than 2

metres.
As such, given the low risk of interception and exposure of groundwater, DWER accepts that the EI can proceed with standard conditions (below).

Surface water

The additional information states:
"It is nit (sic) expected that any form of stormwater management will be required rather, large rainfall events will pond in the pit floor before naturally dissipating".
And:
"No erosion is anticipated, this will be prevented by the gravelly nature of the soil on this ridgeline".
It is noteworthy that BSO initially stated:
"As a minimum, a 1 in 20 year flood event must be catered for with all stormwater runoff from exposed areas being initially contained on site…"
"Silting ponds will be excavated where point flows are draining to for catchment (sic)… These will be of a capacity to capture the surface flow from a 1 in 20 storm event".
"Our clients are committed to closely monitoring drainage/run-off within the excavation areas and will address any problems which may arise. A draft Surface Water Management Plan is supplied".
The additional information contradicts the initial assessment, which does not provide any detail of stormwater management, e.g. calculations of stormwater volumes, information related to cut-off drains, bunds, sediment traps and/or the like.
DWER concluded that the risk of uncontrolled stormwater run-off from the EI site remains as **moderate** and as such a detailed 'Stormwater Management Plan' is still highly desirable.

Water supply

The additional information acknowledges:
"… that a water licence will be required if water is utilised for dust suppression. This will be available in the two dams described above and a licence application will be lodged if this extractive industry application is approved".
The proponent will need to demonstrate that they have sufficient water to meet the needs of the proposed extraction, which may require a licence under the *'Rights in Water and Irrigation Act 1914'.*

Recommendations

To protect groundwater resources, DWER recommends the following licence conditions apply:

- The extractive industry shall not intercept the water table.
- Dewatering of the extraction area is not permitted without authorisation under the *'Rights in Water and Irrigation Act 1914'*
- There shall be no standing water occurring at the end of the extractive operation
- If any interception of groundwater occurs, work shall cease and an advice notice provided to the Shire within 72 hours, followed by agreed remedial action.

To protect surface water resources, DWER recommends that a detailed 'Stormwater Management Plan' (SMP) be provided to the satisfaction of the City of Busselton, in consultation with DWER.
The SMP should be predicated upon stormwater being contained within the active

extraction areas and clean stormwater from overland flows being diverted from active EI areas.

Guidance toward the development of a SMP may be sourced from DWER's Water Quality Protection Note 15 'Basic raw materials extraction July 2019' (attached).

With regard to water supply for dust suppression, DWER recommends that the proponent demonstrates they have sufficient water to meet the needs of the proposed extraction and where required, have appropriates licences under the *'Rights in Water and Irrigation Act 1914'*.

Please contact this office for inquiries.

Brendan

Brendan Kelly
Senior Natural Resource Management Officer
Department of Water & Environmental Regulation,
Planning Advice, South West Region
Telephone: 08 97264194 | Mobile: 0407219515
Email: brendan.kelly@dwer.wa.gov.au

From:	Daniel Wong
To:	Maureen Dolan; Joanna Wilson
Subject:	Extractive industry (gravel) – Lot 2 & 3 (Diagram 63148) Chapman Hill East Road, Chapman Hill
Date:	Wednesday, 20 December 2017 12:13:11 PM
Attachments:	Attachment - 1.jpg

20th December 2017

Our Reference: PA17448, DWERDT27516

Your Reference: DA17/0866

To: City of Busselton

From: Department of Water and Environmental Regulation.

Attention: Joanna Wilson

RE: Extractive industry (gravel) – Lot 2 & 3 (Diagram 63148) Chapman Hill East Road, Chapman Hill

Dear Joanna,

Thank you for referring this extractive industry (EI) application to the Department of Water and Environmental Regulation (DWER) for comment.

DWER has reviewed the accompanying documentation prepared by BSO Consultants on behalf of the proponent and responds accordingly.

Proposal situation

This proposal at Lot 2 & 3 Chapman Hill East Road (the subject lots) is to extract, screen and crush gravel (Attachment 1).

The proposed extraction area is described as about 9.73 hectares (estimated 170,000 banked m^3 of gravel), in three broad cells; with a 2 metre maximum extraction depth in the southern portion and becoming shallower towards the northern portion.

The site is located within the 'Busselton Capel Groundwater Area' as proclaimed under the *'Rights in Water and Irrigation Act 1914'*.

It is also within the 'Geographe Bay Rivers Surface Water Area' as proclaimed under the *'Rights in Water and Irrigation Act 1914'*.

DWER GIS imagery shows that there are no waterways or wetlands on the subject lots, with the nearest waterways being at least 500 metres away or more.

Grazing is proposed as the final landuse, noting that an application to clear native vegetation in the extraction area is also currently being assessed by DWER under the *'Environmental Protection Act 1986'*.

Identified risks

DWER has identified this proposal as posing a "moderate risk" as follows:

Groundwater

- Potential interception of groundwater (insufficient hydrogeological detail is provided, see below).
- Groundwater contamination due to potential hydrocarbon spills from heavy machinery either from servicing, refuelling or leaks.
- Groundwater contamination with nutrients, if there is insufficient separation to groundwater from the final rehabilitated surface (for grazing landuse).

Surface water

- Water runoff from the extraction area via sheet flow during major storm events.

Water supply

- Insufficient water to meet the needs of the proposed extraction, such as water for dust suppression.

Risk mitigation – specific advice

In context of the risk of intercepting groundwater, the proponent's 'Water Management Plan' has stated that:

"A large number of test pits were dug across the proposed pit site to a depth of 3m from October to the end of November 2015. At no time was the groundwater table intercepted during this process. Given that the proposal is to excavate to a maximum depth of 2m (including topsoil), the water table will not be intercepted at all during the year. As such this management plan only deals with the management of surface water run-off."

It is noteworthy that the locations of the test pits have not been provided in the drawing (attachment 1), therefore the veracity of the above statement cannot be verified.

If the City of Busselton is not satisfied that the risk can be managed, the proponent should be required to provide the following information:

- Location of the test pits and measurement dates.
- Proposed extraction depth and test pit depths in metres AHD.

- Discussion on the maximum seasonal groundwater level (MSGL) in context of the test pits measured.

- Expanded detail of the surface water management design provided in the drawing (attachment 1), including estimated stormwater volumes and detention pond capacities.

In addition, the proponent should:

- Prove that they have sufficient water to meet the needs of the proposed extraction, noting the need for a groundwater licence under RIWI.

- Provide a 'spill management plan' in the case of spills during refuelling and servicing of vehicles or machinery.

- Ensure that servicing, refuelling and maintenance is located outside the pit floor to minimise the risk of groundwater contamination.

- Demonstrate that a minimum separation of 0.5 metres can be achieved from the MSGL to the rehabilitated surface for the grazing end-use.

At all times the proponent should abide by their 'Water Management Plan' that: *"No more than 2.0 hectares of extraction area will be exposed at any time prior to rehabilitation commencing."*

Risk mitigation – general advice

To protect the groundwater resource, DoW recommends the following licence conditions apply:-

- The extractive industry shall not intercept the water table.

- Excavation is permitted only to a depth that is a minimum of 0.3 metres higher than the MSGL (as established)

- Dewatering of the extraction area is not permitted without authorisation under the *'Rights in Water and Irrigation Act 1914'* (RIWI Act)

- There shall be no standing water occurring at the end of the extractive operation

- If any interception of groundwater occurs, work shall cease and an advice notice provided to the Shire within 72 hours, followed by agreed remedial action.

- No stormwater is to leave the active extraction areas.

- All site stormwater is to be managed, where required, through the use of bunds, retention basins and the like.

- If required, clean stormwater overland flows are to be kept separate and diverted from extraction pits via bunds.

RECOMMENDATIONS: DWER recommends that further information (as outlined above) be included as an addendum to the proponent's 'Water Management Plan', to the satisfaction of the City of Busselton, on advice of DWER. To be reflected by conditions in any extractive industry licence.

Should you have any further inquiries, please do not hesitate to contact the undersigned.

Thank you.

Yours faithfully,

Daniel Wong
Environmental Officer
Department of Water and Environmental Regulation
South West Region

Email: daniel.wong@dwer.wa.gov.au
Phone: 08 9726 4113
Fax: 08 9726 4100
Postal: PO Box 261, Bunbury, WA 6231
Location: 35-39 McCombe Road, Bunbury, WA 6230

Water Resource Advice Only
The Department of Water has recently merged with the Department of Environment Regulation and Office of the Environmental Protection Authority to create the new agency Department of Water and Environmental Regulation.

The former agencies are in the process of amalgamating their functions. Until this fully occurs, please note that the advice in this correspondence pertains only to water resource matters previously dealt with by the Department of Water.

Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**

Your ref DA17/0866
Our ref A0364/201501
Enquiries Glennis HALL
9222 3104
Glennis.HALL@dmirs.wa.gov.au

Chief Executive Officer
City of Busselton
Locked Bag 1
BUSSELTON WA 6280

Attention: Joanna Wilson

Dear Sir/Madam

DMIRS RESPONSE — EXTRACTIVE INDUSTRY LICENCE (GRAVEL) — LOTS 2 AND 3 CHAPMAN HILL EAST ROAD, CHAPMAN HILL

Thank you for your letter of 22 November 2017 regarding the application for the above Extractive Industry Licence.

A continuing supply of low-cost basic raw materials is an important part of maintaining the lifestyle and infrastructure that all Western Australians enjoy.

Although Extractive Industry Licences fall outside the *Mining Act 1978*, information on mineral resources, including basic raw materials, is of importance to the Geological Survey of Western Australia (GSWA), a division of the Department of Mines, Industry Regulation and Safety (DMIRS). The information is used in our MINEDEX database (http://www.dmp.wa.gov.au/Minedex), which is a source of information for our State-wide resource mapping system (http://www.dmp.wa.gov.au/GeoView). The locations and status of basic raw materials extraction sites are also valuable inputs to the Geological Survey's resource assessment and land use planning role.

Our aim is for the database to be a comprehensive and up-to-date source of information on all mining-related activities throughout the State. It is a database that is used to inform other government agencies, as well as the general public, of the location of mines and mineral resources. You are encouraged to use it whenever researching information on mineral or petroleum resources, and including basic raw materials.

Mineral House 100 Plain Street East Perth Western Australia 6004
Telephone +61 8 9222 3333 Facsimile +61 8 9222 3862
www.dmirs.wa.gov.au
ABN 69 410 335 356

I appreciate the opportunity for GSWA to note this proposal. For future reference it would be appreciated if all matters relating to Extractive Industry Licences could be addressed to the Executive Director of the Geological Survey of Western Australia.

Yours sincerely

for

Rick ROGERSON | Executive Director
Geological Survey

5 December 2017

Government of Western Australia
Department of Water and Environmental Regulation

Our ref: CPS 8746/1
Enquiries: Jessica Burton
Phone: 6364 7100
Email: info@dwer.wa.gov.au

Ms Lissa Wypynaszko
Company Secretary
Leeuwin Civil Pty Ltd
995 Gale Road
KALOORUP WA 6280

via email: lissa@leeuwincivil.com.au

Dear Ms Wypynaszko,

APPLICATION TO CLEAR NATIVE VEGETATION UNDER THE *ENVIRONMENTAL PROTECTION ACT 1986*

I refer to Leeuwin Civil Pty Ltd application for a Purpose Permit under section 51E(1) of the *Environmental Protection Act 1986* (the EP Act), to clear 2.782 hectares of native vegetation within Lot 2 on Diagram 63148 and Lot 3 on Diagram 63148, Chapman Hill, for the purpose of gravel extraction.

I advise that a preliminary assessment of the vegetation against the clearing principles contained in Schedule 5 of the *Environmental Protection Act 1986* (EP Act) has been conducted, taking into account information you have provided and information the Department of Water Environmental Regulation (DWER) has obtained through consultation. Attached is a Preliminary Assessment Report, which provides detail on the assessment of your application.

Please note, based on the preliminary assessment, it is likely that if granted a clearing permit will contain a fauna management condition, a rehabilitation condition as well as a weed and dieback management condition. The rehabilitation condition will required the area cleared to be revegetated with native species in order to minimise the long term impact to black cockatoos.

In considering a clearing matter, the Chief Executive Officer (or Delegated Officer) shall have regard to any planning instrument or other matter considered relevant, in accordance with section 51O(4) of the EP Act. I am of the view that the Planning Approval and Extractive Industry Licence from the City of Busselton are relevant considerations. Therefore I will defer the decision on this application until you are able to provide a copy of these approvals from the City of Busselton.

Please ensure these approvals are provided within three months from the date of this letter. I advise that the Delegated Officer intends to make a decision on the application based on the information available at this time. In the absence of receiving a copy of the Planning Approval and Extractive Industry Licence, it is possible that the application for a clearing permit may be refused, in accordance with section 51E(5)(b) of the EP Act.

Should you not provide the above-requested information within three months of the date of this letter, I advise that a clearing permit may not be granted. In the event that this is the case and in accordance with section 51E(6), I also give you written notice of the intent to refuse to grant a clearing permit under section 51E(5)(b) of the EP Act. If you disagree with DWER's decision on the application, an appeal may be lodged with the Minister for Environment. More information on lodging an appeal is available from the Office of the Appeals Convenor on telephone 6467 7990.

Prime House, 8 Davidson Terrace Joondalup Western Australia 6027
Locked Bag 10 Joondalup DC WA 6919
Telephone: 08 6364 7000 Facsimile: 08 6364 7001
www.dwer.wa.gov.au

If you have any queries regarding the progress of this application, please contact Senior Environmental Officer Ms Jessica Burton on 6364 7100.

Yours sincerely

Richard Newman
DIRECTOR
NATIVE VEGETATION PROTECTION

Officer delegated under Section 20
of the Environmental Protection Act 1986

4 May 2020

Attached: CPS 8746/1 Preliminary Assessment Report

Government of Western Australia
Department of Water and Environmental Regulation

Preliminary Assessment Report

1. Application details

1.1. Permit application details

Permit application No.:	8746/1
Permit type:	Purpose Permit

1.2. Applicant details

Applicant's name:	Leeuwin Civil Pty Ltd
Application received date:	27 November 2019

1.3. Property details

Property:	Lot 2 on Diagram 63148 Lot 3 on Diagram 63148
Local Government Authority:	City of Busselton
Localities:	Chapman Hill

1.4. Application

Clearing Area (ha)	No. Trees	Method of Clearing	Purpose category:
2.782		Mechanical Removal	Extractive industry

2. Site Information

Clearing Description

The application is for the proposed clearing of 2.782 hectares of native vegetation for the purpose of gravel extraction (Figure 1).

Vegetation Description

Two South West Vegetation associations are mapped within the application area (Government of Western Australia, 2018):

- Treeton Tw: Open forest of Eucalyptus patens-Corymbia calophylla-Eucalyptus marginata subsp.marginata on lower slopes and on floors of minor valleys in the perhumid zone; and
- Treeton T: Woodland of Eucalyptus marginata subsp. marginata-Corymbia calophylla with some Allocasuarina fraseriana on mild slopes in the perhumid zone.

A site inspection for a previous clearing application (CPS 7829/1) that occurs over the current application area, was conducted by Department of Water and Environmental Regulation (DWER) officers on the 16 November 2017. The vegetation observed is described as a woodland with paddock trees of Marri (Corymbia calophylla) and Jarrah (Eucalyptus marginata) with Sheoak (Allocasuarina fraseriana) in a completely degraded (Keighery, 1994) condition (DWER, 2017).

Little to no native understorey was identified within the application area during the site inspection undertaken in November 2017 with pasture grasses dominate the understorey. The condition of the understorey is likely due to historic agricultural land uses (DWER, 2017). Given the relatively short time since the previous site inspection and after a review of current aerial imagery, it is considered for the condition of the vegetation to have not changed.

Vegetation Condition

The condition of the vegetation within the application area was determined to be:

- Completely degraded: The structure of the vegetation is no longer intact and the area is completely or almost completely without native species (Keighery, 1994).

Comment

The local area is defined as a 10 kilometre radius measured from the perimeter of the application area.

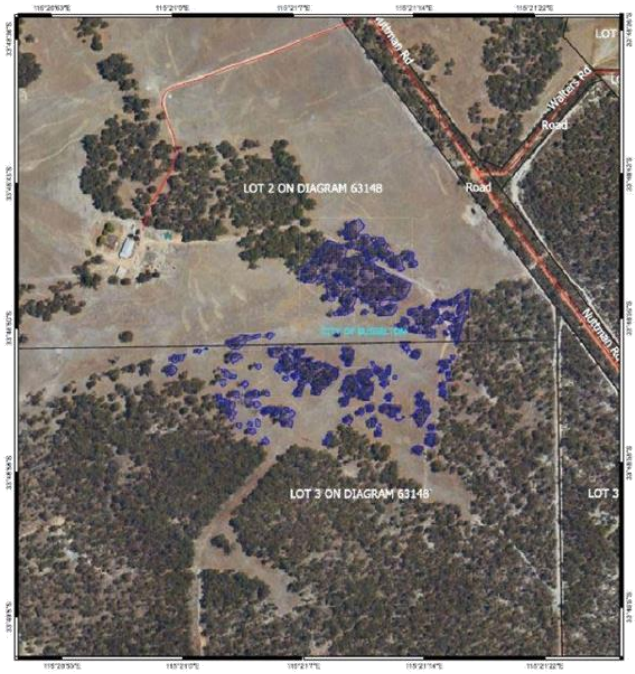


Figure 1: Application area (outlined in blue)

3. Assessment of application against clearing principles, planning instruments and other relevant matters

(a) Native vegetation should not be cleared if it comprises a high level of biodiversity.

Proposed clearing is not likely to be at variance with this Principle

As assessed within section 2 (site information), the application area is described as a woodland with paddock trees of Marri (Corymbia calophylla) and Jarrah (Eucalyptus marginata) with Sheoak (Allocasuarina fraseriana) in a completely degraded (Keighery, 1994) condition. Little to no native understorey was identified within the application area with pasture grasses dominating due to historic agricultural land use (DWER, 2017).

The Department of Biodiversity, Conservation and Attractions(DBCA) advised that (DBCA, 2018):

- the application area will not support any vegetation or flora species that are considered threatened;
- the application area is likely to provide habitat for threatened black cockatoo species;
- if possible any approval of this application should be conditional on the retention of mapped habitat trees; and
- if granted, a clearing permit should be conditioned to ensure black cockatoos are not impacted by the proposed clearing.

As the application area does not contain any native understorey species, and given the advice received from DBCA, it is not likely to contain priority or rare flora and is not consistent within a priority or threatened ecological community.

As assessed within Principle (b):

- the application area contains 2.782 hectares of threatened black cockatoo foraging habitat;
- the application area contains 39 potential black cockatoo breeding trees;
- eight potential breeding hollows were identified, however it is unlikely that any of the trees within the development footprint provide active black cockatoo breeding habitat; and
- although the application area forms part of a mapped ecological linkage, given the condition of the vegetation and as it will not segregate the linkage or form a barrier to fauna movement, the proposed clearing will not impact on the environmental value of the larger remnant or the ecological linkage of which it is apart.

The local area retains approximately 48 per cent native vegetation. A majority of this vegetation is located within land managed by DBCA to the south of the application area. The application area occurs adjacent to a larger,

approximately 200 hectare, remnant which is connected to the Blackwood State Forest through continuous native vegetation.

Although the application area forms habitat for Black cockatoos, given the completely degraded condition, the extent of adjoining vegetation and reserved vegetation within the local area, it is not likely to contain a high biodiversity. The application area is not likely to be at variance with this Principle.

(b) Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna.

Proposed clearing may be at variance with this Principle
Six terrestrial/arboreal fauna species listed under the *Biodiversity Conservation Act 2016* have been recorded within the local area.

- forest red-tailed black cockatoo (*Calyptorhynchus banksii* subsp. *naso*);
- Baudin's cockatoo (*Calyptorhynchus baudinii*);
- Carnaby's cockatoo (*Calyptorhynchus latirostris*);
- Chuditch (*Dasyurus geoffroii*);
- Malleefowl (*Leipoa ocellata*); and
- Western Ringtail Possum *(Pseudocheirus occidentalis*).

Black cockatoo's (Baudin's, Carnaby's and forest red-tailed black cockatoo) nest in large hollows of Eucalyptus trees and forage on the seeds, nuts and flowers of a large variety of plants including Proteaceous species (*Banksia, Hakea, Grevillea*), *Eucalyptus*, *Corymbia* and a range of introduced species (DBCA, 2013; Valentine and Stock, 2008). As assessed within Principle (a), DBCA (2018) has advised that the application area will be providing habitat for threatened black cockatoo species. The Carnaby's cockatoo recovery plan states, "Success in breeding is dependent on the quality and proximity of feeding habitat within 12 kilometres of nesting sites. Along with the trees that provide nest hollows, the protection, management and increase of this feeding habitat that supports the breeding of Carnaby's cockatoo is a critical requirement for the conservation of the species" (DBCA, 2013).

A DWER site inspection undertaken in November 2017 noted that (DWER, 2017):

- Large trees of an age and size suitable as to contain potential black cockatoo breeding hollows are present within the application area;
- Tree hollows suitable for black cockatoos were identified within the application area; and
- Small hollows were present within the application area that may provide habitat for fauna. One of these hollows showed significant wear around the entrance as well as along the trunk of the tree indicating use by fauna.

A black cockatoo habitat assessment of the application area determined that (SW Environmental, 2017):

- Black cockatoo foraging evidence is present across the application area;
- The loss of 2.782 hectares of foraging habitat represents 0.08 per cent of potential foraging habitat within five kilometres of the application area;
- 39 trees with a suitable diameter at breast height (DBH) as to contain black cockatoo nesting hollows are present within the application area;
- 12 of the 39 trees contained hollows of a suitable size for black cockatoos;
- No evidence of black cockatoo roosting was observed;
- Clearing should be undertaken outside of the breeding times for black cockatoos; and
- A fauna specialist should be on site during clearing to reduce potential fauna impacts.

Given the vegetation type identified within section 2, the advice received from DBCA, the DWER site inspection observations and results of the black cockatoo habitat assessment, the application area is likely to contain habitat for Black cockatoo species consisting of:

- 2.782 hectares of foraging habitat;
- 39 potential breeding trees; and
- 12 potential breeding trees with suitable hollows.

To define and minimise potential impacts to black cockatoos, a drone survey of each potential hollow was undertaken (SW Environmental, 2018). This survey determined that although eight potential suitable hollows were identified, it is unlikely that any of the trees within the development footprint provide active black cockatoo breeding habitat (SW Environmental, 2018).

The survey recommends that any clearing should be undertaken outside the key breeding period of April to February to ensure no individuals are present at the time of clearing (SW Environmental, 2018).

Clearing outside of the breeding times for black cockatoos, ensuring no individuals are present at the time of clearing and rehabilitating the entire 9.73 hectare extraction area with species suitable for black cockatoo foraging and breeding will assist in mitigating impacts to black cockatoos.

Chuditch populations occur in varying densities in jarrah forests and woodlands in the south west corner of Western Australia, and in woodlands, mallee shrublands and heaths along the south coast, east to the Ravensthorpe area (Department of Environment and Conservation, 2012). While the vegetation within the application area may contain potential dispersal habitat for this species, based on the extent of native vegetation cover within the local area, lack of large fallen trees forming den sites, the application area is not likely to comprise significant habitat for this species.

Within the South Coast, the western ringtail possum is found in coastal heath, jarrah/marri woodland and forest, myrtaceous heaths and shrublands with Agonis flexuosa (peppermint willow) forming a key habitat requirement. As the application area does not contain Agonis flexuosa and based on the completely degraded nature of the vegetation, the species is not likely to be impacted by the proposed clearing.

Mallee fowl occur in shrub lands and low woodlands that are dominated by mallee vegetation, and require a sandy substrate and abundance of leaf litter to build mounds for roosting purposes (DotEE, 2015). As the application area occurs adjacent to a large remnant of native vegetation, is in a completely degraded condition and does not contain mallee vegetation, the proposed clearing is not likely to comprise significant habitat for this species.

The application area occurs within the area assessed within the South West Regional Ecological Linkage Report (SWREL) (Molloy et al, 2007). The application occurs within an area classified as 1A under this report as it is connected to a main axis line through unbroken native vegetation. The application area occurs adjacent to a larger (approximately 200 hectares) remnant of native vegetation that contributes to this ecological linkage. As the application area predominantly contains isolated paddock trees and is on the edge of this large remnant, the proposed clearing is not considered likely to segregate the linkage or form a barrier to fauna movement.

Given this, although it occurs along a SWREL linkage, the proposed clearing is not likely to impact on the movement of fauna through the landscape. A condition on the permit requiring the applicant to rehabilitate the clearing area post gravel extraction will mitigate against any potential long term impacts to the linkage.

As the application area contains suitable habitat for black cockatoos, the proposed clearing may be at variance with this Principle.

(c) Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, threatened flora.

Proposed clearing is not likely to be at variance with this Principle
Fifteen threatened flora species have been recorded within the local area. All of these species are understorey or groundcover species.

DBCA has previously advised that the application area is unlikely to support any flora and/or vegetation currently considered threatened given the completely degraded condition of the vegetation (DBCA, 2018).

Given the advice received from DBCA and as all threatened flora recorded within the local area are understorey species, the proposed clearing is not likely to impact on habitat for threatened flora. The proposed clearing is not likely to be at variance with this Principle.

(d) Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of a threatened ecological community.

Proposed clearing is not likley to be at variance with this Principle
The closest mapped threatened ecological community (TEC) is SCP10b – Shrublands on southern swan coastal plain ironstones, located five kilometres west of the application area.

DBCA has previously advised that the application area is unlikely to support any flora and/or vegetation that is currently considered threatened (DBCA, 2018). Vegetation consistent with a TEC was not identified during a site inspection undertaken by DWER officers (DWER, 2017). The proposed clearing is not considered likely to be at variance with this Principle.

(e) Native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared.

Proposed clearing is not likely to be at variance with this Principle
The national objectives and targets for biodiversity conservation in Australia has a target to prevent clearance of ecological communities with an extent below 30 percent of that present pre-1750, below which species loss appears to accelerate exponentially at an ecosystem level (Commonwealth of Australia, 2001).

As indicated in Table 1, the native vegetation extents within the Interim Biogeographic Regionalisation for Australia (IBRA), and mapped South West vegetation associations are above the 30 per cent threshold (Government of Western Australia, 2018a, 2018b). It is noted that given its completely degraded (Keighery, 1994) condition, the application area is not representative of the mapped vegetation types.

The local area retains approximately 48.2 per cent native vegetation.

As assessed within Principle (b), the application area occurs on the outer edge of an ecological linkage. However, given the condition of the application area, its location on the edge of a significantly larger remnant and as the proposed clearing will not impact on the viability of the linkage, the application area is not likely to be significant as a remnant within the local area.

The proposed clearing is not likely to be at variance with this Principle.

Table 1: Vegetation extent statistics

	Pre-European (ha)	Current Extent (ha)	Remaining (%)	Current extent in all DBCA managed lands (ha)	Extent remaining in all DBCA managed lands (proportion of Pre-European extent) (%)
IBRA Bioregion*					
Jarrah Forest	4,506,660.3	2,399,838.1	53.3	1,673614.3	39.4
South West Vegetation Complex **					
TW	8,676.1	2,926.6	33.7	1,747.4	20.1
T	27,420.4	12,798.1	46.7	7,641.0	27.9
Local Area					
10 kilometre radius	32,641.06	15,706.94	48.12	-	-

(f) Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland.

Proposed clearing is not likely to be at variance with this Principle
No watercourses or wetlands have been mapped within the application area. A site inspection undertaken by DWER officers did not identify riparian vegetation within the application area (DWER, 2017).

The proposed clearing is not likely to be at variance with this Principle.

(g) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation.

Proposed clearing is not likely to be at variance with this Principle
The application area is mapped within the following land systems (Department of Primary Industries and Regional Development (DPIRD), 2018):

- Treeton sandy slopes Phase, which is described as slopes (with gradients generally 5-10% but ranging from 2-15%) with deep bleached sands; and
- Treeton hillslopes Phase, which is described as slopes with gradients generally ranging from 2-15% and gravelly duplex (Forest Grove) and pale grey mottled (Munglte) soils.

Groundwater salinity within the application area is mapped as <500 milligrams per litre total dissolved solids which is considered fresh.

As assessed under Principle (f), no watercourses or wetlands are present within the application area. Considering this and the land degradation risk identified within Table 2, the proposed clearing is not likely to cause land degradation through water erosion, increased salinity, waterlogging or phosphorus export.

Mapped land unit Treeton sandy slopes Phase has been mapped with a high risk of wind erosion. As assessed within section 2, the application area is in a completely degraded condition and is composed predominantly of isolated trees. Given this and as the area is proposed to be maintained as an extraction site and rehabilitated following extraction activities, the proposed clearing is not likely to increase the risk of wind erosion above that which is already present.

Given the above, the proposed clearing is not likely to be at variance with this Principle

Table 2: Land degradation risk categories (DPIRD, 2018).

Risk categories	Treeton sandy slopes Phase	Treeton hillslopes Phase
Wind erosion	>70% of map unit has a high to extreme wind erosion risk	10-30% of map unit has a high to extreme wind erosion risk
Water erosion	3-10% of map unit has a high to extreme water erosion risk	3-10% of map unit has a high to extreme water erosion risk
Salinity	30-50% of map unit has a moderate to high salinity risk or is presently saline	30-50% of map unit has a moderate to high salinity risk or is presently saline
Water logging	10-30% of map unit has a moderate to very high waterlogging risk	10-30% of map unit has a moderate to very high waterlogging risk
Phosphorus export risk	3-10% of map unit has a high to extreme phosphorus export risk	3-10% of map unit has a high to extreme phosphorus export risk
Flood risk	<3% of the map unit has a moderate to high flood risk	<3% of the map unit has a moderate to high flood risk

(h) Native vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area.

Proposed clearing is not likely to be at variance with this Principle
The application area is mapped approximately one kilometre north of the Blackwood State Forest. The application occurs adjacent to a larger, approximately 200 hectare, remnant which is connected to the Blackwood State Forest through unbroken native vegetation. However, as assessed within Principle (b), the proposed clearing is not likely to impact on the environmental values of this remnant through fragmentation of an ecological linkage.

As a one kilometre buffer exists between the application area and conservation estate, the risk of the proposed clearing introducing or spreading dieback and weeds into the conservation areas is considered low.

The proposed clearing is not likely to be at variance with this Principle.

(i) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water.

Proposed clearing is not likely to be at variance with this Principle
No watercourses or wetlands have been mapped within the application area. Groundwater salinity within the application area is mapped as <500 milligrams per litre total dissolved solids. This level of groundwater salinity is considered fresh.

As assessed within Principle (g), the mapped land unit has a low risk of water erosion, salinisation, waterlogging or phosphorus export. The application area adjoins a larger remnant of native vegetation and large reserves occur in close proximity to the application area, lowering the risk of groundwater quality deterioration.

The prosed clearing is not likely to impact on the quality of surface water or groundwater and is not likely to be at variance with this Principle

(j) Native vegetation should not be cleared if clearing the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding.

Proposed clearing is not likely to be at variance with this Principle
No watercourses or wetlands occur within the application area, and the mapped soils are well drained (DPIRD, 2018).

Given the mapped flood risk (Table 2), size of the application area and soil types present, the proposed clearing is not likely to exacerbate the incidence or intensity of flooding.

The proposed clearing is not likely to be at variance with this Principle

Planning instruments and other relevant matters.

The application area occurs within the 'Busselton Capel Groundwater Area' as proclaimed under the *Rights in Water and Irrigation Act 1914*. The applicant has advised that groundwater will not be abstracted for this proposal and that a dry crushing plant will be used. It is not anticipated for groundwater to be intercepted through gravel extraction.

The City of Busselton (2020) has advised that it is currently assessing a development application to extract gravel within the application area.

The proposed clearing has been referred under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) to the Commonwealth Department of Environment and Energy in 2017 (EPBC Ref: 2017/8086). A decision on the proposed clearing of 'not a controlled action' was made on 6 September 2018.

A works approval application is currently being assessed for the screening and crushing activities associated with the extractive industry proposed within the application area.

There are no Aboriginal sites of significance mapped within the application area.

The clearing permit application was advertised on the DWER website on 25 December 2019 with a 21 day submission period. No public submissions have been received in relation to this application.

4. References

Commonwealth of Australia (2001) National Objectives and Targets for Biodiversity Conservation 2001-2005, Canberra.

City of Busselton (2020) Advice receives in relation to Clearing Permit application CPS 8746/1. Received 10 January 2020 (DWER ref: A1857720).

Department of Biodiversity Conservation and Attractions (DBCA) (2007-) NatureMap: Mapping Western Australia's Biodiversity. Department of Parks and Wildlife. URL: http://naturemap.dpaw.wa.gov.au/. Accessed April 2020.

Department of Biodiversity Conservation and Attractions (DBCA) (2013) Carnaby's cockatoo (*Calyptorhynchus latirostris*) Recovery Plan. Department of Parks and Wildlife, Perth, Western Australia.

Department of Biodiversity, Conservation and Attractions (DBCA) (2018) Regional advice for Clearing Permit Application CPS 7829/1. South West Region. Western Australia Received 22 February 2018 (DWER Ref: A1622807).

Department of Environment and Conservation (DEC) (2012) Chuditch (Dasyurus geoffroii) Recovery Plan. Wildlife Management Program No. 54. Department of Environment and Conservation, Perth, Western Australia.

Department of Primary Industry and Regional Development (DPIRD) (2018) NRInfo Digital Mapping. Department of Primary Industry and Regional Development. Government of Western Australia. URL: https://maps.agric.wa.gov.au/nrm-info/ (accessed April 2020).

Department of the Environment and Energy (DotEE) (2015) Leipoa ocellata in Species Profile and Threats Database. Department of the Environment and Energy, Canberra. Available from: www.environment.gov.au/sprat.

Department of Water and Environmental Regulation (DWER) (2017) Site Inspection Report for Clearing Permit Application CPS 7829/1. Site inspection undertaken 16 November 2017 (DWER Ref: A1623866).

*Government of Western Australia (2018a) 2018 Statewide Vegetation Statistics incorporating the CAR Reserve Analysis (Full Report). Current as of October 2018. WA Department of Parks and Wildlife, Perth.

**Government of Western Australia (2018a) 2018 South West Vegetation Complex Statistics. Current as of December 2018. WA Department of Parks and Wildlife, Perth

Keighery, B.J. (1994) Bushland Plant Survey: A Guide to Plant Community Survey for the Community. Wildflower Society of WA (Inc). Nedlands, Western Australia.

Molloy, S., Wood, J., Hall, S., Wallrodt, S. and Whisson, G. (2009) South Western Regional Ecological Linkages Technical report, Western Australian Local Government Association and Department of Environment and Conservation, Perth.

SW Environmental (2017) Black Cockatoo Habitat Assessment. Lot 2 and 3 Nuttman Road, Chapman Hill. May 2017. (DWER ref: A1575862).

Valentine, L.E. and Stock, W. (2008) Food Resources of Carnaby's Black Cockatoo (Calyptorhynchus latirostris) in the Gnangara Sustainability Strategy Study Area. Edith Cowan University and Department of Environment and Conservation. December 2008.

Australian Government
Department of the Environment and Energy

EPBC Ref: 2017/8086

Mr Brian Baker
PO Box 728
BUSSELTON WA 6280

Dear Mr Baker

Decision on referral
Nuttman Road, Busselton Gravel Extraction, Western Australia (EPBC 2017/8086)

Thank you for submitting a referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This is to advise you of my decision about the proposed action to clear 2.8 ha of native vegetation to enable the excavation of gravel material at Lots 2 and 3 Nuttman Road, Chapman Hill, Western Australia.

As a delegate of the Minister for the Environment and Energy, I have decided that the proposed action is not a controlled action. This means that the proposed action does not require further assessment and approval under the EPBC Act before it can proceed.

A copy of the document recording this decision is enclosed. This document will be published on the Department's website.

Please note that this decision relates only to the specific matters protected under Chapter 2 of the EPBC Act.

This decision does not affect any requirement for separate state or local government environment assessment and approvals of the proposed action.

The Department has an active audit program for proposals that have been referred under the EPBC Act. The audit program aims to ensure that proposals are implemented as planned. Please note that your project may be selected for audit by the Department at any time and all related records and documents may be subject to scrutiny. Information about the Department's compliance monitoring and auditing program is enclosed.

I have written separately to the Western Australian Department of Water and Environmental Regulation advising them of this decision.

If you have any questions about the referral process or this decision, please contact the project manager, Rhiannon Agutter, by email to rhiannon.agutter@environment.gov.au, or telephone (02) 6274 1536 and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

Gregory Manning
Assistant Secretary
Assessments (WA, SA, NT) and Post Approvals Branch

6 September 2018

Australian Government
Department of the Environment and Energy

Notification of
REFERRAL DECISION – not controlled action
Nuttman Road, Busselton Gravel Extraction, Western Australia (EPBC 2017/8086)

This decision is made under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed action

Person proposing to take the action	Mr Brian Kenneth Baker
proposed action	Clearing of 2.8 ha of native vegetation to enable the excavation of gravel material at Lots 2 and 3 Nuttman Road, Chapman Hill, Western Australia [See EPBC Act referral 2017/8086].

Referral decision: Not a controlled action

status of proposed action	The proposed action is not a controlled action.

Person authorised to make decision

Name and position	Gregory Manning Assistant Secretary Assessments (WA, SA, NT) and Post Approvals Branch
Signature	
date of decision	6 September 2018

Australian Government
Department of the Environment and Energy

EPBC Ref: 2017/8086

Mr Brian Baker
PO Box 728
BUSSELTON WA 6280

Dear Mr Baker

Decision on referral
Nuttman Road, Busselton Gravel Extraction, Western Australia (EPBC 2017/8086)

Thank you for submitting a referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This is to advise you of my decision about the proposed action to clear 2.8 ha of native vegetation to enable the excavation of gravel material at Lots 2 and 3 Nuttman Road, Chapman Hill, Western Australia.

As a delegate of the Minister for the Environment and Energy, I have decided that the proposed action is not a controlled action. This means that the proposed action does not require further assessment and approval under the EPBC Act before it can proceed.

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Yours sincerely

Gregory Manning
Assistant Secretary
Assessments (WA, SA, NT) and Post Approvals Branch

6 September 2018

Australian Government
Department of the Environment and Energy

Notification of
REFERRAL DECISION – not controlled action
Nuttman Road, Busselton Gravel Extraction, Western Australia (EPBC 2017/8086)

This decision is made under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

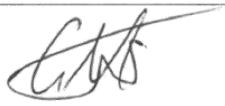
Proposed action

Person proposing to take the action	Mr Brian Kenneth Baker
proposed action	Clearing of 2.8 ha of native vegetation to enable the excavation of gravel material at Lots 2 and 3 Nuttman Road, Chapman Hill, Western Australia [See EPBC Act referral 2017/8086].

Referral decision: Not a controlled action

status of proposed action	The proposed action is not a controlled action.

Person authorised to make decision

Name and position	Gregory Manning Assistant Secretary Assessments (WA, SA, NT) and Post Approvals Branch
Signature	
date of decision	6 September 2018

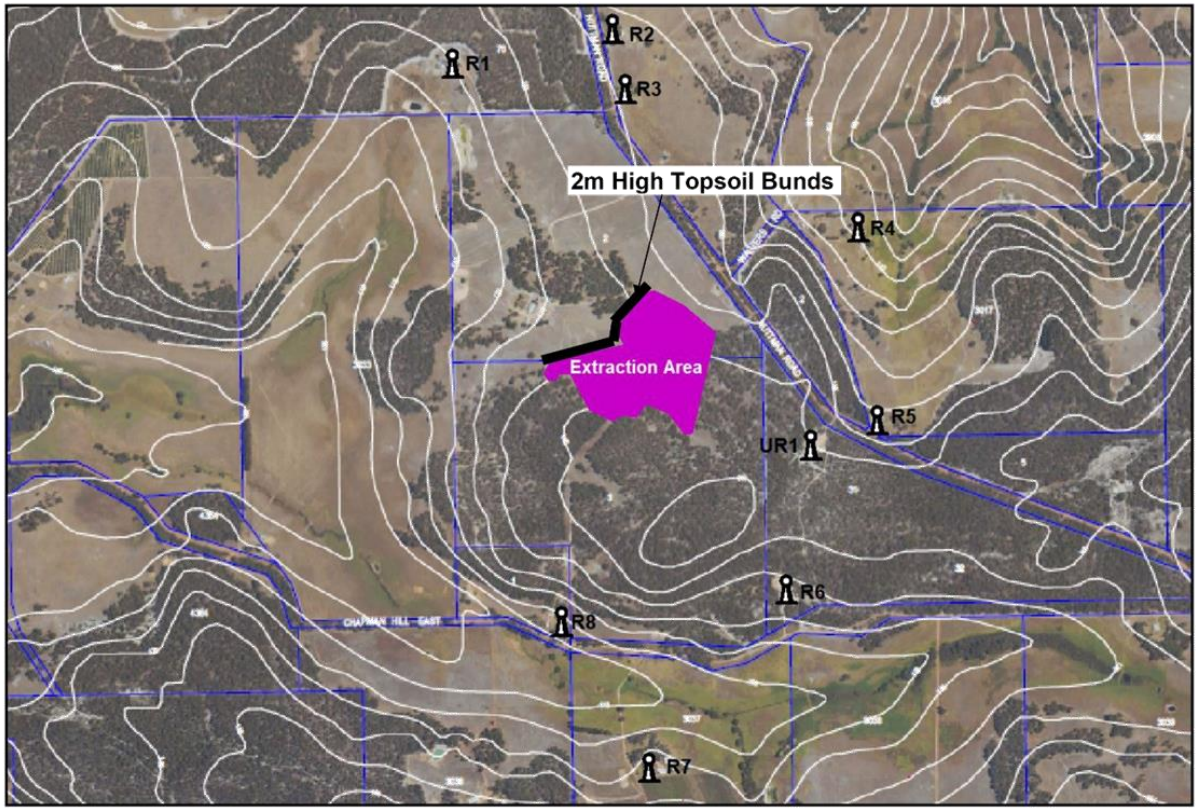


Figure 2: Locations of closest residences.

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
OFFICER: Joanna Wilson

No	NAME & ADDRESS	NATURE OF SUBMISSION	STAFF COMMENT
1.	Department of Water, Environment, and Regulation, Brendan Kelley	Submission 1 – 20/12/2017 Identified risks include: **Groundwater** • Potential interception of groundwater (insufficient hydrogeological details provided) • Ground water contamination due to potential hydrocarbon spills from heavy machinery either from servicing, refuelling or leaks. • Groundwater contamination with nutrients, if there is insufficient separation to groundwater from the final rehabilitatd surface (for grazing landuse). **Surface Water** • Water runoff from the extraction are via sheet flow during major storm events. **Water Supply** • Insufficient Water to meet the needs of the proposed extraction, such as water for dust suppression. Submission 2 – 6/11/2019 The proposed EI site is located within the 'Busselton Capel Groundwater Area' and the 'Geographe Bay Rivers Surface Water Area', both proclaimed under the 'Rights in Water and Irrigation Act 1914'. DWER identified a "moderate risk" in its original assessment, as follows: • Potential interception of groundwater, noting that insufficient hydrogeological detail was provided, Water runoff (carrying sediment) from the extraction area via sheet flow during major storm events, Insufficient water to meet the needs of the proposed extraction, particularly water for dust suppression.	Noted. Conditions proposed: • separation from groundwater is maintained' • revised stormwater water management plan

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
OFFICER: Joanna Wilson

		Groundwater Apart from references to water levels in local stock dams, no new information of significance has been provided with regards to groundwater levels beneath the EI site. However, the additional information states: *"Extraction of gravel will be to a depth of up to 2 metres, at least 2 metres above the anticipated maximum groundwater level in this area"* DWER has concluded that this reference to the EI achieving a 2 metre separation to the anticipated maximum groundwater level remains as a presumption. Nonetheless, after reviewing the referral, DWER acknowledges that the risk of intercepting groundwater in this geological setting is **low**, where the extraction depth is no more than 2 metres. As such, given the low risk of interception and exposure of groundwater, DWER accepts that the EI can proceed with standard conditions (below). **Surface water** The additional information states: "It is nit (sic) expected that any form of stormwater management will be required rather, large rainfall events will pond in the pit floor before naturally dissipating". And: "No erosion is anticipated, this will be prevented by the gravelly nature of the soil on this ridgeline". It is noteworthy that BSO initially stated: "As a minimum, a 1 in 20 year flood event must be catered for with all stormwater runoff from exposed areas being initially contained on site..."	

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
OFFICER: Joanna Wilson

		"Silting ponds will be excavated where point flows are draining to for catchment (sic)... These will be of a capacity to capture the surface flow from a 1 in 20 storm event". "Our clients are committed to closely monitoring drainage/run-off within the excavation areas and will address any problems which may arise. A draft Surface Water Management Plan is supplied". The additional information contradicts the initial assessment, which does not provide any detail of stormwater management, e.g. calculations of stormwater volumes, information related to cut-off drains, bunds, sediment traps and/or the like. DWER concluded that the risk of uncontrolled stormwater run-off from the EI site remains as **moderate** and as such a detailed 'Stormwater Management Plan' is still highly desirable. **Water supply** The additional information acknowledges: "... that a water licence will be required if water is utilised for dust suppression. This will be available in the two dams described above and a licence application will be lodged if this extractive industry application is approved". The proponent will need to demonstrate that they have sufficient water to meet the needs of the proposed extraction, which may require a licence under the 'Rights in Water and Irrigation Act 1914'.	
2.	Department of Mines, Industry Regulation and Safety Glennis Hall	Submission 1 – 5/12/2017 Noted the proposal and added to the Departments Database of basic raw materials extraction sites.	Noted
3.	Department of Biodivsersity,	Submission 1 – 30/4/2018	Noted

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
OFFICER: Joanna Wilson

	Conservation and Attractions Tracy Teede	The SW Environmental 'Black Cockatoo Habitat Assessment' indicated that the site contains primary values for black cockatoos, including trees with hollows suitable for nesting habitat. Baudin's, Carnaby's and the Forest red-tail are listed as threatened species under the EPBC Act. It is noted that an application for clearing permit has been lodged with DWER and DEE , it is expected that the environmental values likely to be impacted by the proposed sand extraction will be adequately considered through the assessment of the clearing permit.	
4.	Cathy & Neil Howard Whicher Ridge Winery 200 Chapman Hill East Chapman Hill WA 6280	<u>Submission 1 – 18/12/2017 - Objection</u> • Insufficient regard for the direct and indirect impact on Whicher Ridge Wines, including but not limited to environmental impacts through dust, noise and traffic and the social and economic impact for wine tourism generally; • The proposed extraction would be less than 1000m from our winery, vineyard, cellar door, wine sensory garden and house; • The Tourist attraction is one of its kind and the proposal would detrimentally impact the business and loss of income; • The attraction depends on a quiet, rural location and the operation of rock breaking, screening and crushing, earth moving equipment and regular truck movements would be contrary to this; • The cellar door is open Thursday to Monday a gravel operation will detrimentally impact on this, in particular due to the operating times; • The DA lacks information in terms of what cells will be worked first, types of stacking, topsoil and gravel stockpiles will be placed, when rock breaking, screening and crushing	Noted • Noise and disturbance is discussed in Officer Comments • Loss of income is not planning consideration • Noise and disturbance is discussed in Officer Comments • The extraction is restricted to Monday to Fridays, see proposed condition 6.2. • See recommended conditions, in respect of noise and dust management plans and discussion in Officer comments.

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
OFFICER: Joanna Wilson

		activities will be carried out, when rehabilitation is scheduled, noise and dust monitoring will be recorded. <u>Submission 2 – 24/10/2019</u> • The development of a gravel extraction pit in such close proximity to our tourism and wine business will have an adverse impact on our wine tourism business; • Opinion has not changed since 2017; • There has been insufficient regard in DA17/0866 for the direct and indirect impacts on Whicher Ridge Wines by this proposal including but not limited to environmental impacts through dust, noise and traffic, and the social and economic impacts for our wine tourism business in particular and for wine tourism businesses more generally in our region; • The basis of our objection to the land clearing is in relation to the removal of the 2.8 hectares of feeding habitat, but more importantly, the removal of 39 potential breeding trees and the removal of 12 potential breeding with existing suitable hollows for breeding; • This area provides feeding and drinking sites for a large number of Red Tailed Black Cockatoos which are listed as vulnerable; • Trees are aged between 100 and 200 yearsl of and it is only when the trees age that they provide critical and essential nesting hollows for these birds; • Clearing for mining that results in the loss of eucalypts with nest hollows will result in a loss of breeding habitat for a significant time and so is likely to impact the species.	• Noise and disturbance is discussed in Officer Comments • Noise and disturbance is discussed in Officer Comments • Support from DWER has already been given for the clearing, see Officer Comments.
	A Howe 367 Nuttman Road Chapman Hill	<u>Submission – 08//12/2017 - Objection</u> • Noise and disturbance from the crusher and heavy extraction on residential amenity – dwelling is located 550m from site;	Noted • Noise and disturbance is discussed in Officer Comments.

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
OFFICER: Joanna Wilson

		• it would produce significant more noise than agricultural machinery; • Nuttman Road is not sufficient in width for two vehicles to pass and serious damage will happen to Nuttman Road; • Dieback is prevalent in this area and could be transported to clear areas with the vehicles;	• Haulage route and road upgrades are discussed in Officer Comments. • Dieback Management Plan has been submitted and condition proposed for implementation, see Condition 6.10.
6.	Fay & Colin Bock 173 Chapman Hill Road Chapman Hill	<u>Submission 1 – 15/12/2017 - Objection</u> • Noise and disturbance to neighbouring properties; • Vibration from the machinery and damage to property; • Impact on health from dust that is generated and lack of water to suppress the dust; • Impact on the water table; • Retention of stormwater to ensure that it doesn't impact the neighbouring property; • Safety concerns for users of the road from haulage vehicles; • Impact on wildflowers and the large flocks of black cockatoos that feed on the property; • The proposal times and length of operation will affect surrounding residents. <u>Submission 2 – 12/6/2018</u> • Mud slush and gravel flowing into our property has already blocked the City's culvert and debris flowing down the road washing parts of it away.	Noted • Noise and disturbance is discussed in Officer Comments. • Dust Management plan has been submitted and would be required to be implemented, see Condition 6.12. • Condition 6.7 required separation from the maximum water table. • Condition 3.3 requires a revised stormwater management plan. • Haulage route and road upgrades are discussed in Officer Comments. • Support from DWER has already been given for the clearing, see Officer Comments. • Condition 3.3 requires a revised stormwater management plan.
7.	Claire Geracitano 208 Nuttman Rd Chapman Hill 6280	<u>Submission 1 – 12/12/2017 - Objection</u> • The neighbouring block is a conservation lifestyle property and we would like to protect the area from disturbance; • Impact on rare flora and fauna; • Rehabilitation of other pits has not be undertaken or enforced, leaving dirt and weeds.	Noted • Noise and disturbance is discussed in Officer Comments. • Support from DWER has already been given for the clearing, see Officer Comments; • Rehabilitation will be a condition of the approval and required by DWER.

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
OFFICER: Joanna Wilson

8.	Simon Brown 290 Chapman Hill East Road Chapman Hill	Submission 1 – 19/12/2017 - Objection • Dust and noise associated with the operation will be in excess of farming activities; • How much water will be required and where will this be sourced; • Increase in truck movements poses an unacceptable risk to current residents, the road infrastructure is inadequate; • There is an existing gravel pit on Chapman Hill Road and the drivers have no regard for safety of other users.	Noted • Noise and disturbance is discussed in Officer Comments. • Condition 3.5 requires details validating the water supply. • Haulage route and road upgrades are discussed in Officer Comments. • This is a matter for the police.
9.	Margaret River Tourism Assocation 100 Bussell Highway Margaret River WA 6285	Submission 1 – 12/12/2017 - Objection • The proposal would have an adverse impact on an adjoining winery that offers visitors a unique experience; • The winery has a 'one of a kind' wine sensory garden which is included in the Margaret River Organic Garden Trial and featured in several magazines; • The proposal would be located 500m-1000m form the cellar door building, vineyard and wine sensory garden – it is expected the operations will be affected; • The gravel extraction will be audible and visible disrupting the peaceful vineyard and garden experience for visitors; • Negative impact on tourism facilities and experiences to visitors from extractions.	Noted • Noise and disturbance is discussed in Officer Comments. • As above • Noise and disturbance is discussed in Officer Comments.
10.	V Bussell 225 Nuttman Road Walsall 6280	Submission 1 – 13/12/2017 - Objection • No objection to the gravel extraction; • Objection to the use of Nuttman Road without it being widened to 6m seal. Submission 2 – 10/10/2019 • The access should be amended so that it is not on the bend of Nuttman Road as it would have insufficient sightlines;	Noted • Haulage route and road upgrades are discussed in Officer Comments. • Discussed in the Background section and Officer Comments, access has been amended.

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
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		• Two other farmers would like to extract from their properties, all farmers should combine the cost of the upgrades; • Support the clearing and extraction of gravel subject to road upgrades; • Do not support transport corridor as per original submission; • Not suitable unless widened to 6m; • The access requires the removal of around 400 square metres of important native trees and bush on the special extra wide Council verge it would need to cross. The smaller trees on this verge area include increasingly rare bull banksias and there are several large eucalypts as well. Not to mention a colourful array of native wildflowers.	• Noted • Haulage route and road upgrades are discussed in Officer Comments. • As above • As above. • Discussed in the Background section and Officer Comments, access has been amended.
	Geographe Wine Industry Association PO Box 6026 Bunbury	<u>Submission 1 – 13/12/2017 - Objection</u> • Insufficient regard for the direct and indirect impact on Whicher Ridge Wines, including but not limited to environmental impacts through dust, noise and traffic and he social and economic impact for wine tourism generally; • Whicher Ridge includes a sensory garden which will be significantly impacted; • The Geogrpahe Wine Region and wine producers are significant contributors to the economy and local economy; • Wine tourism is enhanced by and critical to the quality of the pristine and unique landscape and a 'clean-green' environment.	Noted • Noise and disturbance is discussed in Officer Comments. • Noise and disturbance is discussed in Officer Comments. • Noted, not a planning consideration • Noise and disturbance is discussed in Officer Comments.
12	D Bussell 225/245 Nuttman Road Chapman Hill WA 6280	<u>Submission 1 – 15/12/2017 - Objection</u> • The road width is not safe for large trucks, in some sections it is inadequate for the school bus and passing vehicles; • Proposed access would result in the removal of vegetation and located on a corner with inadequate visibility.	Noted • Haulage route and road upgrades are discussed in Officer Comments • Discussed in the Background section and Officer Comments, access has been amended

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
SUBMISSIONS CLOSE: 24 Oct 2019
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13	J Bussell 225 Nuttman Road Chapman Hill WA 6280	Submission 1 – 15/12/2017 - Objection • The road width is not safe for large trucks, the road should be widened to 6m; • Proposed access would result in the removal of vegetation and located on a corner with inadequate visibility. Submission 2 – 9/10/2019 • No mention of getting a clearing permit to clear the road reserve at the proposed new access on to the dangerous gravel corner of Nuttman Road; • Worst place for access let along destroying a black cockatoo roosting strong hold; • Existing access design for large trucks and requires no clearing or widening; • Support the application but only if the access is moved back to the existing entry.	Noted • Haulage route and road upgrades are discussed in Officer Comments • Discussed in the Background section and Officer Comments, access has been amended • Discussed in the Background section and Officer Comments, access has been amended. • As above • Access has been amended so that clearing would not be required. • Noted.
14	Patrick Iland Wine Promotions PO Box 131 Campbelltown SA 5074	Submission 1 – 12/12/2017 - Objection • We recently featured Whicher Ridge Winery sensory garden in our Australian Wines book due to the innovative, unique and educational way of introducing people to the sensory experience of wine making; • It is a peaceful, scenic country setting that would be greatly detracted from a gravel pit. Furthermore the associated movement of trucks would diminish the rural appeal; • The winery would become a less attractive destination for tourists.	Noted • Noise and disturbance is discussed in Officer Comments • Noise and disturbance is discussed in Officer Comments
15	P & V Dowson 1 Nuttman Road, Chapman Hill WA 6280	Submission 1 – 20/12/2017 - Objection • Owned property for 30 years with the intention of retirement in a peaceful and tranquil surrounding.	Noted • Noise and disturbance is discussed in Officer Comments
16	Birdlife Western Australia 167 Perry Lakes Drive, Floreat WA 6014	Submission 1 – 23/10/2019 - Objection • The information available shows that 12 trees are suitable for black cockatoo nesting and that there are others that may become suitable;	Noted • Support from DWER has already been given for the clearing, see Officer Comments;

Schedule of Submissions DA17/0866
PROPOSAL: INDUSTRY – EXTRACTIVE : LOTS 2 AND 3 NUTTMAN ROAD, CHAPMAN HILL
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		• It is not feasible to replace these with native plant revegetation because of the time required for hollow formation; • Opposed to further degradation or loss of black cockatoo habitat.	• Support from DWER has already been given for the clearing, see Officer Comments; • Noted, see discussion in Officer Comments.
17	Andrea Granagan 508 Nuttman Road WALSALL WA 6280	<u>Submission 1 – 9/10/2019 - Objection</u> • Nuttman road not designed or adequate for heavy traffic; • Object to noise generated which will be heard from our home; • Frequently see emus, kangaroos and large lizards. Proposal will be devastating on the wildlife in this area.	Noted • Haulage route and road upgrades are discussed in Officer Comments • Noise and disturbance is discussed in Officer Comments

City Of Busselton

Advice on Rural Roads and Extraction Activity

Riley Consulting
Riley Consulting (WA) Pty Ltd
Traffic and Transportation Planning / Engineering

Further to your recent communications and questions in regard to proposed extraction activities affecting local roads, I provide the following comments. A glossary of terms is attached at Appendix A.

1. What are the underlying principles and standards that should be applied to assessment of traffic impact?

   The key principles are to provide a safe and efficient road network. Safety is the primary objective.

   Austroads is the guide that is typically relied upon in Australia in regard to road design. However, many States have their own road design guidelines (such as Main Roads) that may allow for a lesser standard. Where such guidelines exist, these may be relied upon.

2. It is considered that the three fundamental issues are network efficiency, safety and asset management (in some contexts, amenity may also be a significant factor) – do these need to be considered separately, or are they all considered and embedded in standards that should be applied?

   In theory they are all contained in the standards applied except amenity. Amenity is covered by Liveable Neighbourhoods in regard to urban residential areas. However, I am not aware of an amenity guideline or threshold applicable to rural roads.

   There is a State Planning Policy (SPP 5.4) that deals with road and rail noise. However the thresholds start at 500 vehicles per day.

3. What weightings should be applied to different kinds of vehicles in different contexts? (e.g. a semi-trailer movement has more impact than a light vehicle movement, what weighting should be applied to the semi-trailer, and is it a different weighting depending on the issue being considered?)

   Normally the application of the PCU factor would be the weighting. However, the PCU factor is used to determine network efficiency as

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it represents the acceleration characteristics of larger vehicles compared to cars.
It should be noted that the traffic flow threshold levels are vehicles and this would include as-of-right trucks. No distinction is made. Whilst a typical urban road may carry 3% larger vehicles, the proportion is more likely to be 10% to 20% in a rural environment. However, a comparison to Bussell Highway could be made to set the level at which the proportion of trucks could be considered acceptable. North of Cowaramup the proportion is 12%.

4. With respect to the application specifically, what are your recommendations and rationale in terms of – (1) the acceptability of standard of the roads proposed to be used for haulage, both before and after the upgrade of Gibb Rd as per the recommended condition of approval, (2) what controls on traffic movements would be appropriate and (3) any other recommendations on reasonable conditions that may be applied and which are considered necessary to achieve an acceptable traffic outcome.

In regard to the existing road standard, I have not driven the road and thus I am not able to provide an opinion. However it is my understanding that it is a gravel road less than 7 metres in width.

It is my understanding that an upgrade to a 7 metre gravel road is proposed to cater for the extraction activity. Capable of passing two way traffic, this is a far safer road environment. Indeed the standard is greater than the Austroads advice (2015) that reference be made to the ARRB Unsealed Roads Manual - Guidelines to Good Practice that recommends a width of 5 metres to 6 metres for demands up to 150 vehicles per day.

In reference to the City's extraction policy I note the reference to Table 3 – Seal Widths and Carriageway Widths for Rural Road (the reference is to a superseded Austroads). The table suggests that no seal is required between 0-75vpd but a width of 7 metres should be provided. Given that the existing road is currently below the rural road standard, the widening to 7 metres for a short term extraction movement of 12 truck per day is a very good outcome.

As indicated, it should be noted that the Austroads reference stated in the Policy has been superseded and Austroads thresholds now start at 150vpd.

I would not suggest that traffic controls would be required for the level of traffic forecast. However, warning signs in advance of the access and truck route would be highly advisable. A reduced speed limit may also be appropriate, but is subject to approval from Main Roads.

For future policy updates, reference to Austroads Part 3 (Table 4.5 single carriageway rural roads) should be made as Austroads no longer considers unsealed roads. This obviously has knock-on implication for any rural local government as gravel roads no longer meet referenced standards

In an appeal situation, the City's Policy in regard to extractive industries may be given some weight, but is unlikely to be relied upon for the purpose of road upgrades, given it is not commensurate with current Austroads guidelines.

Further, it is my opinion that the proposed extraction (14 vehicles per day) is unlikely to break the Policy threshold of 75 vehicles per day as:

- *The traffic data for Gibb Road south of Payne Road indicates an average daily flow of 61.6 vehicles per day (vpd), 48.2vpd and 56.5vpd for the 3 weeks of data (55.4 average vehicles per day). However, week 1 is only 6 days (18 Feb to 23 Feb and week 3 is a day and a half 02 / 03 March). Further Friday 29 Feb is a long weekend and thus the data is not representative of normal conditions. The long weekend counts show 61vpd (Fri) and 52vpd (Sat and Sun) compared to 49vpd, 32vpd and 44vpd the previous weekend. I would, therefore be cautious on relying upon these counts as the underlying number would appear to be between 40vpd and 50vpd during the typical weekday when the extraction will occur.*

I note the application states 6 laden trucks per day (12 movements). However, using your Policy I calculate it would be 7, so 14 movement per day based on a 19metre semi (as-of-right)

So based on the evidence, if we assume 50vpd on Gibb Road plus 14vpd from the extraction, the Policy threshold of 75vpd would not be met. Even with the Condition of no more than 20 vehicles per day, the threshold would not be broken. It is noted that a PCU factor is applied by the policy, but the threshold is stated as vehicles per day, not PCU's.

On this basis it is my opinion that if the proponent took this to SAT, it could be concluded that no road upgrade would be deemed required. Further, if the proponent is using as-of-right vehicles then the affected roads could be argued that they should already be capable of accommodating such vehicles. If not, then it could be deemed that the responsibility for upgrade lies solely with the local government.

5. More broadly, what standards should be applied to allow haulage at particular volumes on particular kinds of roads (in terms of width, surface and other attributes)

   Austroads is probably the only standard that can be realistically applied. Application of MRWA standards is contestable as the roads are NOT controlled by MRWA.

6. Relevance and accuracy of growth factors on traffic counts - is this appropriate or is there a better way?

   Growth factors are the normal standard applied. However a rate of 2% per annum is normal. I note your policy applies 5% pa. 2% should be used unless local data indicates the rate is actually higher.

7. Factor of Safety applied to semi movements again is this appropriate or it there a better way?

   The roads should be designed and constructed cognisant of the vehicles using them. Thus the as-of-right vehicle is permitted on all

roads. Larger vehicles have the RAV network and MRWA assess each route.

8. What weighting should be applied to existing traffic movements and their application to the DA. For example should existing movements have further factors of safety applied to semi-trailers?

   A standard TIA will review the traffic data and note the level of trucks. There are no additional measures required as the road network is designed and constructed cognisant of the permitted vehicles.

9. Location of traffic counters in comparison to the subject land. What are the most appropriate location for the most accurate assessment.

   Straight road sections are best. In regard to a "site" normally adjacent to the site is most common. However, if the road is long with limited access then 100m from the terminating intersection is appropriate.

10. Is there a way of addressing an extractive industry project such as this with the knowledge that after the quarrying has been completed traffic counts will reduce.

    There are no guidelines in regard to less permanent development such as an extraction facility. The development would be treated as if it were permanent. However, it is within the ability of the local Government to apply discretion.

    There could be a counter argument made in that with growth applied to a road it may meet upgrading thresholds in 5 or 10 years. The question then arises, who is responsible? It also needs to be borne in mind that development is normally the growth. So in the instance of Gibb Road the next 5 years growth could be attributed to developments currently before the City. Traffic may also increase due to unauthorised use of land. In such instances, should the cost of upgrade lie with the proponent of a DA?

11. Traffic counts and upgrades, in particular what would be considered as an appropriate consistent traffic count to be considered in general prior

to determining whether a road should be sealed. What other factors would then be considered similar to question 2.

Current traffic data is the most accurate in regard to any DA application. However, the data needs to be collected during school term times and be reflective of normal conditions. In the South West region this is perhaps a little hard due to the seasonal fluctuation in traffic flows due to tourism in the region.

It also needs to be borne in mind that growth may not be relevant to roads accessing an actual quarry (such as a long cul-de-sac).

However, in regard to sealing, Austroads no longer considers un-sealed roads (see Q4). Neither do Main Roads as follows:

- AADT is calculated based on Passenger Car Equivalents instead of AADT. The Passenger Car Equivalents (PCEs) for large vehicles shown in Table 4.5.1 are used to convert vehicles / day to PCUs / day.
- Unsealed shoulders are replaced by sealed shoulders. The reason for this is two-fold: (a) sealed shoulders generally have lower maintenance and Whole of Life Cycle Costs, and (b) research has shown that sealed shoulders up to 2.0m wide have a significant reduction effect on run-off-the-road and head-on KSI crashes.

Element	Design (PCUs / Day)			
	150 - 500	500 - 1000	1000 - 3000	3000 - 8000
Traffic Lanes[1]	7m (2 x 3.5m)	7m (2 x 3.5m)	7m (2 x 3.5m)	7m (2 x 3.5m)
Total Shoulder	1m	1.5m	1.5m or 2m	2m or 2.5m
Minimum Shoulder Seal[2][3][4][5]	1m	1.5m	1.5m or 2m	2m or 2.5m
Wide Centreline	N/A	N/A	None or 1m	None or 1m
Total Carriageway	9m	10m	11m	12m

Table 4.5: Single Carriageway Rural Road Widths

However, based on the MRWA table, there appears to be no standard for unsealed roads, but volumes up to 150vpd would appear to be acceptable on un sealed roads.

The danger in relying on the current Austroads is that many rural roads may already be operating way beyond the thresholds, but there are no plans to upgrade. Sadly, the literal application of Austroads may result in many roads needing to be widened. As a result development applications for small tourism development may trigger the need for upgrading, which would render the development unviable.

So in terms of the warrants, it need to be carefully considered to ensure the outcomes are fair and reasonable.

12. Anything else you can think of that may assist us with the assessment of this type of DA in the future.

In my opinion careful updating of the Policy is needed, but a balance needs to be made in regard to passing costs on to DA proponents in one industry but not another.

For a future Policy update I would suggest that the onus of addressing the suitability of larger vehicle routes be placed with the DA proponent. Perhaps a requirement that a "professional traffic engineer" undertakes a route assessment and provides advice in regard to what upgrades, changes or other issues should be addressed as part of the DA. The assessment should cover all local roads used and any intersection with the arterial road network.

Subject headings may include

- *Existing road standard and suitability to cater for truck movement*
- *Visibility along the route for trucks and other road users*
- *Consideration of adjacent land uses and safety of access.*
- *Safety of intersections.*

APPENDIX A GLOSSARY OF TERMS

Liveable Neighbourhoods	Western Australian Planning Commission urban planning policy framework
As of right vehicle	Any vehicle that is not a RAV, commonly known as 'as of right' or 'general access vehicle'. For example, rigid trucks up to 12.5 metres and semi trailers19 metres or less in combination

ACRONYMS

AustRoads	Austroads is the organisation of Australasian road transport and traffic agencies in Australia and New Zealand. Austroads guides are the primary reference for traffic and road design.
ARRB	Australian Road Research Board
DA	Development Application
MRWA -	Main Roads Western Australia
PCU	Passenger Car Units
RAV	Restricted Access vehicle
SAT	State Administrative Tribunal
TIA	Traffic Impact Assessment (>100 vehicles in any hour)
TIS	Traffic Impact Statement (<100 vehicle in any hour)
Vpd	Vehicles per day

ENVIRONMENTAL NOISE ASSESSMENT

OF

GRAVEL CRUSHING

23 October 2020

AES-890089-R01-2-23102020

Acoustic Engineering Solutions
www.acousticengsolutions.com.au

DOCUMENT CONTROL

Environmental Noise Impact Assessment

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Revision:	2
Date:	23 October 2020
Doc NO:	AES-890089-R01-2-23102020

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EXECUTIVE SUMMARY

Acoustic Engineering Solutions (AES) has been commissioned by Accendo Australia to undertake an environmental noise impact assessment for the proposed gravel-extraction operations at lots 2 and 3 Nuttman Road Chapman Hill WA 6280. The aim of this assessment is to determine whether or not the noise emissions from the proposed operations would comply with the Environmental Protection (Noise) Regulations 1997 (the Regulations).

An acoustic model is created and four operational scenarios are modelled:

Scenario 1: represents the topsoil strip.

Scenario 2: represents the extraction activities.

Scenario 3: represents the crushing and screening of rock.

Scenario 4: represents product loading.

Nine closest residential premises are selected for the assessments. Noise levels are predicted for worst-case meteorological conditions. The predicted worst-case noise levels are adjusted for their dominant characteristics according to the Regulations, and then assessed against the assigned noise levels set by the Regulations. The compliance assessment concludes that full compliance is achieved for the proposed gravel-extraction operations.

Ground vibration (Peak Particle Velocity (PPV)) levels of mobile equipment are predicted from the published data. The predicted vibration levels are below the low limits for protecting buildings from damage and for human perception at any of the residences.

TABLE OF CONTENTS

1.0 INTRODUCTION

Accendo Australia (Accendo) proposes gravel-extraction and production at lots 2 and 3 Nuttman Road Chapman Hill WA 6280. Acoustic Engineering Solutions (AES) has been commissioned by Accendo to undertake an environmental noise impact assessment of the proposed operations. The objective of this assessment is to determine whether or not the noise emissions from the proposed operations would comply with the Environmental Protection (Noise) Regulations 1997 (the Regulations).

Before the extraction and production, topsoil is stripped and stockpiled as water, visual and noise barriers around the pit edges. During this period, three personnel work on site on a day shift between 7am and 3:30pm on Monday to Friday excluding public holidays.

When the extraction and production stops, the gravel is loaded to trucks and then transported away from the site. These trucks run form 7 am to 5.30 pm on Monday to Friday excluding public holidays.

Figure 1 in APPENDIX A presents an aerial view of the subject site and surrounding area while Figure 2 presents the locations of closest residences. Residence UR1 is not approved by the local authority.

2.0 NOISE AND VIBRATION CRITERIA

2.1 NOISE CRITERIA

Noise management in Western Australia is implemented through the Environmental Protection (Noise) Regulations 1997 (the Regulations). The Regulations set noise limits which are the highest noise levels that can be received at noise-sensitive (residential), commercial and industrial premises. These noise limits are defined as 'assigned noise levels' at receiver locations. Regulation 7 requires that "noise emitted from any premises or public place when received at other premises must not cause, or significantly contribute to, a level of noise which exceeds the assigned level in respect of noise received at premises of that kind".

Table 2-1 presents the assigned noise levels at various premises.

Table 2-1: Assigned noise levels in dB(A)

Type of Premises Receiving Noise	Time of Day	Assigned Noise Levels in dB(A)[1]		
		$L_{A\,10}$	$L_{A\,1}$	$L_{A\,max}$
Noise sensitive premises: highly sensitive area	0700 to 1900 hours Monday to Saturday	45 + Influencing factor	55 + Influencing factor	65 + Influencing factor
	0900 to 1900 hours Sunday and public holidays	40 + Influencing factor	50 + Influencing factor	60 + Influencing factor
	1900 to 2200 hours all days	40 + Influencing factor	50 + Influencing factor	60 + Influencing factor
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays	35 + Influencing factor	45 + Influencing factor	55 + Influencing factor
Noise sensitive premises: any area other than highly sensitive area	All hours	60	75	80
Commercial premises	All hours	60	75	80

For highly noise sensitive premises, an "influencing factor" is incorporated into the assigned noise levels. The influencing factor depends on road classification and land use zonings within circles of 100 metres and 450 metres radius from the noise receiver locations.

[1] Assigned level L_{A1} is the A-weighted noise level not to be exceeded for 1% of a delegated assessment period.
Assigned level L_{A10} is the A-weighted noise level not to be exceeded for 10% of a delegated assessment period.
Assigned level L_{Amax} is the A-weighted noise level not to be exceeded at any time.

2.1.1 CORRECTIONS FOR CHARACTERISTICS OF NOISE

Regulation 7 requires that that "noise emitted from any premises or public place when received at other premises must be free of:

(i) tonality;

(ii) impulsiveness; and

(iii) modulation.

when assessed under Regulation 9".

If the noise exhibits intrusive or dominant characteristics, i.e. if the noise is impulsive, tonal, or modulating, noise levels at noise-sensitive premises must be adjusted. Table 2-2 presents the adjustments incurred for noise exhibiting dominant characteristics. That is, if the noise is assessed as having tonal, modulating or impulsive characteristics, the measured or predicted noise levels have to be adjusted by the amounts given in Table 2-2. Then the adjusted noise levels must comply with the assigned noise levels. Regulation 9 sets out objective tests to assess whether the noise is taken to be free of these characteristics.

Table 2-2: Adjustments for dominant noise characteristics

Adjustment where noise emission is not music. These adjustments are cumulative to a maximum of 15 dB.			Adjustment where noise emission is music	
Where tonality is present	Where Modulation is present	Where Impulsiveness is present	Where Impulsiveness is not present	Where Impulsiveness is present
+5 dB	+5 dB	+10 dB	+10 dB	+15 dB

2.1.2 Construction Noise

Regulation 13(1) states that construction work means "(g) the removal or reinstatement of vegetation or topsoil for the purpose of or in relation to a mining operation".

Regulation 13(2) states that Regulation 7 does not apply to noise emitted from a construction site as a result of construction work carried out between 0700 hours and 1900 hours on any day which is not a Sunday or public holiday if the occupier of the premises or public place, shows that

(a) the construction work was carried out in accordance with control of environmental noise practices set out in section 4 of AS 2436-2010 Guide to noise and vibration control on construction, maintenance and demolition sites; and

(b) the equipment used on the premises was the quietest reasonably available.

2.1.3 INFLUENCING FACTORS

Nine (9) closest residential premises surrounding the subject site are selected for detailed assessment, as shown in Figure 2 in APPENDIX A.

No major or secondary roads are located within 450m from any selected residential premises. Neither industrial nor commercial zone is present in the vicinity of the selected residential premises within 450m. The gravel pit (9.73 hectares) is at least 320m from UR1 and more than 500m from the other residences. The gravel pit is zoned as "industrial". Therefore, the influencing factor is zero for all of the closest residential locations.

Table 2-3 presents the day-time assigned noise levels for Monday to Saturday excluding public holidays.

Table 2-3: Day-time assigned noise levels (L_{A10}) in dB(A)

Closest Residents	Influencing Factor in dB	Day-time Assigned Noise Levels (L_{A10}) in dB(A) for Monday to Saturday
All Receivers	0	45

2.2 VIBRATION CRITERIA

2.2.1 Building Structural Integrity

Table 2-4 presents the vibration limits for protecting buildings from damage, which is outlined in the German Standard DIN 4150-3[2].

Table 2-4: Vibration limits to protect building from damage.

Type of Structures	Velocity in mm/s at the Foundation at a Frequency of			Plane of Floor of Uppermost Storey
	< 10 Hz	10-50 Hz	50-100 Hz	All frequencies
Building use for commercial purposes, industrial buildings & buildings of similar design	20	20 - 40	40 - 50	40
Dwelling and buildings of similar design and/or occupancy	5	5 - 15	15 - 20	15
Structures that because of their particular sensitivity to vibration and are of great intrinsic value (e.g. heritage listed structures)	3	3 - 8	8 - 10	8

[2] German Standard DIN 4150:1999, Structural Vibration Part 3: Effects of Vibration on Structures.

2.2.2 Human Comfort Criteria

Humans are capable of detecting vibration at levels that are well below those causing risk of damage to a building. Table 2-5 presents the vibration levels for the degrees of perception of humans, suggested by British Standard 5228-2:2009 Code of practice for noise and vibration Control on construction and open sites – Part 2: Vibration.

Table 2-5: Guidance on effects of vibration levels.

Vibration Levels	Effect
0.14 mm/s	Vibration might be just perceptible in the most sensitive situations for most vibration frequencies associated with construction. At lower frequencies, people are less sensitive to vibration.
0.3 mm/s	Vibration might be just perceptible in residential environments.
1.0 mm/s	It is likely that vibration of this level in residential environments will cause complaint, but can be tolerated if prior warning and explanation has been given to residents.
10 mm/s	Vibration is likely to be intolerable for any more than a very brief exposure to this level.

3.0 NOISE MODELLING

3.1 METHODOLOGY

An acoustic model is developed using SoundPlan v8.0 program, and the CONCAWE[3,4] prediction algorithms are selected for this study. The acoustic model is used to predict worst-case noise levels at the closest residential locations and generate worst-case noise contours for the surrounding area.

The acoustic model does not include noise emissions from any sources other than from the proposed gravel-extraction and production. Therefore, noise emissions from road traffics, aircrafts, animals, etc are excluded from the modelling.

3.2 NOISE MODELLING SCENARIOS

Accendo advised that:

- Gravel extraction comprises three cells in a total area of approximately 9.73 hectares.
- During the gravel extraction period, three personnel work on site on a day shift between 7am and 3:30pm.
- In each cell it is estimated that 100mm of topsoil and overburden will be cleared.
- Maximum depth of extraction will be 2m below the existing surface depending on the depth of gravel.
- Topsoil and overburden are to be pushed to outer limits of cell, creating noise bunds of approximately 2 metres in height along pit boundary edges. The 2m high topsoil bund in the east pit edge, as shown in Figure 2 in APPENDIX A, will stay till the completion of this project.
- In each cell finished product is to be stockpiled to the East, to a height of 4 metres from the bottom of the pit, as shown in Figure 3 in APPENDIX A. This means that stockpiles are about 2m from the natural surfaces.
- In each cell the production will take place towards West.
- The production equipment will be shift as required, but constantly in the order of extraction, crusher, feeding screener, feeding conveyor belt to stockpile.
- Not all equipment operates simultaneously; this is staged due to lack of staff and expense involved.
- Crushing and Screening of rock are undertaken separately from the extraction. This means that no extraction activities occur when crushing and screening happen.
- A 5m L-shaped bund will be built at about 3m away from the crusher and Supertrak, as shown in Figure 4 in APPENDIX A.

[3] CONCAWE (Conservation of Clean Air and Water in Europe) was established in 1963 by a group of oil companies to carry out research on environmental issues relevant to the oil industry.
[4] The propagation of noise from petroleum and petrochemical complexes to neighbouring communities, CONCAWE Report 4/81, 1981.

- After the extraction stops, one personnel works on site to load gravel to trucks on day shift between 7am and 5:30pm. Then trucks transport the gravel away from the site. During the loading truck engine will be switched off.

Four phases are planned:

- Topsoil strip using the following equipment:
  - A CAT 12M Grader; and
  - A D9 Dozer.
- Extraction using the following equipment:
  - A CAT 366FL Excavator; and
  - A CAT 966H Loader.
- Crushing and screening of rock using the following equipment:
  - A CAT 966H Loader to load rock to the crusher;
  - Impact Crusher;
  - Supertrak (Terex Finlay 693+); and
  - Stacker (Terex Finlay 632).
- Loading products into road trains using a CAT 966H Loader. The engines of road trains will be switched off during the loadings.

Based on the provided information and proposed activities, four operational scenarios are modelled:

Scenario 1: represents the topsoil strip.

Scenario 2: represents the extraction activities.

Scenario 3: represents the crushing and screening of rock.

Scenario 4: represents product loading.

UR1 is the residence closest to the pit. Extraction and crushing at cell 1 represent the worst-case operation for scenario 2 to 4. Therefore, the activities for extraction and crushing/screening at cell 1 and transporting products from cell 1 stockpile are modelled and assessed in this study.

The 2m high topsoil bund in the east pit edge, as shown in Figure 2 in APPENDIX A, is assumed to be present for scenarios 2 to 4.

For worst-case operations, all items of the mobile equipment are assumed to operate on the natural surfaces for scenario 1.

For scenario 2, both 366FL Excavator and CAT 966H Loader are assumed to operate at the bottom of the pit and within 50m from the 2m topsoil bund on cell 1 edge. This scenario is for the operations before the 4m product stockpile is built. After the 4m product stockpile is built, both 366FL Excavator and CAT 966H Loader should work within 50m to the west of the 4m product stockpile.

For scenario 3, the 5m L-shaped bund is assumed at 3m away from the Crusher and Supertrak, as shown in Figure 4 in APPENDIX A. The fixed plant is assumed to sit on the pit floor (2m below the natural surface). Cat 966H loader is assumed to load rock to the crusher.

Product stockpile is not included in the acoustic model. If the 4m product stockpile is included, the predicted noise levels will be lower at the stockpile shadow area (for the eastern receivers: R4 to R7 and UR1).

For scenario 4, the loader is assumed to operate at 1m below the natural surfaces.

3.3 INPUT DATA

3.3.1 Topography

The ground contours for the proposed site and surrounding area are provided by Accendo in AUTO-CAD dwg format. The ground is assumed to be absorptive.

Neither buildings nor sheds are considered in the acoustic model.

3.3.2 Noise Sensitive Premises

Nine (9) nearest residential premises are selected for the assessment, as shown in Figure 2 in APPENDIX A.

3.3.3 Source Sound Power Levels

Table 3-1 presents the source sound power levels. The sound power levels of CAT 12M Grader, CAT 366FL Excavator and CAT 966H Loader are calculated from the manufacture data for overall levels and their spectra are obtained from the AES database for similar equipment. The sound power levels of the other equipment were provided by Accendo.

Table 3-1: Sound power levels.

Equipment	Octave Frequency Band Sound Power Levels in dB(lin)								Overall
	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	dB(A)
CAT12M Grader[5]	97	101	108	103	101	101	98	91	**105**
D9 Dozer	108	112	117	115	106	107	103	98	**112**
CAT 366FL Excavator	95	98	110	100	100	102	98	95	**106**
CAT 966H Loader	96	107	106	101	104	103	100	92	**107**
Impact Crusher	110	120	117	111	112	109	106	101	**114**

[5] With sound suppression package.

Equipment	Octave Frequency Band Sound Power Levels in dB(lin)								Overall
	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	dB(A)
Terex Finlay 693+	108	107	107	106	108	106	102	99	**110**
Terex Finlay 632	94	95	93	94	88	93	90	78	**96**

3.4 METEOROLOGY

SoundPlan calculates noise levels for defined meteorological conditions. In particular, temperature, relative humidity, wind speed and direction data are required as input to the model. For this study the worst-case meteorological conditions[6] are assumed, as shown in Table 3-2.

Table 3-2: Worst-case meteorological conditions.

Time of day	Temperature Celsius	Relative Humidity	Wind speed	Pasquill Stability Category
Day (0700 --- 1900)	20° Celsius	50%	4 m/s	E

[6] The worst case meteorological conditions were set by the EPA (Environmental Protection Act 1986) Guidance note No 8 for assessing noise impact from new developments as the upper limit of the meteorological conditions investigated.

4.0 MODELLING RESULTS

4.1 POINT CALCULATIONS

Table 4-1 presents the predicted worst-case A-weighted noise levels. The highest noise level is predicted at UR1 for scenarios 1, 2 and 4 but at R3 for scenario 3.

Table 4-1: Predicted worst-case noise levels in dB(A).

Receivers	Predicted Noise Levels in dB(A)			
	Scenario 1	Scenario 2	Scenario 3	Scenario 4
R1	36.4	32.4	39.9	30.4
R2	36.6	33.5	37.6	32.4
R3	39.7	36.1	40.0	34.7
R4	29.6	20.7	24.2	26.3
R5	40.9	31.8	32.0	32.5
R6	39.2	33.7	31.5	22.4
R7	34.7	31.8	38.6	27.9
R8	30.3	23.6	30.6	10.8
UR1	44.0	37.5	36.7	40.0

4.2 NOISE CONTOURS

Figure 5 to Figure 8 in APPENDIX A present the worst-case noise level contours at 1.5m above the ground. These noise contours represent the worst-case day-time noise propagation envelopes, i.e., worst-case propagation in all directions simultaneously.

5.0 COMPLIANCE ASSESSMENT

5.1 ADJUSTED NOISE LEVELS

Noises from the proposed fixed plant and mobile equipment are expected to exhibit tonality. According to Table 2-2, the predicted noise levels shown in Table 4-1 should be adjusted by adding 5 dB.

Table 5-1 presents the adjusted worst-case noise levels in dB(A).

Table 5-1: Adjusted worst-case noise levels in dB(A).

Receivers	Adjusted Noise Levels in dB(A)			
	Scenario 1	Scenario 2	Scenario 3	Scenario 4
R1	41.4	37.4	44.9	35.4
R2	41.6	38.5	42.6	37.4
R3	44.7	41.1	45.0	39.7
R4	34.6	25.7	29.2	31.3
R5	45.9	36.8	37.0	37.5
R6	44.2	38.7	36.5	27.4
R7	39.7	36.8	43.6	32.9
R8	35.3	28.6	35.6	15.8
UR1	49.0	42.5	41.7	45.0

5.2 COMPLIANCE ASSESSMENT

Scenario 1 (topsoil strip) represents construction activities. As indicated in section 2.1.2, no assigned noise levels apply to scenario 1 as long as "*the construction work was carried out in accordance with control of environmental noise practices set out in section 6 of AS 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites*" and "*the equipment used on the premises was the quietest reasonably available*".

Scenarios 2 to 4 generate continuous noise emissions. All activities in this project are proposed for the days only (between 7:00am and 5:30pm) on Monday to Friday excluding

public holidays. Therefore, noise emissions should be assessed against the day-time assigned noise levels L_{A10} for Monday to Friday.

Table 5-2 presents the compliance assessment. It is shown that the adjusted worst-case noise levels are not above the day-time assigned noise levels at all of the noise-sensitive premises for scenarios 2 to 4. This means that full compliance is achieved for the proposed operations.

Table 5-2: Compliance assessment.

Receivers	Assigned Noise Levels in dB(A)	Adjusted Noise Levels in dB(A)		
		Scenario 2	Scenario 3	Scenario 4
R1	45	37.4	44.9	35.4
R2	45	38.5	42.6	37.4
R3	45	41.1	45.0	39.7
R4	45	25.7	29.2	31.3
R5	45	36.8	37.0	37.5
R6	45	38.7	36.5	27.4
R7	45	36.8	43.6	32.9
R8	45	28.6	35.6	15.8
UR1	45	42.5	41.7	45.0

6.0 VIBRATION ASSESSMENT

Ground vibration (Peak Particle Velocity (PPV)) between two points at distances Ra and Rb from a source can be calculated using the following equation:

$$Vb = Va \left(\frac{Ra}{Rb}\right)^{1.5} \quad (1)$$

Where Va and Vb are the PPV vibration levels at locations a and b.

The published data for vibration levels of construction equipment show:

- Excavators: 0.2mm/s at 40m[7].
- Graders: 3mm/s at 10m.
- Dozers: 2 – 4mm/s at 10m[8].

No published vibration data are available for FELs and crushers. It is expected FELs generate lower vibration than Dozers.

Table 6-1 presents the predicted vibration PPV levels. It is shown that the predicted vibration PPV levels are less than 0.1mm/s at 300m from operating equipment at the pit. UR1 is the closest residence and more than 300m away from the pit. Therefore, at any of the residences the predicted vibration PPV levels are much lower than the limits for protecting buildings from damage and for human perception, as shown in section 2.2.

Table 6-1: Predicted Vibration PPV Levels in mm/s.

Receivers	Predicted Vibration Levels in mm/s at Different Distances			
	10m	20m	100m	300m
Dozers	2.4 to 4	1.4	0.13	< 0.1
Excavators		0.6	< 0.1	< 0.1
Graders	3	1.1	< 0.1	< 0.1

[7] Management of Noise and Vibration: Construction and Maintenance Activities, Environmental Instruction 21.7, March 2017, Department of Planning, Transport and Infrastructure.
[8] NSW RTA Environmental Noise Management Manual (RTA, 2001).

APPENDIX A AERIAL VIEW

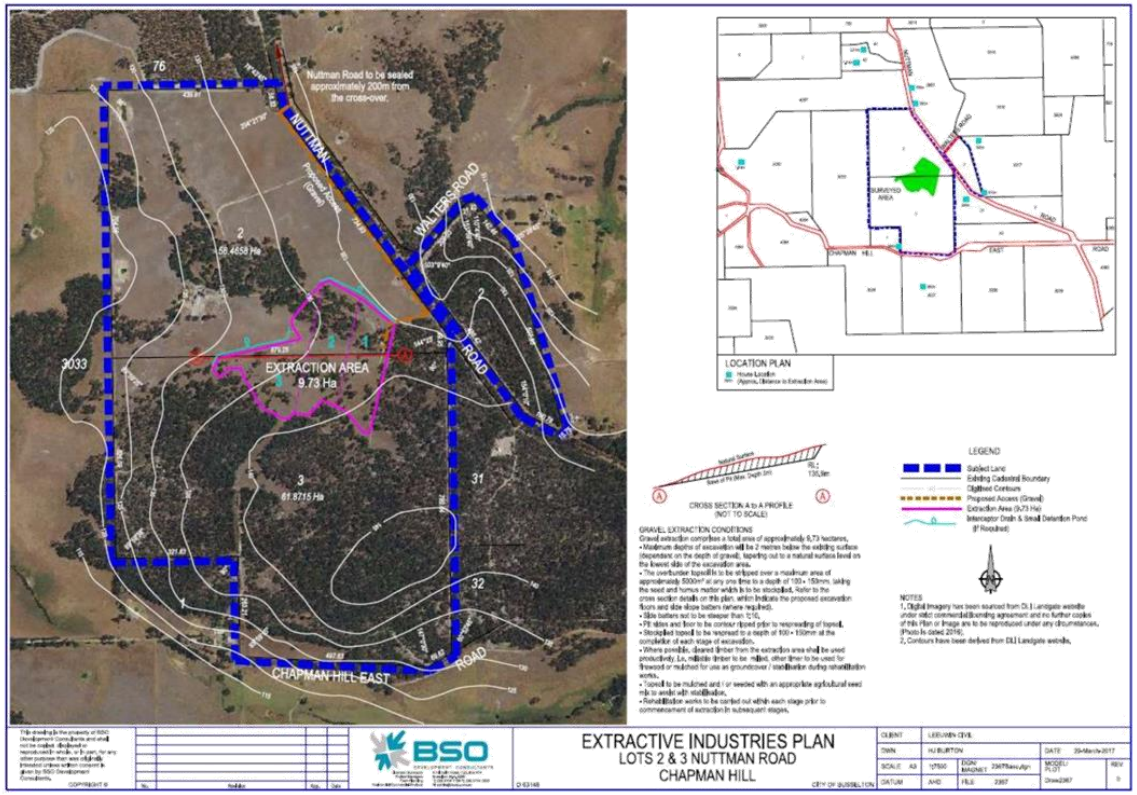


Figure 1: Aerial view of the subject site and surrounding area.

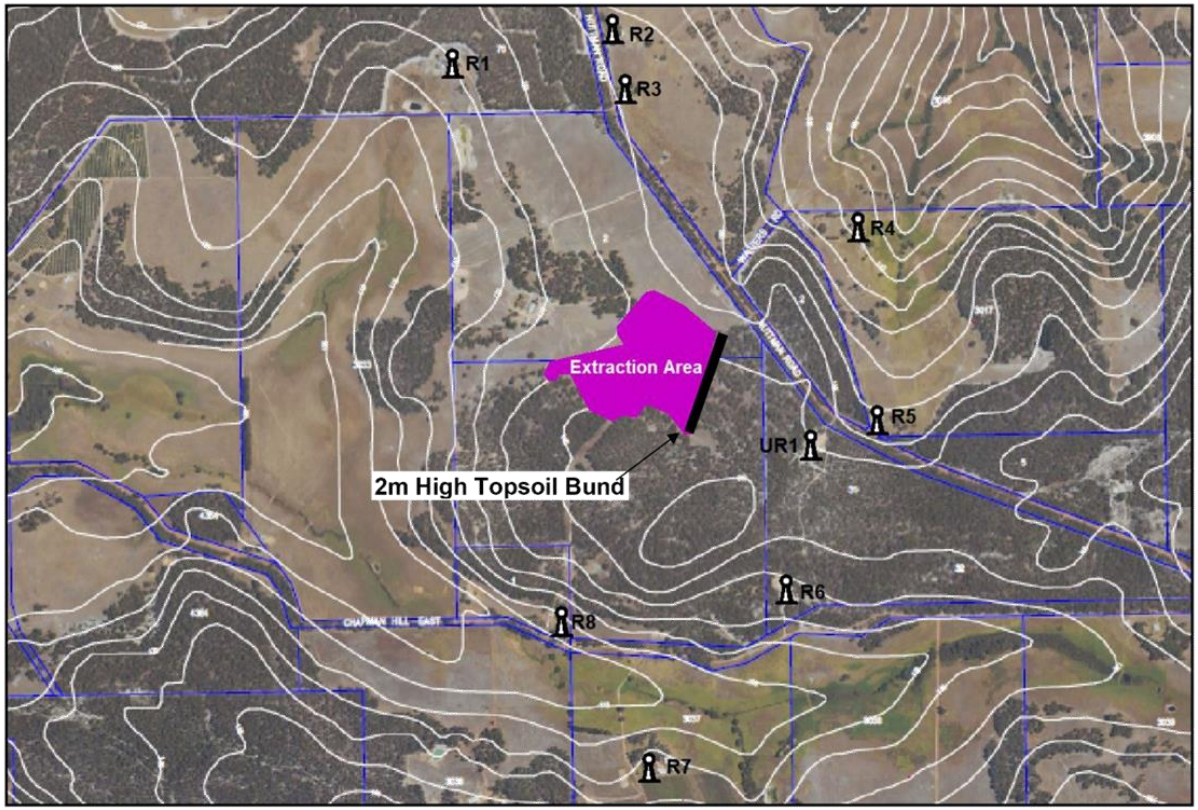


Figure 2: Locations of closest residences.

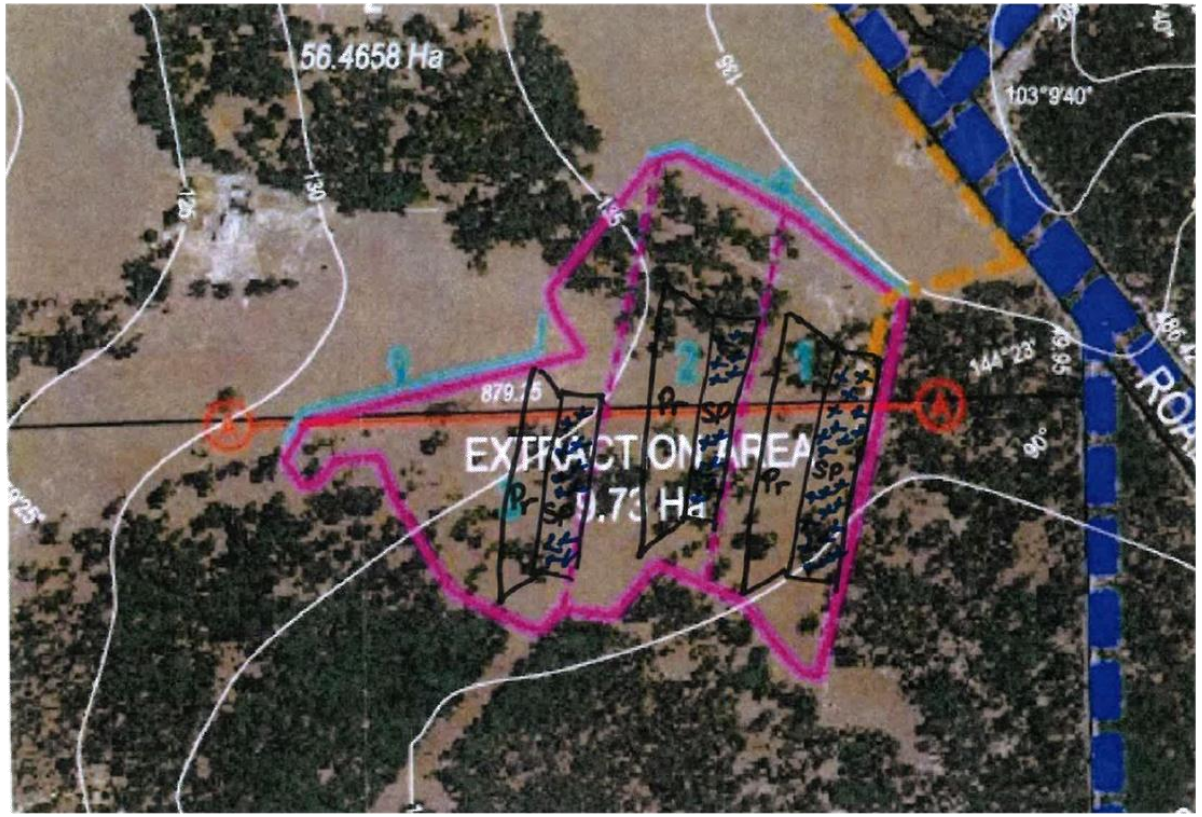


Figure 3: Locations of product stockpiles.

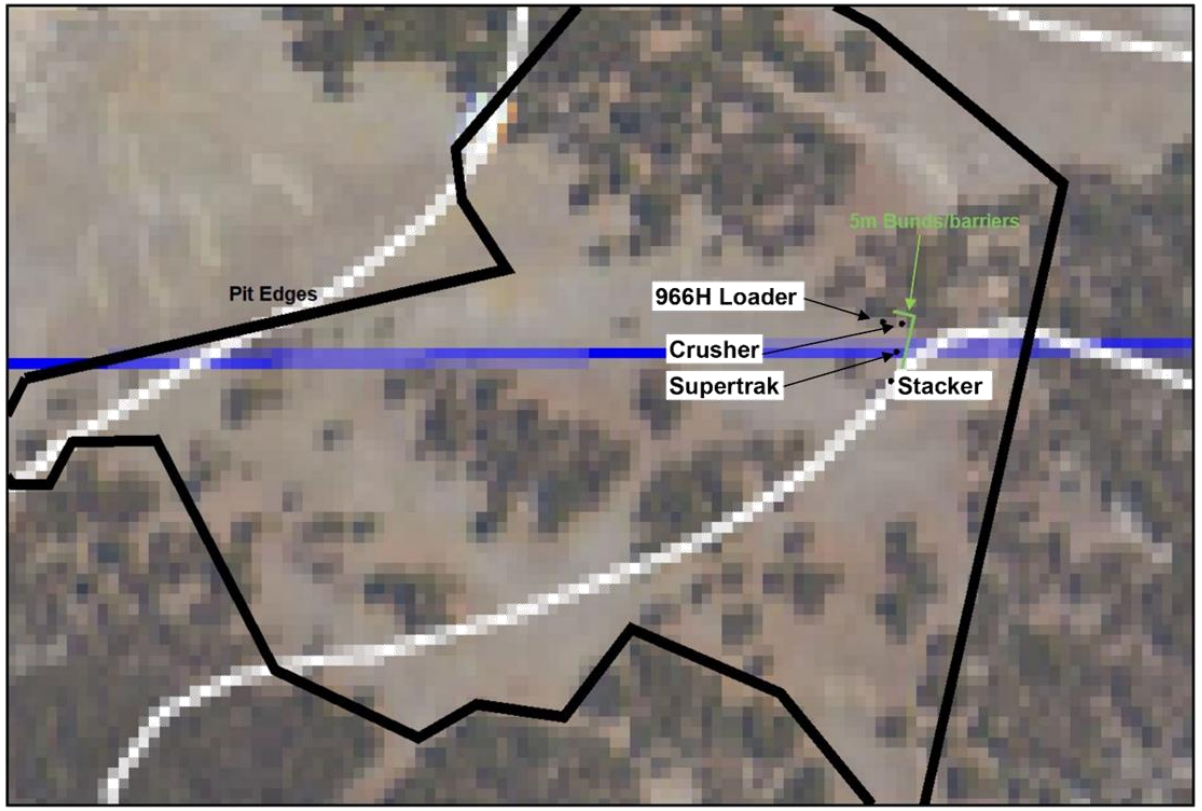


Figure 4: Locations of 5m L-shaped bund.

APPENDIX B NOISE CONTOURS

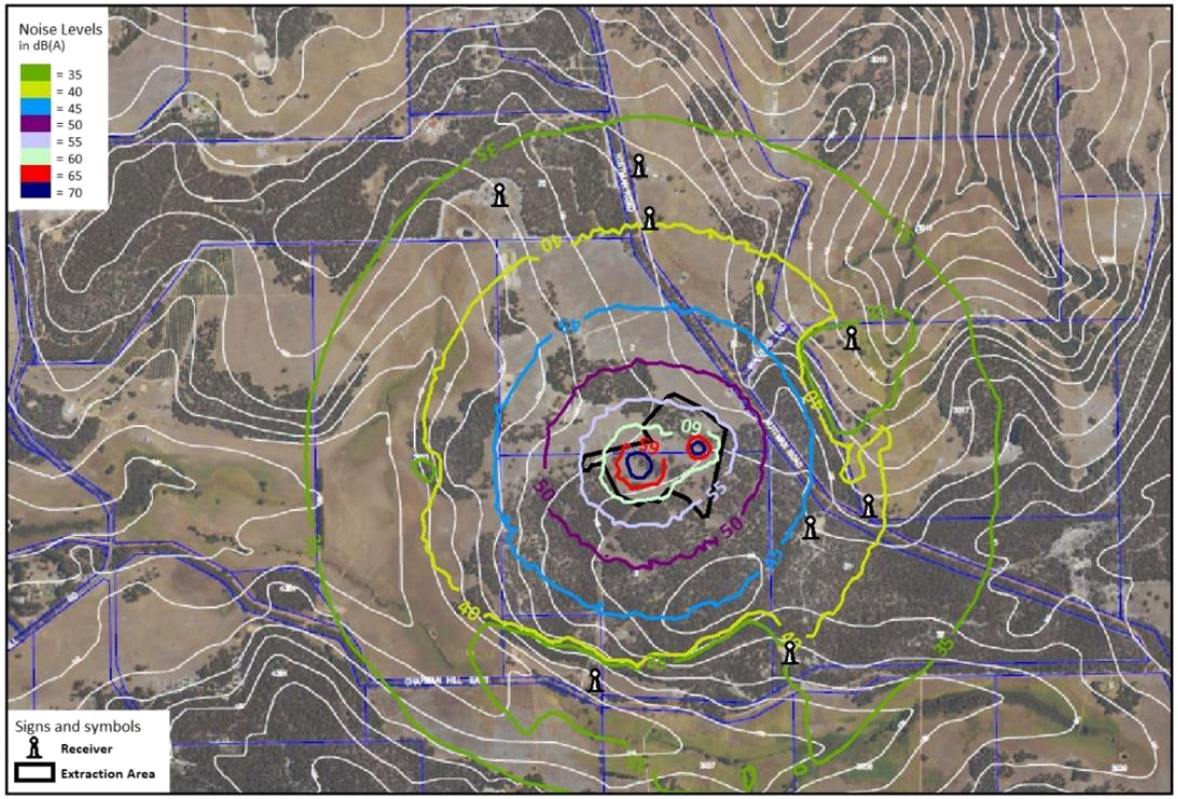


Figure 5: Worst-case noise contours for scenario 1.

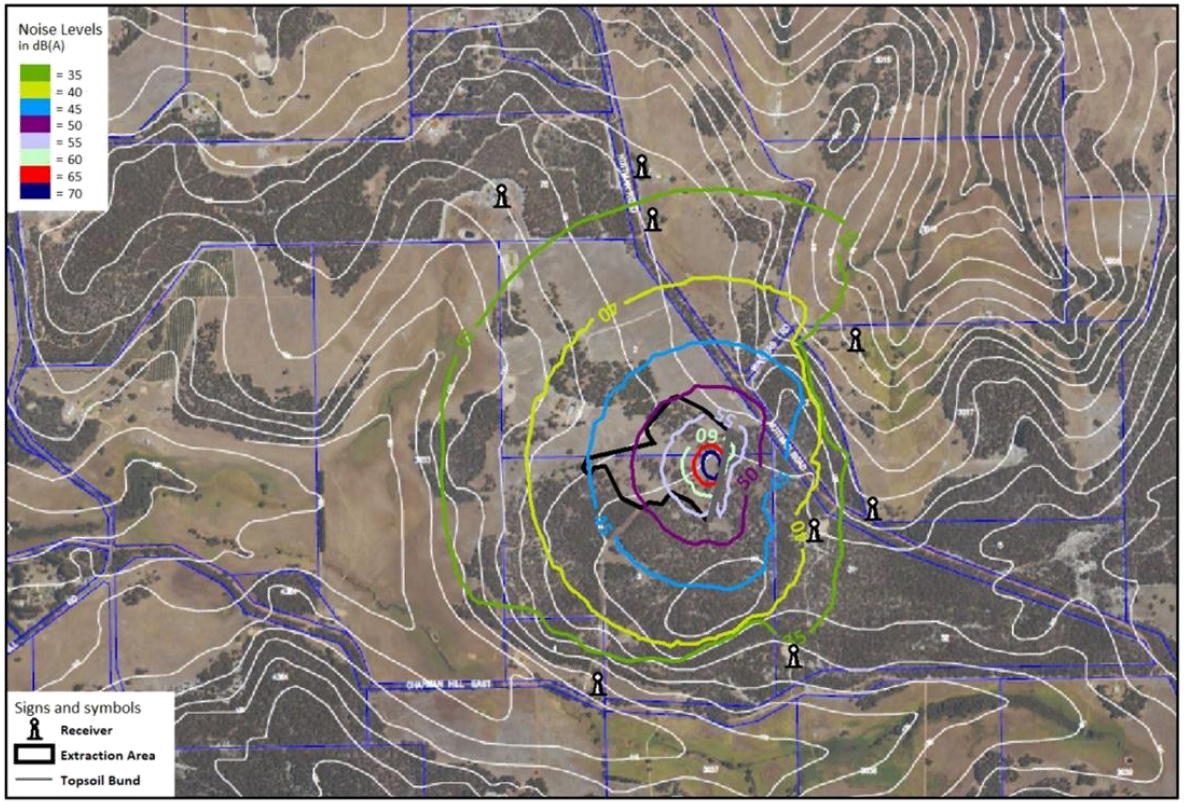


Figure 6: Worst-case noise contours for scenario 2.

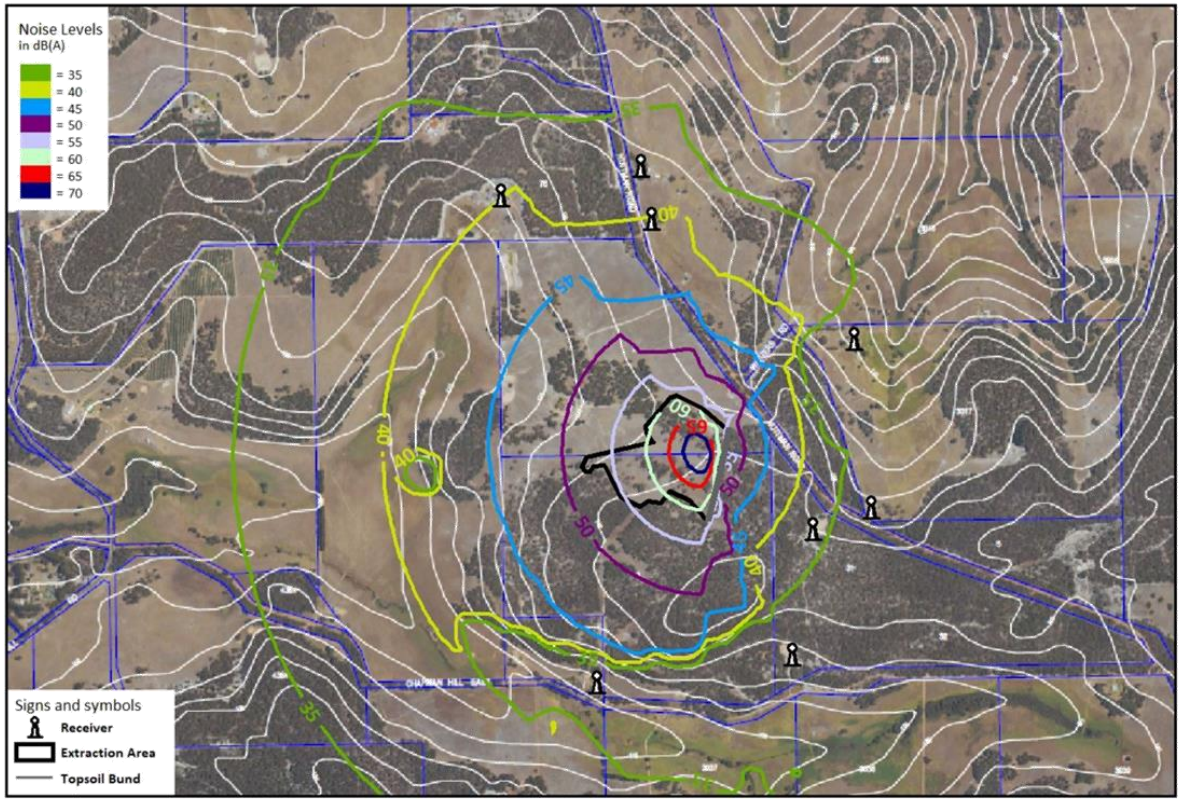


Figure 7: Worst-case noise contours for scenario 3.

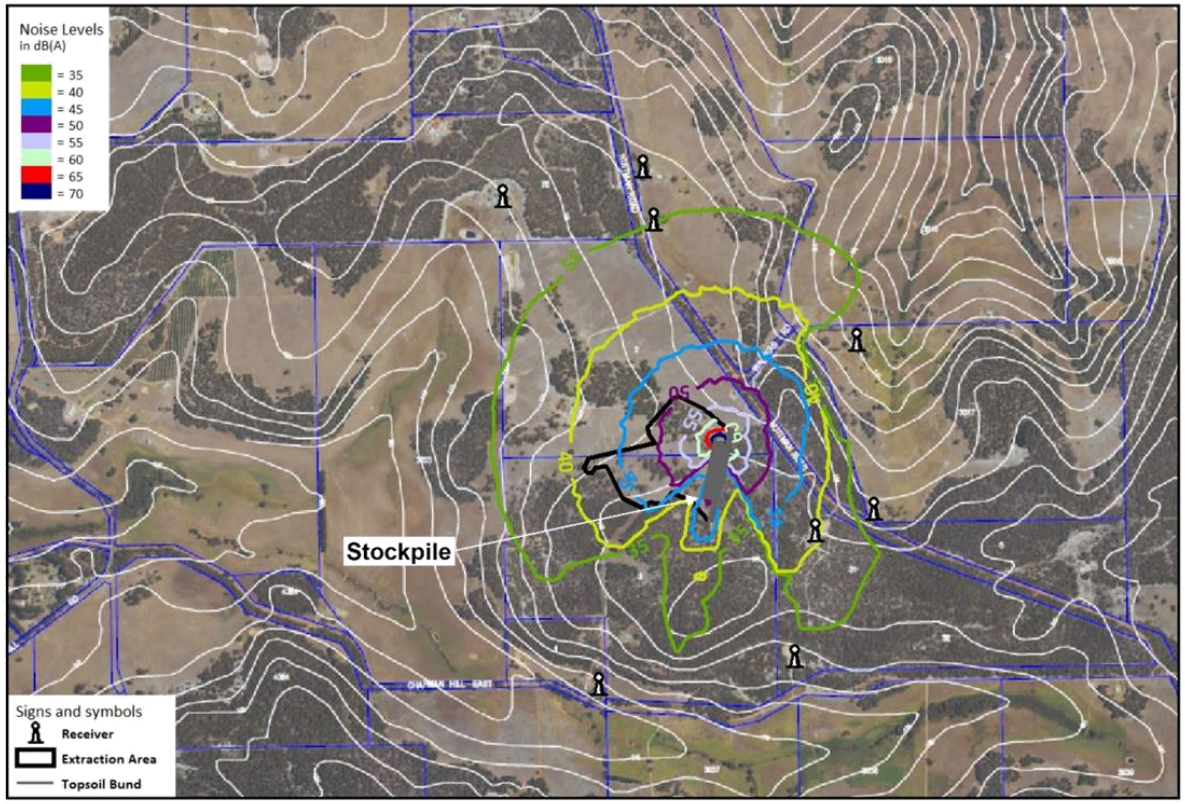


Figure 8: Worst-case noise contours for scenario 4.

13.2 AMENDMENT NO. 48 TO LOCAL PLANNING SCHEME NO. 21 (PORTION OF LOT 1 NO. 99 CAUSEWAY ROAD, BUSSELTON) - CONSIDERATION FOR INITIATION FOR ADVERTISING

STRATEGIC GOAL	4. ECONOMY Diverse, resilient, prosperous
STRATEGIC OBJECTIVE	4.2 A community where local business is supported and in turn drives our economy
SUBJECT INDEX	Local Planning Scheme 21 Amendments
BUSINESS UNIT	Strategic Planning
REPORTING OFFICER	Planning Officer - Joanna Wilkinson
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Legislative: adoption of "legislative documents" such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Location Plan Attachment B Aerial Photograph Attachment C Development Guide Plan (DGP 135) Attachment D Development Approval (DA16/0400.01)

OFFICER RECOMMENDATION

That the Council resolves to:

1. **In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, initiate Amendment No. 48 to the *City of Busselton Local Planning Scheme No. 21* for community consultation, for the purposes of:**

   (a) Amending Schedule 5 "Special Uses" by amending "Special Use No. 17 – Special Uses" as follows:

No.	Description of Land	Special Use	Conditions
17.	As identified on the Scheme map	The following uses are "D" discretionary: a. Service Station b. Warehouse/Storage c. Shop d. Restaurant/Café e. Garden Centre f. Takeaway Food Outlet	1. The Shop land use is limited to a maximum gross floor area of 500m². 2. The Takeaway Food Outlet is limited to a maximum gross floor area of 100m². 3. The overall site is limited to a maximum gross floor area of 1,700m². 4. Notwithstanding clause 4.5.1, development which exceeds these areas is expressly prohibited. 5. Buildings shall not be located within 20m of the Causeway Road boundary.

			6. New development shall respond to the prominence of the site on Causeway Road, as an entry corridor to Busselton, by addressing the following matters: **a. Buildings shall be articulated to break up perceived bulk and provide visual interest when viewed from Causeway Road and Bussell Highway;** **b. Building textures and elements shall maintain and enhance the scenic character of Causeway Road;** **c. Building materials shall include a mix of transparent glazing and opaque materials, with no blank facades visible from Causeway Road;** **d. Building services such as bin storage, utilities, storage tanks, firefighting equipment and the like shall be concealed so they are not visible from Causeway Road and Bussell Highway; and** **e. Landscape planting shall provide an attractive interface between buildings and car parking areas when viewed from Causeway Road, without impeding vehicle sight lines.**

(b) Amending Schedule 3 "Special Provision Areas" by deleting "Special Provision No. 15" ("SP15").

2. Amending the Scheme Map accordingly.

3. Pursuant to Regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations* 2015 (the Regulations), determine that Amendment No. 48 is a 'standard amendment' in accordance with r. 34 of the Regulations as it is:

(a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve;

(b) an amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment;

(c) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

4. Note that, as the draft Amendment is in the opinion of the Council consistent with Part V of the *Planning and Development Act 2005* (Act) and Regulations made pursuant to the Act, upon preparation of necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by the Act, and on receipt of a response from the EPA indicating that the draft Amendment is not to be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the draft Amendment.

EXECUTIVE SUMMARY

Council is requested to consider initiating proposed Scheme Amendment No. 48 (the Amendment) to *Local Planning Scheme No. 21* (the Scheme). The Amendment would facilitate clarification of the controls relating to a portion of Lot 1 Causeway Road, by changing Schedule 5 'Special Uses' (SU17) of the Scheme through the introduction of several new 'Special Use' land uses. These "new" land uses are, in practice, currently operating at the site, but are ancillary/subsidiary to the predominant land use under the existing planning framework. It is proposed that the Amendment will better reflect what has been developed on the site by allowing the ancillary/subsidiary land uses to operate independently from the predominant land use, and by allowing for more flexibility for those land uses on the site, whilst not allowing significant additional development.

It is also proposed that the change to SU17 will include a number of conditions relating to the existing land uses. These conditions, plus the fact that the subject land is now developed, generally render the provisions of Schedule 3 'Special Provisions' (SP15) to be superfluous. Retaining SP15 would result in an additional layer of unnecessary complexity, and therefore it is proposed that Schedule 3 'Special Provisions' be altered by deleting SP15.

It is recommended that the proposal be supported, and that the Amendment be initiated/adopted for the purpose of community consultation.

BACKGROUND

Lot 1 Causeway Road is located approximately 2km south of the Busselton City Centre, at the intersection of Causeway Road and Bussell Highway. Lot 1 has a total land area of 1.1433 hectares, and is severed by Koorden Place. The southern portion, which is the subject of this proposal (the subject land) is 9,420m² in area and zoned 'Special Use – Service Station/Plant Nursery'. The northern portion of Lot 1 is 2,013m² in area and zoned 'Rural' and is not subject to any part of this proposal. The subject land, and Lot 13 Koorden Place (immediately east of Ford Road and the subject land), is owned by the Mountney Family Pty Ltd.

The subject land is flat, triangular in shape, and bound by Koorden Place to the north, Causeway Road to the south west, and Ford Road to the east. It is adjacent to the roundabout at Bussell Highway which directs traffic into the Busselton City Centre via Causeway Road, or to other locations such as Vasse, Dunsborough, and Margaret River. Several commercial buildings have been developed on the subject land, including a 'Service Station' (Puma), a 'Warehouse/Storage' and 'Shop' outlet for fruit/vegetable wholesale and retail sales (Western Growers), and a 'Takeaway Food Outlet' for drive-through sales (Kwik Koffee). The site also consists of fuel bowsers covered by a canopy, car parking, footpaths, and sufficient sealed area to allow for traffic flow. Vehicle access and egress is via Koorden Place or the Ford Road Reserve, and there is a 'left out' only egress point onto Causeway Road. A location plan and aerial photograph are provided at Attachments A and B, respectively.

The subject land is located at a prominent entry point to the Busselton City Centre, and has a complex and somewhat difficult planning history. The original zoning under Town Planning Scheme No. 20 (TPS 20) was 'Agriculture'. The zoning was amended to 'Special Use – Service Station/Plant Nursery' through Amendment 15 to TPS 20 (gazettal date 29 April 2003). The site is also subject to SP15 which includes provisions relating to structure planning, access, landscaping, and building design.

A Structure Plan (DGP 135) for the subject land was endorsed by the WAPC in 2003, and is provided at Attachment C. Amendment 99 (circa 2006) to TPS 20 attempted to change the zoning of the land to accommodate a motor vehicle sales and repairs land use, however that amendment was unsuccessful.

The current development approved for the site (DA16/0400), was determined by Council due to the nature of issues and level of community interest generated during advertising of the proposal. DA16/0400 was approved by Council at its meeting on 12 October 2016 (C1610/104). In 2017, DA16/0400 was subject to a modification request to the approved plans (DA16/0400.01). This request was approved and the original decision notice and plans amended. A copy of the modified development approval is provided at Attachment D.

Lot 13 Koorden Place, adjacent to the subject land, is zoned Rural. At its meeting of 22 August 2018 (C1808/166), Council approved a development application (DA18/0145) for a 'Use Not Listed (4WD Test Track and Informal Parking Area) for the site.

The land use description approved for DA16/0400.01 is "Service Station (with ancillary wholesale fruit and vegetable, including small scale retail and drive-through coffee outlet)". In effect, this means that all development other than the 'Service Station' that is located on the subject land must be ancillary or subsidiary to the 'Service Station' land use. Condition 6 and Advice Note 5 of DA16/0400.01 are relevant to this proposal:

Ongoing Conditions:

6. *The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development and subject to the following conditions:*

   6.1 *Sale of goods and services to the general public shall only occur in association with the service station, drive-through coffee facility and in the portion of the 'FRUIT/VEGETABLE WHOLESALE' building marked 'INCIDENTAL RETAIL OUTLET' on the approved plan.*

   6.2 *Should, at any time, the service station cease to operate, then all of the other (ancillary) land-uses shall cease immediately, and none of the other land uses may commence operating until the service station has commenced operating.*

   6.3 *Should the wholesale operations of the 'FRUIT/VEGETABLE WHOLESALE' building cease, the retail operations must also cease immediately.*

Advice to Applicant:

5. *You are advised that, to clarify the land-use controls relating to the site and to allow the ancillary/subsidiary land-uses to operate independent of the predominant land-use in the future, the City envisages amending the town planning scheme in the future. Were that to occur, Conditions 5.1, 5.2 and/or 5.3 may be able to be removed subject to the receipt and assessment of an applicant [sic] to amend the planning approval. As part of the same or a different town planning scheme amendment, the City also envisages presenting for the Council's consideration proposals for the better management and control of non-agricultural land-uses on Agricultural zoned and other land adjoining the City's major road network, consistent with the adopted strategic planning direction which is generally opposed to unplanned commercialization of land-use along that major road network.*

Condition 6 mandates that all land uses on the site other than the 'Service Station' are dependent on the operation of the 'Service Station' land use. It restricts how the associated sale of goods and services, and the retail component of the fruit/vegetable wholesale operation, shall occur.

The first half of Advice Note 5 relates to Condition 6 and is relevant to this Amendment. The second half of the Advice Note does not relate to Condition 6 or the subject land, and will not be discussed any further in relation to this proposal (it is now envisaged this will be addressed in the new town planning scheme, which is in development).

OFFICER COMMENT

As a highly prominent gateway site to Busselton, the landscaping and visual amenity of this and other sites adjacent to major access routes is critical. Unlike other regional cities, the entry to Busselton is composed of a visually pleasant green corridor and low-scale residential development. This is in contrast to the types of commercial development, dominated by car parking and signage that often line major access routes on the outskirts of regional towns and cities. The maintenance of existing visual amenity when entering Busselton is an important consideration in this proposal.

The purpose of this proposal is not to introduce any development or land use other than what is already approved and/or operating on the subject land. The purpose is to act upon Advice Note 5, which was included when development approval was issued in 2016/17. If supported, the Amendment will better define and clarify the land use controls that have been approved and are currently operational. Key elements include matters relating to existing site development, being land uses and floor areas. Such detailed controls are not usually desirable, however, in this instance they are an appropriate response to the unique history of the site.

These matters are discussed below under appropriate sub-headings.

Land Uses and Gross Floor Area (GFA)

The Amendment will serve to enable the ancillary land uses ('Wholesale/Storage', 'Shop, 'Restaurant/Café', and 'Takeaway Food Outlet') to operate independently of the predominant land use ('Service Station'), and thereby allow each of those land uses greater surety and flexibility.

The current approved land uses (predominant and ancillary) and their respective GFAs are as follows:

CURRENT LAND USE	GFA	COMMENTS
Service Station [Puma]	400m²	Approx. 50% of the Service Station floor area is allocated to an in-house restaurant which is typical in the design of a service station. The tenant, Puma, does not utilise the space and therefore it is currently classed as vacant floor space.
Garden Centre	-	No current development.
Ancillary wholesale fruit and vegetable, including small scale retail [Western Growers]	1,100m²	This building is currently divided into three separate areas including 300m² for loading and unloading, 500m² for wholesale activity, and 300m² for small scale retail.
Drive-through coffee outlet [Kwik Koffee]	75m²	Used primarily for drive-through sales with a small outdoor area for seated consumption of beverages.

The proposal includes a change to Schedule 5 'Special Uses' (SU17) to specify the following land uses, which are consistent with land uses in 'Table 1 – Zoning Table' of the Scheme, together with their respective GFA allocations:

CURRENT LAND USE	PROPOSED LAND USE	PROPOSED GFA	COMMENTS
Service Station [Puma]	Service Station	400m² (no change to existing)	Actual floor area currently utilised by the tenant is approx. 50% of the GFA.
	Restaurant/Cafe		Allows for the current vacant area of the Service Station to be occupied by a Restaurant/Café (different tenant) and operated independently from the Service Station.
Ancillary wholesale fruit and vegetable, including small scale retail [Western Growers]	Warehouse/Storage	600m²	To accommodate the existing wholesale fruit and vegetable operation, including 300m² for loading/unloading and 300m² for wholesale activity (the proposed 300m² for wholesale activity is reduced from the current GFA of 500m²).
	Shop	500m²	Includes a 200m² increase of the 300m² currently approved for 'retail' activity.

Drive-through coffee outlet [Kwik Koffee]	Takeaway Food Outlet	100m²	Allows for a minor increase of 25m² GFA.
Garden Centre	Garden Centre	-	This land use has been retained as an adaptive reuse option should any of the existing businesses become non-operational.

Currently, the combined total GFA across all development on the subject site is 1,575m². The proposed change to SU17 includes a condition that allows for a total GFA across the site of 1,700m². This represents an increase of approximately 7.5%, and allows for a limited degree of additional flexibility (e.g. minor alterations, if necessary, to existing buildings).

In addition to the capping of GFA across the site, the proposed change to SU17 includes two further conditions relating to the GFA of specified land uses.

The first condition is an adjustment of GFA within the internal area of the established Western Growers building, involving a reduction of the wholesale area from 500m² to 300m², and an increase in retail area from 300m² to 500m². This adjustment is considered to be relatively minor and is proposed as a result of operational planning for the business, which has now been operating since 2018. This adjustment in floor area will not impact any other site requirements that would normally be assessed at development application stage, for example, traffic impact and car parking.

The second condition is to allow the 'Takeaway Food Outlet', which is currently 75m² in area, to increase to 100m². This allows for minor expansion of the existing business while also limiting the ability for any substantial expansion.

The limited expansion of total GFA across the site for land uses as described above, is consolidated by an additional condition proposed to be included in the amendment of SU17 which expressly prohibits any development that exceeds these specified GFAs.

Maintaining Orderly and Proper Planning - SP15 & DGP 135

The proposed Amendment includes a change to Schedule 3 'Special Provisions' of the Scheme by deleting Special Provision 15 (SP15). SP15 relates only to the subject land and includes a number of provisions in regard to structure planning, access, landscaping, and building design. Provision 1 of SP15 states:

> 1. *Development of the land shall generally be in accordance with a Structure Plan adopted by the local government and endorsed by the Western Australian Planning Commission.*

A Structure Plan (DGP 135) was prepared for the subject land and endorsed by the WAPC in 2003. DGP 135 includes development guide plan notes that have the same intent as, and expand upon, the provisions of SP15. Furthermore, the notes address a number of other planning considerations such as (but not limited to) car parking, provision of services, and drainage.

The original provisions of SP15 and DGP 135 were considered during the assessment of the existing development on the site (DA16/0400), and are found to be somewhat redundant given that development on the subject land has now occurred in general accordance with DGP 135.

Nonetheless, as discussed above, the site is located at a prominent entry point to Busselton, and guidance for any future development will assist in maintaining pleasant visual amenity and orderly and proper planning. Whilst it is proposed that SP15 be deleted, conditions relating to setbacks and building design have been included in the proposed change to SU17.

Statutory Environment

The key statutory documents relevant to this proposal include the *Planning and Development Act 2005,* the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the relevant objectives and provisions of the City of Busselton *Local Planning Scheme No. 21*. Each is discussed below under appropriate subheadings.

Planning and Development Act 2005

The *Planning and Development Act 2005* outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing and processing this Amendment.

Planning and Development (Local Planning Schemes) Regulations 2015

The Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations), which came into operational effect on 19 October 2015, identify three different levels of amendments – basic, standard and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation justifying this choice. This Amendment is considered to be a 'standard' amendment.

Local Planning Scheme No. 21

The subject land is zoned 'Special Use – Service Station/Plant Nursery', and is identified in Schedule 5 'Special Uses' as 'Service Station/Plant Nursery' (No. 17). The objectives of the 'Special Use' zone are as follows:

a. To facilitate special categories of land uses, which do not sit comfortably within any other zone.

b. To enable the local government to impose specific conditions associated with the special use.

The subject land is also subject to the 'Special Provision' Special Control Area (SP15). The following 'Special Provisions' apply:

1. Development of the land shall generally be in accordance with a Structure Plan adopted by the local government and endorsed by the Western Australian Planning Commission.

2. Access along Causeway Road is restricted to "left out" only.

3. Road widening of Causeway Road will be provided at the subdivision stage to the satisfaction of Main Roads WA.

4. Proposed landscaping areas shown on the Structure Plan will be subject to detailed design and approval by Main Roads WA and the local government prior to implementation at the subdivision and development stage and shall address the following to the local government's satisfaction:

a) effective screening of buildings and fences;

b) planting density and height;

c) the function of Causeway Road as an entry corridor to Busselton; and

d) sight distances.

5. *The architectural design and proposed colour schemes associated with any development on the land will be subject to approval by the local government and will need to address the following matters to the local government's satisfaction:*

   a) *The function of Causeway Road as an entry corridor to Busselton;*

   b) *Landscape and streetscape impacts;*

   c) *Setbacks to road frontages; and*

   d) Building height.

Clause 5.14 Designated Bushfire Prone Areas is also relevant to this proposal as follows:

5.14.1 A Designated Bushfire Prone Area is an area designated as Bush Fire Prone on the Bush Fire Hazard Assessment maps. Dwelling construction within an identified area will be subject to the relevant bushfire prone area building requirements pursuant to the Building Code of Australia, Australian Standard 3959 – 2009 *and otherwise as set out pursuant to the Scheme.*

The proposal is considered to be consistent with the relevant objectives and provisions relating to the zoning of the subject land under the Scheme.

Relevant Plans and Policies

The key policy documents relevant to this proposal are *State Planning Policy 3.7: Planning in Bushfire Prone Areas*, and the *Local Commercial Planning Strategy*. Each is discussed below under appropriate subheadings.

State Planning Policy 3.7 (SPP 3.7)

The intent of SPP 3.7 is to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure. SPP 3.7 directs how land use should address bushfire risk management, and applies to all land which has been designated as bushfire prone by the Office of Bushfire Risk Management.

The subject land has been designated as a Bushfire Prone Area since 2019; this designation was not applied at the time of development approval in 2016, nor at the time of physical development.

Planning Bulletin 111/2016 provides a basis for exemptions from the requirements of SPP 3.7 and the deemed provisions (of the Regulations), and states that the deemed provisions should be applied pragmatically by the decision maker.

Taking a pragmatic approach, therefore, a Level 3 bushfire consultant was commissioned by the proponent to assess the matter. The professional advice provided was that a retrospective bushfire risk assessment would not provide any increase in safety to employees or visitors and would not change the overall bushfire exposure risk compared to the 2016 status, when development approval was issued. As a result, the provisions of SPP 3.7 and associated guidelines have not been applied to this proposal.

Local Planning Strategy (LPS)

The LPS establishes the following strategies to guide the planning of the District which are relevant to consideration of this proposal:

2 p) Do not support:

i) unplanned new, or expansion of, existing activity centres not identified in the established activity centre framework:

ii) industrial/service commercial areas not identified in the established activity centre and industrial/service commercial frameworks:

iii) significant shop retail or office uses locating outside activity centres:

iv) retail activity, including bulky goods retail, outside activity centres unless there is a clear and compelling argument to do so…

5 j) Protect and enhance the visual character of the District by avoiding the further commercialisation of land-use and development visible from… regional roads, strategic local roads and travel route corridors…as well as providing, wherever possible and consistent with maintaining landscape and visual character values, screening landscaped buffers where development is being undertaken in locations visible from these sites, roads and travel routes.

Local Commercial Planning Strategy (LCPS)

In order to prevent ad-hoc commercial ribbon development along major roads, the LCPS prevents further commercial development along Causeway Road, other than that accommodated by existing zonings or specifically supported by the Strategy. Recommendation 9 applies:

9) Further service commercial development along major roads, including Busselton Bypass, Bussell Highway and Causeway Road, other than that accommodated by existing zonings and/or specifically supported by the Strategy is not supported.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

If the Council resolves to initiate the proposed Amendment, the relevant documentation would be referred to the Environmental Protection Authority (EPA) for consideration of the need for formal assessment under Part IV of the *Environmental Protection Act 1986*. Should the EPA resolve that the Amendment does not require formal assessment, then the document will be advertised for 42 days in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Risk Assessment

An assessment of the potential implications of implementing the officer's recommendation has been undertaken using the City's risk assessment framework, with the intention being to identify risks which, following implementation of controls, are identified as medium or greater. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation, the Council could:

1. Modify the Amendment before advertising.
2. Decline the initiation of the Amendment.

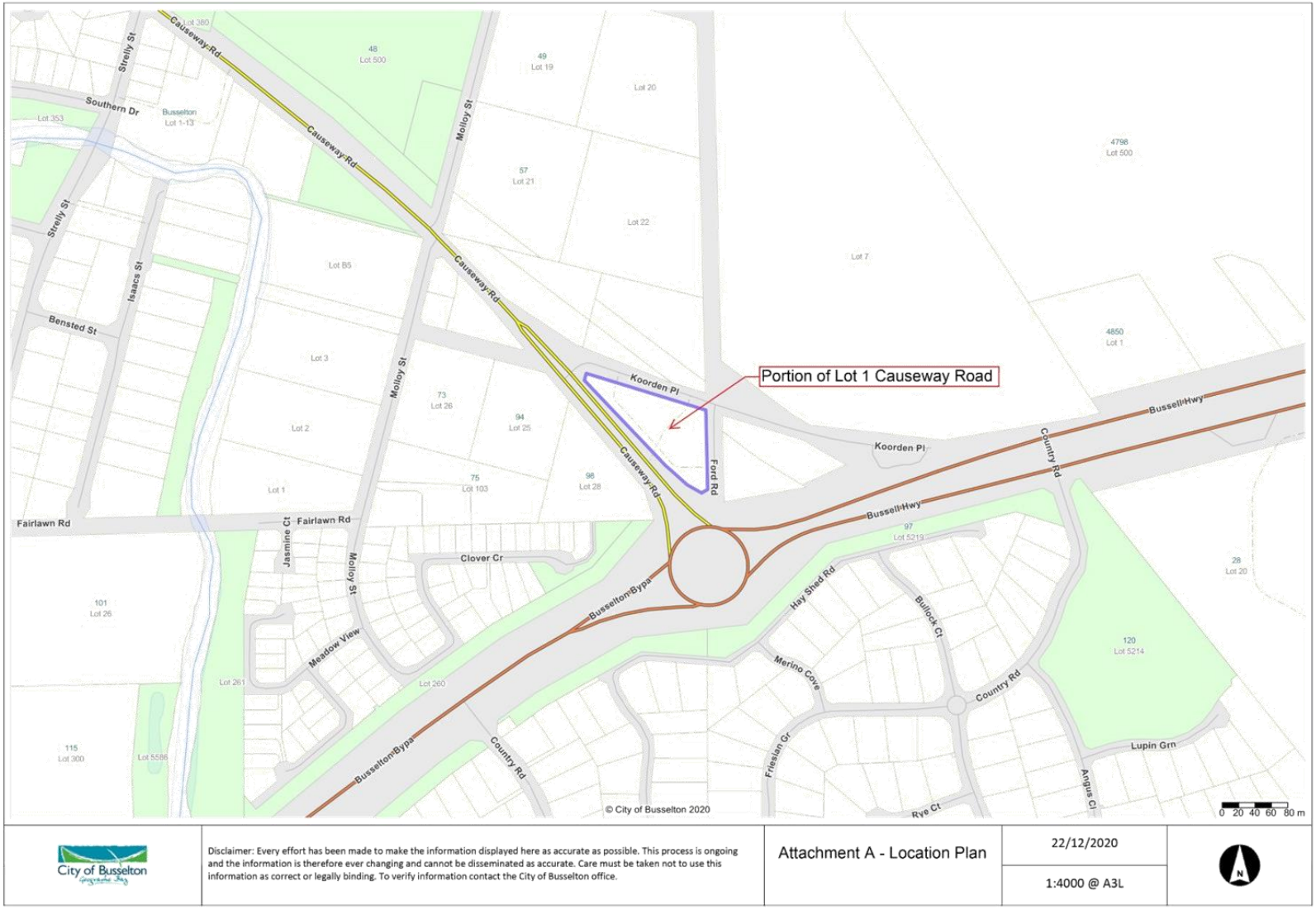
The officer assessment has not revealed any substantive issue or reasonable grounds that would support either of the above options.

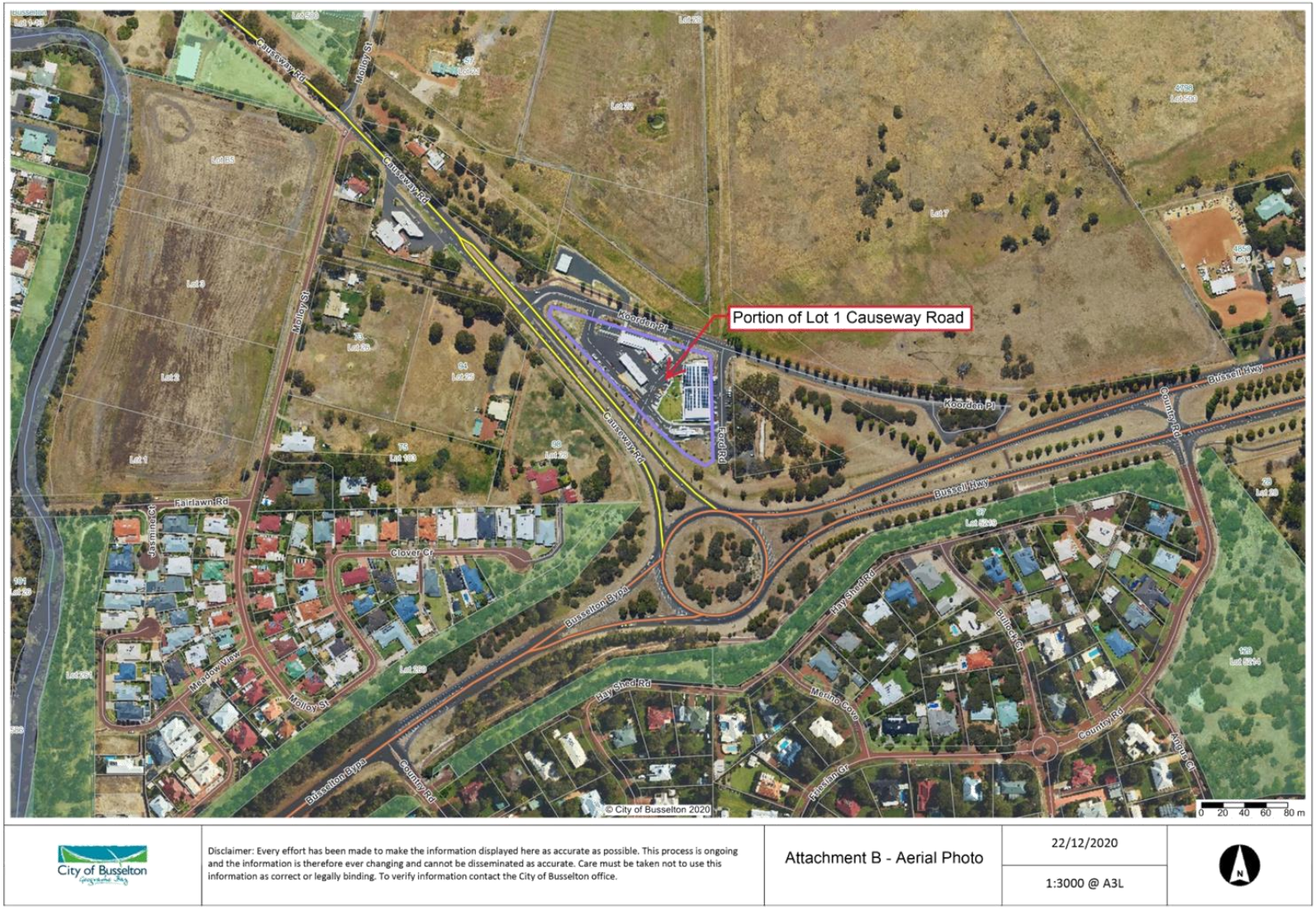
CONCLUSION

The Amendment provides for the clarification of land uses on the subject land that have already been approved and are currently operational, and allows for additional surety, and limited flexibility, in the development of those land uses. City officers recommend that the Council supports the initiation of the Amendment for public advertising.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will include advising the applicant of the Council resolution and referring the Amendment to the Environmental Protection Authority, which will occur within one month of the date of the Council decision.


Portion of Lot 1 Causeway Road
Causeway Rd
Koorden Pl
Ford Rd
Bussell Hwy
Country Rd
Fairlawn Rd
Jasmine Ct
Molloy St
Clover Cr
Busselton Bypass
Hay Shed Rd
Bullock Ct
Merino Cove
Meadow View
Friesian Gr
Rye Ct
Angus Ct
Lupin Grn
Strelly St
Southern Dr
Isaacs St
Bensted St
Busselton
Lot 1-13
Lot 380
Lot 353
Lot 500
Lot 19
Lot 20
Lot 21
Lot 22
Lot B5
Lot 3
Lot 2
Lot 1
Lot 26
Lot 25
Lot 103
Lot 28
Lot 5219
Lot 7
Lot 1
Lot 5214
Lot 261
Lot 260
Lot 300
Lot 5586
© City of Busselton 2020
0 20 40 60 80 m
City of Busselton
Disclaimer: Every effort has been made to make the information displayed here as accurate as possible. This process is ongoing and the information is therefore ever changing and cannot be disseminated as accurate. Care must be taken not to use this information as correct or legally binding. To verify information contact the City of Busselton office.
Attachment A - Location Plan
22/12/2020
1:4000 @ A3L
N



City of Busselton

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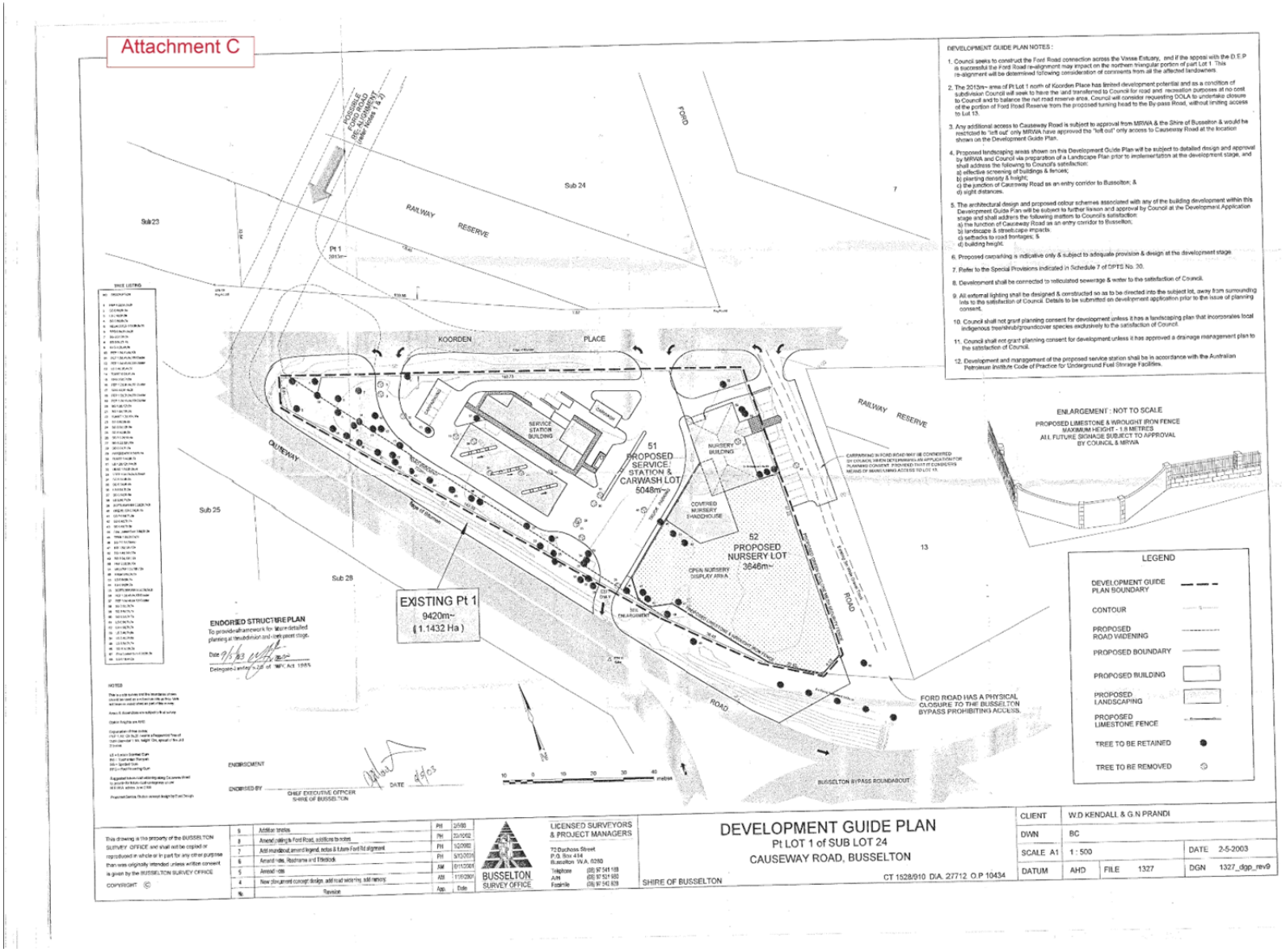
Attachment B - Aerial Photo

22/12/2020

1:3000 @ A3L

Attachment C



Attachment D

City of Busselton
Geographe Bay

Our Ref: DA16/0400.01
Your Ref:
Enquiries: Joanna Wilson

14 July 2017

K A Perkins Builders
1 Hales Street
BUNBURY WA 6230

Dear Sir / Madam

PROPOSED MODIFICATION TO SERVICE STATION, INCREASE TO DRIVE-THRU COFFEE, CAR PARK ALIGNMENT – LOT 1 (HSE NO 99) CAUSEWAY ROAD BUSSELTON

I refer to your correspondence received 21 June 2017 requesting a modification to the approved plans of the Development Approval DA14/0400 issued 20 October 2016 for the abovementioned development.

The proposed modification is as follows:

- Drive-thru coffee 25m^2 increase in area and reversed;
- Changes to Service Station elevation, removal of overhang;
- Removal of canopy between the service station and Fuel Canopy;
- Addition of patio structure (protection of mechanical equipment);
- Slight carpark alignment changes.

Please be advised that the City is prepared to approve the modifications and has hereby amended the original decision notice dated 20 October 2016. Please note the change in numbering of the conditions, the deletion of Condition 3.3 which is now replaced with Condition 3 and an additional Condition 6.4.

Please note that the decision notice is a Development Approval only and is not a building permit or any other form of approval.

Should you have any queries please do not hesitate to contact Joanna Wilson on telephone 9781 0475

Yours faithfully

Paul Needham
DIRECTOR PLANNING AND DEVELOPMENT SERVICES

City of Busselton
Geographe Bay

DECISION ON APPLICATION FOR DEVELOPMENT APPROVAL

CITY OF BUSSELTON
LOCAL PLANNING SCHEME No. 21

Application No: DA16/0400
Decision Date: 20 October 2016

The City having considered the application:

Dated:	27th May 2016
Submitted by:	T Koroveshi
On behalf of:	Mountney Family Nominees Pty Ltd
Legal Description:	Lot 1 DIAGRAM 27712
Property Details:	99 Causeway Road BUSSELTON WA 6280
Proposal:	Service Station (with ancillary wholesale fruit and vegetable, including small scale retail and drive-through coffee outlet)

hereby advise that it has decided to:

GRANT DEVELOPMENT APPROVAL

That application DA16/0400 submitted for development at 99 Causeway Road is considered by the Council to be consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.

That Development Approval is issued for the proposal referred above subject to the following conditions:

GENERAL CONDITIONS:

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.

2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) (enclosed), including any notes placed thereon in red by the City.

3. A revised landscaping plans to be submitted and approved by 14 October 2017. The Landscape Plan, shall include:

   Drainage basins:

   - All drainage basins and swales including batters are to be constructed in accordance with contemporary best practice Water Sensitive Urban Design requirements (Department of Water Guidelines 2011)
   - Planting in the basins and on the associated batters is to be with rush species (ie. Ficinia and Juncus sp. in tubestock) at a rate of 6 plants/m^2. The basins and batters are to be irrigated by the developer until established with a uniform plant cover over two summers. Hydromulching with seed mix is not acceptable.
   - Freshwater Paperbark (Melaleuca rhaphiophylla) in 45 litre pots at 5 metre spacings on the batters at the basin surrounds along Koorden Place.

Verges, Garden Beds, and Picnic Area:

- All grass verges GARDEN BEDS, and PICNIC AREA to be irrigated by the developer until established with a uniform grass cover
- Peppermint Trees (Agonis fexuose) with a minimum height 2m-2.5m when planted along Koorden Place and Ford Road and at the south corner of the lot.
- Lombardy Poplar trees (Populus nigra 'Italica') with a minimum height of 5m-8m when planted, and planted at 10 metre spacings, along the Causeway Road verge.

Unless otherwise agreed in writing by the City

Prior to Commencement of Any Works Conditions:

4. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:

4.1 Details of type and colour of all external materials to be used;

4.2 Details of the finished treatment of all hard surfaced areas to be used or the construction of the parking and manoeuvring areas and pedestrian footpaths as shown on the Approved Development Plans;

4.3 A Drainage Management Plan setting out details of stormwater and surface water drainage works. The Plan shall include but not be limited to the following:

a. Stormwater to be retained for use and/or infiltration within the lot at a rate of $1m^3$ per $40m^2$ of impervious area;
b. Kerbing or grade changes for paved areas;
c. installing and maintaining stormwater collection systems, such as bio-retention gardens and soak wells to intercept roof and general runoff that would otherwise enter the forecourt;
d. establishing soaks that collect and permit infiltration of Stormwater.

4.4 Preparation of an Emergency Chemical Spill Response Plan.

4.5 Details for the connection to the comprehensive district drainage system;

4.6 Details for the upgrading of the Causeway Road and Koorden Place intersection, including:

a. Splitter island within Koorden Place; and
b. Alterations to the southern radius of Koorden Place to accommodate articulated vehicles;

4.7 Details for the upgrading of Koorden Place;

4.8 Details for the left out access to Causeway Road to be designed and constructed;

4.9 Details of signage, including but not limited to the design, location, materials and levels of illumination.

4.10 Details of one pylon sign for all business that shall not exceed 6 metres in height.

Prior to Occupation/Use of the Development Conditions:

5. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 3 have been implemented; and, the following conditions have been complied with;

   5.1 Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, as assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

   5.2 The parking area(s), driveway(s) and point(s) of ingress and egress [including crossover(s)] shall be designed, constructed, sealed, drained and marked.

On-going Conditions:

6. The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development and subject to the following condition:

   6.1 Sale of goods and services to the general public shall only occur in association with the service station, drive-through coffee facility and in the portion of the 'FRUIT/VEGETABLE WHOLESALE' building marked 'INCIDENTAL RETAIL OUTLET' on the approved plan.

   6.2 Should, at any time, the service station cease to operate, then all of the other (ancillary) land-uses shall cease immediately, and none of the other land uses may commence operating until the service station has commenced operating.

   6.3 Should the wholesale operations of the 'FRUIT/VEGETABLE WHOLESALE' building cease, the retail operations must also cease immediately.

   6.4 Prior to the Occupation of the Wholesale Fruit/Vegetable building the use of the service station for Fruit and Vegetable retail sales shall cease.

ADVICE TO APPLICANT

1. If the applicant and/or owner are aggrieved by this decision, including any conditions of approval, there is a right to lodge a request for reconsideration. The application form and information on fees payable can be found on the City's website.
2. If the applicant and/or owner are aggrieved by this decision there may also be a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*. A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made by the City of Busselton.
3. This Decision Notice grants Development Approval to the development the subject of this application (DA16/0400). It cannot be construed as granting Development Approval for any other structure shown on the approved plans which was not specifically included in this application.
4. Please note it is the responsibility of the applicant / owner to ensure that, in relation to Condition 1, this Development Approval remains current and does not lapse. The City of Busselton does not send reminder notices in this regard.
5. You are advised that, to clarify the land-use controls relating to the site and to allow the ancillary/subsidiary land-uses to operate independent of the predominant land-use in the future, the City envisages amending the town planning scheme in the future. Were that to occur, Conditions 6.1, 6.2 and/or 6.3 may be able to removed subject to the receipt and assessment of an applicant to amend the planning approval. As part of the same or a different town planning scheme amendment, the City also envisages presenting for the Council's consideration proposals for the better management and control of non-agricultural land-uses on

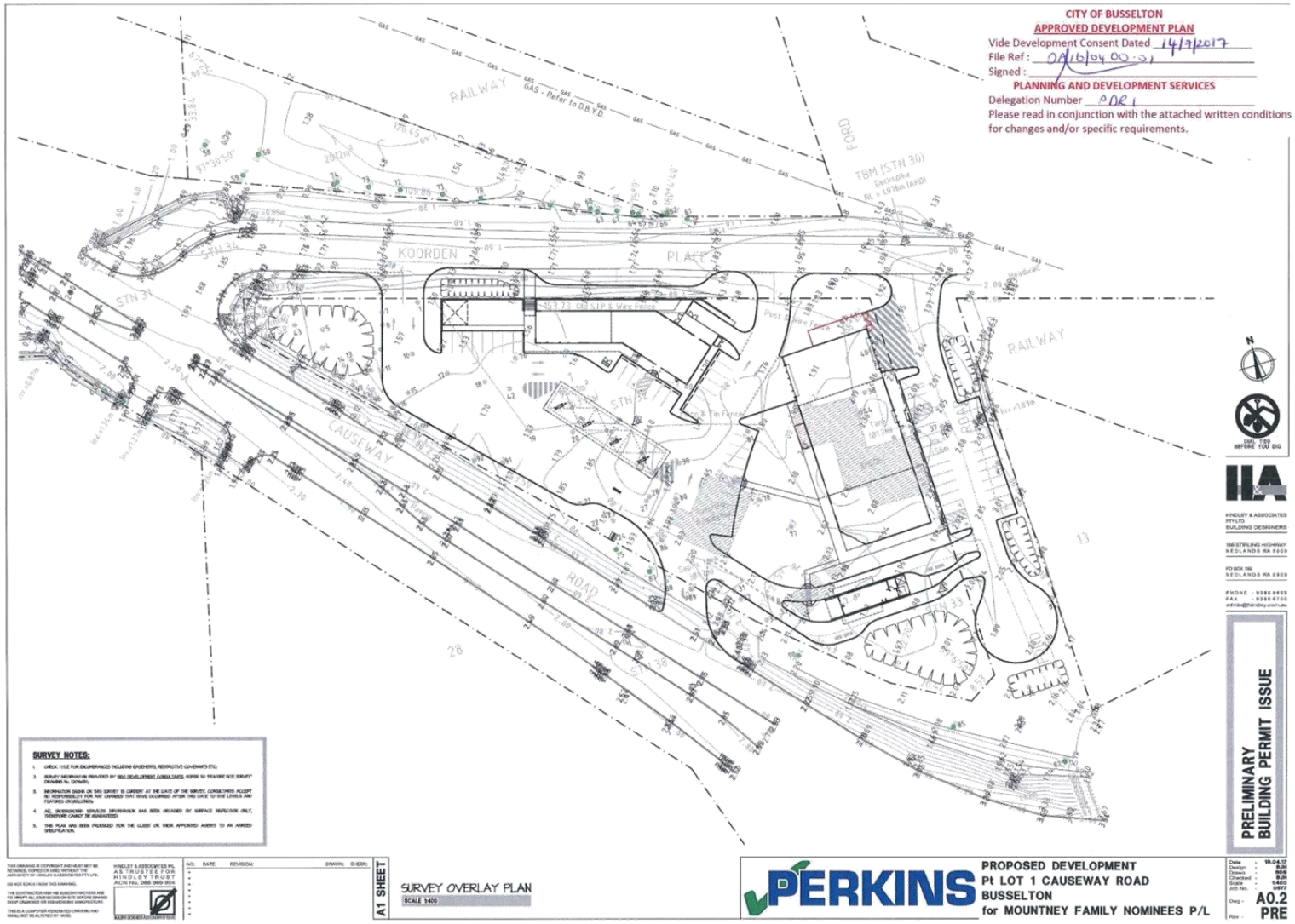
Agriculture zoned and other land adjoining the City's major road network, consistent with the adopted strategic planning direction which is generally opposed to unplanned commercialisation of land-use along that major road network.

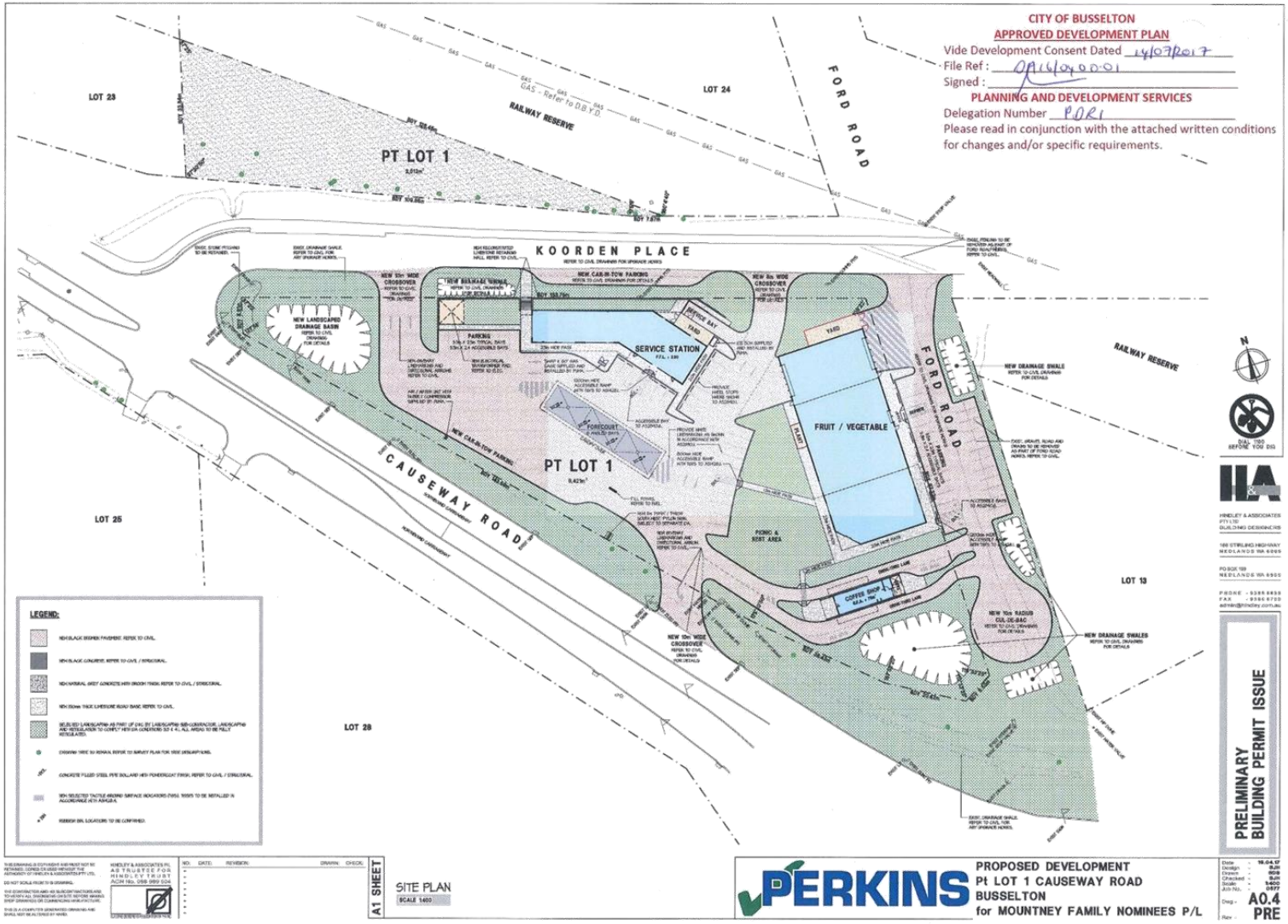
Paul Needham
DIRECTOR PLANNING AND DEVELOPMENT SERVICES

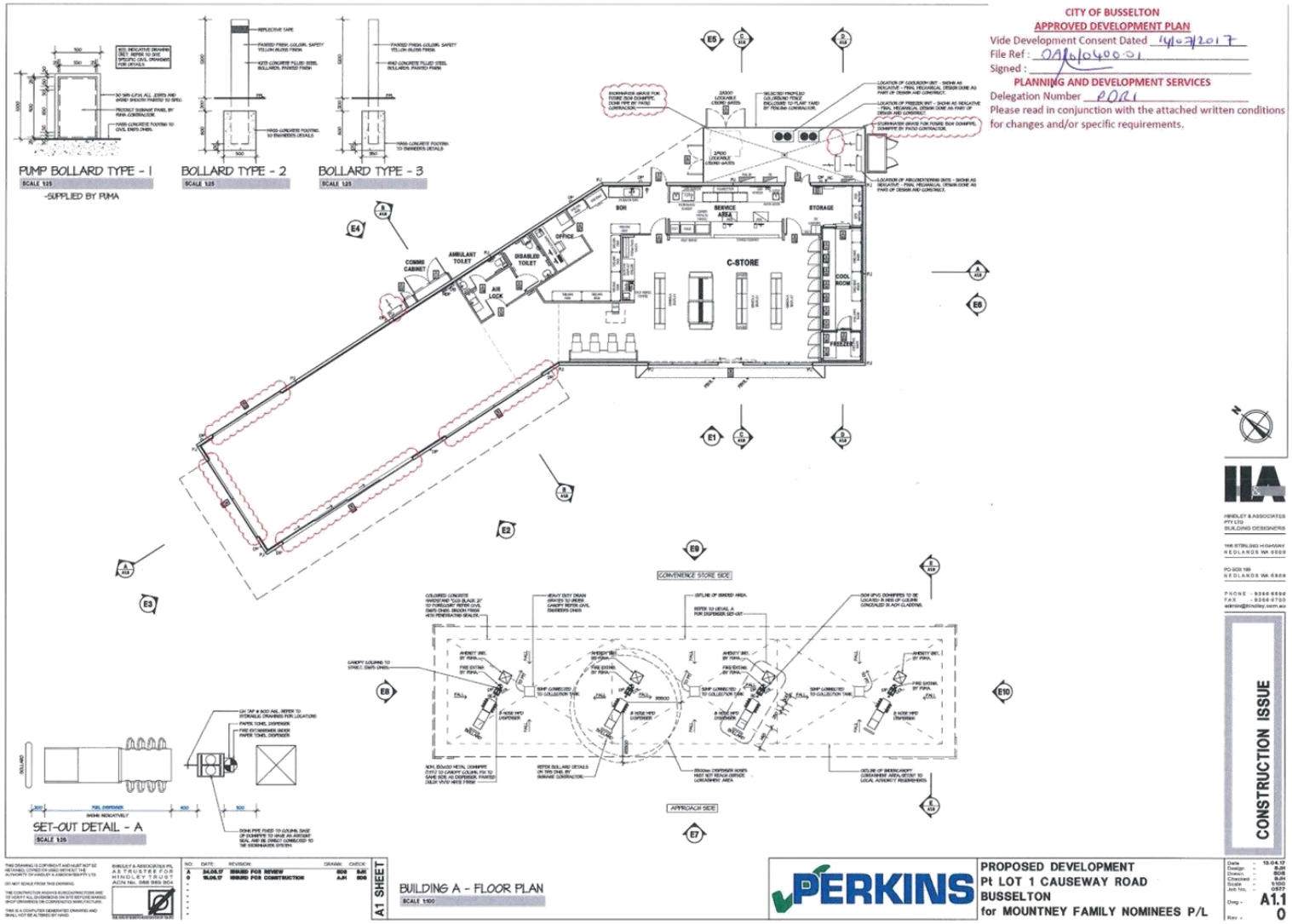
Date 20 October 2016

All communications to: The Chief Executive Officer, Locked Bag I Busselton WA 6280
Tel: (08) 9781 0444 Fax: (08) 9752 4958 Email: city@busselton.wa.gov.au www.busselton.wa.gov.au


CITY OF BUSSELTON
APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/07/2017
File Ref : DA16/0400.01
Signed :
PLANNING AND DEVELOPMENT SERVICES
Delegation Number DOL
Please read in conjunction with the attached written conditions for changes and/or specific requirements.
N
PRELIMINARY
BUILDING PERMIT ISSUE
A1 SHEET
AERIAL IMAGE PLAN
SCALE 1:500
PERKINS
PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L
A0.1
PRE


CITY OF BUSSELTON
APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/7/2017
File Ref : DA16/0400.01
Signed :
PLANNING AND DEVELOPMENT SERVICES
Delegation Number DAR1
Please read in conjunction with the attached written conditions for changes and/or specific requirements.
RAILWAY
KOORDEN PLACE
CAUSEWAY ROAD
SURVEY NOTES:
PRELIMINARY BUILDING PERMIT ISSUE
A1 SHEET
SURVEY OVERLAY PLAN
SCALE 1:400
PERKINS
PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L
A0.2
PRE


CITY OF BUSSELTON
APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/07/2017
File Ref : DA16/0400.01
Signed :
PLANNING AND DEVELOPMENT SERVICES
Delegation Number P0R1
Please read in conjunction with the attached written conditions for changes and/or specific requirements.
LOT 23
LOT 24
LOT 25
LOT 28
LOT 13
PT LOT 1
RAILWAY RESERVE
FORD ROAD
KOORDEN PLACE
CAUSEWAY ROAD
SERVICE STATION
FRUIT / VEGETABLE
NEW LANDSCAPED DRAINAGE BASIN
NEW DRAINAGE SWALE
NEW DRAINAGE SWALES
PICNIC & REST AREA
COFFEE SHOP
LEGEND:
PRELIMINARY BUILDING PERMIT ISSUE
SITE PLAN
SCALE 1:400
A1 SHEET
PERKINS
PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L
A0.4
PRE


CITY OF BUSSELTON
APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/3/2017
File Ref : DA16/0400.01
Signed :
PLANNING AND DEVELOPMENT SERVICES
Delegation Number R081
Please read in conjunction with the attached written conditions for changes and/or specific requirements.
PUMP BOLLARD TYPE - 1
SCALE 1:25
-SUPPLIED BY PUMA
BOLLARD TYPE - 2
SCALE 1:25
BOLLARD TYPE - 3
SCALE 1:25
SET-OUT DETAIL - A
SCALE 1:25
BOH
SERVICE AREA
STORAGE
C-STORE
COOL ROOM
FREEZER
COMMS CABINET
AMBULANT TOILET
DISABLED TOILET
OFFICE
AIR LOCK
CONVENIENCE STORE SIDE
APPROACH SIDE
BUILDING A - FLOOR PLAN
SCALE 1:100
A1 SHEET
PERKINS
PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L
CONSTRUCTION ISSUE
A1.1
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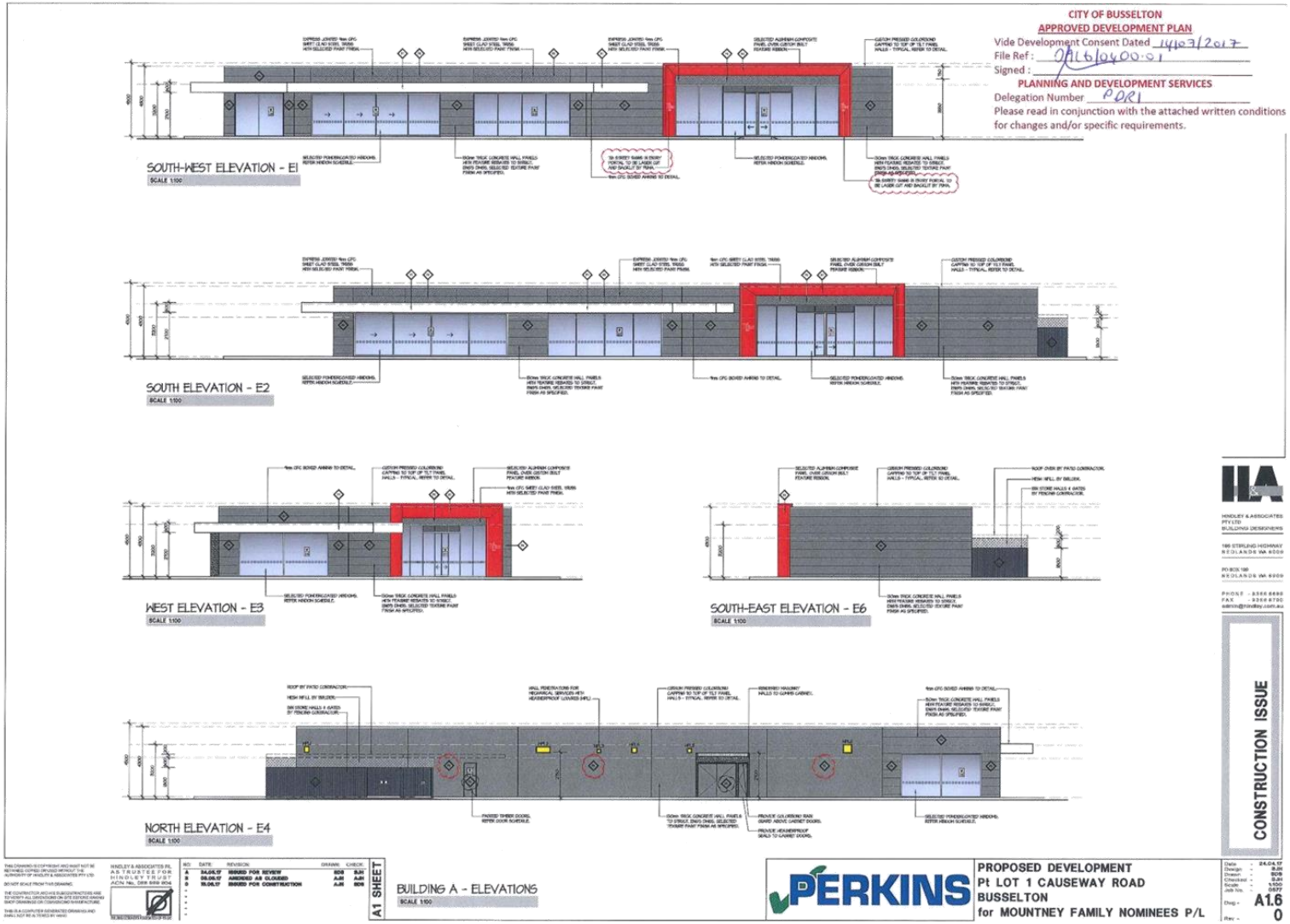
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APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/03/2017
File Ref : DA16/0400.01
Signed :
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Delegation Number PDR1
Please read in conjunction with the attached written conditions for changes and/or specific requirements.
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SCALE 1:100
SOUTH ELEVATION - E2
SCALE 1:100
WEST ELEVATION - E3
SCALE 1:100
SOUTH-EAST ELEVATION - E6
SCALE 1:100
NORTH ELEVATION - E4
SCALE 1:100
HINDLEY & ASSOCIATES PTY LTD
BUILDING DESIGNERS
CONSTRUCTION ISSUE
A1 SHEET
BUILDING A - ELEVATIONS
SCALE 1:100
PERKINS
PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L
A1.6
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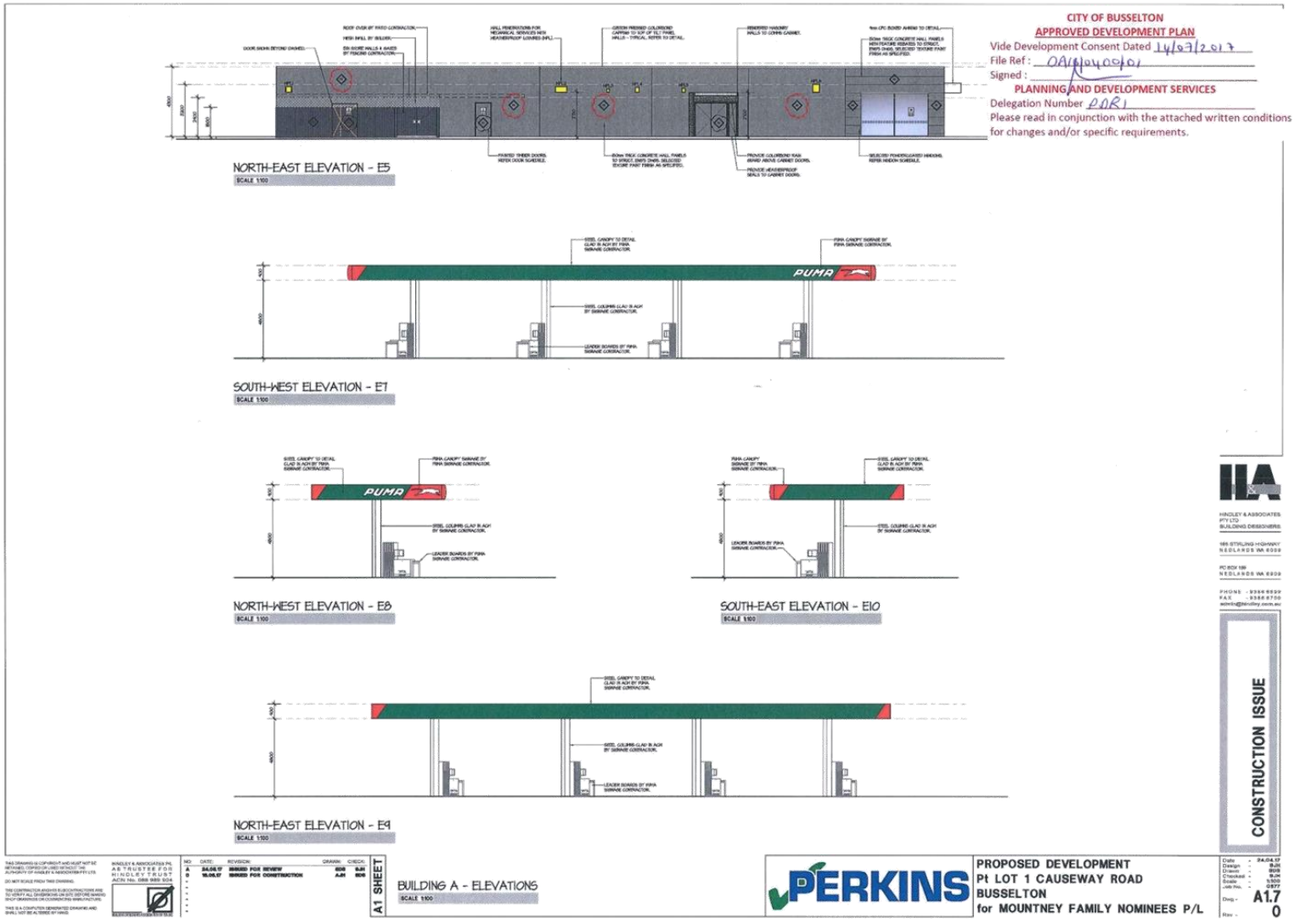
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APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/07/2017
File Ref : DA16/0400.01
Signed :
PLANNING AND DEVELOPMENT SERVICES
Delegation Number DOR1
Please read in conjunction with the attached written conditions for changes and/or specific requirements.
NORTH-EAST ELEVATION - E5
SCALE 1:100
PUMA
SOUTH-WEST ELEVATION - E7
SCALE 1:100
PUMA
NORTH-WEST ELEVATION - E8
SCALE 1:100
SOUTH-EAST ELEVATION - E10
SCALE 1:100
NORTH-EAST ELEVATION - E9
SCALE 1:100
CONSTRUCTION ISSUE
A1 SHEET
BUILDING A - ELEVATIONS
SCALE 1:100
PERKINS
PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L
A1.7
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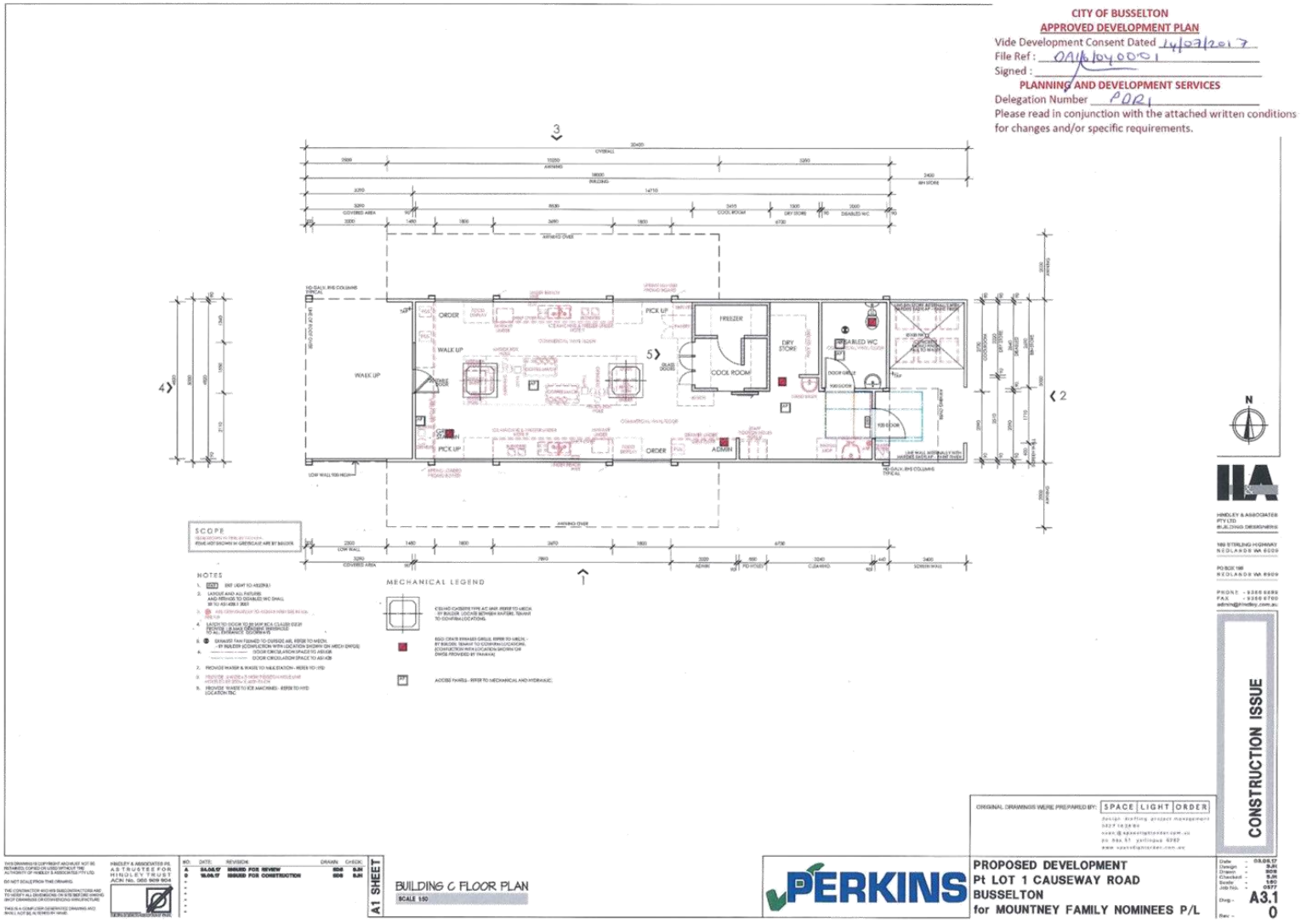
CITY OF BUSSELTON
APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/03/2017
File Ref : DA16/0400.01
Signed :
PLANNING AND DEVELOPMENT SERVICES
Delegation Number DOR1
Please read in conjunction with the attached written conditions for changes and/or specific requirements.
SCOPE
NOTES
MECHANICAL LEGEND
CONSTRUCTION ISSUE
BUILDING C FLOOR PLAN
SCALE 1:50
A1 SHEET
PERKINS
PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L
A3.1
0

CITY OF BUSSELTON
APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/07/2017
File Ref : DA16/0400.01
Signed :
PLANNING AND DEVELOPMENT SERVICES
Delegation Number PDS 1
Please read in conjunction with the attached written conditions for changes and/or specific requirements.

ELEVATION 1

SCHEDULE OF WORKS

SCOPE

HINDLEY & ASSOCIATES
PTY LTD
BUILDING DESIGNERS
105 STERLING HIGHWAY
NEDLANDS WA 6009
PO BOX 186
NEDLANDS WA 6909
PHONE - 9386 6999
FAX - 9386 6700
admin@hindley.com.au

CONSTRUCTION ISSUE

ORIGINAL DRAWINGS WERE PREPARED BY: SPACE LIGHT ORDER
design drafting project management
0427 719 264
nick@spacelightorder.com.au
po box 87 yallingup 6282
www.spacelightorder.com.au

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THIS IS A COMPUTER GENERATED DRAWING AND SHALL NOT BE ALTERED BY HAND

HINDLEY & ASSOCIATES PTY LTD AS TRUSTEE FOR HINDLEY TRUST ACN No. 098 985 934

NO:	DATE:	REVISION:	DRAWN:	CHECK:
A	24.04.17	ISSUED FOR REVIEW	BDS	BJH
B	18.05.17	ISSUED FOR CONSTRUCTION	BDS	BJH

A1 SHEET

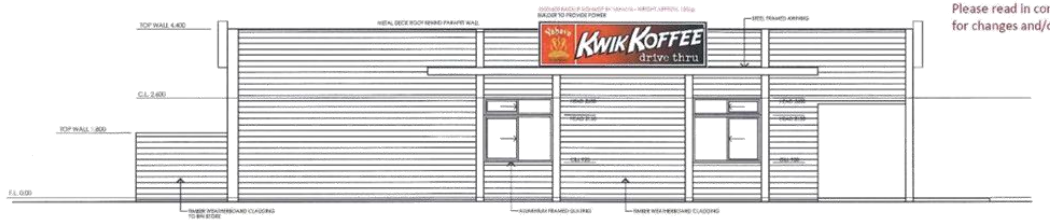
BUILDING C ELEVATIONS AND SCHEDULE OF WORKS
SCALE 1:50

PERKINS

PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L

Date - 03.05.17
Design - BJH
Drawn - BDS
Checked - BJH
Scale - 1:50
Job No. - 0577
Dwg - A3.2
Rev - 0

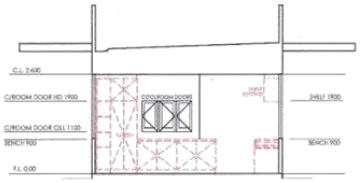
CITY OF BUSSELTON
APPROVED DEVELOPMENT PLAN
Vide Development Consent Dated 14/07/2017
File Ref : DA16/0400.01
Signed :
PLANNING AND DEVELOPMENT SERVICES
Delegation Number DOR1
Please read in conjunction with the attached written conditions for changes and/or specific requirements.



ELEVATION 3

ELEVATION 4

ELEVATION 2



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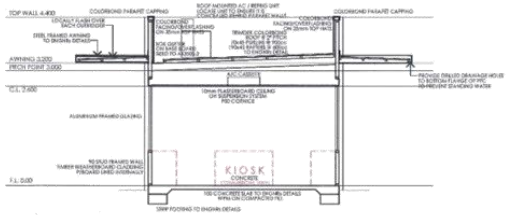

TYPICAL SECTION

SCOPE

HINDLEY & ASSOCIATES PTY LTD
BUILDING DESIGNERS
188 STIRLING HIGHWAY
NEDLANDS WA 6009
PO BOX 188
NEDLANDS WA 6909
PHONE - 9386 6699
FAX - 9386 6799

CONSTRUCTION ISSUE

ORIGINAL DRAWINGS WERE PREPARED BY: SPACE LIGHT ORDER

HINDLEY & ASSOCIATES PTY LTD AS TRUSTEE FOR HINDLEY TRUST ACN No. 065 599 904

NO.	DATE	REVISION	DRAWN	CHECK
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0	16.09.17	ISSUED FOR CONSTRUCTION	BJH	BJH

A1 SHEET

BUILDING C ELEVATIONS AND SECTIONS
SCALE 1:50

PERKINS

PROPOSED DEVELOPMENT
Pt LOT 1 CAUSEWAY ROAD
BUSSELTON
for MOUNTNEY FAMILY NOMINEES P/L

Date - 03.04.17
Design - BJH
Drawn - BCW
Checked - BJH
Scale - 1:50
Job No. - 1677
Dwg - A3.3
Rev - 0

14. ENGINEERING AND WORK SERVICES REPORT

Nil

15. COMMUNITY AND COMMERCIAL SERVICES REPORT

15.1 PROPOSED AUSTRALIAN UNDERWATER DISCOVERY CENTRE

STRATEGIC GOAL	4. ECONOMY Diverse, resilient, prosperous
STRATEGIC OBJECTIVE	4.3 Events and unique tourism experiences that attract visitors and investment.
SUBJECT INDEX	Busselton Jetty
BUSINESS UNIT	Community and Commercial Services
REPORTING OFFICER	Director, Community and Commercial Services - Naomi Searle
AUTHORISING OFFICER	Director, Community and Commercial Services - Naomi Searle
NATURE OF DECISION	Noting: The item is simply for information purposes and noting
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A AUDC Concept Designs Attachment B Community Consultation Outcome - AUDC Concept Designs

OFFICER RECOMMENDATION

That the Council:

1. **Acknowledges the community consultation undertaken by Busselton Jetty Incorporated (BJI) as required by resolution C2007/078 as part of the Australian Underwater Discovery Centre (AUDC) project.**
2. **Notes the preferred concept design of the AUDC is the *Cetacean* concept.**
3. **Notes the preferred concept design is at preliminary design stage only and will be further refined at detailed design stage.**
4. **Notes that a further report will be presented to Council as required by resolution C1906/118 when BJI is in the position to confirm the project scope, budget, funding contributions and more certainty on the operating financial projections.**
5. **Requests BJI engage an independent tourism specialist to undertake a peer review of the AUDC business case and financial projections, including the consideration of the funding of ongoing asset management requirements of the new structure.**

EXECUTIVE SUMMARY

Busselton Jetty Inc. (BJI) has been granted $13 million from the Federal Government's Regional Growth Fund as partial funding for the design and construction of a new state-of-the-art underwater observatory, proposed as the Australian Underwater Discovery Centre (Project). The Project is a key strategy for increasing revenue from Busselton Jetty (Jetty) operations and ensuring sustainability of the Jetty for future generations.

As required by resolution C2007/078, BJI have undertaken community consultation to identify a preferred concept design for the AUDC. This report provides an overview of the consultation.

BACKGROUND

Busselton Jetty Inc, formerly known as Busselton Jetty Environment and Conservation Association Incorporated (BJECA), is a Busselton-based voluntary incorporated association with, among other things, the following objectives:

- Raising funds to protect and preserve the Busselton Jetty and the environment around it; and
- Being resourceful, financially viable and economically sustainable to ensure it meets its obligation to provide funds for the preservation and maintenance of the Busselton Jetty.

In 2008, the City obtained grant funding of $24 million from the South West Development Commission (SWDC) for purposes of refurbishing the Busselton Jetty. On 30 October 2009, in accordance with the grant agreement, the City and BJI entered into a licence agreement, which has since been amended (Busselton Jetty Licence). In terms of the Busselton Jetty Licence, BJI was granted the right to conduct certain commercial activities at/on the Busselton Jetty in consideration for payment of an annual licence fee, which includes collecting entrance fees from persons entering the Busselton Jetty from its land side, and operating the Busselton Jetty train, the Underwater Observatory (UWO) towards the northern end of the Busselton Jetty, and the Interpretive Centre. These licensed activities constitute BJI's main business and main source of revenue.

The Busselton Jetty is a highly successful tourist attraction. The UWO is the main attraction on the Busselton Jetty. Tours for visiting the UWO (most of which include a trip on the Busselton Jetty train) is the activity that generates the most income. During peak seasons, visitors are turned away from the current UWO tours due to the building's size constraints. Despite this, and despite increasing operating hours of the UWO in summer to increase revenue, a feasibility study commissioned by BJI in 2016 found that it is imperative to implement new income generating activities at and on the Busselton Jetty in order to ensure its financial sustainability over the long term.

BJI has since identified an opportunity to develop a new state-of-the-art underwater observatory, known as the Australian Underwater Discovery Centre (AUDC), with the aim of:

- Increasing the income stream from activities at/on the Busselton Jetty and ensuring sustainability of the Busselton Jetty for future generations;
- Increasing Busselton and the region's tourism appeal;
- Supporting domestic air services to the Busselton Margaret River Airport;
- Supporting significant investments in a new family restaurant/microbrewery and hotel on the Busselton foreshore; and
- Creating new local jobs (directly and indirectly).

Based on this, BJI prepared a business case to seek funding for the Project. In April 2019, BJI was invited to submit an application to the Federal Government's Regional Growth Fund for the design and construction of the AUDC and was subsequently granted $13M. In May 2019, BJI presented a proposal to the City for a self-supporting loan request of $4M which was to support a BJI contribution of $3M and State Government funding proposal of $10M, bringing the total proposed budget to $30M.

In consideration of this, Council resolved (C1906/118) the following:

That the Council:

1. *Expresses its in-principle support for Busselton Jetty Inc.'s (BJI) proposal for the Australian Underwater Discovery Centre as detailed in BJI's submission of 24 June 2019 and referred to in this report (Project).*
2. *Expresses its in-principle support, subject to resolution (3) and (4) to facilitate up to a $4 million self-supporting loan for a term of ten years for BJI from WA Treasury for partial funding of the Project.*
3. *Resolution (2) is subject to:*
    a. *BJI submitting with the City for review and Council approval a detailed business case and project plan demonstrating the viability and sustainability of the project and BJI's ability to service the loan mentioned in Resolution (2);*

b. BJI providing confirmation to the City's satisfaction that funding for the balance of the full Project scope and delivery and all other associated Project costs have been secured without recourse to any further City contribution, including appropriate contingency funding;

c. BJI providing confirmation to the City's satisfaction that, in relation to the Project, all contractual requirements under the Busselton Jetty Licence agreement between the City and BJI have been or will be complied with;

d. BJI providing confirmation to the City's satisfaction that, in relation to the Project, all governmental authorisations, approvals and consents have been or will be obtained;

4. Requests the Chief Executive Officer to present Council with a detailed report on the Project as soon as practicable after which Council will make a final resolution in relation to approval of the Project and provision of the $4 million self-supporting loan referred to in Resolution (2).

BJI has advised that State Government funding is yet to be confirmed, however on 21 January 2021 the McGowan Government announced a commitment of $9.5M towards the Project should the Labor Government be re-elected. The Liberal party has also committed $10M should they be elected. Therefore, as there is still uncertainty surrounding the Project in terms of the final scope and budget, parts 3 and 4 of the above resolution are yet to progress.

To meet the requirements of the Federal Government funding agreement, BJI have been progressing the Project. At the Ordinary Meeting held on 29 July 2020, Council considered an expression of interest (EoI) process BJI undertook for the design and construction of the AUDC and resolved (C2007/078) the following:

That the Council:

1. Notes the outcome of Busselton Jetty Inc.'s (BJI) Expression of Interest process for the design and construction of the Australian Underwater Discovery Centre as detailed in Attachment B.

2. Requests BJI to seek community feedback in relation to the preferred concept design(s) and present the findings to Council.

3. Notes that a further report will be presented to Council as required by resolution C1906/118 when BJI is in the position to confirm the project scope, budget, funding contributions and more certainty on the operating financial projections.

OFFICER COMMENT

In late 2020, BJI presented Council with three design concepts for the AUDC (see Attachment A) which formed the basis of community consultation as required by Council resolution C2007/078. The consultation comprised online survey and poll via social media, and two face-to-face community sessions. The consultation results and summary is provided as Attachment B.

From the three concepts designs provided, the Cetacean was identified as the preferred design. As a result, BJI have requested Council's endorsement of the Cetacean concept to enable BJI to proceed to 25% detailed design.

BJI have confirmed they are proceeding with the design of the AUDC as part of their contribution towards the project and that this would be undertaken at their own risk and cost. As such, BJI has engaged contractor Subcon to undertake the design and construction of the Project.

While Council may consider a preferred concept, Council's endorsement of the Project remains subject to Council's approval of a detailed business case and project plan as per resolution C1906/118. Further consideration of the business case and a detailed analysis of the financial operating projections is important, as this will have an impact on the City's ongoing financial commitment to the Jetty, and ultimately financial risk exposure. It is therefore recommended that BJI engage an independent specialist tourism consultant to review the financial operating projections and that the report be presented to Council as part of its consideration towards the Project. Council may consider part funding this to maintain its independence.

In addition to consideration of Council resolution C1906/118, section 15 of the licence agreement between the City and BJI requires:

a) The Licensee must not, and must not permit, any structural alterations to, on or that relies on a connection to, the Jetty without the prior approval of the City, the Minister and the Department.

b) Any approval given under this clause 15 may be subject to conditions including conditions relevant to ensuring the structural integrity of, and continued maintenance of the condition of the Jetty.

c) When seeking an approval under this clause 15 the Licensee must submit the following information:

(i) detailed plans of, and reasons for, the proposed additions or alterations;

(ii) a maintenance plan for the ongoing maintenance of any new structural addition;

(iii) details of how the Licensee will meet the maintenance obligations of any new structural additions.

(d) The City may request other information from the Licensee before making a decision as to whether to give the approval sought and will consult with relevant Governmental Agencies or person with relevant expertise in coming to the decision.

The financial model originally provided by BJI projects an increase in revenue as a result of the AUDC operations and therefore an increase in the annual licence fee payable to the City. The licence fee however remains unchanged and assumes that 25% of gross revenue (plus certain exclusions) will cover the ongoing asset management requirements of the entire jetty, including UWO, Interpretive Centre and AUDC. The financial model does not consider additional asset management costs associated with the AUDC, and without detailed designs in place, asset management requirements and associated costs remain unknown. Without this critical information, Officers have concerns about the potential financial risk the AUDC exposes to the City, and hence are recommending an independent tourism specialist to undertake a peer review of the AUDC business case and financial projections including the consideration of the funding of ongoing asset management requirements of the new structure.

The detailed plans of the Project, including budget, scope, financial operating projections, and asset management requirements, and any financial request or obligation of the Council, is currently unknown. Therefore, it is not considered appropriate for Council to provide any endorsement of the Project beyond 'in-principle' support until it is in receipt of, and has considered, the above information.

Statutory Environment

The Busselton Jetty is located within Reserve 46715, which is Crown Land in a managed Reserve. BJI and the City have entered into the Busselton Jetty Licence, with the approval of both the Minister for Lands and the CEO of the Department of Transport (WA). The Busselton Jetty Licence is non-exclusive

and does not create in or confer to BJI any tenancy or estate or interest in the Busselton Jetty or the Reserve.

The Busselton Jetty is managed and operated under a jetty licence granted to the City of Busselton by Department of Transport under the Section 7 of the *Jetties Act 1926* (WA). In terms of this licence, the City:

- may only use the Busselton Jetty for the use permitted under this licence (which includes operation of the existing UWO);
- may appoint a person or entity to undertake its management obligations (or some of them) in respect to the Busselton Jetty;
- must maintain the Busselton Jetty in accordance with a pre-approved maintenance plan;
- must not, and must not permit, any structural changes or additions to the Busselton Jetty without the Department's prior approval; and
- when seeking approval for structural changes or additions, must submit detailed plans of and reasons for the proposed changes and a maintenance plan for ongoing maintenance of any new structural addition.

Relevant Plans and Policies

The Busselton Jetty 50-Year Maintenance Plan projects the maintenance and replacement schedule for the Jetty. The development of the AUDC will increase BJI revenue, and in turn the licence fee payable to the City, which is used to fund asset management requirement of the Jetty.

The proposed Project is consistent with the contents of the Busselton Foreshore Master Plan, where activation of the Busselton foreshore is identified as a key priority.

The City's Corporate Business Plan identifies key City led or funded priority actions and projects over the ensuing four years. This project was initially identified as a medium-long term project however has since been incorporated into the City's 2020-2024 Corporate Business Plan as a result of BJI securing Federal Government funding.

Financial Implications

In the form of in-kind support, significant City resources will need to be allocated to facilitate the Project. An internal project team has been established to negotiate, develop and execute licence agreements, review engineering designs and construction methodologies to ensure the structural integrity of the Jetty is not compromised, and ensure all approvals are obtained. This is expected to continue throughout the development and implementation the Project.

While BJI has previously requested a $4M self-supporting loan from the City to undertake the Project, Council's consideration of the request is subject to resolution C1906/118 which requires a separate report to be presented to Council as per part 4 of the officer recommendation. At this point in time, the total project budget is unknown and through discussions with BJI the Project may have a shortfall of $5M; it is yet to be confirmed how these funds will be derived. For information, as at 28 January 2021, the Department of Treasury advised that the current interest rate for a loan over 10 years is 0.98% plus a loan guarantee level of 0.7% per annum and 1.86% over 20 years plus a loan guarantee level of 0.7% per annum.

Stakeholder Consultation

BJI have undertaken community consultation as outlined in Attachment A to determine the preferred concept design for the Project.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

As mentioned within the Financial Implications, the consideration of a $4M self-supporting loan will impact on the City's reportable Debt Ratio. However, as a follow up report will be presented to Council should this be progressed, this will be further detailed in the appropriate report to Council.

Options

As an alternative to the proposed recommendation the Council could:

1. Choose to nominate an alternative preferred concept design.
2. Choose not to support any of the concept designs presented.

CONCLUSION

While Council has previously provided its 'in-principle' support for the AUDC project, its commitment and endorsement of the Project remains subject to the requirements of the Busselton Jetty Licence and Council resolution C1906/118. As such, and noting that BJI are proceeding with the Project at their own cost and risk, it is recommended that Council acknowledges the outcome of the community consultation with the Cetacean concept design being the preferred concept and that they request BJI to engage an independent tourism specialist to undertake a peer review of the AUDC business case and financial projections.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the officer recommendation be adopted, BJI will be informed immediately.

BUSSELTON JETTY

A Sea of Discovery

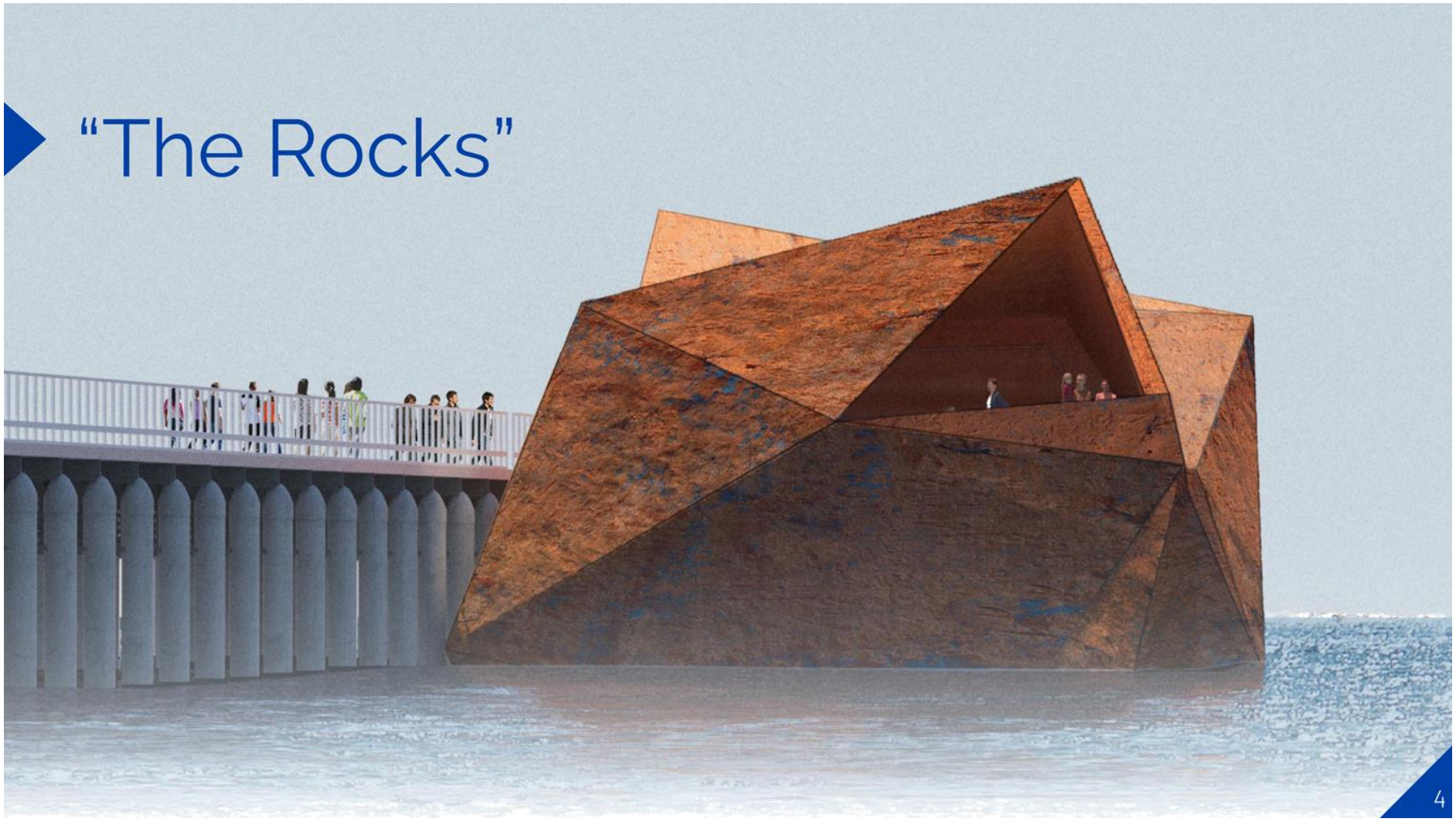
Subcon BLUE SOLUTIONS

Australian Underwater Discovery Centre Designs

Three Iconic Themes:

- The Rocks
- Voyage
- Cetacean


"The Rocks"
3

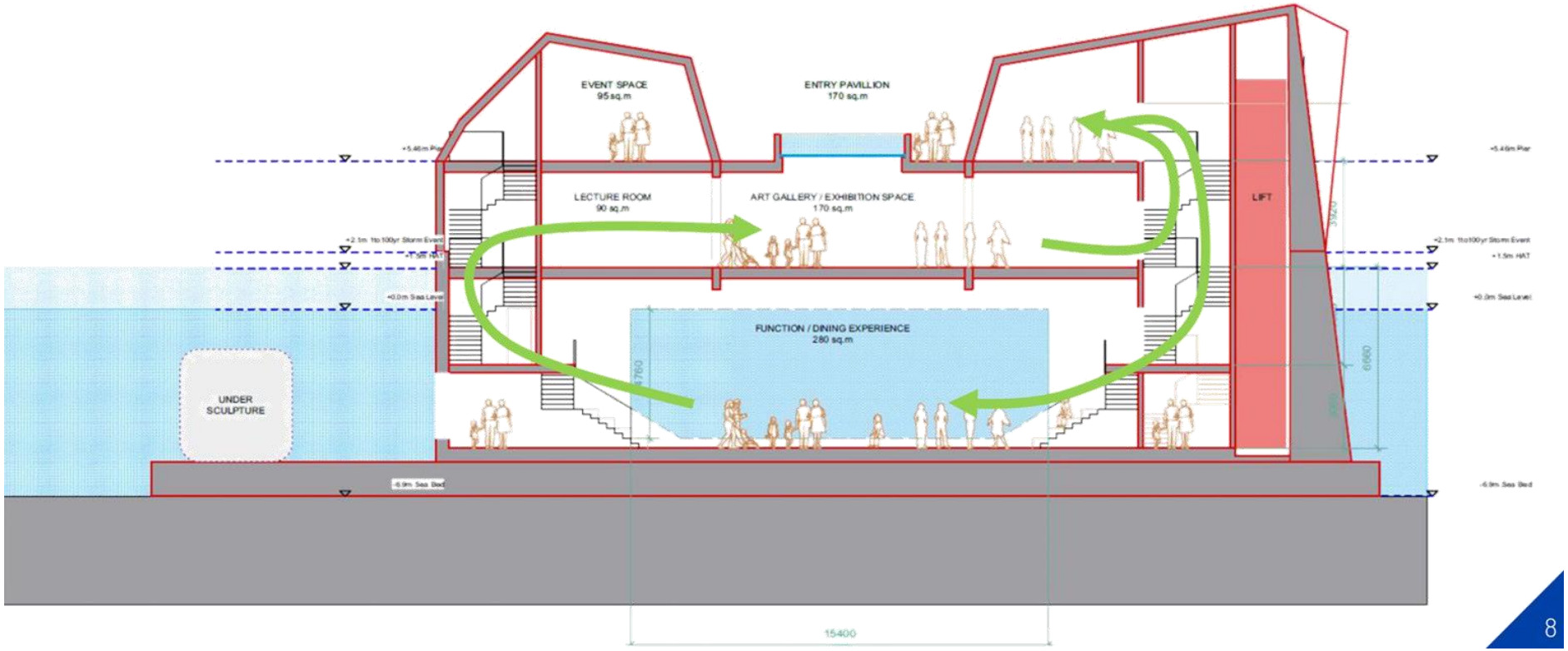

"The Rocks"
4


Rock Pools
5


View from shore
6


View from the jetty
7

Internal Design




View from below
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"Voyage"
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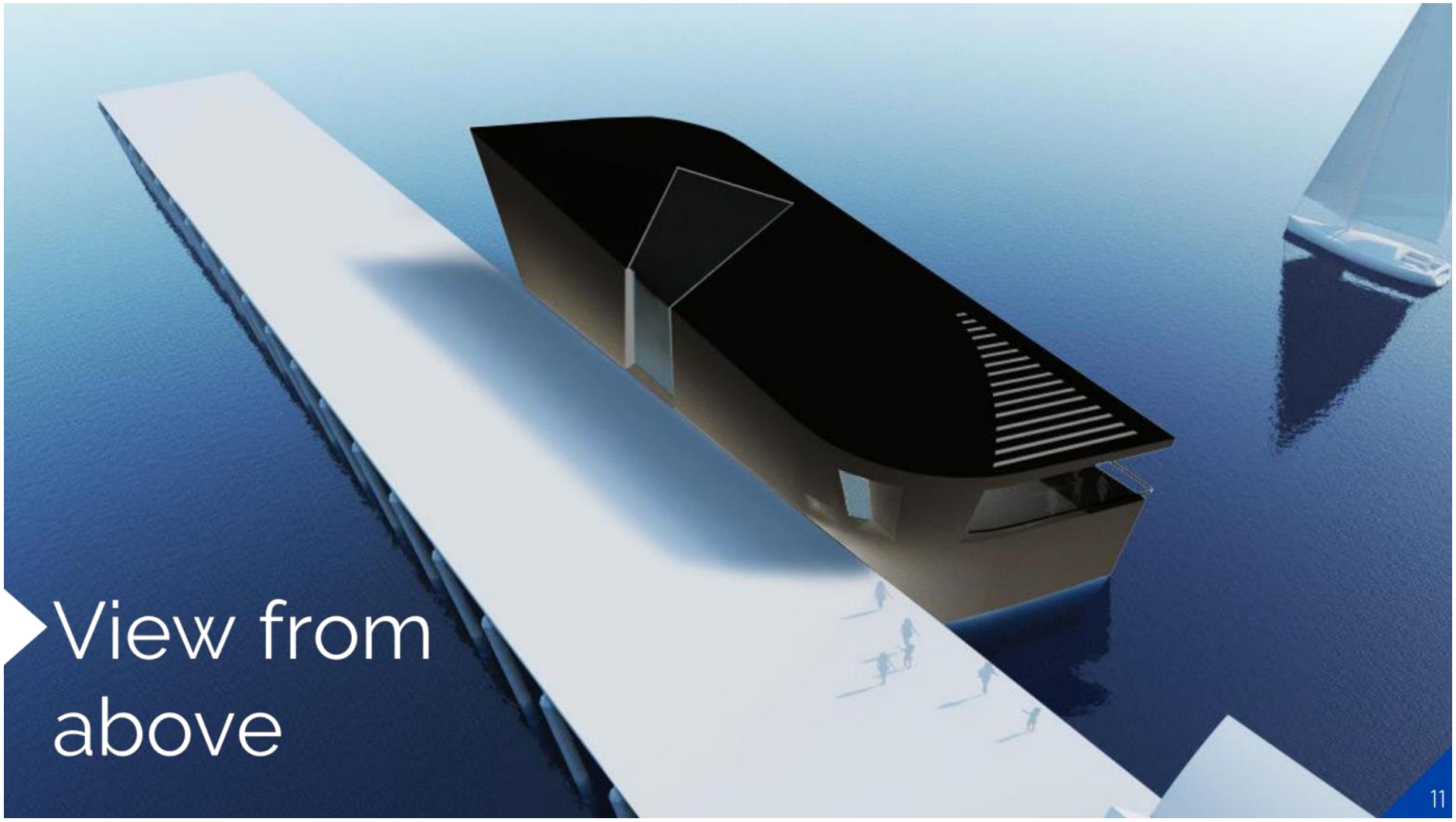
View from above
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View from
the jetty
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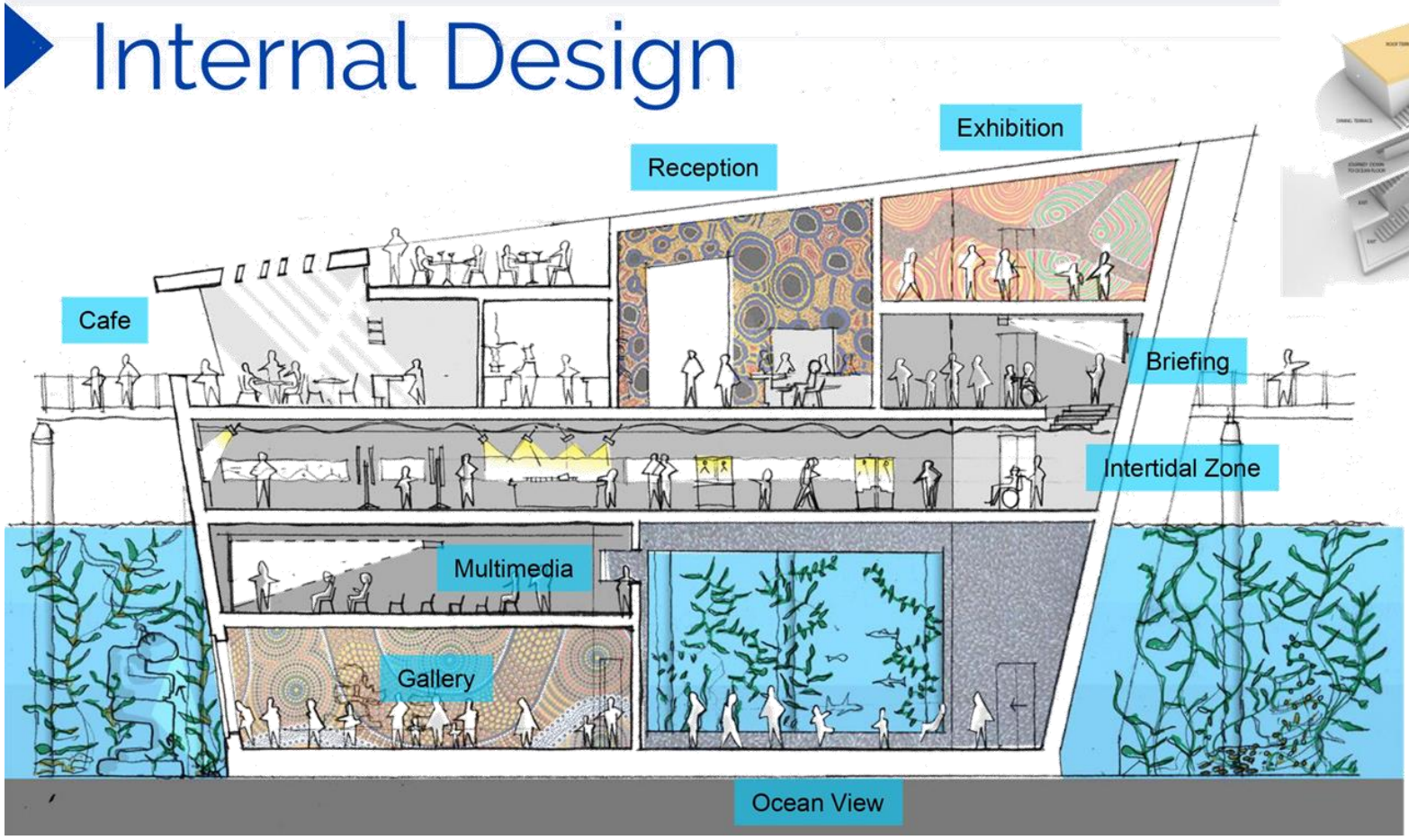
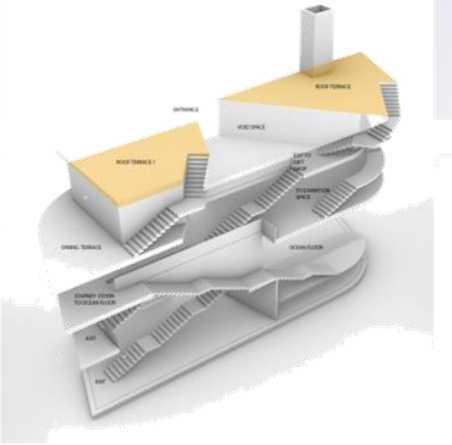
Internal Design






View from below
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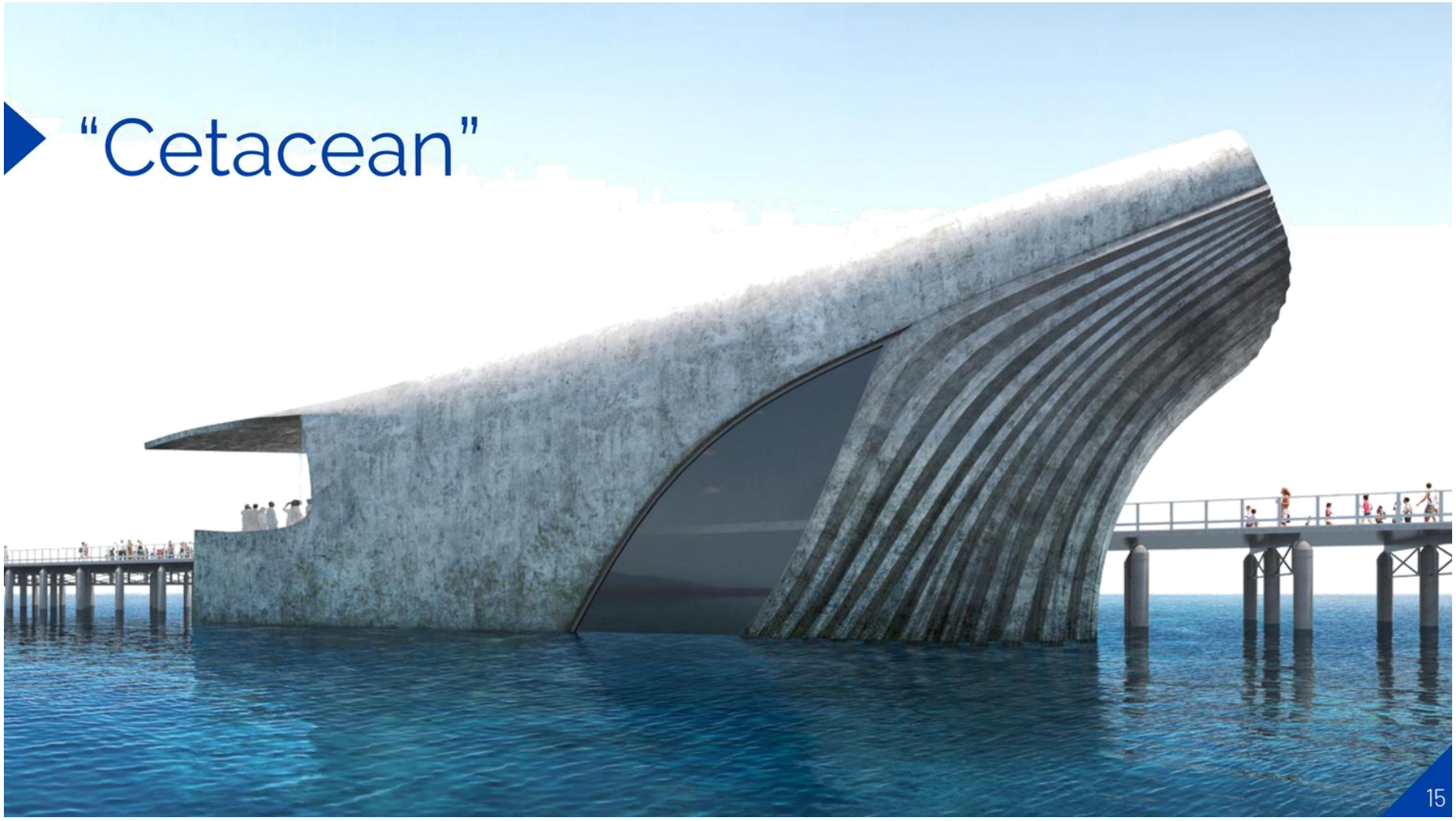
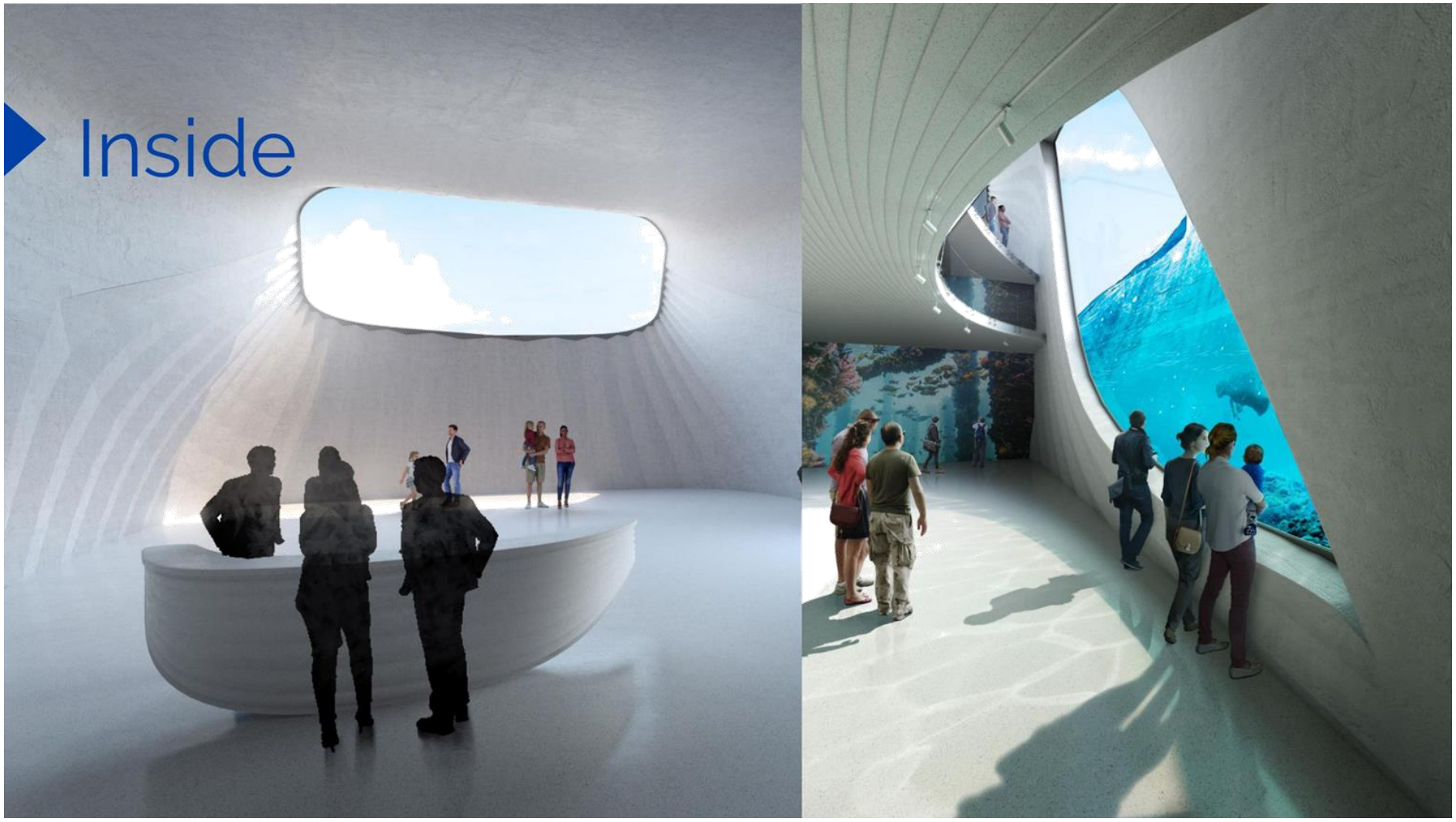

"Cetacean"
15


View from the jetty
16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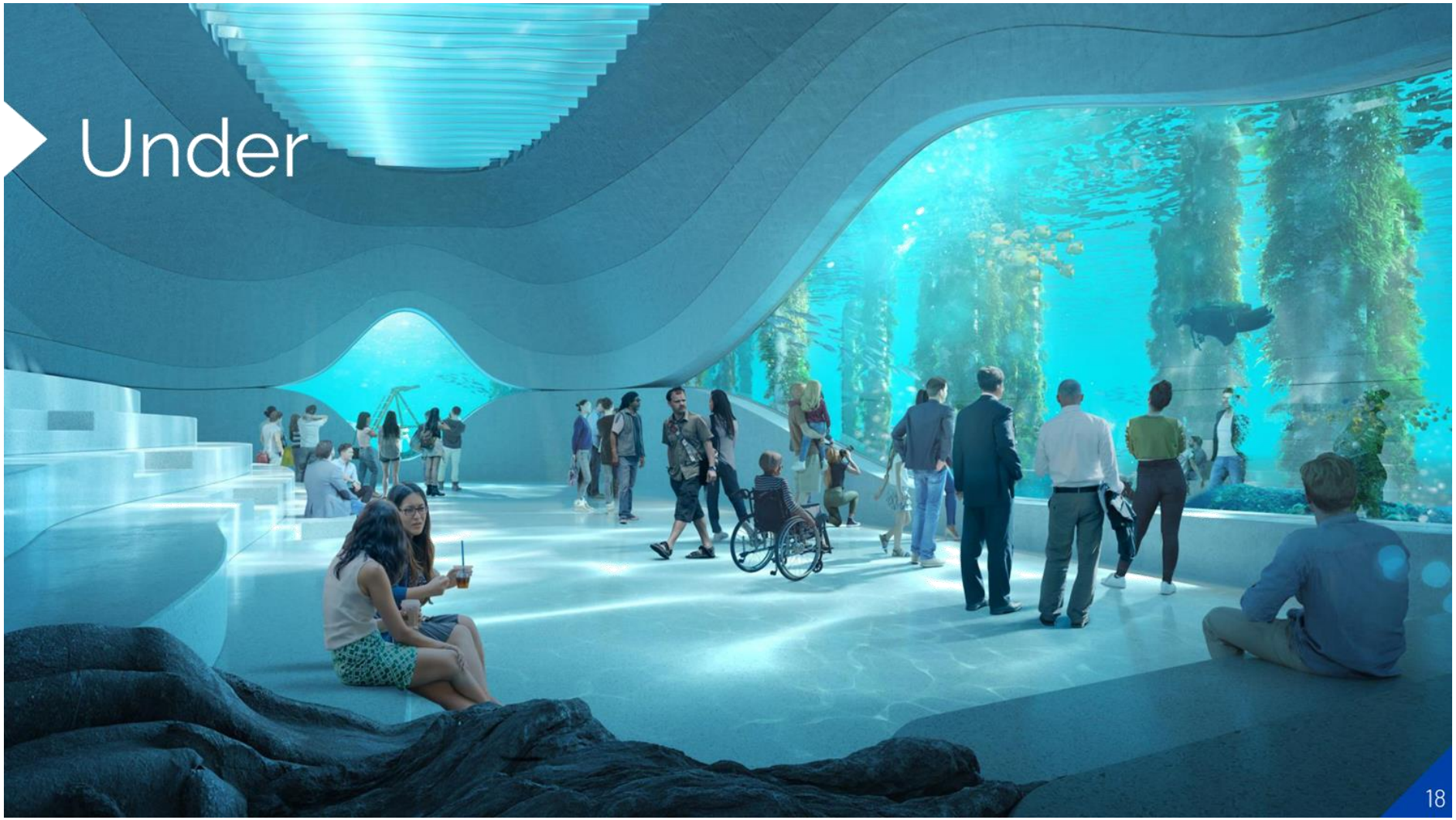
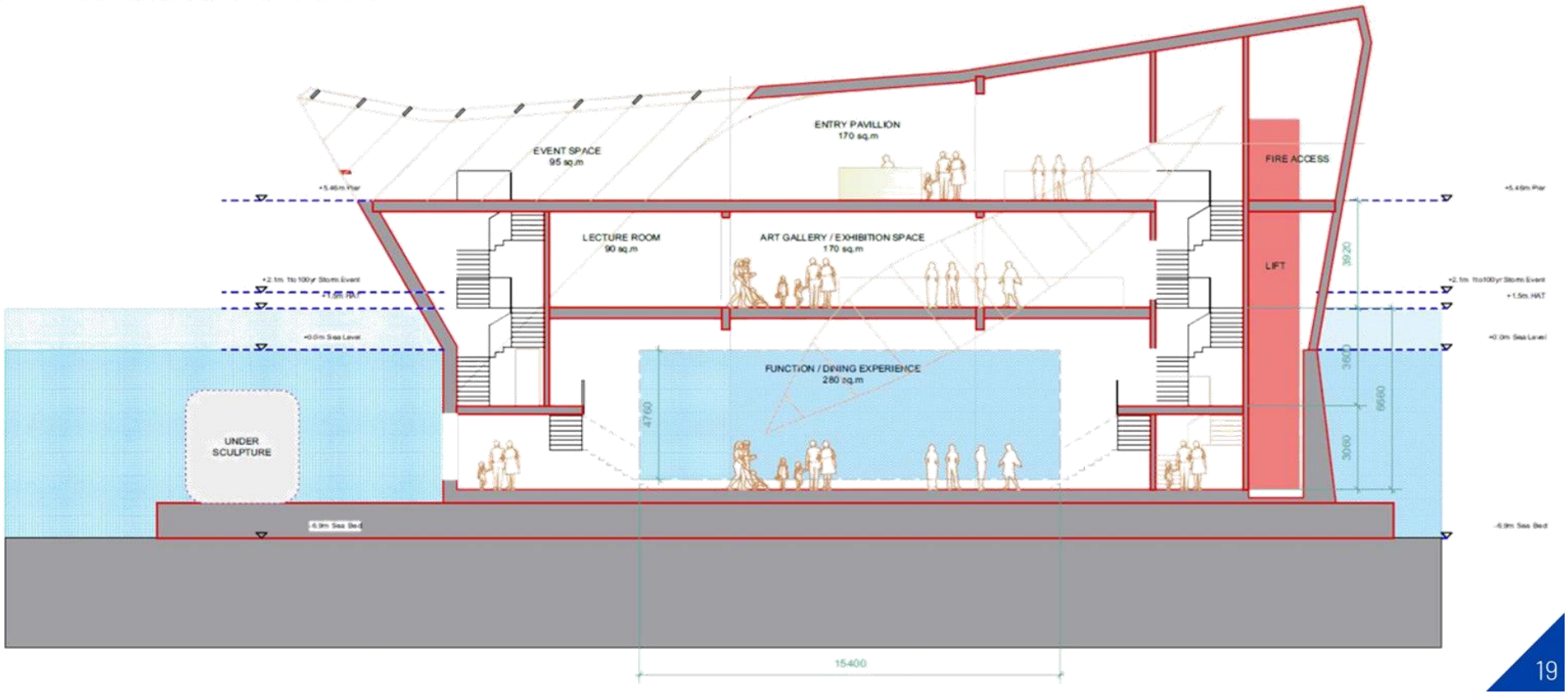
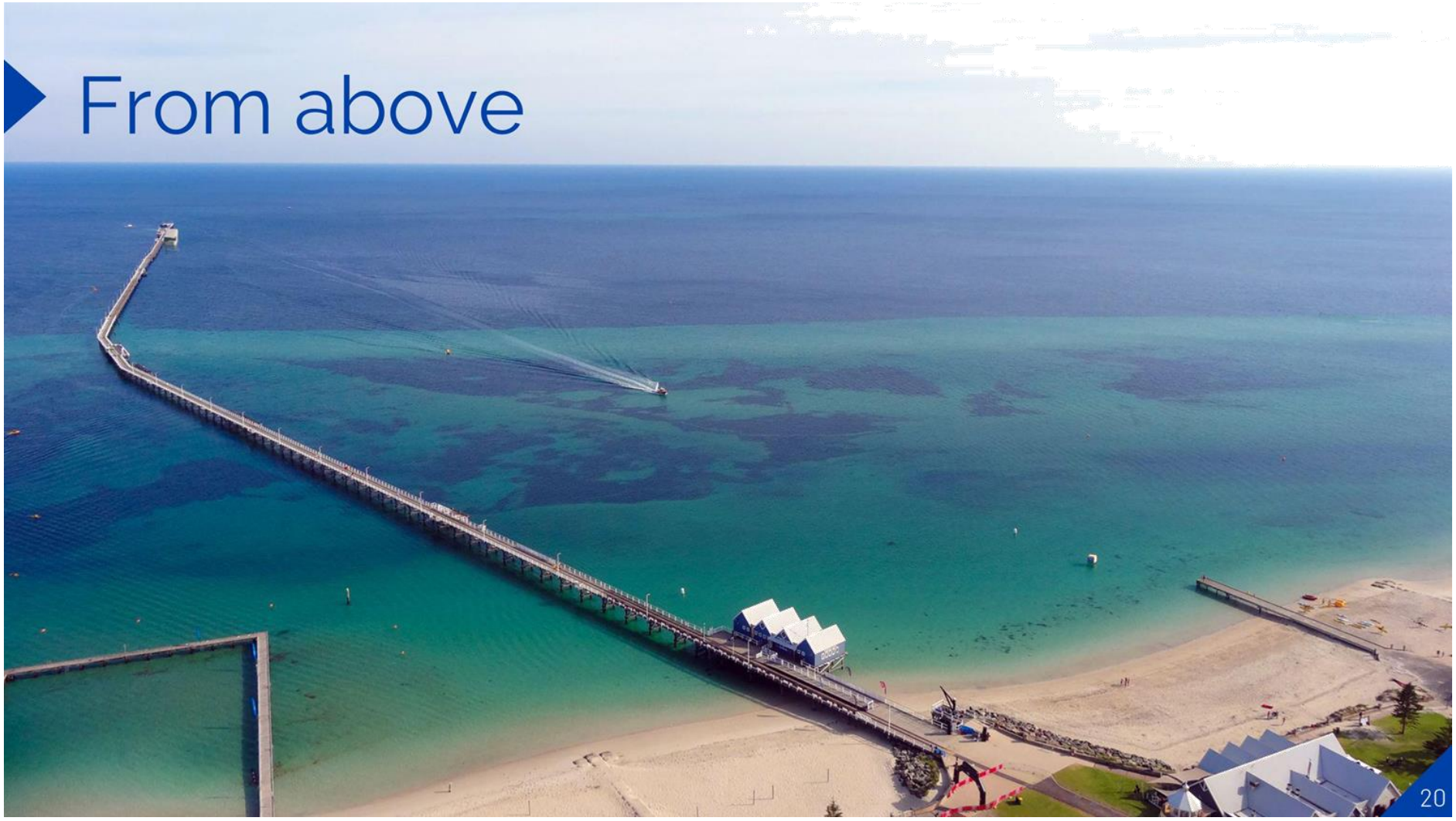

Under
18

Internal


EVENT SPACE
95 sq.m
ENTRY PAVILLION
170 sq.m
FIRE ACCESS
LECTURE ROOM
90 sq.m
ART GALLERY / EXHIBITION SPACE
170 sq.m
LIFT
FUNCTION / DINING EXPERIENCE
280 sq.m
UNDER
SCULPTURE
4760
3920
3660
6660
3060
15400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Next Steps
December Community Consultation on 3 AUDC themes;
Survey completion/Public Vote
https://www.surveymonkey.com/r/ZZ5ZM6C
Analysis of results by Catalyse;
Feedback to BJI Board, COB and Subcon;
Shortlist theme to take to 100% design;
BUSSELTON JETTY
21


Q&A
BUSSELTON JETTY
22

BUSSELTON JETTY
A Sea of Discovery

AUDC Community Consultation on 3 Preliminary Concept Designs
11 January 2021

In October 2020, the City of Busselton requested that BJI go out to community consultation on 3 design concepts for the AUDC.

On 21 December 2020, BJI held two face to face community sessions, launched an online survey and a quick poll via social media to gauge community support for the design of the AUDC. On 18 December, the West Australian also ran a story in the travel section of Saturday's West which included a QR code and link to the online poll. The results of the community consultation are summarised below.

Consultation results

Overall, 2260* responses were received comprising:

- 1572 responses in the online survey,
- 232 in the online poll
- 456 responses from people visiting the IC; and

In addition, ABC and ABC South West released the designs on their Facebook pages which had a combined 481 comments.

It is likely that people voted in more than one of the online forums therefore some duplication in votes might be present.

	Online survey QR Code Survey Monkey 1572 votes	AUDC FB Jetty page Poll 232 votes	ABC social media pages 370 visible comments	IC paper votes 456 votes
Cetacean	76%	61%	92.7%	65%
Rocks	10.43%	2.6%	3.5%	11%
Voyage	9.10%	33.3%	3.8%	24%

The preferred design across all forums was the Cetacean. Only 4.47% of the survey respondents selected 'none of the above' as their response to their preferred response.

BUSSELTON JETTY

A Sea of Discovery

Interestingly, the majority of people that commented on the internal layout of the designs, preferred the Rocks internal layout as it provided better viewing.

The overwhelming majority of comments were positive and constructive, but some respondents didn't understand the purpose of the project or didn't want to alter the Jetty again. Some of the comments are provided below:

Cetacean

"The whale is such a nice, calm and majestical animal. It relates well the area and will be a design that doesn't age"

"Cetacean is modern but would be timeless with its connection to sea life"

"Fits the setting and evokes nature"

"Like the clean marine lines and that whales are celebrated. No dislikes".

"I like the natural flow of lines that mimic the sea grass outside. Considering the number of migrating whales in the area, it is also the most appropriate and will signify the importance of these species to their environment. I would suggest some more natural colours and textures in the inside viewing bay- so much of modern architecture is bland neutrals these days. I realise that the underwater view is the focus of the room but some colour and textures, perhaps mimicking the flora and fauna outside would give interest without distracting too much".

"I like the look on the outside, but prefer the inside of the rock one. It gives you more glass hence a better feeling of truly being underwater".

"Homage to whales and looks beautiful".

"Whales & Busselton go together. The curves of the windows are like waves. It has a natural feel to it".

"I like the inside as design as it shows the flow of the ocean by its curves. What would be awesome could be some dolphin metal art shapes on the railing on the way up to the observatory and lit up at night. Including some information about these creatures of our ocean".

BUSSELTON JETTY

A Sea of Discovery

"Love the outside appearance but not so much the internal design - it seems to block the view a lot. I prefer the interior of the rock"
"I like the curved lines above the water and whale likeness. However I don't enjoy all the reduced window view underneath the water and prefer the large, clear lines of both the rocks and voyage underwater. I wonder if it's possible to just have one curved feature underwater to carry on the whale's shape but square up the other lines"?

The Rocks

"It's a bit ugly, but looks better than the other 2"

"The homage to the history of the area - not just the early settlement history, but the natural history. It's design is a nod the nautical coastline with its display of rocks. I also like the open ceiling of The Rocks design's interior".

"Looks the most innovative and fits the old jetty".

"I love that it looks natural not a big artificial structure. I love the underwater viewing ceiling".

Voyage
"Modern design and history in regards to the Jetty".

"It's clean and streamlined".

"Looks aesthetic and others look like eye sores"

"I like the exterior design. It is a ship bearthed at a jetty. However, the viewing windows of the Rocks look like they give the best views out. There appear to be limited viewing options in the voyage".

"I really like how modern it is! The design is the future! In 10 years' time it's going to look great !! The others look like it was done in the 80s 90s"!

"It looks more in keeping with the history of ship from above. There were never any rocks out there and no whaling was carried out at the jetty".

Negative comments (NB very minor and some uninformed)

BUSSELTON JETTY

A Sea of Discovery

"All fail to capture the vibe of the jetty. I can't see any of the options blending in with the landscape".

"These projects are obviously not done by architects. They look unbelievably amateurish, and the approach of which style is weak. You should do a small design competition for WA architects and be blown away by the outcome. These three here are not appropriate and embarrassing. Sorry to be so harsh but the architectural profession in WA is strong and under utilised. There is way better than these designs out there! Happy to help you guys do a competition. I would do it for free if you are willing."

"It does give better viewing but it will ruin the environment around it, not to mention the fishing will suffer for years to come, still hasn't recovered from the last work that was done, there was so much damage done when they removed the old pylons that had years of coral on them".

"They are all ugly"

"They are all overbearing of the jetty and are ugly"

"Leave the jetty as it is"

"They just don't 'fit' the surroundings ... a rethink is needed"

General observations

The online survey had 11 questions including questions on the preferred designs. The survey was used to test community satisfaction with the Jetty, and overall, the results were consistent with previous community surveys about the Jetty's performance.

Given the obvious nature of the responses and clear winner, BJI does not believe further analysis is required by an external third party.

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16. FINANCE AND CORPORATE SERVICES REPORT

Nil

17. CHIEF EXECUTIVE OFFICERS REPORT

17.1 COUNCILLORS' INFORMATION BULLETIN

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Councillors' Information Bulletin
BUSINESS UNIT	Executive Services
REPORTING OFFICER	Reporting Officers - Various
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Noting: The item is simply for information purposes and noting
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Current State Administrative Tribunal Reviews

OFFICER RECOMMENDATION

That the items from the Councillors' Information Bulletin be noted:

17.1.1 State Administrative Tribunal Reviews

EXECUTIVE SUMMARY

This report provides an overview of a range of information that is considered appropriate to be formally presented to the Council for its receipt and noting. The information is provided in order to ensure that each Councillor, and the Council, is being kept fully informed, while also acknowledging that these are matters that will also be of interest to the community.

Any matter that is raised in this report as a result of incoming correspondence is to be dealt with as normal business correspondence, but is presented in this bulletin for the information of the Council and the community.

INFORMATION BULLETIN

17.1.1 State Administrative Tribunal Reviews

A summary of the current State Administrative Tribunal reviews is provided at Attachment A.

As at 22 January 2021

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
CITY OF BUSSELTON							
Lindberg v City of Busselton	4822 Bussell Highway, Busselton	October 2019	Review of a decision to give a direction under s.214.	Ben Whitehill / Lee Reddell	• Directions hearing on the 8 November 2019 against the decision of the City to give a direction under s.214. • The matter was adjourned to a further directions hearing on 29 November 2019 in order to determine whether the application is misconceived or lacking in substance pursuant to s.47 of the *State Administrative Tribunal Act 2004* • Directions hearing on the 29 November 2019 where it was resolved: - The application is amended by substituting Mr Doug Hugh Lindberg as applicant in place of Mr Johnson. - The matter is listed for an on-site mediation on 6 January 2020. - Mr Michael Johnson is invited to attend and participate in the mediation. • Mediation on 6 January 2020 where it was resolved that : - the applicant is to provide additional information to the respondent by 3 February 2020; - The matter is listed for mediation on 13 February 2020. • Mediation on 13 February where, following further discussion with the landowners and Mr Johnson, it was resolved to adjourn the proceeding back to a further directions hearing on 17 April 2020. • Directions hearing on 17 April was vacated and listed for a directions hearing on 5 June 2020. • Directions hearing on 5 June was vacated and listed for a directions hearing on 7 August 2020. • Directions hearing on 7 August 2020 was vacated and listed for a directions hearing on 6 November 2020. • Directions hearing on 6 November 2020 was vacated and listed for a directions hearing on 5 February 2021.	Directions Hearing 5 February 2021	
JOINT DEVELOPMENT ASSESSMENT PANEL							
NIL							
WESTERN AUSTRALIAN PLANNING COMMISSION							
Newport Geographe v WAPC	Port Geographe	November 2020	Review of structure plan / subdivision conditions.	State Solicitors Office / Paul Needham	• Mediation Scheduled for 10 December 2020 • 10 December 2020 mediation hearing resulted in scheduling	Mediation 3 March 2021	

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
					of further mediation hearing for 3 March 2021 (the City attended the 10 December hearing and has also been invited to attend the 3 March hearing)		

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

18.1 NOTICE OF MOTION - INITIATION OF SCHEME AMENDMENT 50

Councillor Riccelli has given notice that, at the Council meeting on 10 February 2021, she will move the below motion.

MOTION

That the Council resolves to:

1. **In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, initiate Amendment No. 50 to the *City of Busselton Local Planning Scheme No. 21* for community consultation, for the purposes of amending the Scheme map by modifying the residential density coding from R80 to R60 over Lot 81 (18), Strata Plan 17588 (20), and Lots 115 to 127 (26-50), Geographe Bay Road, Dunsborough, as set out at Attachment A.**

2. **Pursuant to Regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations* 2015 (the Regulations), determine that Amendment No. 50 is a 'standard amendment' in accordance with r. 34 of the Regulations as it is:**

   (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve;

   (b) an amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment;

   (c) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

3. **Note that, as the draft Amendment is in the opinion of the Council consistent with Part V of the *Planning and Development Act 2005* (Act) and Regulations made pursuant to the Act, upon preparation of necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by the Act, and on receipt of a response from the EPA indicating that the draft Amendment is not to be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the draft Amendment.**

REASONS

City recommendations for introducing the R-AC3 coding into the Dunsborough CBD and re-coding the zones on Geographe Bay Road from R15 to R80 was included in an **Omnibus Amendment** advertised in Nov 2015. These recommendations were included amongst **many** other suggested changes to the Local Planning Scheme, allowing insufficient focus on an important consideration for ALL community members within the region.

This was recognised at the time and a Special Elector's Meeting was called for via a community petition in March 2016. A question was asked at the Special Elector's Meeting around the re-coding and the question and the response are highlighted below (taken directly from the minutes available to the public):

> ***4. Why is the increase (or relaxation) in heights for buildings in the CBD's of Busselton and Dunsborough deemed necessary – especially to R80 and the introduction of R-AC3.***
>
> *Answer: The proposed R80 density increase in Dunsborough will continue to be controlled by clause 5.8 of the Scheme, in other words, retaining the two-storey and three-storey height controls. The Amendment proposes to alter clause 5.8 by increasing the permitted height from 7.5 metres to 9 metres and from 10 metres to 12 metres, depending on the distance of a property from the Mean High Water Mark. This is discussed within the Amendment document at section "4F. Increasing the general permitted height for buildings" (page 16).*
>
> *The proposed relaxation of the height controls as it relates to the CBDs proposes to align with the Residential Design Codes (R-Codes) for the areas identified with the proposed R-AC3 coding.*

This is a clear indication that at that time (March 2016), the City intended to control the building heights to no more than 3 storeys by utilising clause 5.8 of the Scheme relating to the high water mark. This should have been applied to the recent 4 storey apartment DA and discussed at the JDAP hearing?

Communication with Dunsborough residents has highlighted community concern over future building heights within the Dunsborough Town Site and along Geographe Bay Road and there has been significant opposition expressed regarding the proposed 4 storey Apartment Building opposite Seymour Park. There were 120 respondents that replied and 93% of those were opposed to the development.

A recent petition submitted by the DPA with over 740 signatures clearly demonstrates the community's perspective regarding building heights on Geographe Bay Road, Dunsborough.

Having attended the Urban Design Workshop late last year, it was also clearly identified that the unique, quaint, beachside, **'village'** character of the town was crucial to maintain moving forwards, and this included the need to cap building heights. The Dunsborough Foreshore and in fact the town centre is not compatible with 4 storey buildings. Mixed use can still be achieved with a 3-storey building if desired.

Whilst there is an Activity Centre Plan currently underway, this is still some time away. Given the impending 4 storey apartment building currently being reviewed at JDAP and that a house close by has now gone on the market, advertising the benefits of their R80 zoning, I feel it is imperative we consider this matter now and recommend Amendment No 50 to the City of Busselton Local Planning Scheme No 21 is modified by amending the R80 coding to R60 as per the attached motion and map.

OFFICER COMMENT

Introduction

Officers have a range of concerns with the proposed motion that the Council may wish to consider in determining whether or not it is supportive. Those concerns generally relate to either the process that has led to the motion being proposed, or to the outcome that may result if the motion is supported by the Council (and ultimately supported by the Hon. Minister for Planning, noting that the Minister is the final decision-maker for town planning scheme amendment proposals). Officers also feel it may be useful for the Council to be aware of some more of the background associated with the R80 density coding that currently applies to the subject land. Comments are presented below under the sub-headings 'Process', 'Outcome', 'Background' and 'Conclusion'.

Process

Changes of the kind proposed, especially where such changes may significantly reduce the development potential of the affected land, would usually be preceded by strategic planning, including consultation, before the formal process to actually change the zoning is commenced. That allows for a fuller exploration of the issues before particular zoning changes are actually advanced, and supports considered decision-making and procedural fairness.

The proposed motion, whilst supported by a petition, has not been informed by prior strategic planning or any other consultation. It is also contrary to the strategic planning direction established by the Council over a number of years, leading up to the introduction of the R80 coding over the subject land; and the setting of that direction did involve multiple rounds of consultation.

Wherever possible, local governments should seek to avoid making *ad hoc* planning decisions. Doing so undermines faith in the soundness and consistency of decision-making, and denies those that may be affected by the decision reasonable opportunities to both be informed about, and provide input into, decision-making.

The Council has itself also already supported a process to provide more detailed planning and design guidance for the Dunsborough Town Centre; through a February 2018 resolution to prepare what was then referred to as an Activity Centre Plan. Work to develop that plan (now known as a 'Precinct Structure Plan') has been underway since that time, and it is expected that a draft will be able to be presented to the Council in coming months. The subject land is within the area expected to be subject of that plan.

An *ad hoc* decision to start a town planning scheme amendment before that plan has been considered by the Council will take resources away from the Precinct Structure Plan work, slowing that process down (also note that the cost to the City of the proposed amendment, in staff time and other costs, such as advertising, is estimated to be approximately $10,000-$15,000). There is also a strong likelihood that the WAPC and/or Hon. Minister for Planning will not support, or not make a final decision on, the amendment until the Precinct Structure Plan has been subject of a final Council recommendation to the WAPC. As such, should the Council ultimately consider that a reduction in permitted (or greater controls over) building height or development density on the subject land is appropriate, the proposed motion may (in fact, is likely to) mean that the desired change takes longer to come to fruition, rather than less.

There has been a suggestion from some community members that the commencement of the amendment process may change the outcome of an application on the subject land before the amendment process has actually been completed. It is the view of officers that the change proposed would not have a material impact unless and until any amendment process is actually complete.

The current context is quite different to the 'Puma' proposal, which was ultimately withdrawn following several rounds of Development Assessment Panel, State Administrative Tribunal and Supreme Court proceedings. Changes to the town planning scheme (i.e. Amendment 29 – see further information in 'Background' below) advanced whilst those proceedings were underway were actually completed before the application was withdrawn. Those changes were also supported by the broader strategic planning framework, and meant that it was at least arguable that aspects of that proposal could no longer be lawfully approved (i.e. there was no discretion to approve). The proposed motion is not supported by the broader strategic planning framework and would also not mean that development at the equivalent of an R80 density could not be lawfully approved on the subject land.

It is also not entirely clear what the proposed change is seeking to achieve or why, other than a reduction in the building height that would ordinarily be permitted on the subject land (and it is understood that people may see that as being desirable, but the setting of planning direction ordinarily requires a deeper understanding of why, and a fuller exploration of how, before formal processes commence). If that is the key aim, however, it should be noted that there are alternative means of controlling height, but proceeding straight to the formal town planning scheme amendment process means that the opportunity to better understand the aims, or explore those alternative means, is significantly reduced.

The introduction of the R80 density coding currently in place followed a long process, principally over the period 2013-2017 (beginning with the Council adopting the *Dunsborough Town Centre Conceptual Plan* in draft form in early 2013, and culminating in the Gazettal of Amendment 1 to the *City of Busselton Local Planning Scheme No. 21* in mid-2017). Whilst Amendment 1 was very broad-ranging, and that can create challenges with consultation (i.e. some elements may get 'lost'), there were a number of submissions addressing the then proposed introduction of the R80 density coding (so, in practice, it was certainly not 'lost' entirely). The same proposal had also been previously set out in the draft Conceptual Plan, which was a more focused/targeted set of proposals.

The Council decision to include the proposed re-coding and re-zoning of the subject land as a proposal in the draft Conceptual Plan in early 2013 was an extension of earlier work, which had identified that it would be appropriate to support greater building height and density in both the Busselton City Centre and Dunsborough Town Centre, and some adjacent areas, and to also support development which would link and integrate the cores of those two centres with the adjoining foreshore areas. A summary of that history is set out in the 'Background' section below.

That long process provided the community and the Council with multiple opportunities to comment on the proposed planning direction before changes to the town planning scheme that actually governs development were formally initiated. There was then a further round of consultation before final decisions were made to actually change the town planning scheme. Whilst there were submissions received opposing or raising concerns with the proposed direction, supportive submissions were also received, and the Council considered the issues raised in the submissions before making each of its decisions.

A further reason for undertaking consultation before town planning scheme amendment processes are formally commenced is that, once an amendment process has been started by the Council it must be continued to conclusion, in the form of a final decision by the Hon. Minister for Planning. Whilst the Council can recommend modifications or that an amendment is not approved at all, if the Minister has a different view to the Council the Minister's decision is final (other than if there is a disallowance motion in the Parliament).

Outcome

If the proposed motion is supported, and ultimately results in the recoding of the subject land from R60 to R80 (i.e. if the amendment was ultimately supported by the Minister), it may significantly reduce the development potential of the affected land. There would, however, continue to be discretion to approve development that, in terms of height and/or density, was greater than the 'normal' controls applicable under the R60 density coding (some information on those controls is set out in 'Background' below). It is therefore difficult to know exactly what the outcome would be in the fullness of time. For simplicity's sake, the focus below is on what impact a reduction in potential building height from four down to three storeys would have – which is understood to be a key aim of the proposed motion. The potential impact of continuing to support development up to four storeys is also discussed.

An obvious impact of not supporting development of four storey buildings on the site is that someone who may want to live in, or own, a fourth storey apartment, would not be able to do so. A less obvious but also potentially real impact is the prospect that not allowing the development of fourth storey apartments would mean that a development does not occur at all (because it is uneconomic), meaning that the opportunity to live in or own apartments on lower floors is also reduced. Also less obvious and potentially real impact is the likelihood that other land uses, which provide business and other opportunities for the community, such as cafes, are also not developed at all.

The opportunity for more people (and for people of somewhat lesser wealth, who may not be able to afford a house in such a location) to live close to the beach and Town Centre may also be reduced (although it is unlikely that any apartments delivered in this location would constitute 'affordable housing', as that term would ordinarily be understood). The development of apartments in Dunsborough is also potentially important in allowing people to 'age in place', in providing greater housing choice and diversity, and in reducing urban sprawl. It is also understood that there is significant interest amongst existing Dunsborough residents in owning or living in apartments in proximity to the beach and Town Centre. The value of the affected land is also likely to be reduced through a reduction in the density coding (although in and of itself, that is not an important planning consideration). Given the above, it is clear that a reduction in permitted height could have significant negative impacts.

Restricting building or development density can of course have these kinds of impacts in general, and could conceivably be used as arguments against most planning controls. That is why it is important to consider both the potential negative and the potential positive impacts of development controls or their absence. Other than with respect to those who live in or own adjoining properties, it is not clear what impact continuing to support four storey development *per se* would have on the community. The nature of the foreshore reserve on the opposite side of Geographe Bay Road is such that, in almost all instances, a fourth floor will be no more visible from the beach than would a third floor, and a third floor no less visible than a fourth floor from Geographe Bay Road itself.

Even if the potential differences in terms of impact were significant, they may potentially be addressed without actually reducing maximum building height. For instance, through 'stepping back' the portion of a development above the third storey, so that it is less apparent when viewed from outside the site. Processes are currently underway to support introduction of greater design guidance and control, as set out in 'Background' below. Restricting height, in and of itself, though, can reduce design flexibility and quality (in simple terms, there are many examples of attractive four storey buildings and unattractive three storey buildings, and vice versa).

The differences between three and four storey development are perhaps more around 'character' or 'identity'. Those are legitimate and important planning considerations, and the experience in Western Australia and elsewhere is that there will often be angst when relatively dense or high development is proposed for the first times in particular communities. The development of more apartments and relatively dense/high development in and around the Dunsborough Town Centre, as supported by the current planning framework, if it occurs, will change the character of Dunsborough, especially the central part of the town. The character of the central part of the town is likely to change in coming years, though, even in the absence of apartment development – as there are also significant opportunities for additional commercial development. It is, however, seen as unlikely that development up to three storeys would have significantly different impact than development up to four storeys.

Background

The R80 density coding was applied to the land through Amendment 1 to the City's current town planning scheme (*City of Busselton Local Planning Scheme No. 21* – 'LPS21'). Amendment 1 was what is described as an 'Omnibus Amendment' (note this is not a formal or defined category), in that it contained a range of different, often unrelated, changes, rather than simply 'rezoning' a specific site. The City has periodically undertaken Omnibus Amendments of that kind, both before and after the Gazettal of LPS21 in 2014 (although the WAPC has recently indicated that the City should not undertake further Omnibus Amendments ahead of the new scheme currently in preparation).

The scope of Amendment 1 was particularly broad, for two key reasons. Firstly, for a period of around three years there had been a 'moratorium' on amendments to the previous scheme (*Shire of Busselton District Town Planning Scheme No. 20* – 'TPS20') to allow for the finalisation of LPS21, which was a 'policy neutral, consolidation' of TPS20. That was necessary because TPS20 was by that stage very difficult to work with, and as the City did not have an adopted Local Planning Strategy, it was not possible to change the substantive planning direction through the new scheme (i.e. LPS21). Secondly, prior to and during the moratorium period, the Council had adopted a range of planning strategies or other documents that established its strategic planning direction, and substantial change to the scheme was required to reflect that direction.

The planning strategies and other documents particularly relevant to Dunsborough Town Centre and adjacent areas were the –

1. *Local Commercial Planning Strategy* (LCPS) – adopted by the WAPC in 2011;
2. *Local Cultural Planning Strategy* (LCultPS) – adopted by the Council in 2011, but only 'noted' by the WAPC;
3. *Local Tourism Planning Strategy* (LTPS) – adopted by the WAPC in 2013; and
4. *Dunsborough Town Centre Conceptual Plan* (DTCCP) – adopted by the Council in 2014 (not forwarded to WAPC for consideration, as it was not intended to form part of the planning framework in a way that would require consideration by the WAPC).

Development of the first three documents listed above commenced in 2006, as part of what was then referred to as the 'scheme review' process. The recommendations of each of those documents, which are not always entirely consistent or aligned with each other, were considered by the Council in initiating and finalising Amendment 1. Key relevant recommendations of those documents are set out below.

Since Amendment 1 was finalised, the City's *Local Planning Strategy* (LPS) has also been finalised, although it was in draft form when Amendment 1 was progressed. There has also been a further Omnibus Amendment (Amendment 29) which made changes to planning controls in the Dunsborough Town Centre.

In addition, since Amendment 1 was Gazetted there have been changes to the *Residential Design Codes of WA* (R-Codes), with the effect that 'R80' (or 'R60') does not have exactly the same meaning and effect as was the case when Amendment 1 was Gazetted.

Some information about Amendment 1, Amendment 2, the LPS and the R-Codes (and the height controls in LPS21) is also set out below. Some information on the 'Dunsborough Activity Centre Plan' – which due to changes in State level terminology will now be called the 'Dunsborough Precinct Structure Plan' (Dunsborough PSP) is also provided below. Information regarding the mooted establishment of a 'South West Design Review Panel' (SWDRP) is also provided.

Local Commercial Planning Strategy

The Local Commercial Planning Strategy contains the following recommendations:

21) Council should consider a wide reaching TPS Amendment to facilitate mixed uses in the Business zone. One of the key platforms of this amendment should be a revision of the policy statement to allow residential development beyond a 'subsidiary' interpretation in the Business zone…

28) Council should consider the preparation of an amendment to the TPS to facilitate the following land use changes in the Dunsborough town centre:

a. A clarification of the term subsidiary in reference to residential uses in the policies for the Business zone (as per the suggested amendment for Busselton).

b. The rezoning of the land along Dunn Bay Road (excluding the parkland) to allow higher intensity, mixed use development…

29) Council should commission a study of urban design improvements in the Dunsborough town centre, with particular reference to the development of a design theme for inclusion into the TPS as a policy.

30) Council consider amending the TPS to lift height limits in the town centre and to rezone the selected sites to an R40-R80 designation.

31) The development of buildings higher than three storeys in Dunsborough town centre should require a careful consideration of design issues and the development of more detailed planning guidelines relating to taller buildings.

Local Cultural Planning Strategy

The Local Cultural Planning Strategy contains the following recommendation:

Recommendation 9.2:

That there continue to be detailed design guidance for the Busselton and Dunsborough town centres, that should be refined over time, and that the following development incentives are considered:

- *Mixed-use development – where both commercial and residential/ accommodation uses each constitute a minimum of 25% of the floorspace of a proposed development, up to a 50% density bonus in terms of both unit density and plot ratio.*
- *Places for informal social interaction – where a development incorporates a restaurant, small bar or café that meets minimum specifications, do not count that space as part of plot ratio calculations, and do not require the provision of car parking for the first 100m^2 of this floor-space, and provide up to a 25% density bonus in terms of plot ratio for the remainder of the development.*
- *Non self-contained tourist accommodation (hotel style) – generally support development up to 5 storeys high, where detailed design issues are adequately addressed no density or plot ratio controls, car parking provision reduced from 1 bay per unit to 1 bay per 2 units (and to nil if paid parking is introduced into either town centre in future).*

- *Affordable housing – up to a 100% density bonus in terms of unit density and a 50% bonus in terms of plot ratio for 1 bedroom dwellings (note that, because of provisions of state planning policy, up to a 50% density bonus in terms of unit density would otherwise apply) and up to a 50% density bonus in terms of both unit density and plot ratio, and a reduction in on-site resident car parking provision from 2 bays per dwelling to 1 bay per dwelling for 2 bedroom dwellings.*
- *Where more than one of the incentives is triggered, incentives may be accumulated, up to maximum of a 100% density bonus in terms of both unit density and plot ratio.*

Local Tourism Planning Strategy

The Local Tourism Planning Strategy contains the following recommendation (part of Recommendation 1) -

The following sites are identified as 'Tourist' zoned land where alternative zonings may be considered (see also Table 4): Site 42 - Lot 500-502 (394-398), Bussell Highway, Broadwater…

Site 57 - Bay Village Resort, Lot 200, Dunn Bay Road, Dunsborough

Site 58 - Dunn Bay Centro, Lot 510 Dunn Bay Road, Dunsborough

Site 59 - Lots 108-112 (13-21) Dunn Bay Road, Dunsborough

Site 60 - Lot 202 (24) Dunn Bay Road, Dunsborough

Dunsborough Town Centre Conceptual Plan

The image below illustrates the key relevant elements of the DTCCP in relation to the proposed motion.

A copy of the DTCCP is provided as Attachment B.

The reports considered by the Council in relation to the DTCCP (which also related to a similar plan prepared for the Busselton City Centre) set out the key rationale for identifying the area close to the town centre, along Geographe Bay Road, and represented a crystallisation of much of the thinking in the earlier documents. The key rationale (set out in the pre-consultation report) was as follows –

> *Neither centre currently takes sufficient advantage of their proximity to Geographe Bay. The two respective foreshore enhancement projects will help in ameliorating that, but the centre of gravity of both centres is currently separated from the public foreshore areas by areas of relatively low or intermittent activity. Planning encouragement and/or other incentives may be necessary to assist in properly linking the two centres with their respective foreshores. A key aim should be the creation of a continuous chain of interest and pedestrian amenity from the middle of each centre to the foreshore and coast.*

The R80 coding indicated on the DTCCP was included in the draft DTCCP subject to consultation prior to final adoption by the Council.

Local Planning Strategy

The LPS was adopted by the WAPC in final form in early 2020, but had been in draft form since 2016 (and in working draft forms as early as 2014).The LPS sets out the following strategy (Strategy 1(f)):

> *f) Support and pro-actively plan for urban consolidation and redevelopment (including through increases in permissible residential density) in existing urban areas, especially in areas close to the Busselton City Centre, Dunsborough Town Centre and other activity centres identified in the activity centre framework. Support other proposals for redevelopment/consolidation (including through increases in permissible residential density) in existing urban areas, or for increases in planned development density in urban growth areas, especially in close proximity to activity centres or high amenity areas, such as in coastal locations, adjacent to open space, or which are close to significant community facilities. Planning for consolidation should have regard to Special Character Areas, amenity, streetscape and Western Ringtail Possum habitat.*

Amendment 1 was consistent with the above, although it does not represent the complete implementation of that strategy.

Amendment 1

Council considered the recommendations described above in initiating Amendment 1 (other than the LPS; finalised after Amendment 1). The Council considered Amendment 1 twice after advertising, before and after a Special Electors Meeting called in relation to the Amendment. Some key information in relation to the land subject of the proposed motion is as follows:

1. *Correspondence was sent directly to close to 1,800 landowners, including…those within the Busselton city centre and Dunsborough town centre and those in residential areas proposed for, or abutting, the A74 and R80 areas recommended in the draft Omnibus Amendment*.
2. *Dunsborough Town Centre (35 submissions):*
    - *4 in support of proposed Additional Use A74 and R80 coding areas over residential land;*
    - *1 request to be included into proposed Additional Use A74 and R80 coding areas;*
    - *15 objections to the proposed Additional Use A74 and R80 coding areas over residential land…*

3. Attachment C sets out the relevant discussion included in the first report considered by the Council after consultation (as there were no specific concerns identified by the Council after the first report, further information on this aspect of Amendment 1 was not provided in the second report).

It is apparent that a number of those that made submissions on the A74/R80 proposals were aware of the intended direction in terms of density and height controls, but it is acknowledged that it was not highlighted in the consultation material associated with Amendment 1.

Amendment 29

Subsequent to Amendment 1, a further Omnibus Amendment that affected the Dunsborough Town Centre was undertaken; Amendment 29. Amongst other things, Amendment 29 introduced a range of urban design controls for both the Busselton City Centre and Dunsborough Town Centre, addressing many of the recommendations of earlier documents for additional urban design guidance, although in the higher status form of the town planning scheme itself, rather than in the lower status form of a local planning policy, adopted pursuant to a local planning scheme. Those controls are set out in clause 4.21 of LPS21.

R-Codes / LPS21 height controls

The R-Codes have existed in various forms in Western Australia since the 1990's. They have generally been 'read-in' to local government town planning schemes, and set out a wide range of controls relating to things like density, setbacks, overlooking and overshadowing. The R-Codes do not treat all residential land in exactly the same way, and identify an array of different 'residential density codes' that can be applied to suit the context – such as 'R20', 'R60' or 'R80'.

Standard sets of controls apply to land identified under each coding on local government town planning scheme maps. Local governments can, though, make variations, either through provisions in their town planning scheme (such as clause 4.3 of LPS21) or, in some limited circumstances, through a special form of local planning policies, adopted pursuant to specific powers in the R-Codes. Note that the controls, whether they are set out in the R-Codes, in the town planning scheme, or in local planning policy, are generally not inflexible standards that cannot be varied.

LPS21 also contains generic height controls, in clause 4.8. Those generic height controls are 9 metres/two storeys, within 150m of the coast, or 12 metres/three storeys in most other areas; and in some instances those controls are inconsistent with those in the R-Codes.

The various residential density codings used to be a shorthand for the primary density controls in dwellings per hectare. For instance, 'R40' meant roughly 40 dwellings per hectare, or an average lot size of 250 square metres. That is still the case for development of Single Houses or Grouped Dwellings (houses or units), but is no longer the case for Multiple Dwellings (apartments), where the primary density control is now plot ratio. Plot ratio is the ratio of the total floor area of all floors of all buildings on a site relative to the ground area of the site. For instance, on a 1,000 square metre lot, if the plot ratio is 1.0, that means the total floor area of all floors can also be 1,000 square metres. That could consist of one single storey building of 1,000 square metres, or a two storey building with two floors of 500 square metres each. Some floorspace, such as common use corridors or lift shafts, is excluded from plot ratio calculations.

The image below illustrates the current 'primary controls' for multiple dwellings development:

Table 2.1 Primary controls table

	Applies to R-Code areas, default settings apply unless alternative provisions defined in local planning instruments						Applicable where designated by local government in local planning scheme, activity centre plan, structure plan, local development plan, local planning policy				
Streetscape contexts and character *refer A2*	**Low-rise**		**Medium-rise**		**Higher density residential**		**Neighbourhood centre**	**Mid-rise urban centres**	**High density urban centres**		**Planned areas**
Site R-Coding	**R40**	**R50**	**R60**	**R80**	**R100**	**R160**	**R-AC4**	**R-AC3**	**R-AC2**	**R-AC1**	**R-AC0**
Building height (storeys) *refer 2.2*	2	3	3	4	4	5	3	6	7	9	**Refer to local planning scheme, local dev plan and/ or precinct controls as applicable**
Boundary wall height (storeys)[1,2] *refer 2.4*	1[3]		1[3]	2[3]	2[3]		2	3	4		
Minimum primary and secondary street setbacks *refer 2.3*	4m[4]	2m	2m		2m		2m or Nil[5]	2m or Nil[5]	2m or Nil[5]		
Minimum side setbacks[6] *refer 2.4*	2m	3m	3m		3m		Nil				
Minimum rear setback *refer 2.4*	3m		3m		6m		6m	Nil	Nil		
Average side setback where building length exceeds 16m *refer 2.4*	2.4m	3.5m	3.5m	3.5m	3.5m	4.0m	NA	NA	NA		
Plot ratio[7] *refer 2.5*	0.6	0.7	0.8	1.0	1.3	2.0	1.2	2.0	2.5	3.0	
Notes	[1] Wall may be built up to a **lot boundary**, where it abuts an existing or simultaneously constructed wall of equal or greater proportions [2] Where the subject **site** and an affected adjoining site are subject to different density codes, the length and height of any boundary wall on the boundary between them is determined by reference to the lower density code [3] Boundary wall only permitted on one boundary, and shall not exceed 2/3 length. [4] Minimum **secondary street setback** 1.5m [5] Nil **setback** applicable if commercial use at ground floor [6] Boundary **setbacks** will also be determined by provisions for **building** separation and visual privacy within this SPP and building separation provisions of the **NCC**. [7] Refer to Definitions for calculation of **plot ratio**										

Assessment against the R-Codes, however, does not turn entirely on assessment against quantitative standards. In particular in cases where quantitative standards are not met, an assessment against the 'Element Objectives', with those that relate to building height set out below:

ELEMENT OBJECTIVES

Development is to achieve the following Element Objectives:

O 2.2.1 The height of **development** responds to the desired future scale and character of the **street** and local area, including existing **buildings** that are unlikely to change.

O 2.2.2 The height of **buildings** within a **development** responds to changes in topography.

O 2.2.3 **Development** incorporates articulated roof design and/or roof top **communal open space** where appropriate.

O 2.2.4 The height of **development** recognises the need for **daylight** and **solar access** to adjoining and nearby residential development, **communal open space** and in some cases, public spaces.

ACCEPTABLE OUTCOMES

In Part 2 only, Acceptable Outcomes are default provisions to assist in satisfying the objectives. In order to achieve the Element Objectives, proposals may require additional and/or alternative design solutions in response to the site conditions, streetscape and design approach where specified in the local planning framework (clause 1.2).

A 2.2.1 **Development** complies with the **building** height limit (**storeys**) set out in Table 2.1, except where modified by the **local planning framework**, in which case development complies with the building height limit set out in the applicable local planning instrument.

Since Amendment 1 was gazetted there have been several rounds of changes to the R-Codes. That includes changes to generic height controls that move away from a focus on heights in metres, to a focus on the number of floors. It also includes an increase in the plot ratio control for land coded 'R60' from 0.7 to 0.8. The scope and detail of controls relating to medium density and/or mixed-use development have, in general, been increased since Amendment 1 was gazetted. To some degree, that reduced the need and potential scope for more detailed controls at the local level.

The inconsistency between the R-Codes primary controls for the R80 coding and the controls in LPS21 was identified in the 'Responsible Authority Report' (RAR) presented to the Regional Joint Development Assessment Panel (RJDAP) on the application for development approval which is understood to have been a key trigger for the proposed motion. If the controls in LPS21 were applied to the site, building height would be a consideration for any buildings over two storeys in height (as the site, at least in part, is within 150m of the coast).

Notwithstanding advice provided to Council in the past, it is fairly clear that, in the context, the R-Codes controls need to be given significant weight, as it would simply not be possible to develop a building at either an R60 or R80 density, at a height of only two storeys. Given the conflict between LPS21 and the R-Codes, there may be some discretion available to the RJDAP with respect to height. The RJDAP is not confined to the advice provided in the RAR prepared by the City; in particular specialist members are often highly qualified and experienced professional planners themselves. The RJDAP did defer consideration of the application, pending changes or further information in relation to several aspects of the proposed development, but not in relation to building height.

Dunsborough Precinct Structure Plan

The land subject of the proposed motion is included within the area to be subject of the Dunsborough Precinct Structure Plan. The work to prepare what is now referred to as a PSP followed a Council resolution on 14 February 2018 to support the preparation of what was then referred to as an 'Activity Centre Plan' (ACP), for the Dunsborough Town Centre.

The report considered by the Council before making that decision set out that:

> *The primary focus of the ACP will be to address the following matters:*
>
> 1. *Providing development standards for building design and servicing:*
>
> a. *Special provisions and/or standards based on the desired streetscape (e.g. potentially by streetscape type as per approach for Busselton in LPP 4A). This includes consideration of specified controls for vertical zoning of land use, building setbacks, awnings/ verandas, façade/ frontage, crossovers, landmark features, etc.*
>
> b. *Special provisions or standards relating to the transition between land use areas, zones and public reserves (e.g. setbacks between land zoned as Business RAC-3, Residential R80/A74 and Residential R15);*
>
> c. *Potential identification of specialised precincts:*
>
> i. *By land use types, and means to facilitate their development;*
>
> ii. *By building design, via specific design/ architectural guidance.*
>
> 2. *Outlining future road and streetscape design (at a conceptual/ strategic level) and the integration of transport infrastructure:*
>
> a. *Potential road traffic and parking improvements, including public transport and cycling infrastructure (including the connection of Clark Street to Cape Naturaliste Road);*

b. Identify crossover restrictions and the preferred provision of parking associated with development (eg. on-site or cash-in-lieu);

c. Pedestrian accessibility, network linkages and wayfinding, and means to provide for active and alternative modes of transport.

3. Identifying future community infrastructure and servicing requirements, including the function and utilisation of publicly managed lands:

a. Clark Street connection to Cape Naturaliste Rd and other strategic proposals;

b. Strategic infrastructure projects, including land acquisitions and divestments;

c. Proposed changes to the development and management of public lands, including open space, and place-making opportunities.

The purpose of a PSP (or ACP, under earlier terminology) is the coordination of the future subdivision, zoning and development of the affected area. Where a PSP is under preparation, it would generally be expected that zoning changes, such as those set out in the proposed motion, would not be advanced ahead of the PSP process.

City officers are currently drafting a Dunsborough PSP for formal consideration by the Council. If the Council elects to adopt a draft Dunsborough PSP, community consultation would then occur, followed by further Council consideration, and the making of a recommendation to the WAPC. If the PSP recommended zoning changes (or other changes to the town planning scheme), that would not ordinarily occur until after the PSP process had been completed. If the Council was minded to, though, it could conceivably run both processes in parallel, potentially reducing the total timeframe involved substantially.

The City has undertaken a number of background studies to inform development of the draft Dunsborough PSP, specifically a retail/economics study, a parking study and, more relevant to the proposed motion, an urban design assessment. The final assessment, which will inform, but does not direct, the draft Dunsborough PSP, is expected to be available in the next few weeks.

Officers do expect that, when the draft Dunsborough PSP is presented to the Council, it will include proposals to provide greater guidance around building height and bulk than those that are currently in place. The Council will also have an opportunity to propose additional or different controls at that time.

South West Design Review Panel

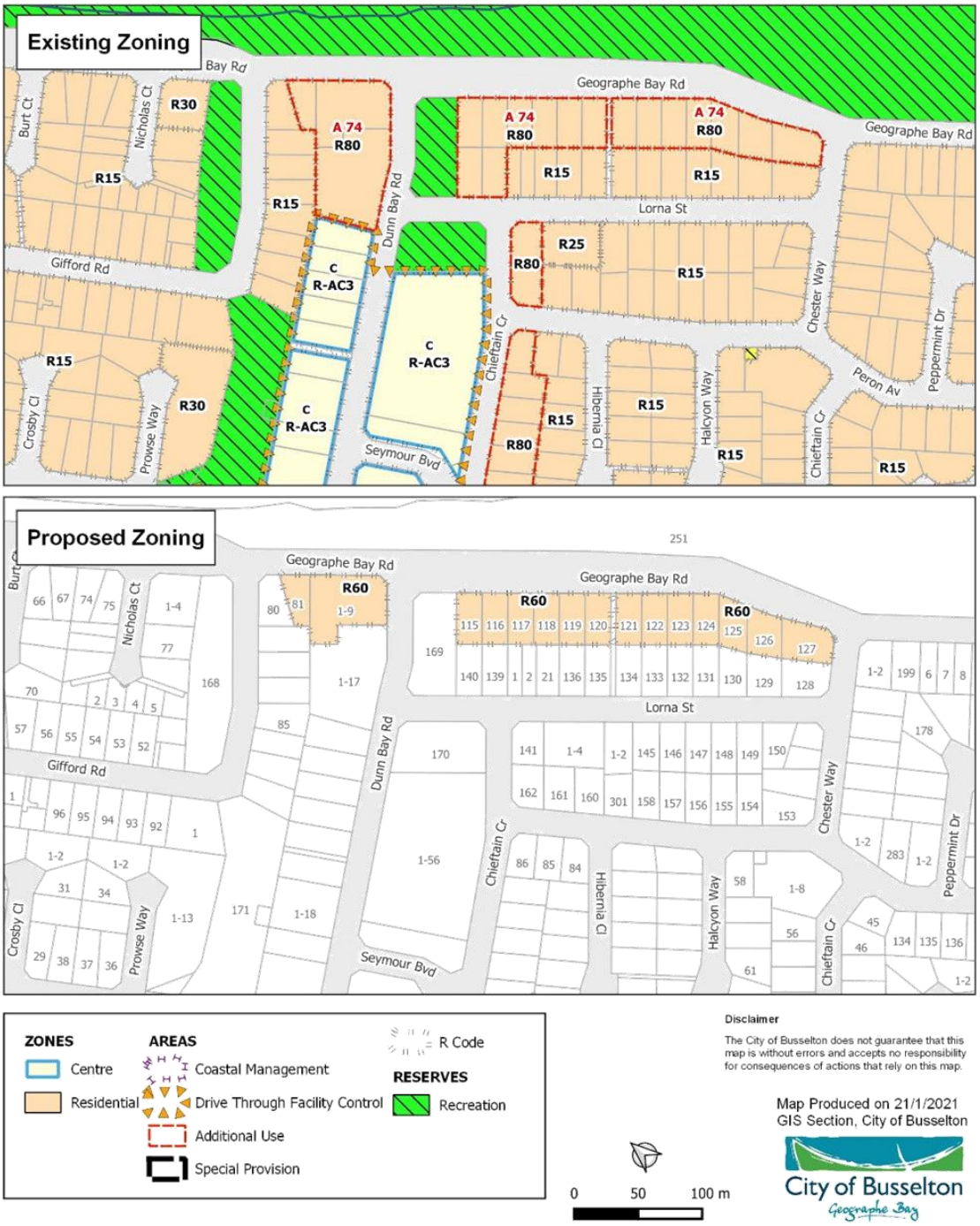
As part of a suite of measures to improve design, especially of medium or high density development, 'design review panels' have been established in WA in recent years. A 'State Design Review Panel' has been established for major proposals being assessed by the WAPC, and many Metropolitan local governments have also established panels. The aim is to obtain the input of independent design professionals as early as possible in the design process for a new project. The City is currently working with other South West local governments, in particular the City of Bunbury and Shire of Augusta-Margaret River, with the aim of establishing a 'South West Design Review Panel'.

Conclusion

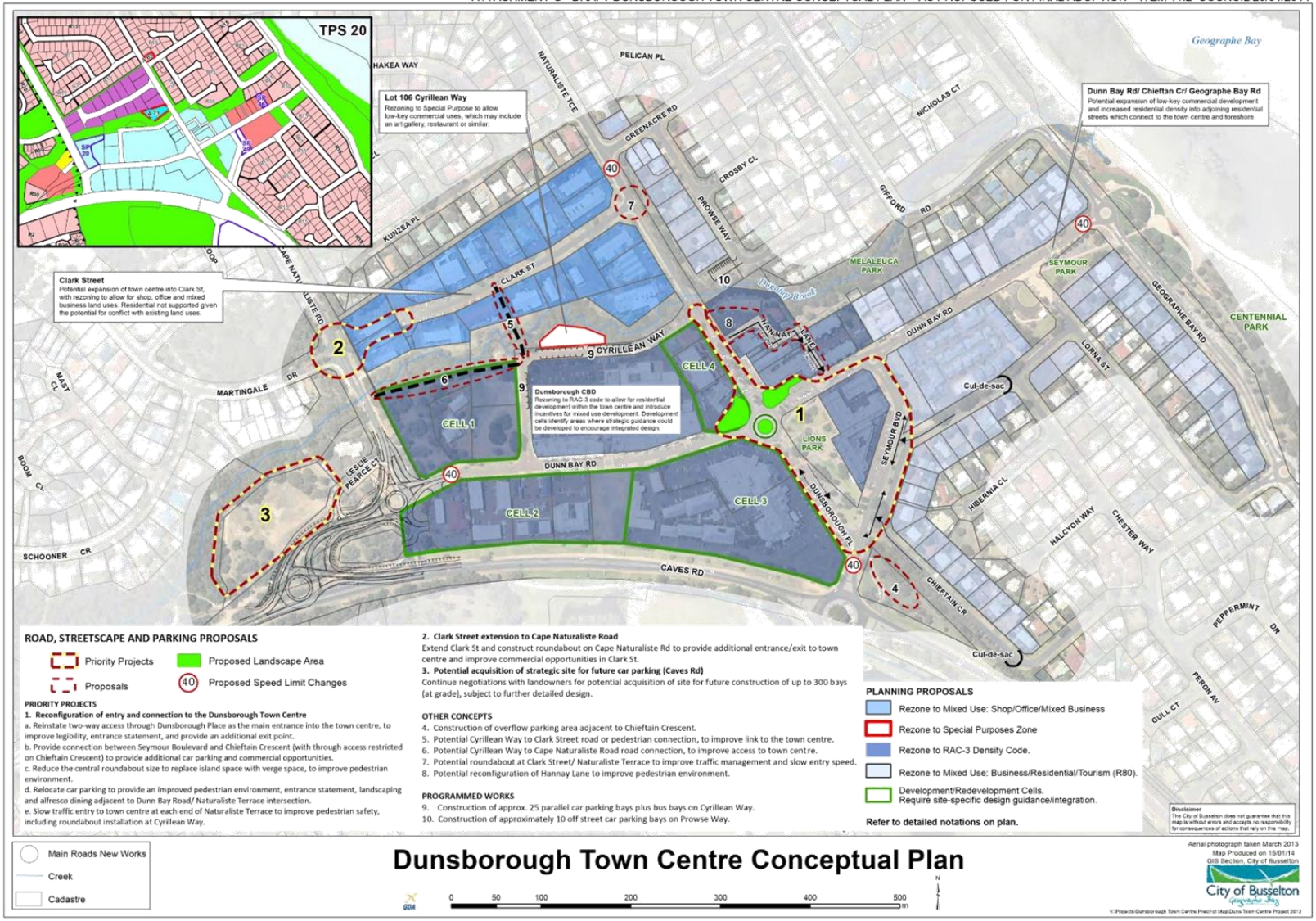
It is considered that additional design guidance and control is required for both the subject land and the Dunsborough Town Centre area more broadly. It is, however, considered that the proposed motion is *ad hoc*, would not make a significant contribution to improving design outcomes, and would actually slow down the process of putting that additional guidance in place. It also considered that, whilst there are clearly community concerns around denser and/or higher development occurring in and around Dunsborough Town Centre, support for development of that kind in a broad sense is clearly set out in the planning framework.

SCHEME AMENDMENT MAP

City of Busselton
Local Planning Scheme No.21 Proposed Rezoning Dunsborough
Sheet 9 - Lots 1-9, 81 and 115-127 Geographe Bay Rd, Dunsborough



ATTACHMENT G - DRAFT DUNSBOROUGH TOWN CENTRE CONCEPTUAL PLAN – AS PROPOSED FOR FINAL ADOPTION ITEM 11.2 COUNCIL 29/01/2014



1. 'Additional Use' A74 and Dunsborough R80 coding; and
2. Dunsborough Town Centre Height and R-AC3 Rezoning in the CBD

The main concerns in relation to the proposed 'Additional Use' A74 area, R80 'upcoding' and relaxation of building height controls in the Dunsborough Town Centre and nearby areas focus on potential for noise and nuisance at night, increased traffic and parking issues, loss of privacy and overshadowing, potential influences on property values and rates and worry about the affects zoning changes might have on the character of the Town Centre and nearby areas.

It is worth considering these, and related concerns and objections, *holistically*. The following background is provided also in the 'Comment' of the 'Schedule of Submissions', in response to Submission 18 (and, by extension, those other submissions raising identical or very similar concerns and objections) in regard to Dunsborough.

Despite the understandable contention or desire of some residents and community members in seeing it this way, Dunsborough is no longer 'a little coastal town'; it has become more vibrant, promising and challenging than that, in line with local and state government strategy and policy (and the majority support of residents, businesses and representative community groups). It is an important and attractive population settlement area that the Dunsborough Town Centre must be capable of continuing to service and support.

The planning changes and adjustments proposed for the town centre in Omnibus Amendment No 1 have essentially been drawn from and underpinned by the recommendations of the 'Local Commercial Planning Strategy' (2010) and the 'Local Cultural Planning Strategy' (2011) – along with those of the 'Dunsborough Town Centre Conceptual Plan', which was endorsed by the Council in January 2014.

The increased density and incremental expansion of core Town Centre/CBD commercial and retail (etc) uses and opportunities into the more historically established residential areas abutting these is considered *essential* to accommodate and support the viable and desirable future growth of Dunsborough per se. In respect to this, the *potential* population for the Dunsborough settlement has been identified in the 'Leeuwin Naturaliste Ridge Statement of Planning Policy 6.1' (LNRSPP) as being up to 20,000 people. The current resident population is around 8,000. Whether or not this potential future population is actually achieved, there is a long-standing recognition that such needs to be comprehensively, strategically and appropriately *planned for*.

The City of Busselton Draft 'Local Planning Strategy' (LPS) has identified the importance of the coordinated strategic expansion of the Dunsborough settlement that will be necessary to:

- *accommodate desirable population growth,*
- *further establish and continue to support and maintain a thriving local community,*
- *enable the timely provision of necessary public and community utilities, services, facilities and infrastructure;*
- *develop and promote/generate residential quality of life, local employment, and tourism-related, agricultural/horticultural, 'creative industry' and other business (etc) development opportunities.*

The draft LPS is anticipated to be advertised for public consultation in Feb/March 2016.

The future growth of the Dunsborough settlement will be necessarily limited and constrained by (inter alia) important coastal 'wetland amenity' and other environmental factors, high quality agricultural and horticultural land, diversification of land ownership, and the like. The only feasible growth and expansion area for the Dunsborough population settlement, therefore, has been recognised as being to the south-east of 'Dunsborough Lakes'. Structure planning for this area needs

to commence in the *short term* such that future demands for housing and associated urban development can be assessed and addressed to ensure effectively staged and varietal housing supply, stability in pricing and affordability, and the timely provision of associated supporting infrastructure (roads, footpaths, sports grounds, public open space, parking, health and education facilities, shops, restaurants, offices etc).

The constructive consolidation and well-planned, strategically timed *expansion* of the Dunsborough town centre will be vitally important for the provision of quality goods and services, retail shopping, office and business opportunities, local employment, tourist visitation and accommodation, civic and community facilities etc for the benefit of the local settlement, the municipality and the region. The City has, to date, planned (and is implementing) significant improvements to streetscapes, parking, public open space and other facets of urban development and improvement in the Dunsborough town centre - at all times consulting widely with residents, government agencies, community groups and other relevant parties. Given this (and that preceding) the potential for 'adverse impacts' from the planned future development of the town centre, whilst clearly *possible*, are not considered *likely* to occur. The City is committed to continuing constructive engagement with the local community to ensure 'transitional' improvements to the Dunsborough town centre are well-founded, well-consulted, broadly supported and highly successful.

In specific respect to the proposed areas of R80 and A74, and similar concerns raised in this and other submissions:

- Any potential for 'negative impacts' on adjoining residential properties - given that land use 'densification' and mixed use/business development opportunities in the Dunsborough town centre must be provided (as explained previously) in order to support the growth and development of the residential settlement and to maintain and promote commercial vibrancy, public amenity and community services – will be addressed and managed by the City through standard processes and procedures (e.g. development applications);
- In order to guide and assist such development, the City will be initiating the preparation of 'urban design guidelines' for the Dunsborough Town Centre and nearby areas (including those proposed as 'Additional Use' Area 74). Integrated planning initiatives and incentives will be examined, assessed and developed for mixed use and other built form design and development opportunities throughout;
- Further to the above, 'urban design guidelines' and/or associated 'special provisions' to guide and control desirable development in the town centre will also help manage and address the 'interface' between new R80 and A74 areas and adjoining residential land uses (e.g. privacy, over-looking/over-shadowing, building setbacks from boundaries, on-site car parking, waste disposal and noise management etc.);
- Improved traffic management, car parking, road connectivity and pedestrian permeability through and within the town centre will be developed and implemented in accordance with the endorsed 'Dunsborough Town Centre Conceptual Plan'.

It is noted that the R80 R-Code *does* create the ability for a multiple dwelling development to have a 7 metre high wall (with an average height of 6 metres) on the boundary. This is a significant but desirable increase from the 3.5 metres (average height of 3 metres) that currently applies for the R60 code and lower.

The application of further conditions on the proposed 'Additional Use' 74 areas could provide additional guidance on design requirements to ensure that potential town centre development will more thoroughly address, and assist to alleviate, prevailing concerns.

As advertised, the conditions in regard to A74 areas stated as follows:

"1. The Additional Uses specified shall be deemed to be "D" uses for the purposes of the Scheme.
2. *'Shop' land uses may be permitted at ground floor level only and occupy up to 50% of total development floor space.*
3. *A nil setback to the street shall be considered for active frontages.*
4. *The provisions of Clause 5.23 relating to cash in lieu of car parking shall apply."*

Officers recommend that the following condition also be included:

'5. Urban design guidelines (and/or Special Provisions) shall be prepared and adopted as a Local Planning Policy to address the following matters in relation to any proposed development:

- *Appropriate building setbacks to prevent or suitably mitigate overshadowing or overlooking of neighbouring properties;*
- *Built form articulation, architectural design, function, bulk, scale, massing, grain, signage and surveillance (in relation to the streetscape, surrounding buildings, adjoining land uses and the overall character and amenity of the subject development area);*
- *Vehicular access, and the location of crossovers/provision of onsite car parking;*
- *Roofscapes, skylines and service installation sites to ensure minimal visual intrusion.'*

There were no specific objections received in relation to additional uses such as 'Office', 'Medical Centre' and 'Professional Consulting Rooms' being introduced through proposed A74. However, several submissions *did* object to 'Restaurant', 'Tourist Accommodation' and 'Guesthouse' uses being included.

The *potential* to develop 'Restaurant' uses within the A74 area is considered important for the Dunsborough Town Centre (and its recognised role and character as a highly successful tourist destination) with possible key locations along, and close to, Geographe Bay Road being especially appropriate for such uses.

The potential for developing well-planned and -designed 'Guesthouse' and 'Tourist Accommodation' facilities within an expanded Additional Use area in the town centre is obviously crucial to accommodating and fostering the success of the tourist industry in Dunsborough and the surrounding District. Concerns about noise, nuisance and potential adverse impacts on character and amenity of existing and adjoining residential areas can be addressed through appropriate urban design guidelines (as previous) and operational management and control through the Health Act, Environmental Protection Act (Noise Regulations) and the like.

Options available for Council consideration:

- Modify the allowable uses included within proposed 'Additional Use' A74 area;
- Reduce the proposed density coding of R80 to R60: as well as reducing the built form density, this would also reduce the maximum plot ratio (from 1.0 to 0.7) and permissible height of boundary walls.

19. URGENT BUSINESS

20. CONFIDENTIAL MATTERS

Nil

21. CLOSURE