



ITEMS FOR DEBATE – COUNCIL MEETING 10 FEBRUARY 2021

ADOPTION BY EXCEPTION RESOLUTION

RECOMMENDATION

That the Officer Recommendations for items 13.2, 15.1 and 17.1 be adopted en bloc:

- 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
- 15.1 PROPOSED AUSTRALIAN UNDERWATER DISCOVERY CENTRE
- 17.1 COUNCILLORS' INFORMATION BULLETIN

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION (WITHOUT DEBATE)

Item No.	Item Title	Reason
18.1	NOTICE OF MOTION – INITIATION OF SCHEME AMENDMENT 50	Excluded from en bloc resolution to enable Cr Henley to make comment

ITEMS FOR DEBATE

Item No. 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	Pulled by Officers	Page 12
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AMENDED 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.

3.11 Details of a noise bund to the southern boundary to the satisfaction of the City, in addition to the noise reduction measures contained within the Approved Environmental Noise Assessment of Gravel Crushing by Acoustic Engineering Solutions dated 23 October 2020.

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 must not use the designated haulage route before 7.50am and between 4:00pm and 5:00pm 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 6. Other times as may be agreed in writing between the applicant and with 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.
- C. Authorises the Chief Executive Officer to negotiate with the applicants and Mr Vernon Bussell of 225 Nuttman Road, Walsall, with a view to having the 6.2m seal extended approximately 160m further south along Nuttman Road to a point past the second dwelling on Lot 3883 Nuttman Road, with the cost to be shared between the applicants and Mr Bussell (and, potentially, with other landowners to further extend the seal, should those landowners be prepared to make contributions towards such work).**
- D. Note that noise monitoring on the boundaries of the site is required by the Conditional Works Approval issued by DWER, and that either City or DWER may, on request, place noise monitoring equipment on adjoining or nearby sites.**

REASONS FOR AMENDMENT

In respect to proposed Condition 3.11, the noise monitoring does not show this as being necessary, but the applicant has agreed to undertake the additional bund on the southern boundary in addition to the proposed noise reduction measures contained within the Noise Assessment to provide greater comfort to the landowners to the south.

Condition 6.3 is proposed to be amended because a timetable for the school bus route for the year has been provided by Gannaways, who are the Public Transport Authority school bus contractor for the District. The proposed times that the trucks must not operate have been amended to ensure

trucks are not travelling along the designated haulage route when the school bus is within the vicinity. The condition also provides for changes without needing to amend the approval, should school bus times change during the life of the approval. Note that Mains Roads WA also has separate controls on Restricted Access Vehicles related to school bus movements.

Proposed point C would not be a valid or appropriate condition of approval, but both the applicant and Mr Bussell have indicated a willingness to contribute to extending the sealed portion of the road. It is considered that this is a positive outcome and point C reflects that, and also recognises that contributions from other owners may allow the sealed section of the road to be further extended.

Proposed point D notes that DWER will issue a Conditional Works Approval that will impose conditions on the applicant to undertake noise monitoring on the boundaries of the lot, the results of which will be required to be analysed by a noise consultant and submitted to DWER. DWER have advised that they encourage any noise complaints to be directed to the 'pollution watch' team at DWER who will undertake compliance and enforcement.

Proposed point D also notes that either DWER or the City may, on request, place noise monitoring equipment on other land. As has been verbally advised in the past, the City is likely to be able to do so when crushing activity first occurs on the subject site – although it should also be noted that, unless the thresholds in the noise regulations are breached, compliance action will not be possible.

OFFICER COMMENT

Not applicable.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations* 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.