

Technical Report			
Application No:	PA19/1143		
Lodgement Date:	11/11/2019	DAU Date:	
Address:	L101 (686), L103 (722), L104 (726) and L105 (720) Westcott Road, Keysbrook		
Proposal:	Extractive Industry (Mineral Sands)		
Land Use:	Extractive Industry	Permissibility:	SA
Owner:			
Applicant:	Keysbrook Leucoxene Pty Ltd		
Zoning:	Rural	Density Code:	R2
Delegation Type:	12.1.1	Officer:	Haydn Ruse
Site Inspection:	Yes		
Advertising:	Yes		
Outstanding Internal Referrals:	No		
External Referrals:	No		
Within a Bushfire Prone Area:	Yes		

Introduction:

A planning application dated 11 November 2019 has been received for proposed 'Extractive Industry' at 367 Elliott Road, Keysbrook.

The subject lot is zoned Rural in accordance with the Shire's Town Planning Scheme No. 2 (TPS 2). An Extractive Industry is considered a 'Extractive Industry' use which is a 'SA' use within the Rural zone in accordance with the Shire's TPS 2.

The proposal is reported to Council for determination as officers so not have delegation to determine applications where variations to Local Planning Policy has been proposed under delegated authority 12.1.1.

This report recommends that the Extractive Industry as proposed be approved subject to appropriate conditions.

Background:

Existing Development:

The subject lots (the site) are currently developed with a Single House and incidental structures, including outbuildings and water tanks. The remainder of the site it is vacant and features sparse outcrops of vegetation.

Proposed Development/Site Context:

The proposed development relates to the extraction of particular mineral sands present on the site and involves the excavating of large areas of the site. Excavated material is deposited in a mobile Mine Feed Unit (MFU), which mixes the extracted material with water creating a 'Slurry'. The slurry is pumped to an off-site Wet Concentrator Plant (WCP), which separates the usable minerals and pumps the processed slurry back into previously excavated areas. A pump is used to recover water from the processed slurry, to be re-used

for ongoing operations. Soil amendment is then added to the returned material and the area is seeded and established back into paddocks.

The processing of the materials extracted occurs off-site at a facility to the South within the Shire of Murray, with the majority of vehicle movements occurring across private lot boundaries. The operations are proposed to operate for an overall period of 3 years, the first year being for extraction and the remaining 2 years being for rehabilitation.

Community / Stakeholder Consultation:

Advertising was carried out for a period of 21 days, from 10 July 2019 – 31 July 2019, whereby 1 submission was received supporting the proposal.

Statutory Environment:

- Metropolitan Region Scheme
- Town Planning Scheme 2
- State Planning Policy 2.4 – Basic Raw Materials (SPP2.4)
- Local Planning Policy 4.10 – Extractive Industries (including Extraction of Mineral Sand and Other Minerals) (LPP4.10)

Planning Assessment:

A comprehensive assessment has been undertaken in accordance with section 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Land Use:

The proposal relates to the extraction of mineral sands from the land and is considered to be an 'Industry Extractive' land use in accordance with the definition under TPS2, which is as follows:

'Industry Extractive – means an industry which involves –

- a) The extraction of sand, gravel, clay, soil, rock, stone, minerals, or similar substance from the land, and also includes the management of products from any of those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent thereto, and the storage of such materials or products; and*
- b) The production of salt by the evaporation of salt water.'*

Within the 'Rural' zone, an 'Industry Extractive' land use is an 'SA' use, meaning it is a use that can be considered for approval and must be advertised. In determining the appropriateness of such a land use consideration must be given to the objectives of the zone in which the development is proposed. The objective of the 'Rural' zone is:

'to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area.'

While the proposed development is not considered to be a rural pursuit or associated activity, the development would not impact the availability of the land to be used for its intended purpose as the operations are temporary. Furthermore, the proposed rehabilitation of the land includes application of soil amendments, which would improve the quality of the land to be used for rural pursuits and associated activities into the future.

Officers consider the proposed land use to be capable of approval under the provisions of TPS2.

Rural Strategy 2013 Review:

The Rural Strategy Review 2013 (Rural Strategy) provides foresight on the intended development capability of land within the Shire boundaries. Consideration must be given to the Rural Strategy to ensure development is consistent with the expectations for development within particular area of the Shire.

The site is located within the Rural policy area of the Rural Strategy. Within this policy area the objectives for development focus on the use of land, the character and rural lifestyle of the area, and the environment.

Objectives relating to land use seek to retain and maintain traditional agricultural uses and promote alternative agricultural uses where they result in less land degradation and have a higher commercial viability. The extraction of raw materials is not considered to be an agricultural use; however, due to the transient nature of the development and extensive rehabilitation requirements, the development would not impede the ability of the land to be used for agricultural uses at the end of the extraction period. Officers consider the development would not contravene the objectives of the policy area in relation to land use.

Objectives relating to the character and rural lifestyle of the area seek to retain and enhance the existing character and lifestyle afforded to the area. The proposed development has the potential to impact on the character and rural lifestyle of the area by means of the noise, dust, and visual impacts of the development. The proposal includes measures to ensure the noise, dust, and visibility of the operations are mitigated.

Noise and dust impacts have been addressed through management plans that have been approved under Ministerial approval for the broader mining area. The visual impacts of the development are proposed to be mitigated through a combination of vegetative screening and a 3m high bund around the border of the proposed mining area. The measures do not completely screen the mining area; however, consideration has been given for the size of the bund and visual impact it poses if it is to be designed to screen the entire mining area.

Objectives relating to the environment seek to ensure development protects Local Natural Areas and encourages revegetation. The Shire's Biodiversity Strategy identifies two potential Local Natural Areas within the proposed mining area that may become recognised subject to further studies being undertaken to verify the ecological value. Flora and fauna studies were undertaken as part of the Ministerial Statement for the broader mining area and the clearing of vegetation within the mining area considered to be acceptable. A Rehabilitation Management Plan has also been approved as part of the Ministerial Statement. Officers consider this management plan is sufficient to ensure the development will meet the environmental objectives of the Rural Strategy.

State Planning Policy 2.4 – Basic Raw Materials

The provisions and objectives of SPP2.4 apply to extractive industry proposals with a view to securing areas for extraction that are rich in basic raw materials, while ensuring the preservation of the environment and minimising amenity impacts.

The proposed mining area is not located within a designated Priority Resource Location identified under SPP2.4; however, the land is rich in the minerals Leucoxene and Zircon. SPP2.4 does not preclude against the extraction of basic raw materials in areas not identified under the policy, particularly where such extraction complies with planning and

environmental requirements. Officers are satisfied that the proposed extraction aligns with the economic objectives of SPP2.4.

The amenity impacts of the development are largely controlled through the management plans imposed under the Ministerial Statement. The traffic impacts of the development are minimal due to the proposal to construct an infrastructure corridor, which would traverse private land between the main facility in the Shire of Murray and the extraction site the subject of this application.

Officers are satisfied that the proposed development, being operated in accordance with the management plans imposed through the Ministerial Statement, will comply with the requirements of SPP2.4.

Local Planning Policy 4.10 – Extractive Industries

This application is presented to Council for determination in part due to a proposed variation to Local Planning Policy 4.10 – Extractive Industries Policy (LPP4.10). The variation relates to the restriction to the hours of operation allowed under LPP4.10.

The proposal seeks approval to operate generally between the hours of 7:00am to 7:00pm 7 days a week. After hours the mining component of the operations would cease; however, the screening of the mined materials is proposed to operate 24 hours 7 days a week. LPP4.10 restricts the operating hours of extractive industries to between 7:00am and 7:00pm Monday to Friday and 7:00am to 1:00pm on Saturday with no operations on public holidays. The purpose of this requirement is to ensure the preservation of amenity for the surrounding locality.

LPP4.10 provide a list of performance criteria to be applied where a proposal does not meet the acceptable development standards of the policy. In relation to the operating hours, the policy requires the following:

- Development does not prejudice the productive use of agricultural land on site or in the surrounding locality;
- Development does not unduly disrupt surrounding residents by way of vehicular traffic, noise, blasting, dust and vibration;
- Consultation has occurred with the local community and relevant government departments; and
- The site is able to be rehabilitated in a way that is compatible with the long term planning for the suite and surrounding area.

The noise and dust impacts from the development are controlled under the Ministerial approval and are considered to be sufficient to ensure the development will not unduly impact residents or the agricultural use of land in the surrounding locality. Officers have recommended a condition requiring a Community Consultation Framework be prepared to ensure the local community can raise concerns in relation to noise, dust etc. directly with the operators, who are required to act in accordance with the requirements of the Ministerial Statement.

Options and Implications:

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

Option 2: Council may resolve to approve the application unconditionally.

Option 3: Council may resolve to refuse the application subject to reasons.

Conclusion:

The proposed development is subject to a Ministerial Statement, which governs many of the elements of the proposal that would otherwise be enforced by Local Government. Officers are satisfied that the management plans in place under the Ministerial Statement are sufficient to ensure the amenity of the area will be protected and recommend approval.

Attachments:

- CL67 Table

Deemed Provisions – Cl 67 Matters to be considered by local Government

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The proposed development is a discretionary land use under TPS2.			
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 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: State Planning Policy 2.4 – Basic Raw Materials			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) – None Applicable to this area from what I can determine	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
g) any local planning policy for the Scheme area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Local Planning Policy 4.10 – Extractive Industries			
h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
l) the effect of the proposal on the cultural heritage significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>

of the area in which the development is located	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The proposed development would not be consistent in terms of its appearance in contrast to the surrounding area. Visual mitigation measures have been required as a condition of approval to ensure these impacts are minimised.			
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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The proposed development is considered to be acceptable in terms of the potential impact on the amenity of the locality, given the suite of management plans enforced under Ministerial Statement 810.			
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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The proposed development is considered to be acceptable in terms of the potential impact to the natural environment or water resources, given the suite of management plans enforced under Ministerial Statement 810.			
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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The mining operations are subject to rehabilitation requirements, including revegetation works under Ministerial Statement 810.			
q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The majority of vehicle movements will be undertaken within private lot boundaries and will not impact on the public road network.			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>

Comment: The majority of vehicle movements will be undertaken within private lot boundaries and will not impact on the public road network.			
u) the availability and adequacy for the development of the following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
w) the history of the site where the development is to be located	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: History of the broader development has been discussed in the Report.			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
y) any submissions received on the application	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Submissions have been addressed in the Report.			
Za) the comments or submissions received from any authority consulted under clause 66	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
Zb) any other planning consideration the local government considers appropriate	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			