

### Deemed Provisions – CI 67 Matters to be considered by local Government

**Land Use:**

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	<p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;"><input type="checkbox"/></p>	<p style="text-align: center;"><b>NO</b></p> <p style="text-align: center;"><input type="checkbox"/></p>	<p style="text-align: center;"><b>N/A</b></p> <p style="text-align: center;"><input checked="" type="checkbox"/></p>
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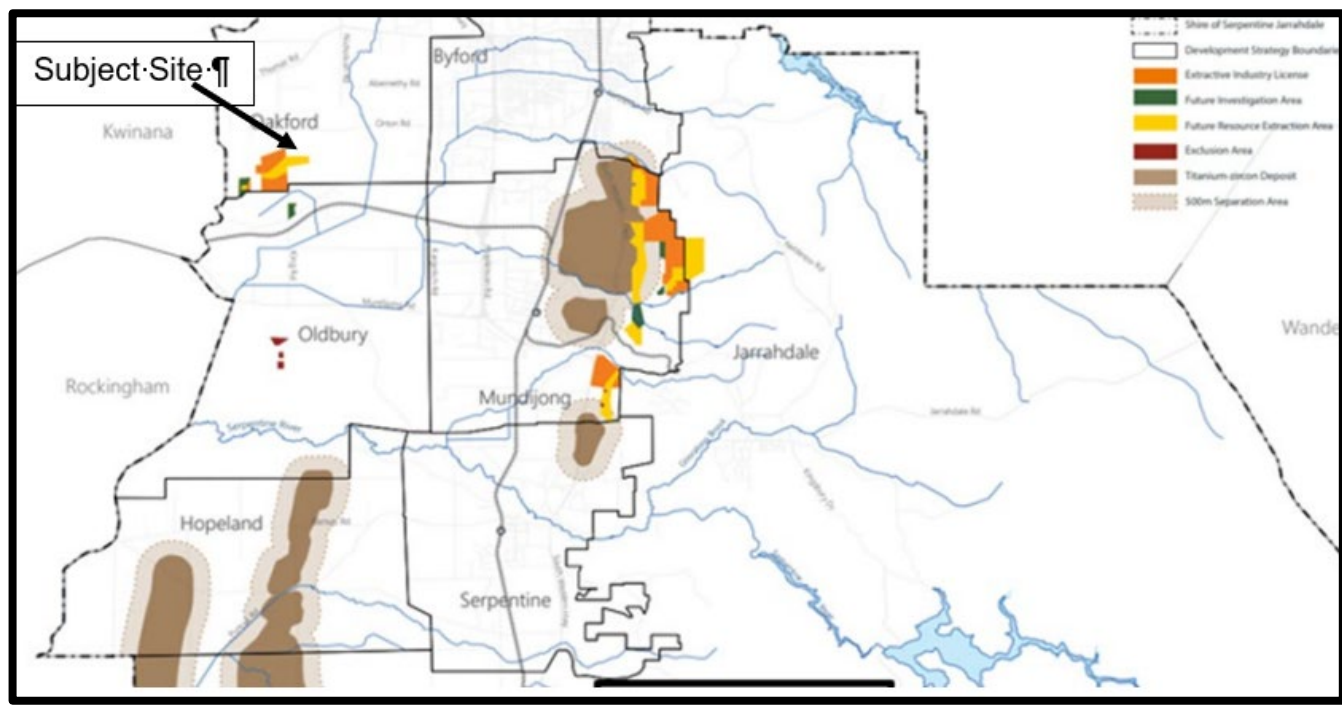
**Comment:**

The subject land is zoned remain zoned 'Rural', Under the Shire's Local Planning Scheme No.3 (LPS3), whereby the sand mining falls in the land use category of 'Industry Extractive'.

Local Planning Strategy (LPS)

The subject lot is designated as Rural Land under the LPS. The objectives of rural land under the LPS seek to protect large rural lots for productive rural uses and agricultural production and protection and preservation of the rural landscape. Sand mining is an activity commonly undertaken within the rural areas of the Shire and is characteristic of the rural.

Furthermore, the subject site is within the special control areas identified for basic raw materials under LPS3 and in close proximity to the area identified for raw material extraction area under the LPS as depicted following:



In terms of protection of the rural landscape and the associated environmental values, the Environmental Management Plan (EMP).The EMP provides that the site will be rehabilitated with pasture, providing for soil stabilisation to allow the land to be suitable for productive rural uses. Rehabilitation also includes the planting of native vegetation to stabilise the site and to also ensure for a more sympathetic alignment with the existing rural landscape. Officers are satisfied the proposed aligns with the objectives for the Rural area under the LPS and would not affect the capacity for the land to be used for agriculture once the works have been completed.

To ensure that land is rehabilitated in accordance with the EMP Officers have recommended a condition of approval requiring the applicant to submit a detailed Rehabilitation Management Plan specific to Lot 5 detailing all the stages of rehabilitation. The plans should include rehabilitation stages, final contours of the extractive envelope and timing dates.

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	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> As discussed in report to Council, the proposal is considered generally consistent with the planning framework.			

c) any approved State planning policy	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> The proposal has been assessed in accordance with the following State Planning Policies			
<ul style="list-style-type: none"> <li>• State Planning Policy 2.0 - Environment and Natural Resources (SPP2)</li> <li>• State Planning Policy 2.5 - Rural Planning (SPP2.5)</li> <li>• State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)</li> <li>• Statement of Planning Policy 2.4 - Basic Raw Materials (BRM) (SPP2.4)</li> </ul>			

d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d)	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

e) any policy of the Commission	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> The subject land is zoned Rural under the MRS. Extractive industries in the rural zone under the MRS are the subject of a 'clause 32' resolution, requiring a determination to be made both under LPS3 and the MRS. Accordingly, it is a requirement that Council provide a recommendation to the WAPC who will determine the application under the provisions of the MRS, with Council separately determining the application under the Local Planning Scheme.			

f) any policy of the State	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b> <u>State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)</u>			

SPP3.7 seeks to implement effective risk-based planning and development to preserve life and reduce the impact of bushfires on property and infrastructure. The site is designated as bushfire prone however a Bushfire Management Plan (BMP) has not been provided for the subject site, It is considered that bushfire risk can be appropriately managed and as such a condition is recommended requiring an BMP to be provided demonstrating compliance with SPP3.7 and the *Guidelines for Planning in Bushfire Prone Areas*.

State Planning Policy 2.0 - Environment and Natural Resources (SPP2)

SPP2 identifies basic raw materials such as sand, clay, hard rock, limestone and gravel together with other construction and road building materials as being important natural resource assets and a vital part of the State’s economy. SPP2 indicates that a ready supply of such materials in close proximity to developing areas is required in order to keep downward pressure on the cost of land development and the resultant price of housing.

Officers consider that this application is consistent with the policy as it proposes to extract sand deposits which are suitable for use as construction and fill sand. Extraction of sand will facilitate the continued supply of a valuable sand resource to support Perth’s land development industry, and particularly the hypergrowth of the Shire in locations like Byford and Mundijong. It is considered that the proposal is compatible with the intent of SPP2.

g) any local planning policy for the Scheme area	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
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**Comment:**

LPP4.10 – Extractive Industries

Performance Criteria (PC)	Acceptable Development (AD)	Proposal
<b>Element: Amenity</b>		
PC1.1.1 Development does not prejudice the productive use of agricultural land on site or in the surrounding locality.  PC1.1.2 Development does not unduly disrupt surrounding residents by way of vehicular traffic, noise, blasting and dust vibration.  PC1.1.3 Consultation has occurred with the local community and relevant government departments.  PC1.1.4 The site is able to be rehabilitated in a way that is compatible with the long term	AD1.1.1 Development is located away from sensitive land uses unless appropriate measures can be taken to ameliorate adverse impacts.  AD1.1.2 Hours of operation are limited to 7am to 7pm Monday to Friday and 7am to 1pm on Saturday. No operation on recognised public holiday days.  AD 1.1.4 Extraction of material occurs from only one site per property at any one time.	<p><b>Performance Criteria</b> <b>Officers are satisfied the reduced scale of the proposal would not result in adverse amenity impacts.</b></p> <p><b>Acceptable Development</b></p> <p><b>Acceptable Development</b></p> <p><b>Acceptable Development</b></p>

<p>planning for the site and surrounding area.</p>	<p>AD1.1.5 Sites are filled with clean material only.</p>	
<p><b>Element: Environmental</b></p>		
<p>PC1.2.1 Development is located so as to minimise impact upon native flora and fauna; groundwater quality, quantity and use; surface drainage and surface water quality including discharge of sediment and sites of cultural and/or historic significance on or near the land.</p>	<p>AD1.2.1 Development does not prejudicially effect native flora and fauna; groundwater quality, quantity and use; surface drainage and surface water quality including discharge of sediment and sites of cultural and/or historic significance on or near the land.</p> <p>AD1.2.2 Dieback is managed in accordance with Best Practice Guidelines – Management of Phytophthora Dieback in Extractive Industries (2005 – Dieback Working Group).</p> <p>AD1.2.3 Sites can be suitably rehabilitated in accordance with an agreed management plan.</p>	<p><b>Performance Criteria</b></p> <p>The submission from DWER acknowledges that a clearing permit has also been issued for the vegetation covered by the proposed excavation area which mainly comprises of Banksia Woodlands on Lot 4 only. As the application seeks approval for a new development area on Lot 5 King Road, a clearing permit from DWER would be required as the current permit does not include the new proposed areas. The applicant has been advised of this.</p> <p>The report provided for Lot 4 King Road concluded that the Banksia vegetation on types did show signs of being impacted by dieback.</p> <p>A condition of approval has been recommended that a Rehabilitation Management be provided to the satisfaction of the Shire.</p>
<p><b>Element: Buffers</b></p>		
<p>PC1.3 Development is sited in accordance with the principles of State Planning Policy 4.1 State Industrial Buffer Policy and Guidance Note 3 – Separation Distances Between Industrial and Sensitive Land Uses (EPA – 2005).</p>	<p>AD1.3.1 Quarry of hard rock (including blasting), crushing and screening - requires a buffer distance of 1000m. Quarry (not hard rock). Processing rock ore etc by blasting, grinding and milling works – material processed by grinding, milling or separated by sieving, aeration etc - requires a buffer distance of 1000m. Quarry (no blasting) - material processed by grinding,</p>	<p>Performance Criteria There are three sensitive receptors within 500m of the proposed site.</p> <p>The applicant will be required to submit a site-specific dust management plan, noise management plan prior to works occurring to demonstrate how the development will manage offsite emissions. Officers consider, due to the small scale nature of the development and reduce time frame these management plans can protect amenity.</p>

	milling or separated by sieving, aeration etc - requires a buffer distance of 500m. Sand and limestone extraction no grinding or milling Works - Requires a buffer distance of 500m.	
<b>Element: Visual Impact</b>		
PC1.4 Development is unobtrusive and does not prejudicially affect the natural landscape.	AD1.4.1 Development is to be visually in evident in the landscape when viewed from major travel routes	<b>Acceptable Development</b>
<b>Element: Transport</b>		
PC1.5 Development satisfactorily addresses the following issues: <ul style="list-style-type: none"> <li>• Proximity to and interaction with school bus routes;</li> <li>• Conditions and nature of roads to be used;</li> <li>• Impact on higher traffic volume on higher risk roads;</li> <li>• Size of trucks and number of truck movements;</li> <li>• Access points to the operation site;</li> <li>• Existence of any other extractive industry or heavy haulage in the vicinity and cumulative effects on the transport network; and</li> <li>• Comments of Main Roads WA.</li> </ul>	AD1.5.1 Development is located in proximity to heavy haulage routes. AD1.5.2 Development which does not utilise school bus routes for haulage purposes. AD1.5.3 Development where a road maintenance agreement has been entered into with the Shire prior to operation, or where financial contributions have been made to ensure the upgrading of roads where necessary to improve the standard of access.	<b>Acceptable Development</b>  <b>Acceptable Development</b>  <b>A condition has been included for a road maintenance agreement based on the road asset impact the proposal will have.</b>
<p><b>The proposal is generally consistent with the objectives of LPP4.10 – Extractive Industries. Conditions of approval have been included requiring the applicant to provide a suite of management plans to ensure offsite impacts are suitably managed.</b></p>		

h) any structure plan, activity centre plan or local development plan that relates to the development	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

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>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

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	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

**Development:**

k) the built heritage conservation of any place that is of cultural significance	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

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	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

n) the amenity of the locality including the following –	<b>YES</b>	<b>NO</b>	<b>N/A</b>
I. Environmental impacts of the development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. The character of the locality			
III. Social impacts of the development			
<b>Comment:</b> It is considered that once the resource has been extracted and the site rehabilitated, the land could be used in the future for productive rural uses. The application details that the site will be returned to pasture once extraction is complete.			

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	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

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	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> A Rehabilitation Plan has been recommended as a condition of approval. As discussed in the report following completion of extraction, the site is proposed to be rehabilitated to pastureland with areas of vegetation around the western and southern perimeter. Officers are satisfied that through this measure, the site can be comprehensively rehabilitated over time once the extraction on the site has ceased.			

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	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

r) the suitability of the land for the development taking into account the possible risk to human health or safety	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> It is considered that bushfire risk can be appropriately managed and as such, a Condition is recommended requiring a Bushfire Management Plan (BMP) to be provided demonstrating compliance with SPP3.7 and the <i>Guidelines for Planning in Bushfire Prone Areas</i> .			

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	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> A condition is recommended to be imposed to address the accelerated decline in road pavement life for all local government roads that form part of specific haulage contracts. This will vary throughout the life of the operation, and will be required to be documented and reported annually, with annual payments made commensurate with the WALGA calculation methodology for those local roads used.			

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	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

u) the availability and adequacy for the development of the following:	<b>YES</b>	<b>NO</b>	<b>N/A</b>
I. Public transport services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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			
<b>Comment:</b>			

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	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

w) the history of the site where the development is to be located	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> The western portion of Lot 5 is cleared of vegetation. The eastern portion contains native vegetation comprising of a Banksia Woodland Threatened Ecological Community (TEC). Historically, the site has been cleared and used for pasture and agricultural purposes and vegetation has since regrown			

x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

y) any submissions received on the application	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> refer to consultation section of assessment			



Za) the comments or submissions received from any authority consulted under clause 66	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
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**Comment:** refer to consultation section of assessment

Zb) any other planning consideration the local government considers appropriate	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
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**Comment:**

Performance Criteria (PC)	Acceptable Development (AD)	Proposal
<b>Element: Amenity</b>		
<p>PC1.1.1 Development does not prejudice the productive use of agricultural land on site or in the surrounding locality.</p> <p>PC1.1.2 Development does not unduly disrupt surrounding residents by way of vehicular traffic, noise, blasting and dust vibration.</p> <p>PC1.1.3 Consultation has occurred with the local community and relevant government departments.</p> <p>PC1.1.4 The site is able to be rehabilitated in a way that is compatible with the long term planning for the site and surrounding area.</p>	<p>AD1.1.1 Development is located away from sensitive land uses unless appropriate measures can be taken to ameliorate adverse impacts.</p> <p>AD1.1.2 Hours of operation are limited to 7am to 7pm Monday to Friday and 7am to 1pm on Saturday. No operation on recognised public holiday days.</p> <p>AD 1.1.4 Extraction of material occurs from only one site per property at any one time.</p> <p>AD1.1.5 Sites are filled with clean material only.</p>	<p><b>Performance Criteria</b></p> <p>Officers are satisfied that with proposed rehabilitation strategies of the site. Proper implementation of the strategies would result in the site being used for agricultural purposes as proposed. A condition of approval has been recommended that a Rehabilitation Management be provided to the satisfaction of the Shire.</p> <p>Furthermore, Officers recommend a suite of management plans as conditions of development approval to ensure offsite impacts are suitably managed.</p> <p><b>Acceptable Development</b></p> <p><b>Acceptable Development</b></p> <p><b>No details of fill have been provided. A</b></p>

Performance Criteria (PC)	Acceptable Development (AD)	Proposal
		<b>condition of approval will be included that only clean fill material can be brought to site.</b>
<b>Element: Environmental</b>		
<p>PC1.2.1 Development is located so as to minimise impact upon native flora and fauna; groundwater quality, quantity and use; surface drainage and surface water quality including discharge of sediment and sites of cultural and/or historic significance on or near the land.</p>	<p>AD1.2.1 Development does not prejudicially effect native flora and fauna; groundwater quality, quantity and use; surface drainage and surface water quality including discharge of sediment and sites of cultural and/or historic significance on or near the land.</p> <p>AD1.2.2 Dieback is managed in accordance with Best Practice Guidelines – Management of Phytophthora Dieback in Extractive Industries (2005 – Dieback Working Group).</p> <p>AD1.2.3 Sites can be suitably rehabilitated in accordance with an agreed management plan.</p>	<p><b>Performance Criteria</b></p> <p>A portion of the ‘Good Woodlands is proposed to be preserved as part of the development. The proposal will result in clearing of approximately 0.4ha native vegetation including Banksia Woodland. Clearing will be subject to a permit being issued by DWER. It may also require Federal Government EPBC Act approval. The applicant has been advised of this.</p> <p>Weed management measures are included in the application details to the satisfaction of Officers. The report concluded that the Banksia vegetation types did show signs of being impacted by dieback.</p> <p>A condition of approval has been recommended that a Rehabilitation Management be provided to the satisfaction of the Shire.</p>
<b>Element: Buffers</b>		
<p>PC1.3 Development is sited in accordance with the principles of State Planning Policy 4.1 State Industrial Buffer Policy and Guidance Note 3 – Separation Distances Between Industrial and Sensitive Land Uses (EPA – 2005).</p>	<p>AD1.3.1 Quarry of hard rock (including blasting), crushing and screening - requires a buffer distance of 1000m. Quarry (not hard rock). Processing rock ore etc by blasting, grinding and milling works – material processed by grinding, milling or separated by sieving, aeration etc - requires a buffer distance of 1000m. Quarry (no blasting) - material processed by grinding, milling or separated by sieving, aeration etc - requires a buffer distance of 500m. Sand and</p>	<p><b>Performance Criteria</b></p> <p>There are three sensitive receptors within 500m of the proposed site.</p> <p>The applicant will be required to submit a site-specific dust management plan, noise management plan prior to works occurring to demonstrate how the development will manage offsite emissions. Officers consider, due to</p>

Performance Criteria (PC)	Acceptable Development (AD)	Proposal
	limestone extraction no grinding or milling Works - Requires a buffer distance of 500m.	the small scale nature of the development, these management plans can protect amenity.
<b>Element: Visual Impact</b>		
PC1.4 Development is unobtrusive and does not prejudicially affect the natural landscape.	AD1.4.1 Development is to be visually in evident in the landscape when viewed from major travel routes	<b>Acceptable Development</b>
<b>Element: Transport</b>		
<p>PC1.5 Development satisfactorily addresses the following issues:</p> <ul style="list-style-type: none"> <li>• Proximity to and interaction with school bus routes;</li> <li>• Conditions and nature of roads to be used;</li> <li>• Impact on higher traffic volume on higher risk roads;</li> <li>• Size of trucks and number of truck movements;</li> <li>• Access points to the operation site;</li> <li>• Existence of any other extractive industry or heavy haulage in the vicinity and cumulative effects on the transport network; and</li> <li>• Comments of Main Roads WA.</li> </ul>	<p>AD1.5.1 Development is located in proximity to heavy haulage routes.</p> <p>AD1.5.2 Development which does not utilise school bus routes for haulage purposes.</p> <p>AD1.5.3 Development where a road maintenance agreement has been entered into with the Shire prior to operation, or where financial contributions have been made to ensure the upgrading of roads where necessary to improve the standard of access.</p>	<p><b>Acceptable Development</b></p> <p><b>Acceptable Development</b></p> <p>A condition has been included for a road maintenance agreement based on the road asset impact the proposal will have.</p>