Regional Joint Development Assessment Panel Agenda

Meeting Date and Time: Friday, 28 April 2023; 12.00pm
Meeting Number: RJDAP/93
Meeting Venue: Electronic Means

To connect to the meeting via your computer -
https://us06web.zoom.us/j/81792122304

To connect to the meeting via teleconference dial the following phone number -
+61 8 7150 1149 Australia
Insert Meeting ID followed by the hash (#) key when prompted - 817 9212 2304

This DAP meeting will be conducted by electronic means (Zoom) open to the public rather than requiring attendance in person.

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Attendance

DAP Members

Mr Tony Arias (Presiding Member)
Ms Lee O'Donohue (A/Deputy Presiding Member)
Ms Diana Goldswain (A/Third Specialist Member)
Cr Kaara Andrew (Local Government Member, Shire of Capel)
Cr Peter McCleery (Local Government Member, Shire of Capel)

Officers in attendance

Mr Matthew Wansborough (Shire of Capel)
Mr Scott Price (Shire of Capel)
Mr Bob Wallin (Shire of Capel)

Minute Secretary

Ms Tenielle Brownfield (DAP Secretariat)

Applicants and Submitters

Mr Ty Armitage (MGM Bulk)
Mr Craig Carbone (MGM Bulk)
Mr Alex McGlue (Lavan)
Dr Kirsi Kauhanen (MBS Environmental)

Members of the Public / Media

Nil.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declares the meeting open and acknowledges the traditional owners and pay respects to Elders past and present of the land on which the meeting is being held.

This meeting is being conducted by electronic means (Zoom) open to the public. Members are reminded to announce their name and title prior to speaking.

2. Apologies

Ms Kanella Hope (Deputy Presiding Member)
Mr Justin Page (Third Specialist Member)
Mr John Syme (A/Third Specialist Member)

3. Members on Leave of Absence

Nil.

4. Noting of Minutes

Signed minutes of previous meetings are available on the DAP website.

5. Declarations of Due Consideration

The Presiding Member notes an addendum to the agenda was published to include details of a DAP request for further information and responsible authority response in relation to Item 8.1, received on 26 April 2023.

Any member who is not familiar with the substance of any report or other information provided for consideration at the DAP meeting must declare that fact before the meeting considers the matter.

6. Disclosure of Interests

Member	Item	Nature of Interest
Mr Justin Page	8.1	Indirect Pecuniary Interest – Mr Page's employer (Element) has clients who are active in Boyanup proposing and undertaking extractive industry operations in the Shire of Capel.

7. Deputations and Presentations

7.1 Mr Alex McGlue (Lavan) presenting against the recommendation for the application at Item 8.1. The presentation will address why the JDAP should reject the officer recommendation and approve the application.

7.2 Dr Kirsi Kauhanen (MBS Environmental) presenting against the recommendation for the application at Item 8.1. The presentation will address key characteristics of the current proposal.

7.3 Mr Craig Carbone (MGM Bulk) presenting against the recommendation for the application at Item No. 8.1. The presentation will address proponent response to the RAR.

7.4 Mr Michel J Tichbon submitted a written application in support of the recommendation for the application at item 8.1.

The Shire of Capel may be provided with the opportunity to respond to questions of the panel, as invited by the Presiding Member.

8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 418 (Lot 265) Ducane Road, North Boyanup

Development Description:	Extractive Industry Development
Applicant:	Mr Mario Giacci (MGM Bulk)
Owner:	Allmoon Nominees
Responsible Authority:	Shire of Capel
DAP File No:	DAP/23/02425

9. Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval

Nil.

10. State Administrative Tribunal Applications and Supreme Court Appeals

Current SAT Applications				
File No. & SAT DR No.	**LG Name**	**Property Location**	**Application Description**	**Date Lodged**
DP/14/00039 DR 65/2020	Shire of York	Lots 4869 (2256), 5931, 9926 (2948) and 26934 Great Southern Highway, St Ronans	Construction and Use of Allawuna Farm for the purposes of a Class II Landfill	28 July 2020
DAP/21/02063 DR241/2021	Shire of Dardanup	Lot 2 Banksia Road, Crooked Brook	Cleanaway Dardanup Landfill Facility	5 November 2021
DAP/22/02265 DR204/2022	Shire of Harvey	Lot 101 (No. 96) Binningup Road, Binningup	Workers Accommodation Village	28 November 2022

11. General Business

In accordance with Section 7.3 of the DAP Standing Orders 2020 only the Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.

12. Meeting Closure

Direction for Further Services from the Responsible Authority

Regulation 13(1) and DAP Standing Orders 2020 cl. 3.3

Guidelines

A DAP Member who wishes to request further services (e.g. technical information or alternate recommendations) from the Responsible Authority must complete this form and submit to daps@dplh.wa.gov.au.

The request will be considered by the Presiding Member and if approved, the Responsible Authority will be directed to provide a response to DAP Secretariat within the form.

It is important to note that **the completed form containing the query, response and any accompanying documentation will be published on the DAP website** as an addendum to the meeting agenda.

DAP Application Details

DAP Name	Region JDAP
DAP Application Number	DAP/23/02425
Responsible Authority	Shire of Capel
Property Location	418 (Lot 265) Ducane Road, North Boyanup

Presiding Member Authorisation

Presiding Member Name	Mr Tony Arias
Signature	Tony Arias
Date	24 April 2023
Response Due	**26 April 2023; 3.00pm**

Nature of technical advice or information required*

1	**DAP query**	**The JDAP has been advised that the applicant, and its consultants, recently met with officers of the Shire of Capel to discuss DAP application DAP/23/02425. Could the Shire advise whether its advice and recommendations in relation to the application has changed as a result of the meeting.**
	Response	The Shire Officers have met with the applicant and are of the opinion that the reasons for refusal can largely be addressed through the imposition of planning conditions. As such, the meeting established the reasons for the alternative recommendation, and aimed to discuss any suggested changes made by the applicant to the alternative recommendation. At the conclusion of this meeting, the Shire recognises that several changes being made to the alternative recommendation have now put the application in a position to be supported subject to the appropriate conditions being applied.

* Any alternate recommendation sought does not infer a pre-determined position of the panel.

2	**DAP query**	**The applicant (via Mr McGlue's presentation) has provided a list of draft conditions. Could the Shire provide comments on the draft conditions provided by the applicant.**
	Response	**See attached alternate recommendation and Shire comments in green.** ***Proposed conditions*** 1. *This decision constitutes planning approval only and is valid for a period of 8 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.* After discussing the wording with Mr McGlue, it was suggested that the condition could be amended to meet its specific intention, which is to grant approval for the use for a period of 8 years. However, the way in which the wording currently reads is that it enables the validity of the approval to remain for 8 years and substantial commencement can occur at any point in time between. Therefore, a suggestion with the condition could be as follows: **'This decision constitutes planning approval only and is valid for a period of 8 years from the date of approval. If the subject development is not substantially commenced within 2 years of the licence being issued, the approval shall lapse and be of no further effect.'** 2. *Resource extraction is only permitted for a maximum of 5 years after the issue of the Extractive Industry Licence.* Shire accepts the recommended condition. 3. *Rehabilitation of the land may occur at any time within the term of this approval.* **Shire accepts the recommended condition.** 4. *Unless otherwise approved in writing by the Shire's Director Infrastructure and Development, the development may only proceed generally in accordance with the attached approved plans, as dated, marked and stamped by the Shire, subject to any amendments required as a consequence of the conditions of this approval or any subsequent Extractive Industry Licence issued by the Shire.* Shire accepts the recommended condition. ***Prior to the commencement of development/issuing of an Extractive Industry Licence*** ~~5. *Prior to the commencement of development, amended Development Plans shall be submitted for approval by the Shire to include the following setbacks:*~~

		~~*a) Minimum 20m setback for the eastern boundary.*~~ ~~*b) Minimum 60m setback for the southern boundary.*~~ It is acknowledged that the applicant does not accept the Shire's initial suggestion for setbacks to side boundaries. The recommended 60-metre setback was suggested by DWER in their referral response, whilst the 20-metre setback was to facilitate the internal road around the outskirts of the site. After a discussion with the Shire's Projects, Engineering, and Assets team, the department would be willing to entertain 8-metre setbacks as an absolute minimum to facilitate road access along the side of the site. Lastly, the applicant will be required to seek approval for a clearing permit through DWER, so the Shire will support an 8-metre setback on the basis that the DWER approve a clearing permit. Should the permit not be supported by DWER, the applicant will need to adhere to the 60-metre setback as outlined in the DWER referral. As such, the Shire and applicant believe the condition can be retained with the following wording: **Prior to the commencement of development, amended Development Plans shall be submitted for approval by the Shire to include the following setbacks:** **a) Minimum 8m setback for the eastern boundary.** **b) Minimum 8m setback for the southern boundary, to the satisfaction of the Shire of Capel on advice of Department of Water and Environmental Regulation.** 6. *Prior to the commencement of development, a Rehabilitation Management and Monitoring Plan shall be submitted for approval by the Shire. The Rehabilitation Management and Monitoring Plan shall include:* *a) Revegetation and rehabilitation of the extraction area the subject of this approval;* *b) The use of local endemic species within the native vegetation revegetation/rehabilitation areas ~~of the proposed extraction area~~;* *c) Proposed revegetation/rehabilitation ~~back~~ to a mixture of pasture and native vegetation ~~with no areas of pasture rehabilitation~~, to ensure rural land uses and the ecological linkages are maintained;* *d) Details of species types and maintenance and monitoring measures; and* *e) The site is reinstated with ~~a minimum of 400mm cover of overburden and~~ topsoil to a finished rehabilitated level at least 2 ~~1~~m above the highest groundwater table level.* The applicant has suggested that rehabilitation can consist of a mixture of both native vegetation and pasture. The site history revealed that it was previously used as a horse paddock which contained minimal native vegetation, so the suggested rehabilitation would reflect a similar status as to what the site demonstrated prior to being excavated. Furthermore, the site is

		zoned Rural, rather than Priority Agriculture, so there is less emphasis on ensuring that productivity of the land remains. However, the Shire insists that a percentage figure is included as part of Condition 6(c) to ensure a measurable outcome is provided for compliance purposes, and would be able to grant the Shire some input into the rehabilitation of the site. 7. *Prior to the commencement of development, the section of Ducane Road that extends between the vehicular entry point of the subject site and Queelup Road is to be upgraded <u>with additional gravel and works as required (excluding sealing and vegetation clearing) to improve current condition of the road</u> ~~and sealed~~ at the applicant's cost, to the satisfaction of the Shire of Capel. <u>The applicant will then maintain this section of the gravel road (e.g. grading and watering) for the duration of the proposed extraction operations at the applicant's cost</u>.* The Shire recognises the context and history surrounding the road network that the haulage utilised, and the deterioration to the point where the road was closed. It was however pointed out by the applicant at last week's meeting that a deterioration contribution was offered by the applicant in anticipation that this deterioration would occur. The Shire's Engineering Department at the time failed to respond to this offering, and as such did not have any contingencies in place to rectify any deterioration of the unsealed road. The proposed wording, along with the imposition of Condition 8, is considered sufficient in upkeeping the unsealed road network to a satisfactory level, thus reducing impacts of dust and traffic safety. 8. *Prior to the commencement of development, suitable arrangements being made with the Shire of Capel for the payment of a road reinstatement co-contribution for road deterioration purposes associated with Restricted Access Vehicle(s) in accordance with the WALGA co-contribution rates specified within the User Guide, estimating the incremental cost impact on sealed roads from additional freight tasks. Road Deterioration Co-contribution is to be made in arrears on the submission of the annual compliance report as required by the Extractive Industry License in accordance with the Shire of Capel Extractive Industry Local Law 2016.* Shire accepts the recommended condition. 9. *Prior to the issue of an Extractive Industry Licence, the following Management Plans shall be submitted for approval by the Shire:* *a) Weed Management Plan; and* *b) Dieback Management Plan.* Shire accepts the recommended condition. 10. *Prior to the issue of an Extractive Industry Licence, confirmation of the source and availability of water for dust suppression shall be submitted to the Shire.*

		Shire accepts the recommended condition. *11. Prior to the issue of an Extractive Industry Licence, the approved pit boundaries shall be surveyed by a suitably qualified surveyor, with the location of such pegs being to the satisfaction of the Shire.* Shire accepts the recommended condition. ~~*12. Prior to the issue of an Extractive Industry Licence, a rehabilitation bond of $1,110,610 (39.95ha @ $27,800 per hectare) shall be provided to the Shire in the form of a Bond or Bank Guarantee.*~~ The Shire accepts the recommended removal of this condition. The applicant has reassured the Shire that it understands it's bonding obligations and does not wish to avoid paying the bond. It is recognised that placing a monetary figure on a planning condition not only replicates the conditions of the Licence, but does not enable any natural transition for the figure to change in the future, should the Shire's fees and charges associated to bonding be updated. Furthermore, this figure will be updated accordingly, should the DAP support a 1:4 batter slope as opposed to the 1:6 batter slope originally sought as part of the RAR's alternative recommendation. *13. An Annual Audit of Compliance shall be prepared by a suitably qualified independent expert and submitted to the Shire annually. The Annual Audit of Compliance shall include:* *a) Details to demonstrate compliance with the conditions of this Development Approval;* *b) Tonnage of sand removed from the site and the period within which the sand was removed; and* *c) Progress report on the approved Rehabilitation Management and Monitoring Plan including:* *d) Details of completed, ongoing and future rehabilitation areas;* *e) Photos of rehabilitated areas;* *f) Monitoring and reporting details, if available;* *g) Start and completion dates, and expected start dates, if applicable; and* *h) A map depicting the rehabilitation areas and their completion progress.* Shire accepts the recommended condition. *14. There shall be no storage of hydrocarbons on-site. On-site refuelling of equipment will be from a mobile service vehicle carrying appropriate spill prevention and clean-up equipment. No major repairs or maintenance will take place on site.* Shire accepts the recommended condition. ~~*15. Where the satisfaction of any condition of this approval requires the preparation of a legal agreement, all costs*~~

		~~*incidental to the satisfaction of these conditions, including the Shire's legal costs and registration fees and stamp duty (if any), must be paid by the applicant.*~~ Shire accepts the recommended change to remove the condition. This was considered an administrative error and does not relate to this particular development application. 16. *The hours of operation shall be from 7.00am to 6.00pm, Monday to Friday, and 7:00am to 12:00pm Saturday. No operations shall be permitted on Sundays or Public Holidays.* Shire accepts the recommended condition. 17. *Maximum batter slopes of 1:~~4~~6 shall be applied to all rehabilitation slopes.* The Shire is supportive of a 1:4 batter slope on the basis that information was initially provided upfront to confirm that rehabilitation could actually be achieved. Since discussing the application with the proponent, the Shire is comfortable with the rehabilitation implementation plan being submitted as per Condition 6, and approved to the satisfaction of the Shire prior to development taking place. In the event that the Shire is not supportive of the rehabilitation implementation plan, the applicant cannot commence their development. Lastly, it is the preference of the Shire to obtain this information prior to a determination being issued. However, for the purposes of an alternative recommendation, and the reasons that the Shire's Draft Local Planning Policy 6.2 is yet to be formally adopted, we would entertain this information being provided after a determination and prior to commencement of the development. 18. *The pit boundary survey pegs shall remain in place for the duration of the operation to the satisfaction of the Shire.* Shire accepts the recommended condition. 19. *The maximum volume of material to be stockpiled on site at any one time is 5,000m³.* Shire accepts the recommended condition. 20. *All stockpiles shall be removed prior to the expiry of this approval.* Shire accepts the recommended condition. 21. *A minimum 2-metre separation distance to the groundwater shall be maintained for the life of the extraction activities.* Shire accepts the recommended condition. 22. *If groundwater is exposed or intercepted, activities on site shall cease immediately and the Shire shall be notified within 24 hours.*

		Shire accepts the recommended condition. 23. *Such exposure or interception of the groundwater shall be remedied to the satisfaction of the Shire in consultation with the Department of Water and Environmental Regulation.* Shire accepts the recommended condition. ***Advice Notes*** 1. *Any proposed clearing of native vegetation is prohibited unless done under a clearing permit issued in accordance with the Environmental Protection Act 1986, or the clearing is exempt from the need for a clearing permit.* Shire accepts the recommended advice note. 2. *Groundwater shall not be exposed, extracted or dewatered during the operation of the extraction activities unless the appropriate approval has been obtained from the Department of Water and Environmental Regulation.* Shire accepts the recommended advice note. 3. *The proponent is advised of their obligations under the Environmental Protection (Noise) Regulations 1997.* Shire accepts the recommended advice note.

That the RJDAP resolves to:

1. **Approve** DAP Application reference RJDAP/93 and accompanying plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the Shire of Capel Local Planning Scheme No. 7, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of 8 years from the date of approval. If the subject development is not substantially commenced within 2 years of the licence being issued, the approval shall lapse and be of no further effect.

2. Resource extraction is only permitted for a maximum of 5 years after the issue of the Extractive Industry Licence.

3. Rehabilitation of the land may occur at any time within the term of this approval.

4. Unless otherwise approved in writing by the Shire's Director Infrastructure and Development, the development may only proceed generally in accordance with the attached approved plans, as dated, marked and stamped by the Shire, subject to any amendments required as a consequence of the conditions of this approval or any subsequent Extractive Industry Licence issued by the Shire.

Prior to the commencement of development/issuing of an Extractive Industry Licence

5. Prior to the commencement of development, amended Development Plans shall be submitted for approval by the Shire to include the following setbacks:
   a) Minimum 8m setback for the eastern boundary.
   b) Minimum 8m setback for the southern boundary, to the satisfaction of the Shire of Capel on advice of Department of Water and Environmental Regulation.

6. Prior to the commencement of development, a Rehabilitation Management and Monitoring Plan shall be submitted for approval by the Shire. The Rehabilitation Management and Monitoring Plan shall include:
   a) Revegetation and rehabilitation of the extraction area the subject of this approval;
   b) The use of local endemic species within the native vegetation revegetation/rehabilitation areas;
   c) Proposed revegetation/rehabilitation to a mixture of pasture and native vegetation, to ensure rural land uses and the ecological linkages are maintained;
   d) Details of species types and maintenance and monitoring measures; and
   e) The site is reinstated with topsoil to a finished rehabilitated level at least 2m above the highest groundwater table level.

7. Prior to the commencement of development, the section of Ducane Road that extends between the vehicular entry point of the subject site and Queelup Road is to be upgraded with additional gravel and works as required (excluding sealing and vegetation clearing) to improve current condition of the road and sealed at the applicant's cost, to the satisfaction of the Shire of Capel. The applicant will then maintain this section of the gravel road (e.g. grading and watering) for the duration of the proposed extraction operations at the applicant's cost.

8. Prior to the commencement of development, suitable arrangements being made with the Shire of Capel for the payment of a road reinstatement co-contribution for road deterioration purposes associated with Restricted Access Vehicle(s) in accordance with the WALGA co-contribution rates specified within the User Guide, estimating the incremental cost impact on sealed roads from additional freight tasks. Road Deterioration Co-contribution is to be made in arrears on the submission of the annual compliance report as required by the Extractive Industry License in accordance with the Shire of Capel Extractive Industry Local Law 2016.

9. Prior to the issue of an Extractive Industry Licence, the following Management Plans shall be submitted for approval by the Shire:
   a) Weed Management Plan; and
   b) Dieback Management Plan.

10. Prior to the issue of an Extractive Industry Licence, confirmation of the source and availability of water for dust suppression shall be submitted to the Shire.

11. Prior to the issue of an Extractive Industry Licence, the approved pit boundaries shall be surveyed by a suitably qualified surveyor, with the location of such pegs being to the satisfaction of the Shire.

12. An Annual Audit of Compliance shall be prepared by a suitably qualified independent expert and submitted to the Shire annually. The Annual Audit of Compliance shall include:
    a) Details to demonstrate compliance with the conditions of this Development Approval;
    b) Tonnage of sand removed from the site and the period within which the sand was removed; and
    c) Progress report on the approved Rehabilitation Management and Monitoring Plan including:
    d) Details of completed, ongoing and future rehabilitation areas;
    e) Photos of rehabilitated areas;
    f) Monitoring and reporting details, if available;
    g) Start and completion dates, and expected start dates, if applicable; and
    h) A map depicting the rehabilitation areas and their completion progress.

13. There shall be no storage of hydrocarbons on-site. On-site refuelling of equipment will be from a mobile service vehicle carrying appropriate spill prevention and clean-up equipment. No major repairs or maintenance will take place on site.

14. The hours of operation shall be from 7.00am to 6.00pm, Monday to Friday, and 7:00am to 12:00pm Saturday. No operations shall be permitted on Sundays or Public Holidays.

15. Maximum batter slopes of 1:4 shall be applied to all rehabilitation slopes.

16. The pit boundary survey pegs shall remain in place for the duration of the operation to the satisfaction of the Shire.

17. The maximum volume of material to be stockpiled on site at any one time is 5,000m³.

18. All stockpiles shall be removed prior to the expiry of this approval.

19. A minimum 2-metre separation distance to the groundwater shall be maintained for the life of the extraction activities.

20. If groundwater is exposed or intercepted, activities on site shall cease immediately and the Shire shall be notified within 24 hours.

21. Such exposure or interception of the groundwater shall be remedied to the satisfaction of the Shire in consultation with the Department of Water and Environmental Regulation.

Advice Notes

1. Any proposed clearing of native vegetation is prohibited unless done under a clearing permit issued in accordance with the Environmental Protection Act 1986, or the clearing is exempt from the need for a clearing permit.

2. Groundwater shall not be exposed, extracted or dewatered during the operation of the extraction activities unless the appropriate approval has been obtained from the Department of Water and Environmental Regulation.

3. The proponent is advised of their obligations under the Environmental Protection (Noise) Regulations 1997.

Government of **Western Australia**
Development Assessment Panels

Presentation Request Form

Regulation 40(3) and DAP Standing Orders 2020 cl. 3.5

Must be submitted at least 72 hours (3 ordinary days) before the meeting

Presentation Request Guidelines

Persons interested in presenting to a DAP must first consider whether their concern has been adequately addressed in the responsible authority report or other submissions. Your request will be determined by the Presiding Member based on individual merit and likely contribution to assist the DAP's consideration and determination of the application.

Presentations are not to exceed **5 minutes**. It is important to note that the presentation content will be **published on the DAP website** as part of the meeting agenda.

Please complete a separate form for each presenter and submit to daps@dplh.wa.gov.au

Presenter Details

Name	Alex McGlue
Company (if applicable)	Lavan
Please identify if you have any special requirements:	**YES ☐** **NO ☒** If yes, please state any accessibility or special requirements: Click or tap here to enter text.

Meeting Details

DAP Name	Regional JDAP
Meeting Date	19 April 2023
DAP Application Number	DAP/23/02425
Property Location	Lot 265 Ducane Road North Boyanup
Agenda Item Number	8.1

Presentation Details

I have read the contents of the report contained in the Agenda and note that my presentation content will be published as part of the Agenda:	**YES ☒**
Is the presentation in support of or against the report recommendation)? *(contained within the Agenda)*	**SUPPORT ☐** **AGAINST ☒**
Is the presentation in support of or against the proposed development?	**SUPPORT ☒** **AGAINST ☐**
Will the presentation require power-point facilities?	**YES ☐** **NO ☒** **If yes, please attach**

Government of **Western Australia**
Development Assessment Panels

Presentation Content*

These details may be circulated to the local government and applicant if deemed necessary by the Presiding Member. Handouts or power points will not be accepted on the day.

Brief sentence summary for inclusion on the Agenda	*The presentation will address:* Why the JDAP should reject the officer recommendation and approve the application.

In accordance with Clause 3.5.2 of the *DAP Standing Orders*, your presentation request must also be accompanied with a written document detailing the content of your presentation.

Please attach detailed content of presentation or provide below:

Please see accompanying letter.

1 William Street
Perth Western Australia 6000

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lavan.com.au

Our ref: AMG:CHW:1176189
Your ref: DAP/23/02425

Contact: Alex McGlue
Direct Line: (08) 9288 6890
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Direct Line: (08) 9288 6828
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24 March 2023

Mr Tony Arias
Presiding Member
Regional JDAP
140 William Street
PERTH WA 6000
By Email: daps@dplh.wa.gov.au

Dear Mr Arias

DAP/23/02425 – legal submission in support of development application

Background

1 Lavan acts for MGM Bulk Pty Ltd, which is the proponent behind the development application for an expanded extractive industry proposal at Lot 265 Ducane Road, North Boyanup.

2 My client has sought my advice in relation to this development application, following the publication of the responsible authority report (**RAR**) from the Shire of Capel (**Shire**), which contains a recommendation for refusal.

3 I am instructed to provide this legal submission to the Regional Joint Development Assessment Panel (**JDAP**) on behalf of my client.

4 In my submission, there is no proper basis for the JDAP to be refusing the development application and the focus of the JDAP should instead be on what conditions of development approval should be imposed.

A full service Western Australian law firm:

Aged Care, Seniors Living & Disability	Corporate, Commercial & Tax	First Nations	Planning & Environment	Excellence
Agribusiness	Cyber & Data Protection	Intellectual Property & Technology	Private Clients	Courage
Asian Investment	Education, Employment & Safety	Liquor Licensing	Property & Leasing	Collaboration
Banking & Finance	Energy, Oil & Gas	Litigation & Dispute Resolution	Reconstruction & Insolvency	Fulfilment
Construction & Infrastructure	Family Law	Mining & Resources	Wills & Estates	Integrity

Our Values:

Lavan respectfully acknowleges the traditional owners of the land on which we live and work.

The RAR

5 The RAR contains a recommendation for refusal, based upon four proposed grounds.

6 I would however respectfully invite the JDAP, in reviewing the RAR, to focus specifically upon the content that begins on page 13, under the heading "alternatives".

7 In particular, there is the passage that reads:

> *…the development could be supported on balance subject to conditions posed that result in more appropriate batter slopes angles, setbacks, vehicle movements, and associated road maintenance.*

8 The RAR then sets out a draft set of conditions of development approval, in the form of an alternative recommendation.

9 The Shire in the RAR accepts that extractive industry is an appropriate land use for the Property and explains that its concerns in relation to this development application essentially relate to the scale of the proposal and the operational measures to be put in place, which the Shire properly concedes can be addressed via conditions.

10 With that in mind, in my respectful submission, the JDAP should not be entertaining a refusal of the development application and should instead be considering what conditions of development approval should be imposed, in order to ensure that the proposal operates in an acceptable manner.

Conditions

11 Whilst my client would invite the JDAP to focus upon the alternative recommendation contained in the RAR, as opposed to entertaining a refusal, my client does not accept all of the draft conditions of development approval as suggested by the Shire and would invite the JDAP to carefully consider making appropriate modifications.

12 My client has put together an edited version of the draft conditions of development approval (see **enclosed**), for the benefit of the JDAP, which reflects the position that my client would be willing to support.

13 By way of explanation in respect of the proposed edits, my client says that:

13.1 proposed condition 5 should be deleted, as the setbacks proposed by the development application are appropriate;

13.2 the wording of proposed condition 6 should be modified, to allow greater flexibility as to how rehabilitation is to be achieved in future;

13.3 the wording of proposed condition 7 should be modified, such that the obligation is to construct a gravel road, as opposed to a sealed road;

13.4 proposed condition 12 should be deleted, as a rehabilitation bond is something that is required as part of an application for an extractive industry licence, so it should be kept separate from any development approval;

13.5 proposed condition 15 should be deleted, as a condition that sets out a bare requirement to pay the Shire's legal fees does not carry any proper planning purpose; and

13.6 proposed condition 17 should be amended to refer to 1:4 batter slopes.

Primary matters for consideration

Four matters identified in RAR

14 The RAR (at the top of page 10) sets out what the Shire considers to be the four "primary matters for consideration" in the assessment of this development application, which are expressed as follows:

> *1. Impact of amending batter slopes and ability to rehabilitate and maintain land capability post extraction.*
>
> *2. Impact of removing setbacks to neighbouring properties particularly in relation to adjoining native vegetation and wetlands.*
>
> *3. Ensuring amended staging plan does not negatively impact adjoining residential uses particularly in terms of noise and dust.*
>
> *4. Impact of increased truck movements on the residential amenity along the route and the integrity of the local road network.*

15 It is appropriate that I briefly address each of these four matters as identified in the RAR, for the benefit of the JDAP.

Batter slopes

16 My client proposes batter slopes at 1:4, whereas the Shire supports batter slopes at 1:6 (see proposed condition 17 in the alternative recommendation, at page 15 of the RAR).

17 The figure of 1:6 is based upon the "acceptable development" outcome for batter slopes as outlined in the Shire's draft *Local Planning Policy 6.2 – Extractive Industries* (**Draft LPP**).

18 It would appear that the Draft LPP has only recently been put out for public consultation and that the Shire is yet to formally consider the public consultation and formally approve the Draft LPP, so the JDAP should not be giving any significant weight to the 1:6 "acceptable development" outcome in the Draft LPP for batter slopes, as it is basically a proposed policy provision that is yet to be adopted.

19 It is observed that the corresponding "performance criteria" for batter slopes in the Draft LPP reads:

Final excavation batters to achieve rehabilitated slopes compatible with future land use, existing soil structure, topography, and positive environmental outcomes.

20 In assessing whether batter slopes at 1:4 would be objectively acceptable in the circumstances, I would invite the JDAP to consider the analysis at page 11 of the RAR, where the Shire explains that batter slopes at 1:4 have previously been supported, including in the context of an earlier proposal for the Property.

21 This analysis culminates in the conclusion that:

The proposal to reduce the batter slopes to 1:4 is therefore not considered to be acceptable until the applicant can provide a comprehensive rehabilitation implementation plan…

22 On this note, proposed condition 6 in the alternative recommendation in the RAR (at page 14) would require a rehabilitation management and monitoring plan to be submitted for approval by the Shire prior to commencement of development.

23 There is accordingly a logical basis for the JDAP to grant development approval to my client, based upon batter slopes at 1:4, on the basis that my client will be required to provide the appropriate technical justification, prior to commencement of works, pursuant to a condition of development approval.

Setbacks

24 The assessment of the proposed setbacks by the JDAP needs to be approached with an appreciation for the fact that the Property abuts unconstructed road reserves along its western, southern and part of its eastern boundaries.

25 Notably, the Draft LPP does not set out any requirements in terms of minimum setbacks and the Shire has instead assessed the proposed setbacks against standards contained in clause 6.1 of the *Shire of Capel Extractive Industries Local Law* (**Local Law**).

26 Notably, the 60 metres southern setback proposed by the Shire in the alternative recommendation in the RAR (see proposed condition 5 on page 14 of the RAR) exceeds all of the setback standards as set out in clause 6.1 of the Local Law, which go no higher than 50 metres, so the logic behind this particular proposed condition is entirely unclear.

27 Importantly, by reference to clause 67(2) in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (WA) (**Deemed Provisions**), the JDAP is not required to give due regard to a local law in determining a development application.

28 In circumstances, where the Draft LPP does not impose setback requirements and the Local Law is not a mandatory relevant consideration under clause 67(2) of the Deemed Provisions, the JDAP should reason that the setbacks as proposed in the development application are acceptable, as they do not infringe any provisions of the applicable planning framework.

Staging, noise and dust

29 The Shire in the RAR cites ensuring that the amended staging plan does not negatively impact adjoining residential uses (particular in terms of noise and dust) as being a primary matter for consideration, but the RAR does not go on to refer to any issues or unresolved concerns on this particular topic, so this is something that the JDAP does not need to consider in any great detail.

Truck movements

30 The Shire in the RAR (at the top of page 13) states that the amenity impact associated with the proposed increase in truck movements has not been demonstrated, because my client has not put forward a traffic impact assessment.

31 On this note, the amenity impact associated with increased traffic is strictly speaking a planning issue, rather than being a matter of traffic engineering, so the JDAP is the appropriate body for determining whether the proposed numbers of truck movements are acceptable in an amenity sense and there would be no apparent utility in requiring a traffic impact assessment to be prepared.

Proposed reasons for refusal

Overview

32 In addition to the four "primary matters for consideration" as identified in the RAR, it is appropriate that I briefly address the JDAP on the four proposed reasons for refusal as contained in the RAR.

33 The proposed reasons for refusal are somewhat unusual, in the sense that they do not neatly align with the "primary matters for consideration" identified in the RAR and the Shire has otherwise conceded in the RAR that the proposal can be the subject of a conditional development approval.

34 For the reasons that follow, all four proposed reasons for refusal in the RAR should be rejected by the JDAP.

Reason 1 – zone objective

35 The first proposed reason for refusal in the RAR refers to a particular zone objective in the *Shire of Capel Local Planning Scheme No 7*, which refers to:

> *The need to impose such conditions as Council deems appropriate in order to minimise any adverse effect the development or subdivision may have on the environment of the area.*

36 The contention from the Shire that the proposed development undermines this particular zone objective is contradicted by the fact that the Shire also concedes in the RAR that the potential impacts of the proposal can be appropriately conditioned.

Reason 2 – Draft LPP

37 The second proposed reason for refusal in the RAR contends that the proposed development does not satisfy various "performance criteria" in the Draft LPP, on the topics of amenity, environment, visual impact and transport.

38 Putting aside any arguments as to the weight that should properly be given to the Draft LPP, the logic underpinning the second proposed reason for refusal is again contradicted by the fact that the Shire concedes in the RAR that the potential impacts of the proposal can be appropriately conditioned.

Reason 3 – clause 67(2) factors

39 The third proposed reason for refusal in the RAR is without substance, in the sense that it contains a bare reference to a number of paragraphs within clause 67(2) of the Deemed Provisions, without the body of the RAR containing any supporting analysis with respect to those particular paragraphs.

Reason 4 – SPP2.4

40 The fourth proposed reason for refusal in the RAR contends that the proposal fails to address requirements for *State Planning Policy 2.4 – Planning for Basic Raw Materials* (**SPP2.4**).

41 The RAR (on page 9) contains a small amount of discussion regarding SPP2.4, but does not refer to any particular requirement within SPP2.4 that the Shire says has not been satisfied.

42 To the extent that the Shire may argue that the proposed development does not adequately address the broad planning objectives embedded within SPP2.4 in a general sense, then again, such a position would be contradicted by the fact that the Shire concedes in the RAR that the potential impacts of the proposal can be appropriately conditioned.

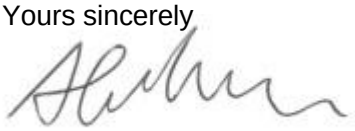
Conclusion

43 For the above reasons, I would respectfully invite the JDAP to reject the proposed reasons for refusal in the RAR and to instead consider a grant of conditional development approval, on the terms proposed by my client.

44 In circumstances where the Shire appears to accept that any potential issues can be appropriately conditioned, it would not make practical sense for the JDAP to refuse the development application.

45 Please contact me if you have any questions.

Yours sincerely



Alex McGlue
Special Counsel

Proposed conditions

1. This decision constitutes planning approval only and is valid for a period of 8 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. Resource extraction is only permitted for a maximum of 5 years after the issue of the Extractive Industry Licence.
3. Rehabilitation of the land may occur at any time within the term of this approval.
4. Unless otherwise approved in writing by the Shire's Director Infrastructure and Development, the development may only proceed generally in accordance with the attached approved plans, as dated, marked and stamped by the Shire, subject to any amendments required as a consequence of the conditions of this approval or any subsequent Extractive Industry Licence issued by the Shire.

Prior to the commencement of development/issuing of an Extractive Industry Licence

5. ~~Prior to the commencement of development, amended Development Plans shall be submitted for approval by the Shire to include the following setbacks~~:
   a) ~~Minimum 20m setback for the eastern boundary~~.
   b) ~~Minimum 60m setback for the southern boundary~~.
6. Prior to the commencement of development, a Rehabilitation Management and Monitoring Plan shall be submitted for approval by the Shire. The Rehabilitation Management and Monitoring Plan shall include:
   a) Revegetation and rehabilitation of the extraction area the subject of this approval;
   b) The use of local endemic species within the native vegetation revegetation/rehabilitation areas~~of the proposed extraction area~~;
   c) Proposed revegetation/rehabilitation ~~back~~ to a mixture of pasture and native vegetation~~ with no areas of pasture rehabilitation~~, to ensure rural land uses and ~~the~~ ecological linkages are maintained;
   d) Details of species types and maintenance and monitoring measures; and
   e) The site is reinstated with ~~a minimum of 400mm cover of overburden and~~ topsoil to a finished rehabilitated level at least 2 ~~1~~m above the highest groundwater table level.
7. Prior to the commencement of development, the section of Ducane Road that extends between the vehicular entry point of the subject site and Queelup Road is to be upgraded with additional gravel and works as required (excluding sealing and vegetation clearing) to improve current condition of the road ~~and sealed~~ at the applicant's cost, to the satisfaction of the Shire of Capel. The applicant will then maintain this section of the gravel road (e.g. grading and watering) for the duration of the proposed extraction operations at the applicant's cost.

8. Prior to the commencement of development, suitable arrangements being made with the Shire of Capel for the payment of a road reinstatement co-contribution for road deterioration purposes associated with Restricted Access Vehicle(s) in accordance with the WALGA co-contribution rates specified within the User Guide, estimating the incremental cost impact on sealed roads from additional freight tasks. Road Deterioration Co-contribution is to be made in arrears on the submission of the annual compliance report as required by the Extractive Industry License in accordance with the Shire of Capel Extractive Industry Local Law 2016.

9. Prior to the issue of an Extractive Industry Licence, the following Management Plans shall be submitted for approval by the Shire:
   a) Weed Management Plan; and

b) Dieback Management Plan.

10. Prior to the issue of an Extractive Industry Licence, confirmation of the source and availability of water for dust suppression shall be submitted to the Shire.
11. Prior to the issue of an Extractive Industry Licence, the approved pit boundaries shall be surveyed by a suitably qualified surveyor, with the location of such pegs being to the satisfaction of the Shire.
12. ~~Prior to the issue of an Extractive Industry Licence, a rehabilitation bond of $1,110,610 (39.95ha @ $27,800 per hectare) shall be provided to the Shire in the form of a Bond or Bank Guarantee~~.

In perpetuity

13. An Annual Audit of Compliance shall be prepared by a suitably qualified independent expert and submitted to the Shire annually. The Annual Audit of Compliance shall include:
    a) Details to demonstrate compliance with the conditions of this Development Approval;
    b) Tonnage of sand removed from the site and the period within which the sand was removed; and
    c) Progress report on the approved Rehabilitation Management and Monitoring Plan including:
    d) Details of completed, ongoing and future rehabilitation areas;
    e) Photos of rehabilitated areas;
    f) Monitoring and reporting details, if available;
    g) Start and completion dates, and expected start dates, if applicable; and
    h) A map depicting the rehabilitation areas and their completion progress.
14. There shall be no storage of hydrocarbons on-site. On-site refuelling of equipment will be from a mobile service vehicle carrying appropriate spill prevention and clean-up equipment. No major repairs or maintenance will take place on site.
15. ~~Where the satisfaction of any condition of this approval requires the preparation of a legal agreement, all costs incidental to the satisfaction of these conditions, including the Shire's legal costs and registration fees and stamp duty (if any), must be paid by the applicant~~.
16. The hours of operation shall be from 7.00am to 6.00pm, Monday to Friday, and 7:00am to 12:00pm Saturday. No operations shall be permitted on Sundays or Public Holidays.
17. Maximum batter slopes of 1:4~~6~~ shall be applied to all rehabilitation slopes.
18. The pit boundary survey pegs shall remain in place for the duration of the operation to the satisfaction of the Shire.
19. The maximum volume of material to be stockpiled on site at any one time is 5,000m³.
20. All stockpiles shall be removed prior to the expiry of this approval.
21. A minimum 2-metre separation distance to the groundwater shall be maintained for the life of the extraction activities.
22. If groundwater is exposed or intercepted, activities on site shall cease immediately and the Shire shall be notified within 24 hours. Such exposure or interception of the groundwater shall be remedied to the satisfaction of the Shire in consultation with the Department of Water and Environmental Regulation.

Advice Notes

1. Any proposed clearing of native vegetation is prohibited unless done under a clearing permit issued in accordance with the Environmental Protection Act 1986, or the clearing is exempt from the need for a clearing permit.

2. Groundwater shall not be exposed, extracted or dewatered during the operation of the extraction activities unless the appropriate approval has been obtained from the Department of Water and Environmental Regulation.
3. The proponent is advised of their obligations under the Environmental Protection (Noise) Regulations 1997.

Our ref: AMG:CHW:1176189
Your ref: DAP/23/02425

Contact: Alex McGlue
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Email: alex.mcglue@lavan.com.au
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21 April 2023

DAP Secretariat
140 William Street
PERTH WA 6000
By Email: daps@dplh.wa.gov.au

cc:
Mr Scott Price
Acting Director Infrastructure & Development
Shire of Capel
PO Box 369
CAPEL WA 6271
By Email: Scott.Price@capel.wa.gov.au

Dear Sir/Madam

DAP23/02425 – revised position of responsible authority

1 I refer to the development application for Lot 265 Ducane Road, North Boyanup, for which Lavan acts for the proponent.

2 This development application is due to be determined by the Regional Joint Development Assessment Panel (**JDAP**) at its meeting on 28 April 2023 (following a couple of deferrals in earlier meetings).

3 I am writing to advise the JDAP that my client and its consultants met this morning with the planning officer handling this development application at the Shire of Capel (**Shire**), who is a different individual to the person who authored the responsible authority report (**RAR**) that is contained in the JDAP meeting agenda (that officer has recently left the Shire).

A full service Western Australian law firm:

Aged Care, Seniors Living & Disability
Agribusiness
Asian Investment
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Liquor Licensing
Litigation & Dispute Resolution
Mining & Resources
Planning & Environment
Private Clients
Property & Leasing
Reconstruction & Insolvency
Wills & Estates

Our Values:

Excellence
Courage
Collaboration
Fulfilment
Integrity

Lavan respectfully acknowleges the traditional owners of the land on which we live and work.

4 Importantly, following that meeting, it is my understanding that the Shire accepts the argument being put to the JDAP by my client and now believes that the development application should be supported (subject to appropriate conditions) and intends to advise the JDAP accordingly at the meeting next week.

5 My understanding is that the Shire accepts some, but not all, of the draft conditions of development approval as appended to my deputation request and the supporting written submission.

6 I thought best to communicate this position to the JDAP in advance of the meeting, so that the JDAP is aware of the revised position of the Shire in preparing for the meeting, given that the RAR still refers to a recommendation for refusal.

7 It is obviously a matter for the Presiding Member of the JDAP, but in order to ensure that the revised position of the Shire is formally recorded in the agenda before the meeting commences, I would suggest that a request under regulation 13 of the *Planning and Development (Development Assessment Panels) Regulations 2011* (WA) could now issue to the Shire.

8 In particular, the regulation 13 request could ask the Shire to respond to the set of draft conditions of development approval as appended to my deputation request and the supporting written submission, which would in turn provide the Shire with the opportunity to formally advise the JDAP as to its revised position and recommendation.

9 The relevant Shire officer is aware that I am issuing this letter and has been copied into this correspondence.

10 Please let me know if you have any questions.

Yours sincerely



Alex McGlue
Special Counsel

Please notify us if this communication has been sent to you by mistake. If it has been, any privilege between solicitor and client is not waived or lost and you are not entitled to use it in any way.

Government of **Western Australia**
Development Assessment Panels

Presentation Request Form

Regulation 40(3) and DAP Standing Orders 2020 cl. 3.5

Must be submitted at least 72 hours (3 ordinary days) before the meeting

Presentation Request Guidelines

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Please complete a separate form for each presenter and submit to daps@dplh.wa.gov.au

Presenter Details

Name	Dr Kirsi Kauhanen - Senior Environmental Scientist
Company (if applicable)	Martinick Bosch Sell Pty Ltd trading as MBS Environmental
Please identify if you have any special requirements:	**YES ☐** **NO ☒** If yes, please state any accessibility or special requirements: Click or tap here to enter text.

Meeting Details

DAP Name	Regional Joint Development Assessment Panel
Meeting Date	19 April 2023
DAP Application Number	DAP/23/02425
Property Location	418 (Lot 265) Ducane Road, North Boyanup
Agenda Item Number	8.1

Presentation Details

I have read the contents of the report contained in the Agenda and note that my presentation content will be published as part of the Agenda:	**YES ☒**
Is the presentation in support of or against the report recommendation)? *(contained within the Agenda)*	**SUPPORT ☐** **AGAINST ☒**
Is the presentation in support of or against the proposed development?	**SUPPORT ☒** **AGAINST ☐**
Will the presentation require power-point facilities?	**YES ☐** **NO ☒** **If yes, please attach**

Government of **Western Australia**
Development Assessment Panels

Presentation Content*

These details may be circulated to the local government and applicant if deemed necessary by the Presiding Member. Handouts or power points will not be accepted on the day.

Brief sentence summary for inclusion on the Agenda	*The presentation will address:* Key characteristics of the current proposal

In accordance with Clause 3.5.2 of the *DAP Standing Orders*, your presentation request must also be accompanied with a written document detailing the content of your presentation.

MARTINICK BOSCH SELL PTY LTD
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Telephone +61 8 9226 3166
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24 March 2023

Presiding Member
Regional Joint Development Assessment Panel
Via email: daps@dplh.wa.gov.au

Attention: Mr Tony Arias

Dear Mr Arias,

Re: REQUEST FOR DEPUTATION – RJDAP/88 | DAP/23/02425
ITEM 8.1 – 418 (Lot 265) Ducane Road, North Boyanup | Extractive Industry (Sand)

MBS Environmental ('MBS') provides environmental consulting services for the applicant Mario Michele Giacci and the operator MGM. For this project, MBS has assisted in the preparation of the application documentation. MBS does not support the Responsible Authority Recommendation (RAR) for refusal of the DAP application but rather suggests an alternative motion for approval, subject to conditions (as amended by the applicant).

Background
The proposal involves a previously approved, operational sand pit. An Extractive Industry Licence (EIL) was first granted for the site in 2014 and the current EIL was granted in 2019 (expires in December 2024). This proposal seeks another extension to the EIL but also proposes some changes to the operations as discussed below.

Pit Expansion, Setbacks and Batters
The proposed EIL area is 33.76 ha of which 94% (31.63 ha) has been previously approved by Shire of Capel. The 2.13 ha expansion to the EIL area comprises a section along the eastern boundary and the southeast corner. The expansion area represents a 6.7% increase to the size of the previously approved pit and has added one additional stage to the previously approved 16 extraction stages.

The proposal includes a reduction in setbacks along sections of the eastern property boundary from 20 m width to 3 m wide firebreak and along a section of the southern boundary from 60 m width to 3 m wide firebreak. These two reductions in setbacks form the 2.13 ha expansion area mentioned above. The reduction in setbacks has been limited to those areas where a significant sand resource is present. The expansion area has been largely cleared previously and the vegetation remaining is in Completely Degraded condition. The proposed reduction in setbacks will still leave 20 m wide unformed road reserves as a buffer between the proposed extraction area and potential future conservation reserves to the south and west. Also, 70 m buffer will be maintained to the closest wetland.

The application proposes maximum final batter slopes of 1:4 (vertical : horizontal) in order to source additional sand. These 1:4 slopes would only be present along the edges of the pit in narrow linear strips totalling approximately 2.96 ha (8.8 % of the total EIL area). Of the 2.96 ha area, approximately 1.13 ha would be revegetated to native vegetation and 1.83 ha to pasture. Final landform in the rest of the EIL area (91%) is proposed to be flat to near flat.

Clearing Permit
Department of Environmental Regulation (now Department of Water and Environmental Regulation, DWER) granted a clearing permit (purpose permit CPS 5319/1) for the operations in 2015. The applicant has now applied to extend the timeframe of this permit and also to amend the area of the permit to cover the proposed expansion. The permit currently allows for clearing of up to 4.98 ha of native vegetation within the purpose permit area (all the vegetation that was present). At this stage it is expected that the clearing cap will remain at 4.98 ha. The clearing permit requires revegetation/rehabilitation of approximately 5.16 ha of native vegetation along the boundaries of the property. These areas correspond to the previously approved native revegetation areas in the Finished Development Plan - no change to these areas is proposed.

DWER assessment of the clearing permit amendment application will include consideration of the potential impacts of the vegetation clearing and will also include review of the proposed native revegetation. The proposed setbacks and final batter slopes will be considered as part of DWER assessment. DWER is not expected to make a decision on the clearing permit amendment until the DA/EIL has been resolved.

Rehabilitation
As described in the RAR, the external environmental consultants engaged by Shire of Capel concluded that post-extraction revegetation to native vegetation can be successfully undertaken on 1:4 batter slopes. Further, Shire of Capel approved native revegetation of 1:4 batter slopes for a sand pit in 2022. The current proposal involves approximately 1.13 ha of native revegetation on 1:4 batter slopes, which is a much smaller area than what was approved for the other sand pit by Shire of Capel.

Contrary to the RAR, no detailed rehabilitation implementation plan has been requested for this application by Shire of Capel. A revised version of the previously approved Rehabilitation and Decommissioning Program was provided as part of the application package in accordance with the Shire of Capel Extractive Industries Local Law 2016 requirements. The applicant proposes that a condition is included in the approval for the preparation of a detailed rehabilitation implementation plan, similarly to what Shire of Capel has recommended for another extractive industry site in the March 2023 council meeting agenda.

Trucks and Roads
The application proposes to increase maximum truck movements to 15 per hour (one way) to cater for hauling campaigns for large contracts. This number of trucks would only be reached during peak periods whereas most of the time the number of trucks would be much lower and there would be periods of no hauling as well.

Regarding road deterioration, the applicant is offering to upgrade the section of Ducane Road between the site entrance and Queelup Road to a better gravel standard and then maintain this section as necessary for the duration of the extraction operations. The applicant will also continue to make payments for road deterioration purposes in accordance with the WALGA co-contribution rates.

Conclusion
Overall, I believe that the issues that have been raised with the proposal in the RAR can be managed with approval conditions, and therefore I recommend an alternative motion for approval, subject to conditions.

Yours sincerely
MBS Environmental



Dr Kirsi Kauhanen
Senior Environmental Scientist

Government of **Western Australia**
Development Assessment Panels

Presentation Request Form

Regulation 40(3) and DAP Standing Orders 2020 cl. 3.5

Must be submitted at least 72 hours (3 ordinary days) before the meeting

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Please complete a separate form for each presenter and submit to daps@dplh.wa.gov.au

Presenter Details

Name	Craig Carbone
Company (if applicable)	MGM Bulk
Please identify if you have any special requirements:	**YES ☐** **NO ☒** If yes, please state any accessibility or special requirements: Click or tap here to enter text.

Meeting Details

DAP Name	Regional JDAP
Meeting Date	19 April 2023
DAP Application Number	DAP/23/02425
Property Location	Lot 265 (418) Ducane Road, North Boyanup
Agenda Item Number	8.1

Presentation Details

I have read the contents of the report contained in the Agenda and note that my presentation content will be published as part of the Agenda:	**YES ☒**
Is the presentation in support of or against the report recommendation)? *(contained within the Agenda)*	**SUPPORT ☐** **AGAINST ☒**
Is the presentation in support of or against the proposed development?	**SUPPORT ☒** **AGAINST ☐**
Will the presentation require power-point facilities?	**YES ☐** **NO ☒** **If yes, please attach**

Government of **Western Australia**
Development Assessment Panels

Presentation Content*

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Brief sentence summary for inclusion on the Agenda	*The presentation will address:* Proponent response to RAR

In accordance with Clause 3.5.2 of the *DAP Standing Orders*, your presentation request must also be accompanied with a written document detailing the content of your presentation.

Please attach detailed content of presentation or provide below:

The sand pit on Lot 265 Ducane Road has had an extractive industry licence (EIL) since 2014 and Shire of Capel granted the latest DA and EIL in 2019. The current proposal is largely a renewal of the previously approved pit with some amendments to maximise the utilisation of the available sand resource.

The extraction operations are driven by market demand for sand that fluctuates over time. Demand during the initial EIL period was low, however over the last few years demand has been high and is expected to remain high for at least another couple of years. The high demand is creating a shortage of sand in the region. Most new pits require substantial native vegetation clearing with significant lead times and more significant environmental impacts than this existing, operational pit.

Further, this Ducane Rd site is located in close vicinity to current major infrastructure projects in the wider Bunbury area (e.g. Bunbury Outer Ring Road). Trucking distances from this site are much shorter than some of the alternatives being used (e.g. pits in Binningup).

Large projects typically require intensive trucking campaigns over specific periods of time in the construction process. In order to cater for these larger projects and not be at a competitive disadvantage, the proposal seeks a new maximum number of trucks. It is noted that the higher the extraction and trucking rates are, the quicker the sand in the pit will be exhausted and the movement of trucks will cease.

The issues raised in the RAR can be addressed through appropriate conditions and considering this is an existing pit, I suggest that an alternative motion is put forward for approval subject to conditions.

Government of **Western Australia**
Development Assessment Panels

Presentation Request Form

Regulation 40(3) and DAP Standing Orders 2020 cl. 3.5

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Presenter Details

Name	Michael J. Tichbon
Company (if applicable)	Capel Land Conservation District Committee
Please identify if you have any special requirements:	**YES** ☐ **NO** ☒ If yes, please state any accessibility or special requirements: Click or tap here to enter text.

Meeting Details

DAP Name	418 (Lot 265) Ducane Road, North Boyanup
Meeting Date	Friday, 28 April 2023
DAP Application Number	RJDAP 93 as per reissued agenda.
Property Location	Lot 265 Ducane Road, North Boyanup
Agenda Item Number	8.1 – 418 (Lot 265) Ducane Road, North Boyanup

Presentation Details

I have read the contents of the report contained in the Agenda and note that my presentation content will be published as part of the Agenda:	**YES** ☒
Is the presentation in support of or against the report recommendation)? *(contained within the Agenda)*	**SUPPORT** ☒ **AGAINST** ☐
Is the presentation in support of or against the proposed development?	**SUPPORT** ☐ **AGAINST** ☒
Will the presentation require power-point facilities?	**YES** ☐ **NO** ☒ **If yes, please attach**

Presentation Content*
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Brief sentence summary for inclusion on the Agenda	*The presentation will address:* Click or tap here to enter text.

In accordance with Clause 3.5.2 of the *DAP Standing Orders*, your presentation request must also be accompanied with a written document detailing the content of your presentation.
Please attach detailed content of presentation or provide below:

We would like to thank the RJDAP for this opportunity to present our written comments on this EIL application to excavate further from the approved 1:10 batter down to a very steep 1:4 batter, with virtually no buffer zone.

We would also like to comment on the traffic management, a rehabilitation plan and the requirement for a rehabilitation bond.

The Capel Land Conservation District Committee (Capel LCDC) was founded in 1992 and is a statutory committee appointed by the Commissioner of Soil and Land Conservation in Western Australia, to administer land conservation districts in accordance with an Order proclaimed by the Governor.

LCDCs main functions are to promote sustainable land management and undertake projects. LCDCs are statutory bodies formed under section 23 of the Soil and Land Conservation Act 1945. LCDCs operate within land conservation districts defined by an Order of the Governor in Council on the advice of the Minister for Agriculture and Food.

The Commissioner of Soil and Land Conservation manages the land conservation district system and supports LCDCs. The Commissioner operates from within the Department of Primary Industries and Regional Development (DPIRD).

The Capel LCDC usually comments on all EIL applications in the Shire of Capel and has done so for many years. In that time, we have attempted to rehabilitate many abandoned Extractive Industry areas in the Shire and found that it is extremely difficult, if not impossible – if they are not left in a reasonable condition.

Shire of Capel - Extractive Industry Local Law
We have been reasonably happy with the Conditions imposed by the Shire's Extractive Industry's Local Law (WA Government Gazette "Shire of Capel, Extractive Industries Local Law 2016", full copy attached below), as this clearly sets out conditions to preserve the EIL site in as good as condition as possible. For ease of reference, below is an extract of Part 6.

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS

6.1 Limits on excavation near boundary

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

(a) 20 metres of the boundary of any land on which the excavation site is located;
(b) 20 metres of any land affected by a registered grant of easement;
(c) 40 metres of any thoroughfare;
(d) 50 metres of any bore, watercourse, wetland, swamp or other water reserve; or
(e) 2 metres of the estimated maximum groundwater level as determined from time to time by the Department of Water or otherwise as adopted by the local government.

Extract from Shire of Capel Gazetted, Extractive Industries Local Law 2016, from page 10/13
Full copy attached below.

Batters
The applicant currently has approval to extract to a 1:10 batter and now wishes to move straight to extract down to a very steep 1:4 batter – and remove the greater majority of the buffer zones, which the Capel LCDC is totally opposed to.

The Capel LCDC would reluctantly concede that a 1:6 batter extraction could be considered, but only if the local law buffer zones already approved remain in place.

Retain existing buffer zones
Specifically, the 60 metre wide strip on the southern boundary of the property is in fact a greater distance than what is prescribed in the Shire's local law, however, this protective buffer was set by DWER to allow a fauna corridor and the provision of a suitable property buffer.

It was also specified that this area be rehabilitated and revegetated with native vegetation. DWER further considered that the buffer zone was significant to protect the impact of the operation on the nearby reserves and other conservation areas of bushland adjoining Lot 265.

SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
When preparing to respond to this application, it became apparent that this matter was not available on the Shire of Capel website and therefore the official document from the applicant was not available for assessment until today. The Shire advised that there were only four changes to the document, namely: • Amend existing approved setbacks from 60m to 3m in South Eastern Corner; • Amend batter slopes from 1:10 to 1:4 on all sides; • Increase vehicle movements to a maximum of 15 trucks per hour (30 one way trips); • Update noise mitigation to reflect increased extraction due to batter slope changes. In addition, as the application was not available publicly on the Shire's website, there has been no opportunity for the broader public to be aware of this proposed development, nor the opportunity for them to comment.	• Truck movements and road maintenance • Noise DWER assessment of the clearing permit amendment application will consider potential impacts to the nearby reserves, other conservation areas or bushland of significance. It is noted that Lot 265 (proposed extraction) does not adjoin the vegetated properties to the south but rather there is a partly cleared road reserve in between. Also on the western side, there is a 20 m setback and 20 m undeveloped road reserve (40 m total) separating the proposed operations on Lot 265 and the neighbouring property. A 60 m wide strip is proposed to be rehabilitated/revegetated to native vegetation along the southern boundary, which is more native vegetation than currently present in the area. This rehabilitation/revegetation strip will provide a long term buffer between the cleared areas on Lot 265 and the native vegetation to the south.

Extract - please refer to page 152/188 of this RJDAP agenda and DWER's reasons for maintaining the wider 60 metre buffer zone and setbacks for the undeveloped road reserve.

Partial submission from Capel LCDC dated 8/3/2023 and Shire's response re DWER's reasons for maintaining the buffer zones.

The nearby reserves consist of pristine bushland which have in recent years been purchased by the State Government as an offset for the Bunbury Outer Ring Road (BORR) development.

The existing setbacks for the undeveloped road reserve should be maintained as this area of land may be required at some time in the future and will not be suitable for road use if extraction to 3 metres were to be allowed.

For these reasons, the Capel LCDC is strongly supporting that all currently agreed buffer zones and setbacks be retained.

Rehabilitation Bond

The Capel LCDC would be totally opposed to any request to remove a rehabilitation bond as it is essential to ensure that if the applicant fails to rehabilitate the property in a satisfactory manner, the Shire can step in with the funds held to rehabilitate the property to the best standard that the retained funds will allow.

We view this important criteria as not negotiable.

Further, we believe that all rehabilitation should be staged in agreement with the Shire's recommendation in the March 2022 Council meeting, requiring a detailed Rehabilitation Implementation Plan - and not performed in an ad hoc manner, nor left to the operator's discretion, as set out in the Shires' RAR Alternatives (Item 3) for consideration, see below:

3. Rehabilitation of the land may occur at any time within the term of this approval.
Extract from RJDAP Agenda – RAR report, page 36/188

To give written background to the Capel LCDC's request to insist on the Rehabilitation Bond, I refer you to my two submitted public questions to the Council meeting held on 30 March 2022. See extracts and attachment below.

M Tichbon – Gwindinup – ICR119453 I am increasingly concerned about the Extractive Industry licence applications in the Shire of Capel for gravel as I know from experience that it is extremely difficult to rehabilitate extracted gravel pits with a clay base with native vegetation. ….2/ **Question 1:** Other than on Shire Reserves, can the Shire advise where any successful rehabilitation of extracted gravel pits with native vegetation on private land has occurred in the Shire of Capel?
Response: Thank you Mr Tichbon for the question. The Shire acknowledges that rehabilitation of private sand and gravel pits to native vegetation has generally achieved limited success. We also acknowledge that rehabilitation of gravel pits is more difficult and complex that rehabilitation of sand pits. Other emerging issues include the increased demand and cost of sand and gravel, where operators are applying for new or expanded operations with increase batter slopes to maximise yields of finite resources. Shire officers have proposed that the Council consider an alternative recommendation for both extractive industry applications in this Agenda, applying a new condition requiring Applicants to submit a detailed Rehabilitation Implementation Plan to better address these issues and achieve improved rehabilitation outcomes. This new requirements will need to be the Shire satisfaction, and will detail the methodology of how rehabilitation will occur, to what level, specific plant / seed species, planting rates, required propagation and when rehabilitation is to occur, in addition to post implementation monitoring and independent third party auditing, covering all stages of rehabilitation will be required. The Council will also be asked to consider an increase in the Shire's 2022/23 fees and charges schedule regarding rehabilitation bonds. These proposals intend to better ensure that Operators not only have to rehabilitate, but do so to a higher standard that is verifiable and more closely in keeping with the Shire's and the community's expectations.
Extract from Council meeting, 30 March 2022 – refer pages 11 and 12

Question 2:

If there has been any successful rehabilitation with native vegetation on extracted gravel pits, have any trees or plants reached a reasonable state of maturity and formed a reasonable canopy and has the density of plantings (as agreed in the rehabilitation plans) been met?

SHIRE OF CAPEL ORDINARY COUNCIL MEETING – 30 MARCH 2022 12

Response:

Thank you Mr Tichbon. The answer to this question is effectively the same as the previous question. We acknowledge that rehabilitation of gravel pits is difficult and to date, outcomes have been limited and generally unsatisfactory.

To improve the level of rehabilitation of sand and gravel pits, Council tonight has been presented with an alternative recommendation to require a detailed Rehabilitation Implementation Plan as previously explained. Subject to Council approval, these requirements will become the new benchmark and standard template for rehabilitation of extractive industry operations.

Extract from Council meeting, 30 March 2022 – refer pages 11 and 12

In March 2022, the Shire of Capel committed to presenting a recommendation requiring applicants to have a detailed Rehabilitation Implementation Plan, as stated in the last paragraph above and this will become a new benchmark and standard template for rehabilitation and extractive industry operations.

I respectfully urge all RJDAP panel members to consider these recent rehabilitation recommendations set by the Shire.

The answers to my submitted questions highlight how difficult successful rehabilitation has been in our Shire.

Unfortunately, now applicants are not happy with these Conditions and try and move as much material as possible from the EIL locations, which leaves the Lots in a very difficult situation for the future.

I have not seen any EIL's rehabilitation to be satisfactorily carried out. In all the years where I have reviewed the rehabilitation, they have usually been left in a poor state with the potential to become a weed infested and eroded wasteland.

I would like to see any example of an EIL being satisfactorily rehabilitated (anywhere) and the rehabilitation growth to be of a satisfactory standard, as I have never known this to occur.

Rehabilitation of areas that are mined or is an EIL, is a very scientific process. As well as preparing the ground in a satisfactory manner, the soil microbial community issue is a major factor.

Studies by scientists from Kings Park included an article in Friends of Kings Park, Autumn 2022 magazine stating:

> **"Rehabilitating systems were predicted to return to the pre-disturbance state in about 50 years."**

I refer to an article "**Soil shows true mine rehabilitation takes decades**" by Henry Ballard dated 7 March 2022 which sets out recent research that effective rehabilitation can take 40-60 years to reach the target.

> "The key was recognising that natural ecosystems from just a single location can be quite variable, and that variation needs to be accounted for if we are monitoring the progress of ecosystem recovery towards a target outcome.
>
> "Our research showed that effective rehabilitation can set up a predictable trajectory of recovery, and in these post-mining examples it can take 40-60 years to reach the target."
>
> The paper's conclusion summarises the team's recommended approach to mine site rehabilitation, with a strong focus on "nature-based solutions" including soil analyses such as this study.
>
> "Restoration is technically challenging and requires considerable investment with a broad base of evidence to give the best chance of success," Liddicoat said.
> "We recommend our new method to restoration managers who are considering how to incorporate soil biology into their ecological monitoring toolkit."

Full article below for your information:
https://www.australianmining.com.au/soil-shows-true-mine-rehabilitation-takes-decades/

Present EILs do not, to my knowledge, attempt to replace the soil microbial community artificially. If this was undertaken, it would greatly assist in the regeneration of the rehabilitation of the site. My understanding is that the current best practise is to retain the top soil, rip up the base of the pit and then re-spread the retained top soil at the completion of extraction.

Often, this top soil has not been kept weed free and poses weed infestation problems when being re-spread across the excavated site. In the meantime, the soil microbial community of the site, has been completely depleted. In my opinion, it needs artificial replacement if revegetation is to reach a satisfactory level.

Of course, this is an extra cost to the operator and it is rarely done. The operator appears to always get by with the minimum expense - without looking at what cost is needed to reach a satisfactory rehabilitation outcome.

Truck movements
When reviewing the number of current and proposed truck movements, it was difficult to compare as the "current numbers" are quoted in "truck movements **per day**", when the "proposed numbers" are quoted in "truck movements **per hour**".

The original number of truck movements were 12 per day over a 5.5 day period, totalling 72 trucks per week.

After the SAT hearing, these movements were increased to **144 trucks per week**, effectively doubling the number. This calculates to the present approved number of **288 single struck movements per week**.

Now the applicant wishes to have 15 truck movements **per hour**.

Hours of operation are Monday to Friday from 7am to 6pm with Saturdays from 7am to 12 noon, totalling 60 hours x 15 truck movements, **equalling 900 truck movements per week**.

With a truck movement to and from the site, I calculate that to be some **1,800 single truck movements per week**.

I do not believe the "*currently approved*" and "*proposed amendment*" to truck movements in the RJDAP agenda have been clearly set out for ease of comparison.

Assessment Panel (JDAP) application is seeking to renew the site's land use approval, as the expiration of the land use approval is imminently approaching. A breakdown of the proposed differences between the existing approved land form and development, and proposed development, is provided in the table below:

Current approval	Proposed amendment
Approved batter slopes 1:6	Proposed batter slopes of 1:4
Eastern boundary setback 20m	Proposed eastern boundary setback - Nil
Southern boundary setback 60m	Proposed southern boundary setback 3m for firebreak
Staging approved in south to north on the east then south to north on the west	Proposed to extract south to north across the width of the site
12 truck movements **per day**	15 truck movements **per hour**

Extract from RJDAP agenda, SOC RAR Report, page 24/188

Due to the operator wanting to significantly increase truck movements from **144 to 900**, we would urge RJDAP to consider requesting the preparation of a Traffic Impact Assessment.

Road Sealing

Given the already high number of truck movements and the proposed significant increase, we are of the opinion that it is imperative that as a minimum the operator must comply with Section 7 to seal portion of the road, which states that:

> "Prior to commencement of the development, the section of Ducane Road that extends between the vehicular entry point of the subject site and Queelup Road is to be upgraded and sealed at the applicant's cost, to the satisfaction of the Shire of Capel".

We are of the opinion that if this section was to remain as a gravel road, requiring continuous watering to suppress dust, it would pose a very serious traffic hazard and the road would quickly degenerate to a very poor standard. With the proposed significant increase in truck movements, the road sealing condition should be enforced.

History

Regarding the applicant for Lot 265, the applicant does not have a very good history of satisfactory rehabilitation in the Shire of Capel. I can refer to an event last year on Loc 393 Morris Road, Gwindinup where a substantial washout occurred from the operator's holding dam, which was verging in the buffer zone. As a result, Morris Road was partially buried in sand, as was the adjoining property owned by Tronox, which also partially flooded a Threatened Ecological Community (TEC) and covered and impacted a section of their rehabilitation efforts, which now has to be replanted.

I had written several emails over the years about this EIL and in an earlier submission indicated that there was a high risk of washouts occurring on Lot 393, but this was ignored.

After the washout, the operator did not self-report to the Shire, but attempted to do its own clean up on Morris Road over a weekend. Photographic report attached below.

Approximately 30 years ago, an applicant of the same surname was granted a licence area opposite my home. That applicant exceeded the licence area without approval by a factor of 300%. This resulted in a large clay based area at the bottom of the pit. When a substantial rain event occurred, water poured off the area and flooded the South Western Highway, with flooding ultimately right up to my home. Following this unlicensed excavation, the extractive industry licence was terminated. Rectification works included the installation of three safety ponds, which can be seen on satellite view today at 17588 South Western Highway, Gwindinup (Lots 2 & 3).

Adjoining LGAs
Some of the adjoining LGAs have become depleted in resources such as sand and gravel, which has increased the pressure on the Shire of Capel's resources. When an operator applies to the Shire for an EIL, they come under the Shire's extractive local law (as mentioned above) and in many cases the applicant attempts to erode and reduce those standards.

If unsuccessful with the Shire, they turn to RJDAP in an attempt to bypass or reduce the effect of the Shire's local laws.

I believe this is also done in an attempt to extract more material, purely for economic gain, with little regard for the long term rehabilitation and environmental future of the properties concerned.

Is it not enough to be granted permission to extract this dwindling finite resource, without applying to minimise conditions or completely withdraw them?

Conclusion
For the reasons detailed above, the Capel LCDC is opposed to any reduction in general standards in management of the EIL from the present high standard set by the Shire of Capel. We are totally opposed to any extraction to a 1:4 batter, as well as any reduction to the existing buffer zone widths and any extraction within two metres of the groundwater table.

I am happy for this to be received as a written submission only and I do not propose to present. However, I will be attending the Zoom meeting and will be available to answer any questions, or provide further detail if called upon.

Thank you for accepting this Presentation and for considering the Capel LCDC's concerns, comments and requests.

Yours faithfully
(Submitted via email)

Michael Tichbon OAM
Capel LCDC Member
Patron of the Friends of Kings Park
Honorary Freeman, Shire of Capel
[redacted]

Approved by:

Bill Dear, Chairman & Member
Capel Land Conservation District Committee (LCDC)
[redacted]

Attachments:

Shire of Capel, Extractive Industries Local Law 2016
Western Australian Government Gazette – Wednesday, 2 November 2016 – No. 197
Special. Local Government Act 1995.

Shire of Capel - Gazetted Law - EIL 20

Photographic Report of sand washout on Morris Road, Gwindinup

2022 07 29 - Photographic Report

2022 03 30 - Shire of Capel - Extract from Minutes of Meeting - Questions submitted by M Tichbon on gravel pit rehabilitation

EXTRACT _ 2022 03 30 - Shire of Capel - E

DUCANE ROAD, 418 (LOT 265) NORTH BOYANUP – EXTRACTIVE INDUSTRY DEVELOPMENT

Form 1 – Responsible Authority Report
(Regulation 12)

DAP Name:	Regional JDAP	
Local Government Area:	Shire of Capel	
Applicant:	MBS Environmental	
Owner:	M M Giacci and Allmoon Nominees Pty Ltd	
Value of Development:	$12.14 million ☒ Mandatory (Regulation 5) ☐ Opt In (Regulation 6)	
Responsible Authority:	Shire of Capel	
Authorising Officer:	Louise Hughes, Senior Planning Officer	
LG Reference:	PA213/2022	
DAP File No:	DAP/23/02425	
Application Received Date:	21 December 2022	
Report Due Date:	16 March 2023	
Application Statutory Process Timeframe:	90 Days	
Attachment(s):	1. Development Application and accompanying material (Noise, Dust and Rehabilitation Plans). 2. Schedule of submissions. 3. Schedule of referral responses from Statutory Agencies. 4. Current Development Approval and Licence.	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	☐ Yes ☒ N/A	Complete Responsible Authority Recommendation section
	☐ No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation

That the Regional JDAP resolves to:

1. **Refuse** DAP Application reference DAP/23/02425 and accompanying plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of Clause 8.3 of the Shire of Capel Planning Scheme No.7, for the following reasons:

Reasons

1. The proposed development does not meet clause 5.7.2(e) for the Objectives of the Rural Zone in the Shire of Capel Town Planning Scheme No. 7.

2. The proposed development does not meet the Shire of Capel Draft Local Planning Policy 6.2 - Extractive Industries performance criteria for Amenity, Environmental, Visual Impact and Transport.

3. The proposed development does not satisfactorily address the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015 Clause 67(2) sub clauses (c), (g), (n), (q), (s), (t), (x) and (y).

4. The proposed development does not satisfactorily address the requirements of SPP2.4 Planning for Basic Raw Materials.

Details: outline of development application

Region Scheme	Greater Bunbury Region Scheme
Region Scheme - Zone/Reserve	Rural
Local Planning Scheme	Shire of Capel Town Planning Scheme No. 7 (TPS7) Shire of Capel Draft Local Planning Scheme No.8 (LPS8)
Local Planning Scheme - Zone/Reserve	Rural
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Industry Extractive – AA (TPS7)
Lot Size:	39.95ha
Existing Land Use:	Industry Extractive
State Heritage Register	No
Local Heritage	☒ N/A ☐ Heritage List ☐ Heritage Area
Design Review	☒ N/A ☐ Local Design Review Panel ☐ State Design Review Panel ☐ Other
Bushfire Prone Area	Yes
Swan River Trust Area	No

Proposal:

The applicant proposes to amend elements of an existing Extractive Industry approval for the extraction of sand on the subject lot (Lot 265 Ducane Road).

The development application is seeking various changes to the land form and aspects of development to that of the current approval. Furthermore, the Joint Development

Assessment Panel (JDAP) application is seeking to renew the site's land use approval, as the expiration of the land use approval is imminently approaching. A breakdown of the proposed differences between the existing approved land form and development, and proposed development, is provided in the table below:

Current approval	Proposed amendment
Approved batter slopes 1:6	Proposed batter slopes of 1:4
Eastern boundary setback 20m	Proposed eastern boundary setback - Nil
Southern boundary setback 60m	Proposed southern boundary setback 3m for firebreak
Staging approved in south to north on the east then south to north on the west	Proposed to extract south to north across the width of the site
12 truck movements **per day**	15 truck movements **per hour**

Background:

Development approval was first granted in 2013 for the extraction of sand for a period of 5 years subject to conditions. Subsequent to this approval the applicant sought a review of conditions 6 and 7 by the State Administrative Tribunal (SAT).

Condition 6 stated:

'*The applicant to upgrade Queelup Road prior to the issue of an Extractive Industry Licence to the satisfaction of the Director Engineering and Operations.*

Such works to include the following:

- *Clearing all vegetation back 5.0m from the centreline and up to 6.0m;*
- *Providing a 1.0m wide trafficable shoulder both sides.*'

Condition 7 stated:

'*The average number of trucks leaving the site is not to exceed 12 per day over the period of 51/2 working days without prior approval of the Director Engineering and Operations*.'

As a result of the SAT process the wording of the conditions was amended as follows:

Condition 6:

'*Within 30 days of the issue of the Extractive Industry Licence, the applicant is to pay $25,000 to the Shire of Capel as the applicant's contribution to the upgrading of Queelup Road.*'

Condition 7:

'*The average number of trucks leaving the site is not to exceed 210 per (51/2 day working) week, averaged out per annum, without the prior approval of the Shire's Director Engineering and Operations. Such approval shall not be unreasonably withheld*.'

The Extractive Industry Licence was granted for the abovementioned development approval by Shire of Capel on 2 October 2014.

A development application was lodged in 2019 to extend the validity of the existing approval. Subsequently, development approval was granted by Council subject to conditions on 18 December 2019 to enable operations to continue for a further 5 years (expires 2024).

In 2021, a development application submitted to amend the existing 2019 approval was submitted to the Shire for consideration and was subsequently withdrawn. The applicant then submitted the application currently being considered by the JDAP in lieu of the earlier application submitted in 2021 to the Shire for consideration.

Legislation and Policy:

Legislation

- *Planning and Development Act 2005* (P&D Act);
- *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations);
- *Planning and Development (Development Assessment Panels) Regulations 2011* (DAP Regulations);
- Greater Bunbury Region Scheme (GBRS);
- Shire of Capel Local Planning Scheme No. 7 (LPS7); and
- Shire of Capel Draft Local Planning Scheme No. 8 (LPS8).

State Government Policies

- State Planning Policy 2.4 – Basic Raw Materials

Local Policies

- Shire of Capel Draft Local Planning Policy 6.2 – Extractive Industries

Consultation:

Public Consultation

The application was referred to surrounding landowners for a period of 14 days resulting in 9 submissions objecting to the proposal. A comprehensive schedule of submissions is contained in Attachment 2 of this report.

Issue Raised	**Officer comments**
Noise from truck movements on Lillydale Road	The application is supported by a Noise Assessment which has been undertaken to reflect the changes in the staging plan and increased truck movements on site. The proposal is considered to comply with the noise regulations. The extraction complies with the Guidance for the Assessment of Environmental Factors No. 3; separation Distances between Industrial and Sensitive Land Uses setback guideline of 300m to the nearest sensitive receptor and mitigation includes a 4m high bund where required.

	The issue of noise on a public road is not something which can be controlled through the planning process.
Dust from truck movements on Lillydale Road	The application is supported by a Dust Management Plan which is considered to satisfactorily address dust management from the operations on site. It is beyond the scope of the planning system to address dust issues generated from traffic on a public road.
Compliance with the clearing permit	The clearing permit is not administered by the Shire, however given the previous assessment resulted in a requirement for a 60m setback from the southern boundary and for it to be revegetated, the proposal does not meet this requirement – refer to planning assessment for further detail.
Queelup Road not wide enough for vehicles to pass safely	This issue is discussed further in the planning assessment.
Congestion at Lillydale Road and Queelup Road intersection.	This issue is discussed further in the planning assessment.
Speed of traffic, volume and safety.	This issue is discussed further in the planning assessment.
Damage to Queelup Road, maintenance costs	This issue is discussed further in the planning assessment.
Number of trucks on Queelup Road does not include water trucks, service vehicles and floats for moving machinery	This issue is discussed further in the planning assessment.
Impact of the proposal taking 2 years	This issue is discussed further in the planning assessment.
Operating outside permitted hours	This is an issue which has been identified by complainants outside of the consideration of the current proposal and is addressed as a compliance issue.
Weed control on stockpiles	Concern was raised that weeds can grow on stockpiles, resulting in the spread of weeds on and off site.
Suitability of revegetation species	This is a matter which can be addressed through an updated species selection list in the Rehabilitation and Decommissioning Program.
Erosion of reduced batter slopes	This issue is discussed further in the planning assessment.
Difficulty in revegetating batter slopes	This issue is discussed further in the planning assessment.
Accessibility of a 1:4 batter slope	This issue is discussed further in the planning assessment.
Impact of reduced setback on adjoining native vegetation and offset blocks	This issue is discussed further in the planning assessment.
Impact of reduced setbacks on adjoining wetlands	This issue is discussed further in the planning assessment.

Long term impact	This issue is discussed further in the planning assessment.

Referrals/consultation with Government/Service Agencies

The referrals to Government Agencies did not generate a significant objection to the proposal. The responses received from Main Roads Western Australia (MRWA), Department of Biodiversity, Conservation and Attractions (DBCA), and Department of Water and Environmental Regulation (DWER) identified concerns regarding the potential impact of the reduced setbacks on adjoining lots and the adequacy of a 3m firebreak in terms of access, fence maintenance and firebreaks.

In addition the reduced setback on the southern boundary does not have a clearing permit and is contrary to the previously approved permit which specifically required retention and rehabilitation of native vegetation in this location in part to act as a buffer to the vegetation to the south. The issue of erosion due to 1:4 batter slopes and rehabilitation was also raised as a matter for consideration.

Overall, the key themes which have been raised by external agencies can be addressed through the imposition of planning conditions, should the JDAP consider the application as supportable.

Planning Assessment:

Shire of Capel Town Planning Scheme No. 7 (TPS7)

Zone Objectives

The Extractive Industry land use is discretionary in the Rural Zone and it is recognised that sand resources are required for various construction projects both locally and across the state.

The objectives of the Rural Zone set out is clause 5.7.1 of TPS7 state:

> '*Council's objective in the assessment of subdivision referrals and management of land uses in the rural zone is to preserve the character of the rural area, discourage the removal of prime agricultural land from agricultural production and prevent adverse effects on the continuation of established or potential agricultural industries.*'

The extraction process is capable of being managed to minimise impacts on the character of the rural area and the loss of agricultural land use during the extraction period is generally temporary in nature. The issue which arises is whether the impacts can be managed in the long term to ensure that the land has a viable agriculture use in future and does not have a wider environmental impact.

Clause 5.7.2 states that Council's policy in assessing applications for Planning Consent or referrals from the Western Australian Planning Commission of subdivision applications, will be to have regard to:

a) *The objective set out in Clause 5.7.1 and any policy document adopted pursuant to Clause 8.9 of the Scheme which is directed at achieving that objective.*

b) *The need to provide for land to be held in lots that are suitable for the long term use of the land for Rural Pursuits, and in particular applications for subdivision of Rural land should demonstrate the facilitation of ongoing farming of the land;*

c) *The availability of services required to support the proposed development or subdivision and the economic impact of the provision, extension or upgrading of those services that may be required;*

d) *The adequacy of the roads, existing or proposed in the area, which may be needed to support the amount of road traffic expected to be generated by the development or subdivision; and*

e) *The need to impose such conditions as Council deems appropriate in order to minimise any adverse effect the development or subdivision may have on the environment of the area.*

The proposal to reduce setbacks and proposed steeper batter slopes is considered to negatively impact on the viability of the land for agricultural purposes and potentially negatively impact on the environmental values of the adjoining lots. The steep batter slopes and reduced setbacks cause changes in soil water content, increase erosion risk and weed infestation resulting in unacceptable outcomes on the subject and adjoining lots and are therefore not considered acceptable and do not meet the above scheme criteria.

The lot is situated on Ducane Road which is an unsealed road and the access route proceeds to Queelup Road which is a narrow (approximately 5m wide) sealed road. The application proposes up to have a maximum of 120 truck movements per day which is an increase from the previously approved 12 truck movements per day.

The Shire was required to close Ducane Road in 2019 due to damage to the road surface rendering it unsafe, because of large numbers of truck movements during winter. In addition, submissions and complaints have been made by residents regarding volumes of trucks on Queelup Road impacting residential amenity, road safety and traffic queues at the intersection of Queelup Road Lillydale Road. The application has not adequately addressed how these matters will be managed and resolved despite the request for a Traffic Impact assessment to be submitted for consideration which was declined by the applicant.

Overall, it is considered that the requirements of the Scheme provisions in relation to future land use and suitability of the road network have not been adequately addressed.

<u>Land Use</u>

Overall, the use component of the application would be supported in-principle on the basis of meeting the majority of the Acceptable Development criteria in the Shire's Draft Local Planning Policy 6.2. The Extractive Industry use is a 'D' use and may be supported at the Shire's discretion. However, support for such a use would be on the basis of appropriate levels of operation and risk associated with the activity onsite. However, the applicant has failed to provide adequate justification to alleviate the

concerns of the Shire, with respect the issues raised in the report. For this reason, it would not be orderly and proper planning to approval a discretionary land use where a series of concerns are yet to be adequately mitigated or justified.

Should the applicant wish to obtain support from the Shire with respect to the land use assessment, the development application would need to be accompanied by documentation that underlined the proposal's adherence to the parameters set out in the 'Performance Criteria' of LPP6.2. To date, the applicant is yet to produce further justification which was requested by the Shire in order to make proper judgement on the concerns raised in this report. As such, the applicant has not demonstrated how the proposal meets both the Acceptable Development, or Performance Criteria of the draft LPP, and should not be supported as a consequence.

Draft Local Planning Policy 6.2 Extractive Industries (LPP6.2)

Draft LPP6.2 sets out acceptable development and performance criteria for the assessment of development applications. In the event that a development application does not meet the 'Acceptable Development' provisions, a performance based assessment will be undertaken against the criteria listed in 'Performance Criteria' to determine the proposal's suitability. The Performance Criteria assessment is as follows:

Performance Criteria **Element: Amenity**	**Assessment**
PC1.1.1 Development can demonstrate suitable mitigation and management measures to ameliorate the impacts on sensitive land uses	Noise and Dust management are considered to be acceptable.
PC1.1.2 Development and the volume of truck movements does not unduly disrupt surrounding residents by way of vehicular traffic, noise, dust, blasting and vibration.	This element has not been satisfactorily addressed. A traffic impact assessment is required to determine how traffic volumes will impact Ducane Road and Queelup Road and how safety and amenity impacts will be addressed.
PC1.1.3 Development does not result in land degradation, or a landform that prejudices the productive end use of the site in accordance with the objectives of the zone	This element has not been satisfactorily addressed. The increased batter slopes and reduced setbacks have the ability to result in degradation and failure of rehabilitation in the long term. In turn this impacts on the productive end use of the land, that is contrary to the objectives of the zone.
Element: Environment	

PC1.2.1 Development is located to minimise the 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	This element has not been satisfactorily addressed. The impact of reduced setbacks and increased batter slopes has the potential to impact on native flora and fauna and adjoining wetlands.
PC1.2.2 Development is located and managed to minimise the spread of Phytophthora (Dieback).	Satisfactory
PC1.2.3 Development is located and managed to achieve a high level of surface and groundwater resource protection to provide soil depth for rehabilitation to native vegetation, future land use and a buffer against groundwater contamination and exposing groundwater	Satisfactory.
PC1.2.4 Final excavation batters to achieve rehabilitated slopes compatible with future land use, existing soil structure, topography, and positive environmental outcomes	Not satisfactory. The batter slopes are considered unacceptable and will not result in successful rehabilitation to pasture or native vegetation in the long term and will have negative environmental outcomes.
PC1.2.5 Development is located and managed to a achieve a high level of staged rehabilitation	The staging of the rehabilitation will enable staged rehabilitation.
Element: Buffers	
PC1.3 Development to demonstrate satisfactory mitigation and management measures in accordance with SPP4.1 Industrial Interface and Guidance Note 3 – Separation Distances Between Industrial and Sensitive Land Uses (EPA – 2005	Buffer distances are in accordance with EPA Guidance Note 3.
Element: Visual Impact	
PC1.4 Development shall not have a significant detrimental impact on visual amenity of the landscape	Not satisfactory. The proposed batter slopes and reduced setbacks will not result in an acceptable visual outcome and are considered to be detrimental in a visual context.
Element: Transport	
PC1.5.1 The proposed haulage traffic is not to have a detrimental impact on safety and amenity of residents, and local road users	Not satisfactorily addressed. Complaints, submissions and previous investigation by Shire officers has highlighted this issue. The proposal to increase truck

	movements from 12 per day to 120 per day is considered unacceptable.
PC1.5.2 Haulage traffic is to be proposed at times of the day which will minimise conflict with school bus routes within the local road network	Not applicable.
PC1.5.3 The applicant is to demonstrate that the haulage traffic will not have adverse impacts on the locality by virtue of noise, dust pollution, and safety, and that suitable arrangements be made by the developer to ensure the road is maintained to an appropriate standard	Impacts of truck movements on Queelup Road have a negative impact in terms of noise, dust and road safety and this has not been satisfactorily addressed.
PC1.5.4 Development does not create hazards to other road users, impact on sustainability of the transport network, nor negatively impact on the amenity of the residences along the route, in terms of: • Access points to the operation site. • Existence of any other extractive industry or heavy haulage in the vicinity and cumulative effects on the transport network.	Submitters have raised concerns regarding volumes or trucks, the impact on the road surface on Queelup Road and difficulties exiting residential lots due to volumes and speed of trucks. This element has not been satisfactorily addressed.

State Planning Policy 2.4 Planning for Basic Raw Materials.

The site is located within the Basic Raw Materials policy area. The objectives of this policy are to:

a) *ensure BRM and its regional importance is considered at the earliest stages of the planning process;*
b) *protect BRM in SGS areas and ES by avoiding encroachment from incompatible land uses;*
c) *ensure BRM resources are used efficiently in land use planning and development;*
d) *identify BRM extraction opportunities through sequential land use without compromising the final intended land use; and*
e) *ensure the extraction of BRM avoids, minimises or mitigates any adverse impacts on the community, water resources and biodiversity values.*

The importance of the resource is recognised and approval has already been granted for the extractive industry. There is no encroachment proposed by incompatible land uses and the extraction is being undertaken efficiently in the context of current projects

Whilst the site does reside within the BRM catchment, extraction should not however be at the expense of irreversible impacts to the environment, or future use of the land. The policy promotes a balanced approach to such issues, which have not been demonstrated in this application. The impacts on the community and biodiversity values are compromised due to the proposed changes to the existing approval and are not considered to be acceptable.

Issues for consideration:

Based on public submissions, agency submissions and the officer assessment, the primary matters for consideration in the determination of this development application are:

1. Impact of amending batter slopes and ability to rehabilitate and maintain land capability post extraction.
2. Impact of removing setbacks to neighbouring properties particularly in relation to adjoining native vegetation and wetlands.
3. Ensuring amended staging plan does not negatively impact adjoining residential uses particularly in terms of noise and dust.
4. Impact of increased truck movements on the residential amenity along the route and the integrity of the local road network.

Batter slopes

LPP6.2 cites acceptable gradients for batter slopes as between 1:6 and 1:10.

The final form of a batter slope is important from the perspective of safety, future land use, rehabilitation and amenity. The use of 1:6 and 1:10 batter slopes (acceptable batters) affords a good outcome for the following reasons:

- An acceptable batter creates a landform which is easily trafficable by both machinery and livestock once the land is returned to pasture. The gradient does not cause an undue safety risk to farm machinery and can be traversed horizontally or vertically as required. Such a gradient is also less likely to incur damage from stock particularly cattle whereas a steeper slope is more difficult to access and its integrity is more vulnerable and easily damaged. Once the surface is damaged either by machinery or livestock, it can easily escalate to create widespread erosion and become eroded and degraded.

- In terms of future land use, the success of this is dependent on the batter slope being satisfactorily rehabilitated in the first instance. Acceptable batters are capable of rehabilitation to pasture without significant issues and result in productive land use post extraction particularly in the case of pasture. They are also more readily rehabilitated to native vegetation. The success is largely attributed to the consolidation of the sand, the minimal impact on the surface by wind and water and the consequent ease with which pasture and vegetation can establish and further stabilise the surface.

- An acceptable batter enables the reduced land profile to be integrated into the surroundings more aesthetically as it is a gentler slope and reduces the impact of what could otherwise have the visual appearance of what is essentially a hole in the ground.

- An acceptable batter also protects also ensure the impact on the vegetation and environmental attributes of adjoining lots by minimising soil water content. A steeper slope increases the risk of wind erosion and subsequent evaporation which can alter the soil water content of adjoining lots especially when the boundary setback is reduced. In this case the lot to the east benefits from significant native vegetation and wetland areas, the lots to the south and west also benefit from significant areas and quality of native vegetation and the reduction of setbacks and increased batter slopes is considered to have a detrimental negative impact.

Acceptable batters are consistent with the provisions of the Shire's Extractive Industry Local Law and the objectives of the rural zone and SPP2.4. The assessment of a variation has to consider the impact and whether it is acceptable. It is recognised that the subject lot falls within the Strategic Minerals Policy Area and sand is a necessary resource for development and the land use is one which can be considered in the rural zone. However, the detail of the proposal and the impacts of the extraction on longer term land use and environmental impacts is a significant planning consideration which is being balanced against short term gains. The steeper batter slopes will detrimentally impact on the future use of the land, its long-term success in terms of rehabilitation of both pasture and native vegetation.

The Rehabilitation and Decommissioning Program section of the proposal details the actions to be taken for pasture and native vegetation rehabilitation and a bank guarantee is to be held by the Shire of Capel until such time as it is confirmed rehabilitation has been successfully achieved post extraction. This does not however extend beyond the initial rehabilitation and does not take into consideration the difficulties which arise with the long-term maintenance and use of batter slopes at 1:4.

Experience has shown that steeper 1:4 batters limit successful rehabilitation outcomes of native vegetation, due to the impacts of wind and water erosion. This has been reiterated by environmental consultants which the Shire has engaged for previous applications, including a recent decision made in 2022 for an Extractive Industry with batter slopes of 1:4. The uncertainty around the outcome of the rehabilitation is a reason the Shire was initially reluctant to support the proposal. However, with guidance and a comprehensive analysis conducted by the environmental consultant on the applicant's rehabilitation implementation plan, the Shire had confidence in the feasibility of successfully rehabilitating a 1:4 batter slope.

However, the same level of certainty does not carry over into this proposal. The Shire was only supportive of the 1:4 batter slopes for the application lodged in 2022 as the applicant provided comprehensive information upfront to allay the concerns of Council. The involvement and effort between the Shire and the applicant had formulated a rehabilitation plan that was far more comprehensive and detailed than any previous plan submitted to the Shire. The Shire's environmental consultant also acknowledged that the conditions of the site were a reason why the 1:4 batter could be successfully rehabilitated to a higher degree than to some other sites.

Given this information was requested for the application at Lot 265 Ducane Road and was not forthcoming, the Shire is uncertain as to whether the site can actually be successfully rehabilitated.

The proposal to reduce the batter slopes to 1:4 is therefore not considered to be acceptable until the applicant can provide a comprehensive rehabilitation implementation plan that contains the required documentation outlined in **Appendix 1** of the Draft Local Planning Policy 6.2.

Reduced setbacks

The application seeks the following variations from the requirements of Part 6.1 Limits on excavation near boundary of the Shire of Capel Local Law 2016:

Boundary	Setback required	Proposed

Eastern	40m	20m except 391m through the central section at 3 metres for a firebreak.
South eastern corner	40m	3m setback for 164m along southern boundary and 254m along eastern boundary

The subject lot is predominantly cleared of native vegetation with the exception of the southern boundary and some revegetation which has occurred on the northern boundary. The lots to the east, south and west all benefit from native vegetation. The eastern lot also includes wetland areas and the southern lot is owned by the State of Western Australia and is identified as an offset area for the Southern Section of the Bunbury Outer Ring Road.

The required setbacks set out above aim to minimise the impacts of the extraction activities and resulting landform on the integrity and quality of vegetation on adjoining lots, as well as contributing to the land form for future use.

The proposed areas which are identified for having a nil setback abut lots which have significant native vegetation and also benefit from wetland areas. In addition there are unmade road reserves to the eastern, southern and western boundaries. Although a 3m wide firebreak is proposed on the southern section it is not considered that this is sufficient and combined with a 1:4 batter is considered to negatively impact on soil water content, the quality of the vegetation, increase risk of weed infestation and compromise the ability to construct the unmade road reserve in future, contrary to the Shire's Local Law and SPP2.4.

Truck movements, safety and road network

The suitability of the route is a consideration as required by the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Shire of Capel Town Planning Scheme No 7 and SPP2.4 Basic Raw Materials.

The referral process resulted in a number of residents raising concerns as follows:

- Width of Queelup Road.
- Congestion on Lillydale Road and Queelup Road intersection due to vehicle queuing of trucks and resident's cars.
- The number of trucks does not appear to accurately reflect the total number which includes water trucks, service vehicles and floats delivering machinery to site.
- The impact of the reduced timeframe to 2 years effectively concentrating truck movements into a shorter period.
- Speed and volume of trucks and the impact on road safety.

The 2019 development approval anticipated up to 12 truck movements per day and in response to the increase in demand for sand, the applicant has sought to increase this number to maximum of 15 truck movements per hour.

In July 2021 remediation works were required to Ducane Road to rectify the damage caused to the road surface due to volume of traffic and wet weather which had resulted in the road being sufficiently badly damaged to require its temporary closure.

The applicant was invited to submit a Traffic Impact Assessment on 21 December 2022 to address issues relating to the proposed increase in truck vehicle movements on the local road network and residential amenity, however the offer was declined.

As a result, it is considered that impact due to the proposed increase in truck movements on the local road network, safety and residential amenity has not been adequately addressed and does not meet the provisions of the amenity and transport elements of LPP6.2 or Clause 5.7.2(d) of the Shire of Capel Town Planning Scheme No.7 or SPP2.4.

Conclusion:

The application proposes to amend aspects of an existing development by increasing batter slopes, reducing setbacks and increasing truck movements.

The assessment of the proposal recognises that the land use is discretionary and has previously been approved and that the resource is required for major development projects.

It is considered that the impacts of the proposed amendments are not acceptable in terms of the increased batter slopes and reduced setback due to the short and long term implications relating to rehabilitation, future land use and impacts on the wider environment. In terms of the increase in truck movements it is considered that the application does not have sufficient detail to undertake a full assessment and therefore the impacts and their potential mitigation cannot be considered.

Alternatives

It is acknowledged that the land use can be supported under the Zoning Table of LPS8, and that a majority of the concerns raised in this report can be addressed through the imposition of planning conditions. The Shire believes that the development in its proposed form is not considered acceptable due to the degree of variation sought against the Draft Local Planning Policy 6.2, State Planning Policy 2.4, and Shire of Capel Local Law.

However, the development could be supported on balance subject to conditions posed that result in more appropriate batter slopes angles, setbacks, vehicle movements, and associated road maintenance.

As such, the Shire has provided an alternative recommendation for a conditional approval should the JDAP be on the opinion that the development is supportable.

Officer Recommendation

It is recommended that the Regional Joint Development Assessment Panel resolves to:

1. **Approve** DAP Application reference DAP/23/02425 and accompanying plans (attachment 1) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 8.3. of the Shire of Capel Planning Scheme No.7, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of 8 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

2. Resource extraction is only permitted for a maximum of 5 years after the issue of the Extractive Industry Licence.

3. Rehabilitation of the land may occur at any time within the term of this approval.

4. Unless otherwise approved in writing by the Shire's Director Infrastructure and Development, the development may only proceed generally in accordance with the attached approved plans, as dated, marked and stamped by the Shire, subject to any amendments required as a consequence of the conditions of this approval or any subsequent Extractive Industry Licence issued by the Shire.

Prior to the commencement of development/issuing of an Extractive Industry Licence

5. Prior to the commencement of development, amended Development Plans shall be submitted for approval by the Shire to include the following setbacks:
   a) Minimum 20m setback for the eastern boundary.
   b) Minimum 60m setback for the southern boundary.

6. Prior to the commencement of development, a Rehabilitation Management and Monitoring Plan shall be submitted for approval by the Shire. The Rehabilitation Management and Monitoring Plan shall include:
   a) Revegetation and rehabilitation of the extraction area the subject of this approval;
   b) The use of local endemic species within the rehabilitation of the proposed extraction area;
   c) Proposed rehabilitation back to native vegetation with no areas of pasture rehabilitation, to ensure the ecological linkages are maintained;
   d) Details of species types and maintenance and monitoring measures; and
   e) The site is reinstated with a minimum of 400mm cover of overburden and topsoil to a finished rehabilitated level at least 1m above the highest water table level.

7. Prior to the commencement of development, the section of Ducane Road that extends between the vehicular entry point of the subject site and Queelup Road is to be upgraded and sealed at the applicant's cost, to the satisfaction of the Shire of Capel.

8. Prior to the commencement of development, suitable arrangements being made with the Shire of Capel for the payment of a road reinstatement co-contribution for road deterioration purposes associated with Restricted Access Vehicle(s) in accordance with the WALGA co-contribution rates specified within the User Guide, estimating the incremental cost impact on sealed roads from additional freight tasks. Road Deterioration Co-contribution is to be made in arrears on the submission of the annual compliance report as required by the Extractive Industry License in accordance with the Shire of Capel Extractive Industry Local Law 2016.

9. Prior to the issue of an Extractive Industry Licence, the following Management Plans shall be submitted for approval by the Shire:
    a) Weed Management Plan; and
    b) Dieback Management Plan.

10. Prior to the issue of an Extractive Industry Licence, confirmation of the source and availability of water for dust suppression shall be submitted to the Shire.

11. Prior to the issue of an Extractive Industry Licence, the approved pit boundaries shall be surveyed by a suitably qualified surveyor, with the location of such pegs being to the satisfaction of the Shire.

12. Prior to the issue of an Extractive Industry Licence, a rehabilitation bond of $1,110,610 (39.95ha @ $27,800 per hectare) shall be provided to the Shire in the form of a Bond or Bank Guarantee.

In perpetuity

13. An Annual Audit of Compliance shall be prepared by a suitably qualified independent expert and submitted to the Shire annually. The Annual Audit of Compliance shall include:
    a) Details to demonstrate compliance with the conditions of this Development Approval;
    b) Tonnage of sand removed from the site and the period within which the sand was removed; and
    c) Progress report on the approved Rehabilitation Management and Monitoring Plan including:
    d) Details of completed, ongoing and future rehabilitation areas;
    e) Photos of rehabilitated areas;
    f) Monitoring and reporting details, if available;
    g) Start and completion dates, and expected start dates, if applicable; and
    h) A map depicting the rehabilitation areas and their completion progress.

14. There shall be no storage of hydrocarbons on-site. On-site refuelling of equipment will be from a mobile service vehicle carrying appropriate spill prevention and clean-up equipment. No major repairs or maintenance will take place on site.

15. Where the satisfaction of any condition of this approval requires the preparation of a legal agreement, all costs incidental to the satisfaction of these conditions, including the Shire's legal costs and registration fees and stamp duty (if any), must be paid by the applicant.

16. The hours of operation shall be from 7.00am to 6.00pm, Monday to Friday, and 7:00am to 12:00pm Saturday. No operations shall be permitted on Sundays or Public Holidays.

17. Maximum batter slopes of 1:6 shall be applied to all rehabilitation slopes.

18. The pit boundary survey pegs shall remain in place for the duration of the operation to the satisfaction of the Shire.

19. The maximum volume of material to be stockpiled on site at any one time is 5,000m³.

20. All stockpiles shall be removed prior to the expiry of this approval.

21. A minimum 2-metre separation distance to the groundwater shall be maintained for the life of the extraction activities.

22. If groundwater is exposed or intercepted, activities on site shall cease immediately and the Shire shall be notified within 24 hours. Such exposure or interception of the groundwater shall be remedied to the satisfaction of the Shire in consultation with the Department of Water and Environmental Regulation.

Advice Notes

1. Any proposed clearing of native vegetation is prohibited unless done under a clearing permit issued in accordance with the *Environmental Protection Act 1986*, or the clearing is exempt from the need for a clearing permit.

2. Groundwater shall not be exposed, extracted or dewatered during the operation of the extraction activities unless the appropriate approval has been obtained from the Department of Water and Environmental Regulation.

3. The proponent is advised of their obligations under the Environmental Protection (Noise) Regulations 1997.

LOT 265 DUCANE ROAD, NORTH BOYANUP
SAND EXTRACTION

DEVELOPMENT APPROVAL AND EXTRACTIVE INDUSTRY LICENCE APPLICATION

PREPARED FOR:

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OCTOBER 2022

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LOT 265 DUCANE ROAD, NORTH BOYANUP
DA AND EIL APPLICATION

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EXECUTIVE SUMMARY

The Development Approval (DA) and Extractive Industry License (EIL) Applications have been prepared on behalf of our client and landowner, Mario Michele Giacci (the applicant) for the extraction of sand on Lot 265 (Plan 232768) on Ducane Road in North Boyanup. The applicant holds a five-year DA and EIL for the property that is not due to expire until 2024; however, is applying to expand the extraction area and change the final landform contours in order to maximise the utilisation of sand on the property. The extracted product will be used to cater for the high resource demand generated by major infrastructure construction projects in the region.

An extension to the current EIL is proposed for two sections, the southeast corner (which has been previously submitted) and further expansion along the central section of the eastern border. This results in the application area (33.76 ha) becoming slightly larger than the previously approved extraction area (31.63 ha). The majority of the extension area has been previously cleared and therefore only approximately 1 ha of additional native vegetation clearing (in Degraded to Completely Degraded condition) will be required. Extraction along the eastern boundary is proposed to extend to the property boundary, removing the previously approved and largely unvegetated 20 m boundary setback to allow for better utilisation of the sand resource available in this section. The area proposed to have no setback is adjacent to privately owned land (Lot 2269), the owner of which supports the extraction of sand to the property boundary. The operations will remain screened by native vegetation from the dwelling to the east. Extraction in the southeast corner is also proposed to extend to the property boundary removing previously approved setbacks to better utilise the available sand resource. This extension area is bordered by an undeveloped road reserve, beyond which the privately owned neighbouring properties remain heavily vegetated for 150 m or more in all directions.

A change is also proposed to the final batter slopes along the edges of the extraction area from the currently approved 1:10 (vertical:horizontal) to maximum 1:4. The post-extraction landform will not change for the majority of the extraction area that will remain flat at 25 mADH. With the proposed changes, insitu volume of sand is estimated at approximately 1,188,000 m^3 (compared to previous estimate of 927,285 m^3) and this is proposed to be extracted in 17 stages, commencing in the southeast. Previously, it was proposed that the stages progressed from south to north on the right half of the property before repeating the pattern on the left half. The new stage plan proposes that extraction is completed in the stages in the southern half of the property before moving to the stages in the northern half. Depending on market demand for the sand, the life of the pit may extend past this licence period (5 years) and, if so, a renewal application will be made in the future.

The site is composed of unimproved pasture with patches of degraded native vegetation, scattered individual native trees and planted introduced species. The applicant holds a Clearing Permit (CPS 5319) from the Department of Water and Environmental Regulation (DWER) for clearing of native vegetation within the current extraction area and will submit for an amended clearing permit to match the proposed EIL area once DA is granted.

Noise assessment by Herring Storer Acoustics indicates that with strategically located noise bunds along property boundaries, the operations will comply with noise regulations. The number of truck movements will be set at a maximum of 15 (30 one way trips) per hour to facilitate the periods of highest demand; however, most of the time the number of truck movements will be much lower. The application also includes a Dust Management Plan and a Rehabilitation and Decommissioning Program.

The EIL area is to be returned to largely pasture for continued grazing after extraction. Native vegetation corridors will be established along northern, eastern, and southern property boundaries in accordance with CPS 5319. These corridors will also act as future wind breaks and visual buffers. The post excavation landform is designed with maximum batters of 1:4 with the pit floor level no closer than 2 m to the maximum groundwater level.

The applicant has operated numerous extractive industries (formerly as Giacci Brothers Pty Ltd and currently as MGM Bulk) and is very experienced in the basic raw material industry. The pit is and will remain securely fenced and signed, and will operate in a safe and efficient manner.

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1. INTRODUCTION

Mario Michele Giacci, owner of Lot 265 (Plan 232768) on Ducane Road in North Boyanup, is applying for a Development Approval (DA) and Extractive Industry Licence (EIL) for the expansion of sand extraction operations on the property. The first DA and EIL were granted for the property in 2014, with a subsequent 5 year DA and EIL granted in 2019. The existing DA and EIL is not due to expire until 2024. In 2020, a DA and EIL application was submitted to the Shire of Capel seeking permission to extend extraction operations in the southeast section of the property. The application was revised in 2021; however, has not been progressed to a council meeting. This current 2022 DA and EIL application incorporates further amendments and supersedes the previous 2021 version.

The aim of this application is to optimise resource extraction on the property in order to meet high material demand for major infrastructure construction projects in the region, such as the Bunbury Outer Ring Road project. This new DA and EIL application incorporates the following changes compared to the currently approved project:

- Extension to the EIL area in two sections - in the southeast corner and along the central section of the eastern border.
- Re-ordering previously approved extraction stages, so that the southern half of the property is extracted before progressing to the northern half.
- Change to the maximum final batter slopes from 1:10 to 1:4.
- Setting the maximum number of truck movements to 15 per hour (30 one way trips).

This report provides supporting information for the DA and EIL application submitted to the Shire of Capel by Mario Michele Giacci. The report describes the project site and the surrounds, the planning context, and the proposed development. Further, the report addresses potential environmental and social impacts of the project and their management.

It is noted that the applicant holds a Clearing Permit (CPS 5319) from Department of Water and Environmental Regulation (DWER) for clearing of native vegetation within the previously approved extraction area and will apply for an amendment to this permit to match the currently proposed extraction area. In 2012, the proposal was also referred to the federal environmental department under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The proposed action was not considered a controlled action (EPBC Reference Number 2012/6616) and thus no formal assessment under the EPBC Act was necessary.

2. BACKGROUND INFORMATION

2.1 LOCATION, AREA AND OWNERSHIP OF PROPERTY

Lot 265 (Plan 232768) is located on Ducane Road, approximately 6 km southeast of Bunbury, as shown in Figure 1. The property covers total area of 39.94 ha (Figure 2, Figure 3) and is owned by Mario Michele Giacci (PO Box 1263, Bunbury, WA 6231) and Allmoon Nominees Pty Ltd (of which Mario Michele Giacci is a Director). The Certificate of Title is provided as Appendix 1.

2.2 DETAILS OF APPLICANT

The applicant (and owner of the property) is Mario Michele Giacci. Mr Giacci (through previous Directorship of Giacci Brothers Pty Ltd and current Directorship of MGM Bulk) has had extensive experience in the extractive industry business. This has included several EILs within the Shire of Capel. MGM Bulk has several quarries in the South West and produces crushed limestone, gravel, and screened and fill sand. The company maintains a sizable fleet of machinery and trucks.

2.3 LAND USE AND ZONING

Lot 265 is zoned "Rural" in the Shire of Capel Town Planning Scheme Number 7 (Figure 2) and contains two residences – one in the northwestern corner and another on the central hillock. Horse stables, associated sheds and a sand training track are also present. Lot 265 is mainly covered in unimproved pasture with patches of native and introduced vegetation (Figure 3). Sand extraction on the property commenced in 2020.

Properties adjoining Lot 265 are zoned "Rural" with landuse characterised as follows (Figure 2):

- Lot 1 (Diagram 43277): sand extraction, no residential dwellings.
- Lot 261 (Plan 232768): sand extraction, residential dwelling 300 m from extraction boundary.
- Lot 264 (Plan 232768): previous sand extraction, currently used for paintballing, mostly remnant native vegetation, non-residential building 390 m from extraction boundary.
- Lot 1 (Diagram 18927): cattle agistment, non-residential building 380 m from extraction boundary, screened by remnant native vegetation.
- Lot 267 (Plan 232768): undeveloped property covered in remnant native vegetation.
- Lot 2269 (Plan 251514): residential dwelling 291m from extraction boundary and a small dam, mostly remnant native vegetation, includes a wetland.
- Lot 266 (Plan 232768): residential dwelling 840 m from extraction boundary and a small dam, mostly remnant native vegetation, includes a wetland.



Scale: 1:30000
Original Size: A4
Image: Copernicus Sentinel Data 2020
Grid: GDA94
0 750 1,500 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

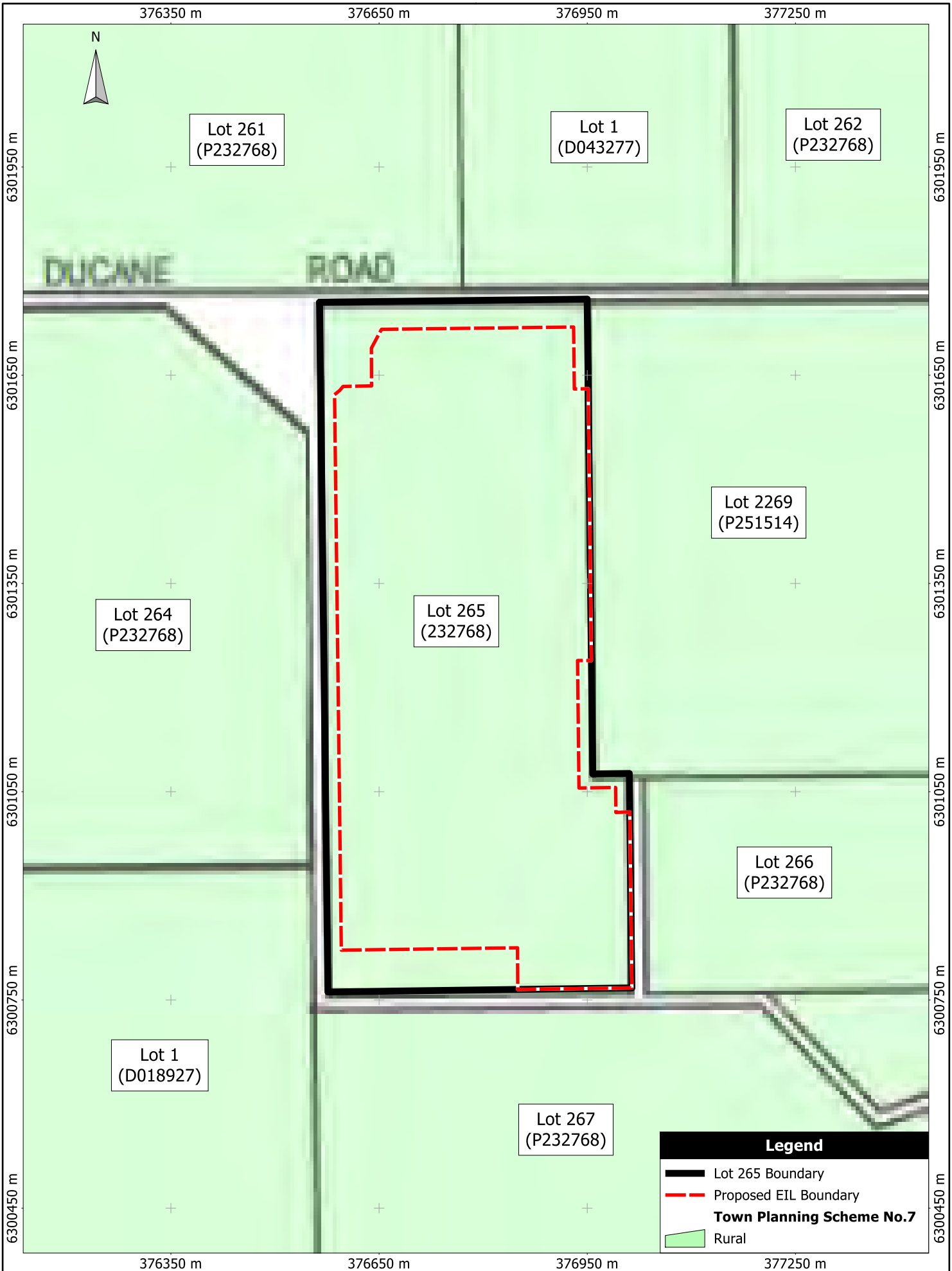
Figure 1

Location Plan

Martinick Bosch Sell Pty Ltd
4 Cook St
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W:\MGM\Ducane Rd\GIS-Common\LocationPlan_Ducane Rd.qgz 06/10/2022



Scale: 1:7000
Original Size: A4

Grid: MGA94(50)
0 300 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 2

Land Use

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W:\MGM\Ducane Rd\EIL\2022 EIL\GIS\Ducane Rd EIL 2022.map 27/05/2022 F2 Land Use A4P

376400 m | 376600 m | 376800 m | 377000 m | 377200 m

6301900 m | 6301700 m | 6301500 m | 6301300 m | 6301100 m | 6300900 m | 6300700 m

N

Lot 261

300m buffer

Datum Peg
XY 36600.692, 101063.52

Ducane Road

386 m

684 m

994 m

Lot 2269

Underground Communications Cable

House and Outbuildings

Piezometer 1

Piezometer 2

53 m

36 m

255 m

254 m

164 m

Road Reserve

Road Reserve

Road Reserve

Setback Distances	
Northern	40 m
Southern	60 m
Southeast Corner	No Setback
Eastern	20 m
Western	20 m

Legend

- Lot 265 Boundary
- Proposed EIL Boundary
- Power Lines
- Access Track
- Horse Training Track
- Two Closest Residents
- Buffer (300m)

Existing Contours

- 1m
- 5m

Wetlands

- Conservation
- Multiple Use
- Resource Enhancement

376400 m | 376600 m | 376800 m | 377000 m | 377200 m

Scale: 1:3500
Original Size: A3
Source: Extraction area contours from Thompson Surveying 2012. Other contours from Geoscience Australia, 2015. Digital Elevation Model (DEM) of Australia derived from LiDAR 5 Metre Grid. Geoscience Australia, Canberra. http://dx.doi.org/10.4225/25/5652419862E23.
Air Photo Date: March 2018
Grid: MGA94(50)

0 100 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 3

Existing Contours and Features

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2.4 SOILS AND TOPOGRAPHY

Landform on Lot 265 is gently undulating with scattered low sand hillocks (grades of approximately 5% to 7%). Soil profile contains a thin grey sandy topsoil overlaying deep grey and yellow sands. Lot 265 lies entirely within the Bassendean soil-landscape system described as: Sand dunes and sandplains with pale deep sand, semi-wet and wet soil; Banksia-paperbark woodlands and mixed heaths (DPIRD-064). As the proposal is located on a sand dune away from wetlands and waterways, the risk of acid sulfate soil (ASS) is low, and this is supported by the ASS mapping (DWER-055).

There are three soil landscape units within the proposal area (DPIRD-027):

- Bassendean B1 Phase (212Bs__B1): Extremely low to very low relief dunes, undulating sandplain and discrete sand rises with deep bleached grey sands sometimes with a pale yellow B horizon or a weak iron-organic hardpan at depths generally greater than 2 m; banksia dominant.
- Bassendean B1b Phase (212Bs__B1b): Very low relief dunes of undulating sand plain with deep bleached grey sandy A2 horizons and pale yellow B horizons.
- Bassendean B3 Phase (212Bs__B3): Closed depressions and poorly defined stream channels with moderately deep, poorly to very poorly drained bleached sands with an iron-organic pan, or clay subsoil. Surfaces are dark grey sand or sandy loam.

The elevation on site ranges from approximately 23 mAHD to 25 mAHD in the lower lying areas, up to 36 mAHD on the highest hillock (Figure 3). Bassendean B3 Phase soil landscape unit is limited to the lowest lying areas on the property that will not be subject to extraction (see Section 4.2). The site is well drained and there is no evidence of local runoff by way of erosion, scour or defined water courses.

2.5 GROUNDWATER

Two piezometers were installed on Lot 265 in September 2012 and their locations are shown in Figure 3. Readings taken on 20 September 2012 are shown in Table 1. The previously approved pit floor level of 25 mAHD is 2 m above the highest recorded groundwater level of 23 mAHD. The operations on site to date have remained above 25 m AHD and have not intercepted groundwater.

Table 1: Groundwater Levels on Lot 265 in September 2012

Piezometer	Natural Ground Level (AHD)	Groundwater Level (AHD)
1	25.0m	23.02m
2	26.8m	22.29m

2.6 SURFACE WATER

Due to the highly permeable sandy soil of Lot 265, rainfall is expected to infiltrate entirely into the soil and recharge the local groundwater, except in exceptionally intense rainfall events. Lot 265 is not within any proclaimed Public Drinking Water Source Areas or proclaimed waterway management areas. The nearest natural waterways, Preston River and 5 Mile Brook, are over 3 km from Lot 265 and not connected by surface drainage. There are no wetlands, water courses or minor drainage lines on Lot 265; however, there are wetlands on surrounding properties (as shown in Figure 3) with the closest ones being:

- Sumpland (UFI 13236): a Multiple Use Wetland located approximately 70 m east of the extraction area crossing Lots 2296 and 266.
- Dampland (UFI 1337): Resource Enhancement Wetland located approximately 82 m east of the extraction area on Lot 2269.

- Sumpland (UFI 1095): a Multiple Use Wetland located approximately 100 m northwest of the extraction area on Lot 261.
- Dampland (UFI 1339): a Multiple Use Wetland located approximately 118 m east of the extraction area on Lot 2269.
- Dampland (UFI 1338): Resource Enhancement Wetland located approximately 143 m east of the extraction area on Lot 2269.

376300 m

376800 m

N

6301500 m

6301000 m

6300500 m

No Excavation in externally draining area

Legend

- Proposed EIL Boundary
- Catchment Boundary
- Catchment Areas
- External
- Internal
- Natural Drainage Basins
- Drainage direction
- Proposed Noise Bunds
- Lot Boundaries
- Existing Contours
- Major - 5m
- Minor - 1m
- Final Contours
- Major - 5m
- Minor - 1m

Scale: 1:3500
Original Size: A3
Air Photo Date: March 2018
Grid: MGA94(50)
0 100 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 4

Catchments and Drainage

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2.7 VEGETATION AND FAUNA

The site is composed of unimproved pasture with isolated patches of degraded native vegetation, scattered individual native trees and planted introduced species. Native endemic species found on the site are *Corymbia calophylla* (Marri), *Eucalyptus marginata* (Jarrah), *Agonis flexuosa* (Peppermint), *Nuytsia floribunda* (WA Christmas Tree), and some scattered individuals of *Banksia attenuata*, *Banksia grandis*, *Banksia illicifolia*, *Kunzea glabrescens*, *Macrozamia riedlei*, *Hakea lissocarpha*, and *Xanthorrhoea preissii*. The understory is either absent or degraded and dominated by weed species. There are some eastern states eucalypt trees and other introduced species planted around the house, horse yard, and sheds. The native vegetation on site provides potential habitat for native fauna species.

Dieback assessment has not been undertaken as the site is expected to be uninterpretable for dieback, due to the highly degraded, parkland cleared nature of the vegetation on site and the general lack of indicator species. Consequently, the site is treated as potentially dieback infected.

2.8 CROWN LAND AND RESERVES

There are undeveloped public road reserves running along all of the western and southern property boundaries and some of the eastern boundary. No other crown land or reserves are currently present.

2.9 ABORIGINAL HERITAGE

There are no known Aboriginal Heritage Sites or other Heritage Places within the application area or immediate surrounds (Appendix 2). The property falls within the South West Native Title Settlement Area; however, this does not preclude development from taking place on this privately owned property.

2.10 EXISTING PUBLIC UTILITIES AND SERVICES

There are overhead power connections to the houses, as well as underground telecommunications cables (Figure 3).

3. PLANNING AND POLICY SETTING

3.1 GREATER BUNBURY REGION SCHEME

Lot 265 is zoned "Rural" under the Greater Bunbury Region Scheme (GBRS). The purpose of the "Rural" zone is:

> "*To provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for the urban areas and accommodate carefully planned rural living developments."*

In addition, under the GBRS Strategic Minerals and Basic Raw Materials Resource Policy (2018), Lot 265 is located within an area recognised as containing "significant geological supplies" (SGS) of sand. The principal purpose of this policy is to ensure long-term security of access for minerals and basic raw materials through appropriate land use planning and control of development. Amongst the objectives of the policy are preventing strategic resources of State or regional significance being sterilised from incompatible development and land uses, and encouraging the mining of strategic resources in accordance with acceptable environmental standards.

The proposal is consistent with GBRS and the associated resource policy as it will enable the extraction of significant supplies of basic raw materials with minimal vegetation clearing while ensuring the long term landscape setting and environmental values in the locality are maintained through rehabilitation to a mixture of pasture and native vegetation.

The areas surrounding Lot 265 that retain significant sand supplies are largely covered in dense native vegetation and extraction of these resources would have higher environmental impacts compared to extraction on Lot 265. The proposed extension to the sand extraction on Lot 265 will ensure that the available significant resource on the property is fully utilised, thus reducing pressure to access resources with higher environmental values.

3.2 SHIRE OF CAPEL TOWN PLANNING SCHEME NO. 7

Local planning scheme applicable to the project area is Shire of Capel Town Planning Scheme (TPS) No.7 and under this scheme Lot 265 and surrounding properties are zoned "Rural".

Clause 5.7.1 of TPS No.7 describes the objective for Rural zoned land as follows:

> *"Council's objective in the assessment of subdivision referrals and management of land uses in the Rural zone is to preserve the character of the rural area, discourage the removal of prime agricultural land from agricultural production and prevent adverse effects on the continuation of established or potential agricultural industries."*

The proposal falls within the definition of "Industry Extractive" in TPS No.7 and is identified as an "AA" use in the "Rural" zone. The "AA" designation means that the use is not permitted unless the Council grants planning consent.

The Shire of Capel has granted five year DA and EIL approvals for the extraction of sand on the property twice in the past, first in 2014 and second in 2019. The current application proposes to extend the previously approved sand extraction to the property boundary along sections of the eastern and southern boundaries. These extension areas face native vegetation and undeveloped road reserves and will be largely rehabilitated to native vegetation post-extraction as outlined in the Rehabilitation and Decommissioning Program (Appendix 5). Therefore the proposed changes are not expected to significantly impact on the existing rural character of the area.

Clause 5.7.2 of TPS No.7 describes Council's policy in determining planning consents, with specific attention detailed in clause 5.7.2 (d) as follows:

> *"The adequacy of the roads, existing or proposed in the area, which may be needed to support the amount of road traffic expected to be generated by the development or subdivision;"*

Ducane Road has been used for hauling sand for a number of years from other properties in the area, and most recently from Lot 265, and is considered adequate to cater for the proposed operations.

3.3 STATE PLANNING POLICY 2.4 – PLANNING FOR BASIC RAW MATERIALS

State Planning Policy 2.4 Planning for Basic Raw Materials (2021) was prepared under *Planning and Development Act 2005*. The intent of this policy is to ensure basic raw materials (BRM) and extractive industries matters are considered during planning and development decision-making, to facilitate the responsible extraction and use of the State's BRM resources. The objectives of this policy are to:

- (a) ensure BRM and its regional importance is considered at the earliest stages of the planning process;
- (b) protect BRM in SGS areas and extraction sites by avoiding encroachment from incompatible land uses;
- (c) ensure BRM resources are used efficiently in land use planning and development;
- (d) identify BRM extraction opportunities through sequential land use without compromising the final intended land use; and
- (e) ensure the extraction of BRM avoids, minimises or mitigates any adverse impacts on the community, water resources and biodiversity values.

The proposed extractive operations are in line with the objectives of the policy as follows:

- The proposed extractive industry is located within a regionally significant sand resource as mapped in GBRS Strategic Minerals and Basic Raw Materials Resource Policy and by Department of Mines, Industry Regulation and Safety (dataset DMIRS-050).
- The proposed operations are designed to remain screened from surrounding properties and roads and separated from surrounding sensitive land uses through existing vegetation and topography of the site.
- The proposed operations facilitate sequential land uses without compromising planned post-extraction landuse (rural) or other potential future landuses.
- The proposed extension to the previously approved operations ensures that the sand resource is used efficiently.

State Planning Policy 2.4 is associated with a guideline document (State Planning Policy 2.4 - Planning for Basic Raw Materials Guideline, 2021). Section 4 of this guideline lists a number of factors that should be considered in assessment of proposals to establish, extend or expand an extractive industry, as well as managing the potential impacts of the operation. Information to address these factors has been included in this supporting report to the DA and EIL application.

3.4 STATE PLANNING POLICY 3.7 – PLANNING IN BUSHFIRE PRONE AREAS

State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP3.7) directs how land use should address bushfire risk management in Western Australia. It applies to all land which has been designated as bushfire prone by the Fire and Emergency Services (FES) Commissioner. While parts of Lot 265 are designated as bushfire prone, the proposed extraction does not involve intensification of land-use and does not increase the threat of bushfire, and therefore exemptions from the requirements of SPP3.7 are expected to apply.

3.5 SHIRE OF CAPEL EXTRACTIVE INDUSTRY LOCAL LAW 2016

The proposed extractive operations have been designed taking into consideration the Shire of Capel *Extractive Industry Local Law 2016*. The operations are in accordance with the various requirements of the local law apart from the two areas extending to the property boundary (Figure 3). In these areas, it is requested that Shire of Capel apply its discretionary power to approve the modified design. Setbacks have been described in further detail in Section 4.2.

3.6 SEPARATION DISTANCES BETWEEN INDUSTRIAL AND SENSITIVE LAND USES

Guidance for the Assessment of Environmental Factors No.3: Separation Distances between Industrial and Sensitive Land Uses, was prepared by Environmental Protection Authority in 2005. It sets generic separation distances for various types of industrial operations and sensitive land uses. For 'Extractive Industry - Sand and Limestone', the main potential impacts are identified as noise and dust and the generic separation distance to sensitive land uses is set at 300-500 m depending on the size of the operations.

The proposed sand extraction operations are at least 300 m from sensitive landuses apart from a small section along the eastern boundary, where the operations will come to within 291 m of a residence. The operations are well screened from the residence by native vegetation and the noise assessment (Appendix 3 shows that the proposed operations remain within the noise regulations (for further information see Section 5.2). A range of dust management measures are also proposed to be implemented as per Dust Management Plan (Appendix 4). Therefore based on site specific technical analysis and proposed management measures, the separation distances between the proposed operations and sensitive land uses are considered sufficient.

4. DEVELOPMENT PROPOSAL

4.1 SUMMARY OF WORKS

In summary, the extraction operations will proceed in stages and comprise following:

- Remove vegetation (where applicable).
- Remove topsoil and litter.
- Extract sand in 17 stages in accordance with the Works and Excavation Plan (Figure 5).
- Transport sand off site.
- Form final landform in accordance with the Final Development Plan (Figure 6).
- Respread topsoil and rehabilitate.

Further information on the proposed operations is provided below.

4.2 EXTRACTION AREA AND SETBACKS

The current application area (33.76 ha) is slightly larger than the previously approved extraction area (31.63 ha), with a small extension proposed along the central section of the east boundary and in the southeast corner of the property. Majority of the proposed extension area has been cleared in the past and additional vegetation clearing requirement will be approximately 1 ha made up of individual trees and patches of vegetation in Degraded to Completely Degraded condition.

Setbacks from property boundaries are following (Figure 5):

- Northern boundary: 40 m setback from Ducane Road to be planted with native vegetation.
- Western boundary: 20 m setback from unformed road reserve as previously approved.
- Southern boundary (apart from southeast corner): 60 m setback from unformed road reserve to be planted with native vegetation.
- Eastern boundary (apart from central portion and southeast corner): 20 m setback to be mostly planted with native vegetation. No setback from the property boundary proposed for approximately 391 m through the central section.
- South eastern corner: No setback from the unformed road reserve proposed for approximately 164 m along southern boundary and 254 m along eastern boundary.

The setbacks have not changed from the previously approved plan apart from the central area of the east boundary and the southeast corner, where the proposed extraction area has been extended to the property boundary to maximise the utilisation of sand and avoid the sterilisation of this resource. The removal of boundary setbacks in these locations is not expected to result in impacts that are more significant than the currently approved plan due to the following:

- Minimum 3 m wide fire break will be left unextracted along the property boundary to facilitate ongoing emergency access and future fence maintenance.
- The southeast corner is bordered by adjacent road reserve (20 m wide) that has never been utilised and remains unformed and partly vegetated. Therefore, no setback is needed to screen the temporary visual changes associated with the extraction from the road reserve.
- There is sufficient distance (291 m) and vegetation (116 m at minimum) between the residence on the neighbouring property (Lot 2269) and the east boundary to avoid noise and dust issues (see Sections 5.2 and 5.3). The neighbour (Lot 2269) has indicated that they do not have concerns about the proposed expansion.

- The surrounding properties in the east and southeast corner are heavily vegetated. Therefore, no setback is needed to screen the temporary visual changes from the adjacent properties.
- The extension areas will be rehabilitated with a combination of pasture and native vegetation (Figure 6), which is consistent with the rural landscape and will avoid any long-term visual impacts.
- The proposed maximum final batter slope of 1:4 on Lot 265 is considered stable once revegetated and will not compromise potential future road construction along the adjacent road reserve, especially considering a minimum 3 m wide fire break will be left unextracted along the property boundaries.

Similarly to the previously approved extraction area, the proposed extraction area includes some areas where no extraction of sand will take place as the existing ground level is below 25 m AHD or the existing ground level is to be retained for drainage control (Figure 5). These areas are included in the EIL to allow drainage and noise protection works.

4.3 NATURE AND DURATION OF PROPOSED EXCAVATION

The estimated volume of sand available in the pit is 1,188,000 m^3. The pit will service the building industry in Dalyellup and the Bunbury Outer Ring Road project. The extraction rate will be dependent on demand for these two projects, and potentially others, with up to 4,000 tonne per day required at peak times. Previous estimates of pit life were up to 17 years; however, if approved under these conditions and considering current high demand, the life of the pit could be reduced to approximately 2 years. Under the existing EIL, approximately 166,500 m^3 of sand has been extracted from the property (based on the December 2021 pit survey), resulting in approximately 1,021,500 m^3 remaining.

4.4 STAGES AND TIMING

The operations will proceed gradually in 17 stages (up to 2 ha each), commencing in the southeast corner (Figure 5). Previously, the stages progressed from south to north on the right half of the property before repeating the pattern on the left half. The new stage plan proposes that extraction is completed in the stages in the southern half of the property before moving to the stages in the northern half. Depending on market demand for the sand, the life of the pit may extend past this licence period (5 years) and, if so, a renewal application will be made in the future. Following completion of extraction, gradual rehabilitation will follow as extraction moves on to the next stage.

4.5 CLEARING METHODOLOGY AND OVERBURDEN STOCKPILE

Vegetation will be cleared with a bulldozer. Some of the vegetation will be mulched and used in rehabilitation areas. Some logs and larger branches may also be salvaged and relocated to setback zones along boundaries or into native vegetation rehabilitation areas.

4.6 DEPTH AND DESCRIPTION OF OVERBURDEN

Thickness of topsoil is expected to be approximately 90 mm to 120 mm. Topsoil will be removed with a bulldozer and stockpiled in windrows to a maximum height of 4 m for later use in rehabilitation. No other overburden is expected to be present.

4.7 EXCAVATION METHODS

Where necessary, a 4 m high noise bund will be constructed (Figure 5). Sand will be excavated from the lowest elevation towards the hillocks. Face batters will be maintained at no steeper than 1:2 and no higher than 4 m. Material will be stockpiled as required (to a maximum height of 4 m) prior to loading onto trucks (by loader). Final batters (maximum 1:4 slopes) will be formed with a bulldozer in accordance with the Finished Development Plan (Figure 6) prior to rehabilitation.

4.8 DEPTH AND EXTENT OF EXCAVATION

The extent of excavation is detailed on the Works and Excavation Plan (Figure 5) and the Finished Development Plan (Figure 6). The proposed pit floor is at 25 mAHD, as previously approved for the site. This is 2 m above the maximum groundwater table and no excavation will take place below this level. The final landform across the extraction area will be mostly flat with batter slopes along the edges of the extraction area finished to no steeper than 1:4. The proposed maximum final batter slope has been changed from previously approved 1:10 to 1:4 (vertical : horizontal) to maximise the utilisation of the sand resource available. The proposed 1:4 slope is less steep than the maximum 1:3 slope for sand indicated in Shire of Capel Extractive Industry Local Law. It is noted that Shire of Capel officers have recommended approval of 1:4 batter slopes for another sand extraction project (as per Agenda for Shire of Capel Council meeting on 26 October 2022).

4.9 ACCESS TO SITE

Access to site is off unsealed Ducane Road (Figure 3). Visibility to the west and east was measured on site as 350 m to the west and 180 m to the east. Truck traffic will enter and exit Ducane Road from the east via Queelup Road and Lillydale Road. This route has been used for hauling sand by others. An internal road, currently used for the residence and equestrian track, will be used for the extraction operations. Additional site access to the individual stages will be constructed as needed. This will include loading and turnaround facilities for plant and vehicles.

4.10 NUMBER AND SIZE OF TRUCKS

It is expected that primarily in gauge semi-trailers will be used to haul material from the proposed extraction site. The number of truck movements per day will be variable depending on market demand. During large hauling campaigns the number of trucks could potentially reach 15 per hour (30 one way trips) and this has been considered in the revised noise assessment (Appendix 3). Should the Shire of Capel allow Restricted Access Vehicles (RAV 4.1), the number of truck movements would halve. In between contracts, quiet periods with no truck movements are expected (as has occurred in the past) and these can last several months. The overall number of trucks over the lifetime of the pit is limited by the finite sand resource available. Therefore, the higher the number of trucks per day, the faster the pit will be exhausted, and the operations will cease permanently.

4.11 OPERATING HOURS

The operating hours of the site are proposed to be limited to between 7 am and 6 pm Monday to Friday and between 7 am to 1 pm on Saturdays, with no operations on Sundays or Public Holidays. Half day operations on Saturday have been previously approved for this site and are necessary to cater for clients who operate on Saturdays.

4.12 PROPOSED INFRASTRUCTURE

No buildings or other improvements are proposed to be constructed on site. The central residence, rainwater tanks and several sheds are expected to be demolished. The house in the northwest corner of the property along Ducane Road is located outside the extraction area and will be retained. A portable toilet will be located on site.

4.13 PUBLIC DANGER

The site access gate is located at the start of the access track off Ducane Road and will be locked when there are no personnel on site. Entry signage will be set up to warn the public of potential dangers. Warning signs (no more than 200 m apart) will also be placed along the property boundary. The property is securely fenced.

4.14 SURVEY INFORMATION

Verification of the original survey information by Thompson Surveying is provided in Appendix 6. Further, Thompson Surveying has verified a copy of the Existing Contour and Feature Plan (Figure 3) including the location of datum peg as requested by Shire of Capel and this is provided in size A1 in Appendix 7. The Finished Development Plan (Figure 6) is also provided in size A1 in Appendix 7.

376400 m 376600 m 376800 m 377000 m 377200 m

6301900 m 6301700 m 6301500 m 6301300 m 6301100 m 6300900 m 6300700 m

N

Lot 261 (P232768)

Lot 1 (D043277)

Ducane Road

Lot 2269 (P251514)

Lot 264 (P232768)

Lot 266 (P232768)

Lot 267 (P232768)

Lot 1

Road Reserve

Road Reserve

17 16 15 13 14 12 11 10 9 5 8 4 7 3 2 6 1

Legend

- Lot 265 Boundary
- Proposed EIL Boundary
- No Sand Extraction Proposed
- Direction of Extraction
- Proposed Extraction Stages (max. 2ha each)
- 1 Proposed Stage Number
- Proposed Noise Bunds
- Stockpiling Areas (topsoil, sand)
- Final Contours
- Major - 5m
- Minor - 1m

Scale: 1:3500
Original Size: A3
Air Photo Date: March 2018
Grid: MGA94(50)
0 100 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 5

Works and Excavations Plan

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376500 m 376700 m 376900 m 377100 m

6301900 m 6301700 m 6301500 m 6301300 m 6301100 m 6300900 m 6300700 m

N

Lot 261 (P232768)

Lot 1 (D043277)

Ducane Road

Datum Peg
XY 36600.692, 101063.52

34 32 30 28 25

25 28 31

Lot 2269 (P251514)

Lot 264 (P232768)

Lot 265 (40 ha)

Road Reserve

Road Reserve

25 28 30 32

Road Reserve

Lot 266 (P232768)

Lot 267 (P232768)

Legend

- Lot 265 Boundary
- Proposed EIL Boundary
- Area within EIL retaining original surface level (Area Already Below 25m)
- Proposed Extraction Stages (max. 2ha each)
- Proposed Finished Surface Contours

Existing Contours

- 1m
- 5m

Rehabilitation

- Rehabilitation to Native Vegetation
- Rehabilitation to Pasture

376500 m 376700 m 376900 m 377100 m

Scale: 1:3500
Original Size: A3
Source: Extraction area contours from Thompson Surveying 2012. Other contours from Geoscience Australia, 2015. Digital Elevation Model (DEM) of Australia derived from LiDAR 5 Metre Grid. Geoscience Australia, Canberra. http://dx.doi.org/10.4225/25/5652419862E23.
Air Photo Date: March 2018
Grid: MGA94(50)

0 100 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 6

Finished Development Plan

Martinick Bosch Sell Pty Ltd
4 Cook St West Perth WA 6005
Australia

t:+61 8 9226 3166
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www.mbsenvironmental.com.au

MBS ENVIRONMENTAL

5. ENVIRONMENTAL MANAGEMENT

5.1 DRAINAGE

Due to the highly permeable sandy soil very little surface runoff is expected to be generated within Lot 265. External catchments with potential for surface runoff toward Lot 265 are limited to small areas within 300 m of the southern and western boundaries which are on similar soils with gentle gradients and being covered with native vegetation are even less likely to generate surface runoff (Figure 4). The natural topography of Lot 265 will result in any runoff draining internally to existing low lying areas acting as natural drainage basins where water will infiltrate, with the exception of a small area on the southern half of the eastern boundary that slopes gently east across the boundary (Figure 4). Construction of a noise bund will act to prevent any surface runoff across the boundary.

The proposed extraction will maintain internal drainage. The existing natural drainage basins will be retained and have capacity to store approximately 17,690 m^3 of water below the proposed pit floor level of 25m AHD. DWER guidelines for extractive industries (Water Quality Protection Note 15, August 2013) recommend settling capacity for a minimum of 2 hours runoff from a 10 % annual exceedance probability (AEP) storm event (39.5mm rainfall, BoM 2019). Assuming a conservative 30% runoff coefficient this would require 4,077 m^3 of capacity to contain runoff from the catchment (Figure 4) of the entire extraction area within Lot 265. The natural topography has capacity for more than four times this volume and is sufficient for containment of runoff from a 1% AEP 72 hour rainfall event for the location of 174 mm (BoM 2019). The proposed change in maximum batter slopes from 1:10 to 1:4 is not expected to have an impact on stormwater drainage volumes due to the catchment area remaining the same and the soil type being highly permeable sand.

The proposed sand extraction is not expected to have any impact on the surrounding wetlands. The wetlands are seasonal expressions of the groundwater, and the proposed sand extraction will remain at least 2 m above the maximum seasonal groundwater level. There will be no increased abstraction of groundwater at the site. Rainfall will continue to percolate into the soil and will continue to recharge the local groundwater aquifer. As the current vegetation is sparse, no major change in the amount of groundwater recharge is expected between pre and post extraction. As all runoff will be contained within the site, there are no concerns regarding siltation.

5.2 NOISE

The proposed operations have been designed to comply with relevant noise regulations and ensure that the surrounding residences (closest at a distance of 291 m) will not be adversely affected. Proposed operating hours will be limited to 7 am to 6 pm Monday to Friday and 7 am to 1 pm on Saturdays, with no operations on Sundays or public holidays. The Noise Assessment undertaken by Herring Storer Acoustics (2022,
Appendix 3) indicates that noise bunds are required along sections of the property boundary. The proposed bunds (Figure 5) create a 4 m high barrier between operations and adjacent properties wherever the natural terrain does not form a suitable barrier.

The locations of the noise bunds shown in Figure 5 are in accordance with the recommendations from Herring Storer Acoustics (Appendix 3) with an additional bund in the south-eastern corner. The additional bund is 100 m long and has been included to address a section where the proposed expansion lowers the landform and removes part of the natural noise barrier. However, this additional bund is purely a precautionary measure as there are no potentially affected receivers in the vicinity.

The noise assessment was updated in 2022, to include consideration of the increased number of trucks. The updated assessment (Appendix 3) concluded that the operations noise emissions from vehicles would be compliant with the requirements of the Environmental Protection (Noise) Regulations 1997 at all times.

The residential building in the northwest corner of Lot 265 is located outside the proposed extraction area. It is leased out at times; however, it will remain unoccupied while sand is extracted within 300 m of the house to ensure compliance with noise regulations.

5.3 DUST

A Dust Management Plan (Appendix 4) describes potential sources of dust generation and associated management measures.

5.4 HYDROCARBONS AND CHEMICALS

No fuel or lubricant storage will take place on site. A refuelling vehicle, fitted with appropriate spill prevention and mitigation equipment, will visit the site as required to refuel on site plant (loader, bulldozer and screening equipment).

5.5 WEEDS

Weed control will be conducted during the extraction works on an as-needed basis to minimise weed occurrence in the operational and stockpiling areas. In addition to broad spectrum herbicides, weed specific herbicides will be used where appropriate to target broadleaf, grass, geophyte, and woody weeds. Weed control will also be undertaken during rehabilitation works as described in the Rehabilitation and Decommissioning Program (Appendix 5).

5.6 DIEBACK

A Dieback assessment has not been undertaken due to the highly degraded, parkland cleared nature of the vegetation on site and the general lack of indicator species. Consequently, the site will be treated as potentially dieback infected and the extracted sand should not be used for projects that require a certified 'dieback free' status.

The Clearing Permit (CPS 5319) stipulates following in regards to dieback management:

- All earth-moving machinery should be cleaned of soil and vegetation prior to entering and leaving site.
- Soil should only be moved in dry conditions.
- No dieback affected material should be brought to site.
- Machinery and other vehicles should remain within the clearing footprint to minimise the risk of spreading disease.

Further to the above, the applicant will:

- Contain drainage within the extraction area.
- Inform personnel that the site may be infested with dieback and that dieback can spread on vehicles, machinery, equipment, footwear and tools.
- Stockpile and respread topsoil as close to its source area as possible.
- Advise potential customers that the material may be infested with dieback and cannot be considered as free of the *Phytophthora* pathogen.

5.7 ABORIGINAL HERITAGE

The applicant shall have due respect to the Aboriginal Heritage of the area and all workers shall be briefed accordingly prior to commencement of works on site. Should potential artifacts or remains be discovered during operations, any works in the vicinity will stop immediately and the matter will be referred to the Department of Planning, Lands and Heritage. If bones are discovered, then the police will also be advised. The applicant notes that it is an offence under the WA *Aboriginal Heritage Act 1972* to interfere with any Aboriginal site unless written permission is obtained from the relevant Minister.

5.8 SCREENING OF VISUAL IMPACTS

The operations will be screened from surrounding residences by landform and vegetation. Some stages of the operation could be partly visible from Ducane Road, but this is anticipated to be mitigated by the 40 m planted buffer along the road as it matures.

The proposal consists of staged extraction, starting at the rear (south) of the property and progressively moving towards the Ducane Road frontage. The landscape values of the site will be enhanced through the planting of a 40 m wide vegetation strip along Ducane Road. The landscaped strip will have time to mature and effectively screen extraction works as they progressively move towards Ducane Road. A 60 m wide vegetation strip will also be planted at the rear of the lot and 20 m wide strip along most of the eastern property boundary to provide a fauna corridor. On this basis, the proposal is consistent with the intent of the "Rural" zone (in TPS No.7) and will not have implications on landscape values along Ducane Road.

5.9 REHABILITATION AND DECOMMISSIONING

Rehabilitation and Decommissioning Program is provided in Appendix 5. The majority of the extraction area will be rehabilitated to pasture, with native vegetation corridors established along the northern, southern, and parts of the eastern boundary.

The proposed rehabilitation has not changed apart from the maximum final batter slopes that have been changed from 1:10 to 1:4 (vertical : horizontal). This change is only relevant to the edges of the proposed extraction area where batter slopes tie into the surrounding landform. The post-extraction landform for the majority of the proposed extraction area will be flat (Figure 6). The proposed batter slope change remains in line with Shire of Capel Extractive Industry Local Law that indicates maximum 1:3 batter slopes in sand. The slope change has not impacted the proposed pit floor level that will remain at no deeper than 25 m AHD.

Increasing the slope of final batters has potential to increase the risk of water erosion. However, due to the highly permeable sandy soil very little surface runoff is expected to be generated. There are existing poorly vegetated slopes on the property that do not show signs of water erosion. Further, there are other sand extraction sites in Shire of Capel that have batter slopes of 1:4 or steeper (e.g. Calinup Road) that show no signs of water erosion.

Increasing the slope of final batters has also potential to increase the risk of wind erosion while the soil is bare. As rehabilitation to pasture or native vegetation will occur in a staged manner and follow the extraction front, the impact of wind erosion is expected to be minimal. Mulch will be applied to the batter slope areas as part of rehabilitation and dust management will be undertaken as detailed in the Dust Management Plan, and these will mitigate the risk of wind erosion.

The final land use of Lot 265 following sand extraction is grazing, in line with the rural zoning and the pre-extraction land use. As shown in Figure 6, the majority of the extraction area will be flat post extraction and will be well suited for grazing and a range of other rural land uses, including residential house(s) and outbuildings. The proposed change in batter slopes will occur along the edges of the extraction area and will not significantly change the overall future land use options for the property.

6. OTHER APPROVALS

The applicant holds a Clearing Permit (CPS 5319) from DWER for clearing of native vegetation within the previously approved extraction area and will apply for an amendment to this permit to match the currently proposed extraction area.

The demolition of a building will require a separate Demolition Permit from Shire of Capel.

Screening of sand is not expected to be required and therefore no Works Approval or Environmental Licence from DWER is expected.

Abstraction of groundwater, if necessary, will be subject to a licence from DWER.

7. CONCLUSION

This proposal provides a valuable resource for the local construction industry and the site is well suited for extractive operations. There is very little remnant native vegetation left within the proposed extraction area and it is in a degraded condition, making the site more suitable for extraction than other more densely vegetated sites. The pit will not be visible from nearby residences and will be mostly screened from the main local access road (Ducane Road). A noise assessment indicates that with appropriate noise management measures in place, the project will comply with noise regulations. Establishment of native vegetation corridors along the northern, southern and parts of the eastern boundary will ensure environmental values of the site are maintained. Progressive rehabilitation of the extraction area to mainly pasture will also ensure that the rural character of the area is maintained. The proposed extension of the previously approved extraction area and the changes in batter slopes (maximum 1:4 in lieu of 1:10) are not expected to result any significant additional or different impacts compared to the currently approved project.

APPENDICES

APPENDIX 1: CERTIFICATE OF TITLE

REGISTER NUMBER	
265/DP232768	
DUPLICATE EDITION	DATE DUPLICATE ISSUED
1	1/8/2011

WESTERN AUSTRALIA

RECORD OF CERTIFICATE OF TITLE

UNDER THE TRANSFER OF LAND ACT 1893

VOLUME 75 FOLIO 160A

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

REGISTRAR OF TITLES

REGISTRAR OF TITLES WESTERN AUSTRALIA

LAND DESCRIPTION:

LOT 265 ON DEPOSITED PLAN 232768

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

MARIO MICHELE GIACCI
IN 1/3 SHARE
ALLMOON NOMINEES PTY LTD
IN 2/3 SHARE
BOTH OF POST OFFICE BOX 9130, PICTON
AS TENANTS IN COMMON

(T L689927) REGISTERED 25 JULY 2011

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

----------END OF CERTIFICATE OF TITLE----------

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 75-160A (265/DP232768).
PREVIOUS TITLE: This Title.
PROPERTY STREET ADDRESS: 404 DUCANE RD, NORTH BOYANUP.
LOCAL GOVERNMENT AREA: SHIRE OF CAPEL.

NOTE 1: A000001A LAND PARCEL IDENTIFIER OF BOYANUP AGRICULTURAL AREA LOT 265 (OR THE PART THEREOF) ON SUPERSEDED PAPER CERTIFICATE OF TITLE CHANGED TO LOT 265 ON DEPOSITED PLAN 232768 ON 24-MAY-02 TO ENABLE ISSUE OF A DIGITAL CERTIFICATE OF TITLE.

NOTE 2: THE ABOVE NOTE MAY NOT BE SHOWN ON THE SUPERSEDED PAPER CERTIFICATE OF TITLE OR ON THE CURRENT EDITION OF DUPLICATE CERTIFICATE OF TITLE.

LANDGATE COPY OF ORIGINAL NOT TO SCALE Tue Sep 4 10:58:56 2012 JOB 30962557

Superseded - Copy for Sketch Only

OFFICE OF TITLES FEE PAID $1.13 ASS 3-130754

ORIGINAL

INDEXED

LANDS

19839/68

S. 287M.

WESTERN AUSTRALIA

INDEXED
Land
Permit
Lease
Name

REGISTER BOOK Vol. 75 Fol. 160 A

Elizabeth the Second, by the Grace of God, of the United Kingdom, Australia and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of The Faith. To all to whom these Presents shall come, GREETING: Know ye that We, of Our especial Grace, certain knowledge, and mere motion have given and granted, and We do by these Presents, for Us, Our heirs and successors, in consideration of the payment of the sum of $66.49 and the fulfilment of the prescribed conditions to the satisfaction of Our Governor of Our State of Western Australia, Give and Grant unto

Maurice Bottomley of Geelorup via Bunbury Farmer

(hereinafter called the Grantee), the natural surface and so much of the land as is below the natural surface to a depth of 200 feet of ALL THAT Tract or Parcel of Land situate and being in the District of Wellington, in Our said State, containing 98 acres 2 roods more or less, and marked and distinguished in the Maps and Books of the Department of Lands and Surveys of our said State as Boyanup Agricultural Area Lot 265

and as the same is delineated and coloured green in the plan drawn hereon; TOGETHER with all Profits, Commodities, Hereditaments, and Appurtenances whatsoever thereunto belonging, or in anywise appertaining: TO HAVE AND TO HOLD the said Tract or Parcel of Land to the depth aforesaid, and all and singular the Premises hereby granted, with their appurtenances, unto the said Grantee, in fee simple; YIELDING AND PAYING for the same to Us, Our heirs and successors, one peppercorn of yearly rent on the twenty-fifth day of March in each year, or so soon thereafter as the same shall be lawfully demanded: PROVIDED, NEVERTHELESS, that subject to section 141 of the Land Act, 1933, it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their authority, to resume and enter upon possession of any part of the said land which it may at any time by Us, Our heirs and successors, be deemed necessary to resume for roads, tramways, railways, railway stations, bridges, canals, towing paths, harbour or river improvement works, drainage, or irrigation works, or mines, and generally for any other works or purposes of public use, utility, or convenience, and for the purpose of exercising the power to search for minerals hereinafter reserved, and such lands so resumed to hold to Us, Our heirs and successors, as of Our or their former estate without making to the said Grantee, or any person lawfully claiming under him any compensation in respect thereof, so nevertheless, that the land so to be resumed shall not exceed one-twentieth part of the whole of the lands aforesaid, and that no such resumption be made of the part of any lands upon which any buildings may have been erected, or which may be in use as gardens, or otherwise, for the more convenient occupation of any such buildings, or on which any other improvements as defined by the Land Act, 1933, have been made, without compensation: AND PROVIDED, ALSO, that it shall be lawful at all times for Us, Our heirs and successors, or for any person or persons acting in that behalf, by Our or their authority, to cut and take away any such indigenous timber, and to search and dig for and carry away any stones or other materials which may be required for making or keeping in repair any roads, tramways, railways, railway stations, bridges, canals, towing paths, harbour works, breakwaters, river improvements, drainage, or irrigation works, and generally for any other works or purposes of public use, utility, or convenience, without making to the said Grantee, or any person claiming under him any compensation in respect thereof; and we do hereby save and reserve to Us, Our heirs and successors, all Mines of Gold, Silver, Copper, Tin, or other Metals, Ores, and Minerals, or other substances containing Metals, and all Gems or Precious Stones and Coal or Mineral Oil and all Phosphatic Substances in and under the said land, with full liberty at all times to search and dig for and carry away the same, and for that purpose to enter upon the said land or any part thereof; and we do hereby save and reserve to Us Our heirs and successors all petroleum (as defined in the Petroleum Act, 1936 and all amendments thereof for the time being in force) on or below the surface of the said land with the right reserved to Our heirs and successors and persons authorised by Us Our heirs and successors to have access to the said land for the purpose of searching for and for the operations of obtaining petroleum in any part of the said land subject to and in accordance with the provisions contained in the Petroleum Act, 1936 and all amendments thereof for the time being in force; and all marketable indigenous timber including all Sandalwood and Mallet trees on the said lands is reserved to the Crown save that the grantee may ringbark, fell or otherwise destroy any marketable indigenous timber other than Sandalwood and Mallet trees in the ordinary course of bona fide clearing and use any of the timber so felled for his own reasonable requirements in connection with farming operations on the said lands with full liberty to Us, Our heirs and successors and persons authorised by Us or by any person or corporation in whom the control of forests is for the time being vested, to enter, obtain and remove any of the marketable indigenous timber and for that purpose or for the purpose of extracting any marketable indigenous timber from any other land in the locality, full liberty for us and any of the persons aforesaid to pass and re-pass over the said lands with or without workmen, machinery, horses and cattle and to take water from any spring, stream, well or water hole and to lay down and construct pipe lines for conveying the water and to make roads and ways and construct and maintain timber tramways on the said lands subject however (where the road, way, tramway or pipeline is for the purpose of extracting any marketable indigenous timber or conveying water from any other land in the locality) to no other direct and satisfactory route being available through Crown lands, reserves or State forests without making to the grantee or transferees or assigns of the grantee any compensation in respect of any of the matters aforesaid: Provided that We, Our heirs and successors will make good the actual amount of any structural damage done to any buildings, erections or fences in the exercise of those rights and where a fence forming part of a cattle or sheep-proof enclosure is opened, provide and maintain cattle-pits and other efficient means to prevent the escape therefrom of cattle and sheep. The timber restrictions hereinbefore mentioned shall apply to the land for a period of twenty years and no longer from the date of issue of this Grant.

IN WITNESS whereof We have caused Our trusty and well-beloved HIS EXCELLENCY MAJOR-GENERAL SIR DOUGLAS ANTHONY KENDREW, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Most Honourable Order of the Bath, Commander of the Most Excellent Order of the British Empire, Companion of the Distinguished Service Order, Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia, to affix to these Presents the Public Seal of the said State.

Sealed this Sixty Second *day of* February, *One thousand nine hundred and sixty-*eight

Governor.

Grant under the Land Act, 1933

Minister for Lands.

ENTERED ON RECORD this 22nd day of February 1968

for Minister for Lands.

CERTIFICATE OF TITLE UNDER THE TRANSFER OF LAND ACT, 1893

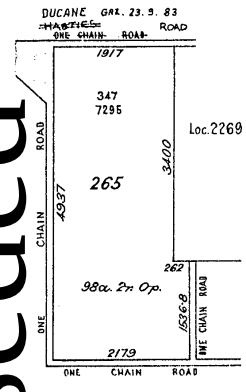
The abovenamed Grantee is now the registered proprietor of an estate in fee simple subject to the easements and encumbrances notified hereunder in all the land described in this grant.

Dated the Sixth day of March, One thousand nine hundred and sixty-eight

ASSISTANT REGISTRAR OF TITLES.

The area and measurements on the Plan below are more or less, and a post has been placed at each corner of the lot

PLAN HEREIN REFERRED TO:



Scale: 20 chains to an inch
Surveyed by F. F. Monaghan
Corr: 1806/51 O.P. Well. 55
411 9/40 A 384 DJR. Ex'd

Surveyor General

Transfer B486164 to Giacci Holdings Pty. Ltd. of South-Western Highway, Picton Junction. Registered 2nd March 1978 at 3.30 o'c.

Transfer C205072 to Antonio Carmen Giacci, Mario Michelle Giacci and Peter Louis Giacci all of South-Western Highway, Picton Junction, Company Directors as tenants in common in equal shares. Registered 27th August 1981 at 3.24 o'c

Application C573744 The correct name of the first and second proprietors are Antonio Carmino Giacci and Mario Michele Giacci.

27th June 1983

Transfer F570903. The one undivided third share of Peter Louis Giacci is transferred to Giacci Holdings Pty Ltd. The registered proprietors are now Antonio Carmino Giacci, Mario Michele Giacci and Giacci Holdings Pty Ltd all of South West Highway, Picton Junction, as tenants in common in equal shares. Registered 7th July 1994 at 9.47 hrs.

CT 0075 0160A F

24715/4/67—1M—11/C.

For encumbrances and other matters affecting the land see back.

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Superseded - Copy for Sketch Only

EASEMENTS AND ENCUMBRANCES REFERRED TO

Mortgage C274664 to Bank of New South Wales. Registered 21st December 1982 at 9.00 o'c.

DISCHARGED

Discharge C573743 of Mortgage C274664. Registered 27th June, 1983 at 2.23 o'c.

Mortgage C573747 to Citicorp Australia Limited. Registered 27th June, 1983 at 2.23 o'c.

DISCHARGED

Discharge D437551 of Mortgage C573747. Registered 18th March, 1987 at 9.04 o'c.

(Dup. C/T not prod) (Since prod.)

Mortgage D467280 to The Commissioners of The Rural & Industries Bank of Western Australia. Registered 4th May, 1987 at 9.15 o'c.

DISCHARGED

Discharge F423054 of Mortgage D467280. Registered 18th January, 1994 at 15.39 hrs.

CT 0075 0160A B

CROWN GRANT

Vol. 75 Fol. 160A

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APPENDIX 2: HERITAGE SEARCH

Aboriginal Heritage Inquiry System

List of Registered Aboriginal Sites

For further important information on using this information please see the Department of Planning, Lands and Heritage's Disclaimer statement at https://www.dplh.wa.gov.au/about-this-website

Search Criteria

No Registered Aboriginal Sites in Custom search area - Polygon - 115.671684702142°E, 33.4259427639363°S (GDA94) : 115.671684702142°E, 33.4157701163911°S (GDA94) : 115.67803617309°E, 33.4157701163911°S (GDA94) : 115.67803617309°E, 33.4259427639363°S (GDA94) : 115.671684702142°E, 33.4259427639363°S (GDA94)

Disclaimer

The *Aboriginal Heritage Act 1972* preserves all Aboriginal sites in Western Australia whether or not they are registered. Aboriginal sites exist that are not recorded on the Register of Aboriginal Sites, and some registered sites may no longer exist.

The information provided is made available in good faith and is predominately based on the information provided to the Department of Planning, Lands and Heritage by third parties. The information is provided solely on the basis that readers will be responsible for making their own assessment as to the accuracy of the information. If you find any errors or omissions in our records, including our maps, it would be appreciated if you email the details to the Department at AboriginalHeritage@dplh.wa.gov.au and we will make every effort to rectify it as soon as possible.

South West Settlement ILUA Disclaimer

Your heritage enquiry is on land **within or adjacent to** the following Indigenous Land Use Agreement(s): Gnaala Karla Booja Indigenous Land Use Agreement.

On 8 June 2015, six identical Indigenous Land Use Agreements (ILUAs) were executed across the South West by the Western Australian Government and, respectively, the Yued, Whadjuk People, Gnaala Karla Booja, Ballardong People, South West Boojarah #2 and Wagyl Kaip & Southern Noongar groups, and the South West Aboriginal Land and Sea Council (SWALSC).

The ILUAs bind the parties (including 'the State', which encompasses all State Government Departments and certain State Government agencies) to enter into a Noongar Standard Heritage Agreement (NSHA) when conducting Aboriginal Heritage Surveys in the ILUA areas, unless they have an existing heritage agreement. It is also intended that other State agencies and instrumentalities enter into the NSHA when conducting Aboriginal Heritage Surveys in the ILUA areas. It is recommended a NSHA is entered into, and an 'Activity Notice' issued under the NSHA, if there is a risk that an activity will 'impact' (i.e. by excavating, damaging, destroying or altering in any way) an Aboriginal heritage site. The Aboriginal Heritage Due Diligence Guidelines, which are referenced by the NSHA, provide guidance on how to assess the potential risk to Aboriginal heritage.

Likewise, from 8 June 2015 the Department of Mines, Industry Regulation and Safety (DMIRS) in granting Mineral, Petroleum and related Access Authority tenures within the South West Settlement ILUA areas, will place a condition on these tenures requiring a heritage agreement or a NSHA before any rights can be exercised.

If you are a State Government Department, Agency or Instrumentality, or have a heritage condition placed on your mineral or petroleum title by DMIRS, you should seek advice as to the requirement to use the NSHA for your proposed activity. The full ILUA documents, maps of the ILUA areas and the NSHA template can be found at https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/south-west-native-title-settlement.

Further advice can also be sought from the Department of Planning, Lands and Heritage at AboriginalHeritage@dplh.wa.gov.au.

Copyright

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Coordinate Accuracy

Coordinates (Easting/Northing metres) are based on the GDA 94 Datum. Accuracy is shown as a code in brackets following the coordinates.

Basemap Copyright

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Department of Planning, Lands and Heritage

Aboriginal Heritage Inquiry System

Map of Registered Aboriginal Sites

For further important information on using this information please see the Department of Planning, Lands and Heritage's Disclaimer statement at https://www.dplh.wa.gov.au/about-this-website



Legend

- Registered Aboriginal Site
- Search Area
- Town
- Road
- River
- Local Government Authority

0.59 kilometres

Map Scale 1 : 17,900

MGA Zone 50 (GDA94)

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Mining Tenement, Petroleum Application, Petroleum Title boundary data copyright © the State of Western Australia (Department of Mines, Industry Regulation and Safety).



Search Criteria

No Other Heritage Places in Custom search area - Polygon - 115.671684702142°E, 33.4259427639363°S (GDA94) : 115.671684702142°E, 33.4157701163911°S (GDA94) : 115.67803617309°E, 33.4157701163911°S (GDA94) : 115.67803617309°E, 33.4259427639363°S (GDA94) : 115.671684702142°E, 33.4259427639363°S (GDA94)

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The ILUAs bind the parties (including 'the State', which encompasses all State Government Departments and certain State Government agencies) to enter into a Noongar Standard Heritage Agreement (NSHA) when conducting Aboriginal Heritage Surveys in the ILUA areas, unless they have an existing heritage agreement. It is also intended that other State agencies and instrumentalities enter into the NSHA when conducting Aboriginal Heritage Surveys in the ILUA areas. It is recommended a NSHA is entered into, and an 'Activity Notice' issued under the NSHA, if there is a risk that an activity will 'impact' (i.e. by excavating, damaging, destroying or altering in any way) an Aboriginal heritage site. The Aboriginal Heritage Due Diligence Guidelines, which are referenced by the NSHA, provide guidance on how to assess the potential risk to Aboriginal heritage.

Likewise, from 8 June 2015 the Department of Mines, Industry Regulation and Safety (DMIRS) in granting Mineral, Petroleum and related Access Authority tenures within the South West Settlement ILUA areas, will place a condition on these tenures requiring a heritage agreement or a NSHA before any rights can be exercised.

If you are a State Government Department, Agency or Instrumentality, or have a heritage condition placed on your mineral or petroleum title by DMIRS, you should seek advice as to the requirement to use the NSHA for your proposed activity. The full ILUA documents, maps of the ILUA areas and the NSHA template can be found at https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/south-west-native-title-settlement.

Further advice can also be sought from the Department of Planning, Lands and Heritage at AboriginalHeritage@dplh.wa.gov.au.

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Department of Planning, Lands and Heritage

Aboriginal Heritage Inquiry System

Map of Other Heritage Places

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Legend

- Other Heritage Place
- Search Area
- Town
- Road
- River
- Local Government Authority

0.59 kilometres

Map Scale 1 : 17,900

MGA Zone 50 (GDA94)

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APPENDIX 3: NOISE ASSESSMENT

SAND EXTRACTION OPERATIONS

LOT 265 DUCANE ROAD
NORTH BOYANUP

ACOUSTIC ASSESSMENT

JUNE 2022

OUR REFERENCE: 29628-2-19056-02

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ACOUSTIC ASSESSMENT

SAND EXTRACTION – NORTH BOYANUP

Job No: 19056-02

Document Reference: 29628-2-19056-02

FOR

MBS ENVIRONMENTAL

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APPENDICIES

A Figure A1 – Site Layout

B Noise Contours

1. INTRODUCTION

Herring Storer Acoustics was commissioned by MBS Environmental to undertake an acoustic assessment of noise emissions from a proposed sand extraction operation to be located at Lot 265 Ducane Road, North Boyanup.

The sand extraction operation entails the usage of a front end loader and a screen.

This assessment takes into account noise emissions from both the sand extraction and the transport of sand off site via truck. The assessment is provided to support the works approval process.

Operational hours for the site are proposed to be Monday to Friday 07:00 to 18:00 and Saturday's 07:00 to12:00 hours. No operations on Sundays or Public Holidays.

As part of the study, the following was carried out:

- Identification of individual operations and the associated noise levels.
- Assess the predicted noise levels at the nearest surrounding noise sensitive premises for compliance with the appropriate criteria.
- If exceedances are predicted, comment on possible noise amelioration options for compliance with the appropriate criteria.

For information, a locality plan is shown in Appendix A.

2. SUMMARY

Assessment has been conducted on the proposed sand extraction operation at Lot 265 Ducane Road, North Boyanup.

The applicable criterion for pit operations, including truck movements, would be the assigned L_{A10} day period noise of between 45 and 47 dB(A) for the nearest residential locations. Noise received at the nearest residential premises has, for the worst case, been determined to be 40 dB(A) for the sand extraction operations. Worst case, being in relation to both location and stage of operation. The above noise levels have been considered to contain tonal characteristics, therefore an +5 dB(A) penalty, is applicable. Thus, with the bunding as shown of Figure C1 in Appendix C, compliance with the Regulatory criteria would be achieved.

Given these operating parameters, with the inclusion of some bunding as outlined in Figure C1 in Appendix C, noise levels received at the nearest premises has been determined to comply with the *Environmental Protection (Noise) Regulations 1997* for the operating times as outlined in this assessment.

3. CRITERIA

The allowable noise level at the surrounding locales is prescribed by the *Environmental Protection (Noise) Regulations 1997*. Regulations 7 & 8 stipulate maximum allowable external noise levels determined by the calculation of an influencing factor, which is then added to the base levels shown below. The influencing factor is calculated for the usage of land within two circles, having radii of 100m and 450m from the premises of concern. Table 3.1 lists the baseline assigned noise levels.

TABLE 3.1 - BASELINE ASSIGNED OUTDOOR NOISE LEVEL

Premises Receiving Noise	Time of Day	Assigned Level (dB)		
		L_{A10}	L_{A1}	L_{Amax}
Noise sensitive premises: highly sensitive area	0700 - 1900 hours Monday to Saturday (Day)	45 + IF	55 + IF	65 + IF
	0900 - 1900 hours Sunday and Public Holidays (Sunday / Public Holiday Day)	40 + IF	50 + IF	65 + IF
	1900 - 2200 hours all days (Evening)	40 + IF	50 + IF	55 + IF
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and Public Holidays (Night)	35 + IF	45 + IF	55 + IF
Noise sensitive premises: other than highly sensitive area	At all times	60	75	80

Note: L_{A10} is the noise level exceeded for 10% of the time.
L_{A1} is the noise level exceeded for 1% of the time.
L_{Amax} is the maximum noise level.
IF is the influencing factor.

The "Highly sensitive area" of a noise sensitive premises means:

> that area (if any) of noise sensitive premises comprising —
>
> (a) a building, or a part of a building, on the premises that is used for a noise sensitive purpose; and
> (b) any other part of the premises within 15 m of that building or that part of the building;

It is a requirement that received noise be free of annoying characteristics (tonality, modulation and impulsiveness), defined below as per Regulation 9.

"impulsiveness" means a variation in the emission of a noise where the difference between L_{Apeak} and $L_{Amax\ Slow}$ is more than 15 dB when determined for a single representative event;

"modulation" means a variation in the emission of noise that –

(a) is more than 3dB $L_{A\ Fast}$ or is more than 3 dB $L_{A\ Fast}$ in any one-third octave band;
(b) is present for more at least 10% of the representative assessment period; and
(c) is regular, cyclic and audible;

"tonality" means the presence in the noise emission of tonal characteristics where the difference between –

(a) the A-weighted sound pressure level in any one-third octave band; and
(b) the arithmetic average of the A-weighted sound pressure levels in the 2 adjacent one-third octave bands,

is greater than 3 dB when the sound pressure levels are determined as $L_{Aeq,T}$ levels where the time period T is greater than 10% of the representative assessment period, or greater than 8 dB at any time when the sound pressure levels are determined as $L_{A\ Slow}$ levels.

Where the noise emission is not music, if the above characteristics exist and cannot be practicably removed, then any measured level is adjusted according to Table 3.2 below.

TABLE 3.2 - ADJUSTMENTS TO MEASURED LEVELS

Where **tonality** is present	Where **modulation** is present	Where **impulsiveness** is present
+5 dB(A)	+5 dB(A)	+10 dB(A)

Note: These adjustments are cumulative to a maximum of 15 dB.

The nearest noise sensitive premises to the proposed development have been identified on Figure 1.

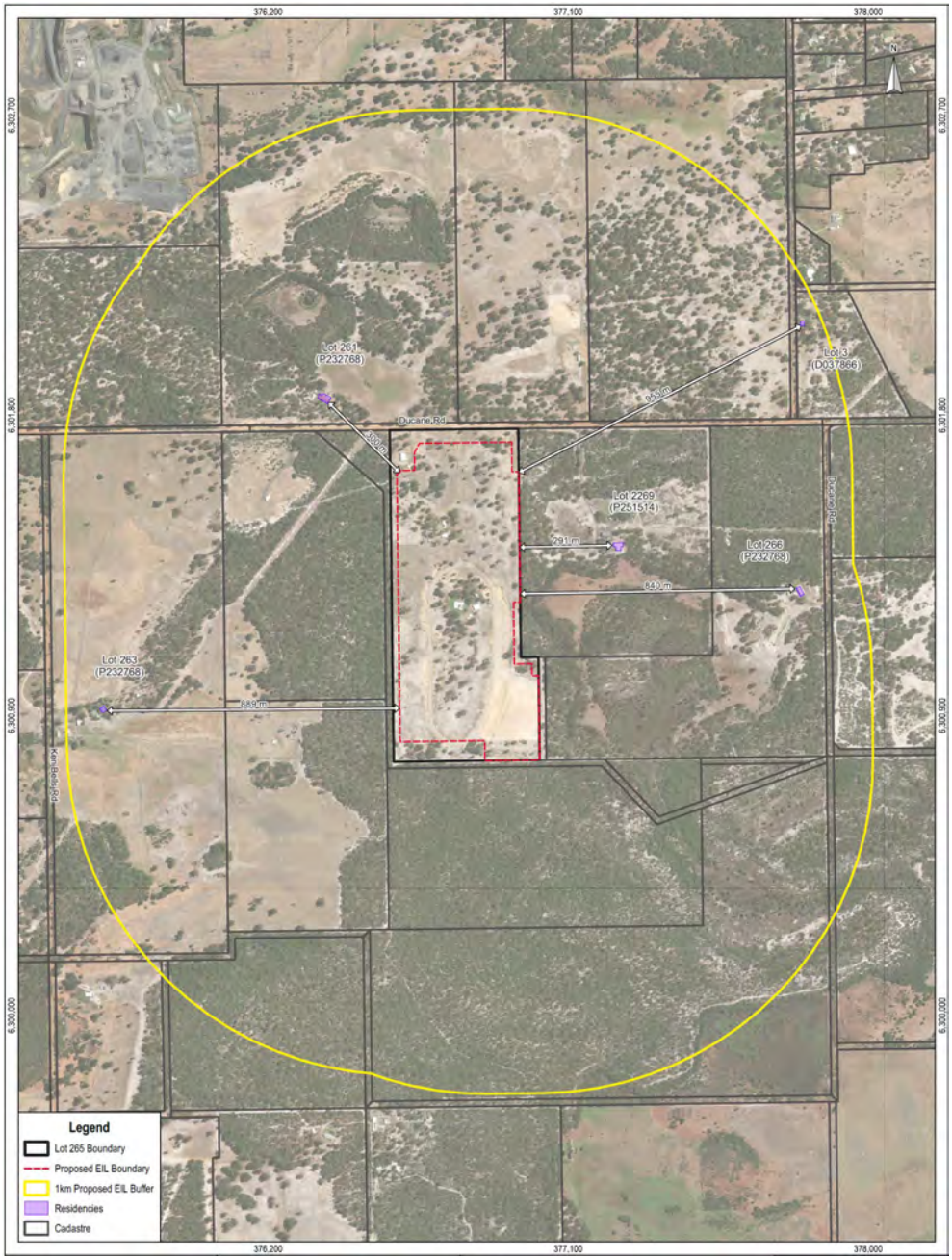


FIGURE 1 – RECEIVER LOCATIONS

The influencing Factor for the neighboring residence has been determined as, listed in Table 3.3.

TABLE 3.3 – INFLUENCING FACTORS

Location	Influencing Factor (dB)	
	% of Industrial in Outer Circle	Influencing Factor (dB)
North West (Lot 261)	8	0.8 (rounded to 1 dB)
North East (Lot 3)	0	0 dB
East (Lot 2269)	16	1.6 (rounded to 2 dB)
East (Lot 266)	0	0 dB
West (Lot 263)	0	0 dB

Based on the Influencing Factors, the applicable Assigned Day Period noise levels would be as Listed in Table 3.4.

TABLE 3.4 - ASSIGNED OUTDOOR NOISE LEVEL

Residence	Time of Day	Assigned Level (dB)		
		$L_{A\ 10}$	$L_{A\ 1}$	$L_{A\ max}$
North East (Lot 3) East (Lot 266) and Western (Lot 263)	0700 - 1900 hours Monday to Saturday (Day)	45	55	65
North Western (Lot 261)		46	56	66
Eastern (Lot 2269)		47	57	67

Noise emissions from the pit operations would occur for more than 10% of the time. Therefore, noise received at the neighboring residences from the sand extraction needs to comply with the assigned L_{A10} day period noise levels of between 45 and 47 dB(A).

With around 30 truck movements per hour, noise emissions from truck movements would occur also occur for more than 10% of the time. Therefore, noise received at the neighboring residences from truck movements needs to comply with the assigned L_{A10} day period noise level of between 45 and 47 dB(A).

4. CALCULATED NOISE LEVELS

Noise received at the nearest neighbouring residential premises, due to noise associated with the proposed sand extraction operations, were modelled with the computer programme SoundPlan. Sound power levels used for the calculations are based on measured sound pressure levels of similar equipment proposed for use on site.

The modelling of noise levels has been based on noise sources and sound power levels shown in Table 4.1.

TABLE 4.1 – SOUND POWER LEVEL - NOISE SOURCES dB(A)

Source	Sound Power Level (dB(A))
Excavator	99
Front End Loader (FEL)	103
Tip Truck	98
Screen	102
Road Truck	97

Due to the nature of sand extraction operations, the equipment used for the sand extraction are confined to the "pit". Whilst the pit tends to move with the operations, the barrier effect of the confines (pit walls and stockpile) is always present. For this operation, the critical residence with regards to compliance would be the residence to the east.

From information received, it is proposed that the sand extraction will start in the south east corner (Stage 1), then head in a north direction for a stage or number of stages and then head westward. With this proposed staging, some bunding is required to ensure compliance. This bunding is shown of Figure C1, in Appendix C.

Based on the above equipment, a number of scenarios were developed for the significant stages (i.e. with regards to noise). This scenario allows for all equipment to be operating at the same time, within various stages of operation. Thus, a combined noise contour plot was development for the pit operations.

The following input data was used in the calculations:

a) Provided backgrounds;

b) Sound Power Levels listed in Table 4.1; and

c) Ground contours provided by client and from Google Earth, with the base level on the pit operations being an AMD of 25 metres.

Weather conditions for modelling were as stipulated in the Environmental Protection Authority's "*Draft Guidance for Assessment of Environmental Factors No. 8 - Environmental Noise"* and for the day period are as listed in Table 4.2.

TABLE 4.2 – WEATHER CONDITIONS

Condition	Day
Temperature	20°C
Relative humidity	50%
Pasquill Stability Class	E
Wind speed	4 m/s*

* From sources, towards receivers.

With regards to truck movement to and from the operations, to determine the worst case noise level that would be received at the neighbouring premises, a noise model was run assuming a truck movement around the boundary of the site.

5. RESULTS

Calculated noise levels associated with the noise emissions from the proposed sand extraction for the assumed scenario is summarised below in Table 5.1. Figure B1 in Appendix B shows the combined noise contour plot for the various stages of the pit operations.

TABLE 5.1 – CALCULATED NOISE LEVEL

Residence	Calculated Noise Level (dB(A))	
	All Equipment Operating	Truck Movement
North West (Lot 261)	38	34
North East (Lot 3)	31	23
East (Lot 2269)	39	35
East (Lot 266)	30	25
West (Lot 263)	31	24

6. ASSESSMENT

Based on calculated noise levels at the nearest premises, noise levels could be considered as being tonal in characteristics. Therefore, a +5 dB(A) penalty has been included to allow for a tonal component.

Hence, Table 6.1 summarises the applicable Assigned Noise Levels, and assessable noise level emissions, for the scenario considered.

TABLE 6.1 – ASSESSMENT OF NOISE LEVELS

Residence	Assessable Noise Level (dB(A)) All Equipment Operating + Truck Movements
North West (Lot 261)	39
North East (Lot 3)	32
East (Lot 2269)	40
East (Lot 266)	31
West (Lot 263)	32

( ) include a +5 dB(A) penalty for tonal characteristics.

Based on calculated noise levels at the nearest premises, noise levels could be considered as being tonal in characteristics. Therefore, a +5 dB(A) penalty has been included to allow for a tonal component.

Hence, Table 6.2 summarises the applicable Assigned Noise Levels, and assessable noise level emissions, for the scenario considered.

TABLE .2 – ASSESSMENT OF NOISE LEVELS

Residence	Assessable Noise Level (dB(A)) All Equipment Operating + Truck Movements
North West (Lot 261)	44
North East (Lot 3)	37
East (Lot 2269)	45
East (Lot 266)	36
West (Lot 263)	37

Based on the assessable noise level above, comparison against the relevant assigned noise level is contained in Table 6.3.

TABLE 6.3 – ASSESSMENT OF NOISE LEVELS
PIT OPERATIONS (INCLUDING TRUCK MOVEMENTS)

Premises Receiving Noise	Assessable Noise Level dB(A)	Time of Day	Assigned L_{A10} Level (dB)	Compliance
North West (Lot 261)	44	0700 - 1900 hours Monday to Saturday (Day)	46	Complies
North East (Lot 3)	37		45	Complies
East (Lot 2269)	45		47	Complies
East (Lot 266)	36		45	Complies
West (Lot 263)	37		45	Complies

7. CONCLUSION

Assessment has been conducted on the proposed sand extraction operation at Lot 265 Ducane Road, North Boyanup.

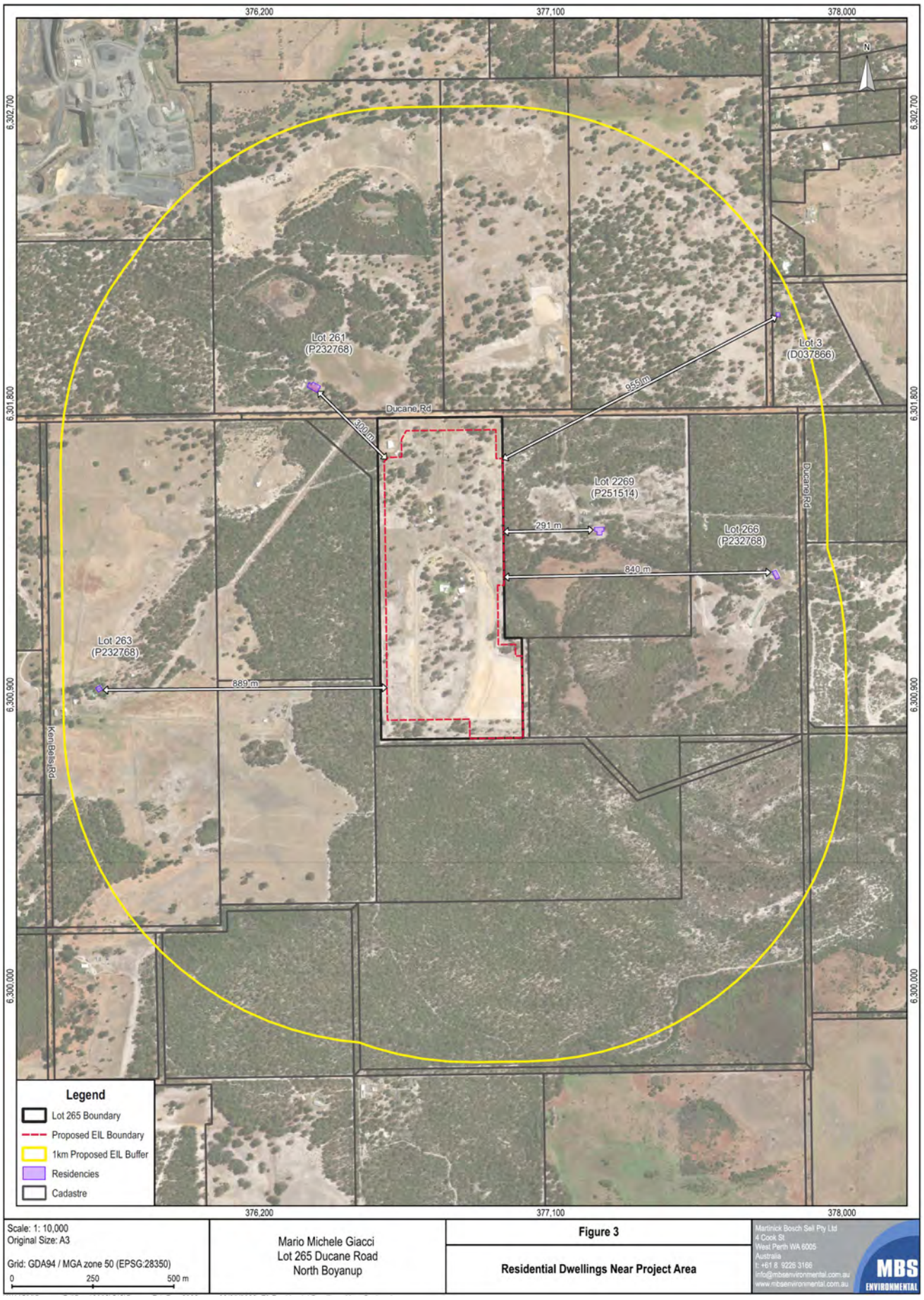
Operational hours for the site are proposed to be Monday to Friday 07:00 to 18:00 and Saturday's 07:00 to12:00 hours. No operations on Sundays or Public Holidays. Thus, noise received at the neighbouring premises needs to comply with the appropriate assigned day period noise level.

The applicable criterion for pit operations, including truck movements, would be the assigned L_{A10} day period noise of between 45 and 47 dB(A) for the nearest residential locations. Noise received at the nearest residential premises has, for the worst case, been determined to be 40dB(A) for the sand extraction operations. Worst case, being in relation to both location and stage of operation. The above noise levels have been considered to contain tonal characteristics, therefore an +5 dB(A) penalty, is applicable. Thus, with the bunding as shown of Figure C1 in Appendix C, compliance with the Regulatory criteria would be achieved.

Given these operating parameters, with the inclusion of some bunding as outlined in Figure C1 in Appendix C, noise levels received at the nearest premises has been determined to comply with the *Environmental Protection (Noise) Regulations 1997* for the operating times as outlined in this assessment.

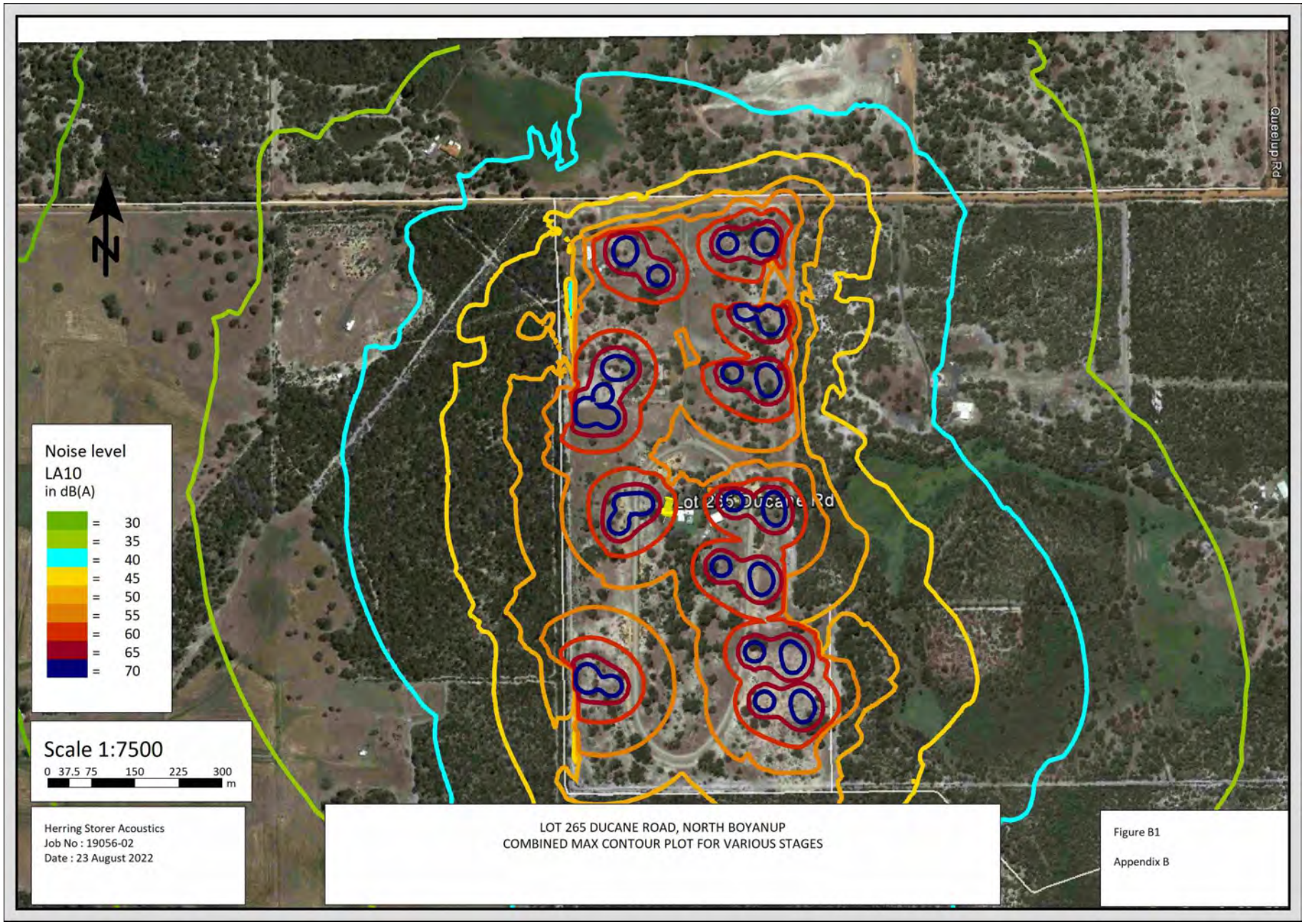
APPENDIX A

LOCATION AERIAL


376,200
377,100
378,000
6,302,700
6,301,800
6,300,900
6,300,000
N
Lot 261
(P232768)
Lot 3
(D037866)
Ducane Rd
300 m
955 m
Lot 2269
(P251514)
291 m
Lot 266
(P232768)
840 m
Lot 263
(P232768)
889 m
Kemp Beels Rd
Legend
Lot 265 Boundary
Proposed EIL Boundary
1km Proposed EIL Buffer
Residencies
Cadastre
Scale: 1: 10,000
Original Size: A3
Grid: GDA94 / MGA zone 50 (EPSG:28350)
0
250
500 m
Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup
Figure 3
Residential Dwellings Near Project Area
Martinick Bosch Sell Pty Ltd
4 Cook St
West Perth WA 6005
Australia
t: +61 8 9226 3166
info@mbsenvironmental.com.au
www.mbsenvironmental.com.au
MBS
ENVIRONMENTAL

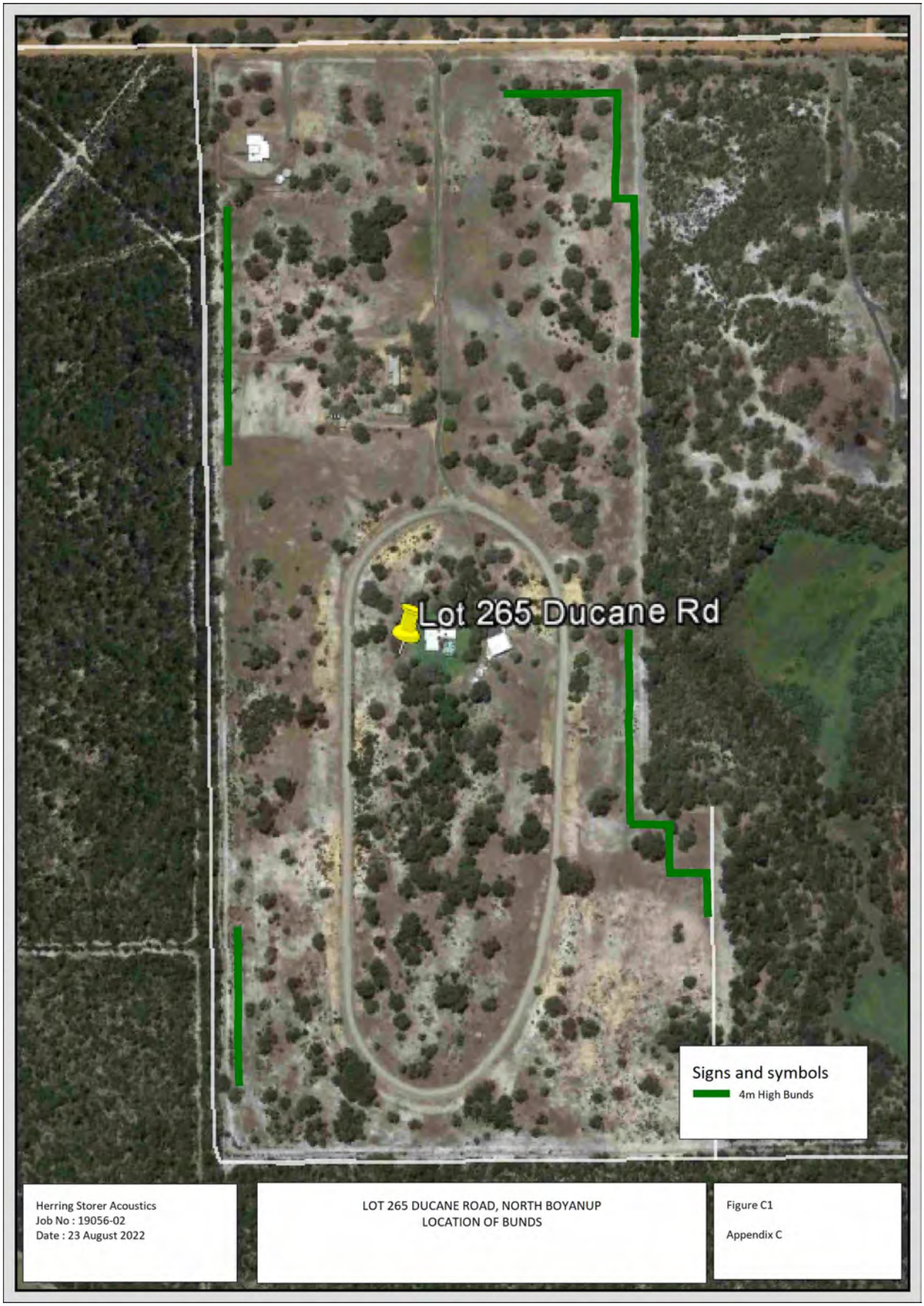
APPENDIX B

Noise Contours


N
Noise level
LA10
in dB(A)
= 30
= 35
= 40
= 45
= 50
= 55
= 60
= 65
= 70
Scale 1:7500
0 37.5 75 150 225 300
m
Queelup Rd
Herring Storer Acoustics
Job No : 19056-02
Date : 23 August 2022
LOT 265 DUCANE ROAD, NORTH BOYANUP
COMBINED MAX CONTOUR PLOT FOR VARIOUS STAGES
Figure B1
Appendix B

APPENDIX C

Bunding Required


Lot 265 Ducane Rd
Signs and symbols
4m High Bunds
Herring Storer Acoustics
Job No : 19056-02
Date : 23 August 2022
LOT 265 DUCANE ROAD, NORTH BOYANUP
LOCATION OF BUNDS
Figure C1
Appendix C

APPENDIX 4: DUST MANAGEMENT PLAN

LOT 265 DUCANE ROAD, NORTH BOYANUP
SAND EXTRACTION

DUST MANAGEMENT PLAN

PREPARED FOR:

MARIO MICHELE GIACCI

OCTOBER 2022

PREPARED BY:

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LOT 265 DUCANE ROAD, NORTH BOYANUP
DUST MANAGEMENT PLAN

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Figure 4: Proposed Project Layout 6

APPENDICES

Appendix 1: Wind Roses
Appendix 2: Risk Assessment
Appendix 3: Dust Complaint Form

1. INTRODUCTION

1.1 PURPOSE

Landowner Mario Michele Giacci has an existing Development Approval (DA) and Extractive Industry Licence (EIL) for the extraction of sand on Lot 265 Ducane Road in North Boyanup within the Shire of Capel (Figure 1). There is an approved Dust Management Plan (DMP) in place for the current operations. The landowner is applying to modify the DA and EIL, and this document provides a DMP for the proposed operations.

This DMP was prepared in accordance with the Department of Environment and Conservation's (DEC, now Department of Water and Environmental Regulation) *"A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities"* (DEC 2011). This DMP should be read in conjunction with the DA application. The operations will not require an environmental licence from Department of Water and Environmental Regulation (DWER).

1.2 SCOPE

The scope of this DMP includes the following:

- Describe the existing environment and identify sensitive receptors.
- Identify potential sources of dust associated with the operations.
- Undertake a site risk assessment for dust.
- Describe appropriate dust prevention, monitoring and mitigation measures.
- Describe the dust complaints process.
- Identify roles and responsibilities.

1.3 OBJECTIVE

The objective of this DMP is to minimise off-site dust emissions generated from the sand extraction operations.



Scale: 1:30000
Original Size: A4
Image: Copernicus Sentinel Data 2020
Grid: GDA94
0 750 1,500 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 1

Location Plan

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MBS ENVIRONMENTAL

W:\MGM\Ducane Rd\GIS-Common\LocationPlan_Ducane Rd.qgz 06/10/2022

2. EXISTING ENVIRONMENT

2.1 CLIMATE

The climate of the project area is Mediterranean, with cool wet winters and hot dry summers. Long-term average climate data for the closest meteorological station (Bunbury, 6 km northwest of project) is shown in Figure 2). The average annual rainfall is 718.4 mm, mean minimum temperatures between 7°C and 16°C and mean maximum temperatures between 17°C and 30°C (Bureau of Meteorology 2022).

Long-term wind roses for Bunbury (Bureau of Meteorology 2022) indicate prevailing winds comprise morning easterlies and afternoon westerlies (Appendix 1).

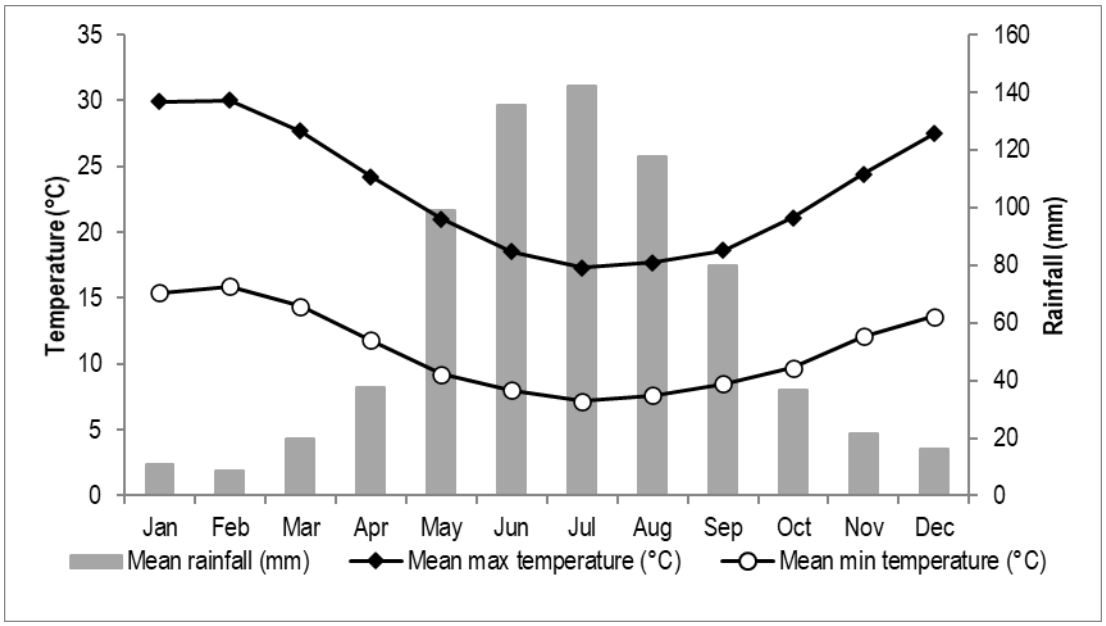


Figure 2: Long-term Rainfall and Temperature Data (1995-2022) for Bunbury Meteorological Station 9965 (Bureau of Meteorology 2022)

2.2 LANDUSE

The Project is located on Lot 265 (Plan 232768) Ducane Road in North Boyanup, approximately 6 km southeast of Bunbury, in the Shire of Capel (Figure 1, Figure 3, Figure 4). The property covers a total area of 39.94 ha and is zoned rural in the Shire of Capel Town Planning Scheme and in the Greater Bunbury Region Scheme. The majority of Lot 265 has been cleared and is currently being utilised for sand extraction. The property also includes two residential dwellings, horse stable and various outbuildings.

2.3 LANDFORM AND SOILS

The project area within Lot 265 is gently undulating with scattered low sand hillocks (Figure 3, Figure 4). The elevation on site ranges from approximately 23 mAHD to 25 mAHD in the lower lying areas, and up to 36 mAHD on the highest hillock. Lot 265 is located within the Bassendean soil-landscape system of the Swan Coastal Plain, with a soil profile containing thin grey sandy topsoil overlaying deep white and yellow sands (Department of Primary Industries and Regional Development 2019). The site is well drained and there is no evidence of runoff by way of erosion, scour, or defined watercourses.

2.4 VEGETATION

The vegetation on Lot 265 consists of primarily unimproved pasture with patches of degraded native vegetation, scattered individual native trees, and planted introduced species. Native endemic species found on the site are *Corymbia calophylla* (Marri), *Eucalyptus marginata* (Jarrah), *Agonis flexuosa* (Peppermint), *Nuytsia floribunda* (WA Christmas Tree), and some scattered individuals of *Banksia attenuata*, *Banksia grandis*, *Banksia illicifolia*, *Kunzea glabrescens*, *Macrozamia riedlei*, *Hakea lissocarpha*, and *Xanthorrhoea preissii*. The understory is either absent or degraded and dominated by weed species. There are some eastern states eucalypt trees and other introduced species planted around the house, horse yard, and sheds.

2.5 SENSITIVE RECEPTORS

Lot 265 and the surrounding properties are zoned rural and are used for a variety of purposes including grazing, sand extraction, small recreational business and residential. They also contain substantial areas of remnant native vegetation. The main sensitive receptors in the area are residential dwellings on other rural properties. Dwellings within 1 km of the extraction area are summarised in Table 1 and shown in Figure 3.

Table 1: Sensitive Receptors within 1 km of Extractive Operations

Property Details	Distance and Direction from Operations	Type of Receptor
Lot 2269 Plan 251514	291 m east	Residential dwelling
Lot 261 Plan 232768	300 m northwest	Residential dwelling
Lot 266 Plan 232768	840 m east	Residential dwelling
Lot 264 Plan 232768	889 m west	Residential dwelling
Lot 3 Diagram 37866	955 m northeast	Residential dwelling

376,200 377,100 378,000

6,302,700 6,301,800 6,300,900 6,300,000

N

Lot 261
(P232768)

Lot 3
(D037866)

955 m

300 m

Ducane Rd

Lot 2269
(P251514)

291 m

Lot 266
(P232768)

840 m

Lot 263
(P232768)

889 m

Ken Bells Rd

Ducane Rd

Legend

- Lot 265 Boundary
- Proposed EIL Boundary
- 1km Proposed EIL Buffer
- Residencies
- Cadastre

376,200 377,100 378,000

Scale: 1: 10,000
Original Size: A3

Grid: GDA94 / MGA zone 50 (EPSG:28350)

0 250 500 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 3

Residential Dwellings Near Project Area

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W:\MGM\Ducane Rd\Dust\2022\GIS\DucaneRd_Dust2022.qgz 30/05/2022 F3 Residential Dwellings Near Project Area

376400 m 376600 m 376800 m 377000 m 377200 m

6301900 m 6301700 m 6301500 m 6301300 m 6301100 m 6300900 m 6300700 m

N

Lot 261 (P232768)

Lot 1 (D043277)

Ducane Road

Lot 2269 (P251514)

Lot 264 (P232768)

Lot 1

Road Reserve

Road Reserve

Lot 266 (P232768)

Lot 267 (P232768)

17 16 15 13 14 12 11 10 9 5 8 4 7 3 2 6 1

Legend

- Lot 265 Boundary
- Proposed EIL Boundary
- No Sand Extraction Proposed
- Direction of Extraction
- Proposed Extraction Stages (max. 2ha each)
- 1 Proposed Stage Number
- Proposed Noise Bunds
- Stockpiling Areas (topsoil, sand)
- Final Contours
- Major - 5m
- Minor - 1m

Scale: 1:3500
Original Size: A3
Air Photo Date: March 2018
Grid: MGA94(50)
0 100 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 4

Proposed Project Layout

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3. POTENTIAL SOURCES OF DUST

The proposed project layout is shown in Figure 4. Potential sources of dust associated with the sand extraction operations include following:

- Vegetation clearing, topsoil stripping, and stockpiling.
- Sand extraction, stockpiling, and loading activities.
- Wind borne dust from exposed surfaces, including cleared land, topsoil, and resource stockpiles and roads.
- Vehicle movements on internal unpaved roads.
- Poorly contained truck loads.
- Rehabilitation works (final contouring, ripping, spreading of topsoil and other materials).

4. SITE RISK ASSESSMENT

Dust potentially generated as part of the sand extraction operations is expected to be free of contaminants and pollutants. The adverse effects of dust generation from the site would typically be 'nuisance dust'.

A risk assessment was prepared based on the DEC's *"A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities"* (DEC 2011). The risk assessment for the proposed extractive operations is provided in Appendix 2. It calculates the risk of dust impacts and the need for management controls based on the nature of the site and the proposed operations as well as the proximity of sensitive receptors and prevailing winds. The risk assessment assumes that vegetation clearing will be gradual and proceed in stages and that revegetation will follow gradually in stages as well. Prevailing summer winds are morning easterlies and afternoon westerlies, and these have been taken into consideration in the risk assessment.

A site classification score of 306 was calculated for the on-site works placing this development in a Classification 2 (Low Risk) category (between 200 and 399 points). Based on the Low Risk classification the following are required (DEC 2011):

- Contingency plan detailing activities to be undertaken should dust impacts occur.
- Monitoring requirements.

These are both addressed in the next section.

The closest residence to the sand extraction site is located approximately 291 m to the east of the extraction area and will at times be downwind of the site under prevailing summer winds. This residence is screened from the operations by remnant native vegetation. The second closest residence is 300 m northwest of the extraction area and is also screened by vegetation. All other residences are well over 500 m from the site. Overall, considering the separation distances, the likelihood of dust impacts on the closest residences is low as long as appropriate management measures are in place for the sand extraction operations.

5. DUST MANAGEMENT ACTIONS

5.1 DUST PREVENTION

The site operator will implement the following measures to prevent dust generation from site activities:

- Vegetation clearing and topsoil removal will only be undertaken on days of conducive wind strength and conditions to ensure windblown dust is minimised.
- Vegetation clearing and ground disturbance will be gradual in nature and proceed in stages.
- Revegetation will also be gradual in nature and proceed in stages, closely following the completion of sand extraction.
- Topsoil and other stockpiles will be no greater than 4 m in height.
- A maximum vehicle speed limit of 20 km/hr will be implemented across the site.
- A water cart will be available for the site and will undertake preventative watering of access tracks, working areas, and stockpiles during dry periods.
- Training will be provided to staff regarding the requirements of the DMP and their individual responsibilities in minimising dust generation.
- Trucks leaving the site will be required to have their load covered, and tailgates and draw-bars clear of dust producing material prior to entering Ducane Road. Appropriate signage will be erected at the site exit advising truck drivers to cover loads and clean their vehicle as required prior to entering public roads.

5.2 DUST MONITORING AND MITIGATION

The site operator will implement the following measures to monitor and mitigate dust generation from site activities:

- Visual monitoring of dust generation from the operations will be undertaken on an ongoing basis.
- Should excessive dust generation be observed and there is a risk of dust being blown off site, additional watering of dust sources with the water cart will be organised. Alternative dust controls, such as chemical dust suppressants, may also be considered for more persistent sources of dust.
- When weather conditions negate the effectiveness of dust prevention and mitigation measures, and dust continues to be blown off site, the dust generating activities will cease until conditions improve and compliance with this DMP can be achieved.

5.3 DUST COMPLAINTS

The dust complaints process will be as follows:

- A sign will be erected at the entrance to the extraction site advising the public on the appropriate contact in the event of a complaint.
- In the event of receiving a complaint, the EIL licensee will complete a Dust Complaint Form (Appendix 3), investigate, and resolve the complaint within four hours.
- A copy of the completed Dust Complaint Form will be forwarded to the Shire of Capel for their records.
- If required, a review of the DMP will be undertaken to refine dust prevention, monitoring, and mitigation measures.

6. ROLES AND RESPONSIBILITIES

Roles and responsibilities with respect to dust management are outlined in Table 2.

Table 2: Roles and Responsibilities

Role	Responsibilities
EIL Licensee	• Will have overall responsibility for the dust management of the operations. • Will provide information for site operators and truck drivers on dust management objectives, and dust management measures to be undertaken on site (prevention, monitoring and mitigation). • Will be responsible for resolving any persistent dust management issues. • Will be responsible for administering the dust complaints process.
All personnel	• Will be familiar with potential sources of dust associated with own role and how to minimise dust generation. • Will implement the dust prevention, monitoring and mitigation measures as described in this plan and as advised by the EIL Licensee. • Will be responsible for reporting any persistent dust management issues to the EIL Licensee.

7. REFERENCES

Bureau of Meteorology (2022). *Climate Statistics for Australian Locations*. http://www.bom.gov.au/climate/averages/tables/cw_009965.shtml. Accessed May 2022.

Department of Environment and Conservation (2011). *A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*. https://www.der.wa.gov.au/images/documents/your-environment/air/publications/Guideline_for_managing_impacts_of_dust.pdf

Department of Primary Industries and Regional Development (2019). *Soil Landscape Mapping - Best Available (DPIRD-027)*. https://catalogue.data.wa.gov.au/dataset/soil-landscape-mapping-best-available. Accessed May 2022.

APPENDICES

APPENDIX 1: WIND ROSES

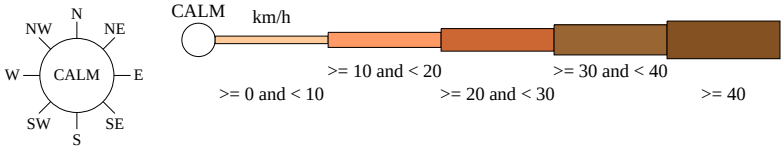
Rose of Wind direction versus Wind speed in km/h (22 Nov 1995 to 10 Aug 2022)

Custom times selected, refer to attached note for details

BUNBURY

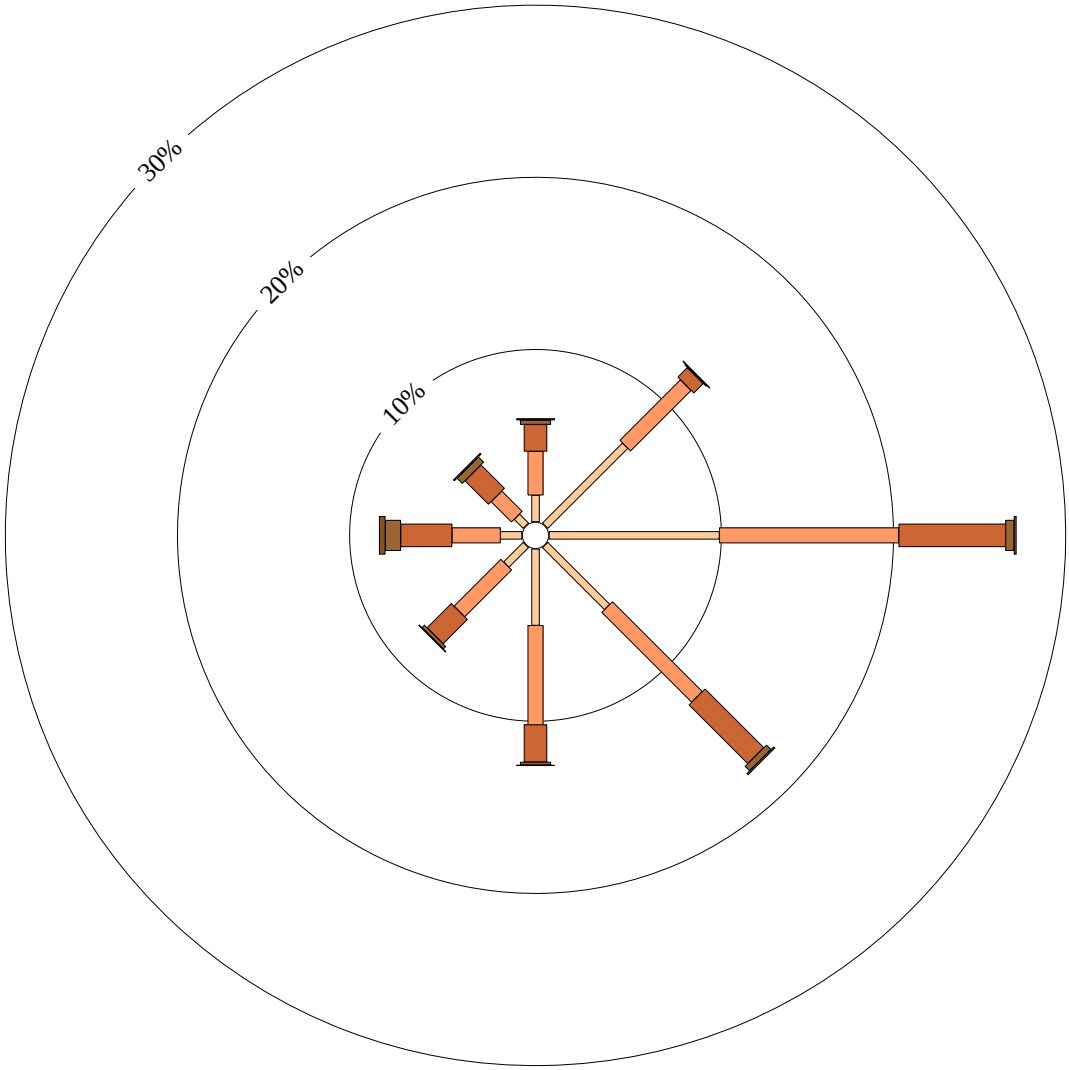
Site No: 009965 • Opened Nov 1995 • Still Open • Latitude: -33.3567° • Longitude: 115.6447° • Elevation 5.m

An asterisk (*) indicates that calm is less than 0.5%.
Other important info about this analysis is available in the accompanying notes.



9 am
9648 Total Observations

Calm 4%



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Bureau of Meteorology

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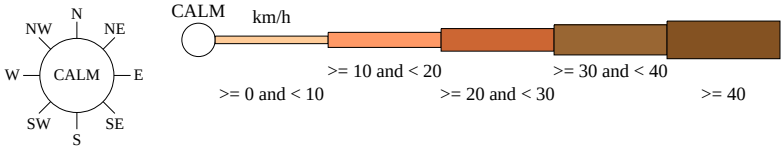
Rose of Wind direction versus Wind speed in km/h (22 Nov 1995 to 10 Aug 2022)

Custom times selected, refer to attached note for details

BUNBURY

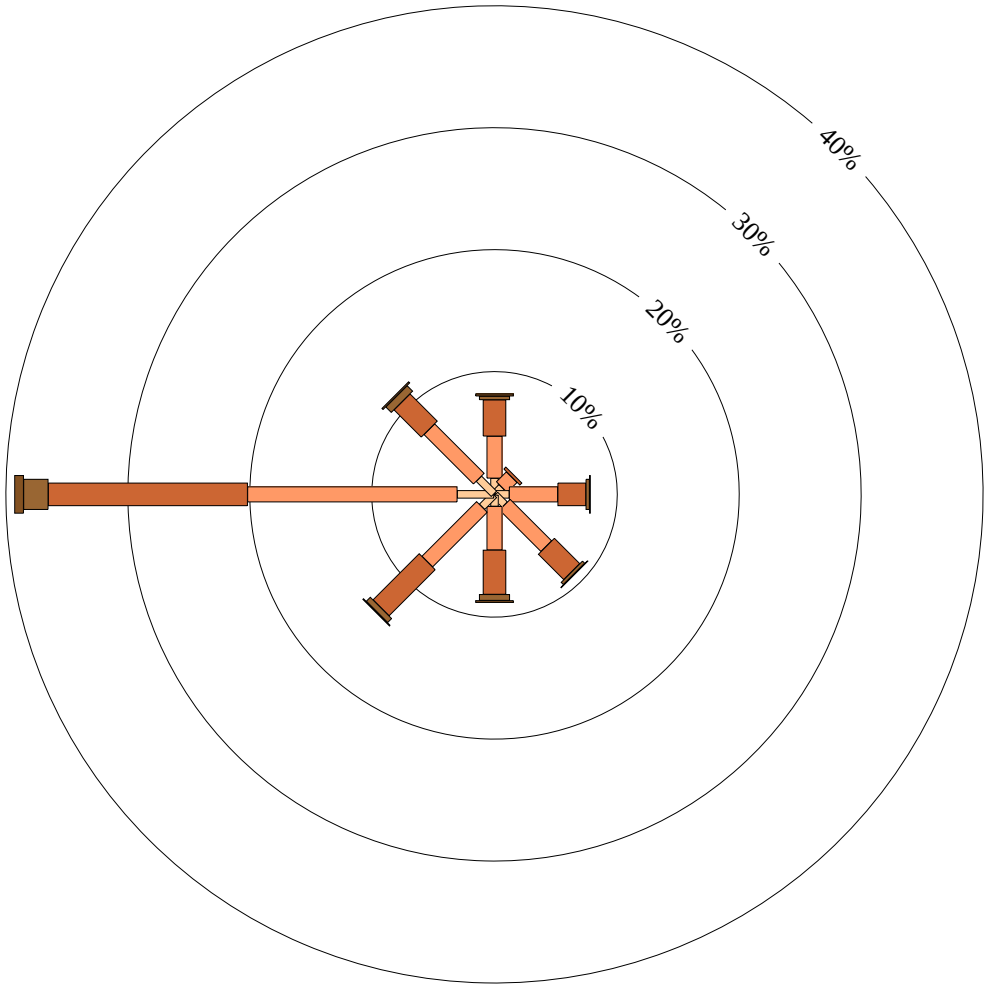
Site No: 009965 • Opened Nov 1995 • Still Open • Latitude: -33.3567° • Longitude: 115.6447° • Elevation 5.m

An asterisk (*) indicates that calm is less than 0.5%.
Other important info about this analysis is available in the accompanying notes.



3 pm
9627 Total Observations

Calm *



Australian Government
Bureau of Meteorology

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APPENDIX 2: RISK ASSESSMENT

SITE RISK ASSESSMENT/CLASSIFICATION FOR ACTIVITIES GENERATING UNCONTAMINATED DUST

Sheet 1: Site classification assessment chart

Assessed Location: Lot 265 Ducane Road, North Boyanup.

Part A. Nature of site

Item	Score Options								Allocated Score
1. 3-Month Probationary Review - Alex YuNuisance potential of soil, when disturbed	Very low	1	Low	2	Medium	(4)	High	6	4
2. Topography and protection provided by undisturbed vegetation	Sheltered and screened	(1)	Medium screening	6	Little screening	12	Exposed and wind prone	18	1
3. Area of site disturbed by the works	Less than 1ha	1	Between 1 ha and 5 ha	(3)	Between 5 ha and 10 ha	6	More than 10 ha	9	3
4. Type of work being done	Roads or shallow trenches	1	Roads, drains and medium depth sewers	3	Roads, drains, sewers and partial earthworks	6	Bulk earthworks and deep trenches	(9)	9
							Total Score for Part A		17

Part B. Proximity of site to other land uses

Item	Score Options								Allocated Score
1. Distance of other land uses from site	More than 1 km	1	Between 1 km and 500 m	6	Between 100 m and 500 m	(12)	Less than 100 m	18	12
2. Effect of prevailing wind direction (at time of construction) on other land uses	Not affected	1	Isolated land uses affected by one wind direction	(6)	Dense land uses affected by one wind direction	9	Dense/sensitive land uses highly affected by prevailing winds	12	6
							Total Score for Part B		18

Site Classification Score (A x B)	306

APPENDIX 3: DUST COMPLAINT FORM

LOT 265 DUCANE ROAD, NORTH BOYANUP
DUST COMPLAINT FORM

Complaint Date:

Complaint Time:

Received by:

Complainant's Details:

Name:

Address:

Tel:

Complaint Details: (attach report if insufficient space)

Actions taken: (attach report if insufficient space)

Actions recorded by:

Date:

Copy to Shire of Capel: ☐ (tick)

APPENDIX 5: REHABILITATION AND DECOMMISSIONING PROGRAM

REHABILITATION AND DECOMMISSIONING PROGRAM
LOT 265 DUCANE ROAD, NORTH BOYANUP

PREPARED FOR:

MARIO MICHELE GIACCI

OCTOBER 2022

PREPARED BY:

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MBS ENVIRONMENTAL

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environmental and geoscience consultants

LOT 265 DUCANE ROAD NORTH BOYANUP
REHABILITATION AND DECOMMISSIONING PROGRAM

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1. INTRODUCTION

This Rehabilitation and Decommissioning Program has been prepared to accompany a Development Approval (DA) and Extractive Industry Licence (EIL) application for Lot 265 (Plan 232768) Ducane Road in North Boyanup. Mario Michele Giacci, the owner of Lot 265, holds five-year DA and EIL for the extraction of sand on the property that is not due to expire until 2024, however is applying to expand the extraction area and change the final landform contours, and this requires a new DA/EIL. A Rehabilitation and Decommissioning Program (MBS Environmental 2019) approved by Shire of Capel as part of the previous DA/EIL has been revised to address changes in the proposed extraction operations. Once approved, this 2022 Rehabilitation and Decommissioning Program will replace all previous versions of the document.

This Rehabilitation and Decommissioning Program has been prepared to address requirements of the Shire of Capel Extractive Industry Local Law. This document should be read in conjunction with the DA/EIL application report and related plans.

2. OBJECTIVES

The objectives of rehabilitation and decommissioning on Lot 265 are following:

- Establish a stable and safe landform.
- Remove any temporary infrastructure, rubbish, and debris.
- Establish pasture within the majority of the extraction area to cater for future rural use.
- Establish native vegetation corridors along the northern, southern, and eastern property boundaries.

3. EXISTING ENVIRONMENT

3.1 LOT 265 - EXTRACTION AREA

Lot 265 covers total of 39.94 ha and the proposed extraction area (the site) 33.76 ha (Figure 1). Lot 265 contains two residences – one in the northwestern corner (outside the proposed extraction area) and another on the central hillock (within the proposed extraction area). Horse stables, associated sheds and a sand training track are also present.

The site has been largely cleared in the past and is composed of unimproved pasture with patches of degraded native vegetation, scattered individual native trees and planted introduced species (Plate 1 to Plate 5). The native vegetation consists predominately of *Corymbia calophylla* (Marri), *Eucalyptus marginata* (Jarrah), *Agonis flexuosa* (Peppermint), and *Nuytsia floribunda* (WA Christmas tree) with a degraded understorey dominated by weed species. There are also scattered individuals of *Banksia attenuata*, *Banksia grandis*, *Banksia illicifolia*, *Kunzea glabrescens*, *Xanthorrhoea preissii*, *Macrozamia riedlei,* and *Hakea lissocarpha* (DER 2015). The planted trees include eastern states eucalyptus and other introduced plants, and these are located mainly around the horse yards and sheds. The proponent has obtained a Clearing Permit (CPS 5319) from the Department of Water and Environmental Regulation for clearing of native vegetation within the previously approved extraction area and this will be amended or a new permit obtained for the expansion areas. Majority of the proposed extension area has been cleared in the past and additional vegetation clearing requirement will be approximately 1 ha made up of individual trees and patches of vegetation in Degraded to Completely Degraded condition.

The site is composed of a number of small Bassendean sand dunes with sandy flats between them. The dunes peak between 32 mAHD and 36 mAHD. The flats are between 23 mAHD and 26 mAHD. The natural slopes vary from almost flat to 1:8. There are no wetlands, watercourses, or smaller drainage lines on the site. The soil profile comprises a thin layer of grey sandy topsoil overlaying deep grey and yellow sands.

Groundwater levels in September 2012 are shown in Table 1. The pit floor level is set at 25 mAHD, 2 m above the highest recorded groundwater level.

Table 1: Groundwater Levels on Lot 265 in September 2012

Piezometer	Natural Ground Level (AHD)	Groundwater Level (AHD)
1	25.0 m	23.02 m
2	26.8 m	22.29 m

Due to the degraded and sparse nature of native vegetation within the proposed extraction area, the presence or absence of dieback cannot be mapped and consequently the area should be considered as potentially dieback infected.

3.2 SURROUNDS

Unsealed Ducane Road runs along the northern boundary of Lot 265 and there are undeveloped road reserves along the western and southern boundaries and along part of the eastern boundary. The adjacent properties are privately owned with rural zoning and contain a mixture of pastures and native vegetation. There are extractive sites on Lot 1 (Diagram 43277) and Lot 261 (Plan 232768), and Lot 264 (Plan 232768) has also been subject to extraction in the past. There are a number of wetlands (sumplands and damplands) on the surroundings properties, the closest a multiple use sumpland approximately 70 m east of the extraction area. For further information on the surrounds, please refer to the EIL report.

376500 m | 376700 m | 376900 m | 377100 m

6301900 m | 6301700 m | 6301500 m | 6301300 m | 6301100 m | 6300900 m | 6300700 m

N

Lot 261 (P232768)

Lot 1 (D043277)

Ducane Road

Datum Peg
XY 36600.692, 101063.52

34
32
30
28
25

31
28
25

Lot 2269 (P251514)

Lot 264 (P232768)

Lot 265 (40 ha)

Road Reserve

Road Reserve

Lot 266 (P232768)

25
28
30
32

Road Reserve

Lot 267 (P232768)

Legend

- Lot 265 Boundary
- Proposed EIL Boundary
- Area within EIL retaining original surface level (Area Already Below 25m)
- Proposed Extraction Stages (max. 2ha each)
- Proposed Finished Surface Contours

Existing Contours

- 1m
- 5m

Rehabilitation

- Rehabilitation to Native Vegetation
- Rehabilitation to Pasture

376500 m | 376700 m | 376900 m | 377100 m

Scale: 1:3500
Original Size: A3
Source: Extraction area contours from Thompson Surveying 2012. Other contours from Geoscience Australia, 2015. Digital Elevation Model (DEM) of Australia derived from LiDAR 5 Metre Grid. Geoscience Australia, Canberra. http://dx.doi.org/10.4225/25/5652419862E23.
Air Photo Date: March 2018
Grid: MGA94(50)

0 100 m

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

Figure 1

Finished Development Plan

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4. REHABILITATION MEASURES

This section outlines the site works that will be undertaken to achieve the set objectives of rehabilitation and decommissioning. The works have been divided into general measures (Section 4.1), pasture specific measures (Section 4.2) and native vegetation specific measures (Section 4.3). The areas to be rehabilitated to pasture versus native vegetation are shown in Figure 1. An indicative schedule of works is provided in Section 4.4.

4.1 GENERAL MEASURES

4.1.1 Removal of Structures

Any existing infrastructure within the extraction area (e.g. sheds, house, fencing) will be removed prior to that stage being excavated. The materials removed will be transported off site for appropriate disposal or reuse. As part of decommissioning, any temporary site infrastructure (e.g. portable toilets) and waste/debris will also be removed.

4.1.2 Vegetative Material

Clearing of native vegetation will be undertaken gradually. Some of the cleared vegetation, such as canopy material and smaller branches, will be mulched and stockpiled for later use in rehabilitation. Some larger branches and tree trunks removed from the clearing areas will be transferred to the native vegetation rehabilitation areas to create microhabitats and assist with topsoil retention.

4.1.3 Soil Management and Earthworks

- Removal of topsoil (approximately 90-120 mm thick) and litter will proceed in stages ahead of extraction. The topsoil/litter mix will be removed using appropriate machinery and will be stored in windrows to a maximum height of 4 m for later use in rehabilitation.
- Sand extraction will proceed in accordance with the EIL.
- As each stage of extraction is completed, the final landform contours will be established in accordance with the latest approved Finished Development Plan. The majority of the extraction area will be flat, with batters along pit edges finalised to maximum 1:4 slopes. The final contours shall be confirmed by survey.
- Ripping will be undertaken in areas where soil compaction may have occurred (such as internal roads and stockpile areas) to promote root penetration and runoff infiltration.
- The stockpiled topsoil/litter mix will then be replaced across the rehabilitation area.

4.1.4 Weed Management

Weed control will be conducted during the extraction works on an as-needed basis to minimise weed occurrence in the operational and stockpiling areas. Pre-planting/seeding weed control will be undertaken to prepare the rehabilitation areas for planting/seeding and will occur once topsoil has been respread and weeds have germinated. In addition to broad spectrum herbicides, weed specific herbicides will be used where appropriate to target broadleaf, grass, geophyte, and woody weeds. Maintenance spot spraying with selective herbicides will also be undertaken as necessary after native vegetation and pasture rehabilitation is established.

4.1.5 Erosion and Sediment Control

The final soil profile is sand with a high infiltration rate and therefore limited stormwater runoff is expected. As per the EIL report, if there is any stormwater runoff, it will be contained on site and this will act as a sediment control measure as well.

The final landform is largely flat and this will reduce the risk of erosion. Along the edges of the pit, the batters will be finalised to 1:4 slope and these areas have a higher risk of erosion than the rest of the pit. It is proposed that mulch will be spread across the batter slopes as part of rehabilitation to minimise erosion and stabilise the soils in the short term. The establishment of pasture and native vegetation will then stabilise the soils for the long term. A soil binding agent may be considered as an alternative or additional erosion control measure.

A water truck will be used as necessary to control wind generated dust and erosion across the site during the operations (see Dust Management Plan for further details).

4.1.6 Dieback Management

Due to the degraded and sparse nature of native vegetation within the proposed extraction area, the occurrence of dieback cannot be mapped and the area will be considered potentially dieback infected. Dieback management measures applicable to the extractive operations are detailed in the EIL application report and these apply to rehabilitation and decommissioning as well.

4.1.7 Access and Fire Management

Existing main access from Ducane Road into Lot 265 and down the centre of the property will be maintained to service post-extraction landuses on the property. Minimum 3 m wide fire breaks will be maintained along all property boundaries and these will not be extracted. These will provide access to the native vegetation rehabilitation areas.

4.2 PASTURE REHABILITATION

The majority of the extraction area (Figure 1) will be rehabilitated to pasture gradually in stages following extraction. This will stabilise the soil and provide an area for grazing in line with the rural zoning of the land.

Revegetation to pasture will follow the extraction stages (see EIL report), when extraction for a stage is finished that area will be prepared for revegetation:

- The terrain will be contoured and topsoil re-spread.
- The site will be allowed to wet up with autumn rains before fertiliser is applied at 200 kg per hectare of NPK and trace elements.
- A pasture species mix will then be direct seeded into the topsoil by appropriate machinery. This will include a mix of annual grasses, clovers, and other species suitable to Bassendean sands. Seeding will only take place once sufficient rains have fallen to allow for successful germination.
- Pasture seed will be sown at a rate of at least 30 kg of seed per hectare.

4.3 NATIVE VEGETATION REHABILITATION

The clearing permit (CPS 5319/1) specifies areas for native vegetation rehabilitation on Lot 265. These areas are mostly located in the setback zones between the extraction area and the property boundaries as shown in Figure 1 and total 5.16 ha. The areas include a 40 m wide corridor along the northern property boundary, a 60 m wide corridor along part of the southern boundary and a 20 m wide corridor along the top and bottom sections of the eastern boundary.

4.3.1 Site Preparation and Weed Control

- Existing native vegetation within the native vegetation rehabilitation areas will be retained apart from areas within proposed extraction area.
- Ripping along contour will be undertaken where existing native vegetation does not prevent it.
- Weed control will be undertaken in the year ahead of planting, targeting both winter and summer weeds as need be. This will include, but will not be limited to, a pre-planting weed control approximately 3 weeks prior to planting. Weed control will include a combination of broad spectrum and selective herbicides. Care will be taken to ensure that weed control does not to adversely impact on existing native vegetation.
- Fencing will be established and maintained as necessary to prevent livestock access to the native vegetation rehabilitation areas from neighbouring properties and from within Lot 265.

4.3.2 Species Selection

CPS5319/1 states that the permit holder should establish native vegetation that will result in over storey, middle storey, and understorey species representative of the remnant endemic vegetation in the area (10 km radius). A selection of common flora species known to occur within 10 km of the site (Atlas of Living Australia 2022) and found on sandy Bassendean soils is presented in Table 2. These species are expected to be available through local nurseries, however availability may vary. Native regrowth from topsoil and mulch may also return these or other species. Any native species emerging on the site and known to occur locally will be counted towards the rehabilitation completion criteria.

While both dieback susceptible and dieback resistant species (see Table 2) will be planted/seeded initially, it is noted that the occurrence of dieback on Lot 265 cannot be ruled out, and it may become necessary to focus rehabilitation efforts on dieback resistant species in order to achieve the completion criteria. Other native species not currently listed in Table 2 may also be planted/seeded as long as these are known to occur in the local area and are appropriate for the soil type and conditions. Any seedlings and seed used as part of the rehabilitation works will be of local provenance and sourced from native nurseries and seed collectors.

Table 2: Common Local Native Flora Species Suited to Conditions

Scientific Name	Common Name	Strata	Dieback Status		
			Resistant	Susceptible	Unknown
Acacia applanata	Golden Grass Wattle	Under			x
Acacia pulchella	Prickly Moses	Under	x		
Acacia saligna	Coojong	Mid	x		
Adenanthos meisneri	Woolly Bush	Mid		x	
Agonis flexuosa	Peppermint	Upper	x		
Allocasuarina humilis	Scrub Sheoak	Mid	x		
Anigozanthos manglesii	Red and Green Kangaroo Paw	Under	x		
Banksia attenuata	Slender Banksia	Upper		x	
Banksia grandis	Bull Banksia	Upper		x	
Banksia ilicifolia	Holly-leaved Banksia	Upper		x	
Bossiaea eriocarpa	Common Brown Pea	Under		x	
Conostylis acuelata	Prickly Conostylis	Under	x		
Corymbia calophylla	Marri	Upper	x		
Dampiera linearis	Common Dampiera	Under	x		
Eucalyptus marginata	Jarrah	Upper		x	

Scientific Name	Common Name	Strata	Dieback Status		
			Resistant	Susceptible	Unknown
Hakea lissocarpha	Honey Bush	Mid	x		
Hardenbergia comptoniana	Native Wisteria	Other	x		
Hemiandra pungens	Snake Bush	Under	x		
Hibbertia cuneiformis	Cutleaf Hibbertia	Mid			x
Hibbertia hypericoides	Yellow Buttercups	Under		x	
Hovea trisperma	Common Hovea	Under	x		
Hypocalymma angustifolium	White Myrtle	Under	x		
Jacksonia furcellata	Grey Stinkwood	Mid		x	
Kennedia prostrata	Running Postman	Under	x		
Kunzea glabrescens	Spearwood	Mid		x	
Melaleuca thymoides	Sand Wattle-Myrtle	Mid		x	
Olearia axillaris	Coastal Daisy Bush	Mid	x		
Patersonia occidentalis	Native Iris	Under		x	
Xylomelum occidentale	Woody Pear	Upper		x	

Sources: Centre for Phytophthora Science & Management (2022), Western Australian Herbarium (2022).

4.3.3 Planting

Local provenance seedlings, including a mixture of upper, middle, and under storey species (Table 2), will be planted to support native re-growth, so that the completion criteria (Section 5) are achieved. A minimum of 2,500 stems per hectare is required to survive to achieve the completion criteria; however, at least 5,000 seedlings per hectare will be planted to account for estimated loss of seedlings (between 40%-60% over first three years after planting) and mitigate the possibility of a mass death event caused by extreme weather.

Seedlings will be ordered in advance, typically latest by November of the year preceding planting. Seedlings will be sourced from a local nursery specialising in native seedlings (e.g. Boyanup Botanical or Leschenault Community Nursery). Planting of seedlings will be undertaken between late autumn and mid-winter (May to July), depending on the onset of significant winter rains. Seedlings will be set up with tree guards. Additional treatments such as slow release fertiliser, water crystals, and mulching will be considered on a needs basis to achieve the completion criteria.

Native vegetation planting will be undertaken in stages. Planting works commenced in 2018 in the northern section of the property with infill plantings undertaken in these areas in 2022. The other native rehabilitation areas will be planted as soon as possible, prioritising the areas outside the extraction area as shown in Table 3. The need for infill plantings (or seeding) will be determined by comparing monitoring results against the completion criteria.

Table 3: Native Rehabilitation Planting Stages

Stage	Location	Timing for Initial Plantings
1	Northern boundary.	Completed
2	All other native rehabilitation areas not within EIL: • North-east corner. • Central east boundary. • South boundary from central to west.	Winter 2023

Stage	Location	Timing for Initial Plantings
3	South boundary from central to east	Winter 2024
4	East boundary - connecting central east to north east corner.	Once extraction of this section competed.

4.3.4 Seeding

Planting of seedlings will be the primary method of native rehabilitation. Seeding will be considered as a supplementary measure in areas where weed cover is low. If seeding is considered necessary, an experienced seed contractor will be engaged to undertake collection, storage, treatment, and application of seed. The recommended rate of 2.5 kg per hectare will be used as the base measurement to determine the proportionate amount for the area requiring seed. Application of mycorrhiza for enhanced germination, survival, and growth will be considered.

4.3.5 Natural Regrowth

Natural re-growth of native vegetation is expected to occur from existing vegetation and soil seed stock. Over time, seed will also be imported by wind and wildlife. Natural regrowth will be supported by appropriate weed control (see Section 6). Natural regrowth will be monitored as part of the rehabilitation monitoring and will contribute towards meeting the final completion criteria.

4.4 SCHEDULE OF WORKS

An indicative annual schedule of works has been developed for rehabilitation as shown in Table 4. Extraction will occur in approximately 2 ha stages commencing in the south east corner of Lot 265 and proceeding in a northerly direction (see EIL report for further details). The pace of extraction will be dependent on demand for sand and this will also drive the pace of rehabilitation works.

Table 4: Indicative Annual Rehabilitation Schedule

No	Tasks	Jan		Feb		Mar		Apr		May		Jun		Jul		Aug		Sep		Oct		Nov		Dec	
1	Sand extraction.																								
2	Seedling orders due																								
3	Primary rehabilitation earthworks: reinstating embankments, ripping*																								
4	Topsoil respreading in rehabilitation areas*																								
5	Pre-planting/seeding weed control																								
6	Seeding pasture																								
7	Seeding of native species seeding - if any																								
8	Planting native seedlings																								
9	Maintenance weed control - as required																								

**Subject to suitable wind conditions due to potential to generate dust.*

5. COMPLETION CRITERIA

Completion criteria for the rehabilitation works are presented in Table 5.

Table 5: Completion Criteria

Criteria	Applicable Area	Final Objectives
Landform	Extraction Area	Final landform is in accordance with the Finished Development Plan (that may change over time subject to Shire of Capel approval).
Soil Profile	Extraction Area	Topsoil has been replaced in all rehabilitation areas.
Pasture – Condition and Extent	Pasture Rehabilitation Area	Self-sustaining pasture cover.
Native Vegetation – Species Composition	Native Vegetation Rehabilitation Area	Mixture of local upper, middle and under storey species present.
Native Vegetation – Density	Native Vegetation Rehabilitation Area	On average 2,500 live stems per hectare present.
Native Vegetation – Extent	Native Vegetation Rehabilitation Area	Revegetation covers the areas specified in Figure 1 (total 5.16 ha).

6. MONITORING, MAINTENANCE, AND MITIGATION

Monitoring, maintenance, and mitigation (Table 6) will commence following the first planting/seedling and will continue until the completion criteria are achieved.

Table 6: Monitoring and Maintenance Measures for Lot 265

Monitoring	Applicable Area	Frequency	Undertaken by	Maintenance/Mitigation
Success of pasture establishment	Extraction Area	Quarterly	Operator	Re-seed areas of poor success. Trial alternative pasture species. Consider watering in dry areas.
Weed infestations	All Areas	Quarterly	Operator	Control weeds by manual removal or herbicide application as necessary to prevent them from outcompeting rehabilitation. Take care not to adversely impact on native vegetation.
Soil issues (e.g. areas lacking growth vigour)	All Areas	Quarterly	Operator	Mitigate poor soils (e.g. fertiliser).
Erosion damage	All Areas	Quarterly	Operator	Repair erosion damage.
Boundary fence damage	All Areas	Quarterly	Operator	Fix fence.
Native species composition	Native Vegetation Rehabilitation Area	Biennially (spring)	Environmental specialist	Infill plantings if necessary.
Native species stem density	Native Vegetation Rehabilitation Area	Biennially (spring)	Environmental specialist	Infill plantings if necessary.
Grazing	Native Vegetation Rehabilitation Area	Quarterly	Operator	Tree guards, additional fencing as considered necessary in consultation with an environmental specialist.
Fire breaks	All Areas	Annually in November	Operator	Minimum 3 m wide fire breaks will be maintained along property boundaries.

7. REFERENCES

Atlas of Living Australia. 2022. Search for Records in Atlas of Living Australia. https://biocache.ala.org.au/search#tab_spatialSearch. Accessed October 2022, search within 10 km of Lot 265 Ducane Road North Boyanup.

Centre for Phytophthora Science & Management. 2022. Western Australian Native Plants Susceptible and Resistant to Phytophthora cinnamomi. http://www.cpsm-phytophthora.org/resources_supRes.php

Department of Biodiversity, Conservation and Attractions (DBCA). 2007-. NatureMap: Mapping Western Australia's Biodiversity. Department of Biodiversity, Conservation and Attractions. https://naturemap.dbca.wa.gov.au/

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PLATES



Plate 1: Example of Remnant Native Vegetation in Extraction Area



Plate 2: Example of Bare Area in Extraction Area



Plate 3: Part of Northern Native Vegetation Rehabilitation Area

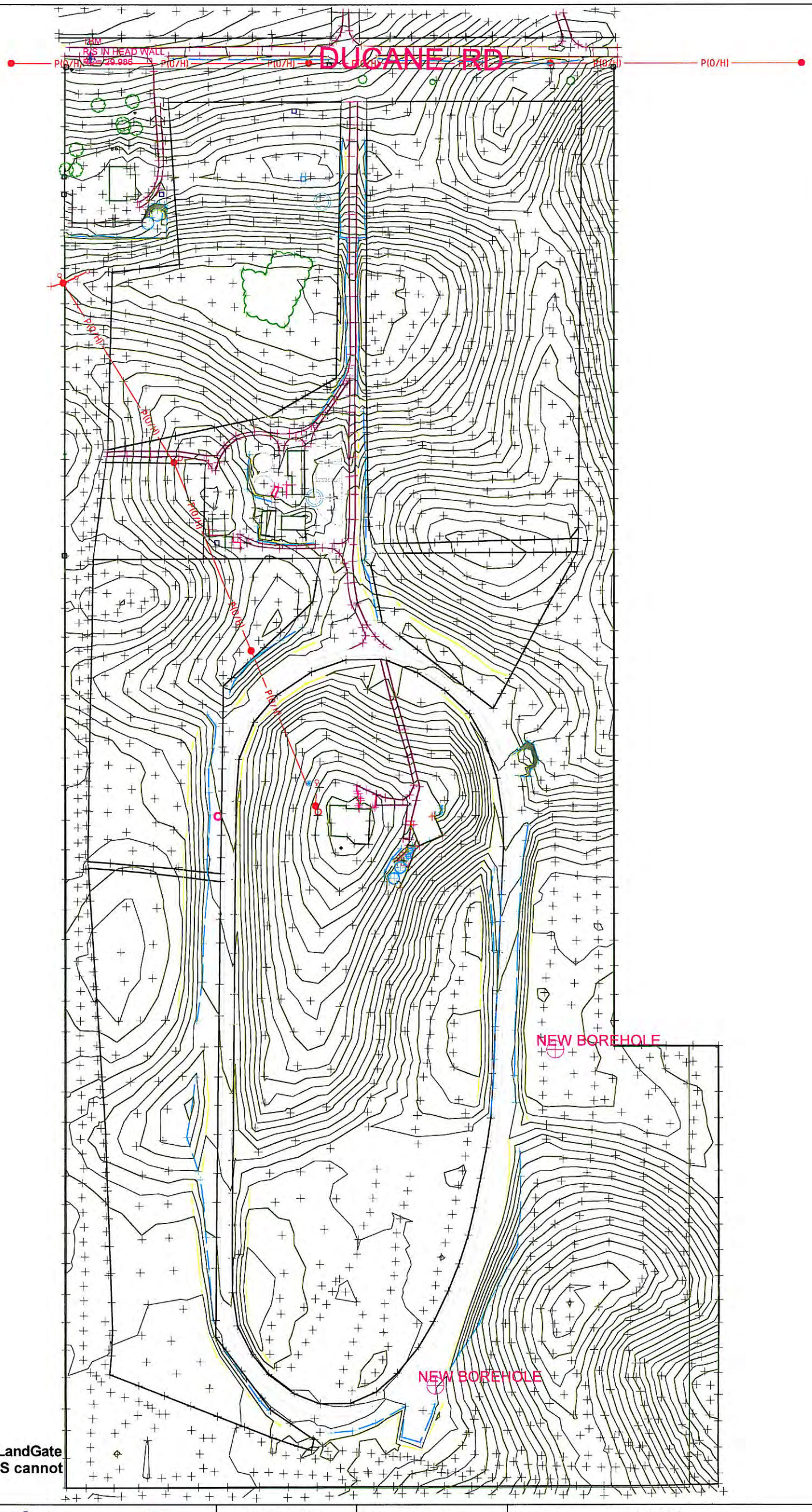


Plate 4: Part of Eastern Native Vegetation Rehabilitation Area



Plate 5: Part of Southern Native Vegetation Rehabilitation Area

APPENDIX 6: SURVEY VERIFICATION



DISCLAIMER:
The attached cadastral data is extracted from LandGate and THOMPSON SURVEYING CONSULTANTS cannot be held responsible for the accuracy thereof.

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File: 14655		CLIENT:	MGM
Scale (@A3)	Vert: N/A	PROJECT:	LOT 265 DUCANE ROAD, GELORUP
	Hor: 1 : 3 000	TITLE:	SAND PIT APPLICATION - FEATURE SURVEY
Date: 19 SEPT 2012	Rev.n: 0	DATUM	VERT: A.H.D.
Checked: SJ			HOR: PCG 94

APPENDIX 7: VERIFIED EXISTING CONTOUR AND FEATURE PLAN A1

376400 m | 376600 m | 376800 m | 377000 m | 377200 m

6301900 m | 6301700 m | 6301500 m | 6301300 m | 6301100 m | 6300900 m | 6300700 m

Plan Verified by Heath Fisher
Licensed Surveyor 28/10/2022
Thompson Surveying Consultants

Lot 261

300m buffer

Datum Peg
XY 36600:692, 101063:52

Ducane Road

386 m

694 m

946 m

Lot 2269

Underground Communications Cable

House and Outbuildings

Piezometer 1

Piezometer 2

53 m

36 m

254 m

255 m

164 m

Road Reserve

N

Legend

- Lot 265 Boundary
- Proposed EIL Boundary
- Power Lines
- Access Track
- Horse Training Track
- Two Closest Residents
- Buffer (300m)

Existing Contours

- 1m
- 5m

Wetlands

- Conservation
- Multiple Use
- Resource Enhancement

Setback Distances

Northern	40 m
Southern	60 m
Southeast Corner	No Setback
Eastern	20 m
Western	20 m

Appendix 7

Verified Existing Contour and Feature Plan Rev1

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

0 — 100 m

Scale: 1:1800
Original Size: A1
Extraction area contours: Thompson Surveying 2012
Other contours: Geoscience Australia, 2015
DEM of Australia derived from LiDAR
Air Photo Date: March 2018
Grid: MGA94(50)

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MBS ENVIRONMENTAL

APPENDIX 8: VERIFIED FINISHED DEVELOPMENT PLAN A1

376300 m | 376500 m | 376700 m | 376900 m | 377100 m | 377300 m

6301900 m | 6301700 m | 6301500 m | 6301300 m | 6301100 m | 6300900 m | 6300700 m

Plan Verified by Heath Fisher
Licensed Surveyor 28/10/2022
Thompson Surveying Consultants

Lot 261
(P232768)

Lot 1
(D043277)

Ducane Road

Datum Peg
XY 36600.692, 101063.52

N

34
32
30
28
25

31

Lot 264
(P232768)

Lot 265 (40 ha)

Lot 2269
(P251514)

Road Reserve

Road Reserve

Lot 266
(P232768)

Lot 1
(D018927)

Road Reserve

Lot 267
(P232768)

Legend

- Lot 265 Boundary
- Proposed EIL Boundary
- Area within EIL retaining original surface level (Area Already Below 25m)
- Proposed Extraction Stages (max. 2ha each)
- Proposed Finished Surface Contours

Existing Contours

- 1m
- 5m

Rehabilitation

- Rehabilitation to Native Vegetation
- Rehabilitation to Pasture

Appendix 8

Verified Finished Development Plan Rev2

Mario Michele Giacci
Lot 265 Ducane Road
North Boyanup

0 — 100 m

Scale: 1:1800
Original Size: A1
Extraction area contours: Thompson Surveying 2012
Other contours: Geoscience Australia, 2015
DEM of Australia derived from LiDAR
Air Photo Date: March 2018
Grid: MGA94(50)

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SCHEDULE OF SUBMISSIONS
PROPOSED AMENDMENT TO EIL
LOT 265 (418) DUCANE ROAD NORTH BOYANUP
PA213/2022

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
1. ICR135575	I do not agree to truck route using Queelup Road & Lillydale Road North Boyanup with the trucks taking out sand from LOT 265 (418) DUCANE ROAD NORTH BOYANUPThe noise and the dust is impacts on our health. We moved to North Boyanup in August 22 & explored all changes and were not made aware that this was happening. I doubt we would have purchased this property if we had known. The dust already from the trucks is a nightmare and the noise is far from the peaceful country life. I hope that this project can find another way to avoid many residences living like this.	**APPLICANTS COMMENT:** Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Truck movements and road maintenance • Dust
2. ICR135819	Regarding the above application please consider the following 1 There is already an increase in trucks leaving that property. 2 Queelup road really isn't wide enough for two lanes often have to move over to gravel shoulder to allow for passing vehicles. 3. I have witnessed traffic backing up on Lilydale Rd Gelorup where an MGM double trailer truck turning right had caused another MGM double trailer truck to stop on Lilydale with 2 cars behind also having to stop as the MGM truck couldn't turn down Queelup until the other truck had exited Queelup. However Lilydale is a 90km zone and you can't see around the bend to see the stopped traffic so it is causing a hazard. Please consider the above concerns. It may be worthwhile monitoring the number of trucks leaving the property as I believe they have already increased in quantity.	**APPLICANTS COMMENT:** The applicant notes that stakeholder consultation, including all advertising and communication with adjacent landholders and others is organised by Shire of Capel. Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Truck movements and road maintenance

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	Also Mum never received the letter about this from Capel Shire just informed via Facebook community group?	
3. ICR135884	Impact too the residence on Lilydale Road (North Boyanup) is and has got worse, the traffic needs to be slowed down for safety reasons. You have proposed more trucks per hour, the noise pollution too the residence will become greater and much more dangerous, and our families enter the road between Roselea Court and Queelup Road. I am proposing the speed limit be dropped down to 50 kph for the safety of everyone that uses the road. I hope we all can come to a reasonable solution.	**APPLICANTS COMMENT:** Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Truck movements and road maintenance
4. IPA16572	In response to your letter dated 20/02/23, we feel that when the extraction license was granted there were certain restrictions put in place to limit the amount of erosion to neighbouring properties. We can only assume that the agreement was acceptable to all parties and in our opinion the restrictions should be in place for the entirety of the extraction. Needing more sand should definitely not be a reason for watering down or throwing out common sense restriction. There are more than enough trucking movement on Queelup Rd at this time. This road was not intended for such extreme traffic. Passing trucks cause damage to the edges. Where this road narrows, passing two way traffic becomes extremely concerning. May we suggest that Capel shire officers visit Queelup Rd in cars during a busy trucking time to see firsthand what locals have to put up with every working day. The roads were put in for all vehicles. Weight and size should not be a priority or threat to others. It need to be said that MGM truck drivers are as considerate as possible but adding more trucks will only exasperate the situation. The previous incomplete email was sent in error.	**APPLICANTS COMMENT:** Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Truck movements and road maintenance
5. ICR136040	To whom it may concern, In regard to the letter recently received, I would like to voice my strong objection of the application for an amendment to the industry Extractive	**APPLICANTS COMMENT:**

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	Development Approval and Extractive Industry Licence for the above address. Living on Queelup Road, I have the "privilege" of noting the constant movement of trucks along our Road. At the present moment, I can see a never-ending stream of trucks (mostly carting sand, but this does include service trucks, water trucks and trucks towing floats for heavy equipment) passing along our road. Almost all are MGM vehicles. This road used to be frequented by people exercising, walking pets and some even riding horses. However, very few people are now comfortable with placing their lives "on the line" due to the truck traffic. In a 1 hour period, I recently counted OVER 20 truck movements along Queelup Road. This is not much below what is proposed, with 30 one-way trips per hour. I am unsure of what the existing permit allows, but I would have thought that over 20 one-way trips per hour, may be over and above the allowable limit. These vehicles are also causing damage to the roads in our area, especially the gravel ones. The dust is an environmental hazard and pot holes are a nuisance to other motorists. Queelup Road is not overly wide, with trucks having to slow right down and get as far into the gravel as possible (IF the vegetation along the road will allow them too), to allow another truck to pass. Cars are constantly forced to also take evasive action and slow up to allow passage for the trucks. I have even noted some motorists coming to a complete standstill after dropping off into the gravel. This road simply DOES NOT cater for excessive heavy vehicle movements. I have also experienced being pelted with sand when driving behind one of the applicants' trucks, due to a tarp not being utilised. Quite unacceptable in my view. In keeping within the guidelines for extraction, I believe it is not allowable to extract sand prior to 7AM. However, I see trucks (sand cartage) come along the road from approximately 6.35 AM, heading towards the sand pit. I then see trucks heading out of Queeelup Road	Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Truck movements and road maintenance • Batter slope • Setbacks • Dust

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	(fully loaded) at just after 7AM. On one occasion, there were five fully loaded trucks heading out at approx. 7.05 AM. I am unsure how this could occur as I wouldn't think that many trucks could be loaded and back from the quarry in such a short period of time. In regard to the proposal for alteration (increase) to batters and setbacks, I believe that original approvals are put into place as guidelines for environmental protection. Why would an increase be allowed? Overall, I believe that this application is above and beyond all reasonable requests. I strongly object to ALL proposals and hope this approval for amendment is denied.	
6 ICR136041	Re- PA213/2022 APPLICATION FOR AN AMENDMENT TO INDUSTRY EXTRACTIVE DEVELOPMENT APPROVAL AND EXTRACTIVE INDUSTRY LICENSE- LOT 265 (418) DUCANE RD. NORTH BOYANUP Whilst we do not oppose development, I can only state that I am totally opposed to the slip shod manner in which this extraction is being carried out. My reasons; 1. I will not comment on the mining process other to say that this represents a blatant grab for money. 2. Vehicle movements is my major concern. 3. The application requests an increase in truck movements to 15 per hour. At the time of writing, I have not conducted a full survey, however observation would indicate that the number of 15 per hour is occurring quite regularly at the moment. 4. The shire has in the past used a traffic counter to measure movements, however as this is a very visual instrument, it is my belief that vehicle movements are reduced when the counter is in place. Should the council decide to utilise this method, full time placement of the counter is essential.	**APPLICANTS COMMENT:** Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Truck movements and road maintenance Applicant welcomes feedback on the operations and aims to cause the minimal amount of disruption to residents as practicable while still providing materials to meet local development and expansion needs.

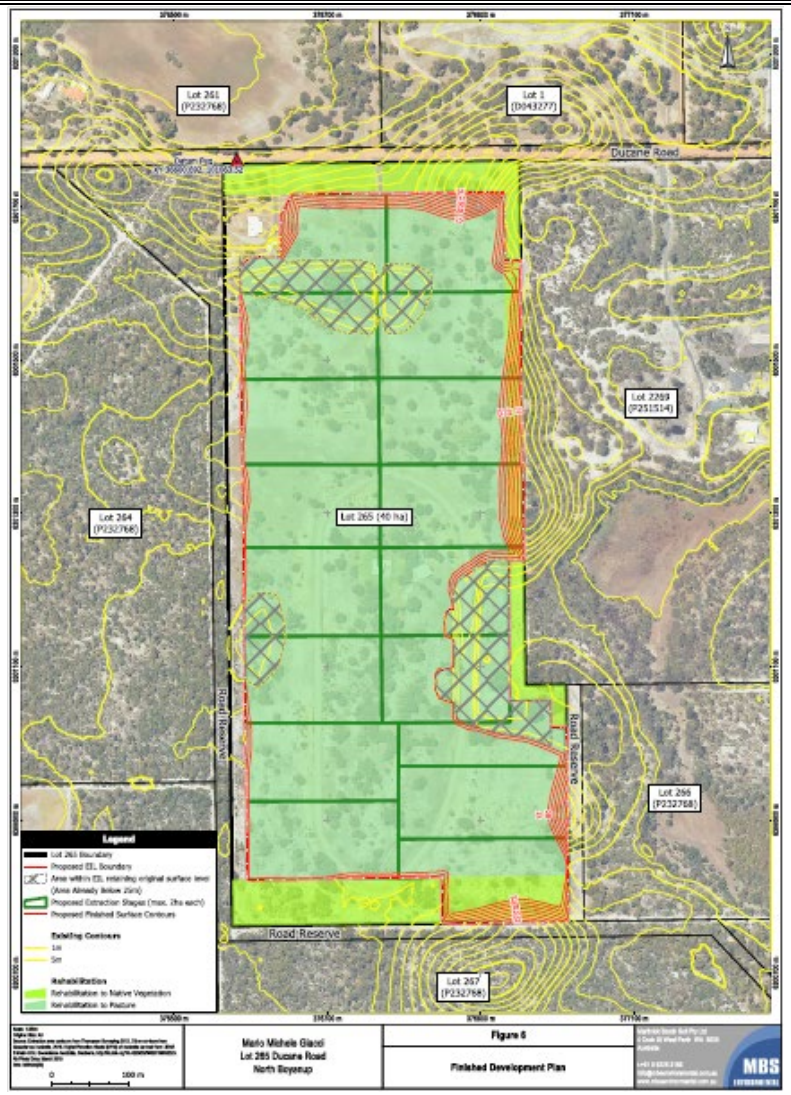
SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	5. Any truck movements MUST include all truck movements as there is a constant movement of water trucks, service trucks and maintenance trucks as well as floats moving machinery in and out. 6. Queelup Rd. is quite simply not designed nor built to withstand the number, size and weight of vehicles being used currently. It must be remembered, the road was built to accommodate farmers vehicles, generally weighing around 8 tonnes gross. 7. The width of the road. A simple drive down Queelup will show where semi trailers are constantly leaving the bitumised road to pass other semi trailers. This causes destruction of the road shoulders, which once again were built for farmers trucks. These semi trailers very rarely get off the bitumen for residential traffic, thereby causing residents to, in many cases, stop off the side of the road to allow the semi trailers to pass. 8. The edges of the bitumen are constantly being damaged where the semi trailers use them. 9. The road is simply not made to handle the weight being placed upon it. Look along the road and you will clearly see longitudinal indentations made where the axles of the semi trailers travel. 10. Who will foot the bill for maintenance once the extraction is completed and the proponent has made their profit? Or will the residents of Queelup Rd. be force to live on a goat track? 11. The intersection of Queelup Rd. and Lillydale Rd. This, due to the very narrow width of both roads, causes considerable traffic chaos. Any vehicle (light vehicle or semi trailer) exiting Queelup Rd. is forced to stop some thirty metres from the intersection if a semi trailer is entering Queelup Rd. 12. Conversely, if a vehicle exiting Queelup Rd. is “committed” and waiting at the intersection, any semi trailer wishing to enter Queelup Rd. must then stop on Lillydale Rd. causing traffic to stop. Remember also that a lot of this “stopped” traffic is semi trailers and road trains, heavy trucks which do not stop quickly. 13. This traffic impediment, along with the fact that Lillydale Rd. gets quite busy at times, has the very real possibility of serious traffic accidents occurring. 14. Over the years we have lived on Queelup Rd. we have observed a constant, steady flow of people either walking, walking their dogs or riding horses along Queelup Rd. Since the inception of the semi	

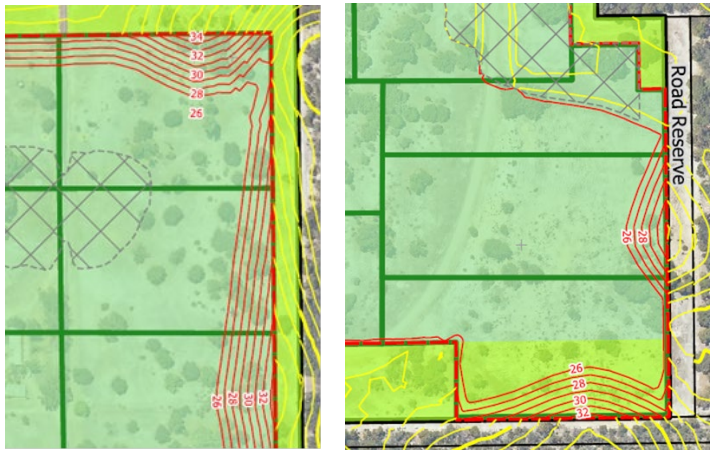
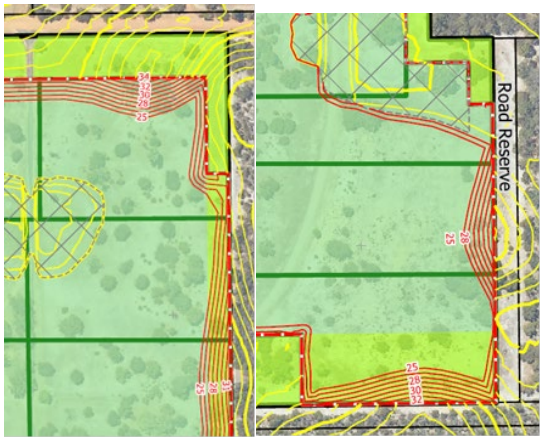
SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	trailer traffic, the ability for local residents to do these things for fitness and exercise has been killed off. The last person I saw take a horse onto the road finished up with the horse bolting home after being frightened by a semi trailer, and the person with the horse chasing it to ensure that it was safe. 15. The entire subdivision was done and promoted as, lifestyle. How and why is it possible for one greedy grab for money to destroy this lifestyle? 16. I ask you, if this were suburbia (or even Jules Rd. where the population is higher), would this destruction of lifestyle be allowed? Just imagine if this was actually allowed to occur in YOUR place of residence. I have brought these and other matters to the attention of MGM staff previously, and to say that the responses were condescending is an understatement. Basically, I was told by senior management to "put up with it and shut up". We, the residents of Queelup Rd. have had the dubious honour of being forced to sit and watch our lovely quiet lifestyle be destroyed over the past twelve months by the constant and increasing truck traffic allowed with the current application. Should approval be given to increase these truck movements, life here will quite simply be unbearable. I am sorry, but there is no way that I can give my approval for any such increase in destruction of our subdivision, road and lifestyle.	
7 ICR136128 & ICR136233 &	**Submission to RJDAP requesting Conditions for Industry Extractive and Extractive Industry Licence (EIL) – Lot 265 (418) Ducane Road, North Boyanup (formerly application with the Shire of Capel, reference PA22/2021, Doc No: ICR93584)** **Additional comments to proposed changes on matter now before RJDAP** We refer to your email of 22 February 2023 advising that the applicant for Lot 265 Ducane Road, North Boyanup has submitted an amended application to be considered by the Regional Joint Development Assessment Panel (RJDAP).	**APPLICANTS COMMENT:** The applicant notes that stakeholder consultation, including all advertising and communication with adjacent landholders and others is organised by Shire of Capel. Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Batter slopes • Setbacks • Clearing permit

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	When preparing to respond to this application, it became apparent that this matter was not available on the Shire of Capel website and therefore the official document from the applicant was not available for assessment until today. The Shire advised that there were only four changes to the document, namely: • Amend existing approved setbacks from 60m to 3m in South Eastern Corner; • Amend batter slopes from 1:10 to 1:4 on all sides; • Increase vehicle movements to a maximum of 15 trucks per hour (30 one way trips); • Update noise mitigation to reflect increased extraction due to batter slope changes. In addition, as the application was not available publicly on the Shire's website, there has been no opportunity for the broader public to be aware of this proposed development, nor the opportunity for them to comment. I assume that affected residents along the trucking route would have been notified by letter of the proposed changes, but how would the recipients be able to view the amended application if it has not been made available on the Shire's website? The Capel LCDC was founded in 1992 and is a statutory committee appointed by the Commissioner of Soil and Land Conservation in Western Australia, to administer land conservation districts in accordance with an Order proclaimed by the Governor. LCDC's main functions are to promote sustainable land management and undertake projects. LCDCs are statutory bodies formed under section 23 of the Soil and Land Conservation Act 1945 (the Act). LCDCs operate within land conservation districts defined by an Order of the Governor in Council on the advice of the Minister for Agriculture and Food. The Commissioner of Soil and Land	• Truck movements and road maintenance • Noise DWER assessment of the clearing permit amendment application will consider potential impacts to the nearby reserves, other conservation areas or bushland of significance. It is noted that Lot 265 (proposed extraction) does not adjoin the vegetated properties to the south but rather there is a partly cleared road reserve in between. Also on the western side, there is a 20 m setback and 20 m undeveloped road reserve (40 m total) separating the proposed operations on Lot 265 and the neighbouring property. A 60 m wide strip is proposed to be rehabilitated/revegetated to native vegetation along the southern boundary, which is more native vegetation than currently present in the area. This rehabilitation/revegetation strip will provide a long term buffer between the cleared areas on Lot 265 and the native vegetation to the south. It is noted that the closest neighbour to the east has provided a letter of support for the proposed operations. The noise assessment was updated in 2022 to address the proposed changes to the operations. The location of noise bunds is guided not only by the location of the closest residences but also by the landform, which means noise bunds are typically not necessary where the landform already provides the same effect. Proposed rehabilitation measures, including weed control, topsoil management and species selection, will also be reviewed by DWER as part of the clearing permit amendment.

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	Conservation (the Commissioner) manages the land conservation district system and supports LCDCs. The Commissioner operates from within the Department of Primary Industries and Regional Development (DPIRD). We are aware that historically the applicant was issued a clearing permit by DWER on 7 February 2015 which allowed the Permit Holder to clear native vegetation only until 2 October 2019, refer three attachments in the DWER link Permit 5319: ftp://ftp.dwer.wa.gov.au/permit/5319/ <u>Adjoining Boundaries</u> The applicant then applied to the Shire of Capel in late 2021 to extract from a 1:10 to a 1:6 batter, which I understand was to be considered by the Councillors. The applicant has now withdrawn the application to the Shire and submitted an amended application to now be heard by RJDAP to extract from a 1:10 to a much steeper 1:4 batter.	In regards to groundwater levels, no change in maximum depth of excavation is being proposed from previously approved.

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	 *Left-hand picture:* Extract from 2015 Clearing Application showing a buffer has been retained in the south eastern corner. *Right-hand picture:* Extract from <u>previous 2021 Application</u> to the Shire of Capel Figure 6 – Finished Development Plan – proposed clearing right up to the boundary in the south eastern corner (electronically page 20/94) When reviewing the revised application for RJDAP, the applicant now proposes to leave only a 3 metre boundary, instead of the gazetted local law requirement of 40 metres, fronting a roadway. On the revised application, the Finished Development Plan (Figure 6) is on electronic page 22/107 and still shows the heavy red dotted line "Proposed EIL Boundary", without any buffer in the south eastern corner.	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	 Extract from revised application – October 2022 for RJDAP consideration. Figure 6 – Finished Development Plan – it appears that the proposed clearing is still showing right up to the boundary in the south eastern corner and not showing a 3 metre buffer (electronically page 22/107)	

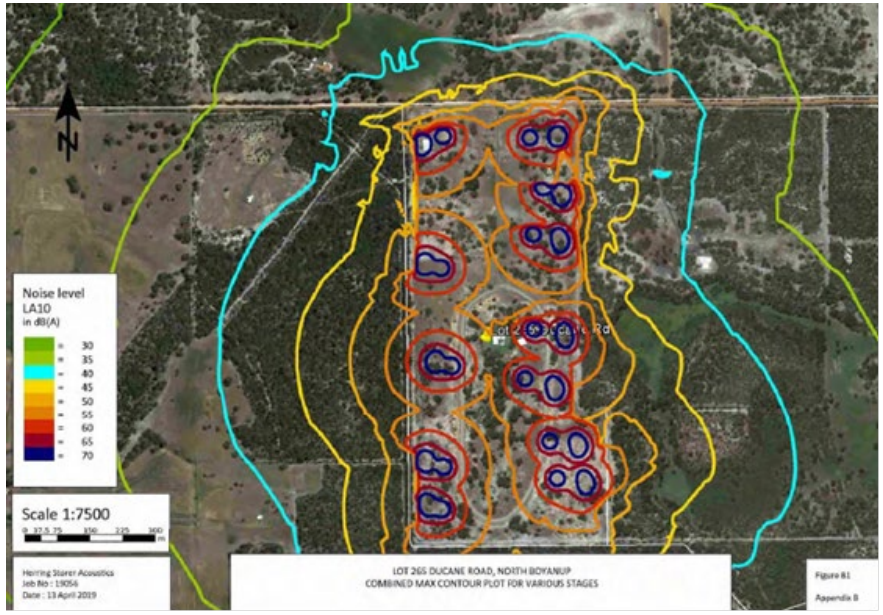
SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	<u>Contours / 1:4 batter impact</u> Further, I note that the final contour numbers on Figure 6 have been reduced from 26 metres (old application) to 25 metres (new application). This would be due to the applicant requesting to alter the original application from a 1:10 batter, down to a 1:6 batter and now a much steeper 1:4 batter.  Above extracts from the 2021 application, contour showing 26 metres  Above extracts from the 2022 RJDAP application, contour showing 25 metres	

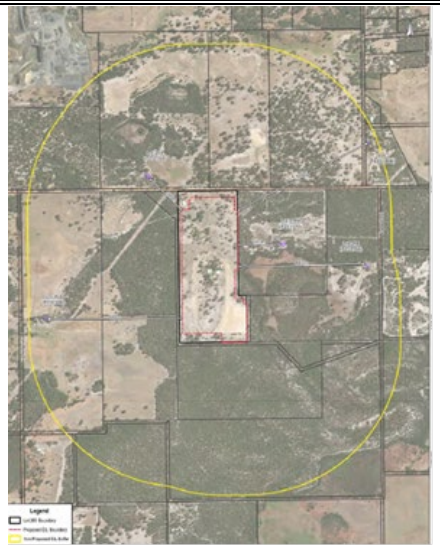
SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	Reference to Crown Land and Reserves **1.8 CROWN LAND AND RESERVES** There are unmade public road reserves running along all of the western and southern property boundaries and some of the eastern boundary. No other crown land or reserves are present. Above extract from the 2021 application referring to "unmade public road reserves". **2.8 CROWN LAND AND RESERVES** There are undeveloped public road reserves running along all of the western and southern property boundaries and some of the eastern boundary. No other crown land or reserves are currently present. Above extract from the 2022 RJDAP application referring to "undeveloped public road reserves". We were advised that the only changes to this application were the four items mentioned in the covering email from the Shire. Have there been other changes made that we are not aware of as the application has expanded from 94 pages to 107? As mentioned in my previous submission, the reference to Reserves is no longer correct as the Government has purchased the adjoining Lots 267, 268 and 153 as offsets for the Bunbury Outer Ring Road (BORR). These are excellent bushland blocks and as such should be protected. In my long history here at the Shire of Capel, I would go on to say that these adjoining blocks are in the most pristine condition of any of the vegetated blocks on the coastal plain in the Capel Shire. Location 264 I also understand that there are negotiations in progress to acquire the adjoining location 264 on the western side of location 265 as an Offset Covenant. Therefore, the vegetation on the western side should also continue to be protected by a 40 metre buffer and a 1:10 batter along the sides where vegetation occurs. This is to prevent the area from becoming eroded and help maintain moisture levels in the protected vegetation.	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	The revised 2022 application shows the intention to clear right to the south eastern corner and leave only a 3 metre buffer zone. The reason for this would be because this area has a sand ridge on it and the applicant now wants to extract this as well and not leave a buffer of native vegetation on the boundary. The applicant would also have to apply to Department of Water and Environmental Regulation (DWER) for an amendment to the clearing permit to allow this to happen. <u>Buffer zone</u> If the buffer were to be removed from the south eastern corner of Lot 265, this may interfere with the soil structure of this area and may lead to the introduction of weeds such as veldt grass, which will spread through the adjoining Crown Reserves. The wider buffer retention is to prevent the area from becoming eroded and help maintain moisture in the protected Crown Reserves. In the Capel LCDC's opinion, the buffer in the south eastern corner should remain as per the Shire's Gazetted Law as it adjoins the new reserve block mentioned above. <u>Increase batter slopes from 1:10, to 1:6 and now 1:4</u> steeper than 1:6. The proposed final batter has been changed from previously approved 1:10 to 1:6 (vertical : horizontal) to maximise the utilisation of the sand resource available. The proposed 1:6 slope is less steep than Extract from 2021 application – final batter to a 1:6 • The proposed maximum final batter slope of 1:4 on Lot 265 is considered stable once revegetated and will not compromise potential future road construction along the adjacent road reserve, especially considering a minimum 3 m wide fire break will be left unextracted along the property boundaries. Extract from 2022 application – final batter now requested to a much steeper 1:4 batter My understanding is that these batters should only commence once the 40 metre buffer adjoining the roadway is left in original condition. <u>The buffer zone should remain untouched by the operations, otherwise it is not a buffer.</u> It is very concerning that the applicant wishes to now excavate to a final batter of 1:4 instead of 1:10. This means that the finalised excavated	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	slope will be much steeper making it more difficult to rehabilitate and may leave this block in a poorly revegetated state. This batter change is purely for financial gain of the applicant. The panel members of RJDAP should consider how this will affect the long-term condition of this land for future generations – not just for the financial benefit of the applicant. The impact on the environment must also be considered. When previously assessed, the LCDC and some members of the public, have the view that allowing the applicant to remove more sand will reduce the need to clear more bushland in the future. I can assure RJDAP panel members that will not be the case as some applicants will take every opportunity to remove as much sand as possible until there is no more left and then apply to clear more bushland. The applicant has made the following statements about the batter slopes: • The proposed 1:6 final batter slope on Lot 265 is considered stable (further information in Section 4.8) ar will not compromise potential future road construction along the adjacent road reserve. Extract from 2021 application – from page 11 (electronically page 16/94) • The proposed maximum final batter slope of 1:4 on Lot 265 is considered stable once revegetated and not compromise potential future road construction along the adjacent road reserve, especially considerir minimum 3 m wide fire break will be left unextracted along the property boundaries. Extract from 2022 application – from page 14 (electronically page 19/107) Whilst the applicant states that the final batter slope is considered stable, the much steeper 1:4 batter is not grounds for approval as at a later stage this property may be used as a farming property and it would be dangerous for farming machinery and is another reason why the batter should be retained at a 1:10 batter.	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	The proposed rehabilitation has not changed apart from the final batter slopes that have been changed from 1:10 to 1:6 (vertical : horizontal). The proposed slope remains in line with Shire of Capel Extractive Industry Local Law requirement of maximum 1:3 slope. The slope change has not impacted the proposed pit floor level that will remain at no deeper than 25 mAHD. Extract from 2021 application - page 19 (electronically page 24/94) The proposed rehabilitation has not changed apart from the maximum final batter slopes that have been changed from 1:10 to 1:4 (vertical : horizontal). This change is only relevant to the edges of the proposed extraction area where batter slopes tie into the surrounding landform. The post-extraction landform for the majority of the proposed extraction area will be flat (Figure 6). The proposed batter slope change remains in line with Shire of Capel Extractive Industry Local Law that indicates maximum 1:3 batter slopes in sand. The slope change has not impacted the proposed pit floor level that will remain at no deeper than 25 m AHD. Extract from 2022 application for RJDAP - page 20 (electronically page 25/107) The proposed "final batter slope" to a 1:4 batter would be a major change to the applicant's EIL permit. Whilst the applicant has included information about it only being relevant to the edges, it does not change the fact that the batters are too steep for successful rehabilitation and stability of the property. Further, the mention of a 1:3 slope refers to such items as the blue metal quarries, which have stable walls – and not sand. The intention of a 1:3 batter has been included in the Shire's Gazetted Law to allow an installation of a temporary buffer during excavation, but is not intended to be a permanent batter as it is far too steep. The push for the steeper batter slopes on sand EILs in the Shire needs careful consideration and thought given to the final outcome and use of the land. This aspect of the application, in our opinion, cannot be overlooked and the permit application (if approved) should remain at a finished batter of 1:10. <u>Noise mitigation</u> The increased level of activity will lead to more noise and an adjoining resident has now moved into Lot 2269 (noted as East Residence).	

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	 Extract from Google Maps – approximate distance from East Residence to applicant's boundary appears to be only 277 metres.  Right-hand picture: Combined max contour plot for various stages – (electronically page 54/107) It is interesting to note that the light blue noise level line draws in around the East Residence.	

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	  Left-hand side: Figure 1 – Receiver Locations (electronically page 46/107) Red line is 'potential extraction area'. Right-hand side: Location of bunds marked in green (electronically page 56/107) The bunds are not shown on the same map as affected residents. We note that the green marked bunding has been slightly extended from the previous application at the top of the south eastern corner, due to the applicant's wish to extract right to the boundary. However, this is not shown in the noise report diagram above, which still shows the native vegetation buffer in place (with the red line). From the diagram above, the green line representing the proposed bunding is situated in the buffer zone, as the applicant intends to mine up to within 3 metres of the boundary. The 40 metre buffer for the vegetation should not be permitted to be excavated in line with the Shire's Gazetted Local Law and should remain intact.	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	<u>Number and Size of Trucks</u> The applicant proposes to increase the truck movements to a maximum of 15 trucks per hour, which is 15 trucks entering and 15 trucks exiting, which is a total of 30 truck movements per hour. **4.10 NUMBER AND SIZE OF TRUCKS** It is expected that primarily in gauge semi-trailers will be used to haul material from the proposed extraction site. The number of truck movements per day will be variable depending on market demand. During large hauling campaigns the number of trucks could potentially reach 15 per hour (30 one way trips) and this has been considered in the revised noise assessment (Appendix 3). Should the Shire of Capel allow Restricted Access Vehicles (RAV 4.1), the number of truck movements would halve. In between contracts, quiet periods with no truck movements are expected (as has occurred in the past) and these can last several months. The overall number of trucks over the lifetime of the pit is limited by the finite sand resource available. Therefore, the higher the number of trucks per day, the faster the pit will be exhausted, and the operations will cease permanently. Extract from page 15 (electronic page 20/107) What is very concerning is that the applicant now wants to remove the majority of the sand over a greatly shortened period of two years (from the original estimate pit life of 17 years) to take advantage of urban construction and the Bunbury Outer Ring Road (BORR). **4.3 NATURE AND DURATION OF PROPOSED EXCAVATION** The estimated volume of sand available in the pit is 1,188,000 m^3. The pit will service the building industry in Dalyellup and the Bunbury Outer Ring Road project. The extraction rate will be dependent on demand for these two projects, and potentially others, with up to 4,000 tonne per day required at peak times. Previous estimates of pit life were up to 17 years; however, if approved under these conditions and considering current high demand, the life of the pit could be reduced to approximately 2 years. Under the existing EIL, approximately 166,500 m^3 of sand has been extracted from the property (based on the December 2021 pit survey), resulting in approximately 1,021,500 m^3 remaining. Extract from page 14 (electronic page 19/107) Together with the truck movements of other operators in the area, the Ducane/Queelup Road traffic system will not sustain this volume of heavy vehicle movements and we consider the proposed high trucking numbers to be a safety concern. Both Ducane and Queelup Roads would need to have a major upgrade before this level of heavy traffic could be considered.	

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	The Shire could seek permission to levy the trucks of tonnage of sand, for example: $50 per truck or $1 per ton – or an amount comparable to compensating for the road repair or contributing to the major upgrade. The Shire could also ask for funding from the State Government reseal the roads which will be affected by this application. Due to traffic resulting from the EIL activities, the extra cost of the road maintenance should not be a burden on the Shire of Capel rate payers. As mentioned in 4.10 above, of notable concern is the applicant's mention of Restricted Access. We believe Queelup Road is far too narrow for this type of vehicle combination to be considered and is not suitable. For the truck numbers to halve does this mean the truck sizes are double, and therefore more dangerous? In addition to the four issues highlighted in the Shire's letter, we would like to raise some further concerns with this application to amend current conditions: <u>Rehabilitation Plan – Weed Management</u> **4.6 DEPTH AND DESCRIPTION OF OVERBURDEN** Thickness of topsoil is expected to be approximately 90 mm to 120 mm. Topsoil will be removed with a bulldozer and stockpiled in windrows to a maximum height of 4 m for later use in rehabilitation. No other overburden is expected to be present. Extract from page 14 (electronic page 19/107) The applicant is required to remove and stack topsoil and then spread it back over the excavated area prior to rehabilitation. In many cases, much of the topsoil has become a weed burden and should be: a) sprayed out prior to excavation; b) the topsoil when set aside, should be clearly marked as "topsoil"; and	

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	c) any topsoil which is stockpiled should also be maintained in a weed free state until it is required. As a separate note, this topsoil weed free status should be a condition on all EIL's approved in the Shire. Weed free topsoil is an integral part to any chance of a successful rehabilitation program. Native Flora Species The applicant has provided a comprehensive list of native flora species available at nurseries on Table 2 for this area (electronic page 91-92/107): The Capel LCDC would request that the Shire review the species to be planted and the Capel LCDC would welcome the opportunity to also comment on the suitability of the planned native species. For example, Acacia saligna, although a native species can be very dominant on revegetation projects. We would request again this be omitted from the list as it tends to send up suckers over a wide area and take over. <u>Groundwater level</u> The EIL area is to be returned to largely pasture for continued grazing after extraction. Native vegetation corridors will be established along northern, eastern, and southern property boundaries in accordance with CPS 5319. These corridors will also act as future wind breaks and visual buffers. The post excavation landform is designed with maximum batters of 1:4 with the pit floor level no closer than 2 m to the maximum groundwater level. Extract from Executive Summary (electronic page 3/107) How does the Shire monitor approved EIL's to ensure the applicant does not excavate closer than 2 m above the groundwater level? We noted that the two piezometers were installed in 2012 and again request there should be a recording done now to ascertain the current water level and then monitoring continued on a monthly basis. It may be very different now after the heavy winter in 2021. The groundwater records in this document are 10 years old.	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	Licence compliance I understand that there may be a clearing of native vegetation infringement already occurring in this area and no further progress should be allowed on this property, if this is in fact the case. As set out in my earlier submission, I suggested that "all licence conditions of any EIL operator within the Shire need to be met before there is any further excavation". How is the applicant currently able to extract sand from this location when the previous application has expired, and the applicant withdrew the former application? When reviewing the revised 2022 application where the applicant is requesting a much steeper batter from the original 1:10 to a now 1:4 batter, has the Shire visited the site to ensure that current operations are compliant with the still current 1:10 batter with a buffer set back of 40 metres? Has the client been compliant with all aspects of their current licence, ie the 1:10 batter, the 40 metre buffer zone, the original clearing permit and 2 metres above the high water table? A greater value should be placed on the resource being extracted and if the applicant is non-compliant with licence conditions, very tough enforced conditions and penalties should apply to the point of ceasing operations and even cancelling the licence. <u>Conclusion:</u> The applicant has had a clearing permit since 7 February 2015 with all vegetation clearing to be completed by 2 October 2019. The applicant also has an EIL commencing at a similar time, but has chosen to do very little with this property. The applicant now wishes to amend the current EIL to extract as much sand as possible by increasing the batters to a steep 1:4 and eliminating the large sand ridge in the south eastern corner almost to	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	the boundary, which will require the applicant to reapply for another clearing permit with DWER. The applicant also proposes to remove the remaining sand over a short two year period which will place an enormous load on the Shire road system and affect the landowners adjoining the property and road system, which is an unfair infliction on their rights. The Capel LCDC strongly recommends that all changes to this application be refused. We would like to thank the Shire of Capel for the opportunity to provide our comments on the above application for RJDAP's consideration.	
ICR136244	We are writing to record our strong objection to a number of issues with the revised application for an Extractive Industry Licence (EIL) application from Mr M Giacci, now to be reviewed and assessed by RJDAP. We have lived at 54 Roselea Court, North Boyanup for 35 years, and after much research we found a location where we could purchase our block of land and our sister-in-law/sister could also purchase a block next door. We chose this location because we wanted this lifestyle to bring up our children, so that our family could enjoy the many benefits from living in this secluded and quiet rural area. Now my grandchildren visit our rural retreat and it is this special rural aspect we want retained. What we like is the peace and quiet and tranquillity of this area with like-minded people. We all came here for this rural lifestyle. We are now advised that a trucking route is to be constructed along Lillydale Road with a roundabout at the South Western Highway entrance as part of the Bunbury Outer Ring Road (BORR). This was never on the original BORR plan, but appears it is now going ahead. Although there is to be construction in the area, and sand is required for this development, the construction activities need to be undertaken in a safe and planned manner.	Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Batter slope • Setbacks • Truck movement and road maintenance DWER assessment of the clearing permit amendment application will consider potential impacts to the nearby reserves, other conservation areas or bushland of significance. It is noted that Lot 265 (proposed extraction) does not adjoin the vegetated properties to the south but rather there is a partly cleared road reserve in between. Also, a 60 m wide strip is proposed to be rehabilitated/revegetated to native vegetation along the southern boundary of the property providing a buffer.

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	We were opposed to the application to the Shire in December 2021 to alter the batter slopes from the previously approved 1:10 batter slopes to a steeper 1:6 batter slope. Now a year later, there is a revised application to alter the batter slopes from a 1:10 to a much steeper 1:4 side. This will of course result in more sand being extracted, which in turn will result in a high number of truck movements. Further, it will make the rehabilitation of the sand pit more difficult and if it won't rehabilitate satisfactorily, then it will be too late. From our understanding, the sand pit on Ducane Road was to be operational over 17 years, but on reading the revised application we are still shocked to note that the applicant is applying to extract a larger amount of sand over an extremely short period of time of only two years. Taking into consideration that an extraction of sand is being requested down to a 1:4 batter, this equates to a much larger quantity of sand, still to be extracted over the same two year period as requested a year ago (with a 1:6 batter). "4.3 NATURE AND DURATION OF PROPOSED EXCAVATION ……Previous estimates of pit life were up to 17 years; however, if approved under these conditions and considering current high demand, the life of the pit could be reduced to approximately 2 years." Although the applicant states that the "operations will proceed gradually in 17 stages"….., there is nothing gradual about the amount to be extracted – and transported – in only a two year period. "4.4 STAGES AND TIMING The operations will proceed gradually in 17 stages (up to 2 ha each), commencing in the southeast corner (Figure 5)." The proposed trucking route along Ducane Road and Queelup Road is concerning as these roads are not built to withstand this high volume of truck movements.	

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	We notice that there has already been some resealing work along Queelup Road towards the Lillydale Road intersection. The road has deteriorated considerably from the current truck movements. What is the Shire's plan for road maintenance? How will the Shire fund the repairs to the roads along this trucking route? Will the applicant be asked to contribute substantial funds towards the road repair, or is the upkeep expected to be funded by the ratepayers? Under section 4.10, Number and Size of Trucks the application states: "It is expected that primarily in gauge semi-trailers will be used to haul material from the proposed extraction site." This is somewhat open ended. What is going to be used on the other occasions? It is also mentioned that the applicant wishes the Shire to consider using larger trucks, which we would not agree with. This aspect of what size truck is to be used needs to be very specific due to the significant impact this will have on us as adjoining residents for safety and for the condition of the country roads. With the potential to reach 30 truck movements per hour, we are very concerned about road safety especially along Queelup Road as this road is undulating and not very wide. The high number of truck movements will also have a considerable noise and safety impact on the residents. We were genuinely concerned to read the frequency of truck movements proposed. We would like to note our disapproval to request to extract sand to within three metres of the rear boundary, effectively leaving no buffer. There is a heavily vegetated block adjoining this area and the vegetation currently in place should be left as per original plan. We understand that sand is required for construction, and the BORR, however the resourcing of road base material needs to be done in a planned and safe manner in suitably approved areas.	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	Request for reduction in speed – SWH Since writing to the Shire about this matter, in the last year we have noticed a substantial increase in truck movements due to the BORR construction and other projects. The traffic at the intersection of South Western Highway and Lillydale Road is now extremely busy, especially during peak times. Vehicles exiting Lillydale Road onto the South Western Highway are entering a 110km zone. If a vehicle is turning to the right towards Boyanup, it makes this very difficult when trucks from the quarries are pulling along the left side of your vehicle to turn towards Bunbury, blocking the driver's view. There are long delays for vehicles waiting to turn onto the South Western Highway mainly due to the increased trucking numbers. We are requesting that the Shire write to Main Roads to ask for a review of the traffic numbers at this intersection and if it is confirmed that there has been a considerable increase in traffic frequency and trucks, we would like to request that the 80 km zone along the South Western Highway from the large roundabout near the airport, be extended past the intersection of the South Western Highway and Lillydale Road. The highway at this location has become very busy and we are aware of tragic multiple fatalities in recent years specifically along this stretch. Request for reduction in speed limit – Lillydale Road With the increased traffic, and in particular trucks, along Lillydale Road, we request a speed restriction also be considered from the existing 90km to 60km (for further consideration) from the SWH/Lillydale Road intersection along the semi-rural homes past Queelup Road. In closing, we do not want to see this extractive industry licence granted to have the sand excavated to an even lower depth resulting in much steeper batters. We are concerned for the safety and well-being of residents along Ducane, Queelup and Lillydale Roads and the impact it will have with the significantly higher number of proposed truck movements. The country roads have not been built to withstand such large truck movements over a short period of time and there has been no discussion with local ratepayers as to who will pay for the upkeep of	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	these roads – we do not believe it should not be at a cost to the Shire's rate payers. Thank you for considering our comments and we would be pleased to know when this matter is to come before RJDAP.	
CS2326302	NO. One vehicle movement every two minutes down the length of the road means CONSTANT vehicle movement. The proposed decreased buffer distance is a 20-TIMES decrease! There must have been a good reason(s) for the original buffer distance to be required. What's changed? A 3-metre is effectively no buffer.	Please refer to the *Applicant Responses to Key Topics* table at the end of this document for responses to the following: • Truck movements and road maintenance • Setbacks DWER assessment of the clearing permit amendment application will consider potential impacts to the nearby reserves, other conservation areas or bushland of significance. It is noted that Lot 265 (proposed extraction) does not adjoin the vegetated properties to the south but rather there is a partly cleared road reserve in between. Also, a 60 m wide strip is proposed to be rehabilitated/revegetated to native vegetation along the southern boundary of the property providing a buffer.

Applicant responses to key topics:

Topic	Response
1 Batter slope	The proposed change from a maximum 1:10 to a maximum 1:4 batter slope is supported by following: • There is no set regulatory requirement for the batter slope to be no steeper than 1:6. • Shire of Capel has approved 1:4 final batters for sand extraction (e.g. Lot 2 Calinup Road in 2022). • Other organisations (e.g. Main Roads) undertakes rehabilitation of slopes steeper than 1:6. • Natural landform in Shire of Capel includes slopes steeper than 1:6. • There is existing literature from Swan Coastal Plain to show that batter slopes of 1:4 can be stabilised and revegetated to native vegetation (e.g. see Stevens, J. C., Rokich, D. P., Newton, V. J., Barrett, R.L. and Dixon, K. W. (2016). Banksia Woodlands - a restoration guide for the Swan Coastal Plain. UWA Publishing, Crawley WA.) • Proposed batters of 1:4 will only occur along edges of the pit as shown in the Finished Development Plan, whereas the remainder of the site will be flat. This will not limit current or potential future landuses of the property. • The change from 1:10 to 1:4 will provide an additional sand resource in an established pit with minimal additional concerns, in contrast to sourcing the sand from a new pit somewhere else. It is noted that no change is being proposed in the maximum depth of the pit. The finished pit floor remains at 25 m AHD. Overall, with appropriate management measures in place, the proposed change in maximum batter slope is not expected to result in any significant additional or different impacts compared to the currently approved project.
2 Setbacks	The setbacks have not changed from the previously approved plan apart from the central area of the east boundary and the southeast corner, where the proposed extraction area has been extended to the property boundary to maximise the utilisation of sand and avoid the sterilisation of this resource. The proposed setbacks from property boundaries are following (as shown in Figure 5 Works and Excavations Plan): • Northern boundary: 40 m setback from Ducane Road to be planted with native vegetation. This has not changed from previously approved. • Western boundary: 20 m setback from unformed road reserve. This has not changed from previously approved. • Southern boundary (apart from southeast corner): 60 m setback from unformed road reserve to be planted with native vegetation. • Eastern boundary (apart from central portion and southeast corner): 20 m setback to be mostly planted with native vegetation. No setback from the property boundary proposed for approximately 391 m through the central section. The adjacent property owner on the eastern side has provided letter of support for this change. • South eastern corner: No setback from the unformed road reserve proposed for approximately 164 m along southern boundary and 254 m along eastern boundary. The removal of boundary setbacks in these locations is not expected to result in impacts that are more significant than the currently approved plan due to the following:

Topic	Response
	• Minimum 3 m wide fire break will be left unextracted along the property boundary to facilitate ongoing emergency access and future fence maintenance. • The southeast corner is bordered by adjacent road reserve (20 m wide) that has never been utilised and remains unformed and partly vegetated. Therefore, no setback is needed to screen the temporary visual changes associated with the extraction from the road reserve. • There is sufficient distance (291 m) and vegetation (116 m at minimum) between the residence on the neighbouring property (Lot 2269) and the east boundary to avoid noise and dust issues (see Sections 5.2 and 5.3). The neighbour (Lot 2269) has indicated that they do not have concerns about the proposed expansion. • The surrounding properties in the east and southeast corner are heavily vegetated. Therefore, no setback is needed to screen the temporary visual changes from the adjacent properties. • The extension areas will be rehabilitated with a combination of pasture and native vegetation (Figure 6), which is consistent with the rural landscape and will avoid any long-term visual impacts. • The proposed maximum final batter slope of 1:4 on Lot 265 is considered stable once revegetated and will not compromise potential future road construction along the adjacent road reserve, especially considering a minimum 3 m wide fire break will be left unextracted along the property boundaries. It is noted that whilst Shire of Capel local law for extractive industry (2016) sets general limits for setback distances, these can be modified with written approval from the local government and there are numerous examples within Shire of Capel and other local government areas where such setback distances have been reduced, taking into consideration the specific site circumstances.
3 Clearing Permit	The applicant is in the process of finalising an application to amend CPS 5319/1. The applicant had waited to first amend the DA/EIL as the DA/EIL has implications for the clearing permit. However, the DA/EIL process has taken much longer than expected and, therefore, the applicant has decided to commence the clearing permit amendment process before the DA/EIL process is finalised. DWER is not expected to make a decision on the amendment application until the associated DA/EIL amendment has been resolved. DWER will consider potential environmental impacts of any proposed changes to the clearing permit and assess how and whether these impacts can be sufficiently minimised/mitigated/offset.
4 Truck Movements and Road Maintenance	Sand extraction is driven by market demand for the resource that is variable over time. This site has had an EIL since 2014 and there have been long quiet periods of low demand with no or very few trucks. Currently the market is going through a high demand period, with large contracts requiring a larger than average number of trucks per day. Previous EILs for the site stated what the estimated average number of trucks per day was going to be, based on the average demand for the resource calculated from long-term demand. On request of Shire of Capel, this EIL application is proposing a maximum number of trucks per hour instead. This is not an increase in the number of trucks but rather a change in how the number of trucks is being presented. It is noted that this maximum number of trucks would only occur during the highest periods of demand, and that most of the time the number of trucks would be less. The proposed maximum number of trucks does not increase the overall number of trucks over the life of the pit because this is limited by the finite resource available in the pit.

Topic	Response
	Apart from the trucks hauling sand, the proposed extractive operations require minimal other vehicle movements, such as equipment transport trucks, as the machinery stays on site. Periods of very high demand for sand, such as currently, are likely to reduce the remaining life of the pit. This means that the operations, including the truck activity, would cease earlier than previously estimated. The site has an existing 'Agreement - Road Deterioration Co-Contribution' based on the WALGA model and through this agreement, the applicant continues to contribute to road maintenance funds. The applicant has previously indicated to Shire of Capel that it would be happy to operate a water truck along the haulage route if necessary.
5 Noise	Noise assessment for this site was updated in 2022 by Herring Storer Acoustics to address the proposed changes in the operations. This updated assessment shows that with appropriate management measures in place (e.g. noise bund), the proposed activities will comply with the *Environmental Protection (Noise) Regulations 1997*.
6 Dust	The operations are subject to a Dust Management Plan. Trucks leaving the site are required to have their load covered, and tailgates and draw-bars clear of dust producing material prior to entering Ducane Road. Appropriate signage will be erected at the site exit advising truck drivers to cover loads and clean their vehicle as required prior to entering public roads. Training will be provided to staff regarding dust management and their individual responsibilities in minimising dust generation. The applicant has previously indicated to Shire of Capel that it would be happy to operate a water truck along the haulage route if necessary.

AGENCIES - SCHEDULE OF SUBMISSIONS
PROPOSED AMENDMENT TO EIL
LOT 265 (418) DUCANE ROAD NORTH BOYANUP
PA213/2022

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
1. ICR136215 Main Roads WA	I refer to your email below and advise that Main Roads has no objection to the revised development proposal subject to the following comments. It is noted that the development plan proposes only a 3 metre setback from the property boundary in the south east corner of the site. The Shire should ensure that adequate setback is provided for vehicle access, fence maintenance and firebreaks around the boundary of the site.	**APPLICANTS COMMENT:** It is noted that Main Roads has no objection to the proposal, subject to the comment relating to setback. Applicant believes that the proposed 3 m setback from property boundary will facilitate vehicle access, fence maintenance and firebreaks.
2. ICR136212 DPLH	I can confirm the Department's comments sent to the Shire on Monday 15 November 2021 remain valid (attached). In relation to the abovementioned development application referred to the Department's Land Use Planning division has no comment to make on the application. Comments 15 November 2021 The Greater Bunbury Region Scheme (GBRS), Resolution 2014/03 and Delegation 2014/01 detail the situations where a GBRS application will be required, and whether that decision is delegated to the local government. If after referral and assessment the local government believes a GBRS application is required to be determined by the Western Australian Planning Commission, or has any other queries relating to the GBRS, please contact the office to discuss.	**APPLICANTS COMMENT:** Noted
3 ICR136210	Please find attached the Department of Biodiversity, Conservation and Attractions response to the amended Lot 265 application, based on the information you have provided. It is presumed other elements of the	**APPLICANTS COMMENT:** Applicant notes that DBCA expects that the environmental values likely to be impacted by the

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
DBCA	application remain unchanged, other than those amendments you have listed below. Comments 23 February 2023 **PROPOSED EXTRACTIVE INDUSTRY (SAND) – LOT 265 DUCANE ROAD NORTH BOYANUP** I refer to your email dated 22 February 2023 seeking the Department of Biodiversity, Conservation and Attractions' (DBCA) Parks and Wildlife Service's additional comments on an extractive industry application for the above location. Parks and Wildlife Service's South West Region provides the following additional comments. **Advice to Shire** DBCA comments dated 29 November 2021 to the original application remain applicable for the current amended application. The application is subject to an approved Department of Water and Environmental Regulation (DWER) clearing permit (CPS 5319). DBCA expects that the environmental values that are likely to be impacted by the proposed sand extraction have been adequately considered through the assessment of the clearing permit. The original application dated 12 December 2020 proposed to amend the existing approved setback in the Lot 265 south-eastern corner from 60 metres to nil. The current proposed amended setback from 60 metres to 3 metres in the south-eastern corner of Lot 265 will provide a buffer to the vegetated road reserve. The amended application proposes to amend the batter slopes from 1:10 to 1:4 on all sides. Parks and Wildlife's preference is that final batters are no steeper than 1 vertical to 6 horizontal as a 1:6 slope is less prone to erosion and can be expected to result in more successful rehabilitation of native vegetation.	proposed sand extraction have been adequately considered through the assessment of the clearing permit by DWER. Applicant is finalising a clearing permit amendment application to DWER (in line with current proposal). DWER is not expected to make a decision on the clearing permit amendment until the DA/EIL approval process has been finalised. It is noted that DBCA states that the proposed 3 m setback will provide a buffer to the road reserve. It is understood that DBCA preference is for final batters to be no steeper than 1:6, however batters steeper than this are regularly implemented across the state depending on the situation. In support of the proposed 1:4 batters, the applicant notes following: • There is no set regulatory requirement for the batter slope to be no steeper than 1:6. • Shire of Capel has approved 1:4 final batters for sand extraction (e.g. Lot 2 Calinup Road in 2022). • Other organisations (e.g. Main Roads) undertakes rehabilitation of slopes steeper than 1:6. • Natural landform in Shire of Capel includes slopes steeper than 1:6. • There is existing literature from Swan Coastal Plain to show that batter slopes of 1:4 can be stabilised and revegetated to native vegetation (e.g. see Stevens, J. C., Rokich, D. P., Newton, V. J., Barrett, R.L. and Dixon, K. W. (2016). Banksia Woodlands - a restoration guide for the Swan Coastal Plain. UWA Publishing, Crawley WA.) • Proposed batters of 1:4 will only occur along some of the edges of the extraction area, whereas the remainder of the site will be flat. This will not limit current or potential future landuses of the property.

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
4. ICR136208 DPIRD	DPIRD assessed the proposed changes to the application and do not have any additional comments to add to our comments provided to the Shire on 7 December 2021.	**APPLICANTS COMMENT:** It is noted that DPIRD in their comments on 7 December 2021 had no objections to the proposal.
5. ICR136205 DMIRS	Shire of Capel - Development Application - Amendement to Extractive Industry - Lot 265 Ducane Road Thank you for your letter dated 22 February 2023 inviting comment on the development application that is an amendment to Extractive Industry Licence (EIL - sand) application at Lot 265 Ducane Road in the Shire of Capel. The Department of Mines, Industry Regulation and Safety (DMIRS) has determined that this proposal raises no significant issues with respect to mineral and petroleum resources, geothermal energy, and basic raw materials. DMIRS lodges no objections to the above development application.	**APPLICANTS COMMENT:** Noted
6 ICR136073 DWER	Our Reference: PA054675, DWERVT8973~2 Your Reference: Lot 265 Ducane Road, previously PA22/2021 From: Department of Water and Environmental Regulation <u>Re: Joint Development Assessment Panel Application – Extractive Industry at Lot 265 Ducane Road, North Boyanup.</u> Thank you for providing this JDAP Application (Application) for the Department of Water and Environmental Regulation (the Department) to consider.	**APPLICANTS COMMENT:** **Issue 1:** The applicant is in the process of finalising an application to amend CPS 5319/1 and to address any issues DWER might have. The applicant had waited to first amend the DA/EIL as the DA/EIL has implications for the clearing permit. However, the DA/EIL process has taken much longer than expected and therefore the applicant has decided to commence the clearing permit amendment process before the DA/EIL process is finalised. DWER is not expected to make a decision on the amendment application until the associated DA/EIL amendment has been resolved.

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	It is understood that the Application includes variations from the proposal assessed by the Department in December 2021 (Your Reference: PA22/2021), specifically to: 1. Amend existing approved setbacks from 60m to 3m in South Eastern Corner; 2. Amend batter slopes from 1:10 to 1:4 on all sides; 3. Increase vehicle movements to a maximum of 15 trucks per hour (30 one way trips); 4. Update noise mitigation to reflect increased extraction due to batter slope changes. The Department acknowledges the accompanying documentation, which has been prepared to support Issues 1-4 above: *'Lot 265 Ducane Road North Boyanup Sand Extraction Development Approval and Extractive Industry Licence Application prepared for Mario Michele Giacci by MBS Environmental, October 2022'* (MBS Report). The Department offers the following comment: **Issue 1: Amend existing approved setbacks from 60m to 3m in South Eastern Corner (the Subject Area).** **Advice**: The Department <u>does not support</u> this amendment, pending the completion of a review and assessment of the proposal by its Native Vegetation Regulation Branch and Compliance and Enforcement team, in context of an existing Native Vegetation Clearing Permit CPS 5319/1. It is strongly recommended that the Permit Holder contact the Department at the earliest convenience to discuss this matter. **Discussion**: The Subject Area is delineated in Clearing Permit CPS 5319/1 (CP), whereby it must be revegetated and rehabilitated in accordance with Condition 9 of the CP. More importantly, under Condition 9(a) of the CP, the Permit Holder must have revegetated and rehabilitated this area by 2 October 2019. Aerial imagery from 31 January 2023, indicates that no revegetation and rehabilitation activities have been undertaken. Please note, in accordance with	It is noted that contrary to comments by DWER, the applicant has undertaken rehabilitation works on the property. These works have not been undertaken in the southeast corner of the property because the applicant has been pursuing DA/EIL to extract the area prior to undertaking rehabilitation and this process has taken longer than anticipated. **Issue 2:** The applicant notes that DWER finds batter slopes of 1:4 acceptable and in line with available guidance. The rehabilitation measures, including 1:4 batter slope and setbacks, will be reviewed by DWER as part of the clearing permit amendment and any remaining issues can be resolved at this stage. **Issue 3:** It is noted that DWER has no advice regarding the number of truck movements. **Issue 4:** As detailed in the application documentation, the operations will be undertaken in accordance with the noise assessment and related recommendations that ensure that the operations comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997.

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	s.51J(1) of the 'Environmental Protection Act 1986' (EP Act), the holder of a clearing permit who contravenes a condition to which the permit is subject commits an offence. Should the permit holder wish to clear within the Subject Area, they will have to apply to amend the existing clearing permit a minimum 90 days before the permit expiry date. It is noteworthy that under Condition 11 of the CP, the Permit Holder is required to submit before 30 June of each year a written report, which includes records of revegetation and rehabilitation activities undertaken. A review of our records indicates that no annual reports have been received to date. **Issue 2: Amend batter slopes from 1:10 to 1:4 on all sides.** **Advice**: Batter slopes at 1:4 are acceptable, subject to the proponent demonstrating that there are no significant additional or different impacts to the final landscape, including any compromising of future road construction along any adjacent road reserves. **Discussion**: It is noted that the *'Shire of Capel Extractive Industry Local Law 2016'* states that (for sand) sides are to be sloped to a batter of not more than 1:3 (vertical: horizontal). The *'Guidelines for Management of Rehabilitation of Basic Raw Material Pits, Department of Environment and Conservation, 2008'* prescribe that batters are no greater than 1 vertical to 4 horizontal (14^{o}). A standard rehabilitation condition should requires rehabilitation of BRM pits to be undertaken progressively where possible, to ensure they are safe, stable, non-polluting and non-contaminating and capable of sustaining an agreed post extraction land use. **Issue 3: Increase vehicle movements to a maximum of 15 trucks per hour (30 one-way trips)** **Advice**: The Department has no advice to offer **Discussion**: n/a **Issue 4: Update noise mitigation to reflect increased extraction due to batter slope changes.**	

SUBMITTER	SUMMARY OF SUBMISSION	COMMENTS / RECOMMENDATION
	Advice: All operation should be according to a Noise Management Plan (NMP), including a description of the measures to be taken to comply with the 'Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997' **Discussion**: previously, the Department advised that operators/sub-contractors at Lot 265 should be cognisant of the Herring Storer Acoustics 'Noise Report' and conditioned accordingly. The Department has received a request from the Shire of Capel to review the existing NMP, which is in process.	

SHIRE of CAPEL

Extractive Industry Licence

1.	**Licence Number**	Lot 265 Ducane Road	
2.	**Licence Holder**	Mario Michele Giacci	
3.	**ACN**	628743488	
4.	**Registered Business Address**	26 Stirling Street Bunbury WA 6230	
5.	**Clause 3.1 (3)(a) Licence Period**	20/12/2019 to 20/12/2021	5 Years
6.	**Date of Issue**	20/12/2019	
7.	**Prescribed Activity/Activities**	Industry Extractive Extraction of Sand	
8.	**Premises/Location**	Lot 265 Ducane Road Legal description - Lot 265 on Diagram 232768 Certificate of Title Volume 7 Folio 160A	

This Extractive Industry Licence is granted in accordance with the *Shire of Capel Extractive Industry Local Law 2016*.

In accordance with the *Shire of Capel Extractive Industry Local Law 2016* Section 3.1 (5), the following Special Conditions of the Licence apply:

1. **Road Reinstatement Co-contributions:** The Licence Holder shall enter into an agreement with the Shire of Capel to support the maintenance and refurbishment of any and all local roads over which the Licence Holder operates, (or causes to be operated), any Restricted Access Vehicle.

   For the purpose of calculation of costs under this Condition, the Shire of Capel has adopted the methodology defined in two Western Australia Local Government Association (WALGA) publications:
   a. *User Guide, Estimating the Incremental Cost Impact on Sealed Roads from Additional Freight Tasks; and*
   b. *User Guide, Estimating the Incremental Cost Impact on Unsealed Local Roads from Additional Freight Tasks*
2. **Fencing:** The Licensee shall securely fence the excavation to the satisfaction of the Shire.
3. **Annual Reporting:** The Licence Holder, at the Licence Holder's own expense, shall prepare an annual report including site survey by a registered surveyor:

   a) Of all extraction activity conducted within the Premises.
   b) Approximate volume of material remaining on site.
   c) Progress of Rehabilitation works including the following:
      1. Confirmation of weed control works.
      2. Confirmation of rehabilitation works.
      3. Areas awaiting earthworks to finished levels (ha).
      4. Areas awaiting planting (ha).

5. Areas awaiting inspection for Completion Criteria as per approved Rehabilitation Plan. (ha).

Such report to be delivered to the Shire of Capel no later than 30 November of each year of operation of this Licence.

4. **Access for Authorised officers:** Access to the site shall be available to authorised officer of the Shire at all times, and without prior notice, for the purpose of inspection and monitoring of compliance with licence conditions
5. **Annual Renewal Fee:** The Licence Holder shall annually (on or before the anniversary of issue of this License) pay to the Shire of Capel the applicable Extractive Industry Licence Fee as published from time to time in the Shire's schedule of Fees and Charges
6. **Conditions of Licence:**
   As per DA123/2019
7. **Site Specific Conditions:**
   a. Boundaries of the approved excavation area stages as depicted on plan Figure 5 – Works and Excavations shall be marked with permanent metal markers at intervals of no less than 50 metres. The markers should be no less than 1.2 metres in height above the ground level and be suitably painted or tagged for ease of identification and indicate the finished surface level. Certification of the placement of these markers from a licenced surveyor shall be provided prior to commencement of works on site, and renewed annually along with the requirements of Special Condition 3 above.
   b. No Excavation to take place below 25AHD.

Signed (on behalf of the ***Shire of Capel***)		*Office use only*	
		File #	
Name	Jason Gick	LD #	
Position	Director Infrastructure and Development Services	Receipt	
Date	21/12/19		

SHIRE of CAPEL

Planning and Development Act 2005
Notice of Determination on Application for Development Approval

Location:	Ducane Road, North Boyanup
Lot:	265
Plan/Diagram:	232768
Vol No:	75
Folio No:	160A
Application date:	5 June 2019
Received on:	20 June 2019

Description of proposed development:

Industry Extractive

The application for development approval is:

☑ granted subject to the following condition
☐ refused for the following reason(s)

Conditions:

a. The approved development shall be undertaken and fully implemented in accordance with the following submitted and approved plans:

   i) Dust Management Plan - 1 May 2019
   ii) Rehabilitation and Decommissioning Program – 6 June 2019
   iii) Survey Verification – 6 June 2019
   iv) Verified Finished Development Plan – 6 June 2019
   v) Noise Assessment – 15 April 2019

b. Prior to commencement of works the applicant shall submit the following plans revised to reflect a 300m buffer to Lot 261 Ducane Road, North Boyanup.

   i) Existing Contours and Features
   ii) Works and Excavation Plan, and
   ii) Finished Development Plan

   The approved plans shall thereafter be implemented to the satisfaction of the Shire of Capel.

c. There shall be no storage of hydrocarbons on-site. On-site refuelling of equipment will be from a mobile service vehicle carrying appropriate spill prevention and clean-up equipment. No major repairs or maintenance will take place on site.

d. The hours of operation shall be from 7.00am to 6.00pm, Monday to Friday and 7.00am to 12.00pm Saturdays. No operations shall be permitted on Sundays or Public Holidays.

e. None of the operations associated with the Extractive Industry hereby approved shall at any time intercept the water table.

f. If any interception of groundwater occurs at any time during the extractive industry operation, work shall cease immediately and the Shire notified within 48 hours, followed by agreed remedial action.

g. The 4m noise bund identified in Appendix C shall be constructed and retained for the duration of the excavation unless otherwise agreed in writing by the Shire of Capel.

h. Material may be stockpiled on site up to a maximum of 50,000m^3 at any one time.

i. Remnant vegetation within setback areas and surrounding zones shall not be removed and remain to screen operations.

j. Minimum batters of 1:10 shall be applied to all rehabilitated slopes. Final contours will be as per Approved Development Plan (Figure 5 - Finished Development Plan.

k. Stormwater to be contained on site; and

l. Suitable arrangements being made with the Shire of Capel for the submission, agreement and payment of a rehabilitation bond.

Advice Notes

a) Safety practices for persons employed or visiting shall be in accordance with Department of Minerals & Energy, Mines Safety & Inspection Act 1994 and Regulations 1995.

b) The applicant is advised that prior to the issue of an Extractive Industry License, a secured bond of $4,542.11 is required to be lodged with the Shire of Capel.

c) If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

d) No dewatering of the extraction area shall be permitted without prior approval of Department of Water and Environmental Regulation.

e) Prevention of dieback spread in accordance with Department of Biodiversity and Environmental Regulation guidelines shall be made also in accordance with the approved clearing permit (CPS 5319).

f) No soil material to be imported into site without prior approval from the Director of Engineering and Operations.

g) The licencee shall have due respect to the Aboriginal Heritage of the area of the works and all workers shall be briefed accordingly prior to commencement of any works on site. The works may be in proximity of areas that were part of the Aboriginal culture and so there is the possibility that artifacts or remains may be in the area. All workers are to be advised of this possibility. Should the presence of a site of possible significance be discovered or if any artifacts or remains are discovered then any works in the vicinity are to stop immediately and be reported to the Department of Indigenous Affairs. If bones are discovered then police are also to be advised immediately. The Licensee shall note that it is an offence under the WA Aboriginal Heritage Act to interfere with any Aboriginal site unless written permission is obtained from the Minister for Indigenous Affairs.

h) This planning approval does not remove or affect any statutory responsibility the owner may have in notifying the relevant Federal Government public authority(s) of the proposal under the Commonwealth of Australia Environment Protection and Biodiversity Conservation Act 1999 as amended. Further information can be obtained from the Department of Sustainability, Environment, Water, Population and Communities on (02) 6274 1111 or at www.deh.gov.au.

i) The clearing of native vegetation in Western Australia requires a Clearing Permit under the Environmental Protection Act 1986 unless the clearing is for an exempt purpose. Proponents are advised to contact the Department of Water and Environmental Regulation on (08) 6364 7000 or at www.dwer.wa.gov.au

It should also be noted that the clearing of native vegetation within the Shire of Capel may result in impacts upon threatened species that are protected under the Commonwealth Environment Protection & Biodiversity Conservation Act 1999. Proponents are advised to contact the Department of Sustainability, Environment, Water, Population and Communities on (02) 6274 1111 for further advice regarding their obligations under the Act.

Date of Determination: **18 December 2019**

Signed: Dated:

..... 20/12/19.....

JASON GICK
DIRECTOR
INFRASTRUCTURE & DEVELOPMENT SERVICES

LOT 265 DUCANE ROAD, NORTH BOYANUP
SAND EXTRACTION

EXTRACTIVE INDUSTRY LICENCE AND PLANNING APPROVAL RENEWAL APPLICATION

PREPARED FOR:

MARIO MICHELE GIACCI

JUNE 2019

SHIRE OF CAPEL
APPROVED DEVELOPMENT PLAN
Refer Planning Consent dated 20/12/19
File Ref PA123/2019
Authorised Officer 20/12/19
Date

PREPARED BY:

Martinick Bosch Sell Pty Ltd
4 Cook Street
West Perth WA 6005
Ph: (08) 9226 3166
Email: info@mbsenvironmental.com.au
Web: www.mbsenvironmental.com.au

MBS ENVIRONMENTAL

SHIRE of CAPEL

Our Vision: A community of diverse lifestyle experiences accommodating progressive growth, sharing prosperity and valuing the unique environment.

OUR REF: PA123/2019
DOC NO: ICR64802
ENQ: Grace McDonald

MM Giacci
PO Box 1263
BUNBURY WA 6231

Dear Mr Giacci

INDUSTRY EXTRACTIVE - LOT 265 (418) DUCANE ROAD NORTH BOYANUP

I refer to the application for Development Approval received 20 June 2019.

Council gave due consideration to the proposal at its last meeting held on the 18 December 2019 whereby it resolved:

MINUTE 230/2019

That Council:

1. In accordance with Clause 68 (2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 grant Development Approval for 'Industry-Extractive' on Lot 265 Ducane Road, North Boyanup for a period of 5 years subject to conditions.

2. In accordance with the Shire of Capel Extractive Industries Local Law 2016, resolves to grant an Extractive Industry Licence for a period of five years from the date of the issue of the Development Approval, for Lot 265 Ducane Road, Boyanup and that the Director Infrastructure and Development be authorised to sign the Licence on behalf of Council.

Please note that while a Development Approval has been issued you are not authorised to commence works until an Extractive Industry Licence has also been issued.

An Extractive Industry Licence can be granted in accordance with the Shire of Capel Local Law 2016 subject to submission of the following items:

a) Payment of the annual fees and charges, or the relevant proportion of the annual fees and charges to 31 December 2019.

b) Execution of an Agreement between the Applicant and the Shire of Capel for appropriate Road Deterioration Co-contributions, including the first year's amount.



c) Lodgement of a Bond for vegetation rehabilitation to the value of $68,000.00; and

d) A copy of the public liability insurance policy.

A representative from the Shire's Technical Services division will be in contact with you within two working weeks of the issue of this letter to confirm and/or clarify the above items in order to progress to the issue of an Extractive Industry Licence.

Should you wish to discuss the matter further please don't hesitate to contact Grace McDonald, Planning Officer within the Shires Planning Services Division.

Yours faithfully

JASON GICK
DIRECTOR
INFRASTRUCTURE & DEVELOPMENT SERVICES

20 December 2019

Enc 1. Formal Notice of Determination
2. Approved Development Plans