

**DIS241: INDUSTRY - EXTRACTIVE (GRAVEL)**

<b>Land Description</b>	: Lots 3348 and 4120 (314) Marbelup North Road, Marbelup 6330
<b>Proponent</b>	: A.D. Contractors Pty Ltd
<b>Owner</b>	: G Smith
<b>Attachments</b>	: 1. Copy of Application 2. Schedule of Submissions
<b>Report Prepared By</b>	: Senior Planning Officer (J Anderson)
<b>Responsible Officers:</b>	: Executive Director Infrastructure, Development and Environment, Planning (P Camins) Manager Planning and Building Services (J Van Der Mescht)

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany *Strategic Community Plan 2030*:

**Theme:** Smart, Prosperous and Growing

**Objective:** To strengthen and grow our region's economic base

**Community Priority:** Work with business and other stakeholders to attract investment, diversify the economy, create jobs and support small business growth.

**Theme:** A connected and safe built environment.

**Objective:** To develop vibrant neighbourhoods which retain local character and heritage.

**Community Priority:** Develop and implement a contemporary Local Planning Strategy that reflects our identity and supports economic growth.

3. When exercising its discretion in relation to planning matters, the pertinent strategic document is the City of Albany *Local Planning Strategy 2019* (the Planning Strategy).
4. The proposal is consistent with the strategic directions identified in the Planning Strategy.

**Maps and Diagrams:** 314 Marbelup North Road, Marbelup



**In Brief:**

- Council is asked to consider an application for development approval for an Industry – Extractive (Gravel) at 314 (Lots 3348 and 4120) Marbelup North Road, Marbelup.
- The land use is considered an “A” use within the “General Agricultural” zone in accordance with City of Albany *Local Planning Scheme No. 1* (LPS1).
- An ‘A’ use means the use is not permitted unless the local government has exercised its discretion by granting planning approval, after giving special notice in accordance with clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Planning Regulations 2015).
- The application was advertised for public comment via direct mail out to surrounding landowners within a 1500m radius and a notice posted on the City’s website.
- Seven (7) submissions were received in relation to the proposal. All 7 submissions objected to the proposal.
- The submissions received outlined the following concerns:
  - Road safety and ongoing maintenance requirements due to increased heavy vehicle traffic on an unsealed road;
  - The proximity of the proposal to existing dwellings, with resulting noise and dust emissions potentially inducing or exacerbating health issues;
  - The visual impact of the proposal on the character and amenity of the area;
  - Environmental concerns;
  - The proposed life of the pit;
  - Potential impacts on property values;
  - Inconsistencies identified within the report and non-compliance with relevant regulations; and
  - Aspects of the consultation process.
- The applicant has submitted revised plans and information to address inconsistencies and concerns raised during advertising. The revised plans and information outlined further mitigation measures to address noise and dust emissions generated by the operation.
- Due to the number of concerns raised, the application is being referred to Council for determination.
- The application was also referred to the Department of Water and Environmental Regulation (DWER) and Main Roads. Main Roads stated they had no objections to the proposal. DWER indicated that subject to the local government’s determination and the applicant obtaining all necessary licences, approvals and permits, the proposal as submitted could be considered under the relevant legislation.
- Staff recommend that Council approve the proposed development, subject to conditions. The proposed development has been assessed against relevant state regulations and guidelines and is consistent with the City of Albany LPS1 and *Extractive Industries and Mining Policy*.
- The revised information submitted by the applicant and proposed conditions are considered to address the concerns raised through the public advertising process.

**COVID-19 IMPACT- Nil**

**RECOMMENDATION**

**DIS241: AMENDED RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a notice of determination granting temporary development approval with conditions for Industry – Extractive (Gravel) at 314 (Lots 3348 and 4120) Marbelup North Road, Marbelup.**

**Conditions:**

- 1. This consent is valid until 31 December 2028, after which a new application will be required to be lodged with the City of Albany.**

2. All development shall occur in accordance with the stamped, approved plans referenced P2200207, being signed and dated by a designated Authorised Person, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
3. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
4. The development is required to comply with all relevant Health Regulations, in particular, regard should be paid to dust management and noise regulations.
5. The level of noise emanating from the development shall not exceed that prescribed in the *Environmental Protection Act 1986*, and the *Environmental Protection (Noise) Regulations 1997*.
6. Prior to commencement of operations, the operator shall liaise with the school bus operator to establish a traffic schedule to avoid potential conflict with school bus operations.
7. **No truck movements associated with this operation shall be undertaken on Marbelup North Road, during the times that the school bus services the area.**
8. Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating to Extractive Industries.
9. The measures and actions identified in the Environmental Assessment Report and Operations Plan dated 21 October 2020 being implemented and maintained to the satisfaction of the City of Albany.
10. The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans referenced P2200207 being signed and dated by a designated Authorised Person.
11. With the exception of the pit with an area of 1.2ha, only one hectare of the extraction area identified on the stamped, approved plans shall be opened at any one time, unless otherwise agreed in writing by the City of Albany.
12. In accordance with the Noise Management Plan outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, operation of the pit shall be restricted to the hours of:
  - 7.00am – 6.00pm Monday to Friday
  - 8.30am – 1.00pm Saturday
  - No operation at all on Sundays or Public Holidays
13. In accordance with the Noise Management Plan outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, operations within classified “Sensitive Operation” areas shall be restricted to a maximum three (3) days per week, between 8.30am and 5.00pm weekdays only.
14. Prior to commencement, topsoil bunds shall be established around the permitted extraction areas to aid in screening, in accordance with the Noise Management Plan outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020.
15. Prior to commencement, all Bushfire Risk and Management measures and actions identified in in the Environmental Assessment Report and Operations Plan dated 21 October 2020 shall be undertaken, to the satisfaction of the City of Albany. The identified measures and actions include, but are not limited to:
  - a. Installation of a minimum 10,000L standalone tank, with appropriate storz fittings installed for fire services to access supply.
16. The extraction areas shall be suitably drained, in accordance with the measures and actions outlined in the Environmental Assessment Report and Operations Plan dated 21

October 2020, to the satisfaction of the City of Albany. No direct discharge shall occur from the extraction area to any watercourse, without the prior approval of the Department of Water and Environment Regulation.

17. A minimum of 2 metres of undisturbed soil profile shall be provided as a buffer at all times between the base of the excavated area and the maximum water table level, as outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020.
  18. In accordance with the measures and actions outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, and to the satisfaction of the City of Albany, the development shall comply with the following:
    - No fuels, oils and chemicals shall be stored on the site.
    - Refuelling to be undertaken in a designated area with spill kits available at all times.
    - Running repairs may be conducted only if effective measures are in place to prevent fuel, lubricants, coolant and hydraulic fluid losses to the environment.
  19. Routine servicing and wash down of operating equipment is not permitted in a P2 Public Drinking Water Source Area.
  20. No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Water and Environment Regulation.
  21. Any off-site fill must be clean soil, free of weed material or of uncontaminated Inert Waste Type 1 (as defined by Landfill Waste Classification and Waste Definitions 1996 (as amended 2019) of the *Environmental Protection Act 1986*).
  22. Prevention of dust and sand blowing causing a nuisance to the **landowners of surrounding properties**, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system to be undertaken in accordance with the Department of Water and Environmental Regulation *Guideline for Managing the Impacts of Dust and Associated Contaminants from Land Development Sites, Contaminated Sites Remediation and Other Related Activities 2011* and the City of Albany *Prevention and Abatement of Sand Drift Local Law 2000*.
- Advice:**  
~~**This condition includes dust mitigation on Marbelup North Road.**~~
23. No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
  24. Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating the Extractive Industries.
  25. The site shall be suitably rehabilitated and re-contoured on a per hectare basis (prior to commencement of the next extractive process), including re-battering of banks and reseeded and stabilising of former extraction areas. Rehabilitation shall be undertaken in accordance with the Rehabilitation Management measures and actions outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, to the satisfaction of the City of Albany.
  26. A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the City of Albany.
  27. Prior to commencement, signage warning of truck movements shall be installed in either direction before the access point to the subject site on Marbelup North Road and from all directions at the intersection of Marbelup North Road and South Coast Highway, to the satisfaction of the City of Albany.
  28. A refundable bond/bank guarantee of \$3500.00 per hectare shall be lodged with the City of Albany for remediation work if required.

**29. Prior to the commencement of the extractive industry an upfront contribution from the proponent will be required to seal Marbelup North Road from South Coast Highway to Cochrane Road (SLK 2.8 to 7.8).**

**Advice:**

- a. The cost contribution is currently (2020/2021) \$122,000 (excl GST) as a partial contribution between South Coast Hwy to the entrance of the site (SLK 2.8 to 5.9).**
- b. Following receipt of an upfront cost contribution, the City of Albany will within the 2021/22 financial year commence with the sealing of Marbelup North Road, from South Coast Hwy to Cochrane Road (SLK 2.8 to 7.8).**

**30. Cartage of gravel shall not commence until Marbelup North Road is sealed from South Coast Highway to Cochrane Road.**

**Advice:**

- a. Extraction, crushing and stockpiling of gravel can commence and is encouraged during the winter months.**
- b. Extracted gravel can be used for the construction of Marbelup North Road if required.**

**31. The applicant will be responsible for the repair of any damage to any road within the City of Albany, caused by the extraction operations. Where repair works are required, they are to be undertaken within an appropriate timeframe by the applicant at their cost, to the satisfaction of the City of Albany.**

**Officer Comment:**

This amended Responsible Officer Recommendation addresses the community comment about the possibility of dust affecting residents on the haulage route, and damage to the road if it were not sealed prior to truck movements commencing.

DIS241: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE  
SECONDED: COUNCILLOR SMITH

THAT a decision on this matter be DEFERRED until the Ordinary Council Meeting to be held on Tuesday 15 December 2020, in order to allow elected members to conduct a site visit to the location of the proposed extractive industry.

CARRIED 13-0

DIS241: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting temporary development approval with conditions for Industry – Extractive (Gravel) at 314 (Lots 3348 and 4120) Marbelup North Road, Marbelup.

Conditions:

1. This consent is valid until 31 December 2028, after which a new application will be required to be lodged with the City of Albany.
2. All development shall occur in accordance with the stamped, approved plans referenced P2200207, being signed and dated by a designated Authorised Person, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
3. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
4. The development is required to comply with all relevant Health Regulations, in particular, regard should be paid to dust management and noise regulations.
5. The level of noise emanating from the development shall not exceed that prescribed in the *Environmental Protection Act 1986*, and the *Environmental Protection (Noise) Regulations 1997*.
6. Prior to commencement of operations, the operator shall liaise with the school bus operator to establish a traffic schedule to avoid potential conflict with school bus operations.

7. Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating to Extractive Industries.
8. The measures and actions identified in the Environmental Assessment Report and Operations Plan dated 21 October 2020 being implemented and maintained to the satisfaction of the City of Albany.
9. The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans referenced P2200207 being signed and dated by a designated Authorised Person.
10. With the exception of the pit with an area of 1.2ha, only one hectare of the extraction area identified on the stamped, approved plans shall be opened at any one time, unless otherwise agreed in writing by the City of Albany.
11. In accordance with the Noise Management Plan outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, operation of the pit shall be restricted to the hours of:
  - 7.00am – 6.00pm Monday to Friday
  - 8.30am – 1.00pm Saturday
  - No operation at all on Sundays or Public Holidays
12. In accordance with the Noise Management Plan outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, operations within classified “Sensitive Operation” areas shall be restricted to a maximum three (3) days per week, between 8.30am and 5.00pm weekdays only.
13. Prior to commencement, topsoil bunds shall be established around the permitted extraction areas to aid in screening, in accordance with the Noise Management Plan outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020.
14. Prior to commencement, all Bushfire Risk and Management measures and actions identified in the Environmental Assessment Report and Operations Plan dated 21 October 2020 shall be undertaken, to the satisfaction of the City of Albany. The identified measures and actions include, but are not limited to:
  - b. Installation of a minimum 10,000L standalone tank, with appropriate storz fittings installed for fire services to access supply.
15. The extraction areas shall be suitably drained, in accordance with the measures and actions outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, to the satisfaction of the City of Albany. No direct discharge shall occur from the extraction area to any watercourse, without the prior approval of the Department of Water and Environment Regulation.
16. A minimum of 2 metres of undisturbed soil profile shall be provided as a buffer at all times between the base of the excavated area and the maximum water table level, as outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020.
17. In accordance with the measures and actions outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, and to the satisfaction of the City of Albany, the development shall comply with the following:
  - No fuels, oils and chemicals shall be stored on the site.
  - Refuelling to be undertaken in a designated area with spill kits available at all times.
  - Running repairs may be conducted only if effective measures are in place to prevent fuel, lubricants, coolant and hydraulic fluid losses to the environment.
18. Routine servicing and wash down of operating equipment is not permitted in a P2 Public Drinking Water Source Area.
19. No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Water and Environment Regulation.

20. Any off-site fill must be clean soil, free of weed material or of uncontaminated Inert Waste Type 1 (as defined by Landfill Waste Classification and Waste Definitions 1996 (as amended 2019) of the *Environmental Protection Act 1986*).
21. Prevention of dust and sand blowing causing a nuisance to adjoining landowners, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system to be undertaken in accordance with the Department of Water and Environmental Regulation *Guideline for Managing the Impacts of Dust and Associated Contaminants from Land Development Sites, Contaminated Sites Remediation and Other Related Activities 2011* and the City of Albany *Prevention and Abatement of Sand Drift Local Law 2000*.
- Advice:*  
*This condition includes dust mitigation on Marbelup North Road.*
22. No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
23. Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating the Extractive Industries.
24. The site shall be suitably rehabilitated and re-contoured on a per hectare basis (prior to commencement of the next extractive process), including re-battering of banks and reseeding and stabilising of former extraction areas. Rehabilitation shall be undertaken in accordance with the Rehabilitation Management measures and actions outlined in the Environmental Assessment Report and Operations Plan dated 21 October 2020, to the satisfaction of the City of Albany.
25. A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the City of Albany.
26. Prior to commencement, signage warning of truck movements shall be installed in either direction before the access point to the subject site on Marbelup North Road and from all directions at the intersection of Marbelup North Road and South Coast Highway, to the satisfaction of the City of Albany.
27. A refundable bond/bank guarantee of \$3500.00 per hectare shall be lodged with the City of Albany for remediation work if required.
28. Prior to commencement, arrangements being made with the City of Albany for the maintenance and upgrade of Marbelup North Road from South Coast Hwy to the entrance of the site (SLK 2.8 to 5.9). These arrangements shall involve the following:
- An upfront financial contribution, as agreed between the applicant and the City of Albany, towards the upgrade of the subject section of Marbelup North Road to a sealed standard.
  - Prior to commencement of upgrades to the subject section of Marbelup North Road, the applicant shall arrange for up to four additional re-gradings being undertaken per year at the applicant's expense, at the request and to the satisfaction of the City of Albany.
- Advice:*
- Following receipt of an upfront cost contribution, the City of Albany will commit to the sealing of Marbelup North Road, from South Coast Hwy to Cochrane Road (SLK 2.8 to 7.8). It is most likely that the works would be undertaken within the 2022/23 financial year. The cost contribution will be \$122,000 (excl GST) as a partial contribution between South Coast Hwy to the entrance of the site (SLK 2.8 to 5.9).*
  - The City of Albany currently re-grades Marbelup North Road every two (2) months and will continue to do so prior to implementation of upgrades. The City will continue to monitor the condition of Marbelup North Road on a monthly basis.*
29. The applicant will be responsible for the repair of any damage to any road within the City of Albany, caused by the extraction operations. Where repair works are required, they are to be undertaken within an appropriate timeframe by the applicant at their cost, to the satisfaction of the City of Albany.

## **BACKGROUND**

5. The City of Albany has received a development application for Industry – Extractive (Gravel) at 314 (Lots 3348 and 4120) Marbelup North Road, Marbelup.
6. The subject site lies to the eastern side of Marbelup North Road, and to the northern side of South Coast Highway, approximately 20km north-west of the Albany City centre. The lots have a combined area of 155.368 hectares and are zoned 'General Agriculture' under LPS1.
7. The subject site is adjoined by 'General Agriculture' zoned land to the north, south and west. The land to the east is a railway reserve.
8. Extractive Industry is classified as an 'A' use within the General Agriculture zone, meaning the use is not permitted unless the Local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 64 of the Planning Regulations 2015.
9. Under clause 64 of the Planning Regulations 2015, the proposal was required to be advertised for a period of 14 days. Nearby landowners were notified directly by letter, and a notice was placed on the City of Albany website.
10. The proposal was also referred to the Department of Water and Environmental Regulation (DWER) and Main Roads WA.

## **DISCUSSION**

11. The proponent seeks to extract gravel from an area of approximately 34.4 hectares and transport the material off-site for use within the Albany area.
12. The proponent has provided the following (summarised) outline of how the proposed extractive industry will operate:
  - a) The proposed 34.4 hectares is divided into seven main stages, as indicated on the staging plan. Within each main stage, there are multiple pits (totalling 35). The pits range in area from 0.5 hectare to 1.2 hectares;
  - b) The applicant proposes to extract from one pit at a time, with a maximum of 1.2 hectares exposed/operated at any given time;
  - c) The applicant proposes to progressively rehabilitate each pit prior to the commencement of a new pit;
  - d) It is estimated that an average amount of 30,000 tonnes per year will be extracted over a period of 7-8 years. In times of high demand, it is anticipated a maximum of 50,000 tonnes per year would be extracted, however this is dependent upon industry demand;
  - e) During periods of high demand, the applicant has estimated that one stage will be exhausted every 12 months, however this is dependent on demand;
  - f) The applicant has provided the following estimated time line for each pit (based on an area of 1 hectare):
    - 1 day – strip/push up topsoil;
    - 1 day – rip entire area;
    - 1-2 days – push up ripped material for export/crushing; and
    - 0-7 days - Crushing material depending on size and requirement of resource by client (0-3 days during low demand and 7 days during high demand / peak periods).
  - g) There are two areas of remnant jarrah and sheoak paddock trees located within the northern area of the property / extraction area. The applicant is required to obtain a permit from DWER to clear any identified remnant vegetation within the proposed extraction area. The large areas of intact remnant vegetation within the eastern portion of the property will not be cleared during the extraction project;
  - h) The proposed (approximate) setbacks are as follows:
    - 20 metres from the northern boundary;

- 40 metres from the western boundary (Marbelup North Road);
  - 330 metres from the southern boundary; and
  - 735 metres from the eastern boundary.
- i) The closest dwelling to the west of Marbelup North Road was initially proposed to be 279 metres from the nominated extraction area. Although this exceeds the required 200 metre setback under the City of Albany *Mining and Extractive Industries Policy*, the applicant has since revised the plan and increased this to 305 metres;
  - k) The proposed extraction area is located 384-440 metres from the conservation category wetland located on the eastern portion of the property;
  - l) Mobile plant will be used to push up and stockpile topsoil, as well as to extract, push up and stockpile the gravel;
  - m) Gravel will be fed into the crushing and screening plant, and then stockpiled within the stage /pit area adjacent to the next pit for use as demand requires prior to being loaded onto trucks. It is estimated that the maximum amount of time gravel will be stockpiled for is 6-12 months;
  - n) The crushing of large gravel boulders will only occur when required, and it is therefore expected that most of the extracted resource will not require crushing;
  - o) The crushing and screening plant will generally be located centrally within each stage;
  - p) The total depth of extraction is estimated to be 1.5 metres;
  - q) Topsoil (approximately 150-200mm) will be windrowed and stored adjacent to each stage in readiness to be used in the rehabilitation process. Each windrow will have a maximum height of 4m;
  - r) Access will be via the existing access crossover, which is located approximately 3km north from South Coast Highway intersection;
  - s) The proposed types of trucks used during the operation are 6-wheeler trucks with an approximate capacity of 15 tonnes and semi-trailers with an approximate capacity of 24 tonnes, however volumes vary depending on moisture and density of the gravel extracted;
  - t) The number of truck movements will vary dependent on demand, however on average it is expected that there will be four truckloads per day, which equates to eight truck movements per day. During times of high demand, it is estimated that four trucks would make up to seven trips per day (this equates to 56 movements). During low demand times, it is likely that 0 – 2 movements per day will occur;
  - u) Signage will be installed prior to operations commencing, at the access point along Marbelup North Road and South Coast Highway, warning of truck movements;
  - v) There will be no hydrocarbons, chemicals, fuels, coolants stored onsite. These will be transported onsite as required by a contained mobile service vehicle which will be appropriately equipped with spill kits in the unlikely event that there is a spillage;
  - w) A noise complaint system will be implemented where a notice will be placed at the front gate with contact details of the onsite manager. Any noise complaints will be recorded by the site manager and acted on immediately;
  - x) The proposed operation times would generally be between 7.00am to 5.00pm on weekdays (Monday to Friday). In times of high demand, the applicant has stated that there may be operations on Saturdays between 8.30am to 1.00pm. There would be no operations of Sundays or public holidays.
  - y) When extraction operations are located within classified “Sensitive Operation” areas, operating hours shall be restricted to a maximum three (3) days per week, between 8.30am and 5.00pm weekdays only.
  - z) Operations will temporarily cease during times of high wind, and water trucks shall be available to suppress dust;

- aa) Each pit will be rehabilitated after completion of extraction and returned to pasture for grazing pursuits.
13. The application is generally consistent with the City of Albany *Extractive Industries and Mining Policy*. Compliance with the policy is discussed in paragraph 76 below.
14. A total of seven submissions were received in relation to the proposal, all objecting to the proposal.
15. The concerns or objections relate primarily to the following:
- a) Road safety and ongoing maintenance requirements due to increased heavy vehicle traffic on an unsealed road;
  - b) The proximity of the proposal to existing dwellings, with resulting noise and dust emissions potentially inducing or exacerbating health issues;
  - c) The visual impact of the proposal on the character and amenity of the area;
  - d) Environment concerns;
  - e) The proposed life of the pit;
  - f) Potential impacts on property values;
  - g) Inconsistencies identified within the report and non-compliance with relevant regulations; and
  - h) Aspects of the consultation process.
16. As a result of the concerns raised during the submission period, the applicant has provided a revised Environmental Assessment Report and Operations Plan addressing the issues raised.
17. The main concerns raised and the proposed mitigation measures are addressed in more detail in the following paragraphs.

### **Road Safety and Maintenance**

18. A number of concerns were received in relation to the existing condition of Marbelup North Road, claiming it is inadequate for the current volume of traffic and therefore additional traffic would result in further safety issues.
19. Concerns were also raised in relation to the proposed number of trucks competing with other road users, including school buses, residential traffic, cyclists, runners and horse riders.
20. In terms of vehicle numbers, it is often the case with extractive industries that vehicle movements are seasonal and vary according to construction demand. The proponent has stated that the number of truck movements will vary dependant on demand. However, the proponent has outlined that on average it is expected that there will be four truckloads per day, equating to eight truck movements per day. During times of high demand, the proponent has estimated that four trucks would make up to seven trips per day (this equates to 56 movements). The proponent has further indicated that during low demand times, it is likely that 0 – 2 movements per day will occur.
21. Marbelup North Road is an unsealed road, connecting Redmond West Road to South Coast Highway.
22. Based on the City of Albany's Maintenance Schedule, Marbelup North Road is scheduled for six gradings per year, which is undertaken by the City of Albany.
23. In consultation with the City of Albany Engineering Department, officers recommend a condition of approval requiring that satisfactory arrangements being made with the City of Albany for a contribution of the partial cost of upgrading Marbelup North Road to a sealed standard from South Coast Highway to the entrance of the site.
24. In addition to the above, until such time that the road is sealed, staff recommend that the applicant should be responsible for undertaking additional gradings and maintenance in addition to the scheduled six per year undertaken by the City of Albany. Currently, the scheduled gradings are undertaken by the City of Albany every two months.

25. Officers also recommend that a standard condition requiring the proponent to rectify any damage to any road as a result of the operation within the City of Albany should be applied.
26. The potential for conflict between trucks and school buses was also raised as a concern. In order to mitigate the issue, a condition is also recommended requiring the operators to liaise with school bus operators to commence a dialogue and establish a schedule to avoid potential conflicts.
27. Concerns were also raised in relation to the safety of the intersection of Marbelup North Road and South Coast Highway. The proposal was referred to Main Roads WA who have no objections to the proposal.
28. It is considered that the proposed conditions mitigate and manage concerns raised in respect to road use and infrastructure.

**Noise, dust, proximity to dwellings exacerbating or resulting in health issues**

29. The concern regarding the potential operation having a negative impact on amenity was consistently raised within the submissions on the proposal, due to the proposed operation's proximity to existing dwellings and potential impacts from noise and dust emissions.
30. The concerns in relation to the proximity to dwellings specifically relate to non-compliance with the Environmental Protection Authority (EPA) Draft *Environmental Assessment Guideline for Separation Distances between Industrial and Sensitive Land Uses 2015* which require buffers of 500m to 1000m for this type of use.
31. It should be noted that the EPA Draft *Environmental Assessment Guideline for Separation Distances between Industrial and Sensitive Land Uses 2015* is not an endorsed version. The endorsed standing provisions pertaining to sensitive land uses and setback requirements are contained under the EPA *Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005*. The criteria set out under the 2005 guidelines do not set out a specific buffer for this type of extraction operation, and individual operations are assessed on a case by case basis.
32. The City of Albany *Extractive Industries and Mining Council Policy* requires that buffer distances are to be in accordance with EPA requirements. Although the EPA's *Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005* do not set out a specific buffer for this type of extraction operation, and operations are assessed on a case by case basis, the City of Albany LPS1 and *Extractive Industries and Mining Policy* further stipulate that 200 metres should be achieved between excavation and dwellings that are not located on the subject property.
33. Although the proposed setbacks exceeded the required 200 metre setback within the City of Albany *Extractive Industries and Mining Policy*, in response to the concerns raised during the submission period, the applicant has since revised the plan and increased the closest setback to 305 metres.
34. In relation to noise and dust emissions, a number of the submissions raised concerns that the Noise and Dust Management Plans submitted as part of the original development application were inconsistent with City of Albany policy, the Draft *Environmental Assessment Guideline for Separation Distances between Industrial and Sensitive Land Uses 2015*, and Department of Planning, Lands and Heritage (DPLH) Draft *State Planning Policy (SPP) 2.4 – Basic Raw Materials Policy (2018)*. The submissions also outlined that the proposal did not identify adequate measures to mitigate noise and dust emissions generated by the operation.
35. A number of the concerns raised in relation to noise and the impact it would have on nearby landowners, related to noise emissions being exacerbated by the site's location in a gully, with no natural or artificial screening proposed to reduce noise impacts. There were also concerns as to how the noise would be monitored and kept at a safe level.
36. In response to the concerns raised in relation to noise impacts from the proposal, the proponent has submitted an updated Environmental Assessment Report and Operations

Plan dated 21 October 2020, which includes a revised Noise Management Plan. The revised Noise Management Plan incorporates a number of noise mitigating measures, including:

- a) Where any crushing and screening occurs within 500 metres of a sensitive receptor, this will be limited to 3 days per week and from 8.30am-5pm weekdays only. This will reduce the frequency of exposure to adjacent residents and therefore reduce the impact/risk of this emitting source to health and wellbeing;
  - b) Construction of a 2-4 metre bund along the western boundary of the extraction area for noise attenuation. The bund is the stripped topsoil and mounded parallel to the pit to reduce noise to offsite receptors;
  - c) All plant movements, extraction, crushing and screening operations are to be carried out between 7:00am and 5:00pm Mondays to Fridays, and 8:30am to 1:00pm on Saturday (in times of high demand / peak periods), not including Public Holidays;
  - d) When extraction operations are located within classified “Sensitive Operation” areas, operating hours shall be restricted to a maximum three (3) days per week, between 8.30am and 5.00pm weekdays only;
  - e) Mounding of topsoil along the edge of pits to act as noise bunds to further reduce noise at nearby properties, mounding is to be parallel to the excavated pit and maintained regularly for any defects, stabilised for dust management;
  - f) Regular inspections of all plant and machines on site to ensure all are working and functioning correctly, without excess noise;
  - g) Turning off equipment when not in use;
  - h) Regular inspections of road trains and trucks used for carting to ensure all muffler and exhaust systems are functional, specific to noise attenuation.;
  - i) Vehicle travel speeds will be restricted to 40 km/hour on unsealed surfaces on site.;
  - j) Noise complaint register in place to record any issues from neighbours. A contractor sign at the front gate to be erected clearly showing A.D. Contractors contact details; and
  - k) Any noise related complaints will be recorded by the site manager and acted on immediately and resolved within 24 hours.
37. A number of concerns were raised in relation to dust emissions generated by the proposed operation, in combination with the operation’s use of the unsealed road, resulting in health concerns.
38. The concerns raised in relation to the inadequacy of the originally submitted Dust Management Plan, related to proposed mitigation measures to control dust emissions being ineffective due to the location of the extraction area on the side of a ridge, and the site being subject to varying prevailing wind direction, depending on the season.
39. There was also concerns that dust emissions would potentially contaminate domestic rainwater supplies, as well as potentially causing rusting of metal surfaces.
40. In response to the concerns raised in relation to noise impacts from the proposal, the proponent has submitted an updated Environmental Assessment Report and Operations Plan dated 21 October 2020, which includes a revised Dust Management Plan. The revised Dust Management Plan incorporates a number of dust mitigating measures, including:
- a) Construction of a 2-4 metre bund along the western boundary of the extraction area and parallel to any excavation areas;
  - b) All crushing and screening to occur within the designated boundary of the crushing and screening extents;
  - c) Topsoil mound to be no greater than 4 metres in height;
  - d) Gradual rehabilitation will be undertaken to minimise the area of exposed surfaces;
  - e) Stockpiles to be configured to accommodate easy access for watering/dust minimisation;

- f) Stockpiles will not be located in areas subject to adverse environmental conditions (e.g prevailing winds) such as prominent ridges;
  - g) The access road, immediate extraction area and fixed plant (screen) to be watered as required to minimise dust emissions;
  - h) Work only to occur in low velocity winds (i.e operations to cease if visible dust seen leaving the property);
  - i) Works to cease temporarily if visible dust is seen leaving the site when there is a north easterly wind and dust measures implemented (water suppression);
  - j) Trucks to be fully covered by tarpaulins when fully loaded, prior to leaving extraction area;
  - k) Vehicle travel speeds will be restricted to 40km/hour on unsealed surfaces on site; and
  - l) A dust complaint register required to be in place to record any issues from neighbours. A contractor sign at the front gate to be erected with contact details.
41. In addition to the dust mitigation measures on-site, the applicant acknowledges that they will be required to pay a contribution to the upgrade of Marbelup North Road which will mitigate dust generated from the road.
42. The DPLH Draft *SPP 2.4 – Basic Raw Materials Guidelines (2018)* incorporates a site selection checklist intended on guiding the applicant during the site selection process. Within this checklist it recommends that adequate setbacks for Extractive Industries from sensitive lands uses should be between 300 metres and 1000 metres.
43. The guidelines however state that local government assessment and approval should be based on relevant local planning scheme provisions, policies or strategies where applicable. In this instance, the City of Albany LPS1 and *Extractive Industries and Mining Policy* both require a setback of 200 metres from a residence not located on the subject lot. The closest dwelling not on the subject lot is 305 metres, therefore it is considered to comply with the applicable provisions.
44. Concerns were raised in relation to the crushing and screening areas and the proximity of these to surrounding dwellings. DWER is the responsible body for the assessment of the emissions and buffers for screening and crushing plants. The applicant is responsible for ensuring that they have obtained the required licences from DWER prior to undertaking this activity onsite.
45. The Department of Health state that unless adequately treated, rainwater is not reliably safe to drink and it is almost impossible to completely protect rainwater from contamination. However, the City of Albany's advice is that installing screens, filters and first flush devices will reduce contamination if people are using rainwater for this purpose.
46. It is considered that the revised Dust and Noise Management Plans submitted by the applicant, in conjunction with the distance to nearby dwellings, will mitigate potential amenity issues resulting from dust or noise emissions.
47. It is recommended that the implementation and ongoing compliance with the Noise and Dust Management Plans contained in the updated Environmental Assessment Report and Operations Plan dated 21 October 2020 be applied as a condition of approval.

**Impact on the character and visual amenity of the area**

48. Concerns were raised in relation to the impact from the proposal being located on the side of a ridge within a visually obtrusive location, in addition to the cumulative visual impact of increased traffic on Marbelup North Road, resulting in a high visual impact on residents overlooking the valley.
49. The subject site is zoned General Agriculture. City of Albany LPS1 classifies an extractive industry as a use that can be considered within this zone. In terms of compliance, the proposal meets the requirements of the City of Albany *Extractive Industry and Mining Local Planning Policy*.

50. In terms of visual amenity, the staging and rehabilitation of areas will serve to reduce the overall visual impact of the proposed works. Extractive industries are subject to an annual licence renewal inspection to ensure that rehabilitation work is correctly carried out.

**Environmental concerns**

51. Concerns were raised in relation to the site being located within the South West Significant Wetlands area and within the Marbellup Priority Water Catchment area.
52. The proposed extraction area is located 384-440 metres from the conservation category wetland located on the eastern portion of the property.
53. The proposal was referred to DWER, who are the body responsible for assessing the risk to the waterway. DWER indicated that, subject to consideration and determination of the application by the local authority, and the proponent obtaining all necessary licences, approvals and permits, the application as submitted could be considered.
54. DWER outlined that although the subject site was located within a priority 2 (P2) area of the Marbellup Brook Catchment Public Drinking Water Source Area (PDSWA), it was noted that extractive industries are a compatible use in a P2 area, and that the separation distance to Marbellup Brook, along with the identified stormwater management measures identified in the Environmental Assessment report, would be considered sufficient to protect the ecological values of the Brook.
55. Concerns were raised in relation to the degraded quality of the roadside vegetation, as result of constant grading which has resulted in the spread weeds and dieback.
56. The applicant has provided a Weed Management Plan and Dieback and General Hygiene Management Plan, both contained within the updated Environmental Assessment Report and Operations Plan dated 21 October 2020. The Weed Management Plan and Dieback and General Hygiene Plan are considered to sufficiently address the required measures and actions to manage the control of weeds and dieback spread as part of the operation of the development.

**Life of pit**

57. Concerns were raised in relation to the life of the pit and clarification on the calculations were requested.
58. The applicant has stated that it is estimated that an average amount of 30,000 tonnes per year will be extracted over a period of 7-8 years. In times of high demand, it is anticipated a maximum of 50,000 tonnes per year would be extracted, however this is dependent upon industry demand.
59. During periods of high demand, the applicant has estimated that one stage will be exhausted every 12 months, therefore it is anticipated that the life of the pit will be 7-8 years.
60. The applicant is applying for an 8 year approval. All extraction must be contained within the approved area indicated on the site plan. New areas outside of the approved area, or an extension beyond the 8 year period will be subject to assessment of a new development application.

**Value of property**

61. A number of submissions claimed property value would be affected.
62. Property value is not a matter to be considered under the Planning Regulations 2015.

**Inconsistencies within the report**

63. Concerns were raised that there were inconsistencies within the report in relation the number of trucks per day and the annual extraction amounts.
64. The proposed types of trucks used during the operation are 6-wheeler trucks with an approximate capacity of 15 tonnes and semi-trailers with an approximate capacity of 24 tonnes.

65. The proponent has indicated that the number of daily truck movements would vary, as they would be dependent on demand as well as the moisture and density of the gravel extracted. On average, the proponent has identified that four truckloads would be expected per day, equating to eight total truck movements per day. During times of high demand, it is estimated that four trucks would make up to seven trips per day (this equates to 56 movements). During low demand times, the proponent has indicated that it is likely that between 0 – 2 movements per day would occur.

**Consultation process**

66. Concerns were raised in relation to the lack of consultation by the applicant prior to the proposal being submitted, and that the 1500 metre consultation radius undertaken by the City was considered insufficient.
67. Under clause 64 of the Planning Regulations 2015, the proposal was required to be advertised for a period of 14 days. The proposal was advertised for a period of 19 days. Nearby landowners were notified directly by letter, and a notice was placed on the City of Albany website.
68. The applicant has amended the proposal and submitted revised Noise and Dust Management Plans in order to further address concerns raised during advertising. The revised proposal, amended Management Plans and the proposed conditions of approval are considered to mitigate and manage the issues raised during the public consultation process.
69. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval, subject to appropriate conditions.

**GOVERNMENT & PUBLIC CONSULTATION**

70. The proposal was advertised for public comment for a period of 19 days, in accordance with clause 64 of the Planning Regulations 2015. Surrounding landowners were notified directly by letter, and a notice was placed on the City of Albany website.
71. A total of seven submissions were received in relation to the proposal, all objecting to the proposal. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in the paragraphs 18-67 above.
72. In addition to the public consultation, the proposal was also referred to DWER and Main Roads WA.
73. Advice received from DWER indicated that, subject to the proponent obtaining all necessary licences, approvals and permits, the application as submitted could be considered. DWER indicated that the proposed separation distance between the operation and Marbellup Brook and the stormwater management measures outlined under the Environmental Assessment report were considered sufficient to protect the identified ecological values of the Brook. DWER stipulated that it was the proponent's responsibility for obtaining all necessary separate licences, approvals and permits before commencing any works on site.
74. DWER provided the following advice:
- a) The applicant may require a works approval to construct/install the equipment (mobile or otherwise) and a licence or registration to operate. It should be noted that DWER's determination of production or design capacity may be influenced by a planning approval that restricts capacity (such as constraining hours of operation).
  - b) It is recommended that a minimum of 2 metres of undisturbed soil profile is required as a buffer between the base of the excavated area and the maximum water table level.
  - c) DWER supports the proposal that no fuels, oils and chemicals will be stored on the site. Refuelling to be undertaken in a designated area with spill kits available. Furthermore, routine servicing and washdown of operating equipment is unacceptable in a P2 area. Running repairs may be conducted if effective measures are in place to prevent fuel, lubricants, coolant and hydraulic fluid losses to the environment.

75. Advice received from Main Roads WA indicated there were no objections to the proposal.

**STATUTORY IMPLICATIONS**

76. Extractive Industry is classified as an ‘A’ use within the ‘General Agriculture’ zone under LPS1, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the Scheme.

77. Voting requirement for this item is **Simple Majority**.

**POLICY IMPLICATIONS**

78. The primary assessment criteria for the application is set out in the City of Albany *Extractive Industries and Mining Policy*.

- a) The proposal is classified as a Class 2 extractive industry under the policy. Class 2 extractive industries have site extraction areas of between 0.75 and 3 hectares with a maximum depth of 3 metres.
- b) The policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The EPA *Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005* do not set out a specific buffer for this particular type of extraction as it is assessed on a case by case basis. The closest dwelling to the west is 305 metres from the nominated extraction area and therefore compliant with the City of Albany *Extractive Industries and Mining Policy* and the intent of the EPA *Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005*.
- c) It should be noted that the applicant is required to obtain a separate licence through DWER for screening and crushing plants. A full assessment by DWER of this aspect of the proposal would be undertaken at this time.
- d) The proposed extraction area is compliant with the provision of the policy that requires pits being located 40 metres from any public road and 20 metres from any other boundary.
- e) The proposed extraction area complies with the requirement of being set back a minimum of 50 meters from a watercourse or body. The proposed setback from the waterway is approximately 384 meters.

**RISK IDENTIFICATION & MITIGATION**

79. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b> The proposed use may have a variety of detrimental impacts on the area.</p>	Possible	Moderate	Medium	Mitigation of impacts to be achieved through adoption and enforcement of conditions.
<p><b>Opportunity:</b> Facilitate the sustainable development of the agricultural sector and maximise opportunities for diversification of agriculture and downstream processing.</p>				

**FINANCIAL IMPLICATIONS**

80. All costs associated with the development will be borne by the proponent.

81. However, should the proponents be aggrieved by Council’s decision or any attached conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

**LEGAL IMPLICATIONS**

- 82. Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*.
- 83. The proponent has the right to seek a review of the Council’s decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

**ENVIRONMENTAL CONSIDERATIONS**

- 84. The subject lots are under pasture and slopes downhill from the east to west. Marbellup Brook is located on the eastern edge of the subject lots.
- 85. Two areas of degraded remnant vegetation located within the extraction site are proposed to be cleared as part of the application. The applicant will need to apply for a clearing permit prior to commencement of any clearing.
- 86. The extraction area is approximately 384-440 metres from the conservation category wetland located on the eastern portion of the property. The subject lots also falls within a P2 area of the Marbellup Brook Catchment PDSWA.
- 87. Advice received from DWER indicated that, subject to the local authority’s assessment and determination and the proponent obtaining all necessary licences, approvals and permits, the application as submitted could be considered.
- 88. DWER indicated that the proposed separation distance between the operation and Marbellup Brook and the stormwater management measures outlined under the Environmental Assessment report were considered sufficient to protect the identified ecological values of the Brook.

**ALTERNATE OPTIONS**

- 89. Council has the following alternate options in relation to this item, which are:
  - To determine that the proposed use is unacceptable and to resolve to refuse the application; or
  - To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

**CONCLUSION**

- 90. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany LPS1 and *Extractive Industries and Mining Policy*.
- 91. The matters raised in the public submissions have also been broadly addressed by the proponent through revised plans and mitigated through the application of appropriate planning conditions.
- 92. On this basis, it is considered the proposal can be approved and appropriately managed through ongoing compliance with conditions and the City’s annual licence renewal process for Extractive Industries.
- 93. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></li> <li>3. <i>City of Albany Extractive Industries and Mining Policy</i></li> <li>4. <i>Environmental Protection (Noise) Regulations 1997</i></li> <li>5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses 2005</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	A246593 (West Ward)
<b>Previous Reference</b>	:	Nil