



SPECIAL MEETING OF COUNCIL

AGENDA

13 SEPTEMBER 2016

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CITY OF GREATER GERALDTON
SPECIAL MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 13 SEPTEMBER 2016 AT 5.00PM
CHAMBERS, CATHEDRAL AVENUE

A G E N D A

DISCLAIMER:

The Chairman advises that the purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25(e)) and Council's Standing Orders Local Laws establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The City of Greater Geraldton expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

1 DECLARATION OF OPENING

2 ACKNOWLEDGEMENT OF COUNTRY

I would like to respectfully acknowledge the Yamaji people who are the Traditional Owners and First People of the land on which we meet/stand. I would like to pay my respects to the Elders past, present and future for they hold the memories, the traditions, the culture and hopes of the Yamaji people'

3 ATTENDANCE

Present:

Officers:

Others:

Members of Public:

Members of Press:

Apologies:

Leave of Absence:

Cr M Reymond

Cr V Tanti

4 PUBLIC QUESTION TIME

Questions provided in writing prior to the meeting or at the meeting will receive a formal response. Please note that you cannot make statements in Public Question Time and such statements will not be recorded in the Minutes.

Our Local Laws and the Local Government Act require questions to be put to the presiding member and answered by the Council. No questions can be put to individual Councillors

5 APPLICATIONS FOR LEAVE OF ABSENCE**Existing Approved Leave**

Councillor	From	To (inclusive)
Cr V Tanti	28 August 2016	15 September 2016
Cr M Reymond	1 September 2016	26 September 2016
Cr G Bylund	3 September 2016	10 September
Cr J Critch	15 September 2016	10 October 2016
Cr T Thomas	15 September 2016	29 September 2016
Cr L Freer	27 September 2016	28 September 2016
Cr G Bylund	2 October 2016	9 October 2016
Mayor S Van Styn	16 October 2016	22 October 2016
Mayor S Van Styn	23 October 2016	25 October 2016

Cr Hall request for leave of absence from 23 September 2016 to 2 October 2016 inclusive be approved.

6 PETITIONS, DEPUTATIONS OR PRESENTATIONS**7 DECLARATIONS OF CONFLICTS OF INTEREST**

8 REPORTS OF DEVELOPMENT AND COMMUNITY SERVICES

DCS295 PROPOSED EXTRACTIVE INDUSTRY – SOUTHGATES

AGENDA REFERENCE:	D-16-56269
AUTHOR:	M Connell, Manager Urban & Regional Development
EXECUTIVE:	P Melling, Director Development & Community Services
DATE OF REPORT:	5 September 2016
FILE REFERENCE:	TP16/150 & A65947
ATTACHMENTS:	Yes (x 5)
	A. Development Application
	B. Land Tenure Plan
	C. Summary of Outcomes from the <i>Southgates Dunes Sediment Feed Analysis Report</i>
	D. Confidential – Submissions Received
	E. Confidential – Proponent’s Response to Submissions

EXECUTIVE SUMMARY:

An application has been received for an Extractive Industry (extraction of limesand) on Lot 2453 Brand Highway, Cape Burney. The area is part of a wider area commonly known as ‘Southgates dunes’.

The application was received on 30 June 2016 and must be determined by 27 September 2016.

This report recommends conditional approval of the application.

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority pursuant to Schedule 2, Part 9, clause 68 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, RESOLVES to:

1. GRANT development approval for an extractive industry on Lot 2453 Brand Highway, Cape Burney; and
2. MAKES the determination subject to the following conditions:
 - a. Development shall be in accordance with the attached approved *Southgates Dunes Management & Decommissioning Plan (Rev 2)* dated July 2016 and subject to any modifications required as a consequence of any condition(s) of this approval.
 - b. The proponent from time to time is responsible to ensure that the development is carried out at all times and in all respects in accordance with the *Southgates Dunes Management & Decommissioning Plan (Rev 2)* dated July 2016 as lodged with the local government. The proponent from time to time is

- additionally responsible to ensure that all post-closure obligations under the Plan are implemented in full.
- c. Prior to the commencement of the development a Transport Assessment is to be prepared and approved by the local government in consultation with Main Roads WA. The approved Transport Assessment is to be implemented in full prior to the commencement of the development.
 - d. The 'Southgate Dunes Access Road' is to remain open to the public and the portion of the road within Lot 2453 is to be maintained to the satisfaction of the local government.
 - e. The approved extraction area is to be clearly demarcated on-site to the approval of the local government and approved markers indicating the extent of the area are to remain in place for the duration of the operations.
 - f. This development approval is valid for a period of 12 months from the date of determination, after which the further renewal of the development approval by the local government is required annually. It is the responsibility of the proponent to apply in good time before expiration, and the local government will not automatically re-issue development approvals. As part of the annual renewal process the proponent is required to submit details regarding the extent of the extraction area, the amount of extracted material for the year and the AHD levels of the extraction area. Should there be any evidenced breaches of this development approval then the local government will not renew the development application and the development approval shall lapse.
 - g. Hours of operation shall be limited to 07:00am to 18:00pm Monday to Saturday with no operations on Sundays or public holidays, unless otherwise approved in writing by the local government.
 - h. No excavation is permitted below the 3m AHD level.
 - i. Limesand extraction is limited to an annual amount of 110,000m³ and arrangements are to be made to the satisfaction of the local government to ensure compliance with this annual amount.

PROPONENT:

The proponent is Doug Wilson from Mid West Sand Supplies in conjunction with MP Rogers & Associates Pty Ltd. The owner of the lot is Bayform Holdings Pty Ltd.

BACKGROUND:

Sand extraction has been occurring from Lot 2453 ('the land') for around 25 years. In the period from 2009 to 2013 between 50,000 and 80,000 m³/year has been extracted and in recent years, the sand extraction volume has increased to around 100,000 m³/year and above.

Sand extraction operations have been limited to the northern portion of the land which is part of a wider area commonly referred to as 'Southgates dunes' (or

'Southgates'). The removal of sand is for a range of agricultural and industrial uses, with the volume of sand varying from year to year dictated by demand from farmers and other users.

The extraction area is proposed to be expanded to the east and south to allow access to a greater area of sand material. A total extraction area of around 23ha is proposed. The area extends approximately 560m from north to south (the total length of the western boundary of the land is approximately 790m).

In the coming few years, it is anticipated that extraction will be focused on a large, untouched sand dune front which is moving towards Brand Highway. This area is around 7.5ha in size.

The volume of sand extracted from year to year is dependent on user demand. However, it is envisaged that the maximum volume would be between 90,000 and 110,000m³ (120,000 to 150,000 tonnes). In some years the sand extraction could be as low as 7,500 to 40,000m³.

Sand is extracted from a number of dune faces using bulldozers and front end loaders. The dune face is generally flattened by the bulldozer with the loader working at the base. If the sand is clean the loaders are able to place the sand directly into waiting road trains with the aid of loading ramps that have been set up on site. If there are no waiting road trains, the sand is stockpiled near the loading ramps.

It is predicted that around 50 to 60 road trains may enter and leave the site each day during the peak export season from January to March. Outside of this peak season, up to 20 road trains may enter and leave the site each day.

Sand is to be extracted above the +3m AHD contour across the site. This maximum excavation depth ties in with the approximate level of the vegetation on the western side of the lot. In reality, excavation is likely to remain higher than +3m AHD on the eastern flank given the level of the surrounding land.

Southgates dunes is a highly mobile dune system, moving to the north at approximately 10m/yr. The sand dunes are expected to continue to move into the proposed extraction area for the foreseeable future and therefore stabilisation of the dune is not feasible. Any attempts at stabilisation and revegetation of the extraction area would likely be unsuccessful, as the on-going passage of the dune fronts would cover any stabilised or revegetated areas.

Rehabilitation and decommissioning works will therefore aim to return the extraction site to a natural dune state at the end of the works. The following actions are proposed for the decommissioning of the extraction site:

- Very high or unstable excavation faces will be battered and flattened off to reduce potential collapse. It should be noted that steep dune faces are likely to form naturally due to wind forces over time and this process currently occurs naturally.

- All of the screened debris and vegetation will be removed from the site and disposed of at an appropriate landfill site.
- All facilities and equipment will be removed from site at the end of the works.

The proponent has suggested that an expansion of the sand extraction area would have a number of benefits to the local community and to the City of Greater Geraldton as follows:

- Excavation of the sand on the eastern flank will actually help to reduce wind-blown sand impacting the Brand Highway and adjacent residential lots.
- Economic benefit with direct employment of 10 employees and indirect employment of around 100 other people from truck drivers to farm hands.
- Improved soil conditions on farms which have the lime sands applied.
- The expanded sand extraction area will provide the Mid West region with a low cost source of lime sands into the future.

The application is included as Attachment No. DCS295A.

ECONOMIC, SOCIAL, ENVIRONMENTAL & CULTURAL ISSUES:

Economic:

A number of submissions highlighted the economic benefit of lime sand to the agricultural industry.

The Department of Mines and Petroleum have stated that the Southgate dune is a large long-term, high quality limesand resource supplying agricultural lime to the Mid-West agricultural areas.

Social:

Submissions objecting to the application raised a number of social issues as follows:

Recreational value:

Whilst the recreational value of the dunes is acknowledged, it must be noted that this application is over freehold land and not public crown reserve land. The vast majority of the dune formation at present is contained in the UCL to the south and will remain.

A land tenure plan is included as Attachment No. DCS295B.

Interface with public and safety:

The access road to the beach is on private freehold land and is not a public road. The owner and proponent have previously allowed for continued public access and have maintained the access road.

Inspectors of the Mine Safety Branch (MSB) of the Department of Mines and Petroleum inspected the site on 18 March 2016 and identified issues that required corrective action. The MSB have confirmed that the matters have been addressed and the operations are required to comply with the *Mines Safety and Inspection Regulations 1995*.

Traffic:

The impact of the proposed trucking movements are such that they can be adequately managed via the implementation of a traffic impact statement. It is important to note that the traffic impacts are limited to a number of truck movements entering and leaving a private access road directly onto a Highway. The vast majority of trucking movements are seasonal aligning with the agricultural demand, similar to the trucking movements experienced throughout the Geraldton area during the agricultural harvest season.

The Highway is designed and constructed to cater for large volumes of vehicle movements and the proponent has indicated they are willing to upgrade the private road intersection with the Highway.

Noise:

The Extractive Industry local planning policy allows for working hours from 7:00am to 6:00pm six days per week (Monday to Saturday). The proponent has confirmed they intend to operate within those hours.

A number of residents are located within 25m of Brand Highway. Noise from this major highway are reasonably expected to be louder than the sand mining operations 125 to 300m away. In addition, traditional reversing alarms have been removed from the loaders to reduce noise levels emanating from site.

In any event, the operations are required to comply with the *Environmental Protection (Noise) Regulations 1997*.

Environmental:

The majority of issues raised were ones relating to environmental aspects as follows:

'Southgates dunes' coastal sediment supply:

Of note is that the land is subject to an amendment to the Scheme to rezone the land for urban development. As part of the amendment process the land was subject to a full environmental review under the *Environmental Protection Act 1986*. This involved a full coastal processes analysis into the movement of the Southgates dunes and its contribution to the coastal sediment supply.

Specialist coastal engineers, M P Rogers and Associates Pty Ltd (MRA), completed a study of the dunes as part of the environmental review process. The *Southgate Dunes Sediment Feed Analysis* (MRA 2013) report is not a public document however a summary of the outcomes from that report is included in Attachment No. DCS295C.

The report shows that the vast majority of the sand that feeds into the coastal system is from the Western Dune to the north of Cape Burney. A small amount of sand from the Seaward Edge of the Northern Dune is also believed to feed into the coastal system. Both of these areas are outside of the land and will remain untouched by the sand extraction operations. This provides a sufficient buffer zone between the sand extraction operations and the coastline. Extracting sand from the northern front of the dune system is considered to have very little or no impact on the sand feed into the coastal system.

'Southgates dunes' movement:

The Southgates dunes system is essentially a large mobile sand sheet that is migrating in a northerly direction through the action of the prevailing southerly winds. The dunes were originally formed by sand blowing north from the beach adjacent to the Greenough River mouth.

The dunes are a mobile feature, with both the northern and southern edges moving in a northerly direction. Analysis of rectified aerial photography suggests that the northern edge of the dunes moved approximately 100m between 2001 and 2010. This is a rate of around 11m/yr to the north.

The dune front to the east and west of the existing extraction area has continued to move to the north covering parts of the dune access road. The central portion of the northern dune face, influenced by the sand extraction, has been slowed in recent years (2010 to 2015). Without this extraction it is highly likely that the dune front would be further north than its current position.

The dune front is highly likely to continue moving to the north unless sand is removed. Without sand extraction in the north-east corner of the dunes, windblown sand impacts on Brand Highway and residential properties are expected. Studies completed for the Geraldton Midwest Development Authority (and referenced in the *Southgate Dunes Sediment Feed Analysis* report) investigated the extent of windblown sand beyond the dune front and found that significant volumes of windblown sand can occur up to approximately 100m north of the dune (with detectable levels of windblown material recorded several hundred metres from the dune front).

The adverse impacts of windblown material are therefore likely to be experienced well before the dune front actually reached Brand Highway or adjacent residential properties.

Vegetation:

There are adjacent areas of regionally significant vegetation to the east and north of the land. The sand extraction focuses on the removal of mobile dune sands while not impacting on adjacent vegetation.

A simple review of aerial photography shows that the dunes smother vegetation as it migrates to the north. Given the height of the northern dune front and the rate of movement, the vegetation is completely covered over by the dune and subsequently dies. New vegetation does not get a chance to establish in the

highly mobile areas and can only establish on the southern edge of the dune, as the mobile sand dune moves north.

Rehabilitation of the mobile sand dune is therefore considered futile in the short term, as the continued natural migration of the dunes to the north would smother the rehabilitated areas.

Continued sand extraction of the northern dune front will act to halt the advancing dune, preventing it from smothering more vegetation. The sand extraction operations therefore work to protect the remnant vegetation by stopping the advancement of the dunes.

Weed management:

It is considered that the sand extraction activities represent a relatively low risk for the transmission of weed species. Clean sand is extracted from the highly mobile sand dunes and placed onto trucks. No top soil is excavated or disturbed as part of the sand extraction works, minimising the potential spread of weeds. The access road is covered in dune sand and the trucks access directly onto Brand Highway.

It could be reasonably established that the public off-road vehicles that frequent the area pose a greater risk of weed transmittal. The access road is open to the public throughout the year, with a large number of 4WD vehicles accessing the beach and coastal tracks each day. It would be onerous for the proponent to implement any form of weed management given the level of uncontrolled access throughout the area.

Cultural:

A Registered Aboriginal Heritage site (ID 5287 Southgates Burial Site) is located in the centre of the land. No excavation is proposed within this area and in any event the site is protected under section 17 of the *Aboriginal Heritage Act 1972*, whereby a person who excavates, destroys, damages or in any way alters an Aboriginal site commits an offence.

RELEVANT PRECEDENTS:

Council at its meeting held on 22 March 2016 considered the Scheme amendment over the area and as part of those deliberations resolved to:

Direct the CEO to ensure that all conditions of the extractive industries permit issued in the area known as Southgates have been met, in particular as they relate to the volume of material removed annually and initiate a full review of the mining operations.

The author is not aware of any other relevant precedents.

COMMUNITY/COUNCILLOR CONSULTATION:

The application was advertised in accordance with the provisions of Schedule 2, Part 8, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The advertising period was for 18 days (commencing on Tuesday 19 July 2016 and concluding on Friday 5 August 2016) and involved the following:

1. A sign was placed on-site;
2. A notice appeared in the Geraldton Guardian on Tuesday 19 July 2016;
3. The application received front page coverage in the Geraldton Guardian on 22 July 2016;
4. The application was available on the City's website;
5. The application was publicly displayed at the Civic Centre;
6. The application was referred to the adjacent property owner to the north; and
7. The application was referred to the following:
 - Department of Agriculture and Food;
 - Department of Environment Regulation;
 - Department of Parks and Wildlife;
 - Department of Aboriginal Affairs;
 - Department of Mines and Petroleum;
 - Department of Lands;
 - Main Roads WA; and
 - Northern Agricultural Catchments Council.

Submissions:

As a result of the advertising, a total of 28 submissions were received (12 clearly objecting and 9 supporting the application). A copy of the actual submissions received are included as Confidential Attachment No. DCS295D.

The proponent was afforded the opportunity to respond to the main issues raised in the submissions and their response is included as Confidential Attachment No. DCS295E.

There has been various consultations with Councillors on the matter.

LEGISLATIVE/POLICY IMPLICATIONS:

Town Planning Scheme 1A:

The land is a 'Local Scheme Reserve' for the purpose of 'Dune Preservation' under the Scheme. Where an application is made with respect to land within a reserve, the Council shall have regard to the ultimate purpose intended for the reserve.

Of note is that the land is subject to an amendment to the Scheme to rezone the land for urban development (incorporating a foreshore area). It could therefore be reasonably argued that the ultimate purpose intended for the reserve is not purely for dune preservation but rather some form of urban development. This is further reinforced by the lands designation as a 'Development Investigation Area' under the Local Planning Strategy (refer to 'Regional Outcomes' section of this report).

It should also be noted that the land is private freehold land and is not part of any Crown reserve.

Planning and Development Act 2005:

If the application is approved by Council, should there be any breaches to the development approval then Part 13 of the Act applies as follows:

Unless otherwise provided, a person who commits an offence under this Act is liable to a fine of \$200,000 and, in the case of a continuing offence, a further fine of \$25,000 for each day during which the offence continues.

Extractive Industry local planning policy:

The objectives of this policy are:

- To set out the matters which are to be taken into account when considering applications for an extractive industry.
- To detail the specific requirements and minimum standards for the establishment of an extractive industry.
- To ensure extractive industry occurs with minimal detriment to the local amenity and environment, and in a manner which allows for future use and development consistent with long-term planning intentions for the area.

The submitted application has provided sufficient information relevant to the particulars of the site and the operations proposed.

In making a determination under the Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with the Scheme.

It is considered that the application is consistent with the primary objective of the policy which is *'to ensure extractive industry occurs with minimal detriment to the local amenity and environment, and in a manner which allows for future use and development consistent with long-term planning intentions for the area.'*

FINANCIAL AND RESOURCE IMPLICATIONS:

There are no financial or resource implications, however should Council refuse the application and the proponent seeks a review of the decision, a further cost is likely to be imposed on the City through its involvement in the State Administrative Tribunal process.

INTEGRATED PLANNING LINKS:

Title: Environment	Revegetation-Rehabilitation-Preservation
Strategy 2.1.5	Preserving and managing the coastal environment in three distinct types based on high, moderate and low degrees of human interaction
Title: Economy	Employment
Strategy 4.3.1	Promoting and supporting sustainable agriculture, small scale farms and market gardens to bring people

	and market vitality to the area
Title: Governance	Planning and Policy
Strategy 5.2.3	Addressing cultural heritage issues and the preservation and enhancement of natural areas as part of the development process
Strategy 5.2.7	Ensuring efficient and effective delivery of service

REGIONAL OUTCOMES:

Local Planning Strategy:

This Strategy represents the land use planning response to the City's strategic community vision. It guides long-term land use planning and provides the rationale for land use and development controls.

The land has been identified in the Strategy within 'Development Investigation Area 8 (Cape Burney)'. The Strategy considers the ultimate land uses may include urban, a district centre with community and public purposes subject to future rezoning and/or structure planning.

With regard to the coast, one of the key actions from the Strategy is to ensure land use decision making is based on the best available science regarding coastal processes. This has been provided by the proponent via the *Southgate Dunes Sediment Feed Analysis* report.

RISK MANAGEMENT:

By not approving the application the proponent may seek a review of the decision from the State Administrative Tribunal.

Given the mobile nature of the dune system, failure to adequately manage the mobility of the dune could result in an increased risk to public safety of Brand Highway road users and nearby residents.

ALTERNATIVE OPTIONS CONSIDERED BY CITY OFFICERS:

Southgates dunes is a highly mobile dune system, moving to the north at approximately 10m/yr. The sand dunes are expected to continue to move into the proposed extraction area for the foreseeable future thereby creating a risk for surrounding residents and the Brand Highway.

Whilst the 'Dune Preservation' reserve over the land in the Scheme is acknowledged, the ultimate purpose intended for the land is clearly not one for purely 'Dune Preservation'. The land is subject to an amendment to rezone the land for urban development and indeed the City's Local Planning Strategy designates the area as a 'Development Investigation Area'.

As part of the amendment process the land was subject to a full environmental review under the *Environmental Protection Act 1986*. This involved a full coastal processes analysis, by specialist coastal engineers, into the movement of the Southgates dunes and its contribution to the coastal sediment supply. Extracting sand from the northern front of the dune system is considered to have very little or no impact on the sand feed into the coastal system.

Whilst the recreational value of the dunes is acknowledged, it must be noted that this application is over freehold land and not public crown reserve land.

Issues regarding noise, traffic, public safety and aboriginal sites are either controlled via other legislation or as conditions proposed to be placed on the application.

It is considered that the application is consistent with the primary objective of the Extractive Industry local planning policy which is *to ensure extractive industry occurs with minimal detriment to the local amenity and environment, and in a manner which allows for future use and development consistent with long-term planning intentions for the area.*

Based on the planning merits of the application, the option to refuse the application is not supported.

The option to defer is not supported as there is considered sufficient information for Council to determine the matter. In any event a deferral may trigger a review right under Schedule 2, Part 9, clause 75 of the *Planning and Development (Local Planning Schemes) Regulations 2015* which states that the local government is to be taken to have refused to grant the development approval if it has not made a determination within 90 days of receipt of the application (being 27 September 2016).

9 CLOSURE

APPENDIX 1 – ATTACHMENTS

Attachments are available on the City of Greater Geraldton website at:
<http://www.cgg.wa.gov.au/council-meetings/>