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LOCAL GOVERNMENT ACT 1995

SHIRE OF CHITTERING

EXTRACTIVE INDUSTRIES LOCAL LAW 2014

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EXTRACTIVE INDUSTRIES LOCAL LAW 2014

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on 17 September 2014 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is cited as the *Shire of Chittering Extractive Industries Local Law 2014*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Purpose and effect

(1) The purpose of this local law is to establish requirements and conditions with which extractive industries, within the district, must comply.

(2) The effect of this local law is to provide for the regulation, control and management of extractive industries.

1.4 Interpretation

(1) In this local law, unless the context otherwise requires—

Act means the *Local Government Act 1995*;

carry on an extractive industry means quarrying, excavating, crushing and screening for stone, gravel, sand, clay, limestone, loam and other basic raw materials;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

excavation includes quarry;

General Regulations means the *Local Government (Functions and General) Regulations 1996*;

land, unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

licence means a licence issued under this local law or any repealed local law of the local government relating to extractive industries;

licensee means the person named in the licence as the licensee;

local government means the Shire of Chittering;

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

person does not include the local government;

secured sum means the sum required to be paid or the amount of a bond, guarantee or other security, under clause 5.1; and

site means the land specified by the local government in a licence.

1.5 Application

This local law—

(a) subject to paragraphs (b), (c), (d) and (e)—

  (i) applies throughout the district; and

  (ii) applies to an excavation whether commenced before or after the commencement of this local law, unless that excavation is conducted under a valid, ongoing licence issued under the local law repealed by clause 1.6 of this local law;

(b) does not apply to the extraction of 'minerals' as defined in the *Mining Act 1978*;

(c) does not apply to the carrying on of an extractive industry on Crown land;

(d) does not apply to the carrying on of an extractive industry on a lot by the owner or occupier of that lot where the material extracted is not sold and is used solely on that lot or on an adjacent lot owned or occupied by the person carrying on the extractive industry; and

(e) does not affect the validity of a licence issued under a local law repealed by clause 1.6 of this local law if that licence is in force at the commencement of this local law.

1.6 Repeal

The *Shire of Chittering By-law Relating to Extractive Industries* published in the *Government Gazette* on 19 July 1996 is repealed.

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

2.1 Extractive industries prohibited without licence

A person must not carry on an extractive industry—

(a) unless the person is the holder of a valid and current licence; and

(b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

2.2 Application for licence

(1) A person seeking the issue of a licence in respect of any land must apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicants, the owner of the land and any occupier of the land to the CEO together with—

(a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—

(i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;

(ii) the land on which the excavation site is to be located;

(iii) the external surface dimensions of the land;

(iv) the location and depth of the existing and proposed excavation of the land;

(v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;

(vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;

(vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;

(viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;

(ix) the location and description of existing and proposed fences, gates and warning signs around the land; and

(x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;

(b) 3 copies of a works and excavation programme containing—

(i) the nature and estimated duration of the proposed excavation for which the licence is applied;

(ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;

(iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;

(iv) details of the depth and extent of the existing and proposed excavation of the site;

(v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;

(vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;

(vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;

(viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;

(ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;

(x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;

(xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;

(xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;

(xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land to be prepared by a suitably qualified industry consultant;

(xiv) a description of the measures to be taken to minimise the destruction of existing vegetation; and

(xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;

(c) 3 copies of a rehabilitation and decommissioning programme indicating—

(i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;

(ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;

(iii) the method by which topsoil is to be replaced and revegetated;

(iv) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;

(v) how rehabilitated areas are to be maintained;

(vi) the programme for the removal of buildings, plant, waste and final site clean-up; and

(vii) how any face is to be made safe and batters sloped;

(d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;

(e) a certificate from a licensed surveyor certifying—

(i) the extent of any existing excavation on the proposed excavation site; and

(ii) the correctness of the plan referred to in paragraph (a) and the datum peg and related point referred to in paragraph (d);

(f) copies of all land use planning approvals required under any planning legislation;

(g) the consent in writing to the application from the owner of the excavation site;

(h) any other information that the local government may reasonably require;

(i) the licence application fee specified by the local government from time to time;

(j) copies of any environmental approval required under any environmental legislation; and

(k) copies of any geotechnical information relating to the excavation site.

(2) All survey data supplied by an applicant for the purpose of subclause (1) must comply with Australian Height Datum and Australian Map Grid standards.

PART 3—DETERMINATION OF APPLICATION

3.1 Determination of application

(1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.2 and, in any event, must refuse an application for a licence where planning approval for the proposed extractive industry use of the land has not first been obtained.

(2) The local government may, in respect of an application for a licence—

(a) refuse the application; or

(b) approve the application—

(i) over the whole or part of the land in respect of which the application is made; and

(ii) on such terms and conditions, if any, as it sees fit.

(3) Where the local government approves an application for a licence, it must—

(a) determine the licence period, not exceeding 10 years from the date of issue; and

(b) approve the issue of a licence in the form determined by the local government from time to time.

(4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—

(a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, imposed by the local government from time to time under sections 6.16 to 6.19 of the Act;

(b) payment of the secured sum, if any, imposed under clause 5.1;

(c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and

(d) a copy of the public liability insurance policy required under clause 7.1(1), must issue the licence to the applicant.

(5) Without limiting subclause (2), the local government may impose conditions in respect of—

(a) the orientation of the excavation to reduce visibility from other land;

(b) the appropriate siting of access thoroughfares, buildings and plant;

(c) the stockpiling of material;

(d) the number and size of trucks entering and leaving the site each day;

(e) the hours of operation;

(f) the depths below which a person must not excavate;

(g) distances from adjoining land or thoroughfares within which a person must not excavate;

(h) the control of dust and wind-blown material;

(i) the prevention of the spread of dieback or other disease;

(j) the drainage of the excavation site and the disposal of water;

(k) a requirement for the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;

(l) any other matter for properly regulating the carrying on of an extractive industry; and

(m) a requirement for the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence.

(6) Without limiting subclause (2), the local government may impose conditions in respect of—

(a) the route or routes to be utilised by trucks entering and leaving the site;

(b) a requirement for all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour, vibration and other forms of nuisance to the satisfaction of the local government;

(c) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;

(d) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;

(e) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation; and

(f) a requirement for the licensee to enter into an agreement with the local government in respect of any conditions imposed under this local law;

3.2 Transport of materials

(1) The local government may, from time to time, prescribe by giving written notice to the licensee—

(a) that if the proposed routes are not suitable for the proposed haulage, the local government may determine alternative routes to be taken by the licensee for the transport of materials from the site through the roads within the district;

(b) the tonnage limits to be transported along a particular route; and

(c) the times during which materials from the site may be transported through the roads within the district.

(2) The licensee must pay to the local government, as and when required by the local government, the costs or estimated costs, as determined by the local government, of repairs and maintenance to any road that are required as a result of the transport of materials from the site.

(3) If a road on a route prescribed under subclause (1) is inadequate for the transport of materials from the site, the local government may require the licensee to pay all or part of the costs or estimated costs, as determined by the local government, of upgrading the road to the standard required by the local government for these purposes.

(4) Each licence is to be taken to be subject to a condition requiring the licensee to comply with this clause.

3.3 Payment of annual licence fee

On or before 30 June in each year, a licensee must pay to the local government the annual licence fee imposed by the local government from time to time under sections 6.16 to 6.19 of the Act.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE

4.1 Transfer of licence

(1) An application for the transfer of a licence must—

(a) be made in writing;

(b) be signed by the licensee and the proposed transferee of the licence;

(c) be accompanied by the current licence;

(d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;

(e) include any information that the local government may reasonably require; and

(f) be forwarded to the CEO together with the fee determined by the local government from time to time.

(2) Upon receipt of any application for the transfer of a licence, the local government may—

(a) refuse the application; or

(b) approve the application on such terms and conditions, if any, as it sees fit.

(3) Where the local government approves an application for the transfer of a licence, the local government must transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.

(4) Where the local government approves the transfer of a licence it is not required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

4.2 Cancellation of licence

(1) The local government may cancel a licence where the licensee has—

(a) failed to comply with—

(i) any of the conditions of an excavation licence;

(ii) any provision of this local law; or

(iii) any term of an agreement with the local government made in accordance with clause 3.1(5)(m) or 3.1(6)(f),

(b) and the default continues for a period of 14 days from service on the licensee of written notice from the local government of such default;

(c) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;

(d) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;

(e) failed to pay the annual licence fee within 30 days under clause 3.3; or

(f) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal, as the case may be, under clause 7.1(2).

(2) Where the local government cancels a licence under this clause—

(a) the local government must advise the licensee in writing of the cancellation;

(b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and

(c) the local government is not required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

4.3 Renewal of licence

(1) A licensee who wishes to renew a licence must apply in writing to the local government at least 90 days before the date of expiry of the licence and must submit with the application for renewal—

(a) the fee determined by the local government from time to time;

(b) a copy of the current licence;

(c) a plan showing the contours of the excavation carried out to the date of that application;

(d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clause 2.2(1)(b) and (c); and

(e) any other things referred to in clause 2.2.

(2) The local government may waive any of the requirements specified in clause 4.3(1)(d) and (e).

(3) Upon receipt of an application for the renewal of a licence, the local government may—

(a) refuse the application; or

(b) approve the application on such terms and conditions, if any, as it sees fit.

PART 5—SECURED SUM AND ITS APPLICATION

5.1 Security for restoration and reinstatement

(1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government must require that—

(a) as a condition of a licence; or

(b) before the issue of a licence,

the licensee must give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in the amount determined by the local government from time to time.

(2) A bond, in the amount set out in the local government's schedule of fees and charges as amended from time to time that is required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

(3) Subject to clause 5.2, any interest accrued in respect of the bond paid into the fund under subclause (2) is to be returned to the licensee at the completion of the restoration and reinstatement works required by the licence conditions or otherwise under this local law.

5.2 Use by the local government of secured sum

(1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—

(a) within the time specified in those conditions; or

(b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then, subject to the local government giving the licensee 14 days' notice of its intention to do so—

(i) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and

(ii) the licensee must pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.

(2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

(4) To avoid doubt, the local government's powers under this clause 5.2 are in addition to its other enforcement powers under this local law.

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 must not excavate within—

(a) 50 metres of the boundary of any land on which the excavation site is located including earth bund and haul road, unless the site is located within the Special Control Area—Basic Raw Materials as depicted in the *Shire of Chittering Town Planning Scheme No 6* Map, where a lesser distance may be allowed with written consent from adjoining landowners;

(b) 20 metres of any land affected by a registered grant of easement;

(c) 40 metres of any watercourse and/or wetland;

(d) 50 metres of any thoroughfares; or

(e) 500 metres of any adjoining residence unless approved by Council and adjoining neighbours in writing in accordance with the Department of Environment and Conservation Guidelines, March 2011—"*A Guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other activities*."

6.2 Prohibitions

A licensee must not—

(a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government or the Department of Environment Regulation/Department of Parks and Wildlife) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and the Department of Environment Regulation/Department of Parks and Wildlife, subject to any conditions which the local government may impose in accordance with clause 3.1(5);

(b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mines and Petroleum; or

(c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

6.3 Blasting

(1) A person must not carry out or permit to be carried out any blasting in the course of excavating unless—

(a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;

(b) subject to subclause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;

(c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994* as amended from time to time, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and

(d) in compliance with any other conditions imposed by the local government concerning—

(i) the time and duration of blasting;

(ii) the purposes for which the blasting may be used; and

(iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

(2) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

6.4 Obligations of the licensee

A licensee must—

(a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;

(b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that signs—

(i) are not less than 1 metre high and not less than 1 metre wide; and

(ii) bears the words "DANGER EXCAVATIONS KEEP OUT";

(c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;

(d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;

(e) take all reasonable steps to prevent the emission of dust, noise, vapour, vibration and other forms of nuisance from the excavation site; and

(f) otherwise comply with the terms and conditions set out in, or applying in respect of, the licence.

PART 7—MISCELLANEOUS PROVISIONS

7.1 Public liability

(1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than $10,000,000 in respect of any one claim relating to any of the extractive industry operations.

(2) The licensee must provide to the local government—

(a) within 14 days after the issue of the policy taken out under subclause (1), a copy of that policy; and

(b) within 14 days of each renewal date, evidence of that renewal.

7.2 Mines Safety and Inspection Act and Environmental Protection Act

(1) Where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must—

(a) comply with all applicable provisions of that Act or those Acts; and

(b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.

(2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

7.3 Notice of cessation of operations

(1) Where a licensee intends to cease carrying on an extractive industry—

(a) temporarily for a period in excess of 6 months; or

(b) permanently,

the licensee must, as well as complying with clause 7.4, give the local government not later than one week after those operations have ceased, written notice of the cessation and, in the case of a temporary cessation, details of the period of the intended cessation.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date—

(a) that the licensee specifies in the written notice as the date on which it intends to cease carrying on the extractive industry; or

(b) that the licensee ceases to carry on the extractive industry,

whichever is the earlier.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

7.4 Works to be carried out on cessation of operations

Where the carrying on of an extractive industry on the site permanently ceases, or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee must, as well as complying with clause 7.3, restore and reinstate the excavated site—

(a) in accordance with the rehabilitation and decommissioning programme as required by clause 2.2(1)(c) that has been approved by the local government; or

(b) in such other manner as the local government may subsequently agree in writing with the licensee.

PART 8—OBJECTIONS AND REVIEW

8.1 Objections and review

When the local government makes a decision as to whether it will—

(a) grant a person a licence; or

(b) renew, vary, or cancel a licence,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the General Regulations apply to that decision.

PART 9—ENFORCEMENT

9.1 Offences and penalties

(1) A person who breaches a provision of this local law commits an offence.

(2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding $5,000 and, if the offence is of a continuing nature, to an additional penalty not exceeding $500 for each day or part of a day during which the offence had continued.

9.2 Modified penalties

(1) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule 1.

9.3 Forms

For the purposes of this local law—

(a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the General Regulations; and

(b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the General Regulations.

Schedule 1

PRESCRIBED OFFENCES

MODIFIED PENALTIES

[cl. 9.2(1)]

Item No.	Clause No.	Description	Modified Penalty $
1	2.1(a)	Excavate without a valid and current licence	500
2	2.1(b)	Carry on extractive industry without licence or in breach of terms and conditions	500
3	6.1	Excavate near boundary	250
4	6.2(a)	Removal of trees or shrubs near within 40 metres of the boundary without approval	350
5	6.2(b)	Store without required approval explosives or explosive devices	350
6	6.2(c)	Fill or excavate, contrary to the term and conditions of the licence	350
7	6.3(1)(b)	Carry out or permit to be carried out blasting outside hours approved by the local government	300
8	6.3(1)(d)	Failure to comply with conditions imposed by the local government in relation to blasting activities	350
9	6.3(2)	Carry out or permit to be carried out any blasting on Saturday, Sunday, or public holiday without approval	250
10	6.4(a)	Failure to securely fence and/or keep gateways locked where required	350
11	6.4(b)	Failure to erect and maintain warning signs as required	350

Item No.	Clause No.	Description	Modified Penalty $
12	6.4(c)	Failure to drain and keep drained any excavation to which the licence applies	350
13	6.4(f)	Failure to comply with the conditions of licence imposed by the local government	500
14		All other offences not specified	200

Dated 8 October 2014.

The Common Seal of the Shire of Chittering was affixed by authority of a resolution of the Council in the presence of—

ROBERT HAWES, President.
GARY TUFFIN, Chief Executive Officer.

From: Sarah Mchiggins
To: Chatter
Subject: Submission on the Draft Shire of Chittering Extractive Industries Local Law 2026
Date: Thursday, 23 July 2026 5:29:12 PM

To the Shire of Chittering,

Thank you for the opportunity to comment on the Draft Extractive Industries Local Law 2026.

I support the Shire's efforts to strengthen the regulation of extractive industries and to ensure that quarrying activities are undertaken responsibly, with appropriate consideration for neighbouring landowners, local roads and the environment.

Having reviewed the draft, I believe there are several areas where the local law could be strengthened to provide greater certainty and protection for the Chittering community.

1. Community consultation

The draft does not appear to require formal consultation with neighbouring landowners before an extractive industry licence is granted. Given the potential impacts of quarry operations, including noise, dust, traffic and visual impacts, I believe adjoining and nearby landowners should be formally notified of applications and provided with an opportunity to make submissions before a decision is made.

2. Environmental protection

While the draft requires environmental information to accompany an application, I encourage the Shire to require independent ecological assessments where native vegetation, waterways, wetlands or threatened species may be affected. Rehabilitation requirements should also be monitored throughout the life of the operation rather than only at closure.

3. Traffic management

Heavy vehicle movements can significantly affect rural roads and neighbouring communities. I support the provisions allowing the Shire to determine haulage routes and require road upgrades. I also recommend that applicants be required to provide comprehensive traffic impact assessments that consider local residents, school bus routes, equestrian users and road safety.

4. Dust, noise and ongoing monitoring

The draft requires measures to minimise dust and comply with noise regulations. I recommend strengthening these provisions by requiring ongoing monitoring where appropriate and making monitoring results available to the community to improve transparency and confidence.

5. Rehabilitation security

The requirement for rehabilitation bonds is important. I encourage the Shire to ensure that security amounts are regularly reviewed so they remain sufficient to cover the true cost of rehabilitation should an operator fail to complete the required works.

6. Protection of rural lifestyle

Many residents choose to live in Chittering because of its rural character, environmental values and lifestyle. When determining licence applications, I encourage the Shire to give significant weight to protecting these values alongside the economic benefits of extractive industries.

Thank you for considering my submission.

Yours sincerely,

Sarah McHiggins

From: Foley, Brendan
To: Chatter
Subject: Submission against proposed Shite of Chittering extractive industry local law - Bocalusa Properties Pty Ltd
Date: Thursday, 27 August 2026 11:14:09 AM
Attachments: image001.jpg
Chittering submission against extractive industry local law - Bocalusa Properties.pdf

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[Confidential]

Attention: Anna Bateman, Governance Officer
On behalf of **Bocalusa Properties Pty Ltd**, the owner of 1 Djarlma Road, Chittering, please see the **attached** submission against adoption of the proposed *Shire of Chittering Extractive Industries Local Law 2026*.
If you have any questions, please feel free to call me on my mobile, or send an email.
Regards

Brendan Foley
Special Counsel

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Our ref BRF:

27 August 2026

Melinda Prinsloo
Chief Executive Officer
Shire of Chittering
By Email: Chatter@chittering.wa.gov.au

Attention: Anna Bateman, Governance Officer

Dear Ms Prinsloo

SUBMISSION AGAINST ADOPTION OF THE PROPOSED SHIRE OF CHITTERING EXTRACTIVE INDUSTRIES LOCAL LAW 2026

1 About the submitter

1.1 This submission is made on behalf of **Bocalusa Properties Pty Ltd**, the owner of 1 Djarlma Road, Chittering (486ha).

2 Executive Summary

2.1 This submission objects to the proposed *Shire of Chittering Extractive Industries Local Law 2026 and asks that it not be adopted. The proposed Local Law maintains a parallel regulatory regime that duplicates matters already comprehensively addressed by* the modern planning, environment and safety framework established under:

(a) The ***Planning and Development Act 2005*** (**PD Act**);

(b) Part IV of the ***Environmental Protection Act 1986*** (**EP Act**) for matters with significant impacts on the environment;

(c) Part V of the **EP Act** dealing with works approvals, prescribed premises licencing, native vegetation clearing and noise emissions;

(d) *The **Work Health and Safety Act 2020** (**WHS Act**),* particularly the ***Work Health and Safety (Mines) Regulations 2022*** *(**WHS Mines Regs**) and **Work Health and Safety (General) Regulations** 2022 (**WHS General Regs**)*; and

(e) ***Dangerous Goods Safety Act 2004*** *(**DGS Act**),* particularly the ***Dangerous Goods Safety (Explosives) Regulations 2007*** (**DGS Regs**).

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2.2 Historically, local laws regulating extractive industries served an important purpose. The Shire's proposed law seeks to largely maintain a template wording that was introduced in 1962 under the ***Local Government (Miscellaneous Provisions) Act 1960*** (**LGMP Act**), and published as the ***Local Government Model By-Laws (Extractive Industries) No.9*** *in 1962* (**1962 Bylaw**). That template was created at a time when many parts of state were not covered by a planning scheme, and it was the only way in which impacts of such activities could be appropriately regulated.

2.3 Importantly, the 1962 Bylaw was repealed in late 2005, largely to coincide with the commencement of the ***PD Act***, on the basis that extractive industry is development and should be regulated under planning schemes.

2.4 Effectively, the proposed 1962 Bylaw template was designed before modern local planning schemes, before State Planning Policies dealing with environmental protection and transport impacts, before contemporary environmental approval processes administered by the Environmental Protection Agency (**EPA**) and Department of Water and Environmental Regulation (**DWER**) and before health and safety aspects were regulated by the Department of Local Government, Industry Regulation and Safety (**DLGIRS**).

2.5 The regulatory landscape has fundamentally changed since 1962.

2.6 Today, proposals for extractive industries are subject to comprehensive assessment through other state level legislation, including consideration of land use compatibility, amenity, environmental impacts, traffic, rehabilitation, setbacks, buffers, landscaping and operating conditions. Development approvals are capable of imposing detailed, site-specific conditions tailored to the circumstances of each proposal. Those approvals are supported by statutory rights of review through the State Administrative Tribunal and are informed by referrals to specialist agencies where appropriate.

2.7 Against that background, the proposed Local Law imposes a second approval regime that duplicates the very matters already assessed through mandatory State processes. It adds no regulatory protection. It burdens proponents with unnecessary duplication, increases costs, creates uncertainty and produces the real risk of inconsistent outcomes between the mandatory approvals and the local law requirements.

2.8 Recent reforms elsewhere in Western Australia demonstrate a fundamentally different approach. For example:

(a) Most recently, the Shire of Toodyay (2025) repealed its Extractive Industries Local Law, replacing it with *Local Planning Policy No. 7 – Mining and Resource Extraction*. In publicly advertising the proposal, the Shire stated that the purpose of the reform was to consolidate approval processes, remove the Extractive Industries Local Law and streamline approvals. That approach recognises that modern planning legislation provides the appropriate framework for assessing extractive industry proposals.

(b) For the same reasons, the City of Wanneroo repealed its extractive industries local law in 2023 and the City of Gosnells repealed its extractive industries local law in 2017.

(c) Similarly, the Shire of Augusta Margaret River Extractive Industries Local Law was amended to align with contemporary development approvals. The Shire has retained its local law only to deal with legacy extractive operations that pre-date the modern planning framework. Clause 2.1(b) of their local law provides that if there is a current planning approval for extractive industry under the current planning scheme, then no separate local law licence is required.

(d) The State Government has likewise recently recognised, through the Cambridge Endowment Lands reforms (2026), that development standards historically contained within local laws have become redundant where equivalent matters are now addressed through planning legislation. In introducing those reforms, the Minister observed that retaining obsolete

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development controls within local laws creates uncertainty and confusion within the planning framework.

(e) The Western Australian Parliament's Joint Standing Committee has published advice which identifies that local laws should not deal with matters that are appropriately dealt with under town planning schemes.

2.9 The Shire's proposed Local Law moves in the opposite direction:

(a) Rather than simplifying and removing duplicative regulation, it seeks to maintain a second layer of assessment over matters already addressed by other mandatory legislation.

(b) Rather than providing flexibility to assess proposals on their planning and environmental merits, it replaces planning and environmental discretion with rigid statutory controls that cannot readily respond to the unique circumstances of individual sites.

(c) Rather than reducing duplication, it expands it.

2.10 This submission therefore makes three principal recommendations.

(a) First, the proposed Local Law should not proceed because the Shire has not demonstrated that a separate extractive industries local law remains necessary in light of the contemporary planning, environment and safety regulatory framework;

(b) Second, if the Shire considers that a local law continues to serve a legitimate purpose, its application should be confined to legacy extractive operations that are not regulated by contemporary planning and regulatory approvals; and

(c) Finally, if the Local Law is nevertheless progressed in its current form, substantial amendments will be required to address the legal, practical and administrative deficiencies identified throughout this submission.

3 The Local Law Duplicates the Existing Regulatory Framework

3.1 Modern extractive industry proposals are already comprehensively and mandatorily assessed through the existing planning, environmental, safety and dangerous goods regulatory regimes. There is no aspect of the proposed Local Law that is not already fully and mandatorily regulated under that framework, and there is no matter that cannot be appropriately and specifically addressed through the existing legislation and regulation. The table below demonstrates, matter by matter, that every requirement of the proposed Local Law is already duplicated by mandatory State regulation:

Local Law requirement	Existing regulatory framework
Site plans, contours, excavation areas and site layout	Development application and approved plans under the **PD Act**.
Access, haul routes and truck movements	Development approval and traffic/access assessments in support of application under the **PD Act**.
Road maintenance, upgrading and use	Development approval conditions under the **PD Act** and arrangements with Main Roads for RAV access where required under the ***Main Roads Act 1930*** (**Main Roads Act**) and ***Road Traffic Act 1974*** (**RT Act**) and the ***Road Traffic (Vehicles) Regulations 2014*** (**RT Regs**).

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Local Law requirement	Existing regulatory framework
Landscaping and screening	Development approval conditions under the **PD Act**.
Rehabilitation and decommissioning	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under Part IV and V of the **EP Act**.
Rehabilitation security/bond	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act**.
Setbacks and buffers	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act.** Note that generic setbacks are set out in policy, such as local planning policies and under the EPA's *Guidance Statement No. 3* – Separation Distances. If generic buffers cannot be met, proponents must conduct detailed risk assessments, air dispersion modelling, acoustic studies or visual/amenity impact studies etc to justify alternative or reduced setbacks.
Noise, dust and vibration	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act.**
Blasting	Development approval conditions under the **PD Act,** environmental approval conditions and licencing under the **EP Act,** licencing and approvals under the **DGS Act** and **DGS Regs** and compliance with the *Environmental Protection (Noise) Regulations 1997* (**Noise Regs**).
Vegetation clearing	Development approval conditions under the **PD Act**, environmental approval conditions and licencing under the **EP Act**, including approvals under the ***Environmental Protection (Clearing of Native Vegetation) Regulations 2004*** (**Clearing Regs**) and beds and banks approval under the ***Rights in Water and Irrigation Act 1914.***
Drainage, water management and water supply	Development approval conditions under the **PD Act**, environmental approval conditions and licencing under the **EP Act**, including approvals under the ***Environmental Protection (Clearing of Native Vegetation) Regulations 2004*** and beds and banks approval and water licencing under the ***Rights in Water and Irrigation Act 1914.***
Aboriginal Heritage and other Heritage considerations	Consent or ministerial approval under the *Aboriginal Heritage Act 1972* (**AH Act**), *Heritage Act 2018* (**Heritage Act**) and Development approval conditions under the **PD Act**,

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Local Law requirement	Existing regulatory framework
Fencing, access and warning signs	Development approval conditions under the **PD Act**, Works Approval and Prescribed Premises licencing conditions under the **EP Act**, operational/safety requirements under the **WHS Act**, **WHS Mines Regs** and **WHS General Regs, DGS Act, DGS Regs.**
Processing plant and associated infrastructure	Development approval conditions under the PD Act, Works Approval and Prescribed Premises licencing conditions under the EP Act.
Cessation and rehabilitation	Development approval conditions under the **PD Act**, Works Approval and Prescribed Premises licencing conditions under the **EP Act**, native vegetation clearing conditions under the **Clearing Regs**.
Annual licence fee: $330.00 per year if the overall excavation area is less than 5 hectares, and $660.00 if over	NA – not required.

3.2 The Local Law itself expressly permits the Shire to impose conditions concerning haulage routes, processing plant, noise, dust, landscaping, progressive rehabilitation, restoration and reinstatement, retaining walls and agreements with the Shire. It separately permits the Shire to prescribe haulage routes, tonnage limits and transport times and to recover road repair and upgrading costs – these are all matters that are addressed through the planning approval.

3.3 The duplication is not theoretical. The Local Law establishes a second substantive assessment and approval regime for matters which will already have been considered in detail when development approval and other mandatory approvals and licences are granted.

3.4 That creates precisely the risk of overlapping and inconsistent approvals which modern regulatory practice should seek to avoid.

3.5 The experience of the **Shire of Toodyay**, together with a number of other local governments is particularly relevant. Toodyay identified the duplication between its planning approval and extractive industries licensing regimes and responded by repealing its Extractive Industries Local Law and consolidating regulation within its planning framework.

4 The Prescriptive Requirements Are Not Capable of Responding Properly to Site-Specific Circumstances

4.1 The Local Law's mandatory setbacks remain a particular concern. Clause 6.1 explicitly prohibits all excavation within:

(a) 50 m of the land boundary, including earth bunds and haul roads;

(b) 20 m of a registered easement;

(c) 40 m of a watercourse or wetland;

(d) 50 m of a thoroughfare; and

(e) 500 m of an adjoining residence, subject to the limited exceptions stated.

4.2 The problem is not merely whether those distances are appropriate. The more fundamental problem is that a fixed setback from a cadastral boundary is not necessarily a measure of actual impact.

4.3 The appropriate separation for an extractive industry will depend upon matters such as topography, vegetation, visual screening, noise, dust, blasting, groundwater, surrounding land uses and the location of actual infrastructure and surrounding sensitive land uses. The planning and environmental framework provides generic separation distances, which may be used as a guide, and where site specific studies can inform lesser or greater setbacks in appropriate circumstances.

4.4 For example:

(a) **Road reserves.** A 50 m setback applies to a "thoroughfare" irrespective of whether the reserve is an operational road. Regional areas contain numerous unmade road reserves which may never be constructed and which may contain native vegetation. Some reserves within the Shire exceed 80m in width, with road pavement located greater than 50m from property boundaries and for which there is no sightline due to vegetation or topography. There is no obvious planning benefit in imposing strict minimum setbacks with no variation provision to deal with site specific circumstances.

(b) **Road widening and takings.** An extraction area may be approved at an appropriate setback from a road reserve. If land is subsequently compulsorily acquired for road widening, or a new road, the cadastral boundary may change without any change to the operation or its actual impacts. The Local Law will nevertheless require the extraction area to move or cease completely.

(c) **Easements.** The mere existence of an easement does not establish that extraction within 20 m of its boundary will cause an adverse impact. An easement may protect infrastructure or a right to use which is located elsewhere. It can also lead to absurd outcomes. The relevant question should be whether the infrastructure or right protected by the easement requires protection—not simply whether an easement exists.

These are all matters which can and should be assessed through the planning and environmental processes on their merits.

5 The Setback Provisions of the Local Law Require an Unstated Discretion

5.1 There is a further difficulty with the setback provisions.

5.2 The Shire, in practice, and in respect of every existing licence issued within the Shire, permitted departures from the prescribed setbacks in circumstances that no stated discretion exists.

5.3 In particular, it is impossible for "haul roads" necessary to access an extraction area to not travel through a prescribed mandatory boundary setback.

5.4 Clause 6.1 does not confer a general power to waive or vary the prescribed setbacks. It states that a person "must not excavate" within the specified distances and expressly includes earth bunds and haul roads within the 50 m prohibition. The limited exceptions are those expressly identified in the clause.

5.5 Accordingly, while departures have been permitted in respect of every prior issued approval in practice, that appears to depend entirely upon an administrative discretion which the Local Law itself does not generally confer.

5.6 The consequence is potentially extraordinary: operations which the Shire has historically permitted are nevertheless technically non-compliant with the Local Law.

5.7 The Shire should not perpetuate a regulatory regime in which compliance depends upon an informal practice of departing from mandatory requirements which the instrument does not authorise the Shire to vary.

5.8 If flexibility is considered necessary, it should be expressly and transparently provided for. More fundamentally, the fact that such flexibility appears necessary is itself evidence that rigid statutory setbacks are not an appropriate mechanism for regulating extractive industries and that the appropriate mechanism is through the existing planning and environmental mandatory regulatory frameworks.

6 The Local Law Provides Insufficient Flexibility

6.1 The same issue arises more generally. The application requirements prescribe extensive information concerning contours, excavation, access, infrastructure, easements, drainage, stockpiles, staging, methods, vegetation, truck movements and other matters.

6.2 Not every proposal requires every item. Conversely, a particular proposal may require information which is not contemplated by the prescribed checklist.

6.3 The planning system appropriately allows the information required to be determined by reference to the circumstances of the individual application.

6.4 The Local Law should not impose a rigid checklist where some requirements may be unnecessary and others may be insufficient.

6.5 Similarly, while the Local Law allows conditions to be imposed on individual licences, it does not provide a general, transparent merits-based mechanism equivalent to the mandatory planning or environmental system for departing from the mandatory standards in clause 6.1.

6.6 That inflexibility is inappropriate for an industry in which proposals vary substantially in scale, location, geology, surrounding land use and environmental circumstances and offsite impacts.

7 Third Parties Should Not Have an Effective Veto Over Major Investment

7.1 The Local Law also contemplates circumstances in which compliance with the setback requirements depends upon written consent from adjoining landowners. For example, lesser setbacks within the Special Control Area require adjoining landowner consent, while the 500 m residence provision similarly contemplates approval by Council and adjoining neighbours.

7.2 This is problematic where a development may involve millions of dollars of investment and where there is the potential for opponents to force modification or cessation of an otherwise lawfully approved operation after commencement

7.3 An adjoining owner is entitled to participate in the planning and environmental processes and have legitimate concerns considered. That is fundamentally different from giving a third parties an effective veto over a development which has otherwise obtained approval.

7.4 There is also uncertainty when adjoining land changes hands.

7.5 If consent is given and the property is sold, it is unclear whether the consent binds the successor. If consent is refused and the property is subsequently sold, it is similarly unclear whether the new owner can reconsider the matter.

7.6 A long-term regulatory regime should not make the ability to operate an approved extractive industry dependent upon uncertain private decisions or future changes in land ownership.

8 The Local Law Should Not Apply to Modern Approved Developments

8.1 There is a sensible distinction between legacy extractive operations and new operations which have undergone contemporary planning assessment.

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8.2 There may be a legitimate regulatory purpose in retaining a local law for historical operations which pre-date comprehensive planning and environmental controls and are not subject to modern development approval conditions.

8.3 The position is different where a new extractive industry has received development and environmental approvals after detailed assessment of matters including setbacks, access, traffic, environmental impacts, rehabilitation and amenity.

8.4 In those circumstances, a second approval regime is difficult to justify.

8.5 The Shire of Augusta Margaret River provides a useful model because the continuing rationale for its extractive industries regulation is associated with legacy operations. That approach recognises that historical operations may require a different regulatory response from new developments subject to the contemporary planning system.

8.6 Accordingly, if the Shire is unwilling to abandon the Local Law entirely, it should at minimum provide that it does not apply to an extractive industry which has received development approval under the contemporary planning framework after an appropriate commencement date**.**

8.7 This would preserve the potential utility of the Local Law for legacy operations while avoiding duplication for new developments.

9 Conclusion

9.1 The issue is not whether extractive industries should be regulated. They plainly should be. The issue is **whether they need to be regulated twice**.

9.2 The proposed Local Law establishes a second approval regime which duplicates matters capable of being addressed through development approval and other statutory regimes. It introduces rigid setbacks which operate by reference to cadastral boundaries rather than actual impacts, relies in some circumstances upon private landowner consent, and lacks the flexibility necessary to respond appropriately to the circumstances of individual operations.

9.3 The apparent need for the Shire to depart in practice from its own prescribed setback requirements further demonstrates the difficulty with the proposed approach.

9.4 The Shire should therefore follow the contemporary approach adopted by Toodyay and **not proceed with the proposed Local Law**.

9.5 Alternatively, if the Shire considers that local law regulation remains necessary for legacy extractive operations, the Local Law should be confined to those operations and should expressly exclude extractive industries which have received contemporary development approval after an appropriate commencement date, consistent with the approach adopted by the Shire of Augusta-Margaret River.

9.6 That approach would retain regulation where there is a demonstrated regulatory need while avoiding the unnecessary duplication, uncertainty and additional burden which the proposed Local Law would impose upon modern approved developments.

Yours sincerely

Brendan Foley | Special Counsel
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From: rosanna.hindmarsh@chitteringlandcare.org.au
To: Chatter
Cc: Melinda Prinsloo; Jake Whistler; Anna Bateman
Subject: Submission for Review of the Extractive Industries local law 2026
Date: Thursday, 27 August 2026 3:17:46 PM
Attachments: SoC Submission for Extractive Industries local law 2026 270826.doc

Hi

Attached please find the submission for the Review of the Extractive Industry Local Law.

Thank you.

Kind regards

Rosanna

0439 911 792

Rosanna Hindmarsh, Secretary
Chittering Landcare Group
175 Old Gingin Road
PO Box 62
MUCHEA WA 6501
Centre Tel. 0493977426
Email: admin@chitteringlandcare.org.au
www.chitteringlandcare.org.au

Chittering Landcare Group
(CHITTERING VALLEY LAND CONSERVATION DISTRICT COMMITTEE)

27th August 2026

Attention: Ms Anna Bateman

Ms Melinda Prinsloo
CEO
Shire of Chittering
PO Box 70
BINDOON WA 6502

Dear Ms Prinsloo

RE: DRAFT LOCAL LAW: EXTRACTIVE INDUSTRY.

The Chittering Landcare Group (CLG) in collaboration with the Ellen Brockman Integrated Catchment Group (EBICG) make the following submission to the above draft document. The areas of addition or change are indicated in red print.

- **1.5 Application.**
  1.5(d). This clause needs changing in some manner. Any extractive industry by the owner or occupier of that lot whether it is sold on (how would the LG know) or not should require some form of application to be assessed to ensure important environmental considerations are taken into account, for example, interference with waterways, wetlands, groundwater and clearing of native vegetation.

- **2.2 Application for licence.**
  1 (a) (viii). The location of all existing dams, watercourses, drains or sumps, wetlands, and depth to groundwater on or adjacent to the land referred to in 2.2 (a)(ii).

- **2.2 Application for licence.**
  1 (b) (iv). Details of the depth and extent of the existing and proposed excavation of the site including the slope of the batters created.

- **2.2 Application for licence.**
  1 (b) (vi). A description of the methods by which existing vegetation is to be assessed prior to clearing in accordance with the Native Vegetation Protection regulations; how the topsoil and overburden is removed and stockpiled

- **2.2 Application for licence.**
  1 (b) (xiii). a report on the existing site environment and the anticipated effect that the proposed excavation will have on the environment within 500m of the land to be prepared by a suitably qualified industry consultant.

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- Some reordering of the numbering system for 2.2 (1)(b) could be done to have better continuity to areas that are similar, such as, 9vi) and (xiv).
- **2.2 Application for licence.**
  1 (c) All the items numbered 1 (c)(e) to 1 (c)(k) should be attached to 2.2 (1) before (2.2 (1)(a). these items should not be in the rehabilitation and decommissioning program. They are mandatory items required before consideration given to rehabilitation and decommissioning program report.

- **3.1 Determination of Application**
  3.1 (4) (b) remove "if any" and **3.1(4) (c)** remove "if any". Security for restoration and reinstatement payment must be mandatory.

- **3.1 Determination of Application**
  3.1 (5) (f) the depths below which a person must not excavate with consideration to the type of soil structure, for example, Sand extraction must be at least 1 m above the highest groundwater level.

- **3.1 Determination of Application**
  3.1 (5) (i) the prevention of the spread of dieback, other disease and declared weeds.

- **6.1 Limits on excavation near boundary**
  6.1 (c) should read "50 metres of any watercourse and/or wetland and/or 100m of a Conservation Category Wetland and/or 200m of a Wetland of National significance."

- **6.2 Prohibitions**
  6.2 (a) remove any trees or shrubs within 50 m (or such lesser distance as may be allowed, in writing, by the Department of Environmental Regulation, Native Vegetation Protect and/or Department of Biodiversity, Conservation and Attractions (DBCA)………
  repeat throughout the paragraph.

- **6.4 Obligations of the licensee**
  6.4 (c) prevent accumulation of water in the pit/s but must seek the approval of the local government for dewatering of the pits/excavations.

- **6.4 Obligations of the licensee**
  6.4 (e) take all steps necessary to prevent the emission of dust, noise, vapour, vibration, contaminated water and erosion of soil from the excavation site;

- **Schedule 1**
  Item 4 Removal of trees or shrubs near within 50 metres of the boundary without approval.
  Item 12 Failure to prevent accumulation of water in the pit/s and failing to have approval from the local government before dewatering the excavation site.

Should you require any further information or clarification on the points made, please contact Rosanna Hindmarsh, rosanna.hindmarsh@chitteringlandcare.org.au,
Thank you for advising us of the proposed review of this local law.

Rosanna Hindmarsh

RHindmarsh

Secretary
For
Chittering Landcare Group

From:	Foley, Brendan
To:	Chatter
Subject:	Submission against proposed Shite of Chittering extractive industry local law - Mikhail and Iaroslava Marouchtchak
Date:	Thursday, 27 August 2026 11:05:40 AM
Attachments:	image001.jpg Chittering submission against extractive industry local law - Marouchtchak.pdf

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[Confidential]

Attention: Anna Bateman, Governance Officer

On behalf of **Mikhail and Iaroslava Marouchtchak**, the owners of 537 Tea Tree Road, Bindoon (386.7ha), and Lot 2 Teatree Road, Bindoon (50.09ha), please see the **attached** submission against adoption of the proposed *Shire of Chittering Extractive Industries Local Law 2026*.

If you have any questions, please feel free to call me on my mobile, or send an email.

Regards

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Our ref BRF:

27 August 2026

Melinda Prinsloo
Chief Executive Officer
Shire of Chittering
By Email: Chatter@chittering.wa.gov.au

Attention: Anna Bateman, Governance Officer

Dear Ms Prinsloo

SUBMISSION AGAINST ADOPTION OF THE PROPOSED SHIRE OF CHITTERING EXTRACTIVE INDUSTRIES LOCAL LAW 2026

1 About the submitter

1.1 This submission is made on behalf of **Mikhail and Iaroslava Marouchtchak,** the owners of 537 Tea Tree Road, Bindoon (386.7ha), and Lot 2 Teatree Road, Bindoon (50.09ha).

2 Executive Summary

2.1 This submission objects to the proposed *Shire of Chittering Extractive Industries Local Law 2026 and asks that it not be adopted. The proposed Local Law maintains a parallel regulatory regime that duplicates matters already comprehensively addressed by* the modern planning, environment and safety framework established under:

(a) The ***Planning and Development Act 2005*** (**PD Act**);

(b) Part IV of the ***Environmental Protection Act 1986*** (**EP Act**) for matters with significant impacts on the environment;

(c) Part V of the **EP Act** dealing with works approvals, prescribed premises licencing, native vegetation clearing and noise emissions;

(d) *The **Work Health and Safety Act 2020** (**WHS Act**),* particularly the ***Work Health and Safety (Mines) Regulations 2022*** *(**WHS Mines Regs**) and **Work Health and Safety (General) Regulations** 2022 (**WHS General Regs**)*; and

(e) ***Dangerous Goods Safety Act 2004*** *(**DGS Act**),* particularly the ***Dangerous Goods Safety (Explosives) Regulations 2007*** (**DGS Regs**).

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2.2 Historically, local laws regulating extractive industries served an important purpose. The Shire's proposed law seeks to largely maintain a template wording that was introduced in 1962 under the ***Local Government (Miscellaneous Provisions) Act 1960*** (**LGMP Act**), and published as the ***Local Government Model By-Laws (Extractive Industries) No.9*** *in 1962* (**1962 Bylaw**). That template was created at a time when many parts of state were not covered by a planning scheme, and it was the only way in which impacts of such activities could be appropriately regulated.

2.3 Importantly, the 1962 Bylaw was repealed in late 2005, largely to coincide with the commencement of the ***PD Act***, on the basis that extractive industry is development and should be regulated under planning schemes.

2.4 Effectively, the proposed 1962 Bylaw template was designed before modern local planning schemes, before State Planning Policies dealing with environmental protection and transport impacts, before contemporary environmental approval processes administered by the Environmental Protection Agency (**EPA**) and Department of Water and Environmental Regulation (**DWER**) and before health and safety aspects were regulated by the Department of Local Government, Industry Regulation and Safety (**DLGIRS**).

2.5 The regulatory landscape has fundamentally changed since 1962.

2.6 Today, proposals for extractive industries are subject to comprehensive assessment through other state level legislation, including consideration of land use compatibility, amenity, environmental impacts, traffic, rehabilitation, setbacks, buffers, landscaping and operating conditions. Development approvals are capable of imposing detailed, site-specific conditions tailored to the circumstances of each proposal. Those approvals are supported by statutory rights of review through the State Administrative Tribunal and are informed by referrals to specialist agencies where appropriate.

2.7 Against that background, the proposed Local Law imposes a second approval regime that duplicates the very matters already assessed through mandatory State processes. It adds no regulatory protection. It burdens proponents with unnecessary duplication, increases costs, creates uncertainty and produces the real risk of inconsistent outcomes between the mandatory approvals and the local law requirements.

2.8 Recent reforms elsewhere in Western Australia demonstrate a fundamentally different approach. For example:

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(b) For the same reasons, the City of Wanneroo repealed its extractive industries local law in 2023 and the City of Gosnells repealed its extractive industries local law in 2017.

(c) Similarly, the Shire of Augusta Margaret River Extractive Industries Local Law was amended to align with contemporary development approvals. The Shire has retained its local law only to deal with legacy extractive operations that pre-date the modern planning framework. Clause 2.1(b) of their local law provides that if there is a current planning approval for extractive industry under the current planning scheme, then no separate local law licence is required.

(d) The State Government has likewise recently recognised, through the Cambridge Endowment Lands reforms (2026), that development standards historically contained within local laws have become redundant where equivalent matters are now addressed through planning legislation. In introducing those reforms, the Minister observed that retaining obsolete

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development controls within local laws creates uncertainty and confusion within the planning framework.

(e) The Western Australian Parliament's Joint Standing Committee has published advice which identifies that local laws should not deal with matters that are appropriately dealt with under town planning schemes.

2.9 The Shire's proposed Local Law moves in the opposite direction:

(a) Rather than simplifying and removing duplicative regulation, it seeks to maintain a second layer of assessment over matters already addressed by other mandatory legislation.

(b) Rather than providing flexibility to assess proposals on their planning and environmental merits, it replaces planning and environmental discretion with rigid statutory controls that cannot readily respond to the unique circumstances of individual sites.

(c) Rather than reducing duplication, it expands it.

2.10 This submission therefore makes three principal recommendations.

(a) First, the proposed Local Law should not proceed because the Shire has not demonstrated that a separate extractive industries local law remains necessary in light of the contemporary planning, environment and safety regulatory framework;

(b) Second, if the Shire considers that a local law continues to serve a legitimate purpose, its application should be confined to legacy extractive operations that are not regulated by contemporary planning and regulatory approvals; and

(c) Finally, if the Local Law is nevertheless progressed in its current form, substantial amendments will be required to address the legal, practical and administrative deficiencies identified throughout this submission.

3 The Local Law Duplicates the Existing Regulatory Framework

3.1 Modern extractive industry proposals are already comprehensively and mandatorily assessed through the existing planning, environmental, safety and dangerous goods regulatory regimes. There is no aspect of the proposed Local Law that is not already fully and mandatorily regulated under that framework, and there is no matter that cannot be appropriately and specifically addressed through the existing legislation and regulation. The table below demonstrates, matter by matter, that every requirement of the proposed Local Law is already duplicated by mandatory State regulation:

Local Law requirement	**Existing regulatory framework**
Site plans, contours, excavation areas and site layout	Development application and approved plans under the **PD Act**.
Access, haul routes and truck movements	Development approval and traffic/access assessments in support of application under the **PD Act**.
Road maintenance, upgrading and use	Development approval conditions under the **PD Act** and arrangements with Main Roads for RAV access where required under the ***Main Roads Act 1930*** (**Main Roads Act**) and ***Road Traffic Act 1974*** (**RT Act**) and the ***Road Traffic (Vehicles) Regulations 2014*** (**RT Regs**).

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Local Law requirement	Existing regulatory framework
Landscaping and screening	Development approval conditions under the **PD Act**.
Rehabilitation and decommissioning	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under Part IV and V of the **EP Act**.
Rehabilitation security/bond	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act**.
Setbacks and buffers	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act.** Note that generic setbacks are set out in policy, such as local planning policies and under the EPA's *Guidance Statement No. 3* – Separation Distances. If generic buffers cannot be met, proponents must conduct detailed risk assessments, air dispersion modelling, acoustic studies or visual/amenity impact studies etc to justify alternative or reduced setbacks.
Noise, dust and vibration	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act.**
Blasting	Development approval conditions under the **PD Act,** environmental approval conditions and licencing under the **EP Act,** licencing and approvals under the **DGS Act** and **DGS Regs** and compliance with the *Environmental Protection (Noise) Regulations 1997* (***Noise Regs***).
Vegetation clearing	Development approval conditions under the **PD Act**, environmental approval conditions and licencing under the **EP Act**, including approvals under the ***Environmental Protection (Clearing of Native Vegetation) Regulations 2004*** (**Clearing Regs**) and beds and banks approval under the ***Rights in Water and Irrigation Act 1914.***
Drainage, water management and water supply	Development approval conditions under the **PD Act**, environmental approval conditions and licencing under the **EP Act**, including approvals under the ***Environmental Protection (Clearing of Native Vegetation) Regulations 2004*** and beds and banks approval and water licencing under the ***Rights in Water and Irrigation Act 1914.***
Aboriginal Heritage and other Heritage considerations	Consent or ministerial approval under the *Aboriginal Heritage Act 1972* (**AH Act**), *Heritage Act 2018* (**Heritage Act**) and Development approval conditions under the **PD Act**,

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Local Law requirement	Existing regulatory framework
Fencing, access and warning signs	Development approval conditions under the **PD Act**, Works Approval and Prescribed Premises licencing conditions under the **EP Act**, operational/safety requirements under the **WHS Act**, **WHS Mines Regs** and **WHS General Regs, DGS Act, DGS Regs.**
Processing plant and associated infrastructure	Development approval conditions under the PD Act, Works Approval and Prescribed Premises licencing conditions under the EP Act.
Cessation and rehabilitation	Development approval conditions under the **PD Act**, Works Approval and Prescribed Premises licencing conditions under the **EP Act**, native vegetation clearing conditions under the **Clearing Regs**.
Annual licence fee: $330.00 per year if the overall excavation area is less than 5 hectares, and $660.00 if over	NA – not required.

3.2 The Local Law itself expressly permits the Shire to impose conditions concerning haulage routes, processing plant, noise, dust, landscaping, progressive rehabilitation, restoration and reinstatement, retaining walls and agreements with the Shire. It separately permits the Shire to prescribe haulage routes, tonnage limits and transport times and to recover road repair and upgrading costs – these are all matters that are addressed through the planning approval.

3.3 The duplication is not theoretical. The Local Law establishes a second substantive assessment and approval regime for matters which will already have been considered in detail when development approval and other mandatory approvals and licences are granted.

3.4 That creates precisely the risk of overlapping and inconsistent approvals which modern regulatory practice should seek to avoid.

3.5 The experience of the **Shire of Toodyay**, together with a number of other local governments is particularly relevant. Toodyay identified the duplication between its planning approval and extractive industries licensing regimes and responded by repealing its Extractive Industries Local Law and consolidating regulation within its planning framework.

4 The Prescriptive Requirements Are Not Capable of Responding Properly to Site-Specific Circumstances

4.1 The Local Law's mandatory setbacks remain a particular concern. Clause 6.1 explicitly prohibits all excavation within:

(a) 50 m of the land boundary, including earth bunds and haul roads;

(b) 20 m of a registered easement;

(c) 40 m of a watercourse or wetland;

(d) 50 m of a thoroughfare; and

(e) 500 m of an adjoining residence, subject to the limited exceptions stated.

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4.2 The problem is not merely whether those distances are appropriate. The more fundamental problem is that a fixed setback from a cadastral boundary is not necessarily a measure of actual impact.

4.3 The appropriate separation for an extractive industry will depend upon matters such as topography, vegetation, visual screening, noise, dust, blasting, groundwater, surrounding land uses and the location of actual infrastructure and surrounding sensitive land uses. The planning and environmental framework provides generic separation distances, which may be used as a guide, and where site specific studies can inform lesser or greater setbacks in appropriate circumstances.

4.4 For example:

(a) **Road reserves.** A 50 m setback applies to a "thoroughfare" irrespective of whether the reserve is an operational road. Regional areas contain numerous unmade road reserves which may never be constructed and which may contain native vegetation. Some reserves within the Shire exceed 80m in width, with road pavement located greater than 50m from property boundaries and for which there is no sightline due to vegetation or topography. There is no obvious planning benefit in imposing strict minimum setbacks with no variation provision to deal with site specific circumstances.

(b) **Road widening and takings.** An extraction area may be approved at an appropriate setback from a road reserve. If land is subsequently compulsorily acquired for road widening, or a new road, the cadastral boundary may change without any change to the operation or its actual impacts. The Local Law will nevertheless require the extraction area to move or cease completely.

(c) **Easements.** The mere existence of an easement does not establish that extraction within 20 m of its boundary will cause an adverse impact. An easement may protect infrastructure or a right to use which is located elsewhere. It can also lead to absurd outcomes. The relevant question should be whether the infrastructure or right protected by the easement requires protection—not simply whether an easement exists.

These are all matters which can and should be assessed through the planning and environmental processes on their merits.

5 The Setback Provisions of the Local Law Require an Unstated Discretion

5.1 There is a further difficulty with the setback provisions.

5.2 The Shire, in practice, and in respect of every existing licence issued within the Shire, permitted departures from the prescribed setbacks in circumstances that no stated discretion exists.

5.3 In particular, it is impossible for "haul roads" necessary to access an extraction area to not travel through a prescribed mandatory boundary setback.

5.4 Clause 6.1 does not confer a general power to waive or vary the prescribed setbacks. It states that a person "must not excavate" within the specified distances and expressly includes earth bunds and haul roads within the 50 m prohibition. The limited exceptions are those expressly identified in the clause.

5.5 Accordingly, while departures have been permitted in respect of every prior issued approval in practice, that appears to depend entirely upon an administrative discretion which the Local Law itself does not generally confer.

5.6 The consequence is potentially extraordinary: operations which the Shire has historically permitted are nevertheless technically non-compliant with the Local Law.

5.7 The Shire should not perpetuate a regulatory regime in which compliance depends upon an informal practice of departing from mandatory requirements which the instrument does not authorise the Shire to vary.

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5.8 If flexibility is considered necessary, it should be expressly and transparently provided for. More fundamentally, the fact that such flexibility appears necessary is itself evidence that rigid statutory setbacks are not an appropriate mechanism for regulating extractive industries and that the appropriate mechanism is through the existing planning and environmental mandatory regulatory frameworks.

6 The Local Law Provides Insufficient Flexibility

6.1 The same issue arises more generally. The application requirements prescribe extensive information concerning contours, excavation, access, infrastructure, easements, drainage, stockpiles, staging, methods, vegetation, truck movements and other matters.

6.2 Not every proposal requires every item. Conversely, a particular proposal may require information which is not contemplated by the prescribed checklist.

6.3 The planning system appropriately allows the information required to be determined by reference to the circumstances of the individual application.

6.4 The Local Law should not impose a rigid checklist where some requirements may be unnecessary and others may be insufficient.

6.5 Similarly, while the Local Law allows conditions to be imposed on individual licences, it does not provide a general, transparent merits-based mechanism equivalent to the mandatory planning or environmental system for departing from the mandatory standards in clause 6.1.

6.6 That inflexibility is inappropriate for an industry in which proposals vary substantially in scale, location, geology, surrounding land use and environmental circumstances and offsite impacts.

7 Third Parties Should Not Have an Effective Veto Over Major Investment

7.1 The Local Law also contemplates circumstances in which compliance with the setback requirements depends upon written consent from adjoining landowners. For example, lesser setbacks within the Special Control Area require adjoining landowner consent, while the 500 m residence provision similarly contemplates approval by Council and adjoining neighbours.

7.2 This is problematic where a development may involve millions of dollars of investment and where there is the potential for opponents to force modification or cessation of an otherwise lawfully approved operation after commencement

7.3 An adjoining owner is entitled to participate in the planning and environmental processes and have legitimate concerns considered. That is fundamentally different from giving a third parties an effective veto over a development which has otherwise obtained approval.

7.4 There is also uncertainty when adjoining land changes hands.

7.5 If consent is given and the property is sold, it is unclear whether the consent binds the successor. If consent is refused and the property is subsequently sold, it is similarly unclear whether the new owner can reconsider the matter.

7.6 A long-term regulatory regime should not make the ability to operate an approved extractive industry dependent upon uncertain private decisions or future changes in land ownership.

8 The Local Law Should Not Apply to Modern Approved Developments

8.1 There is a sensible distinction between legacy extractive operations and new operations which have undergone contemporary planning assessment.

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8.2 There may be a legitimate regulatory purpose in retaining a local law for historical operations which pre-date comprehensive planning and environmental controls and are not subject to modern development approval conditions.

8.3 The position is different where a new extractive industry has received development and environmental approvals after detailed assessment of matters including setbacks, access, traffic, environmental impacts, rehabilitation and amenity.

8.4 In those circumstances, a second approval regime is difficult to justify.

8.5 The Shire of Augusta Margaret River provides a useful model because the continuing rationale for its extractive industries regulation is associated with legacy operations. That approach recognises that historical operations may require a different regulatory response from new developments subject to the contemporary planning system.

8.6 Accordingly, if the Shire is unwilling to abandon the Local Law entirely, it should at minimum provide that it does not apply to an extractive industry which has received development approval under the contemporary planning framework after an appropriate commencement date**.**

8.7 This would preserve the potential utility of the Local Law for legacy operations while avoiding duplication for new developments.

9 Conclusion

9.1 The issue is not whether extractive industries should be regulated. They plainly should be. The issue is **whether they need to be regulated twice**.

9.2 The proposed Local Law establishes a second approval regime which duplicates matters capable of being addressed through development approval and other statutory regimes. It introduces rigid setbacks which operate by reference to cadastral boundaries rather than actual impacts, relies in some circumstances upon private landowner consent, and lacks the flexibility necessary to respond appropriately to the circumstances of individual operations.

9.3 The apparent need for the Shire to depart in practice from its own prescribed setback requirements further demonstrates the difficulty with the proposed approach.

9.4 The Shire should therefore follow the contemporary approach adopted by Toodyay and **not proceed with the proposed Local Law**.

9.5 Alternatively, if the Shire considers that local law regulation remains necessary for legacy extractive operations, the Local Law should be confined to those operations and should expressly exclude extractive industries which have received contemporary development approval after an appropriate commencement date, consistent with the approach adopted by the Shire of Augusta-Margaret River.

9.6 That approach would retain regulation where there is a demonstrated regulatory need while avoiding the unnecessary duplication, uncertainty and additional burden which the proposed Local Law would impose upon modern approved developments.

Yours sincerely

Brendan Foley | Special Counsel
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From:	Foley, Brendan
To:	Chatter
Subject:	Chittering submission against extractive industry local law - WA Limestone
Date:	Thursday, 27 August 2026 10:46:36 AM
Attachments:	image001.jpg Chittering submission against extractive industry local law - WA Limestone.pdf

You don't often get email from bfoley@thomsons.com.au. Learn why this is important

[Confidential]

Attention: Anna Bateman, Governance Officer

On behalf of **PMR Quarries Pty Ltd, trading as WA Limestone** and **Ransberg Pty Ltd, trading as WA Bluemetal**, both as part of the **WA LImesone Group**, please see the **attached** submission against adoption of the proposed *Shire of Chittering Extractive Industries Local Law 2026*.

If you have any questions, please feel free to call me on my mobile, or send an email.

Regards

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Special Counsel

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Our ref BRF:

27 August 2026

Melinda Prinsloo
Chief Executive Officer
Shire of Chittering
By Email: Chatter@chittering.wa.gov.au

Attention: Anna Bateman, Governance Officer

Dear Ms Prinsloo

SUBMISSION AGAINST ADOPTION OF THE PROPOSED SHIRE OF CHITTERING EXTRACTIVE INDUSTRIES LOCAL LAW 2026

1 About the submitter

1.1 This submission is made on behalf of **PMR Quarries Pty Ltd, t/a WA Limestone**, and **Ransberg Pty Ltd t/as WA Bluemetal**, together part of the **WA Limestone Group**, one of the largest quarry and construction suppliers in the State and current operator of an extractive industry (sand pit) in Muchea in order to supply local infrastructure and construction projects.

2 Executive Summary

2.1 This submission objects to the proposed *Shire of Chittering Extractive Industries Local Law 2026 and asks that it not be adopted. The proposed Local Law maintains a parallel regulatory regime that duplicates matters already comprehensively addressed by* the modern planning, environment and safety framework established under:

(a) The ***Planning and Development Act 2005*** (**PD Act**);

(b) Part IV of the ***Environmental Protection Act 1986*** (**EP Act**) for matters with significant impacts on the environment;

(c) Part V of the **EP Act** dealing with works approvals, prescribed premises licencing, native vegetation clearing and noise emissions;

(d) *The **Work Health and Safety Act 2020** (**WHS Act**),* particularly the ***Work Health and Safety (Mines) Regulations 2022*** *(**WHS Mines Regs**) and **Work Health and Safety (General) Regulations** 2022 (**WHS General Regs**)*; and

(e) ***Dangerous Goods Safety Act 2004*** *(**DGS Act**),* particularly the ***Dangerous Goods Safety (Explosives) Regulations 2007*** (**DGS Regs**).

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2.2 Historically, local laws regulating extractive industries served an important purpose. The Shire's proposed law seeks to largely maintain a template wording that was introduced in 1962 under the ***Local Government (Miscellaneous Provisions) Act 1960*** (**LGMP Act**), and published as the ***Local Government Model By-Laws (Extractive Industries) No.9*** *in 1962* (**1962 Bylaw**). That template was created at a time when many parts of state were not covered by a planning scheme, and it was the only way in which impacts of such activities could be appropriately regulated.

2.3 Importantly, the 1962 Bylaw was repealed in late 2005, largely to coincide with the commencement of the ***PD Act***, on the basis that extractive industry is development and should be regulated under planning schemes.

2.4 Effectively, the proposed 1962 Bylaw template was designed before modern local planning schemes, before State Planning Policies dealing with environmental protection and transport impacts, before contemporary environmental approval processes administered by the Environmental Protection Agency (**EPA**) and Department of Water and Environmental Regulation (**DWER**) and before health and safety aspects were regulated by the Department of Local Government, Industry Regulation and Safety (**DLGIRS**).

2.5 The regulatory landscape has fundamentally changed since 1962.

2.6 Today, proposals for extractive industries are subject to comprehensive assessment through other state level legislation, including consideration of land use compatibility, amenity, environmental impacts, traffic, rehabilitation, setbacks, buffers, landscaping and operating conditions. Development approvals are capable of imposing detailed, site-specific conditions tailored to the circumstances of each proposal. Those approvals are supported by statutory rights of review through the State Administrative Tribunal and are informed by referrals to specialist agencies where appropriate.

2.7 Against that background, the proposed Local Law imposes a second approval regime that duplicates the very matters already assessed through mandatory State processes. It adds no regulatory protection. It burdens proponents with unnecessary duplication, increases costs, creates uncertainty and produces the real risk of inconsistent outcomes between the mandatory approvals and the local law requirements.

2.8 Recent reforms elsewhere in Western Australia demonstrate a fundamentally different approach. For example:

(a) Most recently, the Shire of Toodyay (2025) repealed its Extractive Industries Local Law, replacing it with *Local Planning Policy No. 7 – Mining and Resource Extraction*. In publicly advertising the proposal, the Shire stated that the purpose of the reform was to consolidate approval processes, remove the Extractive Industries Local Law and streamline approvals. That approach recognises that modern planning legislation provides the appropriate framework for assessing extractive industry proposals.

(b) For the same reasons, the City of Wanneroo repealed its extractive industries local law in 2023 and the City of Gosnells repealed its extractive industries local law in 2017.

(c) Similarly, the Shire of Augusta Margaret River Extractive Industries Local Law was amended to align with contemporary development approvals. The Shire has retained its local law only to deal with legacy extractive operations that pre-date the modern planning framework. Clause 2.1(b) of their local law provides that if there is a current planning approval for extractive industry under the current planning scheme, then no separate local law licence is required.

(d) The State Government has likewise recently recognised, through the Cambridge Endowment Lands reforms (2026), that development standards historically contained within local laws have become redundant where equivalent matters are now addressed through planning legislation. In introducing those reforms, the Minister observed that retaining obsolete

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development controls within local laws creates uncertainty and confusion within the planning framework.

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2.10 This submission therefore makes three principal recommendations.

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3 The Local Law Duplicates the Existing Regulatory Framework

3.1 Modern extractive industry proposals are already comprehensively and mandatorily assessed through the existing planning, environmental, safety and dangerous goods regulatory regimes. There is no aspect of the proposed Local Law that is not already fully and mandatorily regulated under that framework, and there is no matter that cannot be appropriately and specifically addressed through the existing legislation and regulation. The table below demonstrates, matter by matter, that every requirement of the proposed Local Law is already duplicated by mandatory State regulation:

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8.3 The position is different where a new extractive industry has received development and environmental approvals after detailed assessment of matters including setbacks, access, traffic, environmental impacts, rehabilitation and amenity.

8.4 In those circumstances, a second approval regime is difficult to justify.

8.5 The Shire of Augusta Margaret River provides a useful model because the continuing rationale for its extractive industries regulation is associated with legacy operations. That approach recognises that historical operations may require a different regulatory response from new developments subject to the contemporary planning system.

8.6 Accordingly, if the Shire is unwilling to abandon the Local Law entirely, it should at minimum provide that it does not apply to an extractive industry which has received development approval under the contemporary planning framework after an appropriate commencement date**.**

8.7 This would preserve the potential utility of the Local Law for legacy operations while avoiding duplication for new developments.

9 Conclusion

9.1 The issue is not whether extractive industries should be regulated. They plainly should be. The issue is **whether they need to be regulated twice**.

9.2 The proposed Local Law establishes a second approval regime which duplicates matters capable of being addressed through development approval and other statutory regimes. It introduces rigid setbacks which operate by reference to cadastral boundaries rather than actual impacts, relies in some circumstances upon private landowner consent, and lacks the flexibility necessary to respond appropriately to the circumstances of individual operations.

9.3 The apparent need for the Shire to depart in practice from its own prescribed setback requirements further demonstrates the difficulty with the proposed approach.

9.4 The Shire should therefore follow the contemporary approach adopted by Toodyay and **not proceed with the proposed Local Law**.

9.5 Alternatively, if the Shire considers that local law regulation remains necessary for legacy extractive operations, the Local Law should be confined to those operations and should expressly exclude extractive industries which have received contemporary development approval after an appropriate commencement date, consistent with the approach adopted by the Shire of Augusta-Margaret River.

9.6 That approach would retain regulation where there is a demonstrated regulatory need while avoiding the unnecessary duplication, uncertainty and additional burden which the proposed Local Law would impose upon modern approved developments.

Yours sincerely

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From: Foley, Brendan
To: Chatter
Subject: Submission against proposed Shite of Chittering extractive industry local law - Road Trains of Australia Pty Ltd
Date: Friday, 28 August 2026 11:15:21 AM
Attachments: image001.jpg
Chittering submission against extractive industry local law - RTA.pdf

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[Confidential]

Attention: Anna Bateman, Governance Officer

On behalf of **Road Trains of Australia**, whose head office and Muchea Depot is located at 3363 Great Northern Highway, Muchea, please see the **attached** submission against adoption of the proposed *Shire of Chittering Extractive Industries Local Law 2026*.

If you have any questions, please feel free to call me on my mobile, or send an email.

Regards

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Our ref BRF:

28 August 2026

Melinda Prinsloo
Chief Executive Officer
Shire of Chittering
By Email: Chatter@chittering.wa.gov.au

Attention: Anna Bateman, Governance Officer

Dear Ms Prinsloo

SUBMISSION AGAINST ADOPTION OF THE PROPOSED SHIRE OF CHITTERING EXTRACTIVE INDUSTRIES LOCAL LAW 2026

1 About the submitter

1.1 This submission is made on behalf of **Road Trains of Australia Pty Ltd**, whose Muchea Depot and Head Office Is located at 3363 Great Northern Highway, Muchea.

2 Executive Summary

2.1 This submission objects to the proposed *Shire of Chittering Extractive Industries Local Law 2026 and asks that it not be adopted. The proposed Local Law maintains a parallel regulatory regime that duplicates matters already comprehensively addressed by* the modern planning, environment and safety framework established under:

(a) The ***Planning and Development Act 2005*** (**PD Act**);

(b) Part IV of the ***Environmental Protection Act 1986*** (**EP Act**) for matters with significant impacts on the environment;

(c) Part V of the **EP Act** dealing with works approvals, prescribed premises licencing, native vegetation clearing and noise emissions;

(d) *The **Work Health and Safety Act 2020** (**WHS Act**),* particularly the ***Work Health and Safety (Mines) Regulations 2022*** *(**WHS Mines Regs**) and **Work Health and Safety (General) Regulations** 2022 (**WHS General Regs**)*; and

(e) ***Dangerous Goods Safety Act 2004*** *(**DGS Act**),* particularly the ***Dangerous Goods Safety (Explosives) Regulations 2007*** (**DGS Regs**).

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2.2 Historically, local laws regulating extractive industries served an important purpose. The Shire's proposed law seeks to largely maintain a template wording that was introduced in 1962 under the ***Local Government (Miscellaneous Provisions) Act 1960*** (**LGMP Act**), and published as the ***Local Government Model By-Laws (Extractive Industries) No.9*** *in 1962* (**1962 Bylaw**). That template was created at a time when many parts of state were not covered by a planning scheme, and it was the only way in which impacts of such activities could be appropriately regulated.

2.3 Importantly, the 1962 Bylaw was repealed in late 2005, largely to coincide with the commencement of the ***PD Act***, on the basis that extractive industry is development and should be regulated under planning schemes.

2.4 Effectively, the proposed 1962 Bylaw template was designed before modern local planning schemes, before State Planning Policies dealing with environmental protection and transport impacts, before contemporary environmental approval processes administered by the Environmental Protection Agency (**EPA**) and Department of Water and Environmental Regulation (**DWER**) and before health and safety aspects were regulated by the Department of Local Government, Industry Regulation and Safety (**DLGIRS**).

2.5 The regulatory landscape has fundamentally changed since 1962.

2.6 Today, proposals for extractive industries are subject to comprehensive assessment through other state level legislation, including consideration of land use compatibility, amenity, environmental impacts, traffic, rehabilitation, setbacks, buffers, landscaping and operating conditions. Development approvals are capable of imposing detailed, site-specific conditions tailored to the circumstances of each proposal. Those approvals are supported by statutory rights of review through the State Administrative Tribunal and are informed by referrals to specialist agencies where appropriate.

2.7 Against that background, the proposed Local Law imposes a second approval regime that duplicates the very matters already assessed through mandatory State processes. It adds no regulatory protection. It burdens proponents with unnecessary duplication, increases costs, creates uncertainty and produces the real risk of inconsistent outcomes between the mandatory approvals and the local law requirements.

2.8 Recent reforms elsewhere in Western Australia demonstrate a fundamentally different approach. For example:

(a) Most recently, the Shire of Toodyay (2025) repealed its Extractive Industries Local Law, replacing it with *Local Planning Policy No. 7 – Mining and Resource Extraction*. In publicly advertising the proposal, the Shire stated that the purpose of the reform was to consolidate approval processes, remove the Extractive Industries Local Law and streamline approvals. That approach recognises that modern planning legislation provides the appropriate framework for assessing extractive industry proposals.

(b) For the same reasons, the City of Wanneroo repealed its extractive industries local law in 2023 and the City of Gosnells repealed its extractive industries local law in 2017.

(c) Similarly, the Shire of Augusta Margaret River Extractive Industries Local Law was amended to align with contemporary development approvals. The Shire has retained its local law only to deal with legacy extractive operations that pre-date the modern planning framework. Clause 2.1(b) of their local law provides that if there is a current planning approval for extractive industry under the current planning scheme, then no separate local law licence is required.

(d) The State Government has likewise recently recognised, through the Cambridge Endowment Lands reforms (2026), that development standards historically contained within local laws have become redundant where equivalent matters are now addressed through planning legislation. In introducing those reforms, the Minister observed that retaining obsolete

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development controls within local laws creates uncertainty and confusion within the planning framework.

(e) The Western Australian Parliament's Joint Standing Committee has published advice which identifies that local laws should not deal with matters that are appropriately dealt with under town planning schemes.

2.9 The Shire's proposed Local Law moves in the opposite direction:

(a) Rather than simplifying and removing duplicative regulation, it seeks to maintain a second layer of assessment over matters already addressed by other mandatory legislation.

(b) Rather than providing flexibility to assess proposals on their planning and environmental merits, it replaces planning and environmental discretion with rigid statutory controls that cannot readily respond to the unique circumstances of individual sites.

(c) Rather than reducing duplication, it expands it.

2.10 This submission therefore makes three principal recommendations.

(a) First, the proposed Local Law should not proceed because the Shire has not demonstrated that a separate extractive industries local law remains necessary in light of the contemporary planning, environment and safety regulatory framework;

(b) Second, if the Shire considers that a local law continues to serve a legitimate purpose, its application should be confined to legacy extractive operations that are not regulated by contemporary planning and regulatory approvals; and

(c) Finally, if the Local Law is nevertheless progressed in its current form, substantial amendments will be required to address the legal, practical and administrative deficiencies identified throughout this submission.

3 The Local Law Duplicates the Existing Regulatory Framework

3.1 Modern extractive industry proposals are already comprehensively and mandatorily assessed through the existing planning, environmental, safety and dangerous goods regulatory regimes. There is no aspect of the proposed Local Law that is not already fully and mandatorily regulated under that framework, and there is no matter that cannot be appropriately and specifically addressed through the existing legislation and regulation. The table below demonstrates, matter by matter, that every requirement of the proposed Local Law is already duplicated by mandatory State regulation:

Local Law requirement	Existing regulatory framework
Site plans, contours, excavation areas and site layout	Development application and approved plans under the **PD Act**.
Access, haul routes and truck movements	Development approval and traffic/access assessments in support of application under the **PD Act**.
Road maintenance, upgrading and use	Development approval conditions under the **PD Act** and arrangements with Main Roads for RAV access where required under the ***Main Roads Act 1930*** (**Main Roads Act**) and ***Road Traffic Act 1974*** (**RT Act**) and the ***Road Traffic (Vehicles) Regulations 2014*** (**RT Regs**).

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Local Law requirement	Existing regulatory framework
Landscaping and screening	Development approval conditions under the **PD Act**.
Rehabilitation and decommissioning	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under Part IV and V of the **EP Act**.
Rehabilitation security/bond	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act**.
Setbacks and buffers	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act.** Note that generic setbacks are set out in policy, such as local planning policies and under the EPA's *Guidance Statement No. 3* – Separation Distances. If generic buffers cannot be met, proponents must conduct detailed risk assessments, air dispersion modelling, acoustic studies or visual/amenity impact studies etc to justify alternative or reduced setbacks.
Noise, dust and vibration	Development approval conditions under the **PD Act** and environmental approval conditions and licencing under the **EP Act.**
Blasting	Development approval conditions under the **PD Act,** environmental approval conditions and licencing under the **EP Act,** licencing and approvals under the **DGS Act** and **DGS Regs** and compliance with the *Environmental Protection (Noise) Regulations 1997* (***Noise Regs***).
Vegetation clearing	Development approval conditions under the **PD Act**, environmental approval conditions and licencing under the **EP Act**, including approvals under the ***Environmental Protection (Clearing of Native Vegetation) Regulations 2004*** (**Clearing Regs**) and beds and banks approval under the ***Rights in Water and Irrigation Act 1914.***
Drainage, water management and water supply	Development approval conditions under the **PD Act**, environmental approval conditions and licencing under the **EP Act**, including approvals under the ***Environmental Protection (Clearing of Native Vegetation) Regulations 2004*** and beds and banks approval and water licencing under the ***Rights in Water and Irrigation Act 1914.***
Aboriginal Heritage and other Heritage considerations	Consent or ministerial approval under the *Aboriginal Heritage Act 1972* (**AH Act**), *Heritage Act 2018* (**Heritage Act**) and Development approval conditions under the **PD Act**,

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Local Law requirement	Existing regulatory framework
Fencing, access and warning signs	Development approval conditions under the **PD Act**, Works Approval and Prescribed Premises licencing conditions under the **EP Act**, operational/safety requirements under the **WHS Act**, **WHS Mines Regs** and **WHS General Regs, DGS Act, DGS Regs.**
Processing plant and associated infrastructure	Development approval conditions under the PD Act, Works Approval and Prescribed Premises licencing conditions under the EP Act.
Cessation and rehabilitation	Development approval conditions under the **PD Act**, Works Approval and Prescribed Premises licencing conditions under the **EP Act**, native vegetation clearing conditions under the **Clearing Regs**.
Annual licence fee: $330.00 per year if the overall excavation area is less than 5 hectares, and $660.00 if over	NA – not required.

3.2 The Local Law itself expressly permits the Shire to impose conditions concerning haulage routes, processing plant, noise, dust, landscaping, progressive rehabilitation, restoration and reinstatement, retaining walls and agreements with the Shire. It separately permits the Shire to prescribe haulage routes, tonnage limits and transport times and to recover road repair and upgrading costs – these are all matters that are addressed through the planning approval.

3.3 The duplication is not theoretical. The Local Law establishes a second substantive assessment and approval regime for matters which will already have been considered in detail when development approval and other mandatory approvals and licences are granted.

3.4 That creates precisely the risk of overlapping and inconsistent approvals which modern regulatory practice should seek to avoid.

3.5 The experience of the **Shire of Toodyay**, together with a number of other local governments is particularly relevant. Toodyay identified the duplication between its planning approval and extractive industries licensing regimes and responded by repealing its Extractive Industries Local Law and consolidating regulation within its planning framework.

4 The Prescriptive Requirements Are Not Capable of Responding Properly to Site-Specific Circumstances

4.1 The Local Law's mandatory setbacks remain a particular concern. Clause 6.1 explicitly prohibits all excavation within:

(a) 50 m of the land boundary, including earth bunds and haul roads;

(b) 20 m of a registered easement;

(c) 40 m of a watercourse or wetland;

(d) 50 m of a thoroughfare; and

(e) 500 m of an adjoining residence, subject to the limited exceptions stated.

4.2 The problem is not merely whether those distances are appropriate. The more fundamental problem is that a fixed setback from a cadastral boundary is not necessarily a measure of actual impact.

4.3 The appropriate separation for an extractive industry will depend upon matters such as topography, vegetation, visual screening, noise, dust, blasting, groundwater, surrounding land uses and the location of actual infrastructure and surrounding sensitive land uses. The planning and environmental framework provides generic separation distances, which may be used as a guide, and where site specific studies can inform lesser or greater setbacks in appropriate circumstances.

4.4 For example:

(a) **Road reserves.** A 50 m setback applies to a "thoroughfare" irrespective of whether the reserve is an operational road. Regional areas contain numerous unmade road reserves which may never be constructed and which may contain native vegetation. Some reserves within the Shire exceed 80m in width, with road pavement located greater than 50m from property boundaries and for which there is no sightline due to vegetation or topography. There is no obvious planning benefit in imposing strict minimum setbacks with no variation provision to deal with site specific circumstances.

(b) **Road widening and takings.** An extraction area may be approved at an appropriate setback from a road reserve. If land is subsequently compulsorily acquired for road widening, or a new road, the cadastral boundary may change without any change to the operation or its actual impacts. The Local Law will nevertheless require the extraction area to move or cease completely.

(c) **Easements.** The mere existence of an easement does not establish that extraction within 20 m of its boundary will cause an adverse impact. An easement may protect infrastructure or a right to use which is located elsewhere. It can also lead to absurd outcomes. The relevant question should be whether the infrastructure or right protected by the easement requires protection—not simply whether an easement exists.

These are all matters which can and should be assessed through the planning and environmental processes on their merits.

5 The Setback Provisions of the Local Law Require an Unstated Discretion

5.1 There is a further difficulty with the setback provisions.

5.2 The Shire, in practice, and in respect of every existing licence issued within the Shire, permitted departures from the prescribed setbacks in circumstances that no stated discretion exists.

5.3 In particular, it is impossible for "haul roads" necessary to access an extraction area to not travel through a prescribed mandatory boundary setback.

5.4 Clause 6.1 does not confer a general power to waive or vary the prescribed setbacks. It states that a person "must not excavate" within the specified distances and expressly includes earth bunds and haul roads within the 50 m prohibition. The limited exceptions are those expressly identified in the clause.

5.5 Accordingly, while departures have been permitted in respect of every prior issued approval in practice, that appears to depend entirely upon an administrative discretion which the Local Law itself does not generally confer.

5.6 The consequence is potentially extraordinary: operations which the Shire has historically permitted are nevertheless technically non-compliant with the Local Law.

5.7 The Shire should not perpetuate a regulatory regime in which compliance depends upon an informal practice of departing from mandatory requirements which the instrument does not authorise the Shire to vary.

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5.8 If flexibility is considered necessary, it should be expressly and transparently provided for. More fundamentally, the fact that such flexibility appears necessary is itself evidence that rigid statutory setbacks are not an appropriate mechanism for regulating extractive industries and that the appropriate mechanism is through the existing planning and environmental mandatory regulatory frameworks.

6 The Local Law Provides Insufficient Flexibility

6.1 The same issue arises more generally. The application requirements prescribe extensive information concerning contours, excavation, access, infrastructure, easements, drainage, stockpiles, staging, methods, vegetation, truck movements and other matters.

6.2 Not every proposal requires every item. Conversely, a particular proposal may require information which is not contemplated by the prescribed checklist.

6.3 The planning system appropriately allows the information required to be determined by reference to the circumstances of the individual application.

6.4 The Local Law should not impose a rigid checklist where some requirements may be unnecessary and others may be insufficient.

6.5 Similarly, while the Local Law allows conditions to be imposed on individual licences, it does not provide a general, transparent merits-based mechanism equivalent to the mandatory planning or environmental system for departing from the mandatory standards in clause 6.1.

6.6 That inflexibility is inappropriate for an industry in which proposals vary substantially in scale, location, geology, surrounding land use and environmental circumstances and offsite impacts.

7 Third Parties Should Not Have an Effective Veto Over Major Investment

7.1 The Local Law also contemplates circumstances in which compliance with the setback requirements depends upon written consent from adjoining landowners. For example, lesser setbacks within the Special Control Area require adjoining landowner consent, while the 500 m residence provision similarly contemplates approval by Council and adjoining neighbours.

7.2 This is problematic where a development may involve millions of dollars of investment and where there is the potential for opponents to force modification or cessation of an otherwise lawfully approved operation after commencement

7.3 An adjoining owner is entitled to participate in the planning and environmental processes and have legitimate concerns considered. That is fundamentally different from giving a third parties an effective veto over a development which has otherwise obtained approval.

7.4 There is also uncertainty when adjoining land changes hands.

7.5 If consent is given and the property is sold, it is unclear whether the consent binds the successor. If consent is refused and the property is subsequently sold, it is similarly unclear whether the new owner can reconsider the matter.

7.6 A long-term regulatory regime should not make the ability to operate an approved extractive industry dependent upon uncertain private decisions or future changes in land ownership.

8 The Local Law Should Not Apply to Modern Approved Developments

8.1 There is a sensible distinction between legacy extractive operations and new operations which have undergone contemporary planning assessment.

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8.2 There may be a legitimate regulatory purpose in retaining a local law for historical operations which pre-date comprehensive planning and environmental controls and are not subject to modern development approval conditions.

8.3 The position is different where a new extractive industry has received development and environmental approvals after detailed assessment of matters including setbacks, access, traffic, environmental impacts, rehabilitation and amenity.

8.4 In those circumstances, a second approval regime is difficult to justify.

8.5 The Shire of Augusta Margaret River provides a useful model because the continuing rationale for its extractive industries regulation is associated with legacy operations. That approach recognises that historical operations may require a different regulatory response from new developments subject to the contemporary planning system.

8.6 Accordingly, if the Shire is unwilling to abandon the Local Law entirely, it should at minimum provide that it does not apply to an extractive industry which has received development approval under the contemporary planning framework after an appropriate commencement date.

8.7 This would preserve the potential utility of the Local Law for legacy operations while avoiding duplication for new developments.

9 Conclusion

9.1 The issue is not whether extractive industries should be regulated. They plainly should be. The issue is **whether they need to be regulated twice**.

9.2 The proposed Local Law establishes a second approval regime which duplicates matters capable of being addressed through development approval and other statutory regimes. It introduces rigid setbacks which operate by reference to cadastral boundaries rather than actual impacts, relies in some circumstances upon private landowner consent, and lacks the flexibility necessary to respond appropriately to the circumstances of individual operations.

9.3 The apparent need for the Shire to depart in practice from its own prescribed setback requirements further demonstrates the difficulty with the proposed approach.

9.4 The Shire should therefore follow the contemporary approach adopted by Toodyay and **not proceed with the proposed Local Law**.

9.5 Alternatively, if the Shire considers that local law regulation remains necessary for legacy extractive operations, the Local Law should be confined to those operations and should expressly exclude extractive industries which have received contemporary development approval after an appropriate commencement date, consistent with the approach adopted by the Shire of Augusta-Margaret River.

9.6 That approach would retain regulation where there is a demonstrated regulatory need while avoiding the unnecessary duplication, uncertainty and additional burden which the proposed Local Law would impose upon modern approved developments.

Yours sincerely

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From:	Foley, Brendan
To:	Chatter
Subject:	Submission against proposed Shite of Chittering extractive industry local law - Barton and David Jones
Date:	Friday, 28 August 2026 11:17:04 AM
Attachments:	image001.jpg Chittering submission against extractive industry local law - Jones.pdf

[Confidential]

Attention: Anna Bateman, Governance Officer

On behalf of **Barton and David Jones**, the owners of 3329 and 3363 Great Northern Highway, Muchea, please see the **attached** submission against adoption of the proposed *Shire of Chittering Extractive Industries Local Law 2026*.

If you have any questions, please feel free to call me on my mobile, or send an email.

Regards

Brendan Foley

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Our ref BRF:

28 August 2026

Melinda Prinsloo
Chief Executive Officer
Shire of Chittering
By Email: Chatter@chittering.wa.gov.au

Attention: Anna Bateman, Governance Officer

Dear Ms Prinsloo

SUBMISSION AGAINST ADOPTION OF THE PROPOSED SHIRE OF CHITTERING EXTRACTIVE INDUSTRIES LOCAL LAW 2026

1 About the submitter

1.1 This submission is made on behalf of **Barton and David Jones**, the owners of 3329 and 3363 Great Northern Highway, Muchea (77ha).

2 Executive Summary

2.1 This submission objects to the proposed *Shire of Chittering Extractive Industries Local Law 2026 and asks that it not be adopted. The proposed Local Law maintains a parallel regulatory regime that duplicates matters already comprehensively addressed by* the modern planning, environment and safety framework established under:

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(e) ***Dangerous Goods Safety Act 2004*** *(**DGS Act**),* particularly the ***Dangerous Goods Safety (Explosives) Regulations 2007*** (**DGS Regs**).

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2.2 Historically, local laws regulating extractive industries served an important purpose. The Shire's proposed law seeks to largely maintain a template wording that was introduced in 1962 under the ***Local Government (Miscellaneous Provisions) Act 1960*** (**LGMP Act**), and published as the ***Local Government Model By-Laws (Extractive Industries) No.9*** *in 1962* (**1962 Bylaw**). That template was created at a time when many parts of state were not covered by a planning scheme, and it was the only way in which impacts of such activities could be appropriately regulated.

2.3 Importantly, the 1962 Bylaw was repealed in late 2005, largely to coincide with the commencement of the ***PD Act***, on the basis that extractive industry is development and should be regulated under planning schemes.

2.4 Effectively, the proposed 1962 Bylaw template was designed before modern local planning schemes, before State Planning Policies dealing with environmental protection and transport impacts, before contemporary environmental approval processes administered by the Environmental Protection Agency (**EPA**) and Department of Water and Environmental Regulation (**DWER**) and before health and safety aspects were regulated by the Department of Local Government, Industry Regulation and Safety (**DLGIRS**).

2.5 The regulatory landscape has fundamentally changed since 1962.

2.6 Today, proposals for extractive industries are subject to comprehensive assessment through other state level legislation, including consideration of land use compatibility, amenity, environmental impacts, traffic, rehabilitation, setbacks, buffers, landscaping and operating conditions. Development approvals are capable of imposing detailed, site-specific conditions tailored to the circumstances of each proposal. Those approvals are supported by statutory rights of review through the State Administrative Tribunal and are informed by referrals to specialist agencies where appropriate.

2.7 Against that background, the proposed Local Law imposes a second approval regime that duplicates the very matters already assessed through mandatory State processes. It adds no regulatory protection. It burdens proponents with unnecessary duplication, increases costs, creates uncertainty and produces the real risk of inconsistent outcomes between the mandatory approvals and the local law requirements.

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(b) For the same reasons, the City of Wanneroo repealed its extractive industries local law in 2023 and the City of Gosnells repealed its extractive industries local law in 2017.

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(a) Rather than simplifying and removing duplicative regulation, it seeks to maintain a second layer of assessment over matters already addressed by other mandatory legislation.

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2.10 This submission therefore makes three principal recommendations.

(a) First, the proposed Local Law should not proceed because the Shire has not demonstrated that a separate extractive industries local law remains necessary in light of the contemporary planning, environment and safety regulatory framework;

(b) Second, if the Shire considers that a local law continues to serve a legitimate purpose, its application should be confined to legacy extractive operations that are not regulated by contemporary planning and regulatory approvals; and

(c) Finally, if the Local Law is nevertheless progressed in its current form, substantial amendments will be required to address the legal, practical and administrative deficiencies identified throughout this submission.

3 The Local Law Duplicates the Existing Regulatory Framework

3.1 Modern extractive industry proposals are already comprehensively and mandatorily assessed through the existing planning, environmental, safety and dangerous goods regulatory regimes. There is no aspect of the proposed Local Law that is not already fully and mandatorily regulated under that framework, and there is no matter that cannot be appropriately and specifically addressed through the existing legislation and regulation. The table below demonstrates, matter by matter, that every requirement of the proposed Local Law is already duplicated by mandatory State regulation:

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Local Law requirement	Existing regulatory framework
Fencing, access and warning signs	Development approval conditions under the **PD Act**, Works Approval and Prescribed Premises licencing conditions under the **EP Act**, operational/safety requirements under the **WHS Act**, **WHS Mines Regs** and **WHS General Regs, DGS Act, DGS Regs.**
Processing plant and associated infrastructure	Development approval conditions under the PD Act, Works Approval and Prescribed Premises licencing conditions under the EP Act.
Cessation and rehabilitation	Development approval conditions under the **PD Act**, Works Approval and Prescribed Premises licencing conditions under the **EP Act**, native vegetation clearing conditions under the **Clearing Regs**.
Annual licence fee: $330.00 per year if the overall excavation area is less than 5 hectares, and $660.00 if over	NA – not required.

3.2 The Local Law itself expressly permits the Shire to impose conditions concerning haulage routes, processing plant, noise, dust, landscaping, progressive rehabilitation, restoration and reinstatement, retaining walls and agreements with the Shire. It separately permits the Shire to prescribe haulage routes, tonnage limits and transport times and to recover road repair and upgrading costs – these are all matters that are addressed through the planning approval.

3.3 The duplication is not theoretical. The Local Law establishes a second substantive assessment and approval regime for matters which will already have been considered in detail when development approval and other mandatory approvals and licences are granted.

3.4 That creates precisely the risk of overlapping and inconsistent approvals which modern regulatory practice should seek to avoid.

3.5 The experience of the **Shire of Toodyay**, together with a number of other local governments is particularly relevant. Toodyay identified the duplication between its planning approval and extractive industries licensing regimes and responded by repealing its Extractive Industries Local Law and consolidating regulation within its planning framework.

4 The Prescriptive Requirements Are Not Capable of Responding Properly to Site-Specific Circumstances

4.1 The Local Law's mandatory setbacks remain a particular concern. Clause 6.1 explicitly prohibits all excavation within:

(a) 50 m of the land boundary, including earth bunds and haul roads;

(b) 20 m of a registered easement;

(c) 40 m of a watercourse or wetland;

(d) 50 m of a thoroughfare; and

(e) 500 m of an adjoining residence, subject to the limited exceptions stated.

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4.2 The problem is not merely whether those distances are appropriate. The more fundamental problem is that a fixed setback from a cadastral boundary is not necessarily a measure of actual impact.

4.3 The appropriate separation for an extractive industry will depend upon matters such as topography, vegetation, visual screening, noise, dust, blasting, groundwater, surrounding land uses and the location of actual infrastructure and surrounding sensitive land uses. The planning and environmental framework provides generic separation distances, which may be used as a guide, and where site specific studies can inform lesser or greater setbacks in appropriate circumstances.

4.4 For example:

(a) **Road reserves.** A 50 m setback applies to a "thoroughfare" irrespective of whether the reserve is an operational road. Regional areas contain numerous unmade road reserves which may never be constructed and which may contain native vegetation. Some reserves within the Shire exceed 80m in width, with road pavement located greater than 50m from property boundaries and for which there is no sightline due to vegetation or topography. There is no obvious planning benefit in imposing strict minimum setbacks with no variation provision to deal with site specific circumstances.

(b) **Road widening and takings.** An extraction area may be approved at an appropriate setback from a road reserve. If land is subsequently compulsorily acquired for road widening, or a new road, the cadastral boundary may change without any change to the operation or its actual impacts. The Local Law will nevertheless require the extraction area to move or cease completely.

(c) **Easements.** The mere existence of an easement does not establish that extraction within 20 m of its boundary will cause an adverse impact. An easement may protect infrastructure or a right to use which is located elsewhere. It can also lead to absurd outcomes. The relevant question should be whether the infrastructure or right protected by the easement requires protection—not simply whether an easement exists.

These are all matters which can and should be assessed through the planning and environmental processes on their merits.

5 The Setback Provisions of the Local Law Require an Unstated Discretion

5.1 There is a further difficulty with the setback provisions.

5.2 The Shire, in practice, and in respect of every existing licence issued within the Shire, permitted departures from the prescribed setbacks in circumstances that no stated discretion exists.

5.3 In particular, it is impossible for "haul roads" necessary to access an extraction area to not travel through a prescribed mandatory boundary setback.

5.4 Clause 6.1 does not confer a general power to waive or vary the prescribed setbacks. It states that a person "must not excavate" within the specified distances and expressly includes earth bunds and haul roads within the 50 m prohibition. The limited exceptions are those expressly identified in the clause.

5.5 Accordingly, while departures have been permitted in respect of every prior issued approval in practice, that appears to depend entirely upon an administrative discretion which the Local Law itself does not generally confer.

5.6 The consequence is potentially extraordinary: operations which the Shire has historically permitted are nevertheless technically non-compliant with the Local Law.

5.7 The Shire should not perpetuate a regulatory regime in which compliance depends upon an informal practice of departing from mandatory requirements which the instrument does not authorise the Shire to vary.

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5.8 If flexibility is considered necessary, it should be expressly and transparently provided for. More fundamentally, the fact that such flexibility appears necessary is itself evidence that rigid statutory setbacks are not an appropriate mechanism for regulating extractive industries and that the appropriate mechanism is through the existing planning and environmental mandatory regulatory frameworks.

6 The Local Law Provides Insufficient Flexibility

6.1 The same issue arises more generally. The application requirements prescribe extensive information concerning contours, excavation, access, infrastructure, easements, drainage, stockpiles, staging, methods, vegetation, truck movements and other matters.

6.2 Not every proposal requires every item. Conversely, a particular proposal may require information which is not contemplated by the prescribed checklist.

6.3 The planning system appropriately allows the information required to be determined by reference to the circumstances of the individual application.

6.4 The Local Law should not impose a rigid checklist where some requirements may be unnecessary and others may be insufficient.

6.5 Similarly, while the Local Law allows conditions to be imposed on individual licences, it does not provide a general, transparent merits-based mechanism equivalent to the mandatory planning or environmental system for departing from the mandatory standards in clause 6.1.

6.6 That inflexibility is inappropriate for an industry in which proposals vary substantially in scale, location, geology, surrounding land use and environmental circumstances and offsite impacts.

7 Third Parties Should Not Have an Effective Veto Over Major Investment

7.1 The Local Law also contemplates circumstances in which compliance with the setback requirements depends upon written consent from adjoining landowners. For example, lesser setbacks within the Special Control Area require adjoining landowner consent, while the 500 m residence provision similarly contemplates approval by Council and adjoining neighbours.

7.2 This is problematic where a development may involve millions of dollars of investment and where there is the potential for opponents to force modification or cessation of an otherwise lawfully approved operation after commencement

7.3 An adjoining owner is entitled to participate in the planning and environmental processes and have legitimate concerns considered. That is fundamentally different from giving a third parties an effective veto over a development which has otherwise obtained approval.

7.4 There is also uncertainty when adjoining land changes hands.

7.5 If consent is given and the property is sold, it is unclear whether the consent binds the successor. If consent is refused and the property is subsequently sold, it is similarly unclear whether the new owner can reconsider the matter.

7.6 A long-term regulatory regime should not make the ability to operate an approved extractive industry dependent upon uncertain private decisions or future changes in land ownership.

8 The Local Law Should Not Apply to Modern Approved Developments

8.1 There is a sensible distinction between legacy extractive operations and new operations which have undergone contemporary planning assessment.

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8.2 There may be a legitimate regulatory purpose in retaining a local law for historical operations which pre-date comprehensive planning and environmental controls and are not subject to modern development approval conditions.

8.3 The position is different where a new extractive industry has received development and environmental approvals after detailed assessment of matters including setbacks, access, traffic, environmental impacts, rehabilitation and amenity.

8.4 In those circumstances, a second approval regime is difficult to justify.

8.5 The Shire of Augusta Margaret River provides a useful model because the continuing rationale for its extractive industries regulation is associated with legacy operations. That approach recognises that historical operations may require a different regulatory response from new developments subject to the contemporary planning system.

8.6 Accordingly, if the Shire is unwilling to abandon the Local Law entirely, it should at minimum provide that it does not apply to an extractive industry which has received development approval under the contemporary planning framework after an appropriate commencement date.

8.7 This would preserve the potential utility of the Local Law for legacy operations while avoiding duplication for new developments.

9 Conclusion

9.1 The issue is not whether extractive industries should be regulated. They plainly should be. The issue is **whether they need to be regulated twice**.

9.2 The proposed Local Law establishes a second approval regime which duplicates matters capable of being addressed through development approval and other statutory regimes. It introduces rigid setbacks which operate by reference to cadastral boundaries rather than actual impacts, relies in some circumstances upon private landowner consent, and lacks the flexibility necessary to respond appropriately to the circumstances of individual operations.

9.3 The apparent need for the Shire to depart in practice from its own prescribed setback requirements further demonstrates the difficulty with the proposed approach.

9.4 The Shire should therefore follow the contemporary approach adopted by Toodyay and **not proceed with the proposed Local Law**.

9.5 Alternatively, if the Shire considers that local law regulation remains necessary for legacy extractive operations, the Local Law should be confined to those operations and should expressly exclude extractive industries which have received contemporary development approval after an appropriate commencement date, consistent with the approach adopted by the Shire of Augusta-Margaret River.

9.6 That approach would retain regulation where there is a demonstrated regulatory need while avoiding the unnecessary duplication, uncertainty and additional burden which the proposed Local Law would impose upon modern approved developments.

Yours sincerely

Brendan Foley | Special Counsel
Thomsons

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bfoley@thomsons.com.au

From: wagtailfarm@bigpond.com
To: Chatter
Subject: OPPORTUNITY TO COMMENT - The Shire of Chittering Extractive Industries Local Law 2026
Date: Friday, 28 August 2026 9:03:38 AM

Attention: Anna Bateman

Hello Anna

Thankyou for the opportunity to comment on the **DRAFT Extractive Industries Local Law 2026**.

For transparency, I am aware of and fully support the comments submitted by the Chittering Land Conservation District Committee. I am currently the Chairperson of this important environmental stewardship group who are keen to ensure that the extractive industry volume and practices within our Shire are well balanced with caring for country and the environment, on behalf of our community.

I would like to add the following item for careful consideration.

PART 9 - Enforcement; and Schedule 1
Given that more than twelve years have passed since the **Extractive Industries Local Law 2014** was adopted, it is important that the Shire undertake a careful review of the prescribed penalties. Penalty amounts should be updated to at least reflect cumulative CPI and inflation movements over that period, ensuring they remain meaningful and proportionate. In addition, penalties should be calibrated to reflect the seriousness of non-compliance with the requirements of the Local Law. Appropriate penalty levels are essential to support effective regulation, deter breaches, and maintain community confidence in the Shire's compliance framework.

Kind regards
Michelle Davies
041 797 8601

Anna Bateman

From: Jason Kuchel <jason.kuchel@ccaa.com.au>
Sent: Monday, 31 August 2026 8:42 AM
To: Chatter
Cc: Michael Kilgariff; tinus.n@walimestone.com; Mitch Itter
Subject: CCAA Submission on the proposed Shire of Chittering Extractive Industries Local Law 2026
Attachments: CCAA DRAFT Letter re Shire of Chittering Extractive Industries Local Law 2026 25 August 2026.pdf

Categories: Tracked To Dynamics 365

You don't often get email from jason.kuchel@ccaa.com.au. Learn why this is important

Dear Ms Bateman,

Please find attached our submission on the proposed Shire of Chittering Extractive Industries Local Law 2026.

I would be more than happy to discuss any aspect of this submission and can be contacted at jason.kuchel@ccaa.com.au or on 0448 848 848.

Kind regards,

Jason Kuchel B.Eng (Civil) Hons., Grad. Dip. Mun. Eng. MAICD
State Director SA, WA, NT
Director Technical Policy

CEMENT CONCRETE & AGGREGATES AUSTRALIA

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CEMENT CONCRETE & AGGREGATES AUSTRALIA

25 August 2026

Ms Anna Bateman
Governance Officer
Shire of Chittering
PO Box 70
BINDOON WA 6502

By email: chatter@chittering.wa.gov.au

Submission on the proposed Shire of Chittering Extractive Industries Local Law 2026

Dear Ms Bateman

Cement Concrete & Aggregates Australia (CCAA) welcomes the opportunity to comment on the proposed Shire of Chittering Extractive Industries Local Law 2026.

Cement Concrete & Aggregates Australia is the voice of the heavy construction materials industry in Australia. CCAA members produce the majority of Australia's cement, concrete, and aggregates, which are crucial to Australia's building and construction sectors. These materials support the development of our nation's transport, energy, water, housing, defence, and social infrastructure.Oxford Economics estimates the cement, concrete and aggregates industry contributes $0.95 billion to South Australia's Gross State Product and supports 4,479 jobs in FY2024–25.

CCAA recognises the Shire's legitimate role in ensuring extractive industry operations are appropriately managed and that impacts on surrounding communities, infrastructure and the environment are properly addressed. However, the current statutory review provides an important opportunity to reconsider whether a separate extractive industries local law remains necessary in a contemporary regulatory environment.

CCAA's view is that the Shire should use this review to modernise its regulatory approach, remove duplication, adopt risk-based and site-specific regulation and recognise the strategic importance of basic raw materials. In our view, there is no longer a demonstrated need for a separate local law of this type for contemporary operations that are already subject to planning, environmental, safety and other statutory approvals.

A modern regulatory framework already exists

The regulatory landscape applying to extractive industries has changed substantially since local government extractive industry by-laws were first developed. Modern extractive industry proposals may now be comprehensively regulated under the Planning and Development Act 2005, Parts IV and V of the Environmental Protection Act 1986, the Work Health and Safety Act 2020 and associated mining and general regulations, and the Dangerous Goods Safety Act 2004 and associated explosives regulations.

These regimes provide mechanisms to assess and regulate land use compatibility, amenity, traffic and haulage, dust, noise and vibration, vegetation clearing, blasting, drainage, rehabilitation, buffers and separation distances, workplace safety and other matters. Development approvals can impose detailed, site-specific conditions and provide established review mechanisms where appropriate.

Against that background, the proposed Local Law largely retains a second approval and licensing regime over matters already capable of being addressed through these mandatory statutory processes.

Avoiding duplication

The proposed Local Law requires extensive information in support of a licence application, including site plans and contours, excavation areas, access arrangements, infrastructure, stockpiles, staging, vegetation management, truck movements, drainage, environmental impacts and rehabilitation. Many of these matters will already have been considered through development approval and, where relevant, environmental approvals.

The proposed Local Law also enables the Shire to impose conditions relating to truck numbers, operating hours, excavation depth, setbacks, dust, drainage, landscaping, rehabilitation and road use. Clause 3.2 separately enables the Shire to prescribe haulage routes, tonnage limits and transport times and to recover road repair, maintenance and upgrading costs.

These are legitimate matters for regulation. The issue is whether they need to be regulated twice. Maintaining parallel regulatory pathways can increase cost and delay, duplicate technical studies and information requests, create uncertainty and potentially result in inconsistent conditions applying to the same activity.

CCAA therefore supports a simpler principle, that matters already comprehensively addressed through contemporary planning, environmental or other statutory approvals should not be subject to a second substantive approval under a local law.

Other Western Australian local governments are moving away from this model

There are useful recent Western Australian examples demonstrating that local governments are moving away from separate extractive industry local laws and consolidating regulation within the planning framework.

- The Shire of Toodyay repealed its Extractive Industries Local Law in 2025 and replaced it with Local Planning Policy No. 7 – Mining and Resource Extraction, with the stated purpose of consolidating approval processes and streamlining regulation.
- The City of Wanneroo repealed its extractive industries local law in 2023.
- The City of Gosnells repealed its equivalent local law in 2017.
- The Shire of Augusta Margaret River has retained its local law principally for legacy operations, while providing that a separate local law licence is not required where a current planning approval applies to the extractive industry.

These examples demonstrate that moving away from a separate local law does not remove regulation. Rather, it consolidates regulation within the modern statutory frameworks designed to assess land use and environmental impacts.

Move from prescriptive controls to risk-based regulation

If the Shire nevertheless considers that a separate local law should be retained, CCAA recommends that it be substantially modernised so that it is risk-based, outcomes-focused and capable of responding to site-specific circumstances.

Clause 6.1 illustrates the limitations of the current approach. It prescribes fixed setbacks of 50 metres from a property boundary, 20 metres from an easement, 40 metres from a watercourse or wetland, 50 metres from a thoroughfare and 500 metres from an adjoining residence, subject to limited exceptions.

The concern is not simply whether a particular numerical distance is appropriate. A fixed setback measured from a cadastral feature does not necessarily reflect the actual environmental or amenity risk. Appropriate separation will depend on matters such as geology, topography, vegetation, visual screening, noise, dust, blasting, groundwater, surrounding land uses and the location of sensitive receptors.

The examples identified through the review demonstrate the problem. A 50-metre setback from a "thoroughfare" can apply equally to an operating road and an unconstructed road reserve that may never be developed. A road widening can alter a cadastral boundary without changing the operation's actual impacts. Likewise, the existence of an easement does not of itself establish that extraction within 20 metres will create an unacceptable risk; the relevant question should be the potential impact on the infrastructure or right protected by that easement.

These matters are better addressed through site-specific planning and environmental assessment, supported where necessary by acoustic studies, dust modelling, traffic assessment and other technical evidence.

The proposed setback provisions create practical difficulties

CCAA also notes the concern raised in the supporting material that departures from the existing prescribed setbacks have apparently been permitted in practice despite the Local Law not containing a general discretion to vary those requirements.

A simple example is a haul road. Clause 6.1 expressly includes haul roads within the 50-metre boundary restriction, yet a haul road will ordinarily need to traverse the boundary area to provide access to and from the site. A regulatory framework should not depend on informal administrative flexibility to make an otherwise mandatory requirement workable.

If flexibility is necessary, it should be expressly and transparently provided. More fundamentally, this practical issue reinforces the benefit of managing setbacks through site-specific development approval rather than fixed statutory distances.

Adjoining landowner consent should not operate as a private veto

The proposed Local Law also contemplates adjoining landowner consent in relation to reduced setbacks in the Special Control Area – Basic Raw Materials and in relation to the 500-metre residential setback.

CCAA supports adjoining owners having appropriate opportunities to participate in planning processes and to have legitimate amenity concerns considered. However, that is different from making an otherwise appropriately assessed development dependent on private consent. Such an approach can create uncertainty for long-term operations, particularly when adjoining properties change ownership.

The appropriate mechanism is transparent assessment against planning and environmental criteria, with community participation occurring through established consultation processes.

Recognising the strategic importance of basic raw materials

The statutory review should also recognise the strategic importance of locally available basic raw materials to Western Australia's housing and infrastructure pipeline. Sand, limestone and hard rock are location-constrained resources: the resource itself determines where extraction can occur.

The economic and environmental impacts of extraction are also strongly influenced by transport distance. Sterilising strategically located resources or unnecessarily increasing the distance between extraction sites and construction markets can increase construction costs, heavy vehicle movements, road impacts and associated emissions.

A contemporary regulatory framework should therefore both manage the impacts of extraction and protect reasonable access to strategically important resources. Efficient regulation of basic raw materials is an important component of housing affordability, infrastructure productivity and supply-chain resilience.

CCAA recommendations

CCAA respectfully recommends that the Shire use the current statutory review as an opportunity to modernise its approach rather than largely carry forward the 2014 regulatory framework.

1. Preferred approach: do not proceed with a new Extractive Industries Local Law and regulate contemporary extractive industry development through the existing planning, environmental, safety and other applicable statutory frameworks.

2. If the Shire considers that a local law remains necessary, confine its application to legacy operations that are not subject to contemporary development approval, consistent with the approach adopted by the Shire of Augusta Margaret River.

3. If a broader local law is nevertheless retained, expressly exempt matters already addressed through current development or environmental approvals and remove unnecessary duplication of information and conditions.

4. Replace rigid, universal setbacks with risk-based, site-specific assessment or, at minimum, provide a clear and transparent merits-based discretion to vary them.

5. Remove requirements that give adjoining landowners an effective private veto over otherwise appropriately assessed developments.

6. Ensure road contribution requirements are evidence-based, proportionate, transparent and directly attributable to the operation concerned.

7. Update legislative, agency and technical references so the Local Law reflects the current Western Australian regulatory framework.

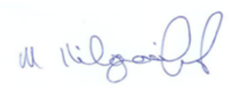
Conclusion

CCAA supports effective regulation of extractive industries and recognises the Shire's responsibility to protect its community, environment and infrastructure. The question raised by this statutory review is not whether extractive industries should be regulated, but whether maintaining a separate and substantially duplicative local law remains the best way to achieve that outcome.

Other Western Australian local governments have recognised that the contemporary planning and environmental framework provides a more appropriate and flexible basis for regulating modern extractive industry proposals. CCAA encourages the Shire of Chittering to take the same opportunity and adopt a simpler, clearer and more contemporary approach.

Should the Shire wish to discuss any aspect of this submission, please contact Jason Kuchel, State Director SA, WA & NT, at jason.kuchel@ccaa.com.au or on 0448 848 848.

Yours sincerely



MICHAEL KILGARIFF
Chief Executive Officer

cc: Ms Melinda Prinsloo, Chief Executive Officer, Shire of Chittering

Do you have a swimming pool on your property?	Do you have a compliant pool barrier? A barrier is compliant if it has been inspected by either the Shire of Chittering or an independent authorised inspector, who has then issued a compliance certificate.	Do you support mandatory 4-yearly inspections of all swimming pool barriers across the whole Shire?	Comments on supporting/not supporting 4-yearly inspections	Do you have any other comments?
Yes	Yes	No	-	-
In the process of having a pool or spa installed	No	No	a barrier should be installed, but the responsibility should be on the owner of the property to make sure that it's safe afterwards.	-
Yes	No	Yes	-	-
Yes	No	No	I do not support the current pool barrier requirements because they apply inconsistently across equivalent or greater water hazards commonly found on rural properties. Rural residential properties regularly contain dams, natural watercourses, drainage channels, soaks, and large-volume water tanks that present a drowning risk yet are generally exempt from the same barrier requirements imposed on swimming pools. This creates a regulatory inconsistency where a relatively small, controlled swimming pool must be fenced to a stringent standard, while much larger and less controllable water bodies remain unfenced. On many rural properties, dams can contain significantly more water than a domestic swimming pool and are often accessible year-round. Natural creeks and seasonal watercourses may also hold deep water after rainfall events. In addition, rainwater tanks pose a serious hazard due to their depth, steep sides, restricted escape opportunities, and often limited visibility into	I do not support the current pool barrier requirements because they apply inconsistently across equivalent or greater water hazards commonly found on rural properties. Rural residential properties regularly contain dams, natural watercourses, drainage channels, soaks, and large-volume water tanks that present a drowning risk yet are generally exempt from the same barrier requirements imposed on swimming pools. This creates a regulatory inconsistency where a relatively small, controlled swimming pool must be fenced to a stringent standard, while much larger and less controllable water bodies remain unfenced. On many rural properties, dams can contain significantly more water than a domestic swimming pool and are often accessible year-round. Natural creeks and seasonal watercourses may also hold deep water after rainfall events. In addition, rainwater tanks pose a serious hazard due to their depth, steep sides, restricted escape

			the stored water. In some circumstances, water tanks may present a greater danger than swimming pools because a person who falls into a tank may find it extremely difficult to exit. The current regulatory approach therefore focuses on one specific water source while overlooking other water hazards that may pose an equal or greater risk. This can result in substantial costs being imposed on pool owners without demonstrably addressing the full range of drowning risks present on rural properties. A more balanced approach would focus on risk-based water safety education, parental supervision, property-specific risk assessments, and practical hazard reduction measures rather than imposing barrier requirements on only one category of water hazard. If the objective is preventing drowning, regulations should be applied consistently across comparable risks or acknowledge that pools are only one of several significant water hazards found on rural residential land.	opportunities, and often limited visibility into the stored water. In some circumstances, water tanks may present a greater danger than swimming pools because a person who falls into a tank may find it extremely difficult to exit. The current regulatory approach therefore focuses on one specific water source while overlooking other water hazards that may pose an equal or greater risk. This can result in substantial costs being imposed on pool owners without demonstrably addressing the full range of drowning risks present on rural properties. A more balanced approach would focus on risk-based water safety education, parental supervision, property-specific risk assessments, and practical hazard reduction measures rather than imposing barrier requirements on only one category of water hazard. If the objective is preventing drowning, regulations should be applied consistently across comparable risks or acknowledge that pools are only one of several significant water hazards found on rural residential land.
No	No	No	-	-
No	No	No	Just another cash grab from the shire! Dams creeks and rivers are all drowning risks. Best you fix them first Maybe spend the time fixing the potholes in the roads	-
Yes	Yes	No	I do not see the necessity on large 5 acre plots, especially when a number iof properties have Dams that would be a excluded yet have the same or greater risk.	There are many more dangers large rural properties than suburban properties included large machinery, water storage etc. This appears just to be another money grab.
Yes	Yes	No	Stop over regulation and govt interference	-
Yes	No	No	-	-

Yes	No	No	Our reasoning for not agreeing with inspections is that it is not practical as you can't fence off, dams, ponds, creeks, wetlands & rivers and as far as we are concerned it is just another way of the shire grabbing more income.	Our pool is fenced but has not been inspected.
Yes	No	No	Only within the gazetted townships.	On properties outside the gazetted townships it should be optional to install regulation pool barriers, as those properties may also have access to other water sources ie dams and creeks, which aren't able to be fenced , only supervised.
Yes	No	Yes	-	We are on a 65 acre property with no children and secure boundary fencing. We bought the property without a pool fence and were advised that it did not require a fence because it was before the requirements to have pool fences. This seems unfair to change the rules now and enforce an additional capital cost on owners as well as an inspection fee. I have property elsewhere, and do not get pool inspection fees. It should be a cost borne by the Shire as the Shire is introducing the rules.
Yes	Yes	No	Rural properties often include waterways and dams, that pose similar risks to swiming pools. Rural property owners are currently granted the autonomy to make these locations adaquitly safe, without additoinal compliance cost through inspection. I beleve the same should apply to pool and spa safety within the Rural setting.	-
Yes	No	No	-	-
Yes	No	No	-	-
Yes	Yes	No	-	-

Yes	No	No	I agree with the safety and have always had a pool fence but do not think that it requires 4 yearly inspections and waste of resources. It would be better if I had to sign something to state I am responsible for its upkeep and maybe an 8 yearly inspection would suffice?	I cannot remember if I got a signed certificate at installation.
Yes	Yes	No	-	-
Yes	No	No	-	-
Yes	I have been in contact with the Shire/Independent inspector to organise an inspection	No	-	-
No	No	Yes	-	-
Yes	No	No	-	If it's not broken, don't fix it
Yes	No	No	On rural properties with dams and creeks also on the property the swimming pool is not the greatest safety risk for children. It is impossible to fence dams/ creeks and rural properties should not be grouped with residential properties as we are already getting the short end of the stick but paying more for the privilege. It needs to stop	-
No	No	No	-	-
Yes	No	No	-	This is yet another example of government overreach with legislation designed to absolve local governments from any responsibility for public open lakes rivers or waterways.
Yes	Yes	No	don't need more rules and fees, aren't the governments in debt, also teach children not to go in water without permission all the accidents you here of have pool fences next minute you'll ban pools :)	-
No	No	Yes	A child can drown anywhere - geography has no bearing on their safety.	All or none - no discrimination when it comes to a child's safety.

Yes	Yes	No	Once a barrier is installed and accepted there should no further inspection This will only be a shire revenue	The Shire should install barriers around dams and waterways within the shire where is the safety there
Yes	Yes	No	once you have installed the pool barrier and it is inspected no further inspections should be required	none
Yes	No	No	-	I have a pool fence that would pass compliance, why do I need someone to tell me it is compliant. My children's safety around water is my responsibility.
Yes	No	No	There are rivers and dams that are all un-fenced, these pose a greater risk of children drowning than swimming pools on private property, it's time to stop trying to dictate every aspect of our lives.	Are you going to fence all the rivers and dams around the whole shire or in fact WA, get real
No	No	No	-	-
Yes	Yes	Yes	As log as it is not an additional cost as our rates should cover this	-
Yes	Yes	No	Waste of funds and resources	Encourage our kids to learn to swim - get the local Swimschool involved in muchea WaterPonyz
Yes	Yes	No	-	Stay off my property
Yes	Yes	No	complete waste of Shire staff time & ratepayers money that should be directed to more important areas that the shire are falling short in at the present	* who pays for the inspections - ratepayers?? * shire staff currently take 60-90 days for building, planning etc approvals, how would they have the time to police this?? * more staff required = increase in rates! * complete & utter waste of ratepayer money & already stretched staff time

Yes	Yes	No	Who gonna pay for all the upgrades if there required? Aboslute waste of shire resources. How many people die from drowning in a pool in the shire?? Is this really required	With everything going on in this shire from the chalice project(the shire not doing anything up until last council meeting). The wait times for applications/developments should be a higher priority. This is seen to just be an overreach by the shire to find more non approved structures to make more work for the shire??? If it ain't broke then leave it!! The shire has better things to do like cleaning the roads around the tip!!!
Yes	Yes	No	I think it's a waste of time and money that could be better spent elsewhere	-
Yes	Yes	No	So my pool is fenced off, I have no children I can swim so can the wife. That's it only us two. Why do I need a fence? And what about my dam. I suppose you can't drown in a dam can you. Let's go back to common sense and not always have to prevent the lowest common denominator from ruining it for others.	-
No	No	No	Not necessary	-
Yes	No	No	-	There are so many properties with dams on them also so will they need to be fenced
Yes	Yes	No	-	-
Yes	Yes	No	-	-
No	No	No	-	-
Yes	No	No	It will be an added cost to Rates. Assuming we have had no issues - I feel the benefit is only revenue making for the shire.	-
Yes	Yes	No	Silly rule on semi rural properties. Most also have dams Pool fencing ruins outlook	-
No	No	No	This has always been avoided in rural shires. The reasoning is that many farming families have used dams as swimming pools. Where do you begin to draw the line? The state government has no understanding of rural issues to require rural councils to undertake these sort of inspections will cause huge delineation issues	-

Yes	I have been in contact with the Shire/Independent inspector to organise an inspection	No	What makes you think this is acceptable I've raised 4 kids and two grandchildren that could swim before they could walk Dams lakes and beaches are the biggest cause of drownings This expense should not be on me Just another poor effort to justify more rules	Grow some balls and stand up for us rate payers Don't let this state government dictate what we do Stand up and point out this rubbish 25 years of loving chittering am now starting in despise it
Yes	Yes	No	We chose to fence our pool to keep animals out, but the neighbours have a dam which doesn't need to be fenced. A child is just as likely to wander into a dam! But you are not inspecting them? I think on rural properties parents need to be responsible for knowing where their children are, there are many dangers around, machinery, wildlife etc that doesn't have to be fenced and inspected.	-
Yes	No	No	-	-
Yes	Yes	Yes	-	-
No	No	No	There are already so many areas of water ie dams, creeks, troughs on these properties it's a parents responsibility to keep their children safe	-
Yes	No	No	-	-
Yes	No	Yes	-	As intent is to introduce these requirements, it is hoped that the inspector will be able to provide guidance on how to make fencing compliant rather than simply issuing an improvement order
Yes	No	No	-	-
In the process of having a pool or spa installed	Yes	Yes	-	-

Yes	Yes	No	I preface this response with a statement that i do 100% support the installation and permanent maintenance of a compliant pool safety barrier. I dont support the ongoing costs burdened onto pool owners for mandatory inspections, through other city councils where i have had pools. Several times the inspector has issued notices on non-compliance as they themselves did not understand the rules they are governing. On both occasions their demands were overturned and proven the standard met actually exceeded their requested change.	No
In the process of having a pool or spa installed	I have been in contact with the Shire/Independent inspector to organise an inspection	Yes	This is so important to protect the children in our community	-
Yes	Yes	No	-	-
No	No	Yes	-	My neighbour has a unfenced swimming pool in Chittering, this property has no boundry fencing and no pool fencing! This need urgent attention as any child could wander onto this property from a neighbouring property and drown in this pool. This pool has had multiple kangaroos drown in it and children visiting the residence fall into it (luckily enough parents have been within distance to pull them straight out). As a Chittering resident I support changes to this legislation to ensure ALL swimming pools are correctly fenced for the safety of our community's children, visitors to our community and local wildlife. Thankyou
No	No	Yes	-	-
No	No	Yes	-	-

Yes	No	No	Stop trying to rule every single aspect of people's lives. Seriously, just stop. If people have a pool and fence up leave it at that. Parents should watch their own children and talk responsibility instead of expecting everyone else to parent the child. People need to take personally responsibility.	Mind your own business. Next you'll want to fence off puddles ,creeks, rivers and dams. Might as well ban a bath tub. Fuck off
Yes	No	No	I do not support this as a pool barrier has never been required nor requested, even after receiving planning/ building approval from the Shire. This is the first we have ever heard of this. To say it is 'upto the owner to construct and maintain a barrier' is exactly that, a choice.	Do you fence dams, lakes, and rivers? Rural property has always been enjoyed during to the choice and control a property owner has over their land. Focus on the non compliant dwellings that are within the shire, not the ones doing the right thing and meeting all current obligations. Do better.
Yes	Yes	No	What a waste of resources- the shire can't even keep up with general maintenance let alone checking pools	-
Yes	Yes	No	Waste of rate payers money. Better spent on bushfire prevention on verges and shire land.	-
Yes	Yes	No	It's a waste of rate funding. Previously you charged us an 18$ per year inspection fee and no one came to our property at all so we don't support this charge. There are also multiple people who have dams and soaks which do not require fencing.	-
Yes	Yes	No	i believe we have a community that will do the right thing without policing	it's not required, we have a fantastic community able to self regulate
Yes	No	Yes	-	Rectification of barriers from purchased properties where pool installed prior to regulations will be costly in a already tough climate and many families may not be able to afford
No	No	Yes	This saves so many lives, and not just of those that live on the property, it's often neighbours that benefit from this safety measure	We are looking at getting a pool and will be getting a compliant fence, and welcome inspections
Yes	Yes	No	-	-

In the process of having a pool or spa installed	I have been in contact with the Shire/Independent inspector to organise an inspection	No	-	-
Yes	No	No	-	-
Yes	Yes	No	-	-
Yes	No	No	-	My understanding is i dont require a fence. Our plans were approved with no fence
Yes	Yes	No	Not needed at all, rates will go up even further to have the inspections completed for no benefit when council controlled lakes etc do not have or need fencing either	Do not do it
Yes	Yes	No	-	-
Yes	No	Yes	I think it's a great thing to do.	In Q4 I answered no because whilst I have a pool barrier, I have never been requested to have it inspected for compliance as I don't live in a town site. Although I am happy to do so
Yes	No	No	-	I do not support the involved costs of compliance checks. There is far less risk and more effort involved with checks on semi-rural properties.
Yes	Yes	No	-	-
Yes	No	No	When we installed our pool more than 15 years ago we were told by the Shire we did not require a pool fence, there are numerous dams in close vicinity to our property which are not fenced so I don't see why I have to now retro fit a pool fence, my main yard is fenced off and I have no young children living in the house.	-
Yes	No	No	We have a fenced enclosure We do not have any siblings , siblings children or friends siblings visit our home at any time. Our front gates are locked. We have t 2 Doberman dogs on premesis so entry to pool area would be impossible by outsiders.	We just see this as another useless money grab for home owners like us. Your last comment in your letter is irrelevant as no child entry to our property either planned or through illegal entry

Yes	No	No	I bought the property in January of 2025, it did not have a compliant swimming pool barrier upon settlement and I have let the pool drain out. I have no plans to fill the pool with water; it currently has very little water in it from rainfall. I would move to not have mandatory 4-yearly inspections for the whole Shire.	-
Yes	No	Yes	-	-
Yes	Yes	Yes	-	-
Yes	I have been in contact with the Shire/Independent inspector to organise an inspection	No	I've been waiting to have our new pool inspected for months, I don't think you guys the resources to be consistent with 4 yearly inspections.	We have at least half a dozen dams on our property - it would be a waste of resources to be continually inspecting these when we are on thousands of acres with large unfenced bodies of water.
Yes	No	No	-	-
Yes	Yes	Yes	-	-
Yes	No	Yes	-	-
Yes	No	Yes	I have lived here for almost 7 years and have not been required to have my pool fence checked. Do I need to have this inspection? is it law?. Please inform me as to what is required. Thank you Eileen Moore	-
Yes	No	No	-	-
Yes	No	No	I strong disagree with the shire wanting to impose this on us ,I feel we should ,as the property owner be given the option whether to construct a fence or not.nothing has changed to our property in the time we have lived here. Our property is completely fenced and we have padlock on our gate, that is saying don't come in unless invited . Our pool is in an elevated position and not accessed unless you come in via the house . As far as I see nothing has changed within the shire of chittering to say there has been an increase in drowning within the area Just because the state government is trying to encourage it	We have been here 12 yr and never had a child on the property invited or not. I feel this is a half hearted attempt by shire and state government to address drowning . As we known a child can drown in 6 inches of water/ liquid and as stated in your letter there are other structures just as dangerous but don't need fencing off. Use money on Supervision education campaigning/ pro motioning swimming lessons which to me would be more constructive

			doesn't mean shire of chittering has to ,and penalise us for it , not to mention cost.	
Yes	No	No	-	-
Yes	Yes	No	I support the importance of pool safety and maintaining compliant barriers, but I do not support mandatory 4-yearly inspections across the whole Shire. Property owners are already legally responsible for ensuring their pool barriers remain compliant. The additional inspection fees place an unnecessary financial burden on compliant owners. I would prefer a more targeted approach, such as inspections when a property is sold, when a new pool is installed, or where there is evidence of non-compliance.	-
Yes	Yes	No	This would involve employing another adequately experienced individuals to carry this out. I would prefer to save the expense.	If we modernise the process - create a database that prompts photos from owners that are geostamped. Think back to covid self quarantine times, when the police stopped checking the resident was home and a "selfie" was demanded in its place.
Yes	Yes	Yes	-	-
Yes	Yes	Yes	-	-
In the process of having a pool or spa installed	No	No	1)Many local dams, culverts, tanks etc around our property which arent required to have any fencing 2) not mentioned if a extra cost is incurred to the property owner 3) moved out of the city years ago to not have to deal with ongoing inspections etc	Our Pool is still under construction and has not yet been filled with wate and not ready for fencing installation -
Yes	No	No	-	This should only apply to new builds , pool installations or premises being sold. Existing pool owners who have previously been advised when installing their pools that a fence was not required, should not be expected to now install one.

Yes	Yes	No	I maintain and check my pool fence and gate all the time. I have had swimming pools and compliant pool barriers throughout my life so I know how to maintain them. I don't need the Shire coming out onto my property.	-
Yes	Yes	No	-	-
In the process of having a pool or spa installed	Yes	No	The Shire of Chittering should spend rates on other areas that are more beneficial to the community	-
Yes	No	No	Above ground pools do not need a barrier, also in ground pools shouldn't need them on 2ha blocks due to low population density.	My pool is no longer serviceable, in the process of removing. Not keen on having inspections either way for above ground or unground d pools. Local government can't even maintain curb sides or dog control let alone inspection of swimming pools. Will our rates increase due to this?
Yes	No	No	-	-
Yes	No	No	-	There has been no increase in incidents in the shire. Outside of the Gazetted townsites there has been no requirement in the past to have a pool fence. We fully researched and complied with shire regulations when installing our pool. We were not required to have a fence and have never received any correspondence from the shire to the contrary since. Our pool is no different from a farm dam. Are you going to make dams have fencing? Our neighbours are fully aware we don't have a fence around our pool and have not expressed any concerns.

Yes	Yes	No	The premise that forms the requirement for barriers is based on a history of children who found their way into a pool without supervision. These properties were exclusively in built up suburban areas and the lack of any instances on rural properly (5 acres +) does not justify the imposition of the same conditions placed on suburban pool owners.	-
In the process of having a pool or spa installed	No	No	-	The whole pool fencing regulations could be alot more easier to understand and more precise. It can be left to individual interpretation which may not be how the Shire or authorities see it
Yes	No	No	My pool is inside my colourbond fenced courtyard.	This is the first I have herd about pool fencing in 24 years of owning my block.
Yes	Yes	No	Waste of ratepayers money that the shire doesn't have. We live rural, er have dam and rivers will we need to fence those too?	You don't keep up with the current pool inspections on the townsites how about focus on those and leave the rural properties alone ffs
Yes	No	No	This is the shire yet again trying to get more money out of us.	You can not change conditions from when it was installed.
Yes	Yes	No	Not necessary, waste of time and resources	-
Yes	Yes	No	As a pool and spa owner on a rural property, the pool has a fence and spa has a lid and is not a danger when there is life stock water supplies and shire catchment arrears that have no fencing to stop small children falling in. It should always be the responsibility of the parents or visitors to watch there children and be aware of the areas.	We had a similar system when in the city of Joondalup. It was flawed and a con. The inspectors didn't check what they should or the owners had to submit photos and they still billed the owners.

Yes	Yes	Yes	I see no reason that the Shire would have not to complete inspections if they are part of legislation.	Many properties in the rural sites don't have fencing. Estate agents tell prospective buyers that they aren't needed as the Shire doesn't inspect them. Clearly false information about not needed. I do feel that pool fencing is somewhat of a challenge to demonstrate safety considering we have dams, rivers, creeks and oceans all without them. Always just looks like a money spinner to the home owner who ends up paying thousands of dollars to enclose the same water risks! Will Council and rate payers be prepared to place barriers around these natural water sources?
Yes	No	No	I don't have any children nor do any children come to my place	I have a barrier around the pool to stop the dogs swimming in the pool I just thing it's another money grabbing by the shire that does nothing
Yes	Yes	No	I strongly oppose this proposal. The current system — requiring an inspection only when a pool is installed or when a property is sold already covers the points where non-compliance is most likely to occur. Introducing a mandatory 4-yearly inspection adds a recurring cost and administrative burden on pool owners, with no clear evidence that compliant pools are failing over time. If council has data showing a genuine safety issue with the current approach, it should be published and put to the community before imposing this ongoing cost. As it stands, this proposal looks less like a safety measure and more like an unjustified new expense for ratepayers. I ask council to reject this proposal, or at minimum provide the evidence that justifies it.	I can't believe that this is what council has on the agenda, further looking to increase the cost of living through unnecessary legislation. Surely there are more pressing issues.
Yes	Yes	No	-	-

In the process of having a pool or spa installed	I have been in contact with the Shire/Independent inspector to organise an inspection	Yes	-	-
Yes	No	No	-	-
Yes	No	No	When installing the pool we were told we didn't need a pool fence as the size of the didn't require one.	My family and I reside on a property of approximately five acres, which is representative of many properties throughout our community. Rural lifestyle properties are fundamentally different from urban residential blocks, and any changes to pool barrier requirements should reflect these significant differences. Firstly, the size and layout of rural properties already provide a substantial level of separation and supervision that is not comparable to suburban environments. Properties of this size are not typically accessible to the general public, and the risk profile differs considerably from small residential lots where homes, pools and neighbouring properties are in close proximity. Secondly, the financial burden of retrospectively imposing new fencing requirements on existing pool owners would be significant. Many families have purchased and maintained their properties in accordance with the regulations that were in place at the time of construction. Requiring property owners to undertake costly modifications years later would create unnecessary financial hardship. Additionally, mandatory fencing requirements may negatively impact the rural character and amenity of our properties. Many residents choose to live in the Shire of Chittering specifically because of its open spaces, natural landscapes and

				rural lifestyle. Introducing additional fencing requirements would detract from these values and alter the character of our properties. It is also important to recognise that property owners already take personal responsibility for the safety of their families and visitors. Education, supervision and responsible ownership remain critical factors in preventing accidents, regardless of fencing requirements.
Yes	No	No	On acreage it should be up to the owner as i live far enough away from townships and neighbours who do not have young children.	If im forced to add an approved pool barrier then I will have no alternative than to remove the pool.
Yes	Yes	Yes	As long as there is no cost to me to get the inspection done	I have some issues with the regulations around pool fencing. Not being designed to protect natural wild life. Something I would love to talk to experts about.
Yes	No	No	-	-
Yes	Yes	Yes	-	No
Yes	Yes	No	-	-
Yes	Yes	No	-	At my property there is a permanent. Brook and two dams. Enclosing a pool seems pointless in suck a location.
No	No	No	This should only apply for new builds or if the property has a change of ownership.	-
In the process of having a pool or spa installed	Yes	No	-	-
Yes	Yes	No	No. I already have a compliant pool barrier. Waste of our rates. Also not taking of work to wait for your inspector.	I was required to have a compliant barrier when I applied for my pool permit. Inspector came out and said it was fine. I know my responsibilities regarding the barrier.

Yes	Yes	No	I do not support mandatory four-yearly swimming pool barrier inspections for rural residential properties. If this requirement is introduced, rural ratepayers should receive the same level of services and benefits provided to residents in townsites. This proposal would impose additional costs and obligations on rural property owners without delivering any corresponding benefits.	I do not support the proposal requiring swimming pool inspections every four years. My primary concern is the ongoing cost that this requirement would place on pool owners. If the Shire does not have sufficient resources or staffing to conduct these inspections, it is likely that property owners will be required to engage third-party inspectors at their own expense. For those living in rural areas, the availability of qualified contractors can be limited, which may increase costs and create additional inconvenience. I am also concerned about the prospect of Shire employees requiring access to my property every four years to undertake inspections. When my pool was installed, periodic inspection requirements were not in place. The regulatory environment at that time was a factor in my decision to install the pool, and it seems unfair to retrospectively impose additional obligations and costs on existing pool owners. Should this motion proceed, I strongly believe that existing pools should be grandfathered and exempt from the new inspection requirements. Property owners who installed pools under previous regulations should not be subject to new compliance obligations that were not contemplated when their pools were approved and constructed. I ask the Shire to carefully consider the financial, practical, and privacy implications of this proposal, particularly for rural residents and owners of existing pools.

Yes	Yes	No	What are the statistics for pool related deaths in the non gazetted areas? What are the numbers of pools versus pool users (under 16) in the non gazetted areas. I know previously the City of Swan having issues keeping up with the number of inspections their shire. I'm not sure of the economics in subjecting these non gazetted areas to 4 yearly inspections versus the status quo?	What's the difference between the non gazetted sites not having barriers around dams, troughs and other natural water springs and man made water easements versus a pool barrier?
Yes	Yes	No	Please no more bureaucracy...	-
Yes	Yes	Yes	-	I'd argue it should have been like this already? And why wasn't it?
Yes	Yes	No	the shire doesn't have the resources to provide basic needs as is, resourcing this additional task would be poor planning	-
Yes	Yes	No	stop working out ways to charge us more rates as this wouldn't be free.	-
Yes	Yes	No	-	-
Yes	Yes	No	Not required outside of township as there is less opportunity for property entry. having entry to property for inspections is not easily done during work hours/days	-
Yes	Yes	No	Unless discounted rates for compliance.	Keep the rates down.
Yes	Yes	No	I believe its a waste of rate payers money. I dont need someone with a clipboard too tell me whats safe. I have a pool fence too keep my kids and neighbers safe. Its common sense and notjing woukd be worse than a drowning incident .	-
Yes	Yes	Yes	No probs with regular inspection	No