


22 December 2020

Dynamic Planning and Developments  
PO Box 688  
INGLEWOOD WA 6932

**PLANNING AND DEVELOPMENT ACT 2005**  
**CITY OF WANNEROO**  
**NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL**

<b>Land Parcel Details:</b>	Lot: 901 DP: 50843
<b>Property Details:</b>	150 Flynn Drive NEERABUP
<b>Registered Owner(s):</b>	
<b>Application Date:</b>	16 October 2020
<b>Application Received:</b>	23 October 2020
<b>Development Description:</b>	Industry – Extractive (Amendment to DA2014/786)

The City advises that an amended Development Approval has now been **granted** under Clause 77 of the City of Wanneroo District Planning Scheme No. 2 Deemed Provisions and the Metropolitan Region Scheme.

This approval is to amend the previous Planning Approval for the abovementioned proposal, as issued by the City on 28 August 2015 (**original Planning Approval**). Development is still required to be undertaken in accordance with the plan and conditions contained within the original Planning Approval (DA2014/786, attached for your reference), however now with exception of the following:

1. Conditions (g) and (h) of the original Planning Approval provides the following:
  - g) Development on the subject site shall comply in all respects and at all times with the attached Excavation Plan, and the conditions of this approval.*
  - h) In the event of any inconsistency between these conditions and the Excavation Plan, the conditions of Planning Approval will prevail to the extent of any inconsistency.*

This amended development approval retains these conditions, but now permits the approved extractive industry land use to be carried out in the following manner that varies the 'Excavation Plan: Lot 901 (150) Flynn Drive, Neerabup', prepared by Landvision and dated April 2014 (**Excavation Plan**):

- The rates of sand extraction per annum stated in the Excavation Plan can now be exceeded;

- The workforce involved in carrying out the approved extractive industry can exceed that prescribed in the Excavation Plan; and
  - Daily truck movements generated by the approved land use shall now be limited to that outlined in Table 3-1 of the Transport Impact Statement: Lot 901 (No. 150) Flynn Drive, Neerabup, as dated 9 October 2020 and attached to this amended development approval.
2. The requirement to submit a Drainage, Nutrient and Water Management Plan, as referred to in Condition (cc) of the original Planning Approval, is now deleted.

**FOOTNOTES:**

1. The applicant is reminded that the Extractive Industry on Lot 901 is to be carried out in accordance with the City's Planning Approval issued on 28 August 2015 (as attached), as well as this amended Development Approval.
2. It was noted that your application to amend the original Planning Approval also sought approval to operate on varied operating hours. The application was to amend Condition (i) of the original Planning Approval, which prescribes as follows:
- (i) Unless alternative hours are agreed to in writing by the Manager Planning Implementation, the hours of operation for the approved development shall be from 0700 – 1900 hours, Monday to Friday (excluding public holidays) and from 0700 – 1900 hours on Saturdays (excluding public holidays). The approved development shall not operate on Sundays.*

The City is of the opinion that the original Planning Approval already allows the site operators to vary their operating hours on agreement of the Manager Approval Services. In fact, this previously occurred on 27 July 2020, in which the Manager Approval Services agreed in writing that the extractive industry on Lot 901 can operate from 6:00am to 4:00pm Monday to Friday and 6:00am to 12:00pm on Saturdays (refer attached).

Further changes to operating hours that may be sought in the future can occur by way of written request to the City and written agreement of the Manager Approval Services. This process removes the need for Condition (i) to be formally amended through this amended development approval.

3. Extractive Industry on Lot 901 must only be carried out while the operator holds an Extractive Industry Licence (EIL), granted under the City of Wanneroo *Extractive Industries Local Law 1998* (as amended), and all operations shall comply with the conditions of the EIL.
4. Prior to clearing of vegetation from the subject land, all necessary permits, licences and permissions should be obtained, including a permit issued under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (WA) or any other relevant legislation.
5. The applicant and/or site operators are advised that the approved activities on the subject land should operate in accordance with the *Environmental Protection Act 1986* including the *Environmental Protection (Unauthorised Discharges) Regulations 2004* and the *Environmental Protection (Noise) Regulations 1997*.

6. If required, a licence must be obtained from the Department of Water and Environmental Regulation, in accordance with the *Rights in Water and Irrigation Act 1914*, in respect of the installation of bores.
7. If an applicant is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application to the Tribunal must be made within 28 days of the date of the determination.

Unless otherwise specified, all conditions shall be complied with, by and at the cost of the owner, to the specification and satisfaction of the City. Maintenance and compliance with conditions of approval shall be to the City's satisfaction.

Should you have any further queries relating to this notice of amended development approval, please contact Josh Coppola from the City of Wanneroo Planning and Sustainability Directorate on 9405 5474.

Yours Faithfully,



Josh Coppola  
**SPECIALIST PLANNER, APPROVAL SERVICES**

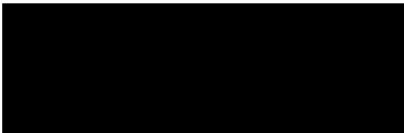
# Original Development Approval



LOCKED BAG 1  
WANNEROO WA 6946  
TELEPHONE: (08) 9405 5000  
FACSIMILE: (08) 9405 5499

Application Number : DA2014/786  
File Ref: DA2014/786  
Enquiries Officer : Josh Coppola  
9405 5474

28 August 2015



## Application for Planning Approval for Industry – Extractive at 150 Flynn Drive NEERABUP

An Application for Planning Approval received by the City on 4 June 2014 has now been considered by the City of Wanneroo and formal notice setting out the terms of this decision is attached.

Should the applicant be aggrieved by this decision, there is a right to apply for a review under the *Planning and Development Act 2005*. The application for review must be submitted in accordance with the Act and should be lodged within 28 days of the date of this decision to the State Administrative Tribunal, 12 St George's Terrace, Perth WA 6000. It is recommended that you contact the Tribunal for further information by telephoning 9219 3111 or the website <http://www.sat.justice.wa.gov.au/>

### ADVICE TO APPLICANT/LANDOWNERS:

1. The City does not undertake to ascertain the validity of signatures nor the authority of the persons nominated as owners.
2. This is a planning approval only and is issued under the City of Wanneroo's District Planning Scheme No. 2 and the Metropolitan Region Scheme. It is the proponent's responsibility to comply with all other applicable legislation and obtain all required approvals, licences and permits prior to commencement of this development.
3. Development subject of this approval should only be operated while the landowner/operator holds a licence approved under the City of Wanneroo *Extractive Industries Local Law 1998* (Extractive Industry Licence).
4. If the Manager Planning Implementation forms the view (acting reasonably) that any matter identified in the Annual Report referred to in Condition (z) is unsatisfactory, the Manager Planning Implementation shall notify the landowner in writing of that matter and may also give direction as to how that matter may be addressed. Details of the landowner's response to any such notification shall be included in the Compliance Report referred to in Condition (a), as well as the Complaints Log and the Annual Report.
5. A reference to legislation or policy includes a reference to that legislation or policy as amended or replaced from time to time.

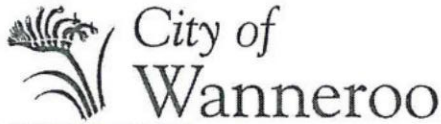
6. If required, a licence must be obtained prior to the commencement of the approved development on Lot 901 from the Department of Water, in accordance with the Rights in *Water and Irrigation Act 1914* (WA), in respect of the installation of bores.

Should you have any further queries relating to this advice or the formal notice of approval as attached, please contact Josh Coppola from the City of Wanneroo Planning and Sustainability Directorate on 9405 5474.



Pas Bracone  
**MANAGER PLANNING IMPLEMENTATION**  
City of Wanneroo

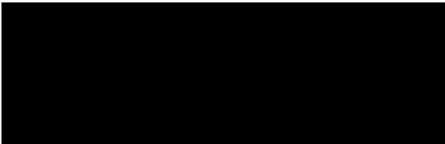




LOCKED BAG 1  
WANNEROO WA 6946  
TELEPHONE: (08) 9405 5000  
FACSIMILE: (08) 9405 5499

Application Number : DA2014/786  
File Ref: DA2014/786  
Enquiries Officer : Josh Coppola  
9405 5474

28 August 2015



CITY OF WANNEROO PLANNING APPROVAL  
METROPOLITAN REGION SCHEME  
FORM 2

Land Parcel Details:	Lot: 901 DP: 50843
Property Details:	150 Flynn Drive NEERABUP
Registered Owner(s):	[REDACTED]
Application Date:	4 June 2014
Application Received:	4 June 2014
Development Description:	Industry – Extractive (Retrospective)

The City advises that Planning Approval has now been **granted** under the provisions of the City of Wanneroo District Planning Scheme No. 2 and the Metropolitan Region Scheme. This Approval is subject to compliance with the following conditions:

Terms of this Approval

- a) Subject to the following paragraphs (i) to (iii), this approval shall be valid for a total period of 10 years expiring on 31 July 2025 consisting of two consecutive 5-year periods from the date of issue.
- (i) At least 12 months (but not more than 18 months) prior to the end of the first 5 year period of this approval (expiring on 31 July 2020), the landowner shall submit to the City of Wanneroo a report (Compliance Report) outlining compliance with the conditions subject to this approval.
  - (ii) With the aid of the Compliance Report, the Manager Planning Implementation shall within six months of receiving the Compliance Report, review the landowner's compliance with these conditions (including compliance with any associated plan, permit or direction).
  - (iii) If the Manager Planning Implementation forms the view (acting reasonably) that the Compliance Report is satisfactory, or if the Manager Planning Implementation does not complete their review within six months of receiving the Compliance Report, the second 5 year period of this approval will commence from the later date of either:

- the expiry of the first five year period; or
  - the date 6 months from when the Compliance Report is submitted.
- b) If the Manager Planning Implementation forms the view under condition (a)(ii) above (acting reasonably) that the Compliance Report is unsatisfactory or that the landowner's compliance with these conditions is unsatisfactory:
- (i) The Manager Planning Implementation shall as soon as possible inform the landowner in writing of the matters considered to be unsatisfactory;
  - (ii) If those matters are addressed by the landowner to the satisfaction of the Manager Planning Implementation (acting reasonably) prior to the expiry of the first 5 year period, then the second 5 year period will commence in accordance with condition (a)(iii) above;
  - (iii) Otherwise, the second 5 year period referred to in condition (a) above will not commence unless further planning approval is sought and obtained. In the absence of a further planning approval, all structures, plant, machinery, equipment and other material erected on Lot 901 pursuant to this approval shall be removed no later than 30 June 2021 and the site rehabilitated and filled as outlined in this approval.
- c) For the avoidance of doubt, all conditions of this approval (such as conditions in regard to rehabilitation, closure, restoring ground levels and future use of the site) which require works to be undertaken following the expiry of this approval, are enforceable notwithstanding the expiration of the approval.
- d) This approval is only valid from the date of this decision and does not retrospectively authorise any previous unapproved use of the subject land.

#### Vegetation

- e) All necessary permits, licences and permissions (which may include a licence issued under the *Wildlife Conservation Act 1950* and/or a permit issued under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*) are to be obtained prior to the commencement of works related to the clearing of vegetation.
- f) Any cutting, grinding, chipping or mulching of trade waste vegetation to be utilised for soil stabilisation or dust suppression on the site shall at all times occur within the excavation area. Trade waste vegetation not utilised on the site shall be disposed of at a landfill site that is acceptable to the Manager Planning Implementation.

#### Excavation Plan

- g) Development on the subject site shall comply in all respects and at all times with the attached Excavation Plan, and the conditions of this approval.
- h) In the event of any inconsistency between these conditions and the Excavation Plan, the conditions of Planning Approval will prevail to the extent of any inconsistency.



### Hours of Operation

- i) Unless alternative hours are agreed to in writing by the Manager Planning Implementation, the hours of operation for the approved development shall be from 0700 – 1900 hours, Monday to Friday (excluding public holidays) and from 0700 – 1900 hours on Saturdays (excluding public holidays). The approved development shall not operate on Sundays.

### Groundwater Separation

- j) Excavation shall not occur where the surface level will have a vertical separation distance of less than (whichever is greater):
  - (i) 1.2 metres from the average annual maximum groundwater level; or
  - (ii) 2.0 metres from the groundwater contours shown in the Water and Rivers Commission Groundwater Atlas; or
  - (iii) Any vertical separation as prescribed by the Department of Water or the City.
- k) Excavation shall not continue if at any stage it becomes reasonably apparent to the landowner or to the Manager Planning Implementation that to proceed would be detrimental to groundwater.

### Contours and Rehabilitation

- l) Within 12 months of this approval and thereafter on an annual basis, the landowner shall submit a Predictive Contour Plan and Rehabilitation Plan to the satisfaction of the Manager Planning Implementation, to illustrate:
  - (i) The intended depth and direction of excavation for the coming 12-month period; and
  - (ii) The extent of rehabilitation and fill proposed for the coming 12-month period.
- m) The excavation area shall be progressively rehabilitated and filled in accordance with the Rehabilitation Plan (referred to in Condition (l)) and the Excavation Plan.
- n) Batters shall be graded, stabilised and thereafter maintained to the satisfaction of the Manager Planning Implementation.
- o) The top of the batter adjacent to the northern boundary of Lot 901 shall be set back at least 3.0 metres from this boundary, as indicated in red on Figure 4 of the Excavation Plan.
- p) Within 12 months from the expiry of this approval (or within such other period approved by the Manager of Planning Implementation in writing), the landowner shall complete filling the subject lot to the levels as prescribed by the City's Agreed Structure Plan No. 17 (Neerabup Industrial Area) and Figure 4 of the Excavation Plan.
- q) Only clean fill shall be used to achieve the levels as prescribed by the City's Agreed Structure Plan No. 17 (Neerabup Industrial Area) to the satisfaction of the Manager Planning Implementation and the Department of Environment Regulation. Fill shall be placed in layers and compacted in accordance with the Excavation Plan.



- r) Within 90 days of the completion of works to restore the ground levels (or within such other period approved by the Manager of Planning Implementation in writing), the landowner shall provide the City a detailed feature and contour survey of the site, and a geotechnical, compaction and stabilisation certification that verifies that the land is stable and suitable for future development.

#### Ancillary Facilities

- s) All ancillary facilities, such as (but not limited to) ablution and lunchroom facilities shall be provided outside the excavation area, provided that the development of these facilities would not:
  - (i) Result in a loss of vegetation that is deemed unacceptable by the Manager Planning Implementation; or
  - (ii) Impede on any future upgrades of Flynn Drive.

#### Access

- t) Access to Lot 901 shall be via a sealed crossover, which is designed, constructed and thereafter maintained to the City's specifications.

#### Noise Management

- u) The landowner shall ensure that all approved activities are in accordance with the requirements of the *Environmental Protection (Noise) Regulations 1997* at all times;
- v) If at any time compliance with the *Environmental Protection (Noise) Regulations 1997* cannot be maintained; the operations on site shall immediately cease until such time that operations can comply with the aforementioned Regulations;
- w) To ensure that the amenity of nearby landowners is not unduly interfered with, vehicles, equipment and machinery used on the site (other than trucks collecting limestone or sand from the site) must not use reversing alarms unless those alarms are required for the safe conduct of operations on the site (in accordance with the provisions of the *Occupational Safety and Health Regulations 1996* and the *Environmental Protection (Noise) Regulations 1997*);
- x) In addition to any other condition, if an officer of the City inspects the site and is satisfied that any of the operations on the site are generating an unreasonable amount of noise, or that any of those operations are not compliant with any of the conditions relating to noise emissions (including non-compliance with the noise management measures contained in the Noise Management Plan), the City may issue a direction requiring any of the following:
  - (i) Noise monitoring;
  - (ii) Submission of a noise assessment;
  - (iii) Submission of an amended noise management plan and implementation of that plan;
  - (iv) The activities on the site brought into compliance with this approval;

In this condition 'an unreasonable amount of noise' means noise which exceeds the levels assigned by the *Environmental Protection (Noise) Regulations 1997*.

## Complaints and Annual Report

- y) The landowner shall:
- (i) Keep a complaints log in which the following is to be recorded:
    - A. the date and time, where relevant, of each complaint made and received;
    - B. the means (telephone, email or mail) by which the complaint was made;
    - C. any personal details of the complainant that were provided or, if no details were provided, a note to that effect;
    - D. the nature of the complaint (including a description of the operations and the equipment to which the complaint relates);
    - E. the steps or actions taken in, and the timing of, the response to each complaint, including any follow up contact with the complainant; and
    - F. if no actions or steps were taken in relation to the complaint/enquiry, the reason(s) why no actions or steps were taken;
  - (ii) respond as soon as possible, and in any event within three working days, to any complaint received and provide the City with a copy of the response; and
  - (iii) provide the complaints' log to the City, together with a copy of any complaints received and its response upon request;
- z) By 31 July each year, a report (Annual Report) shall be submitted to the City that includes, in respect of the period from 1 July to 30 June of the year in question:
- (i) the progress of the excavation activities;
  - (ii) production levels;
  - (iii) the progress of rehabilitation undertaken and completed;
  - (iv) the measures taken to suppress and minimise dust;
  - (v) the measures taken to suppress and minimise noise;
  - (vi) the number and type of community complaints and responses, and whether and how such complaints have been resolved;
  - (vii) results of noise, dust and bore monitoring; and
  - (viii) the progress of filling the site to the levels prescribed in the City's Agreed Structure Plan No. 17 (Neerabup Industrial Area) and Figure 4 of the Excavation Plan.

## Department Licence

- aa) If required, a licence from the Department of Environment Regulation, in accordance with the *Environmental Protection Act 1986* and *Environmental Protection Regulations 1987* must be obtained in respect of the:



- (i) the site as a prescribed premises for extraction;
- (ii) the use of machinery on the site for the extraction process; and
- (iii) Filling of the land to the levels prescribed in the City's Agreed Structure Plan No. 17 (Neerabup Industrial Area) and Figure 4 of the Excavation Plan.

#### Miscellaneous

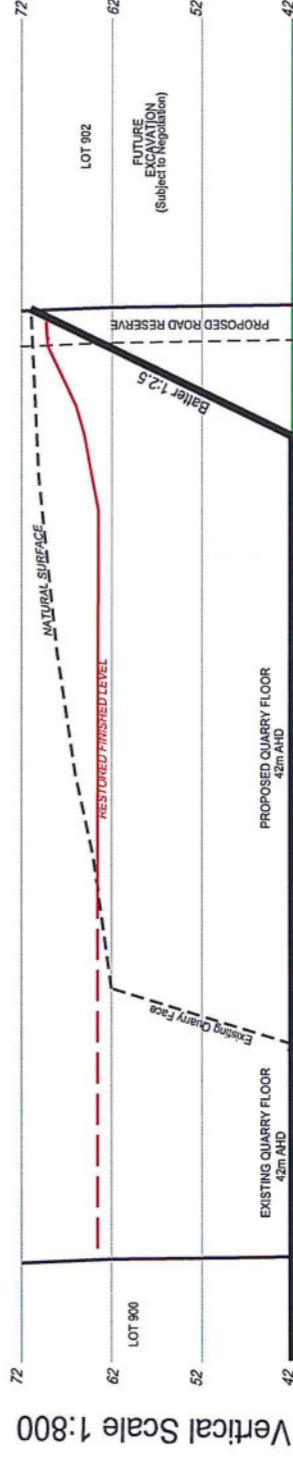
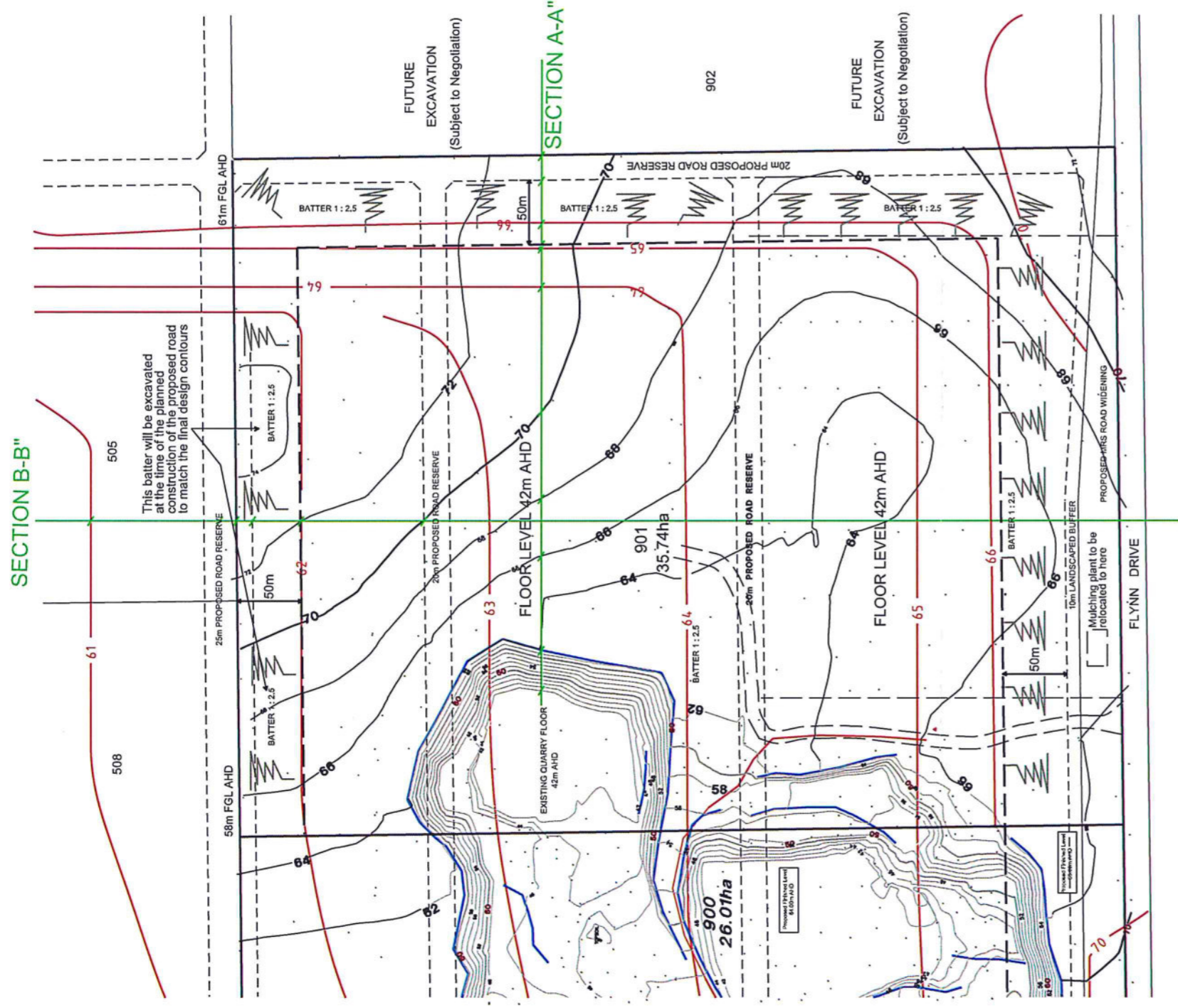
- bb) All activities pertaining to any vehicle or equipment wash-down or servicing shall be confined to a wash down area with a pollutant trap within the Disturbance Area, which shall be provided before any vehicle or equipment wash-down or servicing commences on the site.
- cc) Within 60 days from the date of this approval (or an alternative time period that is agreed to in writing by the Manager Planning Implementation), the landowner/applicant shall prepare and provide the City with the following-
  - A Drainage, Nutrient and Water Management Plan – as required under Clause 12.3 of the City's Agreed Structure Plan No. 17 (Neerabup Industrial Area); and
  - A Dieback Hygiene Plan – as required under Clause 12.4 of the City's Agreed Structure Plan No. 17 (Neerabup Industrial Area);
- dd) No explosives shall be stored on Lot 901 and no blasting shall be carried out without the written approval of the Manager Planning Implementation.
- ee) The landowner is to maintain fencing to prevent unwarranted access to the excavation area.
- ff) No peat, landfill, soil, chemical or other substance or material is to be brought onto Lot 901 for the purposes of:
  - (i) manufacturing products or materials from the sand extracted; or
  - (ii) storage or stockpiling.

Unless otherwise specified, all conditions shall be complied with, by and at the cost of the owner, to the specification and satisfaction of the City, before the development is occupied. Thereafter, maintenance and compliance with conditions of approval shall continue to the City's satisfaction.

Unless otherwise specified through the conditions above, this approval requires development to be undertaken in accordance with the enclosed approved plans. Should any minor variation to the approved plans be proposed on the submission of a building licence, such variation may only be permitted under this Planning Approval at the City's discretion and to the satisfaction of the Manager Planning Implementation.

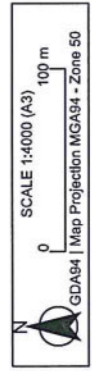
  
Pas Bracone  
**MANAGER PLANNING IMPLEMENTATION**  
City of Wanneroo





**CITY OF WANNEROO**  
**PLANNING APPLICATION APPROVED**  
SUBJECT TO THE ENDORSEMENT HEREON AND COMPLIANCE WITH THE CONDITIONS OF PLANNING APPROVAL  
APP'N No. DA 2015/786  
DATE APPROVED 28.08.15  
NUMBER OF PAGES 1 of 1  
NOTE: THIS APPROVAL DOES NOT CONSTITUTE A BUILDING LICENCE

- 80 — Natural Contours
- 62 — Finished Surface Contours
- Edge of Excavation



Landvision Pty. Ltd.  
Land Planning & Mapping Consultants  
Suite 5, 16 Nicholson Road  
Subiaco WA 6008  
T | 08 9388 8181  
E | enquires@landvision.com.au



**PROPOSED EXCAVATION**  
LOT 901, FLYNN DRIVE, NEERABUP

DATE: 14 JULY 2015  
Job No.: 1671

**FIGURE 4**