

Policy Name:	Placement of Fill – Local Planning Policy
Objective:	<ul style="list-style-type: none"> • To ensure that the filling of land does not adversely impact on the amenity or environment of the locality in which it is being undertaken; • To ensure that drainage is appropriately managed; • To minimise environmental impacts on surface and groundwater hydrology and vegetation; and • To ensure visual impact is minimised on neighbouring properties and the streetscape • Minimise the potential for the proposal to create nuisance via dust, sand drift and/or erosion.
Key Words	Fill
Statutory Compliance	<i>Local Planning Scheme</i>

Scope

This Policy applies to the filling of land in all zones except 'rural' under Local Planning Scheme No. 24 where the lot size is 4000m² or greater or located with Special Control Area No. 4 or 5.

Exemptions

The following cases are exempt from the need to acquire development approval in accordance with Clause 61.(1) of the Deemed Provisions:

- The filling of land incidental to the construction of a single house and in compliance with all provisions Local Planning Scheme No. 24 and the deemed-to-comply requirements of the R-Codes and where no special control area applies to the property;
- The filling of land associated with a subdivision approval, which is exempt from the need to obtain development approval under Section 157 of the *Planning and Development Act 2015*;
- Top dressing not exceeding 100mm where not located in flood plain or an environmentally sensitive area; and
- The filling of land to no higher than 500mm where not located in a flood plain or an environmentally sensitive area.

Provisions

- 1.0 A Development Application is required for all fill unless otherwise exempted by this Local Planning Policy,
- 2.0 The Shire will generally not support the filling of land which would substantially alter existing surface drainage patterns unless the application is part of a co-ordinated proposal to manage surface water runoff in a comprehensive manner and is in accordance with an appropriate management plan.

- 3.0 The Shire will generally accept any consolidated, clean, coarse and clay free sand subject to certification being provided by a suitably qualified person, and where such filling is approved.
- 4.0 The Shire does not support the filling of land where:
- 4.1 Fill material is contaminated, or comprises waste or disease pathogens (e.g. dieback).
 - 4.2 Fill material that contains acid sulphate or has a potential for acid sulphate content.
 - 4.3 Fill material that contains the seed bank or vegetative matter that is listed as a declared weed or pest species within the Shire of Esperance.
 - 4.4 The land is located in the Priority 1 area of Special Control Area 5 – Wetlands of Significance and Lake Warden Recovery Catchment.
 - 4.5 The development is considered unacceptable development as listed in Table 1: Development Standards.
- 5.0 A retaining wall or other type of soil retaining/stabilising method must be installed where the proposed finished level is more than 0.9m greater than the existing ground level, unless the land is battered at a grade of at least 1:2 (height: length). This may require a separate development approval if a retaining wall is proposed.
- 6.0 When the filling of land creates earth embankments that are not to be retained, the embankment must be stabilised by vegetation or other works to prevent erosion.
- 7.0 The Shire does not permit any filling of wetlands or watercourses.
- 8.0 The filling of land shall not adversely impact on adjoining land or the local road network through nuisance, i.e. dust, sand drift or erosion.
- 9.0 A traffic management study is required if the fill proposed is likely to impact on vehicle sight lines on a street corner or intersection. This study is also required if the volume of fill will result in a significant volumes of traffic.
- 10.0 Filling may be approved as a component of another development application however it is to be assessed in accordance with this Local Planning Policy.

Table 1: Development Standards

- Proposals that fall entirely within the acceptable development criteria will generally be supported.
- Proposals falling within performance based will be required to be accompanied by relevant management plans and technical reports.
- Proposals that fall within unacceptable development will not be supported.

Acceptable Development	Performance Based	Unacceptable Development
<u>Nature of Fill</u>		
<ul style="list-style-type: none"> • Consolidated clean, coarse, clay free sand; • No presence of timber or other biodegradable material; • Certification of fill as clean or evidence of the commercial source. 	<ul style="list-style-type: none"> • Uncontaminated fill (as defined by DWER) - further tests and certification will be required to be submitted 	<ul style="list-style-type: none"> • Unclean, suspect fill • Comprises waste • Contains or is suspected to contain contaminated material – e.g. Asbestos • Contains dieback • Contains acid sulphate soil • Contains the seed bank or vegetative matter that is listed as a declared weed or pest species within the Shire of Esperance.
<u>Drainage</u>		
<ul style="list-style-type: none"> • Fill maintains existing drainage patterns in the locality • Fill is set back a minimum of 1m from side and rear lot boundaries and a minimum of 3m from front and rear boundaries 	<ul style="list-style-type: none"> • Fill has a minor impact on existing drainage patterns in the locality but is managed in a comprehensive manner in accordance with an appropriate management plan or design created by an appropriately qualified engineer or other suitably skilled person. 	<ul style="list-style-type: none"> • Fill significantly alters the existing drainage patterns • Fill interferes with existing water courses or water bodies. • Fill interferes with on-site effluent disposal systems or servicing easements in such a way as the previous access or correct operation.
<u>Traffic</u>		
<ul style="list-style-type: none"> • Low/No impact on surrounding road network. • Low/No impact on vehicle safety for users of local road network. 	<ul style="list-style-type: none"> • Traffic movements are likely to be generated, however, will generate a moderate impact on surrounding amenity and can be mitigated through traffic management. • Fill allows for proper sight lines around street corners and intersections. 	<ul style="list-style-type: none"> • Adverse amenity impacts likely to be generated as a result of heavy traffic movements • Large road Trucks being utilised frequently during fill process • Fill creates significant and unacceptable impacts on sight lines at street corners or intersections.

<u>Environmental</u>		
<ul style="list-style-type: none"> • Fill is set back adequately (50m) from environmental features such as watercourses and wetlands and is not in a floodplain. 	<ul style="list-style-type: none"> • Fill is located in proximity to environmental features such as watercourses, wetlands and floodplains but it has been demonstrated that these will not be adversely impacted upon by the fill (management plans required). 	<ul style="list-style-type: none"> • Fill is located within or in close proximity to environmental features such as watercourses wetlands and floodplains. Insufficient justification has been provided to demonstrate their protection.
<ul style="list-style-type: none"> • No clearing required. • Fill does not occur within the dripline of existing vegetation. 	<ul style="list-style-type: none"> • Some vegetation cleared. • Protection of mature trees or provision of tree replacement (Landscaping plan/flora fauna survey required). 	<ul style="list-style-type: none"> • High rate of clearing required or fill to be used as a form of clearing. • No proposed replacement planting • Fill occurs within the dripline of existing vegetation.
<u>Amenity</u>		
<ul style="list-style-type: none"> • No significant impact on the natural levels or landscape character of the area taking into account cumulative impacts. 	<ul style="list-style-type: none"> • Moderate visual impact on surrounding land and street that can be managed taking into account cumulative impacts (Landscaping Plan and street elevations are required). 	<ul style="list-style-type: none"> • High visual impact adversely impacting on surrounding land and the landscape character of the area taking into account cumulative impacts.
<ul style="list-style-type: none"> • Dust is controlled, therefore risks to health and safety are minimal. 	<ul style="list-style-type: none"> • Moderate risks to health and safety of surrounding residents and users of the road network. Management controls are required to be demonstrated (Dust Management Plan required). 	<ul style="list-style-type: none"> • Dust emissions are a risk to adjacent residents and users of the local road network.
<u>Purpose of Fill</u>		
<ul style="list-style-type: none"> • Fill required for the purposes of a permitted or approved land use. 	<ul style="list-style-type: none"> • Fill required for the purposes of a discretionary land use. 	<ul style="list-style-type: none"> • Fill used solely for storage purposes unrelated to an existing approved or permitted use on site; • Applications for fill that do not demonstrate a purpose/use.

Notwithstanding the management plans required to demonstrate performance based proposals, the following information will be required for all fill applications:

- A surveyed site plan drawn to scale showing existing and proposed ground levels, physical features of the site, watercourses, buildings, vegetation (size, type, location);
- Description of the purpose of the fill;
- Cross sections showing proposed fill and batter/retaining;
- Evidence of the commercial source or Certification of fill (where applicable);
- Drainage Management Plan (where applicable);
- Water Management Plan (where applicable); and
- Hydrological Assessment and/or Report (where applicable)

Definitions

‘Placement of Fill’ Importing and depositing fill to alter land levels.

‘Natural Ground Level’ means the existing ground level of the land before any filling, excavation or building work has been undertaken.

‘Environmentally Sensitive Area’ means land located within SCA4, SCA5 or the Sewerage Sensitive Area as defined under the Government Sewerage Policy or any amendment to that area based on additional study.

‘Proposed Finished Level’ means the new ground level(s) proposed to be created by the depositing of fill on the site.

‘Watercourse’ means a river, stream or creek in which water flows in a natural channel, whether permanently or intermittently.

‘Clean Fill’ and ‘Uncontaminated Fill’ as defined under the Department of Water and Environment Regulation *Landfill Waste Classification and Waste Definitions 1996 (as amended 2019) (December 2019)*.

‘Drip Line’ is the imaginary line drawn down from the outside branches of vegetation to the soil. At this point the plants root system is most active and busy seeking water and nourishment.