Quarrying Policy

Strategic Reference	Outcome 2 – Infrastructure Strategy 1.2 – Maintain our unsealed road network in line with emerging and changing needs.
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Responsibility	Roads & Infrastructure Department
Revision Number	6
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Next review date	February 2031
Applicable Legislation	Local Government Act 1999
Related Policies	Records Management Policy Procurement Policy
Related Documents	NIL

1. Introduction

Pursuant to Section 294 of the *Local Government Act 1999*, the Coorong District Council, its employees or its contractors may carry out particular activities on land insofar as may be reasonably necessary for carrying out a function or responsibility of the Council.

Subject to Section 294 and this Policy, Council may, by agreement with the property owner, enter and occupy land for the purposes of obtaining/sourcing rubble or other road making materials during periods of roads construction and maintenance works.

2. Objective

This Policy outlines the regulations and requirements for establishing agreements between Council and landowners when obtaining rubble or other materials for road construction and maintenance.

Under Section 294 of the *Local Government Act 1999*, Council has the power to enter and occupy land only for authorised road purposes, including activities such as:

- Obtaining earth, minerals or timber from land
- Depositing soil on land
- Constructing temporary roads and structures on land

- Storing materials/equipment on land
- Conducting surveys, inspections, examinations or tests on land
- Performing any other incidental activities necessary for these purposes

Important safeguards for landowners:

- Council will only exercise these powers with lawful authority and, where required, through formal agreements with landowners;
- Council is not authorised to enter or occupy land that is within 500 metres of a house of dwelling, a garden or park, a commercial quarry or brickfield, or land covered by a permit, lease, licence or mining tenement under the Mining Act 1971 or Opal Mining Act 1995;
- Any entry or use of private land will be carried out responsibly and with respect, and compensation or agreement terms will be provided to landowners as appropriate;
- Council cannot and will not use this power to access or occupy land arbitrarily or without the landowner's knowledge or consent.

3. Scope

This section outlines the process in order to obtain access to rubble.

3.1 Quarry Licence

The Quarry Licence (appended to this Policy) permits Council to enter and occupy land for the purpose of obtaining rubble. The Quarry Licence outlines legislative requirements that need to be addressed prior to Council's occupation of the land. These issues include:

- Expected period of occupation of the land;
- Payment amounts (if any) covering property rental, crop damage compensation and material compensation;
- Fencing requirements (if any);
- Land description.

3.2 Process

Council officers will be required to obtain written agreement via the Quarry Licence with the landowner prior to accessing private property to ensure compliance with Section 294 of the *Local Government Act 1999*, and to provide better understanding of Council's intentions.

All items on the Quarry Licence must be completed prior to occupation of the Land by Council.

3.3 Fees Payable (Rent and Royalties)

Fees payable shall be assessed and agreed upon on an individual basis and detailed in the Quarry Licence (Appendix 1).

Administration staff retain the right to amend the Licence from time to time, without requiring the policy (in full) to be re-authorised by Council when such changes are made.

The amount payable to the landowner shall be the amount of rubble that is utilised by Council in accordance with the Quarry Licence.

3.4 Payment of Fees

Payment of fees shall be paid in accordance with the completed Quarry Licence.

3.5 Fencing (and other Infrastructure)

Any fencing or other infrastructure shall be installed (by Council) to undertake the works of Council in accordance with the Quarry Licence.

Council's delegated officer must identify this infrastructure and list on the consent form.

3.6 Rehabilitation

Council will undertake any (and all) rehabilitation (restoration) works prior to the end date of the completed Quarrying Licence Agreement Form.

Rehabilitation includes the restoration works of:

- Ripping of areas compacted by heavy machinery;
- Grading the quarry to match surrounding land contours;
- Replacement of any top soil stockpiled from the site.

The above is in accordance with the "Restoration Works" listed in the Special Conditions of the Quarry Licence.

Rehabilitation aims to give the appearance of a more natural depression in the ground, no revegetation of pits will be undertaken other than the natural revegetation that is likely to occur.

3.7 Weed Management and Assessment Plan

A Weed Management and Assessment Plan must be developed and approved prior to the establishment of any new quarry site. The plan will outline measures for identifying, preventing and controlling the introduction or spread of weeds throughout all stages of quarry development and operation.

4. Refusal to Access

If a property has been identified as having suitable rubble and should the property owner refuse access to their property, the delegated officer(s) shall make all reasonable attempts to establish an alternative supply within a reasonable vicinity of the proposed works.

If no supply of rubble is found within a reasonable vicinity of the proposed works, such works may be required to be re-scheduled, and this shall be at the discretion of the Director Roads & Infrastructure.

Council, in accordance with Section 294 of the *Local Government Act 1999,* may elect to utilise its powers under this section to enter the land, and this will only be undertaken at the direction of Council.

5. Delegations

Council hereby delegates the Director Roads & Infrastructure to (in accordance with the Procurement Policy):

- Negotiate the terms and conditions of the Quarry Licence;
- Execute the Quarry Licence.

In the absence of the Director Roads & Infrastructure, delegation shall extend to any person appointed to act in the position.

6. Records Management

Council shall keep records of the quantity of the said materials in cubic metres taken from the said land.

The locations of existing (and any new) quarry locations utilised by Council will be maintained and recorded into Council's electronic mapping system. Any additional documents relevant to the Quarry Licence (including the Quarry Licence) will be maintained and recorded in Council's electronic document records management system.

All records shall be kept and disposed of in accordance with Council's Records Management Policy and the General Disposal Schedule 40.

7. Availability/Accessibility

This policy is available for inspection at Council's offices during normal business hours and Council's website, and will be emailed to interested parties on request (please lodge request in writing via email to council@coorong.sa.gov.au)

8. Document History

This policy will be reviewed at least every five (5) years (or more frequently if legislation or Council requires).

Version	Adopted	Minute No	Description of change(s)
1	19 April 2011	131/11	New policy
2	17 July 2012	257/12	Cyclical review
3	15 July 2014	166/14	Cyclical review
4	28 June 2016	116/16	Cyclical review
5	19 March 2019	068/19	Cyclical review
6	17 February 2026	032/26	Insertion of new clause regarding the requirement for a weed management and assessment plan Quarry Licence now appended to policy (rather than inserted as a procedure)

Appendix 1 – Quarry Licence

QUARRY LICENCE

SCHEDULE

Landowner: [NAME] Postal address: [POSTAL ADDRESS] Ph: [PHONE], Email:[EMAIL] ABN [ABN]

Council: Coorong District Council ABN 36 233 436 743 of PO Box 399 Tailem Bend SA 5260 Ph: 1300 785 277, Fax: (08) 8572 3822; Email: council@coorong.sa.gov.au

Agreement: The Landowner grants to the Council who accepts a right to quarry and take away stone (***Licence***) from that portion of the land comprised within [PROPERTY ADDRESS/DESCRIPTION], as depicted edged in Yellow and indicated on the attached plan (***Premises***), on the terms stated in this Schedule and following

Period: Starts [DATE] and (subject to any early termination this Agreement allows) ends [DATE]

Consideration: (Detail either rent)

Special Conditions: (Any special conditions now stated prevail over other provisions of this Agreement to the extent of any necessary inconsistency).

- Access. Access is limited to a single gate as dictated by landowner.
- Notice: Prior to accessing the site to extract material the landowner shall be given a minimum of 3 days notice of this occurrence to enable stock to be mustered from the paddock.
- Stockpiling of quarried material. Some maintenance quarried material shall be left in the quarry area to be used by council over the term of this agreement.
- Rent and Royalties. As described above under 'Consideration'.
- Restoration works.
  - ripping of areas compacted by heavy machinery
  - grading the quarry to match surrounding land contours
  - Replacement of any topsoil stockpiled from the site.

.....	.....
Signed for Coorong District Council	Signed by / for the Landowner
Name:	Name:
Title:	Title: Landowner
Date:	Date: :

A person signing on behalf of a party warrants they have authority to bind that party for that purpose

TERMS

1. **Duration:** The Licence is for the period stated above, subject to early termination if either:

   1.1 the Council gives the Landowner at least 60 days' written notice of termination – on the date for termination stated in that notice;

   1.2 if a party fails to remedy their material breach of these terms within 30 days after written notice from the other identifying the breach and requiring its remedy - on the date stated in a following written notice given by the other party to the party in breach.

   If, after the end of that period, the Council operates upon the Premises with the Landowner's consent:

   1.3 the Council is a monthly licensee of the Landowner;

   1.4 either party may terminate the monthly licence on at least 14 days' written notice; and

   1.5 the provisions of this Agreement apply, with necessary variations, to the monthly licence.

2. **Vacating the Premises:** On the end of the Licence (after any holding over), the Council must:

   2.1 vacate the Premises; and

   2.2 remove from the Premises all the property of the Council or of its contractor.

3. **Manner of use:** The Council in exploiting the Licence must not contravene any applicable law or mandatory code of practice nor:

   3.1 cause a nuisance, interference or inconvenience to others;

   3.2 fail to take reasonable steps to minimise soil compaction or erosion caused by the Council's activities;

   3.3 allow the Premises to be other than in a reasonably safe, clean and tidy condition;

   3.4 allow any crop or other vegetation on or about the Premises to be unduly damaged or interfered with;

   3.5 allow any farm animals on or about the Premises to be interfered with; or

   3.6 allow disorderly behaviour upon the Premises.

4. **Landowner's outgoings:** The Council is not liable to contribute to any costs or expenses the Landowner incurs in holding, operating, maintaining or repairing the Premises.

5. **Rent:** If applicable - Council must pay consideration to the Landowner of the amount and at the times stated earlier above. For this purpose, no later than within 5 working days after each calendar quarter the Council must notify the Landowner:

5.1 those days in that calendar quarter the Council or its contractor took away material from the Premises;

5.2 with respect to each load taken away, the quantity of material taken away (expressed as tonnes) by reference to cart notes made at the time of each load and copies of which cart notes are to be provided to the Landowner upon request.

6. **GST:** If rent or a royalty/compensation is stated as before GST, the consideration payable by the Council is increased by any GST the Landowner incurs for the taxable supply, which additional amount is payable when the Council is required to pay the price, conditional upon issue of a tax invoice.

7. **Warranties excluded:** The Landowner does not warrant the Premises are or will be fit for the Licence.

8. **Liability:** Except to any extent caused by the Landowner's wrongful act or negligence, the Council accesses and uses the Premises at its own risk.

9. **Insurance:** At all times during the Licence, the Council must be a member of the *Local Government Association Mutual Liability Scheme*.

10. **Indemnity:** As a continuing obligation, except to any extent caused by the Landowner's (or its invitee's) wrongful act or negligence, the Council indemnifies and holds harmless the Landowner against:

10.1 loss of or damage to property not in the normal course of activities permitted under the Licence;

10.2 injury or death of an individual; and / or

10.3 costs or expenses incurred as a result of a claim as above;

caused by the Council or its contractor accessing or using the Premises under the Licence.

11. **Landowner's access:** At times the Landowner is accessing the Premises, the Landowner must observe usual workplace safety requirements for the Premises and endeavour to minimise disruption to the Council's activities.

12. **About the Landowner:** If the Landowner is more than one person, each of them is bound jointly and also severally. If during the Licence the Landowner ceases to have to possession of the Premises, the Landowner must cause their successor in possession to enter into a contract with the Council on the same terms as this Agreement so far as this Agreement remains to be performed.

13. **About this Agreement:** This Agreement:

13.1 may be executed in counterparts; each executed counterpart is deemed an original of this Agreement;

13.2 is the whole contract between the parties about its subject matter and supersedes any prior contract or obligation between the parties about its subject matter;

13.3 may be modified only by written agreement of all parties.

14. **Interpretation:** Words or expressions given meaning in the Schedule or elsewhere in this Agreement have those meanings. In this Agreement: singular includes plural and *vice versa*;

headings do not affect construction; no rule of construction applies to the disadvantage of a party because that party put forward this Agreement or any portion of it.

15. **Council** means the council as specified in the Schedule and any employee, agent, contractor or invitee of the Council.

16. **Notices:** To be effective, a notice under this Agreement must be in writing. A notice to the Council must be given in a manner *Local Government Act 1999* allows and be marked "Attention: Chief Executive Officer". A notice to the Landowner may be given by sending it by pre-paid letter post addressed to the Landowner care of the mailing address stated in the Schedule or as last notified, and is served when the letter would arrive in the ordinary course of post. Where 2 or more persons comprise the Landowner, notice to or from one is effective notice to or from all.

17. **LGA s. 294:** This Agreement was formed independently of *Local Government Act 1999* section 294 but is conclusive of any rights and obligations that might otherwise arise under that section.

18. **Costs:** The Council bears the costs of preparing this Agreement.