

## Quarrying Policy and Procedure

Strategic Reference	Objective 2: A strong sense of civic pride and well-maintained townships. Strategy 2.7: Maintain and develop assets, infrastructure and buildings in accordance with Infrastructure & Asset Management Plans, Roadside Vegetation Management Plans and Capital Works programs. Objective 3: A prosperous and sustainable district. Strategy 3.7: Maintain a local road network that satisfactorily supports primary production, tourism development and other employment generating activities.
File reference	AR19/3154
Responsibility	Director Infrastructure & Assets
Revision Number	Original document
Effective date	May 2019
Last revised date	N/A
Minutes reference	154/19
Next review date	Every three (3) years, May 2022 (or when significant legislative changes occur relating to this Policy)
Applicable Legislation	Local Government Act 1999, Section 294
Related Policies	Records Management Policy Procurement Policy
Related Documents	Quarry Licence

### 1. Introduction

Pursuant to Section 294 of the *Local Government Act 1999*, the Coorong District Council or 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, the Council may 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 aims to set out regulations and requirements to establish agreements between Council and landowners for the purpose of obtaining rubble (or other road making materials).

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Pursuant to Section 294 of the *Local Government Act 1999*, Council has the power to enter and occupy land in connection with road maintenance or road construction to:

- Obtain earth, minerals or timber from land
- Deposit soil on land
- Construct temporary roads and structures on land
- Deposit or store materials on land
- Conduct surveys, inspections, examinations and tests, and carry out work
- Carry out any other incidental activity on land

### **3. Scope**

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

#### **3.1 Quarry Licence**

The *Quarry Licence* (attached at rear of 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 (to be detailed in the section marked "Consideration" on page one (1) of the Form).

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)**

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Any fencing or other infrastructure shall be installed (by the Council) to undertake the works of the 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.

### **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, this shall be at the discretion of the Director Infrastructure & Assets.

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, this will only be undertaken at the direction of Council.

### **5. Delegations**

The Council hereby delegates the Director Infrastructure & Assets 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 Infrastructure & Assets, delegation shall extend to any person appointed to act in the position.

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### 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 20.

### 7. Policy Review & Further information

This Policy will be reviewed every three (3) years, or as required due to any relevant legislation changes. The next review is scheduled for May 2022.

This Policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's website: [www.coorong.sa.gov.au](http://www.coorong.sa.gov.au).

#### Coorong Civic Centre

95-101 Railway Terrace  
PO Box 399  
Taillem Bend  
Phone: 1300 785 277  
Fax: 8572 3822

#### Meningie Information Hub

49 Princes Highway  
Meningie

#### Tintinara Customer Service Centre

37 Becker Terrace  
Tintinara

Copies will be provided to interested parties upon request. Email [council@coorong.sa.gov.au](mailto:council@coorong.sa.gov.au).

Any grievances in relation to this Policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

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### 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

Name:

Title:

Date:

.....  
Signed by / for the Landowner

Name:

Title: Landowner

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

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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.

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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

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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.