NARACOORTE LUCINDALE COUNCIL

COUNCIL POLICY 100

QUARRYING ACTIVITIES

RESPONSIBLE OFFICER:	Chief Executive Officer
RELEVANT DELEGATIONS:	Director Operations
LEGISLATION AND REFERENCES:	*Local Government Act 1999 section 294*

PURPOSE OF POLICY

- To set guidelines that ensure processes for obtaining earth or minerals[1] from properties and managing pits is done with appropriate regard for the land owner, environment and Council requirements.
- To reduce the net cost of infrastructure maintenance and construction activities by obtaining earth or minerals[1] as close as possible to the work site.
- To ensure that the process of sourcing earth or minerals[1] is undertaken in compliance with the Local Government Act 1999 and is equitable for both Council and the land owner.

[1] *'Minerals' include stone, gravel, clay or sand*

BACKGROUND

Pursuant to Section 294 of the Local Government Act 1999, Council has the power to enter and occupy land in so far as may be reasonably necessary for carrying out a function or responsibility of the Council to:

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

Council is not authorised to enter or occupy land where land is within 500 metres of:

- a house or dwelling;
- a garden or park
- a quarry, brickfield or other similar place from which materials are commonly obtained for commercial purposes
- land where a permit, claim, lease, licence, tenement or private mine exists under the Mining Act 1971 or the Opal Mining Act 1995.

PROCESS

This section outlines the process involved in order to obtain access to earth or minerals[1] from a land owner.

3.1. Agreement

Council obtains written agreement via the "Consent Form" with the land owner prior to accessing private property to provide clear understanding of Council's intentions. The consent form must be completed and signed by all parties prior to occupation of the land.

The "Consent Form" *(Rubble Pit - Consent to Enter and Occupy Land)* to enter and occupy land for the purpose of obtaining earth or minerals[1] includes the legislative requirements of Section 294 of the Local Government Act 1999 and additional information required by Council.

- Land owner name, postal address and contact details
- Land owner ABN
- Land (Parcel) description
- Expected period of occupation
- Payment amounts (if any) covering material compensation
- Payment amounts (if any) covering land rent
- Compensation (if any) for damage caused to any crops on the land
- Fencing requirements (if any)
- Access tracks
- Remedy requirements
- Any other relevant information (eg. locks and key access)
- Payment Method (eg. direct deposit) and timing of such payment
- BSB and Bank Account Details (if relevant)

3.2. Ownership

All earth or minerals[1] raised and/or crushed by the Council will remain the property of the Council, unless otherwise negotiated between the landowner and Council.

3.3. Rent and Compensation

Rent for the land will be determined by agreement between Council and the land owner or occupier or, in default of agreement, by the Land and Valuation Court. A non-monetary rent may be negotiated between the land owner and Council.

Monetary rent will be paid on a half-yearly basis in January and July in arrears.

As a tenant of the land Council will be responsible for maintenance of the pit, including the spraying of noxious weeds.

The amount to be paid for any earth, minerals[1] or resources to be taken from the land will be determined prior to establishment of the pit and recorded on the "Consent Form".

Payment will be calculated on the amount of earth or minerals[1] taken from the land and will be paid on an annual basis in July.

Council will keep records of the quantity of earth or minerals[1] in cubic metres, taken from the said land.

Council will pay to the owner or occupier of the land reasonable compensation for any other loss or damage caused by the council.

3.4. Fencing (and other Infrastructure)

The Council must at the request of an owner or occupier of the land, erect a fence of reasonable quality and design between the land and adjoining land.

At Council's discretion an access track, including entry gate, may be constructed to access the pit.

3.5. Remedy Damage

Remedy damage (rehabilitation) will be negotiated with the landowner or occupier prior to establishment of the pit and recorded on the "Consent Form". Rehabilitation will occur within six (6) months of ceasing to occupy the land as required under the Act.

Rehabilitation will include as a minimum:

- Overburden and excess stones pushed into pit;
- General levelling and battering of edges.

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

REFUSAL OF ACCESS

In the instance that a property owner refuses to provide access to their property, Council will, within reason, attempt to establish an alternative supply within the vicinity of the proposed worksite.

If no supply of earth or minerals[1] is found within a reasonable vicinity of the proposed worksite, such works may be required to be rescheduled. In this instance a report will be presented to Council.

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 discretion will only be used at the direction of Council.

POLICY REVIEW

This policy will be reviewed every four years.

AVAILABILITY OF POLICY

The public may inspect a copy of this policy, without charge, at the Council's Naracoorte and Lucindale offices during office hours, and may obtain a copy for a fee fixed by Council.

The Policy is also available on Council's website www.naracoortelucindale.sa.gov.au

Any grievances in relation to this policy or its application should be addressed to the Chief Executive Officer.

OTHER RELEVANT POLICIES / PROCEDURES/DOCUMENTS

- Rubble Pit - Consent to Enter and Occupy Land Form
- Rubble Royalty Payment Form

ADOPTION AND AMENDMENT HISTORY

Date	***Authorised by***	***Minute Reference***
November 2021		Next review
November 2017		Policy Adopted – Resolution number 105/18