



Mineral Pit Policy

Classification	Policy
Strategic reference	Goal 3: Sustainable infrastructure and services
Relevant legislation	Local Government Act 1999 State Records Act 1997
Relevant documents	Department for Infrastructure and Transport Attachment R15A – Pavement Material Specification https://www.dit.sa.gov.au/_data/assets/pdf_file/0008/288080/Part_R15_Pavement_Materials_AUGUST_2017.pdf
Responsible officer	Chief Executive Officer
Date adopted	July 2023
Next review date	July 2026

1. Preamble

1.1. Pursuant to Section 294 of the Local Government Act 1999 (the Act), the 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 structure on land;
- deposit or store materials on land; and/or
- carry out any other incidental activity on land.

For the purposes of this provision, Minerals includes stone, gravel, clay and sand, and if often referred to as 'rubble' in the context of this Policy.

1.2. During road construction and maintenance works, the Council is required from time to time to enter and occupy land for the purposes of obtaining Minerals.

1.3. This Policy sets out the requirements to establish agreements between the Council and landowners for the purpose of obtaining Minerals.

2. Scope

2.1. This Policy outlines the processes involved in order to obtain access to Minerals by the Council under those agreements.

2.2. The New Pit Consent Form to enter and occupy land for the purpose of obtaining Minerals outlines the legislative requirements to be addressed prior to occupation of the land.

2.3. These requirements include:

- expected period of occupation;
- payment amounts (if any) covering material compensation;
- reinstatement requirements (if any);
- fencing requirements (if any); and/or
- land (Parcel) description.

3. Process

- 3.1. Council officers will be required to obtain written agreements by way of the New Pit Consent Form with the land owner at least 48 hours prior to accessing private property, to ensure compliance with section 294 of the Act, and to facilitate a clear understanding of the Council's intentions.
- 3.2. All items on the New Pit Consent Form must be completed and issued at least 48 hours prior to occupation of the land.
- 3.3. Photographs of the area, subject to the agreement under the New Pit Consent Form are to be included with the form, prior to the commencement of the works.
- 3.4. Notice need not be given under section 294 if:
- 3.4.1 action is required to be taken in an emergency, or it is otherwise impracticable to give 48 hours' notice in the circumstances of the particular case; or
- 3.4.2 the occupation of the land, or any activities on the land:
- are not expected to extend beyond 24 hours; and
 - are not expected to cause any material nuisance or damage; or
- 3.4.3 the whereabouts of an owner or occupier of land cannot be found after making reasonable inquiries.
- 3.5. However, in that event, photographs of the land are to be taken both before the works are commenced, as well as after rehabilitation and retained by the Council.

4. Fees Payable

- 4.1. The fees shall be set annually as part of the Council's Fees and Charges in the Annual Business Plan and are not negotiable beyond the adopted rate.
- 4.2. The fees shall be set for Non Arable Land, Grazing/Non Cropped Land and Cropped Land.
- 4.3. Fees will be published in the Schedule of Fees and Charges which is available by contacting the Council Office or on the website www.southernmallee.sa.gov.au
- 4.4. This Policy takes effect from the date of endorsement by Council and the fees payable including the Rent Fee are payable to any new or expanded Mineral Pits created after this date.

- 4.5. The amount payable to the land owner shall be commensurate with the Minerals utilised by Council.
- 4.6. Any remaining Minerals within the pit shall remain the property of Council, unless otherwise negotiated between the landowner and Council when the New Pit Consent Form is completed.
- 4.7. All fees (including any compensation that may be payable for damage caused to crops, or any other loss or damage) unless otherwise negotiated at the time of consent, shall be paid within six (6) months of the completion of the works and removal of Minerals by the Council.

5. Payment of Rent

- 5.1. Rent will be paid on a quarterly or half yearly basis, at a rate determined between the parties and included in the New Pit Consent Form.
- 5.2. The rental amount will be based on the current land use, and shall be set for Non Arable Land, Grazing/Non Cropped Land and Cropped Land.

6. Fencing

- 6.1. Any fencing or other infrastructure that is damaged by the Council or its Contractors during the course of raising, loading or carting Minerals, which lies on the direct route from the Mineral pit to the nearest entry point to the road reserve, shall be the responsibility of the Council.
- 6.2. The Council's delegated person must identify this infrastructure and list the same on the New Pit Consent Form.

7. Biosecurity

- 7.1. Prior to Council entry, the Council will negotiate with the landowner an operational plan in relation to biosecurity (if any) to ensure the landowners biosecurity requirements are met.
- 7.2. Details of any biosecurity operational plan will be recorded on the New Pit Consent Form.

8. Rehabilitation

- 8.1. Reinstatement is to be negotiated with the landowner at the time of the New Pit Consent Form being signed.
- 8.2. A landowner may request rehabilitation, or no rehabilitation.
- 8.3. Where requested, and if the Mineral pit is not to be utilised again within a 12 month period, the Council will rehabilitate any Mineral pit it created.

8.4. Rehabilitation will include, as a minimum:

- reinstate overburden, with excess stones pushed into the pit; and
- general levelling and battering of edges.

8.5. Rehabilitation aims to give the appearance of a more natural depression in the ground.

8.6. No revegetation (seeding or addition of fertilizer/minerals) of pits will be undertaken, other than the natural revegetation that is likely to occur within the existing soil matter.

8.7. Rehabilitation should occur as soon as practicable upon completion of works, and within 12 months, unless negotiated otherwise.

8.8. Photographs will be taken of the site after rehabilitation and retained by the Council.

9. Refusal of Access

9.1. Should a property owner refuse to provide access to their property, the delegated officers shall make all reasonable attempts to establish an alternative supply within a reasonable vicinity of the proposed works.

9.2. If no supply of Mineral is found within a reasonable vicinity of the proposed works, such works may be required to be rescheduled. This shall be at the discretion of the CEO and a report shall be presented to Council.

9.3. The Council, in accordance with section 294 of the Act, may elect to utilise its powers under this section to enter the land. This discretion will only be undertaken at the direction of Council.

10. Delegated Officers

10.1. The Council hereby delegates the CEO and Manager Infrastructure Services, including any persons acting in those roles, to:

- negotiate the terms and conditions of the New Pit Consent Form; and
- execute the New Pit Consent Form.

11. Records Management

11.1. Council shall keep records of the quantity of the Minerals in tonnes raised and/or crushed.

11.2. All records shall be kept and disposed of in accordance with Council's Records Management Policies and the General Disposal Schedule 40 under the State Records Act 1997.

12. Forms

New Pit Consent Form

13. Policy review

The effectiveness of this policy will be reviewed every three years or as necessary.

14. Further information

This document is available on Council's website www.southernmallee.sa.gov.au and at the principal office of the Southern Mallee District Council at Day Street, Pinnaroo SA 5304.

A copy of this document may be purchased from Council.



NEW PIT CONSENT FORM

Return completed application form to:

In Person: Attn: Chief Executive Officer
Southern Mallee District Council

By Post: PO Box 49, PINNAROO SA 5304

Email: council@southernmallee.sa.gov.au

Website: www.southernmallee.sa.gov.au

SECTION A: Property Details

Address:	<input type="text"/>	Road:	<input type="text"/>
Area:	<input type="text"/>		
Materials being raised	<input type="text"/>		

SECTION B: Owner Details

Owners Name:	<input type="text"/>		
Business Name:	<input type="text"/>		
Postal Address:	<input type="text"/>		
Phone:	<input type="text"/>	Mobile:	<input type="text"/>
Email:	<input type="text"/>	Ass. No:	<input type="text"/>

SECTION C: Payment Details

ABN:	<input type="text"/>		
Registered for GST:	No <input type="checkbox"/>	Yes <input type="checkbox"/>	
BSB:	<input type="text"/>	Account	<input type="text"/>
Signature:	<input type="text"/>	Date:	<input type="text"/>



CONSENT TO ENTER & OCCUPY MINERAL PIT

OWNER/OCCUPIER OF LAND

Name:

Phone:.....

Property Address:

Postal Address:

TERM OF USE

Date from:To:

IMPROVEMENTS

Fencing Yes / No

Access/Driveway Yes / No

Gate Yes / No

Other

BIOSECURITY

Details:

.....

REHABILITATION

Depression Yes / No

Dam Yes / No

Other

LOCATION OF PIT

Parcel Description: Hundred:in the Locality of

Road Name:.....

PAYMENT SCHEDULE

All rates payable in relation to fees and rent are as contained within the Council's Schedule of Fees and Charges. These fees are non-negotiable.

The electronic version accessible on Councils website and within Skytrust is the controlled version.
Printed copies are considered uncontrolled – before using a printed copy verify that is the current version.



SITE MAP (annex photographs to this Form)



This agreement is signed pursuant to the Local Government Act (1999) Section 294.

LOCAL GOVERNMENT ACT 1999 - SECT 294

294 - Power to enter and occupy land in connection with an activity

(1) Subject to this section, an employee or contractor of a council may, insofar as may be reasonably necessary for carrying out a function or responsibility of the council –

(a) enter land at any reasonable time;

(b) occupy the land on behalf of the council;

(c) -

(i) obtain earth, minerals or timber from land;

(ii) deposit soil on land;

(iii) construct temporary roads and structures on land;

(iv) deposit or store materials on land;

(iva) conduct surveys, inspections, examinations and tests, and carry out work,

(v) carry out any other incidental activity on land.

(1a) Subject to subsection (1b), an owner or occupier of the land must be given at least 48 hours notice in writing of an intention to exercise a power under subsection (1)(b) or (c).

(1b) Notice need not be given under subsection (1a) if -

(a) action is required to be taken in an emergency or it is otherwise impracticable to give 48 hours notice in the circumstances of the particular case; or

(b) the occupation of the land, or any activities on the land –

(i) are not expected to extend beyond 24 hours; and

(ii) are not expected to cause any material nuisance or damage; or

(c) the whereabouts of an owner or occupier of land cannot be found after making reasonable inquiries.

(2) The council is, except in relation to an owner or occupier of the land, liable for any nuisance or damage caused while in occupation of land under this section.

(3) The council must -

(a) pay to the owner or occupier of the land rent on a quarterly or half-yearly basis, at a rate to be determined by agreement between the council and the owner or occupier or, in default of agreement, by the Supreme Court; and

(b) pay to the owner or occupier of the land within 1 month after occupying the land - reasonable compensation for damage caused to any crops on the land; and

(c) within 6 months of ceasing to occupy the land –

(i) remedy damage to land caused by the council while in occupation of the land (to such extent as this may be reasonably practicable); and



(ii) pay to the owner or occupier of the land reasonable compensation for any other loss or damage caused by the council, including the full value of any earth, minerals or resources taken from the land.

(4) Compensation payable by the council under this section may be recovered as a debt.

(5) 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.

(6) A council is not authorised under this section to enter or occupy—

- (a) land that is within 500 metres of a house or dwelling; or*
- (b) a garden or a park; or*
- (c) a quarry, brickfield or other similar place from which materials are commonly obtained for commercial purposes; or*
- (d) land where a permit, claim, lease, licence, tenement or private mine exists under the Mining Act 1971 or the Opal Mining Act 1995 .*

(7) A council does not require a mining tenement or other authorisation under the Mining Act 1971 with respect to the exercise of powers under this section but, to the extent to which a council, other than an exempt council, recovers extractive minerals under this section –

(b) the provisions of the Mining Act 1971 designated by subsection (7a) will apply to and in relation to the council as if, in recovering the extractive minerals, the council is –

- (i) carrying out operations under that Act (and required to comply with the provisions of that Act); and*
- (ii) the holder of a mining tenement under that Act for the recovery of extractive minerals.*

(7a) The following provisions of the Mining Act 1971 are designated for the purposes of subsection (7)(b):

- (a) sections 14B to 14F (inclusive);*
- (e) section 18;*
- (f) sections 76 to 77D (inclusive);*
- (g) section 89A;*
- (h) section 91;*
- (i) section 92.*

(7b) In connection with subsections (7) and (7a) -

(a) to the extent that there is an inconsistency between section 7(2) of the Mining Act 1971 and subsections (7) and (7a) of this section, those subsections will apply to the extent of the inconsistency (so as to allow the Mining Act 1971 to regulate the operations of a council to the extent envisaged by those subsections); and



(8) In this section -

"exempt council" means, in relation to a financial year commencing on or after 1 July 2015, a council whose total annual revenue for the financial year immediately preceding the relevant financial year, as reported in its audited financial statements, does not exceed the prescribed amount;

"extractive minerals" means extractive minerals as defined by the Mining Act 1971 ;

"minerals" include stone, gravel, clay and sand;

"work" includes work associated with –

- (a) the construction, maintenance, repair or replacement of infrastructure, equipment, connections, structures, works or other facilities (including dams or other structures or facilities associated with stormwater management or flood mitigation); or*
- (b) the provision of services or facilities that benefit the area of the relevant council; or*
- (c) the carrying out of any other function or responsibility of the relevant council.*

The parties listed on the Consent Form acknowledge that they understand the conditions of entry and occupation by the Council and such consent will not be varied unless requested and agreed to in writing.

AUTHORISATIONS

EXECUTED as an AGREEMENT on: ____/____/2023

FOR COUNCIL

Name: _____

Position: _____

FOR OWNER

Authorised Person: _____

Name: _____

Witness: _____

Name: _____