



# Borrow Pits Policy

Policy Number	A1
Responsible Officer(s)	Manager Strategic Asset Planning
Policy Adopted	February 2024
Next Review Date	February 2028
Minutes reference	2024/ 02-09
Applicable Legislation	<i>Local Government Act 1999</i>
Related Policies	Project Works Policy

## 1. POLICY PRINCIPLE

Wakefield Regional Council aims to be consistent, fair and respectful in exercising its legal powers to enter land. Council will always work towards positive collaboration with members of its community for the benefit of the whole district.

Pursuant to section 294 of the *Local Government Act 1999* ("the Act"), Council have certain powers to enter and occupy land for the purposes of its operations, including for the purposes of obtaining road making materials for road construction to obtain earth, minerals or timber, deposit soil, construct temporary roads and structure, deposit or store materials and carry out any other incidental activity on land.

## 2. POLICY OBJECTIVE

The objectives of the policy are to:

- Ensure that the process of sourcing road making material is undertaken in compliance with the Act, and in a manner designed to reach amicable outcomes for both Council and the landowner.
- Set guidelines that ensure processes for obtaining road making materials from properties, is done with appropriate regard for the landowner and the environment.
- Clearly outline the process of obtaining rubble and to ensure proper consultation and agreement with the landowner for managing the material pit.
- Provide Council officers with direction to establish agreements between Council and landowners for the purpose of obtaining rubble, allowing reasonable compensation for loss of the use of land, any damaged cause and full value of the rubble taken from the land.
- Reduce the net cost of road making activities to residents and rate payers by obtaining road making materials as close as possible to the road work site.

## 3. POLICY SCOPE

A borrow pit is a deposit of natural rubble, loam or earth that is excavated for use as a road making material. Council relies on obtaining rubble for road construction and maintenance work from rubble pits on private property. The greater the distance of a rubble pit from the construction site, the more expensive road construction becomes. It is also difficult to quantify damage that carting causes to the roads over which the carting is done. Therefore, Council's access to rubble is almost exclusively dependent on land owners within reasonable vicinity of the proposed work.

It is Council's policy to establish agreements between landowners and Council that allow reasonable compensation for loss of the use of land and any damaged caused, as well as full value of the rubble taken from the land. This is to help facilitate willingness by the land owner to enter in to a rubble agreement with Council.

#### 4. AGREEMENT FORM

Council officers will obtain written agreements via the "Quarry Agreement Form" (Appendix 1) with the landowner prior to accessing private property. This will ensure compliance with Section 294 of the Act, and to provide both parties a clear understanding of Council's intentions and landowner expectations.

The Quarry Agreement between the Council and the landowner must be fully completed and signed prior to entering the property and outline all terms of the agreements. These terms include:

- An accurate description of Land (Parcel)
- Material to be extracted
- The Quota (approximately)
- Agreed reinstatement requirements
- Fencing requirements (if any)

#### 5. FEES

- **Rent**

Compensation for rental of land occupied by the borrow pit - \$2,000/ha per annum (or part of period). All monies for the rent of the land will be paid at least on a quarterly basis.

- **Material**

Compensation for rubble - \$0.40 per tonne

Monies pertaining to the payment for material taken from the land will be paid as agreed in the Quarry Agreement Schedule. Payments will be made as soon as practicable and all outstanding amounts will be finalised within six months of Council ceasing to occupy the land.

#### 6. REINSTATEMENT

Reinstatement is to be negotiated with the landowner at the time of the Agreement Form being signed. Options for reinstatement include:

- 150 mm of locally imported backfill over quarry; or
- Reinstatement with overburden.

Borrow pits will be reinstated, as agreed, this timeframe is to be within six months of Council ceasing to occupy the land. This is to allow the landowner to again make use of the area as soon as possible.

Any land damaged by Council while in occupation of the land, will be remedied to such extent as may be reasonably practicable within six months of Council ceasing to occupy the land.

#### 7. REFERENCES

Appendix 1 – Quarry Agreement

#### 8. REVIEW

This Policy shall be reviewed every 48 months, or more frequently if required by legislation or Council.

**Document history:**

<b>Version</b>	<b>Date</b>	<b>Description of change</b>
1.0	May 1998 - Min 385	New document.
2.0	Nov 2001 - Min 157	Add landowners have choice of 2 types backfill material.
3.0	Mar 2010 - Min 211	Remove references to delegations and fees/charges.
	November 2014	Policy numbering system changed and inclusion of this document history table.
4.0	July 2015 - Min 26	Addition of Policy Objectives. Referring to fees and charges schedule. Removal of 'no liability to pay rent etc'. Clarification of time of payments. Removal of details of backfill material. Update of Appendix 1 to include agreement of rent to be paid.
4.0	Mar 2017 - minor	Updated Appendix 1 explaining timeline of payments for extraction of materials.
5.0	Sept 2017	Simplification, change of review timeframe, addition of principle, new template.
6.0	Dec 2019	Change in compensation amount for rubble and for rent of land References to legislative requirements pursuant to Section 294 of the <i>Local Government Act 1999</i> entered for procedural ease.
7.0	Feb 2024	Update responsible officer from Director Infrastructure Services to Manager Strategic Asset Planning in line with organisational restructure.



ABN 97 171 984 493

## **QUARRY AGREEMENT**

Agreement made this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

between the Wakefield Regional Council and \_\_\_\_\_ ("the Owner")

Trading Name \_\_\_\_\_

Postal Address \_\_\_\_\_

Town \_\_\_\_\_ Postcode \_\_\_\_\_

Australian Business Number (ABN) \_\_\_\_\_

Whereas Council wishes to enter on the owners land situated at \_\_\_\_\_

\_\_\_\_\_

for the purposes of taking and preparing stone, rubble or other material ("the material") as described in the attached Schedule.

It is hereby agreed as follows:

1. That in consideration of the sum/rate ("the sum/rate") described in the attached Schedule to be paid to the owner on the terms ("the terms") described in the attached Schedule;
  - (a) the owner grants Council the full right and authority to enter upon the land to excavate, win, work, load and cart away or such other procedures as Council deems necessary to take and prepare the material; and
  - (b) the Council may take, prepare and use as it sees fit, the quota ("the quota") of material as described in the attached Schedule.
2. Council shall exercise all due skill in the performance of the Agreement.

Signed by the Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signed by/or on behalf of Council \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_



## **QUARRY AGREEMENT SCHEDULE**

1. The Material \_\_\_\_\_

2. Sum/Rate (Incl. GST)

2.1 \$0.40 per tonne for rubble

2.2 \$2,000 per ha per annum for area of land under quarry

3. The Quota (approximately) \_\_\_\_\_

4. Reinstatement of Pit

☐ 150mm of locally imported backfill over Quarry

OR

☐ Reinstatement with existing overburden

5. The terms \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_