

# Shire of Murray Extractive Industries

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the abovementioned Municipality hereby records having resolved on 23 December 1982 to make and submit for confirmation by the Governor the following:

## By-law Relating to Extractive Industries

1. The Local Government Model By-laws (Extractive Industries) No. 9, as gazetted on 8 November 1962 and adopted by the Shire of Murray, without modification and published in the Government Gazette on 8 November 1967, are hereby revoked.
2. In this by-law unless the context otherwise requires:-
  - "Act" means the Local Government Act 1960 (as amended);
  - "Carrying on an extractive industry" means quarrying and excavating for stone, gravel, sand and other material;
  - "**Council**" means the Council of the Municipality of the Shire of Murray;
  - "**Excavation licence**" means a licence to carry on an extractive industry issued in accordance with this by-law;
  - "**Excavation site**" means a defined area of land upon which it is proposed to carry on an extractive industry or upon which an extractive industry is carried out;
  - "**Licensee**" means the holder of an excavation licence;
  - "**Minister**" means the Minister for Local Government;
  - "**Municipal district**" means the municipal district of the Shire of Murray;
  - "**Person**" includes a body corporate;Other words and expressions have the same meanings as they have in the Act.
3. A person shall not carry on an extractive industry on any land within the municipal district without first having obtained an excavation licence to do so from the Council.
4. An application to the Council for an excavation licence or a renewal thereof shall be in the form of the First Schedule hereto and shall be accompanied by :-
  - 4.1 Four copies of excavation site plan to a scale of between 1 :500 and 1 :2000, and showing, inter alia -
    - 4.1.1 Existing and proposed land contours at one metre intervals based on Australian Height Datum,
    - 4.1.2 The maximum area and depth of the excavation site,
    - 4.1.3 Distances from public and private streets, lot boundaries, fences, buildings, drains, water courses and land affected by registered grants of easement, in the vicinity of the excavation site ;

- 4.2 Four copies of an excavation programme containing, inter alia –
    - 4.2.1 A description of the existing excavation site environment and the likely effect upon this of the proposed excavation,
    - 4.2.2 The nature and estimated duration of the proposed excavation,
    - 4.2.3 A schedule of estimated stages of the excavation programme and of the time periods within which it is proposed operations will be carried out,
    - 4.2.4 A description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed and/or stockpiled,
    - 4.2.5 A description of the means of access to the excavation site and the types of roads to be constructed,
    - 4.2.6 A description of the methods by which the excavation site is to be kept drained,
    - 4.2.7 A description of the measures to be taken to minimise noise and dust nuisance, erosion, water course siltation, adverse visual impact and dangers to the general public;
  - 4.3 Four copies of a rehabilitation programme indicating, inter alia –
    - 4.3.1 The objectives of the programme, having due regard to the nature of the surrounding area and the proposed end use of the excavation site,
    - 4.3.2 Whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations,
    - 4.3.3 The method by which topsoil is to be replaced and seeded,
    - 4.3.4 The numbers and types of trees to be planted and other landscaping features developed;
  - 4.4 A form of consent in writing of the owner of the excavation site to the application.
5. An applicant for an excavation licence shall provide the Council with such additional information concerning the proposed excavation as the Council may reasonably require.
  6. On receipt of an application for an excavation licence, the Council:
    - 6.1 Shall publish in a newspaper circulating in the municipal district a notice advising of the application and specifying that any interested person may, within fourteen days after the date of publication of the notice, object to or make representations in writing in respect of the issue of a licence by the Council,
    - 6.2 Shall forward a notice to the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within 500 metres of the boundaries of the proposed excavation, advising of the application and specifying that they may, within fourteen days from the date of the letter, object to or make representations in writing in respect of the issue of a licence by the Council,
    - 6.3 May cause to be displayed in a prominent position on the excavation site a notice specifying particulars of the proposed excavation and inviting objections to and representation in respect thereof from members of the public.

7. An excavation licence shall be substantially in the form of the Second Schedule hereto and shall be valid for such term not exceeding ten years from the date of issue as the Council may at that date determine and may be renewed thereafter by the Council for a further term or terms.
8. Excavation licence and renewal fees shall be payable to the Council in the amounts set out in the Third Schedule hereto.
9. The Council may impose conditions upon an excavation licence in respect of the following matters:-
  - 9.1 The hours during which excavation work may be carried out,
  - 9.2 The hours during which blasting operations may be carried out,
  - 9.3 The depths below which a person shall not excavate,
  - 9.4 Distances from adjoining land or streets within which a person shall excavate,
  - 9.5 The safety of persons employed at the excavation site,
  - 9.6 The planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated,
  - 9.7 The drainage of the excavation site and the disposal of water therein,
  - 9.8 The restoration and reinstatement of the excavation site,
  - 9.9 The provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation,
  - 9.10 Requiring the licensee to enter into an agreement with the Council in respect of any condition or conditions imposed,
  - 9.11 Otherwise regulating the carrying on of an extractive industry.
10. Upon the expiration of an excavation licence or the sooner cessation of any excavation work, the licensee shall ensure that-
  - 10.1 The excavation is restored and reinstated in accordance with proposals approved by Council or in such manner as the Council shall subsequently agree with the licensee in writing,
  - 10.2 Any face permitted to remain upon the excavation site is left safe with all loose materials removed therefrom, and the sides sloped to a batter of not more than 1:3,
  - 10.3 The agreed floor level of the excavation site is graded to an even surface or otherwise in accordance with excavation and rehabilitation programmes approved by the Council,
  - 10.4 All dumps of stone, sand, or other material are so left that no portion of that stone, and/or other material, can escape onto land not owned or occupied by the licensee nor into any stream, water course or drain that is not wholly situated within the land owned or occupied by the licensee .

11. The Council-

- 11.1 May require as a condition of an excavation licence payment by the licensee into a fund established by the Council for the purpose of restoring and reinstating the excavation site a sum calculated at a rate per hectare, or part thereof, of the excavation site proposed to be excavated annually, set out in the Third Schedule hereto,
- 11.2 May apply money in such a fund to or towards the restoration and reinstatement of the excavation site if the licensee does not carry out such restoration and reinstatement at his own cost upon completion of the excavation or the expiration of the licence, whichever the case may be,
- 11.3 Shall refund to the licensee moneys paid by him into such a fund upon satisfactory restoration and reinstatement of the excavation site.

12. As an alternative to payment into a fund in accordance with Clause 11 hereof the Council:

- 12.1 May require an applicant for an excavation licence to give to the Council a bond, with or without sureties in a sum calculated as aforesaid to ensure that he will either carry out, or cause to be carried out, the restoration and reinstatement of the excavation site agreed between the applicant and the Council upon the granting of an excavation licence and in the case of default in carrying out or causing to be carried out such restoration and reinstatement, the bond is thereupon forfeited to the Council, and
- 12.2 May apply the amount of a bond forfeited as aforesaid, or so much of that amount as is required, towards the carrying out of such restoration and reinstatement work.

13. Subject always to any condition imposed by the Council in accordance with Clause 9 of this by-law a person shall not without the written approval of the Council:

- 13.1 Excavate within 20 metres of the boundary of any land not owned by him,
- 13.2 Excavate within 20 metres of any land affected by a registered grant of easement or 40 metres of any water course,
- 13.3 Excavate within a distance of 40 metres of any road.

14. A licensee shall:

- 14.1 Not remove natural trees or scrub within 40 metres (or such lesser distance as may be allowed by the Council in accordance with Clause 9 of this by-law) of the boundary of any road reserve on land in respect of which an excavation licence has been granted, except for the purpose of constructing access roads or erecting buildings for use in connection with the excavation and then only with the express approval of the Council and subject to any conditions which the Council may impose in accordance with Clause 9 hereof,
- 14.2 Securely fence the excavation and keep the gateways locked when not actually in use in order that unauthorised persons will not enter the excavation,

- 14.3 Drain and keep drained the excavation site in such a manner as to prevent the accumulation of water therein,
- 14.4 Subject always to any condition imposed by Council in accordance with Clause 9 .3 hereof, refrain from carrying out blasting operations in or about an excavation site except between the hours of 8 a .m. and 5 p .m. Mondays to Fridays (inclusive),
- 14.5 Take all necessary steps to prevent the emission of dust, noise and other forms of nuisance from the excavation site,
- 14.6 Not excavate other than in accordance with the terms of the application and accompanying site plans and excavation and management programmes approved by the Council.
- 14.7 Restore and reinstate the excavation site in accordance with the terms of the application and accompanying site plans and excavation and management programmes approved by the Council,
- 14.8 Otherwise comply with conditions imposed by the Council in accordance with Clause 9 hereof.

15. If a licensee fails to comply with:

- 15.1 Any of the conditions of an excavation licence,
- 15.2 Any provisions of this by-law, or
- 15.3 Conditions of an Agreement with the Council made in accordance with Clause 9 .10 hereof, and the default continues following the expiration of a period of fourteen days from service upon the licensee of written notice from the Council of such default, the Council may cancel the excavation licence of the defaulting licensee.

16. Any person who contravenes the provisions of this by-law commits an offence and is liable upon conviction to:

- 16.1 A maximum penalty not exceeding five hundred dollars (\$500.00),
- 16.2 In the event of a continuing offence following conviction, a daily penalty not exceeding fifty dollars (\$50 .00) for every day or part of a day during which such offence continues .

17. The provisions of this by-law shall apply to all land within the municipal district and shall apply to every excavation whether commenced prior to or following the coming into operation of this by-law.

## Application for Excavation Licence

Name: .....

Address : .....

Address and locality of proposed excavation site .....

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Lot No: ..... Location No: .....

Plan or Diagram No: .....

Certificate of Title Volume: ..... Folio: .....

Owner of land: .....

Address of owner: .....

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Material to be excavated: .....

Term of licence sought: .....

Submitted with this application are:

1. Application fee of \$.....
2. Site plans (*four copies*)
3. Excavation programme (*four copies*)
4. Rehabilitation programme (*four copies*)

Signed: .....

Date: .....

## Excavation Licence

Licence Holder:

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Address:

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Land, Description:

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Material to be excavated:

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Term of licence:

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This licence is issued in accordance with the Shire of Murray By-law Relating to Extractive Industries upon and subject to the following conditions:

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Dated this

day of

20

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*Signature Shire Authorised Officer*

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*Third Schedule Licence and Renewal Fees*

*Inserted by GOVERNMENT GAZETTE, WA [10 July 1992]*

1. Where the overall area of excavation is less than 5 ha: \$500.00 per annum payable annually during the currency of the licence.
2. Where the overall area of excavation is greater than 5 ha: \$1 000.00 per annum payable annually during the currency of the licence.

Calculation of amount of guarantee or other form of acceptable security:

1. Where it is proposed to excavate sand or similar fine grained material-the rehabilitation bond shall be calculated at a rate of \$1 500 per ha of area of excavation to be excavated annually.
2. Where it is proposed to excavate stone, gravel or other aggregate-the rehabilitation bond shall be calculated at a rate of \$2 000 per ha of area of excavation to be excavated annually.

Dated this 23rd day of December, 1982.

The Common Seal of the Shire of Murray was hereunto affixed by authority of a resolution of the Council in the presence of-

[L.S . ]

Recommended-

W. H. DILLEY,  
President.

B. M. BAKER,  
Shire Clerk.

JEFF CARR,  
Minister for Local Government .

Approved by his Excellency the Governor in Executive Council this 30th day of September, 1983.

G. PEARCE,  
Clerk of the Council