

	<b>POLICY# 3.03</b> <b>Rubble Pits Agreement to Enter &amp; Occupy Land</b>	Version No:	1
	<b>POLICY AREA</b> <b>Transport</b>	Issued:	Oct 2011
		Next Review:	2018 After Next Election

### **Aims & Objectives**

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
- carry out any other incidental activity on land.

### **Policy Detail**

#### **Consent Form**

The Consent Form to enter and occupy land for the purpose of obtaining rubble outlines legislative requirements that need to be addressed prior to occupation of the land. These issues include:

- Expected period of occupation
- Payment amounts (if any) covering property rental, crop damage compensation, and material compensation
- Fencing requirements
- Land description

#### **Process**

Council Officers will be required to obtain written agreement via the Consent Form attached to this policy, which is in carbon copy book form, with the land owner prior to accessing private property to ensure compliance with Section 294 of the Local Government Act 1999, and to provide better understanding of Councils intentions.

All items on the consent form must be completed prior to occupation of the land. The white copy is then given to the owner, the yellow copy is for the Council Office and the pink copy is kept in the book.

#### **Recipient Created Tax Invoice ["RCTI"]**

Council Officers must, at the same time as the Consent Form is being completed, request the land owner to complete and sign a RCTI agreement which is attached to this policy. A RCTI agreement need not be completed where the land owner is not registered or is not required to be registered for GST in which case the land owner should be required to sign the acknowledgement of GST Status which is also attached to this policy.

*Electronic version on the Intranet is the controlled version. Printed copies are considered uncontrolled.  
Before using a printed copy, verify that it is the current version*





## CONSENT FORM

### RUBBLE PITS - TO ENTER & OCCUPY LAND

<b>ITEM 1</b> The Owner or Occupier	Name:		
	Postal Address :		
<b>ITEM 2</b> The Council	<b>DISTRICT COUNCIL OF TUMBY BAY</b> Mortlock Terrace, TUMBY BAY SA 5690		
<b>ITEM 3</b> The Term	From		
	To		
<b>ITEM 4</b> Payment (all amounts exclusive of GST)	Quarterly Rent:	\$	
	Crop Damage:	\$	
	Compensation for materials taken	<b>*X* Note: Please check Council Fees and Charges for applicable rate</b>	
<b>ITEM 5</b> Fencing	Fencing required	YES	NO
<b>ITEM 6</b> The Land	Section No:		
	Hundred:		
	Road Name:		
<b>ITEM 7</b> Location Plan	Site plan and layout of rubble pit including access from road detail to be completed hereunder.		

*Electronic version on the Intranet is the controlled version. Printed copies are considered uncontrolled.  
Before using a printed copy, verify that it is the current version*

Extract from Section 294 of the Local Government Act 1999:

- (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 pay to the owner or occupier of the land-
  - (a) 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 Land and Valuation Court; and
  - (b) within one month after occupying the land-reasonable compensation for damage caused to any crops on the land; and
  - (c) within six months of ceasing to occupy 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.
- (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 450 metres of the curtilage of a house; 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.
- (8) In this section-  
"minerals" include stone, gravel, clay and sand.

The parties listed at Items 1 and 2 of 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.

Recipient Created Tax Invoice Completed (Tick if completed)

**Signed for and on behalf of the District Council of Tumby Bay by:**

.....  
Name

.....  
Position

.....  
Signature

**Signed for and on behalf of the Owner/Occupier by:**

.....  
Name

.....  
Signature

*Electronic version on the Intranet is the controlled version. Printed copies are considered uncontrolled.  
Before using a printed copy, verify that it is the current version*



## Recipient Created Tax Invoice (“RCTI”) Agreement

\_\_\_\_\_ (“the supplier”) with ABN \_\_\_\_\_  
and the District Council of Tumby Bay (“the recipient”) with ABN 22 393 356 827 both agree  
that in respect of the supply of rubble (“the supplies”) made by the supplier to the recipient:

- The recipient can issue tax invoices in respect of the supplies;
- The supplier will not issue a tax invoice in respect of the supplies;
- The supplier acknowledges that it is registered for GST when it enters into this agreement and that it will notify the recipient if it ceases to be registered;
- The recipient acknowledges that it is registered for GST when it enters into this agreement and that it will notify the supplier if it ceases to be registered or if it ceases to satisfy any of the requirements of the determination; and
- The recipient will not issue a document that would otherwise be an RCTI, on or after the date when the recipient or the supplier has failed to comply with any of the requirements of the determination.

Signed:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_  
(for the supplier)

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signed for and on behalf of the District Council of Tumby Bay (“the recipient”):

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

*Electronic version on the Intranet is the controlled version. Printed copies are considered uncontrolled.  
Before using a printed copy, verify that it is the current version*



## Acknowledgement of GST Status Agreement

\_\_\_\_\_ (“the supplier”) with ABN \_\_\_\_\_  
and the District Council of Tumby Bay (“the recipient”) with ABN 22 393 356 827 both agree  
that in respect of the supply of rubble (“the supplies”) made by the supplier to the recipient:

- The supplier acknowledges that it is not registered for GST when entering into this agreement and that it is not required to be registered and it will notify the recipient if it becomes registered or is required to be registered;
- The recipient can issue invoices in respect of the supplies; and
- The supplier will not issue an invoice in respect of the supplies

Signed:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_  
(for the supplier)

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signed for and on behalf of the District Council of Tumby Bay (“the recipient”):

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

*Electronic version on the Intranet is the controlled version. Printed copies are considered uncontrolled.  
Before using a printed copy, verify that it is the current version*