

LOCAL LAW



EXTRACTIVE INDUSTRIES

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Amendment Local Law Adopted: 27/03/1998 - Resolution 343/98
Amendment Local Law Adopted: 13/02/2008 - Resolution 27/08
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Local Government Act 1995

SHIRE OF DARDANUP

EXTRACTIVE INDUSTRIES LOCAL LAW

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LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP

EXTRACTIVE INDUSTRIES LOCAL LAW

Under the powers conferred upon it by the Local Government Act 1995, the Council of the Shire of Dardanup resolved on the twenty-six day of July 1996, to make the following Local Law –

Repeal of Previous By-Laws

1. The By-Laws of the Shire of Dardanup relating to Extractive Industries published in the Government Gazette on 8th November 1962 as amended, are repealed.

Citation

2. This Local Law may be cited as the “Shire of Dardanup Extractive Industries Local Law”.

Definitions

3. In this Local Law, unless the context otherwise requires –
“Act” means the Local Government Act 1995 as amended.;
“carry on an extractive industry” means quarrying and excavating for stone, gravel, sand and other material;
“Council” means the Council of the Shire;
“district” means the municipal district of the Shire;
“excavation” includes quarry;
“licence” means a licence issued under this Local Law;
“licensee” means the person named in the licence as the licensee;
“secured sum” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 13;
“Shire” means the municipality of the Shire of Dardanup;
“Chief Executive Officer” means the Chief Executive Officer of the Shire and includes an Acting Chief Executive Officer; and
“site” means the land specified by the Council in licence.

Application

4. This Local Law –
 - (a) subject to paragraphs (b) and (c) -
 - (i) applies and has force and effect throughout the whole of the district; and
 - (ii) applies to every excavation whether commenced prior to or following the coming into operation of this Local Law;
 - (b) does not apply to the extraction of minerals (as defined in the *Mining Act 1978*);
 - (i) pursuant to the *Mining Act 1978*; or
 - (ii) from land alienated in fee simple from the Crown before 1st January, 1889; and
 - (c) does not apply to the carrying on of an extractive industry on Crown land.

Extractive Industries Prohibited Without Licence

5. A person shall not carry on an extractive industry –
 - (a) unless the person is the holder of a valid and current licence; and
 - (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Applicant to Advertise Proposal

6. (1) Unless the Council approves otherwise, a person seeking the issue of a licence shall, before applying to the Council for a licence –
 - (a) forward by certified mail a notice in the form set out in Schedule 1 to –
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the Council as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the Council;
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 7(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land or within an area determined by the Council as likely to be affected by the granting of a licence; and
 - (b) as soon as practicable after complying with the requirements of paragraph (a) –
 - (i) forward a copy of the notice to the Chief Executive Officer; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.
- (2) The Council may, within 14 days after receiving a copy of a notice referred to in sub-clause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices –
 - (a) in the form set out in Schedule 2;
 - (b) the content, size and construction of which have been approved by the Chief Executive Officer;
 - (c) specifying particulars of the proposed excavation; and
 - (d) inviting objections or comments within 21 days from the placement of the notice.

Application For Licence

7. (1) A person seeking the issue of a licence in respect of any land shall apply in the form set out in Schedule 3 and shall forward the application duly completed and signed by both the applicant and the owner of the land to the Chief Executive Officer together with –
 - (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing–
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed roads or other means of vehicle access to and egress from the land and to public roads in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, wetlands, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
 - b) 3 copies of a works and excavation programme containing –
 - (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;

- (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of roads to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, secured water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the Environmental Protection (Noise) Regulations 1997;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation;
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby roads or other areas; and
 - (xvi) If dewatering is proposed and if a license is needed, evidence of approval or exemption to be provided by the Department of Water.
- (c) 3 copies of a rehabilitation and decommissioning programme indicating –
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) the method by which topsoil is to be replaced and revegetated;
 - (iv) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (v) how rehabilitated areas are to be maintained and irrigated; and
 - (vi) the programme for the removal of buildings, plant, waste and final site clean up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the Council on the surface of a constructed public road or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of –
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and the related point referred to in paragraph (d);
- (f) evidence that the requirements of clause 6(1) and (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) copies of any environmental approval required under any environmental legislation;
- (i) copies of any geotechnical information relating to the excavation site;
- (j) the consent in writing to the application from the owner of the excavation site;
- (k) the licence application fee as determined by Council from time to time; and
- (l) any other information that the Council may reasonably require.”
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) must comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation –
- (a) the surface area is not to exceed 2000m²; and
 - (b) the extracted material is not to exceed 2000m³;

the local government may exempt a person, making application for a licence under subclause (1), from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).

Determination Of Application

8. (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 7 and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.”
- (2) The Council may, in respect of an application for a licence –
- (a) refuse the application; or
 - (b) approve the application –
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) on such terms and conditions, if any, as it sees fit.
- (3) Where the Council approves an application for a licence, it shall –
- (a) determine the licence period, not exceeding 21 years from the date of issue; and
 - (b) approve the issue of a licence in the form set out in Schedule 4.
- (4) Where the Council approves the issue of a licence, the Chief Executive Officer upon receipt by the Shire of Dardanup
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 31st December next, as determined by Council from time to time; and
 - (b) payment of the secured sum, if any, imposed under clause 13; and
 - (c) the documents, if any, executed to the satisfaction of the Chief Executive Officer, under clause 13,
- shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the Council may impose conditions in respect of the following matters –
- (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access roads, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;
 - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
 - (f) the depths below which a person shall not excavate;
 - (g) distances from adjoining land or streets which a person must not excavate;
 - (h) the safety of persons employed at or visiting the excavation site;
 - (i) the control of dust and wind-blown material;
 - (j) 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 and to provide for progressive rehabilitation;
 - (k) the prevention of the spread of dieback disease;
 - (l) the drainage of the excavation site and the disposal of water;
 - (m) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
 - (n) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
 - (o) requiring the licensee to furnish to the Council a surveyor’s certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
 - (p) requiring the licensee to enter into an agreement with the Council in respect of any condition or conditions imposed under this Local Law;
 - (q) any other matter for properly regulating the carrying on of an extractive industry; and
 - (r) The applicant to provide information on the maximum recorded ‘end of winter’ groundwater level, to ensure that following excavation that the site does not become inundated and groundwater is not exposed.

Payment of Annual Licence Fee

9. On or before 31st December in each year, a licensee shall pay to the Shire the annual licence fee as determined by Council from time to time’.

Transfer of Licence

10. (1) An application for the transfer of a licence shall –
 - (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) contain the consent in writing from the owner of the excavation site;
 - (e) include any information that the Council may reasonably require; and
 - (f) be forwarded to the Chief Executive Officer together with the transfer of licence fee as determined by Council from time to time.
- (2) Upon receipt of an application for the transfer of a licence, the Council may-
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the Council approves an application for transfer of a licence, the Council shall transfer the licence by an endorsement on the licence to that effect signed by the Chief Executive Officer.
- (4) Where the Council approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

Cancellation of Licence

11. (1) The Council may cancel a licence where the licensee has –
 - (a) been convicted of an offence against –
 - (i) this Local Law; or
 - (ii) any other law relating to carrying on an extractive industry; or
 - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the Council;
 - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this Local Law; or
 - (d) failed to pay the annual licence fee under clause 9.
 - (e) Failed to have a current public liability insurance policy under clause 18 or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 18.
- (2) Where the Council cancels a licence under this clause –
 - (a) the Council shall advise the licensee in writing of the cancellation;
 - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
 - (c) the Council shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

Renewal of Licence

12. (1) A licensee who wishes to renew a licence shall apply in writing to the Council at least 45 days before the date of expiry of the licence and shall submit with the application for renewal –
 - (a) renewal of licence fee as determined by Council from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 7(1)(b) and (c); and
 - (e) any other things referred to in clauses 7 and 8.
- (2) The Council may waive any of the requirements specified in clause 12(1)(d) or (e).
- (3) If –
 - (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,

then the applicant shall not be obliged, unless otherwise required by Council to submit details of any of the things referred to in clause 7 and 8.

- (4) Upon receipt of an application for the renewal of a licence, the Council may –
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

Security for Restoration and Reinstatement

13. (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the Council may require that –
 - (a) as a condition of a licence; or
 - (b) before the issue of a licence, the licensee shall give to the Shire a bond, bank guarantee or other security, of a kind and in a form acceptable to the Council, in or for a sum determined by the Council from time to time.
- (2) A bond required under subclause (1) is to be paid into a fund established by the Shire for the purposes of this clause.

Use by the Council of Secured Sum

14. (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either –
 - (a) within the time specified in those conditions; or
 - (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,then –
 - (c) the Shire may carry out the required restoration and reinstatement works or so much of that work as remains undone; and
 - (d) the licensee shall pay to the Shire on demand all costs incurred by the Shire or which the Shire may be required to pay under this clause.
- (2) The Shire may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 13 towards its costs under this clause.
- (3) The liability of a licensee to pay the Shire's costs under this clause is not limited to the amount, if any, secured under clause 13.

Limits on Excavation Near Boundary

15. Subject to any licence conditions imposed by the Council, a person shall not, without the written approval of the Council, excavate within –
 - (a) 20 metres of the boundary of any land on which the excavation site is located;
 - (b) 20 metres of any land affected by a registered grant of easement;
 - (c) 40 metres of any road; or
 - (d) 40 metres of any watercourse.

Prohibitions

16. A licensee shall –
 - (a) not remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the Council) of the boundary of any road reserve on land in respect of which a licence has been granted, except for the purpose of constructing access roads, erecting buildings or installing plant 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 8;
 - (b) where the Council so requires, securely fence the excavation to a standard determined by Council and keep the gateways locked when not actually in use in order to prevent unauthorized entry;
 - (c) erect and maintain warnings signs along each of the boundaries of the site to which the licence applies so that each sign –
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words 'DANGER EXCAVATIONS KEEP OUT';

- (d) except where the Council approves otherwise, drain and keep drained to the Council's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (e) not store, or permit to be stored, any explosives or explosive device on the site to which the licence applies;
- (f) not fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the Council;
- (g) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the Council;
- (h) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (i) otherwise comply with the conditions imposed by the Council in accordance with clause 8.

Blasting

17. (1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless –
- (a) the Council has otherwise given approval in respect of blasting generally or in the case of each blast;
 - (b) subject to sub-clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the Council, on Mondays to Fridays inclusive;
 - (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the Mines Regulation Act 1946 and all relevant Local Laws of the Council; and
 - (d) in compliance with any other conditions imposed by the Council concerning –
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used;
 - (iii) the methods of detonation and blasting;
 - (iv) the types of explosives to be used; and
 - (v) such other matters as the Council may reasonably require in the interests of the safety and protection of members of the public and of property within the district.
- (2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the Council.

Public Liability

18. A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the Shire indemnifying the licensee and the Shire for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.

Mines Regulation Act

19. (1) In any case where the Mines Regulation Act 1946 applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall –
- (a) comply with all applicable provisions of that Act; and
 - (b) provide to the Council within 14 days full particulars, of any inspection or report made under that Act.
- (2) In this clause, the Mines Regulation Act 1946 includes all subsidiary legislation made under that Act.

Notice of Cessation of Operations

20. (1) Where a licensee intends to cease carrying on an extractive industry –
- (a) temporarily for a period in excess of 12 months; or
 - (b) permanently,
- the licensee shall, as well as complying with clause 21, give the Council written notice of the cessation not later than 1 week after those operations have ceased.
- (2) Where a licensee has given written notice to the Council of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

- (3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

Works to be Carried out on Cessation of Operations

21. Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 20 –
 - (a) restore and reinstate the excavated site in accordance with the proposals approved by the Council or in such other manner as the Council may subsequently agree in writing with the licensee;
 - (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is –
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical : horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the Council, would enable the site to be left in a stable condition;
 - (c) ensure that the agreed floor level of the excavation site is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the Council;
 - (d) ensure that all stockpiles or dumps of stone, sand or other material are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
 - (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
 - (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
 - (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this Local Law.

Objections & Appeals

22. When the local government makes a decision as to whether it will—
 - (a) grant a person a license under this Local Law; or
 - (b) renew, vary or cancel a license that a person has under this local law, the provisions of Division 1 of Part of the Act and regulations 33 and 34 of the Local Government (Functions & General) Regulations 1996 shall apply to that decision”

Penalties

23. A person who contravenes or fails to comply with any of the provisions of this Local Law commits an offence and upon conviction is liable to –
 - (a) a penalty not exceeding \$5,000; and
 - (b) a daily penalty not exceeding \$500 for every day or part of a day during which the offence continues.

Modified Penalties

24. (1) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 5.

Forms

25. For the purposes of this local law –

- a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Local Government (Functions and General) Regulations 1996; and
- b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.”

SCHEDULE 1
(Form of Newspaper Notice)

Clause 6(1)(a)

NOTICE OF APPLICATION FOR AN EXTRACTIVE INDUSTRY LICENCE

Take notice that ⁽¹⁾

...
intends to apply to the Shire of Dardanup for an extractive industry licence to excavate ⁽²⁾
.....

...
on land situated at ⁽³⁾
.....

...
being ⁽⁴⁾
.....

...
Any person who wishes to object or otherwise comment upon this proposal, should do so in writing to the Chief
Executive Officer, Shire of Dardanup, 1 Council Drive, Eaton 6232, not later than ⁽⁵⁾

- ...
(1) Insert the name of applicant.
(2) Insert the material(s) proposed to be excavated.
(3) Insert the postal address of the land subject of the application.
(4) Insert the title description of the land subject of the application.
(5) Insert the date which should not be less than 3 weeks after the date when the advertisement first appears in the newspaper.

SCHEDULE 2
(Form of Site Notice)

Clause 6(2)

NOTICE OF APPLICATION FOR AN EXTRACTIVE INDUSTRY LICENCE

Take notice that ⁽¹⁾

...

intends to apply to the Shire of Dardanup for an extractive industry licence to excavate ⁽²⁾
.....

...

on land situated at ⁽³⁾
.....

...

...

being ⁽⁴⁾
.....

...

Any person who wishes to object or otherwise comment upon this proposal, should do so in writing to the Chief Executive Officer, Shire of Dardanup, 1 Council Drive, Eaton 6232, not later than ⁽⁵⁾

...

- (1) Insert the name of applicant.
- (2) Insert the material(s) to be excavated.
- (3) Insert the postal address of the land subject of the application.
- (4) Insert the title description of the land subject of the application.
- (5) Insert the date which is to be 21 days after the date on which the notice is placed on the land.

SCHEDULE 3
SHIRE OF DARDANUP

Clause 7

APPLICATION FOR AN EXTRACTIVE INDUSTRY LICENCE

1. Name(the “applicant”)
2. Address
3. Telephone Fax :
4. Address and locality of proposed excavation site
.....
.....
.
5. Lot No No
6. Location No
7. Plan or Diagram No
8. Certificate of Title Volume: Folio :
9. Owner of the land
.....
.....
.
10. Address of owner of the land
.....
.....
.
11. Material to be excavated
.....
12. If the application covers land that is the subject of an existing licence:
Date of issue of that licence
.....
Date of expiration of that licence
.....
Conditions applicable to that licence
.....
.....
.
13. Term of licence sought
.....
14. Submitted with this application are :
(a)3 copies of excavation site plan (cl.7(1)(a))
(b)3 copies of works and excavation programme (cl.7(1)(b))
(c)3 copies of rehabilitation and decommissioning programme (cl.7(1)(c))
(d)datum peg evidence (cl.7(1)(d))
(e)licensed surveyor’s certificate (cl.7(1)(e))
(f)evidence of compliance with cl.6(1) and (2) (cl.7(1)(f))
(g)copies of all land use planning approvals (cl.7(1)(g))

- (h)written consent of the owner of the excavation site (cl.7(1)(h))
- (i)any other information that the Council has required (cl.7(1)(i))
- (j)licence application fee of \$250 (cl.7(1)(j)).

The applicant applies for a licence in respect of the proposed excavation site in accordance with and subject to the Shire of Dardanup Extractive Industries Local Law.

Dated this day of 19

.....

Signature of Applicant

.....

Signature of Owner of the land

.....

Signature of existing licensee

(if applicable)

SCHEDULE 4
SHIRE OF DARDANUP
EXTRACTIVE INDUSTRY LICENCE

Clause 8(3)(b)

Licensee

.....

Address

.....

.....

...

.....

...

Land

Description

.....

.....

...

Material

to

be

to

Excavated

.....

Term of Licence

Date of Expiry

This licence is issued in accordance with the Shire of Dardanup Extractive Industries Local Law subject to the following conditions :

.....

...

.....

...

.....

...

Dates this day of 19

.....

.....

TRANSFER ENDORSEMENT

Clause 9(3)

This licence is transferred to

of

.....

.....

...

.....

...

from the date of the endorsement until

.....

subject to each of the above conditions and the following additional conditions –

Dates this day of 19

.....

Chief Executive Officer
Shire of Dardanup

SCHEDULE 5
SHIRE OF DARDANUP

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
5	Carry on extractive Industry without licence or in breach of terms and conditions	350
15(a)	Excavate near boundary	250
16(a)	Remove trees or shrubs near boundary without approval	300
16(b)	Gateways not kept locked where required	350
16(c)	Warning signs not erected or maintained as required	350
16(d)	Excavation not drained as required	350
16(e)	Store explosives or explosive devices on the site to which the license applies	350
16(f)	Fill or excavate in breach of licence	350
17(1)(a)	Blasting without approval of the local government	250
17(1)(b)	Blasting outside times authorised	350
17(1)(d)	Blasting in breach of conditions imposed by the local government	350
17(2)	Blasting without approval on Saturday, Sunday or public holiday	250

The Common Seal of the Shire of Dardanup was affixed this day of
..... 20....., in the presence of

.....
Mr Brad Day
Shire President

.....
Mr Mark Chester
Chief Executive Officer

AMENDMENTS

30th March 1998:

SHIRE OF DARDANUP

Amendment to Extractive Industry Local Laws

The Council of the Shire of Dardanup records having made the following amendment to its local laws relating to extractive industry at a meeting of the Council held on Friday, 27 March 1998.

- (1) In these Local Laws the Extractive Industries Local Laws published in the *Government Gazette* on 15 October 1996 as amended from time to time are referred to as the Principal Local Laws.
- (2) The Principal Local Laws are amended by deleting Local Law 22 and substituting the following—

“Objections & Appeals

22. When the local government makes a decision as to whether it will—

- (a) grant a person a license under this Local Law; or
- (b) renew, vary or cancel a license that a person has under this local law, the provisions of Division 1 of Part of the Act and regulations 33 and 34 of the Local Government (Functions & General) Regulations 1996 shall apply to that decision”.

Dated this 30th day of March 1998.

M. L. CHESTER, Chief Executive Officer.

4. Shire of Dardanup Extractive Industries Local Law Amended

The Shire of Dardanup Extractive Industries Local Law, published in the *Government Gazette* of 15 October 1996 is amended as follows—

- (a) Clause 7(1) amended
- (i) In clause 7(1)(b)(ix) after the word “buildings,” add “water supply.”
 - (ii) In clause 7(1)(b)(xi) after the word “minimise” delete “noise and” and substitute “sand drift.”
 - (iii) Add a new clause 7(1)(b)(xii) as follows—
“(xii) a description of the measures to be taken to comply with the Environmental Protection (Noise) Regulations 1997;”
 - (iv) In clause 7(1)(b) delete subclause numbers “(xii)”, “(xiii)” and “(xiv)” and substitute “(xiii)”, “(xiv)” and “(xv)” respectively.
 - (v) In clause 7(1)(b) delete subclauses (h), (i) and (j) and insert—
“(h) copies of any environmental approval required under any environmental legislation;
(i) copies of any geotechnical information relating to the excavation site;
(j) the consent in writing to the application from the owner of the excavation site;
(k) the licence application fee specified in Schedule 5; and
(l) any other information that the Council may reasonably require.”
- (b) Add a new clause 7(3) as follows—
“(3) Where in relation to a proposed excavation—
(a) the surface area is not to exceed 2000m²; and
(b) the extracted material is not to exceed 2000m³;
the local government may exempt a person, making application for a licence under subclause (1), from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).”
- (c) Clause 8(1) amended
Delete clause 8(1) and substitute—
“(1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 7 and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.”
- (d) Add a new clause 11(1)(e) as follows—
“(e) Failed to have a current public liability insurance policy under clause 18 or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 18.”
- (e) Clause 18 amended
In clause 18 delete “\$5,000,000” and substitute “\$10,000,000”.
- (f) Clause 23 amended
- (i) In subclause 23(a) delete “\$500” and substitute “\$5,000”;
 - (ii) In subclause 23 (b) delete “\$50” and substitute “\$500”.

(g) Add new clauses 24 and 25 as follows—

“Modified Penalties

24. (1) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule.

Forms

25. For the purposes of this local law—

(a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Local Government (Functions and General) Regulations 1996; and

(b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996.*”

(l) Add a new Schedule 6 as follows—

SCHEDULE 6
Shire of Dardanup
PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
5	Carry on extractive Industry without licence or in breach of terms and conditions	350
15(a)	Excavate near boundary	250
16(a)	Remove trees or shrubs near boundary without approval	300
16(b)	Gateways not kept locked where required	350

Clause	Description	Modified Penalty \$
16(c)	Warning signs not erected or maintained as required	350
16(d)	Excavation not drained as required	350
16(e)	Store explosives or explosive devices on the site to which the license applies	350
16(f)	Fill or excavate in breach of licence	350
17(1)(a)	Blasting without approval of the local government	250
17(1)(b)	Blasting outside times authorised	350
17(1)(d)	Blasting in breach of conditions imposed by the local government	350
17(2)	Blasting without approval on Saturday, Sunday or public holiday	250

2014 AMENDMENTS:



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LOCAL GOVERNMENT

LG301*

LOCAL GOVERNMENT ACT 1995

Shire of Dardanup

EXTRACTIVE INDUSTRIES AMENDMENT LOCAL LAW 2014

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dardanup resolved on 30 April 2014 to make the following local law.

1. Citation

This Local Law shall be cited as the *Shire of Dardanup Extractive Industries Amendment Local Law 2014*.

2. Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

3. Principal local law

In this local law, the *Shire of Dardanup Extractive Industries Local Law* as published in the *Government Gazette* on 15 October 1996 and as amended and published in the *Government Gazette* on 17 April 1998 and 8 April 2008 is referred to as the principal local law. The principal local law is amended as follows.

4. Clause 7 amended

Clause 7(1) is amended as follows—

- (a) in paragraph (a)(viii) insert the words 'wetlands' between the words 'watercourses' and 'drains';
- (b) in paragraph (b)(ix) insert the word 'secured' before the words 'water supply';
- (c) in paragraph (b)(xiv) delete the word 'and' following the word 'vegetation';
- (d) in paragraph (b)(xv) insert the words '; and' following the word 'areas'; and
- (e) after paragraph (b)(xv) insert—
 - (b) (xvi) If dewatering is proposed and if a licence is needed, evidence of approval or exemption to be provided by the Department of Water.

5. Clause 8 amended

Clause 8 is amended as follows—

- (a) in subclause (4)(a) delete the words 'calculated in accordance with Schedule 5' and replace with 'as determined by Council from time to time';
- (b) in subclause (5)(p) delete the word 'and' following the word 'Law';
- (c) in subclause (5)(q) insert the word '; and' following the word 'industry';
- (d) after subclause (5)(q) insert—
 - (r) The applicant to provide information on the maximum recorded 'end of winter' groundwater level, to ensure that following excavation that the site does not become inundated and groundwater is not exposed.

6. Clause 9 amended

Clause 9 is amended by deleting the words 'calculated in accordance with Schedule 5' and replace with 'as determined by Council from time to time'.

7. Clause 10 amended

Clause 10(1)(f) is amended by deleting the words 'fee set out in Schedule 5' and replace with 'transfer of licence fee as determined by Council from time to time'.

8. Clause 12 amended

Clause 12(1)(a) is amended by deleting the words 'a fee prescribed in Schedule 5' and replace with 'renewal of licence fee as determined by Council from time to time'.

9. Clause 13 amended

Clause 13(1)(b) is amended by deleting the words 'in accordance with Schedule 5' and replace with 'from time to time'.

10. Clause 24 amended

Clause 24 is amended by deleting subclause (2) and inserting the following—

- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 5.

18. Schedule 5 deleted

Schedule 5 is deleted.

19. Schedule 6 amended

Schedule 6 is renumbered as Schedule 5.

Dated 30/04/2014.

The Common Seal of the Shire of Dardanup was affixed by authority of a resolution of the Council in the presence of—

Cr. MICHAEL T. BENNETT, President.
Mr MARK L. CHESTER, Chief Executive Officer.
