



Private Works & Supply of Materials Policy

Application	All Staff
Responsible Officer	Director Infrastructure Services
File No	CM:POL:CWP
Authorised by	Council
Effective Date	1131/22.10.2019
Distribution	Internet / Intranet

Purpose

The purpose of this policy is to:

- ensure Council is at all times in compliance with the *Local Government Act 1993* and Regulation,
- define the circumstances where Council will undertake work on private land,
- ensure that Council receives a reasonable commercial return when undertaking Private Works,
- clarify the distinction between Private Works and the simple supply of bulk materials,

In order to ensure:

- that Council meet specific customers' needs given the more remote nature of the Shire,
- that private works do not interfere with meeting Council's own objectives under the Operational Plan nor impede progress on public works and services,
- that development of business and industry within the Carrathool Shire is encouraged.

Definitions

Council: Carrathool Shire Council

Private Works: A Private Work is the carrying out of work or an activity for a fee or charge on land that is not owned by Council or not under the care, control and management of Council

Works by Council on private land: work that Council might carry out on private land under an agreement or lease, such as access road construction, maintenance grading, drainage, gating, gate repairs or the like in respect of Council operated quarry pits on private land.

Supply of Materials: the supply of bulk materials or other products listed under Council's adopted Fees & Charges.

Delivery of materials: the loading, delivery and dropping off of materials supplied under this Policy using Council plant and staff but does not include the placing, spreading or applying of materials

Emergency Private Works: works undertaken in an emergency. There must be an imminent or actual threat to private or public safety such as flood, fire or the like.

Reference

This policy complements other legislation and where it is silent on matters referred to in the following legislation such matters must be followed in accordance with the legislation.

Local Government Act 1993

Local Government (General) Regulation 2005

Graffiti Control Act 2008

Uncontrolled document when printed. Please refer to website or intranet for controlled document	Effective Date:	22.10.2019
	Version No.:	3



Policy statements

The provision of Private Works must be carried out in accordance with the legislative framework prescribed by the *Local Government Act 1993* Chapter 6 Part 3 Division 3 Private Works, which states:

- (1) A council may, by agreement with the owner or occupier of any private land, carry out on the land any kind of work that may lawfully be carried out on the land.

Examples of the kind of work that a council might carry out under this section include:

- paving and roadmaking
- kerbing and guttering
- fencing and ditching
- tree planting and tree maintenance
- demolition and excavation
- land clearing and tree felling
- water, sewerage and drainage connections
- gas and electricity connections
- service excavation

- (2) A council must not carry out work under this section unless:

- (a) it proposes to charge an approved fee for carrying out the work as determined by the council in accordance with Division 2 of Part 10 of Chapter 15, or
- (b) if it proposes to charge an amount less than the approved fee, the decision to carry out the work is made, and the proposed fee to be charged is determined, by resolution of the council at an open meeting before the work is carried out.

- (3) A council must include details or a summary of any resolutions made under this section and of work carried out under subsection (2) (b) in its next annual report.

- (4) A report of work to which subsection (2) (b) applies must be given to the next meeting of the council after the work is carried out specifying:

- the person for whom the work was carried out
- the nature of the work
- the type and quantity of materials used
- the charge made for those materials
- the total of the number of hours taken by each person who carried out the work
- the total amount charged for carrying out the work (including the charge made for materials)
- the reason for carrying out the work.

- (5) This section does not apply to work carried out by a council, or by two or more councils jointly, for another council or for a public authority.

- (6) This section does not apply to any graffiti removal work carried out by a council in accordance with Part 4 of the *Graffiti Control Act 2008*.

Private Works Generally

It is recognised that Carrathool Shire is a more remote LGA. This means that residents in the outlying parts of the Shire do not have ready access to the full range of trades and contractors as in other parts.

Council has strong internal capability to provide a range of road building and other works. It is not Council's intention to use Council's substantial public resource capability at the expense of local businesses or contractors. Council may provide works not locally provided by private



contractors or individuals, or where Council is the only holder of suitable plant & equipment or where the remoteness factor results in Council being the only reasonable economic alternative.

Council undertakes Private Works as a service to the community. Private Works must not impede the organisation's ability to undertake the works identified in the Council's Operational Plan. All Private Works are subject to prior authorization by the holder of the appropriate delegation level.

Typical Private Works

Examples of Private Works commonly undertaken by Council include:

- maintenance grading of rural driveways and access roads
- construction of earth drains and minor drainage works

Examples of works that Council would typically not provide:

- concreting, paving
- grass mowing
- household or commercial building or property maintenance, internal plumbing

Private Works – Agreement by Private Land-holder and Debt Recovery

Prior to entering the land to undertake the work, Council will obtain the following agreement of the land-owner:

- a) written consent to enter the land , and
- b) written undertaking to pay the full cost of the Private Work to the Council.

Private Works in Out-lying Areas

In outlying areas, resident requests for private works such as drive and access road grading are common, particularly when Council plant is already working in the area. Works of this nature can be undertaken subject to Council providing a duly authorised quotation.

Private Works in Towns and Villages

In towns and villages, officers are to evaluate whether there is a local private contractor capability to undertake the sought work. Private Works such as concreting or fencing can readily be undertaken by local contractors. Council does not intend to interfere with local providers and wishes to support local businesses and encourage new business development.

Scheduling of Private Works

All Private Works will be scheduled for the most convenient and efficient time to complement Council's own operations.

Where a request for Private Work entails for instance construction of culverts, drainage pipes or other structures, officers are able to provide a quotation on request. If authorised, the work must be scheduled at Council's convenience so that works and/or services identified within the Council's Operational Plan are not impeded under any circumstances.

Private Works may be deferred for some time or refused where necessary to maintain progress on Council's own works.

Payment Arrangements

All Private Works must be paid in full within thirty (30) days following the completion date.

Council will invoice the land owner on completion of the work.



Council may require pre-payment, part-payment or bank guarantee prior to commencement of work.

Where a land-owner fails to pay the cost or part of the cost of the work, Council may recover the outstanding debt as a charge against the land in accordance with the provisions of the Local Government Act, 1993.

Delegations for Authority for Private Works

Appropriate levels of authority to authorize Private Works as delegated be will be strictly adhered to and will be monitored regularly with the onus being on the individual employee to ensure they do not exceed their authority level.

Delegation Categories:

1) Private works to \$2,500

Delegated to overseers, Manager Infrastructure Services, Director subject to only where work is associated with or in immediate vicinity of road works or a civil project in progress where plant & equipment is already on hand.

2) Private works to \$19,999

Delegation to Manager Fleet & Town Services, Manager Infrastructure Services & Director

3) Private works over \$20,000

Delegation to General Manager

Pre-payment of 50% and/or bank guarantee required prior to work being carried out.

4) Emergency private works (must be imminent public or private safety issue)

Overseers, managers, director in emergency with immediate recourse thereafter for authorisation by Manager, Director or General Manager depending on value of work completed (see above) (as per existing delegation)

Works by Council on private land

Council may carry out works on private land and/or supply and/or place materials at no cost to the land owner as needed from time to time under an agreement or lease, such as access road construction, maintenance grading, drainage, gating, gate repairs or the like in respect of Council operated quarry pits on private land.

Supply of Materials:

Council will supply bulk materials and other items or products as contained in the adopted Annual Schedule of Fees & Charges. The supply of materials may include the delivery of materials subject to a fee having been adopted within the Schedule of Fees & Charges.

The supply and delivery of materials does not include the placing, spreading or applying of materials in a particular location other than might be readily accommodated as part of an unloading operation.

Commercial Return

When setting the annual adopted Fees & Charges for private works and supply of materials, Council will have regard to ensuring a reasonable commercial rate of return is achieved. Council may vary the adopted fees and charges at any time by resolution where circumstances warrant such variation.

Work Health & Safety



Council Policy 121

Carrathool Shire Council will endeavour to reduce hazards in the workplace for its employees, by ensuring that a safe and healthy working environment is maintained. As a component of the work health and safety management practices of Council, WH&S principles must be considered when purchasing or hiring new plant or equipment and, where possible, in the purchase of everyday materials.

Revision Table

Minute /Date	Amendment Summary	Reason or Reference
0369/15.09.2009		
0658/15.04.2014		Reaffirm and Reformat
1131/22.10.2019	Minor amendments	Reviewed

Associated Documents

See also *Policy 56 Plant – Community Hire and Policy*

Officers must comply with the adopted *Procedure – Private Works* as may be amended from time to time.

Review

This policy may be amended from time to time and will be reviewed within four years of its adoption (or latest amendment) with reference to any relevant legislation and best practice guides.