



# Quarry material administered under the *Forestry Act 1959*

This fact sheet applies to quarry material reserved to or owned by the state and administered under the *Forestry Act 1959* (Forestry Act). Under the Forestry Act quarry material includes any stone, gravel, sand, rock, clay, soil and earth not defined as a mineral under the *Mineral Resources Act 1989*.

The Department of Agriculture and Fisheries (DAF), through its Forestry business unit, administers the allocation and sale of state-owned quarry material through sales permits. A sales permit issued under the Forestry Act is generally required to interfere with or remove quarry material, except in certain circumstances.

## Why quarry material is important?

Queensland's economic and regional development is reliant on access to different types and quantities of quarry material. State-owned quarry material sold by DAF supplies up to 20 per cent of Queensland's total quarry material requirements.

Quarry material is particularly important for road projects, including those being delivered by the Department of Transport and Main Roads. Many local governments also use state-owned quarry material to construct and maintain roads, including state-controlled and local government roads in rural and remote Queensland. Quarry material is also critical for construction and infrastructure projects, including for schools, hospitals, railways, ports and other public facilities.

## Quarry material sources

### Quarry material on state lands

Under the Forestry Act, quarry material on state lands is the property of the state, except where otherwise expressly provided for by another Act. State land includes:

- State forests, timber reserves and forest entitlement areas.
- Land leased under the *Land Act 1994* (Land Act) in perpetuity or for a term of years, including; pastoral leases, stud holdings, grazing homestead perpetual leases, special leases, term leases, perpetual leases and some development leases.
- Other lands administered under the Land Act such as trust lands (i.e. reserves and deeds of grant in trust), permits to occupy, occupation licences, roads (including road licences) and unallocated state land.

Proponents are encouraged to contact DAF for further advice.

### Quarry material in a watercourse or a lake

State-owned quarry material in the non-tidal reaches of watercourses (streams) and freshwater natural lakes, along with the associated outer banks, is regulated under the *Water Act 2000*.



However, there may be circumstances where quarry material proposed to be extracted from beneath a watercourse or a lake, such as a tunnelling project, needs to be authorised under the Forestry Act. Proponents are encouraged to contact DAF for further advice.

### **Quarry material from tidal water**

Quarry material located within tidal water is reserved to the state and regulated under the *Coastal Protection and Management Act 1995* (CPM Act). However, where quarry material is proposed to be removed from an area of lease issued over tidal water the quarry material is regulated by the Forestry Act, not the CPM Act. Proponents may need to obtain a sales permit under the Forestry Act to remove or use this quarry material. Proponents are encouraged to contact DAF for further advice.

### **Quarry material on freehold land**

In the early 1990s, amendments were made to the *Land Act 1962* and the Forestry Act resulting in quarry material being reserved to the state upon conversion from leasehold to freehold land. Prior to these amendments, the ownership of the quarry material transferred to the landowner upon conversion from state land to freehold land.

The freehold application and conversion date is important for determining ownership of quarry material, as these dates and the respective deed of grant will determine whether the quarry material on freehold land is owned by the state or the landowner.

The Land Act determines that a deed of grant of land containing quarry material owned by the state must reserve the quarry material (other than topsoil) to the state. Where quarry material has been reserved to the state, it is administered under the Forestry Act.

## **Quarry material administered under the Forestry Act**

### **Sales permits for quarry material**

DAF is responsible for allocating and selling quarry material administered under the Forestry Act. The chief executive of DAF (or delegate) may issue permits, licences or other authorities, and enter into agreements or contracts to sell quarry material (i.e. sales permits). Where a sales permit has been granted, the holder of the sales permit is referred to as the 'permittee'.

A sales permit is a legal agreement between the State of Queensland and a permittee, and sets out commercial terms, rights and performance requirements. Permittees are also required to meet planning, safety, environmental, cultural heritage and native title legislative obligations. When considering applications to access state-owned quarry material, DAF undertakes due diligence checks to ensure quarrying on the site is appropriate, stakeholders views are considered, and the proponent is suitably qualified to develop and manage a quarry and comply with the terms and conditions of a sales permit.

Sufficient time is needed to undertake these checks, and DAF will advise the proponent of known issues which will need to be addressed prior to the potential issue of a sales permit.

Where there are multiple proponents interested in obtaining a sales permit for the same quarry resource, DAF may run a public tender process inviting interested parties to lodge a proposal to



purchase the quarry material. DAF will assess the submitted proposals against predetermined assessment criteria to select the most suitable proposal.

Alternatively, DAF may seek to negotiate sales permits with one proponent where there are no other interested parties; or where there are other impediments to another party accessing the material i.e. an exclusive or limited market for the quarry material.

### **Permits to search for quarry material**

To search for state-owned quarry material administered under the Forestry Act, a proponent must obtain a permit to search from DAF. The permit allows the proponent to search for and sample potential quarry resources to determine the properties and the extent of the resource. A permit to search does not provide any future rights to a resource and the results of the search need to be made available to DAF.

Where DAF issues a permit to search for state-owned quarry material, the permittee must obtain, before entering the land, written consent from the occupier or landholder and give at least 14 days prior notice of entry. The names and contact numbers of any contractors engaged to undertake the search activities must also be provided.

### **Use of quarry material without a sales permit**

#### **Government uses**

The Department of Transport and Main Roads can access state-owned quarry materials in accordance with the *Transport Infrastructure Act 1994* for road works, accommodation works or land management activities without a Forestry Act sales permit.

Local governments can use state-owned quarry material from reserves over which they are the trustee provided the quarry material is used by the local government for purposes consistent with their responsibilities under the *Local Government Act 2009*.

However, government owned corporations and other entities in most cases need a sales permit issued under the Forestry Act to remove and use state-owned quarry material.

#### **Use under mining legislation**

Subject to conditions, the holder of a mining lease issued under the *Mineral Resources Act 1989* is authorised to use state-owned quarry material within their mining lease for purposes consistent with the mining lease, however it does not enable quarry material to be moved between mining leases. The right to use quarry material does not extend to other authorities issued under the Mineral Resources Act

Holders of other authorities issued under the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Geothermal Energy Act 2010* or the *Greenhouse Gas Storage Act 2009* have limited ability to interfere with quarry material for incidental purposes, however they have no authority to remove and/or use state-owned quarry material without a Forestry Act sales permit.



## Use by lessees on State land

Leaseholders can access and use quarry material if the material is not removed from the State land and is used for the construction, maintenance or repair of essential land management infrastructure; consistent with the primary purpose and terms of the lease. Use of quarry material for any other purpose, including sub lease purposes, will likely require a sales permit under the Forestry Act. Proponents are encouraged to contact DAF for further advice.

## Use by landholders within a deed of grant

Where quarry material is reserved to the state in a deed of grant the landowner may use state-owned quarry materials within their deed of grant land. This right to use does not extend to third parties or sub lease arrangements or taking the material from one land parcel to another. Landowners are encouraged to contact DAF for further advice.

## Use under the Local Government Act 2009

Local government can potentially use of Section 143 of the *Local Government Act 2009* to access state-owned quarry materials under specific circumstances, including to repair or replace assets such as roads immediately after an emergency or disaster. Use of Section 143 can occur where a local government has no reasonably practicable alternative for accessing materials in response to an extreme event. The use of Section 143 is not intended to support routine maintenance activities. Local governments should seek their own legal advice being using Section 143 to access state-owned quarry materials.

## Other approvals

### Planning and environment

Planning and environmental approvals may be required before quarry operations can commence. Some of these approvals may also be required prior to the issue of a sales permit. Approvals under the following legislation may be relevant:

- *Planning Act 2016*
- *Environmental Protection Act 1994*
- *State Development and Public Works Organisation Act 1971*
- *Nature Conservation Act 1992*
- *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

Please note, the above list may not include all required planning and environmental approvals for construction and operation of a quarry.

### Cultural Heritage and Native Title

Future act consent in the form of an Indigenous Land Use Agreement (ILUA) may also be required under the *Native Title Act 1993 (Cth)* before a sales permit can be issued.

Quarrying like any other disturbance activity is subject to the requirements of The *Aboriginal Cultural Heritage Act 2003* and permittees must comply with the duty of care guidelines when undertaking quarry activities authorised under a Forestry Act sales permit.



## Further information

For more information regarding quarry material administered under the Forestry Act, please contact DAF at [ForestryQuarry@daf.qld.gov.au](mailto:ForestryQuarry@daf.qld.gov.au) or on 13 25 23.

