



Shire of West Arthur Council Policy – Gravel Acquisition

Policy Number	W2.2 Works
Policy Title	Gravel Acquisition
Related Legislation	Local Government Act 1995 (WA)
Strategic Outcome Supported	Outcome 3.1 - A well maintained road system.
Adopted by Council	27 July 2021
Review	CEO Annually

1. Objective

To ensure that the Shire of West Arthur provides fair and equitable compensation to all landowners for the acquisition of road building material

2. Scope

Applies to all staff with the authority to purchase goods and services.

3. Policy Statement

The Shire will, when materials for construction and maintenance purposes need to be sourced from private land, obtain such material in consultation with the landowner or his/her authorised representative. Where such negotiations are successful the Shire will:

- a) Satisfactorily rehabilitate pit areas if requested, including drainage, upon completion of extraction;
- b) Construct where necessary and repair affected haul roads, gates, fences or other structures; and
- c) Negotiate compensation with the landowner for materials extracted from within the Shire district, up to a rate of \$2.00 per cubic metre for gravel. Payment for gravel royalties will be by normal bank payment processes.
- d) Negotiate compensation with the landowner for materials extracted from properties outside of the Shire district, up to a rate of \$2.00 per m3.

Values for gravel are to be determined by the Manager Works and Services on a case by case basis. The suggested value is \$2.00 per m3 (ex GST) for gravel that conforms to Main Roads WA Specification 501.08.01 for Naturally Occurring Basecourse material.

The Shire of West Arthur will not pay for gravel acquisitions by way of private works in lieu on behalf of the landowner. However, the Shire is prepared to undertake private works for the landowner in accordance with the private works rate set by Council and at a time best suited for the Shire. Landowners will be invoiced for private works undertaken and payment made to the Shire as per all other private works activities.

Should an agreement for the removal of gravel not be reached with the land owner and the Chief Executive Officer (CEO) considers the acquisition of these materials in the best interest of the public, the CEO is to provide such notices, and takes such actions, as are prescribed by the Local Government Act 1995 to secure these materials.

The compensation rate that this policy sets extends to all landowners whose properties lie outside the boundaries of the Shire.

4. Legislation:

- A. Section 3.27 of the Local Government Act 1995 states:
Particular things a Local Government can do on land that is not Local Government Property-
1. *A Local Government may, in performing its general functions, do any of the things prescribed in Schedule 3.2 even though the land in which it is done is not Local Government property and Local Government does not have consent to do it;*
 2. *Schedule 3.2 may be amended by Regulation; and*
 3. *If Schedule 3.2 expressly states that this subsection applies, subsection (1) does not authorise anything to be done on land that is being used as a site or curtilage of a building or has been developed in any other way or is cultivated.*
- B. Schedule 3.2 of the Local Government Act 1995 states:
Take from land any native growing or dead timber, earth, stone, sand or gravel that, in its opinion, the Local Government requires for making or repairing a thoroughfare, bridge, culvert, fence or gate.
- C. Schedule 3.6 of the Local Government Act 1995 states:
The Local Government may] Deposit and leave on land adjoining the thoroughfare any timber, earth, stone, sand, gravel and other material that persons engaged in making or repairing a thoroughfare, bridge, culvert, fence or gate do not, in the Local Government's opinion, require.
- D. Schedule 3.22 of the Local Government Act 1995 stipulates that an owner or occupier of land is to be compensated by the Local Government for any damages sustained through the performance of its functions under this Act.

5. Procedures:

A. Acquisition Guidelines

Staff will abide by the following procedures when attempting to secure road building materials from private lands:

- a) The Chief Executive Officer and/or Manager Works and Services shall approach landowners and request acquisition from their property by way of right of entry to search for materials.
- b) If suitable materials are located a written agreement (as attached) is to be reached with the landowner for compensation for materials removed. The written agreement is to be signed by both parties and a copy is to be provided to the landowner.
- c) Payment for road building materials acquired from the landowner will be in accordance with Council's schedule of payments and negotiated between the landowner and the Manager Works and Services.
- d) Should agreement for the removal of road building materials not be reached with the landowner, procedures to take such materials in accordance with the Legislation detailed in the Local Government Act, 1995 will be

considered by the CEO prior to commencement.

- e) Once gravel has been pushed it legally becomes the property of the Shire and will be paid for in accordance with the measurements undertaken by the Manager of Works and Services at the time gravel is removed from the property.

B. Excavation

- a. All existing internal tracks, where possible, are to be utilised and will be maintained for the duration of the works and on its completion.
- b. Excavation is not to encroach any closer than 10 meters from any fence line and any damage to fences, gates, access roads etc is to be repaired.

C. Rehabilitation

If requested by the landowner, Staff will rehabilitate borrow pits according to the following specifications:

- a. Cross rip the pit floor at 1 metre spacing prior to reinstating overburden, etc.
- b. Level/batter the pit with sides no steeper than a gradient of 1 in 4.
- c. Reinststate overburden.
- d. Reinststate topsoil.
- e. Cross rip again at 1 metre across contours.
- f. Reinststate stock-piled vegetation (if any).

Other Property Rehabilitation

- a) Internal haul roads will be reinstated.
- b) All fences disturbed will be reinstated.

6. Records Management

All records associated with the direct purchase process must be recorded and retained including;

- internal documentation;
- enquiry and response documentation;
- notification and award documentation.
- quotation documentation;
- internal documentation;
- order forms and requisitions.

Record retention shall be in accordance with the minimum requirements of the State Records Act, and the Shire's internal records management policy.

**ABN 96 912 320 795
GRAVEL ACQUISITION
AGREEMENT BETWEEN THE SHIRE OF WEST ARTHUR AND LANDOWNER
FOR THE ACQUISITION OF ROAD BUILDING MATERIALS**

NAME:		
ADDRESS:		
PHONE:		
MATERIALS REQUIRED:		
ESTIMATED VOLUME:		
FROM LOCATIONS:		
COMPENSATION REQUIRED:	Yes/No	
REGISTERED FOR GST:	Yes/No	
PAYMENT: If registered for GST, the landowner must issue the shire of West Arthur with a Tax Invoice, on receipt of an official purchase order which will detail the quantity removed and price per m ³ . If not registered for GST, tax will be withheld from payment at the statutory rate. Council will immediately pay the landowner on receipt of the tax invoice.	Gravel compensation rate is \$.....m ³ (GST exclusive)	
ADDITIONAL REHABILITATION CONDITIONS AGREED TO (OTHER THAN THOSE LISTED IN COUNCILS POLICY):		

Landowners Consent

I/we hereby give consent to the Shire of West Arthur to remove road-making materials as detailed above in accordance with Council Policy and conditions outlined.

Signature:

Date: / /

Signature:

Date: / /

Acceptance

The Shire of West Arthur hereby undertakes to ensure that the requirements as noticed in this form and in Council's policy are adhered to.

Signature:

CEO / MANAGER WORKS & SERVICES

Date: