



EASEMENTS/LEASES/LICENCES - UTILITIES, AUTHORITIES AND COMPANIES



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COMMUNITY GROWTH - PROPERTY & ECONOMIC DEVELOPMENT

POLICY OBJECTIVES

To assess the payment of compensation for easements granted to Utilities Authorities and Companies (hereinafter called a 'utility').

To establish rental for the granting of a lease/licence of City land or buildings to UA&C.

POLICY STATEMENT

1 Licence/Lease Council Network - Customer

- 1.1 Where the City Council grants to a utility, i.e. Energy Australia substation, a lease/licence, then the lease/licence consideration shall be market rental.
- 1.2 The utility is responsible for Council's legal costs.
- 1.3 The utility shall pay to the Council upon granting the lease/licence an administration fee as determined in Council's annual fees and charges (\$770 including GST for 2004/05) in addition to any rent or legal costs.
- 1.4 In this policy the lease area includes that part of the land referred to as easement ancillary to the principal area or building being the subject of the lease.
- 1.5 In regard to a network lease the market rental shall be reviewed every 5 years. If there is no agreement as to the market rental an arbitrator agreeable to the parties shall be appointed to assess the market rental. The decision of the arbitrator is binding on the parties.
- 1.6 If there is no agreement as to the arbitrator then either party may request the President of the Australian Property Institute to nominate a registered valuer to determine market rental. The party that appoints the arbitrator shall be responsible for his/her fees but may recover 50% of the arbitrators fees from the other party within 14 days upon written demand. The decision of the arbitrator is binding on the parties.

2 Licence/Lease Council Sole Customer

- 2.1 Where the Council is the sole customer benefiting from the service provided by the utility the rental be determined as agreed (usually 10 cents per annum payable upon demand).
- 2.2 Unless otherwise agreed each party shall be responsible for its own legal costs.

- 2.3 No administration fee is payable by the utility.
- 2.4 In this policy the lease area includes that part of the land referred to as easement ancillary to the principal area or building being the subject of the lease.

3 Easement

- 3.1 Compensation will be assessed as required by the Land Acquisition (Just Terms Compensation) Act if by a State Statutory Body, or in accordance with the enabling legislation if not a Statutory Body.
- 3.2 Upon receipt of an offer of compensation it will be considered by a Council appointed Registered Real Estate Valuer.
- 3.3 The offer of compensation by the utility may be accepted in the following circumstances:
 - a Where the offer is less than \$55,000 (includes GST) Council's valuation is less than the offer + 10%.
 - b Where the offer is \$55,000 (includes GST) or more, Council's valuation is less than the offer + \$5,500 (includes GST)
- 3.4 If the Council's valuer's assessment is above the values referred to in clause 3.3, the offer by the utility the matter will be considered by Council (compensation will be determined having reference to the legislation referred to in 3.1).
- 3.5 The utility will pay to the Council an administration fee as determined in Council's annual fees and charges (\$770 & GST for 2004/2005).
- 3.6 Council's legal costs and valuation fees will be paid by the utility.

(Min No 311/1982 - 13 April 1982)

(Min Nos 830/1990 - 19 June 1990 and 1241/85 - 10 December 1985)

(Min No 1283/1992 - 3 November 1992)

(Min No 699/1996 - 24 September 1996 - Review of Policies)

(Min No 239/2000 - 24 October 2000 – Review of Policies)

(Min No 214/2005 - 8 March 2005 - Review of Policies)

(Min No 311/2009 - 5 May 2009 - Review of Policies)

(Min No 2013/388 - 16 July 2013 - Review of Policies)