



Western Australia

## **Town Planning and Development (Easement) Regulations 1983**

Compare between:

[01 Apr 2006, 01-b0-02] and [09 Apr 2006, 01-c0-04]



## Town Planning and Development (Easement) Regulations 1983

### 1. Citation

These regulations may be cited as the *Town Planning and Development (Easement) Regulations 1983* <sup>1</sup>.

### 2. Commencement

These regulations shall come into operation on the day on which section 10 of the *Town Planning and Development Amendment Act 1980* comes into operation <sup>1</sup>.

### 3. Interpretation

In these regulations unless the contrary intention appears —

**“Act”** means the *Town Planning and Development Act 1928*;

**“affected land”** means that part of the land included in a plan or diagram which is coloured and marked as an easement pursuant to these regulations;

**“Authority”** means the Metropolitan Water Authority <sup>2</sup>;

**“drains”** in relation to an easement granted to a local authority, means the existing drains or any other drain or pipeline for the carriage of water through, under or upon the affected lands;

**“easement”** means an easement created by section 27A of the Act;

**“electrical equipment”** means towers, poles, wires, and other necessary works and apparatus including signal or control wires comprising a system of electricity transmission and distribution works;

**“electricity corporation”** means the Electricity Generation Corporation, the Electricity Networks Corporation, the Electricity Retail Corporation or the Regional Power Corporation;

**“Electricity Generation Corporation”** means the body established by the *Electricity Corporations Act 2005* section 4(1)(a);

**“Electricity Networks Corporation”** means the body established by the *Electricity Corporations Act 2005* section 4(1)(b);

**“Electricity Retail Corporation”** means the body established by the *Electricity Corporations Act 2005* section 4(1)(c);

**“energy equipment”** means apparatus, fittings, meters, connections and other equipment necessary to convey energy;

**“fittings”** in relation to drains and pipes means any apparatus connected with and necessary or desirable to secure the safe or proper working of the drains or pipes;

**“local authority”** means the local authority for the district in which the land is situated;

**“pipeline”** in relation to a gas easement granted to the Electricity Generation Corporation, the Electricity Retail Corporation or the Regional Power Corporation, means such apparatus, valves, fittings, meters, connections and other equipment necessary to convey gas through a pipeline;

**“proprietor”** means the registered proprietor from time to time, of the land;

**“Regional Power Corporation”** means the body established by the *Electricity Corporations Act 2005* section 4(1)(d);

**“the pipes”** in relation to an easement granted to a local authority or the Metropolitan Water Authority <sup>2</sup>, means any

existing pipeline or any other drain or pipeline for the carriage of water or sewage, through, under or upon the affected land.

*[Regulation 3 amended in Gazette 31 Mar 2006 p. 1354-5.]*

**4. Easements to be coloured and marked**

- (1) Where a plan or diagram is approved by the Inspector of Plans and Surveys to be subject to an easement in favour of an authority or person referred to in paragraph (b) of section 27A(1) of the Act for the purposes mentioned in that paragraph, it shall be coloured in accordance with subregulation (2) and marked in accordance with subregulation (3).
- (2) An easement in favour of —
  - (a) a local authority shall be coloured orange;
  - (b) the Minister for Water Resources or the Metropolitan Water Authority<sup>2</sup> shall be coloured blue; and
  - (c) an electricity corporation shall be coloured yellow.
- (3) Every easement under section 27A of the Act shall be marked by reference to the regulation setting out the rights, powers and privileges in relation to that easement and the marking shall be effected by the regulation number encircled and shown in a clear area on the plan or diagram.

*[Regulation 4 amended in Gazette 31 Mar 2006 p. 1355.]*

**5. Rights and privileges of local authority**

Where land is subject to an easement in favour of a local authority for the purpose of drainage or access to drainage works —

- (a) persons acting under the authority of the local authority with or without any equipment may, at any time and from time to time, without liability for damage other than damage caused by negligence, enter upon the

affected land to carry out all or any of the following works —

- (i) to construct, reconstruct, replace, reinstate, extend, improve, alter, maintain, repair, open or cleanse drains and fittings;
  - (ii) make surveys and take levels of the affected land;
  - (iii) use or take away any soil, earth, stones, rubbish or other things taken from the affected land; and
  - (iv) open and break up the soil of the affected land and excavate and sink trenches;
- (b) the local authority may use the drains and the fittings for the conveyance of water and may remove any obstruction of the drains or fittings caused or permitted to be caused by the proprietor.

**6. Rights and privileges of Metropolitan Water Authority**

Where land is subject to an easement in favour of the Authority<sup>2</sup> for the purpose of water supply, sewerage, or drainage or access to water supply, sewerage, or drainage works —

- (a) a person acting under the authority of the Metropolitan Water Authority with or without any equipment may, at any time and from time to time, without liability for damage other than damage caused by negligence enter upon the affected land to carry out all or any of the following works —
- (i) to construct, reconstruct, replace, reinstate, extend, improve, alter, maintain, repair, open or cleanse the pipes and fittings;
  - (ii) make surveys and take levels of the affected land;
  - (iii) use or take away any soil, earth, stones, rubbish or other things taken from the affected land; and

- (iv) open and break up the soil of the affected land and excavate and sink trenches;
- (b) the Authority may use the pipes and fittings for the conveyance of water or sewage and may remove any obstruction of the pipes or fittings caused or permitted to be caused by the proprietor;
- (c) the Authority may cut away and keep clear all trees and remove all structures or obstructions which in the opinion of the Authority endanger the proper operation or inspection of the pipes or fittings.

**7. Rights and privileges of State Energy Commission re above ground electric easement**

Where land is subject to an above ground electric easement in favour of an electricity corporation —

- (a) a person acting under the authority of the electricity corporation with or without equipment may, at any time and from time to time, without liability for damage other than damage caused by negligence, enter upon and use the affected land and remain therein so long as necessary for all or any of the following purposes —
  - (i) to clear the land;
  - (ii) to construct, alter, inspect, add to, repair, or maintain electrical equipment in, upon and across the affected land; and
  - (iii) to remove from the affected land electrical equipment;
- (b) the electricity corporation may transmit electricity through electrical equipment on the affected land;
- (c) the electricity corporation may cut away and keep clear all trees and remove all structures or obstructions which in the opinion of the electricity corporation endanger the proper operation of the electrical equipment;

- (d) the electricity corporation is not required to fence off the affected land or any part thereof but may cut and construct gates as the electricity corporation shall require into any fences crossing the affected land.

*[Regulation 7 amended in Gazette 31 Mar 2006 p. 1355.]*

**8. Rights, powers and privileges of State Energy Commission re underground electric easement**

Where land is subject to an underground electric easement in favour of an electricity corporation —

- (a) a person acting under the authority of the electricity corporation with or without equipment may at any time and from time to time, without liability for damage other than damage caused by negligence enter upon and use the affected land and remain therein so long as necessary for all or any of the following purposes —
  - (i) to clear and break the surface of the affected land and excavate and remove any soil; and
  - (ii) to lay down, construct, inspect, remove from, repair or maintain upon, over, under or through the surface of the affected land, cables or pipelines together with energy equipment;
- (b) the electricity corporation may convey and transmit energy through energy equipment on the affected land;
- (c) the electricity corporation may cut away and keep clear all trees, undergrowth, crops and fences from the affected land and remove all structures or obstructions which in the opinion of the electricity corporation affect the proper operation of the energy equipment;
- (d) the electricity corporation is not required to fence off the affected land or any part thereof but may cut and construct gates as the electricity corporation shall require into any fences crossing the affected land; and



- (e) the energy equipment brought on to, laid or erected upon or buried in or under the affected land by the electricity corporation shall at all times remain the property of the Commission notwithstanding that the same may be affixed to the freehold and shall be removable in whole or part by the Commission.

*[Regulation 8 amended in Gazette 31 Mar 2006 p. 1356.]*

**9. Rights, powers and privileges of State Energy Commission re gas easement**

Where land is subject to a gas easement in favour of the Electricity Generation Corporation, the Electricity Retail Corporation or the Regional Power Corporation —

- (a) a person acting under the authority of the corporation with or without equipment, may at any time and from time to time, without liability for damage other than damage caused by negligence, enter upon and use the affected land and remain therein so long as necessary for all or any of the following purposes —
  - (i) to clear and break the surface of the affected land and excavate and remove any soil; and
  - (ii) to lay down, construct, inspect, remove from, repair or maintain upon, over, under or through the surface of the affected land a pipeline;
- (b) the corporation may convey and transmit gas through the pipeline on the affected land;
- (c) the corporation may cut away and keep clear all trees, undergrowth, crops and fences from the affected land and remove all structures or obstructions which in the opinion of the corporation affect the proper operation of the pipeline;
- (d) the corporation is not required to fence off the affected land or any part thereof but may cut and construct gates

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as the corporation shall require into any fences now or hereafter crossing the affected land; and

- (e) the pipeline brought on to, laid or erected upon or buried in or under the affected land by the corporation shall at all times remain the property of the corporation notwithstanding that it may be affixed to the freehold and shall be removable in whole or part by the corporation.

*[Regulation 9 amended in Gazette 31 Mar 2006 p. 1356.]*

**10. These regulations not to affect other Acts**

Nothing in these regulations affects any right, power or authority conferred by any other Act on a local authority, the Authority<sup>2</sup> or an electricity corporation.

*[Regulation 10 amended in Gazette 31 Mar 2006 p. 1356.]*

### Notes

- <sup>1</sup> This is a compilation of the *Town Planning and Development (Easement) Regulations 1983* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

#### Compilation table

Citation	Gazettal	Commencement
<i>Town Planning and Development (Easement) Regulations 1983</i>	18 Mar 1983 p. 997-9	18 Mar 1983 (see r. 2 and <i>Gazette</i> 18 Mar 1983 p. 869)
<b>Reprint 1: The <i>Town Planning and Development (Easement) Regulations 1983</i> as at 6 Feb 2004</b>		
<i>Electricity Corporations (Consequential Amendments) Regulations 2006</i> r. 88	31 Mar 2006 p. 1299-57	1 Apr 2006 (see r. 2)

- <sup>2</sup> Under the *Water Authority Act 1984* (now the *Water Agencies (Powers) Act 1984*) s. 8(1)(g), certain references to the Metropolitan Water Authority became capable of being read as references to the Water Authority established under that Act. Under the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* Pt. 14 certain references to the Water Authority have effect as references to the Water and Rivers Commission, the Coordinator of Water Services, or the Water Corporation, as the case requires.

- <sup>3</sup> [Formerly made under s. 27A\(5\) of the \*Town Planning and Development Act 1928\*, continued under s. 263 of the \*Planning and Development Act 2005\*.](#)