



Western Australia

Town Planning and Development Act 1928

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

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at 6 February 2004

Western Australia

## Town Planning and Development (Easement) Regulations 1983

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## **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>;

“**Commission**” means the State Energy Commission<sup>3</sup> of Western Australia;

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**“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;

**“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 State Energy Commission <sup>3</sup>, 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;

**“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.

**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) the State Energy Commission<sup>3</sup> of Western Australia 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.

## **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 the Commission<sup>3</sup> —

- (a) a person acting under the authority of the Commission 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 Commission may transmit electricity through electrical equipment on the affected land;
- (c) the Commission may cut away and keep clear all trees and remove all structures or obstructions which in the opinion of the Commission endanger the proper operation of the electrical equipment;
- (d) the Commission is not required to fence off the affected land or any part thereof but may cut and construct gates as the Commission shall require into any fences crossing the affected land.

**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 the Commission<sup>3</sup> —

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- (a) a person acting under the authority of the Commission 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 Commission may convey and transmit energy through energy equipment on the affected land;
- (c) the Commission 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 Commission affect the proper operation of the energy equipment;
- (d) the Commission is not required to fence off the affected land or any part thereof but may cut and construct gates as the Commission 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 Commission 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.

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

Where land is subject to a gas easement in favour of the Commission<sup>3</sup> —

- (a) a person acting under the authority of the Commission 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 Commission may convey and transmit gas through the pipeline on the affected land;
- (c) the Commission 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 Commission affect the proper operation of the pipeline;
- (d) the Commission is not required to fence off the affected land or any part thereof but may cut and construct gates as the Commission 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 Commission shall at all times remain the property of the Commission notwithstanding that it may be affixed to the freehold and shall be removable in whole or part by the Commission.

**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 the Commission<sup>3</sup>.

**Notes**

- <sup>1</sup> This is a reprint as at 6 February 2004 of the *Town Planning and Development (Easement) Regulations 1983*. The following table contains information about these regulations and any reprint.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<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>		

- <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> The State Energy Commission was replaced by the Electricity Corporation (see Act No. 89 of 1994), the name of which, under the *Statutes (Repeals and Minor Amendments) Act 2000* s. 14(3) was changed to the Western Power Corporation (see s. 4 of the *Electricity Corporation Act 1994*).