

# Easements over Council Land

## - Information Sheet



### Information for Applicants

Please ensure that you read this Information prior to lodging an easement application. It is important to note that the applicant is to pay all costs associated with pursuing an easement application. The costs for this application are discussed in the fee section of the form.

All easement applications are subject to formal Council approval.

**Following receipt of the completed form, the following actions are undertaken (Please note, this is a general guide to the process and each application may vary):**

1. Council will issue an invoice for the non-refundable application fee (in accordance with Council's Fees and Charges).
2. Council Property Officers will consult with internal stakeholders (e.g. Environment & Sustainability, Transport & Assets and Planning & Place)
3. Staff will carry out Public Notification in accordance with Section 47 of the Local Government Act 1993 and these include letters to surrounding residents, notification on Council's website and a notice on the subject land. The public notice period runs for a minimum of 28 days.
4. Council is required to consider all submissions received and take actions to resolve any actions in accordance with the Local Government Act 1993.
5. If it is considered your proposal has merit, Council officers will engage an independent registered valuer to carry out the current market value of the creation, modification or extinguishment of the easement. Please note there is a minimum compensation fee in Council's Fees and Charges. The cost of the valuation is to be reimbursed by the applicant, prior to the engagement of the valuer.
6. Following concurrence from the applicant in regards to the compensation fee payable for the proposed easement, the proposal will be submitted to the elected Council for formal consideration.
7. Please note, any Easement for Drainage of Water over Council land will include conditions regarding pipes to be below the ground. Other ongoing conditions/obligations by the benefiting property owners are to be registered on their property as a Positive Covenant.
8. Following receipt of a Council resolution on the proposal, Council's Property Officers will undertake the relevant steps for the creation, modification or extinguishment of the easement.
9. For the creation of an easement, Council will prepare the relevant documentation, such as the easement terms and positive covenant, to be included with the easement plan (legal fees apply). Council will instruct the applicant's surveyor to lodge the relevant documents with NSW Land Registry Services. The compensation fee is required to be paid prior to lodgement.
10. As a general caution, please note that should Council receive an objection to the proposed easement during the public notification period, Council will be required to refer the objection to the Minister for Local Government for determination (S.47 of LGA). Council accepts no liability if the Minister fails to approve the proposed easement or Council decides not to proceed with granting the proposed easement.

If you are acting on behalf of the land owner you will need to provide a letter of Authority to be submitted as part of the application. Where there is more than one owner, we require all owner's agreement to the application (parts 2 and 10).