

RELEASE AND RELOCATION OF DRAINAGE EASEMENTS POLICY

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SUTHERLAND SHIRE

RELEASE AND RELOCATION OF DRAINAGE EASEMENTS POLICY



1. PURPOSE

This policy sets out the principles to enable the release and relocation of rights by Council to drain water (drainage easements) over private property. These requests are usually at the request of a land owner to facilitate highest and best development on their property.

2. APPLICATION

This policy applies to all drainage easements for drainage infrastructure (public) purposes.

3. PRINCIPLES

3.1 Application of Principles

No one principle should be applied to the detriment of another. Principles must be collectively considered and applied to the extent that is reasonable and practicable in the circumstances.

3.2 Key principle

- Payment of financial consideration to Council will be sought by Council in all situations, subject to valuation and discretions outlined below.
- Should the owner seeking the release or relocation of the easement be the same owner who granted the easement to Council (and provided it was granted at no cost to Council) then no financial consideration will be sought.
- The amount of financial consideration payable will be determined having regard to a “marriage” value based on a “before and after” method of valuation and subject to the owner seeking the relocation or release of the easement meeting all of Council’s associated costs (for example, costs of relocating pipes and other infrastructure).
- Where the relocation of the drainage easement within the private property is proposed by the owner, the costs associated with the relocation of the drainage pipes will be taken into account.
- Valuers providing valuation assessments and reports for the purposes of this policy must consider, in favour of the owner seeking release/relocation of the easement, the value (if any) of any benefit that may accrue to the Council from moving the easement- for example new infrastructure, more efficient design, a wider easement and the like.
- Council may, at its discretion, not require financial consideration pursuant to the policy if in Council’s reasonable opinion the existing location of the easement creates an unreasonable impediment to the development of the land and that such a problem should have been identified before or at the time Council was originally granted the easement, and Council has caused or contributed to that.
- Concurrence of relevant directorates within Council to the release or relocation of the drainage easement will be required.

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- That the financial consideration sought by Council for the release of an easement, whereby no consideration was paid to acquire that easement, be limited to 50% of the marriage value as adopted by Council's valuer.
- The dealing must be at no cost to Council. The applicant must pay all Council's costs.

4. RESPONSIBILITIES

4.1 Responsible Officer

The Manager Property Services is the Responsible Officer for this policy and is responsible for the implementation of the Policy.

4.2 Chief Executive Officer

In accordance with the Local Government Act 1993, Council must approve any land dealing with compensation. Council can delegate the Chief Executive Officer the authority to exercise the responsibilities detailed in this Policy.

4.3 Directors

Directors are responsible for ensuring their directorate adheres to the requirements of this policy within their directorate and the organisation.

4.4 Employees

Employees must adhere to the requirements of this policy.

5. POLICY COMPLIANCE

Compliance with this Policy will be monitored by Manager Property Services.

6. RECORD KEEPING, CONFIDENTIALITY AND PRIVACY

Council follows and complies with the NSW State Records Act 1998 and Privacy and Personal Information Protection Act 1998 through its Access to Information Policy and Privacy Management Plan.

7. BREACHES OF POLICY

Breaches of this policy will be dealt with in accordance with normal disciplinary procedures and will be advised to the Chief Executive Officer and / or Director Shire Services.

8. RELEVANT LEGISLATION, REGULATIONS AND GUIDELINES

- Local Government Act 1993 (NSW).
- Land Acquisition (Just Terms Compensation) Act 1991

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9. DEFINITION OF TERMS

Key terms used within the document:

Term	Meaning
Consideration	Payment
Easement	A right to use and/or enter onto the property of another without possessing it.
Marriage value	Shared equally

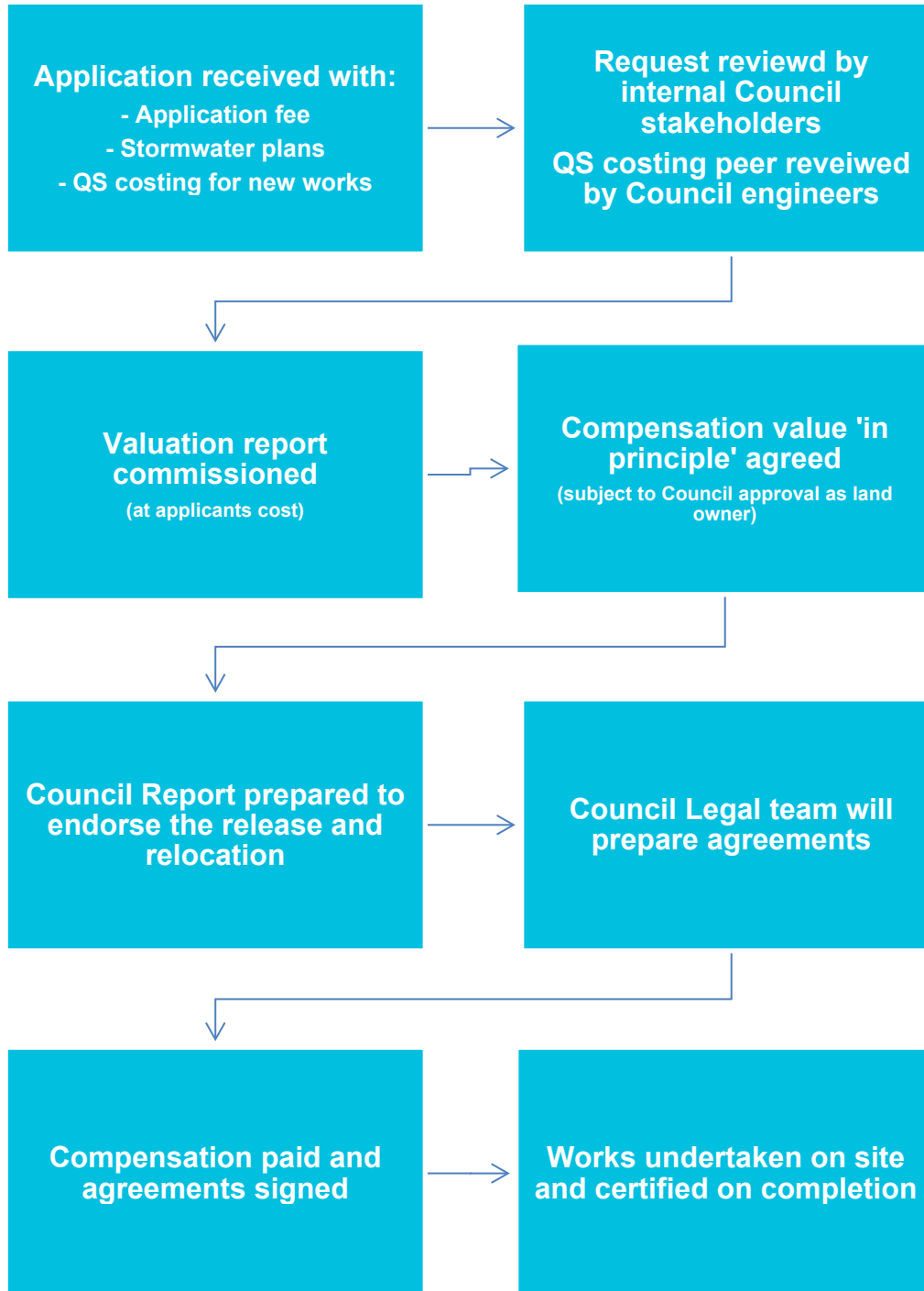
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SCHEDULE TO RELEASE AND RELOCATION OF DRAINAGE EASEMENTS POLICY



SCHEDULE A – Application Process



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