



# Council Policy

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| <b>Policy Title:</b>    | <b>Private Works - Charges For Works Under Section 67, Local Government Act 1993</b> |
| <b>Policy Number:</b>   | 14.1   |
| <b>Focus Area:</b>      | Transport and Infrastructure   |
| <b>Responsibility:</b>  | Infrastructure and Environment   |
| <b>Meeting Adopted:</b> | 23 June 2015 - 230615/14   |

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## OBJECTIVE

This policy aims to ensure that:

- Council meets its legislative requirements with regard to Private Works.
- All Private Works are subject to, and undertaken in accordance with standard Council Private Works procedures and legislative requirements.
- Properly authorised utilisation of Council resources and plant as well as establish liability for payment of debtor accounts, thereby assisting with financial control.

## POLICY

### Legislative Requirements (Local Government Act 1993, Division 3 - Private Works)

#### Section 67

- (1) A Council may, by agreement with the owner or occupier of any private land, carry out on the land any kind of work that may lawfully be carried out on the land.
- (2) A Council must not carry out work under this section unless:
  - (a) It proposes to charge an approved fee for carrying out the work as determined by Council.
  - (b) If it proposes to charge an amount less than the approved fee, the decision to carry out the work is made, and the proposed fee to be charged is determined, by resolution of the Council at an open meeting before the work is carried out.
- (3) A Council must include details of a summary of any resolutions made under this section and of work carried out under Sub Section (2)(b) in its next annual report.
- (4) A report of work to which subsection (2)(b) applies must be given to the next meeting of the Council after the work is carried out specifying:

- The person for whom the work was carried out
  - The nature of the work
  - The type and quantity of materials used
  - The charge made for those materials
  - The total of the number of hours taken by each person who carried out the work
  - The total amount charged for carrying out the work (including the charge made for materials)
  - The reason for carrying out the work
- (5) This section does not apply to work carried out by a council or by two or more councils jointly, for another council or for a public authority.
- (6) This section does not apply to any graffiti removal work carried out by a council in accordance with Part 4 of the [Graffiti Control Act 2008](#)

### **Council Fees for Services (Chapter 15, Part 10 Fees)**

#### Section 608

- (1) A council may charge and recover an approved fee for any service it provides, other than a service provided, or proposed to be provided, on an annual basis for which it is authorised or required to make an annual charge under Section 496 or 501.
- (2) The services for which an approved fee may be charged include the following services provided under this Act or any other Act or the regulations by the council
- Supplying a service, product or commodity.
  - Giving information.
  - Providing a service in connection with the exercise of the council's regulatory functions – including receiving an application for approval, granting an approval, making an inspection and issuing a certificate.
  - Allowing admission to any building or enclosure.

#### Section 610B

- (1) A council may determine a fee to which this Division applies only in accordance with a pricing methodology adopted by the council in its operational plan prepared under Part 2 of Chapter 13.
- (2) However, a council may at any time determine a fee otherwise than in accordance with a pricing methodology adopted by the council in its operational plan, but only if the determination is made by a resolution at an open meeting of the council.

## Section 610D

- (1) A council, if it determines the amount of an approved fee for a service, must take into consideration the following factors:
  - The cost to the council of providing the service
  - The price suggested for that service by any relevant industry body or in any schedule of charges published, from time to time, by the Department
  - The importance of the service to the community
  - Any factors specified in the regulations.
- (2) The cost to the council of providing a service in connection with the exercise of a regulatory function need not be the only basis for determining the approved fee for that service.
- (3) A higher fee or an additional fee may be charged for an expedited service provided, for example, in a case of urgency.

## Section 610E

- (1) A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.
- (2) However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed fee under section 610F (2) or (3).

## Section 610F

- (1) A council must not determine the amount of an approved fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.
- (2) Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft management plan for the year in which the fee is to be made.
- (3) However, if, after the date on which the management plan commences:
  - (a) a new service is provided, or the nature or extent of an existing service is changed, or
  - (b) the regulations in accordance with which the fee is determined are amended,the council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.
- (4) This section does not apply to an approved fee determined by a council for an application made in a filming proposal, if that fee is consistent with a scale or structure of fees set out in a filming protocol.

## Policy Statement

### 1. Request for Council to Carry Out Private Works

- (a) Acceptance by the applicant for council to carry out works at an estimated amount shall be
  - (i) in writing, or
  - (ii) by a signed Private Works Order Form that includes the conditions applying to the carrying out of the private works, or
  - (iii) In the case of works paid for at the time in the field, by the signing of a receipt for works done
- (b) Pre-payment for Private Works:
  - (i) For all work estimated at \$440.00 (including GST) or less council will require payment before commencement of work unless the applicant is already credit approved with council.
  - (ii) Any person/company/organisation requesting Private Works totalling more than \$440.00 (including GST) and not wishing to pre-pay first, must make an application to the Manager Finance and Workplace Relations or their nominee for credit approval.
  - (iii) (i) above does not apply to other councils or public authorities.
  - (iv) Other councils/public authorities and companies who have gained credit approval must supply either an Order Number or some form of written authorisation for formal acceptance of a price for work to be undertaken.
  - (v) For works of a recurring nature, the Order or written authorisation should define the interval of the service and the term of the arrangement. The term will be no longer than 12 months or to the end of the financial year which ever is the shorter.

### 2. Private Works Order Form should contain the following detail:

- (i) Applicant's name, postal address, address where work is to be carried out and phone number.
- (ii) Description of work to be undertaken and detailed plant requirements.
- (iii) The council officer estimating the job.
- (iv) The date this work is required to commence.
- (v) Any other detail applicable to the job.

### 3. Private Works Pricing:

- (a) **Estimates** only are provided for all works and the applicant will be responsible to the Council for the final cost of the work as determined by the Council on completion of the works.

- (b) Variations between estimated cost and actual cost of private works less than \$30.00 will be reconciled internally.

#### 4. Plant and Labour Charges

- (a) Charges are on an hourly basis including operator and will be levied on the basis of a minimum hire per unit of one hour, except in special circumstances as may be approved in advance by the Director Infrastructure and Environment. Hire for periods in excess of one hour shall be charged on the basis of proportionate half hourly increments.
- (b) Plant is to be charged against private works for the entire time it is not available to Council;
- (c) Charges at full rates shall be based on time from the depot, campsite or previous/next job (whichever is the closest) and return, including unproductive waiting time occasioned by the client but shall not include Plant Servicing or Breakdown time;
- (d) Plant is only made available for hire when operated by authorised Council employees. All rates for hire will include the cost of an operator.
5. It is the responsibility of the client to familiarise themselves with the capacity and capability of any plant requested and its suitability to execute the particular work proposed. Furthermore, the applicant shall, as necessary, organise, supervise and explain all proposed works to Council's representative so that such works can proceed with all possible efficiency and expedition.
6. It is the responsibility of the client to arrange and provide adequate traffic control and pedestrian management measures.
7. The client is solely responsible for any associated damages occasioned by the plant during the course of any private works projects, eg damage to water lines, electricity, Telstra or any building or property damage and the like. These associated damages are not the responsibility of the plant operator or Council. The client should organise for Dial Before you Dig notifications and if necessary confirm the location of all underground services prior to any works being undertaken
8. A risk assessment must be done by an approved Council Officer prior to commencement of private works jobs (and this cost to be included in final cost of private works).
9. Whilst efforts will be made to provide services to suit individual customers, the needs of the community at large must receive preference over works of this nature which will therefore be undertaken at the convenience of the Council and as directed by the Director Infrastructure and Environment or their representative.

#### **REVIEW**

This policy will be reviewed by Council at the time of any relevant legislative changes, compliance requirements or at least every four years.