

Guiding Principles

Valuing easements acquired for
transmission line purposes on rural
property

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1. Purpose

Victoria is undergoing an energy transition, shifting to renewable energy. VicGrid is coordinating the planning and development of Victoria's Renewable Energy Zones and transmission infrastructure to support this transition. "Renewable Energy Zones are areas in Victoria with the greatest potential for renewable energy such as wind, sunshine, rain tides, waves and geothermal heat"¹.

Victoria's commitment to offshore wind requires electricity transmission to coordinate offshore wind connections together with new infrastructure that will transfer power to the existing grid ("the Project"). The delivery of the Project requires land to be made available for the construction and maintenance of new transmission lines and complimentary infrastructure. It is anticipated this land will be accessed through the acquisition of easements on private and public land and assembling other forms of tenure over Crown land.

This document comprises "*Guiding Principles*" that have been prepared to assist Institute Valuer Members² (Valuers) to better understand the rationale and methodology to assess Market Value in accordance with section 41(3) of the *Land Acquisition and Compensation Act 1986* and section 5A of the *Valuation of Land Act 1960* of an acquired easement on rural land, specifically for above ground transmission line purposes. It is important to understand that government (including authorities) have the ability to secure the easements via Compulsory Acquisition or negotiation.

Out of Scope

These Guidelines seek to identify [market value](#) impacts only as a result of acquiring an easement for above ground transmission line purposes and are not intended to deal with any other heads of claim under the *Land Acquisition and Compensation Act 1986*.

These Guidelines do not deal with any claim for compensation attributable to [disturbance](#) as defined in section 40 of the *Land Acquisition and Compensation Act 1986*. Business loss claims are undertaken by specialist business valuers and forensic accountants.

Further, these Guidelines do not deal with native vegetation or other environmentally sensitive land protected under the Planning and Environment Act 1987.

¹ <https://www.energy.vic.gov.au/renewable-energy/vicgrid/renewable-energy-zones>

² A Member of the Australian Property Institute

2. Valuers Knowledge and Experience

Valuers who accept an instruction to undertake a market value assessment of an easement for compensation, are expected to have prior sound knowledge of:

Relevant Legislation	<p>This includes:</p> <ul style="list-style-type: none"> - <i>Land Acquisition and Compensation Act 1986</i> in respect to compensation for acquisition of land in Victoria - <i>Valuation of Land Act 1960</i> in respect of matters to consider when determining Market Value - <i>Planning and Environment Act 1987</i> in respect to matters relating to environmentally sensitive land.
Court Precedent	<p>It is the Valuers responsibility to ensure they have sound knowledge of pertinent legal precedents, including new court precedents that materialise.</p> <p>Enclosed within Appendix A of these Guidelines is a summary of examples of precedent-setting Australian legal cases, specifically pertaining to compensation matters relating to easement acquisitions. These cases primarily examine the compensation granted for easement acquisitions constructed on rural property, particularly concentrating on circumstances where the easements were procured for constructing and maintaining transmission lines.</p>
Technical Papers	<p>This includes:</p> <ul style="list-style-type: none"> - <i>ANZTIP 13 Valuations for Compensation and Compulsory Acquisition, 1 January 2021</i> - <i>ANZVGP 109- Valuation of Rural and Agribusiness Properties (1 July 2022)</i>
Rural and Compensation Assessments	<p>“A Valuer must operate within the limits of qualifications and experience”³. In the case of the Project, where the Valuer is required to assess the market value of an easement acquisition on rural property, the Valuer should have extensive experience in undertaking rural valuations.</p> <p>Rural Property is defined as “real property used for Agricultural Activities, where the use relates to primary production and/or post production of agricultural products”⁴.</p>
Comparable Projects	<p>Appendix B provides a summary of five case studies of Australian infrastructure projects which will involve the acquisition of easements for above ground transmission line purposes.</p> <p>These infrastructure projects are all different in that each of them present unique characteristics in different geographic areas with different property market characteristics, project designs and acquisition processes. However, there are similarities between the projects that provide relevance to how compensation has, or is proposed to be assessed.</p> <p>The summaries provided herein include a description of the method for which compensation will be assessed for each Project. The case studies have been examined to consider best practise guidelines for valuing easement acquisitions.</p>

³ ANZTIP 13 Valuations for Compensation and Compulsory Acquisition, 1 January 2021

⁴ ANZVGP 109- Valuation of Rural and Agribusiness Properties (1 July 2022)

3. Market Value Impact -Overview

In Victoria, an easement is an “interest” in land for the purposes of the Land Acquisition and Compensation Act 1986 (Vic) (“LAC Act”). As a result, the owner of the land impacted by an easement is entitled to be paid compensation for acquisition in accordance the LAC Act and Section 5A of the Valuation of Land Act 1960 (Vic) (“VL Act”).

Section 41(1) of the LAC Act sets out the relevant considerations in assessing the amount of compensation payable to a dispossessed land owner (the “Claimant”).

In the context of the Project, it is likely that such claims for impact on Market Value will primarily arise by way of one or both of the following;

- the [market value](#) of the land and improvements impacted by the easement acquisition;
- the enhancement or depreciation in value of the [interest](#) of the [claimant](#), at the [date of acquisition](#), in other land and improvements adjoining or severed from the [acquired](#) land by reason of the implementation of the purpose for which the land was [acquired](#);
- loss attributable to severance, in relation to the acquisition of a [claimant's interest](#) in land, means the amount of any reduction in the [market value](#) of any other [interest](#) of the [claimant](#) in the [acquired](#) land or any [interest](#) of the [claimant](#) in other land used in conjunction with the [acquired](#) land which is caused by its severance from the [acquired](#) land;

Market Value in accordance with Section 40 of the LAC Act is:

“market value, in relation to any [interest](#) in land on a particular date, means the amount of money that would have been paid for that [interest](#) if it had been sold on that date by a willing but not anxious seller to a willing but not anxious purchaser”

3.1 Interest to be Assessed

The Valuer is required to fully appreciate all “interests” in and of the land to assess compensation in accordance with the LAC Act including registered proprietors, tenants, licences, permits and business interests.

“Interest” as defined in Section 3 of the LAC Act is:

“interest”, in relation to land, means–

(a) a legal or equitable estate or [interest](#) in the land; or

(b) an easement, right, charge, power or privilege in, under, over, affecting or in connexion with land”

3.2 Methodology to measure Market Value Impact - "Before" and "After" Approach

The appropriate valuation methodology for the quantification of the loss in Market Value in partial acquisitions such as an easement acquisition, is the 'Before' and 'After' method as set out in Section 41(3) of the LAC Act, that is:

- If less than the whole of the land in which a [claimant's interest](#) subsists is [acquired](#) or less than the whole of that [interest](#) is [acquired](#), the [market value](#) of the [acquired interest](#) is the difference between the [market value](#) of the [interest](#) before the acquisition and the [market value](#) of the [interest](#) after the acquisition.

Where the Claimant has an interest in multiple contiguous Certificates of Title, the valuer will need to consider whether the separate title configurations would allow for individual sales that would achieve a higher overall market value. This will determine if the market value in the "Before" and "After" assessments should regard the land as one single land holding (i.e., In One Line) or, consider only those parcels impacted by the easement acquisition and if a piecemeal approach is applicable.

3.3 Matters to disregard

Section 43(1) of the LAC Act sets out the matters that must be disregarded in assessing the amount of compensation payable to the Claimant. In the context of the Project, these may include:

- *"any increase or decrease in the market value of the [interest](#) in land which is acquired arising from the carrying out, or the proposal to carry out, the purpose for which the interest was acquired";*

The Valuer must disregard the increase or decrease to the market value of the [interest](#) in land which is acquired resulting from the carrying out or proposal to utilise the land for transmission line related purposes.

- *"in a case where the land in which the acquired interest subsists is reserved for a public purpose in a planning instrument, any restrictions upon the use or development of that land which are imposed by, or are a consequence of, the reservation;"*

The Valuer is to determine if the land being acquired for the Project has been previously reserved for a "public purpose". In such cases, the Valuer is to disregard any restrictions on that land as a result of the reservation for public purpose when assessing compensation.

- *"any increase in the value of the interest in land acquired which is caused by the carrying out, after service upon the claimant or any other person of the notice of intention to acquire, of any improvements of a durable nature made to the land without the consent of the Authority, unless the claimant proves that these were carried out in good faith in the belief that they had been approved by the Authority;"*

The Valuer will need to clarify whether any improvements have been made to the land following the Claimant being served with the Notice of Intention to Acquire. In such cases, the Valuer is to disregard such improvements where they add value to the land being acquired. The only exception to this is where the Claimant has carried out the improvements in good faith in the belief that they had been approved by the Authority

- *“any sales, transactions, arrangements, licences or approvals in writing effected or obtained with respect to the land in which the acquired interest subsists after service upon the claimant of the notice of intention to acquire, unless these were effected or obtained with the consent of the Authority or the claimant proves that they were effected or obtained in good faith in the belief that they had been approved by the Authority”.*

The Valuer will need to confirm the date that any sales, transactions, arrangements, licences or approvals affecting the land were entered or obtained.

The Valuer is directed to disregard such arrangements where they were entered into subsequent to the Claimant being serviced the Notice of Intention. The only exception to this is where the Claimant has received approval from the acquiring Authority or can prove the agreement was entered into with good faith, believing approval had been granted by the acquiring Authority.

3.4 Assessing the Market Value Impact

These Guidelines reference relevant published texts, Australian legal precedence and case studies to provide guidance to Valuers in assessing the impact on Market Value of land, as a direct result of an easement acquisition on rural private property for transmission line purposes.

4. Key Considerations in assessing Market Value

There is limited literature published which provides the Valuer with guidance in assessing compensation payable for the acquisition of an easement, specifically where it relates to overhead transmission lines. J.F.N Murray,(1954), *Principles and Practise of Valuation, Australia* and Rost and Collins (1971), *Land Valuation and Compensation, Australia*, 2nd edn, both briefly examine the topic.

Guidance for Valuers who are assessing the impact of an easement for transmission line purposes has been extracted from Rost & Collins (1971):

- "The damage which an [overhead] easement may inflict on a property is directly related to the highest and best use for which the land is suitable."
- "The measure of compensation is the diminution in value of the servient tenement resulting from the existence of the easement and the rights secured thereunder."
- "The valuer in determining compensation payable, must ascertain the nature of any restrictions imposed upon use of the owner of the land within the easement area."

The practical application of this guidance is further examined in Section 4 of these Guidelines, with learnings from Australian Case Precedence (Appendix A) and case studies (Appendix B) incorporated.

4.1 The impact of the easement on the Highest and Best Use

"The damage which an [overhead] easement may inflict on a property is directly related to the highest and best use for which the land is suitable", Rost & Collins (1971)

In assessing the impact of the acquired easement, the Valuer is required to determine the "Highest and Best Use" and of the land.

Highest and Best Use as defined by the International Valuation Standards Council is as follows:

"The highest and best use is the use of an asset that maximises its potential and that is possible, legally permissible and financially feasible. The highest and best use may be for continuation of an asset's existing use or for some alternative use. This is determined by the use that a market participant would have in mind for the asset when formulating the price that it would be willing to bid."

4.1.1 Highest and Best Use

The Valuer needs to consider the relationship between the Highest and Best Use of the site and the potential for Market Value impacts to arise as a result of the acquisition of the easement on the land for transmission line purposes.

Each property exhibits unique characteristics that are key to identifying the possibility of an impact.

The need to consider the Highest and Best Use to which the land might reasonably be expected to be put is reinforced in Section 5A of the VL Act which is outlined below:

Determining value of land in accordance with Section 5A of the VL Act 1960

“(3)...when determining such value there shall, where it is relevant, be taken into account -

(a) the use to which such land is being put at the relevant time, the highest and best use to which the land might reasonably be expected to be put at the relevant time and to any potential use;

(b) the effect of any Act, regulation, local law, planning scheme or other such instrument which affects or may affect the use or development of such land;

(c) the shape size topography soil quality situation and aspect of the land;

(d) the situation of the land in respect to natural resources and to transport and other facilities and amenities;

(e) the extent condition and suitability of any improvements on the land; and

(f) the actual and potential capacity of the land to yield a monetary return.”

4.1.2 Financially Feasible

The Highest and Best Use of a property must be financially feasible⁵

The proposed use of a property must generate adequate revenue to justify the costs of construction plus a profit for the land owner. In the case of an improved property, with obvious remaining economic life, the question of financial feasibility is somewhat irrelevant. In the case of an improved property with limited remaining economic life, the question of financial feasibility becomes a question of the most productive use of the site.

If the Market Value of the land as vacant exceeds the Market Value of the property as improved less reversion/demolition costs, then subdivision/redevelopment of the site becomes the most productive use, and continuation of the existing use no longer represents the Highest and Best Use of the property, as was found in *J P Arrow v The Electricity Commission of NSW* [1994] NSWLEC 91 (31 May 1994) and *Mobbs v The Minister* (1960) 5 LGRA 276.

⁵ Highest and Best Use as defined by the International Valuation Standards Council

4.2 Enhancement or Depreciation as a result of the easement

“The measure of compensation is the diminution in value of the servient tenement resulting from the existence of the easement and the rights secured thereunder.” Rost & Collins (1971)

The Valuer is required to determine how the easement may diminish the market value of the servient land and subsequently any parties’ *“interest⁶”* in the land resulting from the existence of the easement and the rights secured thereunder. This guidance is supported by Section 41 (1) (c) and (e) of the LAC Act.

In the preparation of 'Before and After' valuations, the Valuer is required to consider the potential impact on the Market Value of affected properties as a result of easement acquisition. This means the Valuer must account for any potential enhancements or depreciation in the “After” assessment of the property value arising specifically from the purpose for which the land was acquired.

4.2.1 Project specific considerations – Enhancement / Depreciation

In the context of the Project, the Valuer should consider, (amongst other things):

- The location of the easement on the property and width of the easement traversing the property and:
 - o The impact on highest and best use i.e., if the highest and best use of the land is for subdivision, the easement may impact this opportunity.
 - o The easement is located so that it effectively “quarantines” part of the land, limiting its use for farming activities.
 - o The impact on a residence/improvements on the land.
- The visual blight of structures and wires. The Valuer will need to accurately determine what improvements will be held within the easement including:
 - o Transmission Tower(s): understand the position of the tower on the property, its height, width, base size and proximity to any residential buildings.
 - o Transmission Lines: understand their position on the property, height and proximity to any buildings, particularly homesteads.
 - o Transmission Tower(s) and Lines: consider their prominence on all aspects of the property.
- The volumetric title details of easement acquisition:
 - o Does the easement extend below the ground to the natural title depth?
 - o How high does the easement extend above the ground?
- The perception of the adverse effect of the “blot” on title created by the easement.
- Negative perceptions concerning electro-magnetic fields generated by the Transmission Tower(s) and Lines.
- The noise impact (if any) as a result of the transmission lines, including noise impacts from the right to inspect, maintain and repair the infrastructure and the associated loss of privacy.

⁶ Section 3 of the *Land Acquisition and Compensation Act 1986*

- Whether a revaluation of the land for the purposes of council rates and land tax will be undertaken to reflect any portion of the site that has become unproductive as a direct result of the easement acquisition.
- The potential effect of the easement on security / financing for the property

As demonstrated by the Australian case precedence and the Case Studies appended to these Guidelines, permanent impacts from acquisitions of land for transmission line purposes are property and project specific and can only be understood on a case-by-case basis.

4.3 Correctly interpret the terms of the easement & its impact on market value

"The valuer in determining compensation payable, must ascertain the nature of any restrictions imposed upon use of the owner of the land within the easement area." Rost & Collins (1971)

It is imperative that the Valuer identifies and correctly interprets the terms of the easement and their impact on the market value (if any). The assessment for compensation is to put the Claimant back into the same position as it was prior to the Compulsory Acquisition, as far as money is able to do that⁷ as stated by the Judge in *Joyce v Northern Electrical Authority of Queensland* (1 Qld Land Court Reps 171) and reinforced by the Judge in *Longeranong Pty Ltd v Electricity Trust of South Australia* (1990) 55 SASR 493.

4.3.1 Project specific considerations - terms of the easement

In the context of the Project, the easement may include terms that impact the highest and best use of land and/or its market value such as:

- The right to entry to construct, maintain, inspect and repair the transmission line and subsequent impact to land use such as the impact this right may have on the agricultural land such as damage to growing crops.⁸
- Fencing requirements and/ or fencing restrictions imposed by the easement and the subsequent impact to the use of the land.
- Height clearances imposed by the easement and as a result the "No Go Zone rules", published by Energy Safe Victoria.
- Regulations on how farming can be carried out around high voltage electricity for safety purposes which may include but are not limited to:
 - o Restrictions on what machinery can be used and any impact on refuelling and repairing machinery, including if there is a need to replace existing equipment and machinery to allow operation within the easement.
 - o Restrictions around how water can be used (water storage dams, irrigation equipment).
 - o The impact on established technologies such as aerial spraying and spreading together with drone technology.
 - o The activities which are permitted within the transmission line easements and the maximum height allowed.
- Activities that are not permitted within the transmission line easement that the land may have otherwise been used for.
- Activities which require the landowner to seek approval from the relevant authority (Transmission Network Service Provider) prior to performing activities and time and inconvenience to the land holder to seek approval.⁹
- Activities which require a safety assessment and approval from the relevant authority (Transmission Network Service Provider) prior to undertaking and time and inconvenience to the land holder to secure the assessment.

⁷ ANZTIP 13 Valuations for Compensation and Compulsory Acquisition, 1 January 2021,

⁸ Rost and Collins (1971)

⁹ E.g., In case of Western Renewables Project, the lifting wet heads from sunken bores requires AusNet services prior approval.

Use of other Professionals

Where required, the Valuer should seek expert advice in correctly interpreting the easement and understanding the impact of the easement on highest and best use of the land, as was the circumstances in *William Henry Kater v. Electricity Transmission Authority of New South Wales* [1996] NSWLEC 19 (9 February 1996) and *Rogerson and Anor v the Minister (1968)* 16 LGRA 400. In both these cases the Judge considered evidence from other professionals (namely agronomists, engineers and highly experienced real estate agents) in addition to the Valuers opinions in the assessing the impact of the easement on the market value of the land.

In the case of the Project, this may include advice from agronomists, horticulturists, legal representatives, engineers and quantity surveyors.

4.4 Market as at the Relevant Date

Market Perception

An informed and prudent purchaser would be expected to make the appropriate enquiries in order to understand the practical benefits and dis-benefits of the easement interest in land and how the Project may impact future use. This is highlighted in the Australian Legal Precedence such as in *Longeranong Pty Ltd v Electricity Trust of South Australia* (1990) 55 SASR 49 and *Rogerson and Anor v the Minister (1968)* 16 LGRA 400, where the Judge sought to determine the price that a hypothetical purchaser would pay for the land impacted by the easement in determining compensation payable.

Market Conditions

The Relevant Date of the acquisition is the date at which compensation for any impact on Market Value is to be assessed. Accordingly, any impact upon Market Value as a result of the Project, should be considered in the context of the broader market conditions as at the Relevant Date, which in Victoria is the date of Notice of Acquisition if the interest is being compulsory acquired pursuant to LAC Act.

Appendix A Australian Legal Precedence

4.5 Easement Acquisition for Electricity Line Construction on Rural Property

Longeranong Pty Ltd v Electricity Trust of South Australia (1990) 55 SASR 493	
Basis of Claim	Compensation payable for the effect of acquisition of an easement for the purpose of the erection of steel towers and power lines.
Valuers Methodology	The Applicants valuer adopted the before and after method whilst the Respondents valuer discounted the value of certain areas of the land (including the value of the land at the base of the towers and the value of the land in the easement).
Court Findings	<p>The Judge adopted the “before and after” method of valuation and assessed the impact of the easement on the portion of the land affected by the easement, and not the whole of the property.</p> <p>The Judge (at 332) expressed the view that it would be unrealistic to inquire by how much the value of the entire property was reduced by reason of the easement where the impact of the easement was relatively very slight in relation to the entire property. The Judge explained that the aim is to determine an amount of compensation which would restore the landholder in money form, to the position which he enjoyed prior to the taking of the easement.</p> <p>The Court held that although the use of the land for grazing was not inevitably lost, including in the immediate vicinity of each tower, the easement had caused substantial loss of the ability to use the land within the easement for grazing purposes during the period of construction and the loss of 80 trees.</p>
Key Takeaways	<ul style="list-style-type: none"> - The adopted methodology includes assessment of market value of the easement land and the before and after method. - The easement may have a far greater effect on a small land holding.

William Henry Kater v. Electricity Transmission Authority of New South Wales [1996] NSWLEC 19 (9 February 1996)

Basis of Claim	<p>The Applicant sought compensation following the compulsory resumption of part of his land (known as "Swatchfield") for the construction and maintenance of an electricity transmission line.</p> <p>The case was taken to court regarding the disagreement in the diminution in value of his land by reason of the creation of the easement and the appropriate method of valuation.</p>
Valuers Methodology	<p>The Valuers for Mr Kater adopted the "Before and After" methodology to assess compensation payable. The "After" value was assessed having regard to sales evidence of properties affected by transmission line easements vs. properties not affected to determine a discount factor attributable to the transmission line.</p> <p>The valuer for Electricity Transmission Authority of NSW adopted the piecemeal approach whereby the elements of the affected property are broken into separate components and a separate sum is allowed in relation to each component. These components include the various structural improvements, the area occupied by the towers and the transmission line, the blot on the title and injurious affection to the residue of the property.</p>
Court Findings	<p>Judge Pearlman, J stated the in the final Judgement:</p> <p>A critical issue in this case was the starkly different approaches taken on the one hand by the valuers for Mr Kater and on the other hand taken by the valuer for the respondent.</p> <p>Each of the valuers assessed the unaffected value of Swatchfield by determining the value of the land itself on a cleared, fenced and watered basis and added to that the value of its improvements. They derived the value per hectare by reference to comparable sales, making adjustments for date of sale, location, improvements, area and other relevant matters.</p> <p>In addition, the valuers (and the Court) had the benefit of the expert opinion of two agronomists about the carrying capacities of the various properties.</p> <p>What is required, in cases such as these, is to assess the difference in the value of the particular property immediately before the resumption and immediately after the resumption (Rogerson & Anor v The Minister (1968) 16 LGRA 400 at 402) or, put another way, to assess the diminution in value of the property brought about by the easement in question (Mobbs v The Minister (1960) 5 LGRA 276 at 278). As I have earlier said, the valuers for each of the parties adopted a quite different approach to making that assessment.</p> <p>The cited authorities and the texts¹⁰ suggest to me that the approach to be taken depends in each case on the particular facts of that case. In this case, it is clear that the critical issue is whether comparable sales can demonstrate a quantifiable percentage discount by which the values of properties in the same general market as Swatchfield are diminished by transmission line easements.</p> <p>I conclude that the evidence does not support a quantifiable percentage discount which could be applied to the value of Swatchfield to achieve an "after" value. I am led therefore to the conclusion that the "piecemeal" method adopted by Mr Hopcraft is the appropriate method for determining the amount of compensation due in respect of the easement on Swatchfield.</p>
Key Takeaways	<p>Valuers should seek other professional's expert opinion as required.</p> <p>Valuers to consider the method to assess compensation on a case-by-case basis based having regard to the specific facts of that case.</p>

Source: [WILLIAM HENRY KATER v. ELECTRICITY TRANSMISSION AUTHORITY OF NEW SOUTH WALES \[1996\] NSWLEC 19 \(9 February 1996\) \(austlii.edu.au\)](#)

¹⁰ "The Court was also referred to two valuation texts, Murray, Principles and Practice of Valuation, and Rost and Collins, Land Valuation and Compensation in Australia. Although the authors of the latter text comment that the "piecemeal" method is "widely adopted" for the assessment of compensation for the taking of a transmission line easement over grazing lands, neither text was definite or conclusive about the superiority of one method to another (nor could they be, having regard to the decided cases to which I have referred)."

Basis of Claim	<p>This claim is for compensation as a result of acquisition of an easement for the purposes of construction and maintenance of an electricity transmission line. The easement comprises some 8ha and measures some 70m in width and 1,150m in length. The easement traverses the north western corner of a rural property known as "Foxlea" comprising 282ha.</p> <p>Subsequent to the resumption date of the easement, three large steel towers and supporting transmission lines have been erected.</p> <p>The fundamental component to the Applicants claim is for injurious affection caused by the existence of the easement and the high towers and electricity transmission lines subsequently erected, which according to the Applicant, destroyed the future potential of subdivision of Foxlea into four lots.</p>
Valuers methodology	<p>The valuer for Arrow adopted the "before and after" methodology and estimated an overall diminution of 25% in the value of the land. The two principal components in the loss of value were:</p> <ul style="list-style-type: none"> ▶ the total destruction of the benefit of subdivision potential to create three new lots in the northern section of the property; and ▶ the substantial loss of what he described as the "inherent real estate value" of the property. <p>The valuers for the Electricity Commission adopted the "piecemeal method" and concluded that:</p> <ul style="list-style-type: none"> ▶ the concessional lot did not add value over and above grazing value ▶ the valuer denied the concept of inherent real estate value. <p>They note only minimal diminution of 3% of the before value.</p>
Court Findings	<p>The Judge considered the claim for compensation by looking at the two components of the claim submitted by the Applicant individually.</p> <p><i>Claim for Compensation - Component One</i></p> <p>The Judge accepted that the value of the property was greater than 'grazing land' on account of its subdivisional potential and that the subdivision potential had been destroyed by creation of the easement and the subsequent coming into existence of the electricity transmission line and towers.</p> <p>Compensation was assessed as the additional value the subdivision opportunity created. (the value was assessed using the hypothetical development approach prepared by the valuer and the Judge considered evidence also given by very experienced local real estate agents and stock and station agents.)</p> <p><i>Claim for Compensation - Component Two</i></p> <p>The Judge found compensation was payable for the easement impact to "Foxlea" as a grazing property containing a modern residence (but well removed from the transmission line). In determining the compensation amount the Judge considered:</p> <p>The Respondents valuers' approach which was a "piecemeal approach" which considered the "sales evidence of large rural properties affected by electricity transmission lines does not demonstrate any "measurable" depreciation in values compared with unaffected comparable properties". The Respondents valuers had attributed a minimal depreciation factor to "Foxlea" caused by the easement and electricity line structures.</p> <p>The Judge concluded that it is almost an inevitable function of the piecemeal valuation method to find minimal depreciation on the land when applied to cases like this. The Judge assessed compensation for the second claim as being marginally higher than that assessed by the Respondents valuer to reflect a "slightly greater affection on the Applicants residence than they have allowed".</p>
Key Takeaways	<p>The adopted methodology was the Before and After method for Component One and the piecemeal approach was adopted for Component Two.</p> <p>The Highest and Best Use of the land in the "Before" Assessment was deemed an alternative use to the current use as only grazing land given the property had the potential for subdivision. Accordingly, compensation was payable for the destruction of the subdivision potential caused by the easement.</p>

Source: [J P ARROW v. THE ELECTRICITY COMMISSION OF NEW SOUTH WALES \[1994\] NSWLEC 91 \(31 May 1994\) \(austlii.edu.au\)](https://www.austlii.edu.au/au/other/auflii/au/other/nswlect/cases/1994/arrow.html)

Mobbs v The Minister (1960) 5 LGRA 276

Basis of Claim	Disagreement regarding compensation payable for a 15-metre-wide easement, acquired for construction of a transmission line over an orchard block with subdivision potential.
Valuers Methodology	<p>One valuer used a type of "piecemeal" method by dividing the subject property into component parts and then applied to the assessed value of each part, a percentage discount which had been derived from analysis of comparable sales impacted by transmission line easements.</p> <p>The method used by the second valuer was not described in any detail in the case and was not adopted by the Court.</p>
Court Findings	<p>It was held by Mr Justice Hardie that the highest and best use of the land was for subdivision into two lots and a residual third lot comprising the orchard.</p> <p>In assessing the compensation payable for the acquisition of the easement, Hardie J applied what was effectively a "piecemeal" method in that he determined the value of each potential lot and then applied a discount (percentage) attributable to loss in value for the impact of the easement on each lot.</p> <p>The published report of the case contains no discussion of the relative merits of the respective methods adopted by the valuers for each of the parties</p>
Key Takeaways	The Highest and Best Use of the land was deemed an alternative use to its existing use prior to the easement acquisition as the property had the potential for subdivision. Accordingly, compensation was payable for the financial loss of not being able to realise the Highest and Best Use of the land as a direct result of the easement acquisition.

Brancatisano and Anor v the Minister (1967) 16 LGRA 405

Basis of Claim	This claim is for the amount of compensation payable for the affections caused by a transmission line easement.
Valuers Methodology	<p>One valuer used a type of "piecemeal" method by dividing the subject property into component parts and then applied to the assessed value of each part, a percentage discount which had been derived from analysis of comparable sales impacted by transmission line easements on comparable sales.</p> <p>The other valuer used a type of "before and after" method and used judgment to determine the effect the easement was likely to have on the price a purchaser would be likely to pay for the property.</p>
Court Findings	<p>The Judge, Hardie J stated that the former (piecemeal) was "theoretically by far the sounder approach", but he doubted whether it provided much real assistance in the actual case because the effect of the easement on the subject property was considered far greater than the effect the of the easement on the comparable sales.</p> <p>The Judge ultimately rejected both valuations and instead determined a percentage reduction of 50% applied to the whole of the property, stating "[T]he degree of depreciation is a matter of opinion".</p>
Key Takeaways	Comparable sales evidence demonstrating the impact of the easement in the "After" assessment may not be available to the valuer and the degree of depreciation of the land, if any, will be the opinion of the valuer having regard to all relevant facts.

4.6 Easement Acquisition for Drainage related purposes

Rogerson and Anor v the Minister (1968) 16 LGRA 400	
Basis of Claim	The case concerned the acquisition of an easement to protect and maintain an existing sewer and there was a disagreement between the parties over the compensation amount payable as a result of the easement acquisition.
Court Findings	<p>Hardie J approached the task of assessing the diminution in value of the affected land by considering the amount by which a hypothetical purchaser would discount the price payable for the affected land.</p> <p>Hardie J noted in his Judgement: "it is common ground between the parties that the measure of compensation is the difference in the value of the subject property immediately before the resumption and immediately after the resumption. This is in accordance with the principle stated and applied in <i>Mobbs v. Minister</i> (1960), 5 L.G.R.A 2176."</p> <p>Hardie J considered evidence from a senior engineer in his findings, rather than rely on assumptions made by the valuers.</p>
Key Takeaways	<p>The Court adopted the "Before and After" valuation method in assessing compensation for the easement acquisition.</p> <p>The diminution in value of the affected land in the "After" assessment is considered to be the amount by which a hypothetical purchaser would discount the price payable for the affected land.</p> <p>Valuers should seek other professional's expert opinion as required.</p>

Source: Retrieved from [NSWLR / View](#)

Appendix B Case Studies

4.7 Case Study: Western Renewables Link

Item	Description
Summary of project	The Western Renewables Link is a proposed new 190-kilometre electricity transmission line that will deliver renewable energy from wind and solar farms in Bulgana, western Victoria to Sydenham in Melbourne's north west. AusNet Transmission Group Pty Ltd was selected by the Australian Energy Market Operator to develop, design, construct and maintain the proposed transmission line.
Compensation Assessment Process	<p>The Compensation Assessment Process involves:</p> <p>Compensation will not be calculated via a blanket approach. Each landowner will be treated individually and all factors and potential impacts unique to their land will be considered.</p> <p>Each landowner will have appointed a designated Land Liaison Officer, who will be the landowner's key contact in providing information and acting as a conduit for negotiations between the landowner and the project.</p> <p>A valuer will undertake a valuation and the landowner will be provided with the opportunity to discuss the impact of the easement of their property with the valuer and provide any information to assist in determining the compensation payable.</p> <p>Through the landowner working directly with the valuer, a clear understanding of the individual property characteristics and current land use can be conveyed to the valuer.</p> <p>Landowners are allowed sufficient time to consider the compensation offers, seek their own advice and have input into property access arrangements to be used during the construction period.</p>
Compensation Methodology	<p>The Compensation Methodology that will be adopted by valuers in assessing compensation is:</p> <p>"The difference between the market value of the land before the easement and after the easement. Market value may include the reasonable 'highest and best use' of the land, based on what is physically, legally and financially possible. For example, the 'highest and best use' of the land might be subdivision of the land into individual lots or its value might be greatest if multiple parcels are packaged."</p>
Compensation Payment	<p>The Compensation for easement Amount is broken into two payments:</p> <p>The first Compensation for Easement Amount Payment is paid after the landowner has received the option exercise notice. The greater of 80% of Compensation for Easement and Other Compensable amount, or the value less \$50,000 will be paid.</p> <p>The second Compensation for Easement Amount Payment is paid after the easement has been registered on the property title. The second payment will be equal to the value less the first payment.</p>
Key Takeaway	<p>The Western Renewables Link recognises that the impact to the property as a direct result of the easement acquisition will be property specific and has advised land owners that the valuer will work directly with the land owner to understand the individual characteristics of the property.</p> <p>Compensation will be assessed adopting the "Before and After" valuation methodology, having regard to the highest and best use of the land.</p>

Source: Western Renewables Link & Ausnet. (2023). *Landholder Guide, Option for Easement Process and Compensation*. Retrieved from <https://www.westernrenewableslink.com.au/assets/resources/Landholder-Guide-Option-for-Easement-process-and-compensation-March-2023.pdf>

4.8 Case Study: Victoria to New South Wales Interconnector (VNI) West Project

Item	Description
Summary of project	The VNI West project is a proposed new transmission line between Victoria and New South Wales. The 500kV transmission line will run from Dinawan terminal station in New South Wales to Bulgana in Victoria. The early works stage of the project in Victoria will be led by Transmission Company Victoria (TCV) and in NSW by Transgrid.
Compensation Assessment Process	<p>The compensation assessment process involves:</p> <p>Each landowner will be provided with a Landholder Liaison who will be the landowner's key point of contact for the project. The Landholder Liaison will work with the landowners to understand the landowner's property, land use activities and impacts of the proposed transmission line easement on the use of the property.</p> <p>The Landholder Liaison can help landholders provide information to the valuer to assist in their assessment. This includes meeting with the valuer pre compensation assessment to provide information about the property and land use. The Landholder Liaison can also help in arranging a property inspection so the valuer can inspect your property to help inform their valuation.</p> <p>The valuer will undertake the valuation and the landowner will be provided with the opportunity to discuss the impact of the easement of their property with the valuer and provide any information to assist in determining the compensation payable.</p>
Compensation Methodology	<p>The Compensation Methodology that will be adopted by valuers in assessing compensation is noted below:</p> <p>"The process to assess the compensation value included in the Option for Easement proposal includes two assessments:</p> <p>Market value before the easement Market value after the easement</p> <p>The value of compensation offered will be based on the difference, known as the market value depreciation. This includes any loss in the market value of the property, loss of special value, loss due to disturbance and loss due to severance, where applicable."</p>
Compensation Payment	<p>The Compensation for easement payment is broken into two payments:</p> <p>The first payment (80% of the total payment) is made when the option exercise notice is provided to the landholder that the option will be taken by TCV; and</p> <p>The second payment (the remaining 20% of the total) is made when the easement has been registered on the title of the property.</p>
Key Takeaways	<p>The Project recognises that the impact to the property as a direct result of the easement acquisition will be property specific and has advised land owners that the valuer will work directly with the land owner to understand the individual characteristics of the property.</p> <p>Compensation will be assessed adopting the "Before and After" valuation methodology, having regard to the highest and best use of the land.</p>

Source: Transmission Company Victoria. (2023). *Landholder Guide - Victoria to NSW Interconnector West*. Retrieved from <https://www.transmissionvictoria.com.au/-/media/6cc406fe8c15469b8ae12d4003ce2100.ashx?la=en>

4.9 Case Study: HumeLink

Item	Description
Summary of project	The HumeLink is a new 365-kilometre 500kV transmission line which seeks to connect Bannaby, Maragle and Wagga Wagga and subsequently increase the transfer capacity between southern New South Wales and major load centres within New South Wales. The project is being facilitated by Transgrid.
Compensation Assessment Process	<p>The Compensation Assessment Process involves:</p> <p>Each landowner will have access to dedicated Place Managers and Land Access Officers to manager their case.</p> <p>Transgrid will seek to arrange a meeting with the landowner to provide any additional information and help the landowner better understand the acquisition process before issuing an Offer Letter with the assessed compensation amount.</p> <p>Transgrid encourages landowners to obtain independent legal and valuation advice.</p> <p>Once the Offer Letter has been issued to the landowner, the negotiation process commences. Transgrid will aim to reach agreement with landholders which may involve meetings with respective valuers.</p>
Compensation Methodology	<p>The valuer will undertake the following in assessing the compensation:</p> <p>The valuer assesses the market value of the easement land based on the transmission line and structures being on this land and the rights and restrictions and outlines in an Easement Memorandum. The amount is referred to as compensation for Market Value. The valuer will also assess any potential impact to the remainder of the property which is not directly impacted by the easement. The compensation offered will comprise the sum of these two amounts.</p> <p>Additionally, the valuer will perform a 'Before and After' valuation to check the compensation amount. This method involves comparing the property's estimated Market Value before the proposed infrastructure, to the property's estimated Market Value after the proposed infrastructure.</p>
Compensation Payment	<p>The Compensation for easement will occur over two payments:</p> <p>75% of the compensation will be paid when Transgrid exercise the option to acquire the easement.</p> <p>The remaining 25% of the compensation will be paid once the easement is registered on the title.</p>
Key Takeaways	<p>The valuer will adopt a 'piecemeal approach as their primary method of valuation, whereby the market value of the easement land is assessed and separately, the impact to the remainder of the property is assessed. These two amounts reflect the compensation offer.</p> <p>The "Before and After" approach will be used as a check method.</p>

Source: Transgrid. 2020. *HumeLink Landowner Easement and Compensation Guide*. Retrieved from https://www.transgrid.com.au/media/uqefurnr/tran_302377_landowner-compensation-brochure-update-january-2023_v3.pdf

4.10 Case Study: Central-West Orana Renewables Energy Zone

Item	Description
Summary of project	EnergyCo is delivering new high-capacity transmission infrastructure for the Central-West Orana Renewable Energy Zone, including new energy hubs and overhead transmission lines. These new high voltage overhead transmission lines will enable the transfer for electricity from solar, wind and storage projects to energy consumers.
Compensation Assessment Process	<p>The Compensation Assessment Process involves:</p> <p>Initial contact with the landowner to understand how they utilise their land and how a transmission line could potentially impact their use.</p> <p>Face to face individual meetings with landowners to provide information regarding the acquisition and enable landowners to gain an appropriate understanding of the acquisition process.</p>
Compensation Methodology	<p>The Compensation Methodology that will be adopted by valuers in assessing compensation is:</p> <p>Market value of the property interests required for the easement.</p> <p>Payment of fees reasonably incurred with obtaining your own legal and valuation advice in relation to the acquisition.</p> <p>Discussions between the landowner, EnergyCo and each party's valuer to identify any differences in valuation in order to come to an agreement regarding compensation.</p>
Compensation Payment	<p>The compensation payment timeline as below:</p> <p>Initial payment representing 100% of the agreed market value compensation for the acquisition of temporary interests required for construction and 80% of the agreed market value compensation for the acquisition of any permanent interests, together with the full payment of all other agreed compensation for the acquisition will be paid within 20 business days from the date of the execution of the Deed by all required parties. The remaining 20% of market value compensation will be paid upon the completion of the acquisition of the permanent interests.</p>

Source: NSW Government & EnergyCo. (2022). *Transmission easement acquisition Central-West Orana Renewable Energy Zone*. Retrieved from <https://www.energyco.nsw.gov.au/sites/default/files/2022-09/cwo-rez-fact-sheet-easement-acquisition.pdf>