

A D H O C K E R Y

from LEX LOCI ... 9 NOVEMBER 2015

An occasional one-pager from The Public Land Consultancy

A Very Ordinary Substation



**

*Well folks, here we are in Cullen Street, Epping.
This very ordinary 'kiosk substation' in the corner of a recreation reserve
inspired a four-day hearing at VCAT and a 17-page judgement.*

Are utilities on public land rateable? This has been an issue ever since 1900, when the Melbourne Tramway and Omnibus Company took the City of Fitzroy all the way up the judicial ladder to the Privy Council – and lost.

In this case¹, Whittlesea City Council had initially put a value of \$15,000 on the 34 square metre substation site, and rated it accordingly. AusNet objected.

If a distribution company has poles, wires or cables on land, that in itself does not constitute an 'occupation' of the land, nor make it rateable². But what about substations? In Whittlesea alone there are 392 of them. Across the State, we're talking about a pretty substantial rates bill.

VCAT noted that the land had been acquired for nothing in the course of a subdivision, and concluded that its site value (SV) was zero. The 4-tonne gear was, however, a fixture rather than a chattel and, what's more, an 'improvement' – so the land did indeed have a capital improved value (CIV) and a net annual value (NAV). Accordingly, AusNet is obliged to pay rates.

The Valuer General³ describes the argument made for a site value of \$0 as 'not particularly persuasive.' VCAT itself cautions that this is not a test case. We await the Government's policy response.

** Google Streetview

1. AusNet v Whittlesea Council, VCAT, 16 Dec 2014

2. *Electricity Industry Act 2000*, sec 94 (2)

3. *Revaluation News 2016*, July 2015

See you there! Lex Loci

The Public Land Consultancy
ABN 69 067 045 520
Principal: David Gabriel-Jones
Email: lex.loci@publicland.com.au

57/151 Fitzroy Street
St Kilda, VIC 3182
phone: (03) 9534 5128

postal: PO Box 2251
St Kilda West, VIC 3182
mobile: 0412 134 243
www.publicland.com.au