

Policy No. PP032

Easement and Acquisition Policy

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1 INFORMATION ABOUT THIS POLICY

POLICY INFORMATION

Date Adopted by Board 26 October 2023	Board Resolution No. 23/063
Policy Responsibility: General Manager	
Review Timeframe 4 Yearly	
Last Review N/A	Next Scheduled Review October 2027

DOCUMENT HISTORY

DOCUMENT NO.	DATE AMENDED	SUMMARY OF CHANGES
Rev A	26/10/2023	<p>Changed policy to differentiate between critical and non-critical pipeline assets</p> <p>Added information regarding powers under the LG Act to replace existing infrastructure</p> <p>Added in option for GWCC to determine not to proceed with seeking an easement</p>
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FURTHER DOCUMENT INFORMATION AND RELATIONSHIPS

Related Legislation	<p>Land Acquisition (Just Terms Compensation) Act 1991</p> <p>Local Government Act 1993</p> <p>Water Management Act 2000</p>
Related Policies	
Related Procedures, Protocols, Statements and Documents	

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3 PURPOSE

To ensure access to and protection of Goldenfields Water County Council's critical infrastructure by means of an easement, right of way and/or land acquisition.

4 SCOPE

This policy applies to all existing, new or renewed infrastructure owned and operated by Goldenfields Water.

5 DEFINITIONS

Acquisition – To acquire land from a landowner

Burdened Lot – A lot that is to be burdened by an easement in favour of the Goldenfields Water.

Construction Agreement – A formal agreement between Goldenfields Water and the landowner which states the terms and conditions under which construction will occur

Critical Infrastructure – Critical infrastructure consists of all pump stations, reservoirs and treatment sites and those pipelines shown on the attached map as criticality level 4 and 5 or which are located in private property in urban areas

Easement – An easement is a legal right that attaches to land or a part of land (the Burdened Lot) and allows a benefiting party (Goldenfields Water) to use the land in a particular manner.

Easement Agreement - where the landowner consents to the acquisition and/or vesting of an easement for water pipeline under section 30 of the Just Terms Act

GWCC – Goldenfields Water County Council.

Just Terms Act – Land Acquisition (Just Terms Compensation) Act 1991

Landowner – The registered proprietor of the land

LG Act – Local Government Act 1993

6 POLICY

Where Goldenfields Water constructs new or renews existing critical infrastructure an acquisition or easement will be sought. Generally land required for above ground structures such as a reservoirs, pump stations and treatment sites will seek to be acquired outright, whereas subsurface infrastructure such as pipelines will seek an easement.

As per the Just Terms Act, Goldenfields Water is responsible for meeting all reasonable legal and valuation costs associated acquiring land or easements (including stamp duty, registration fees and fees payable for obtaining any necessary consent).

6.1 Existing infrastructure without an easement

Where existing infrastructure exists GWCC may or may not seek to gain an easement over the land in retrospect. Reasons to consider obtaining an easement for existing infrastructure include assets of high criticality, as part of development consent when development or subdivision of land occurs and other reasons considered reasonable and justifiable by staff.

Where an easement does not exist GWCC has right to access land and enter any premises to carry out water supply work on, above or below the surface of the land in accordance with the LG Act. Where an easement or right of way does not exist Goldenfields Water staff must adhere to the notice of entry requirements and other conditions as specified by the LG Act and will be liable for any damages.

6.2 New Infrastructure

6.2.1 Pump station, Reservoirs and Treatment Sites Land Acquisition

Land acquisition and a right of way for access (if required) will be sought prior to works taking place.

6.2.2 Critical Pipelines

For critical pipelines a construction agreement and easement agreement (and right of way for access where required) will be sought with the landowner prior to works taking place. A plan of the works and intended easement will be provided however may be subject to change during construction.

6.2.3 Non-Critical Pipelines

For non-critical pipelines a construction agreement will be sought with the landholder which may include a compensation factor. If a construction agreement cannot be achieved an easement may be required through compulsory acquisition to enable construction to proceed.

6.3 Renewed Infrastructure

Section 59A of the Local Government Act enables Council to “operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of the council, the works are used in an efficient manner for the purposes for which the works were installed”.

6.3.1 Critical Pipelines

For critical infrastructure a construction agreement and easement agreement (and right of way for access where required) will be sought with the landowner prior to works taking place. Where agreement cannot be achieved in a reasonable timeframe Goldenfields Water can continue with the construction under the powers of the LG Act whilst the acquisition progresses.

Where an acquisition cannot be achieved by agreement, Goldenfields Water may proceed with acquisition through the compulsory acquisition process or may determine not to proceed with seeking an easement.

6.3.2 Non-Critical Pipelines

For non-critical pipelines a construction agreement will be sought. Where a suitable agreement cannot be achieved, Goldenfields Water can continue with construction under the powers of the LG Act.

6.4 Timing of Easement Registration and Land Acquisition

Land acquisition can occur either before or after construction. Wherever practical the easement will be created after the construction of the works have been completed to allow for any on site alterations to be taken into account. This should be actioned as soon as practical after construction has been finalised. If required as part of landholder negotiations, Goldenfields Water may consider creating the easement prior to the construction works taking place.

6.5 Compulsory acquisition

Compulsory acquisition should not be used unless acquisition by agreement has been rejected as being unsuitable or has been unsuccessful in gaining agreement and it can be shown that the property need is site specific and essential. .

A Board resolution will be required prior to staff commencing a compulsory acquisition process. The following information will be provided to the Board to enable the decision process:

- The reasons for the compulsory acquisition and should contain the
- Land description,
- Purpose for which it is being acquired,
- The benefit to the community/public,
- Any alternative land investigated and,
- Reasons why the land is preferred.

6.6 Compensation

Where appropriate, GWCC may provide compensation for construction, land acquisition or easement acquisition. This is typically determined via standard offer, based on a land valuation completed by a Certified Practising Valuer or by negotiation with the landowner. . In some instances additional or alternate requests to monetary compensation can be considered such as relocation within the lot to a more favourable location, provision of fencing etc.

Compensation is typically paid once the works have been completed and any required easements or acquisition has been finalised.

6.7 Terms of easement for pipeline and water supply

Full and free right title liberty and licence for Goldenfields Water County Council its successor and assigns to construct, lay, maintain, repair, renew, cleanse, inspect, replace and divert or alter the position of a water main or pipeline with apparatus and appurtenances thereof in or under the surface of such part of the land herein indicated as the servient tenement and to carry and convey water through the said water main or pipeline and for the purposes aforesaid or any of them by its officers servants and or contractors with or without motor or other vehicles, plant and machinery to enter upon and break open the surface of the servient tenement and to deposit soil temporarily on the servient tenement but subject to a liability to replace the soil and upon completion of the work

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restore the surface area of the said servient tenement to its former condition as far as reasonably practical. No building shall be erected nor any structures fences or improvements of any kind shall be placed over or under that part of the lot burdened as is affected by the easement for pipeline and water supply except with the prior consent in writing of Goldenfields Water County Council and expect in compliance with any conditions which Goldenfields Water County Council may specify in such consent.

APPENDIX A – Pipeline Criticality Map

