

Policy No. PP032

# Easement and Acquisition Policy

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## 1 INFORMATION ABOUT THIS POLICY

### POLICY INFORMATION

<b>Date Adopted by Board</b> 24 April 2025	<b>Board Resolution No.</b> 23/063, 24/042
<b>Policy Responsibility:</b> General Manager	
<b>Review Timeframe</b> 4 Yearly	
<b>Last Review</b> April 2025	<b>Next Scheduled Review</b> April 2029

### 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>
Rev B	24/04/2025	<p>Changed policy to align with recent legal information that has been received in relation powers under the LG Act to enter onto land and install a replacement or extend a water pipe in a different location without seeking an easement.</p>
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### FURTHER DOCUMENT INFORMATION AND RELATIONSHIPS

<b>Related Legislation</b>	<p><b>Land Acquisition (Just Terms Compensation) Act 1991</b></p> <p><b>Local Government Act 1993</b></p>
<b>Related Policies</b>	



## Easement and Acquisition Policy

<b>Related Procedures, Protocols, Statements and Documents</b>	
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## **2 TABLE OF CONTENTS**

1	Information About This Policy.....	2
2	Table of Contents.....	4
3	Purpose .....	5
4	Scope .....	5
5	Definitions .....	5
6	Policy .....	6
6.1	General Acquisition and Land Related Matters for Construction Projects .....	6
6.1.1	Above Ground Structures – New and Existing .....	6
6.1.2	Underground Structure (Pipeline) - New .....	6
6.1.3	Underground Structures (Pipeline) - Existing .....	6
6.2	Existing infrastructure without an easement.....	7
6.3	Goldenfields Water Responsibility .....	7
6.3.1	When Acquiring Land or Interest in Land .....	7
6.3.2	When Accessing Privately Owned Land.....	7
6.4	Timing of Easement Registration and Land Acquisition .....	7
6.5	Compulsory acquisition.....	8
6.6	Compensation .....	8
6.6.1	Acquisition .....	8
6.6.2	Damages due to Entry on Land or Construction.....	8
6.7	Terms of Easement for Pipeline and Water Supply.....	9
6.8	Ongoing Maintenance Cost of access for an Easement or Right of Way .....	9

## **Easement and Acquisition Policy**

### **3 PURPOSE**

To provide information and guidance to Goldenfields Water staff and landholders in relation to land related matters including land acquisition and renewal of existing infrastructure.

### **4 SCOPE**

This policy applies to all existing, new or renewed infrastructure owned and operated by Goldenfields Water, whether the infrastructure is located on land owned by Goldenfields Water or not.

### **5 DEFINITIONS**

<b>Term</b>	<b>Definition</b>
<b><i>Acquisition</i></b>	To acquire land from a landowner
<b><i>Burdened Lot</i></b>	A lot that is to be burdened by an easement in favour of the Goldenfields Water.
<b><i>Construction Agreement</i></b>	A formal agreement between Goldenfields Water and the landowner which states the terms and conditions under which construction will occur
<b><i>Critical Infrastructure</i></b>	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.
<b><i>Easement Agreement</i></b>	Where the landowner consents to the acquisition and/or vesting of an easement for water pipeline under section 30 of the Just Terms Act
<b><i>GWCC</i></b>	Goldenfields Water County Council, also referred to as "Goldenfields Water" or "Council".
<b><i>Just Terms Act</i></b>	Land Acquisition (Just Terms Compensation) Act 1991
<b><i>Landowner</i></b>	The registered proprietor of the land
<b><i>Land Related Matters</i></b>	Land Related Matters means a matter arising in connection with: <ul style="list-style-type: none"> <li>a. legal or equitable interest in the land; or</li> <li>an easement, rights, charge, power or privilege over, or in connection with, the land.</li> </ul>

## Easement and Acquisition Policy

<b>Premises</b>	Is defined in the LG Act Dictionary to include “land, whether built on or not”.
<b>Private Land</b>	Includes private land or land owned by another government entity excluding public road or public reserve.
<b>Right of Way</b>	Easement for access
<b>“Water Supply Functions” or “Functions”</b>	The functions assigned to Goldenfields Water upon its establishment on 2 May 1997 expressed in cl 4 of Sch A of the proclamation being the <i>“provision, care, control and management of water supply works, services and facilities within its area of operations”</i> .
<b>Water Supply Works</b>	As defined in the Dictionary of the LG Act to include <i>“the construction, alteration, extension, disconnection, removal, flushing, cleansing, maintenance, repair, renewal or clearing of any pipes or fittings of any water service communicating or intended to communicate, directly or indirectly, with any water main of a council, but does not include changing a washer.”</i>

## 6 POLICY

### 6.1 General Acquisition and Land Related Matters for Construction Projects

#### 6.1.1 Above Ground Structures – New and Existing

For new construction or renewal of existing above ground infrastructure such as a reservoir, pump stations and treatment sites, the land required will generally seek to be acquired outright, through an acquisition process governed by the Just Terms Act, whether by agreement or compulsory process.

Easement for access or right-of-way may be pursued when the land acquired for above ground structure is not directly accessible via public land.

#### 6.1.2 Underground Structure (Pipeline) - New

For the construction of new pipeline, a Construction Agreement will be sought after initial consultation with landowner. An easement agreement may also be sought at the discretion of the General Manager.

#### 6.1.3 Underground Structures (Pipeline) - Existing

For renewal or upgrade of existing subsurface infrastructure such as pipelines and its associated above ground minor structures, Goldenfields Water can proceed with construction works for

replacement pipelines by relying on the statutory powers provided with s59A and 191A of the LG Act without the need to seek an easement.

The landholder will be consulted with during both the design and construction process with the aim to minimise the impact to the landholder where it is cost effective and reasonable to do so. A Construction Agreement will be sought between the current owner and/or lessee and Goldenfields Water, which will include rights and responsibilities of each party.

## **6.2 Existing infrastructure without an easement**

Where existing infrastructure exists GWCC may or may not seek to register 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 Goldenfields Water has the 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.

## **6.3 Goldenfields Water Responsibility**

### **6.3.1 When Acquiring Land or Interest in Land**

When undertaking acquisition of land or interest in the land under the Just Terms Act, Goldenfields Water is responsible for meeting all reasonable legal and valuation costs associated including stamp duty, registration fees and fees payable for obtaining any necessary consent.

### **6.3.2 When Accessing Privately Owned Land**

When accessing land, Goldenfields Water must ensure that:

- As little damage is done as possible
- As far as practical, entry on to fenced land must be made through existing access points
- Landholders reasonable biosecurity measures are followed as per displayed on the property's Biosecurity Entrance Sign or as per communicated by the landowners.
- Any pit, trench, borehole etc must be fenced adequately and filled back in without unnecessary delay
- Council must pay compensation for any damages caused by Council.

## **6.4 Timing of Easement Registration and Land Acquisition**

Acquisition of land for an above ground project will be negotiated and acquired prior to construction being undertaken. The owner of the land in question will generally be contacted during the planning phase of the project.

Generally, the easement will be created after the construction of the works 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.

## **6.5 Compulsory acquisition**

Goldenfields Water has a legal obligation to make a genuine attempt to reach an agreement with the property owner during the negotiation period. At a minimum this requires Goldenfields Water to:

- Act honestly
- Communicate with the property owner with the express aim of achieving agreement
- Ensure offers are genuine and are made in writing
- Be proactive about sharing information including valuation reports and results of investigations
- Provide a timely response to counter offers and questions raised by the property owner

Where an acquisition cannot be achieved by agreement, Goldenfields Water may proceed with an acquisition through the compulsory acquisition process. 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.

### **6.6.1 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. Consistent with the Just Terms Act s 66, Goldenfields Water may agree to provide compensation by way of works in kind.

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

### **6.6.2 Damages due to Entry on Land or Construction**

If deemed appropriate, Goldenfields Water will provide compensation for damages incurred due actions or omission caused by any person authorised by the council in accordance with LG Act s 198.

The landowner or lessee is responsible for identifying the damages suffered as a result of the actions or omissions, which can include property damage or financial loss.



**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 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.

**6.8 Ongoing Maintenance Cost of access for an Easement or Right of Way**

Generally, Goldenfields Water will share the costs for keeping the access to the easement or right-of-way in a condition suitable to exercise its functions.