

Private Water Assets in Road Reserves



Policy type	Council
Adopted by	Council
Responsible Director	Director Infrastructure
Responsible Officer	Manager Engineering
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Scheduled for review	20 August 2017

PURPOSE

To provide a framework for Council to approve private ownership of assets installed within road reserves.

OBJECTIVE

The objective of this policy is to provide a framework:

- That establishes clear requirements to support the processing of applications for private assets in roads reserves in an expedient manner.
- That prescribes the maintenance, inspection, renewal, decommissioning and public liability obligations of the asset owner.
- That establishes the legal framework under which Council will consent to allowing privately owned assets within the road reserve.

This framework ultimately ensures Council, the community and the asset owner are protected through an unambiguous understanding of rights and obligations associated with privately owned assets in road reserves.

SCOPE

This policy applies to all private water assets in road reserves with the exception of lawn watering systems in urban road reserves.

POLICY

1. Legal Framework

A Section 173 Agreement will be required to be entered into by each and every beneficiary landowner prior to approval of works in road reserves. The provision of water assets is usually for the benefit of the current owner of the land and it is appropriate that obligations should be transferred with the land to ensure integrity of the management framework. The Section 173 Agreement will require:

- Inspection requirements: For assets installed within collector road reserves, inspections will be required every 6 weeks and for assets installed within access road reserves inspections will be required every 18 weeks. The applicant will need to document the inspections to the satisfaction of the responsible road authority. At the time of a consent being issued, the road designation will be identified to the applicant.

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- Maintenance requirements: includes the execution of all works of any description which are required to keep the road or infrastructure in the state of utility determined in accordance with the Road Management Act 2004 or any other Act deemed applicable.
- Public liability insurance of \$10,000,000 (or such increased amount as may be periodically advised in writing by Council) to be held and kept current.
- Syndicate / cooperative ownership models shall require all participating landowners to enter into individual Section 173 Agreements with Council. The syndicate / cooperative shall be responsible for ensuring all beneficiaries agree to enter into Council's offered Section 173 Agreement prior to their application and at their own cost.

All costs associated with the physical and legal establishment of a pipeline will be borne by the owner(s) of the pipeline. Annual fees will be charged for locating a pipeline in a road reserve; these fees will be determined by Council in the formulation of the annual budget.

2. Design Considerations

Council will require any assets within road reserves to be installed fence to fence, running perpendicular across roads. Required technical specifications regarding design, annual maintenance, depth, materials and location requirements will be outlined to the applicant by Council's Assets Manager.

Assets will be required to be installed underground.

Sharing of Council's existing or future infrastructure which compromises its intended purpose (such as culverts) will not be allowed.

Applications to install assets running longitudinally within road reserves will only be approved in exceptional circumstances. Exceptional circumstances include the existence of a physical obstacle (buildings, natural structures including waterways, rock formations, culturally sensitive land, land with significant native vegetation) that prevents access and an alternative route is not available; or where all reasonable attempts have been unsuccessful in obtaining the necessary consent of a non-beneficiary landowner, and a reasonable alternate route within private land is not available. The determination of exceptional circumstance will be at the sole discretion of the Director Infrastructure Services. This assessment is required to be balanced with the requirement of Council to protect the road reserve as outlined in section 4(2)(k) of the Road Management Act 2004.

Should such a circumstance exist, and an application is received to install a privately owned asset longitudinally in a road reserve, permission would only be granted after the acceptance of the following conditions, including but not limited to:

- (a) The availability of the corridor within the road reserve between the road reserve fence-line and the commencement of Council's road drainage infrastructure. This is the only location where Council will consent to such privately owned assets being installed.
- (b) Only the portion of the pipeline affected by the exceptional circumstance will be considered for inclusion in the road reserve.
- (c) Applicant enters into a licence at their own cost for use of the part of the road reserve required for installation of the infrastructure.

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- (d) An annual licence fee will be applied on the basis of the user pays principle and will be determined annually in Council's budget.
- (e) Council will, at its discretion, be able to terminate the licence with a minimum of one month's notice, with no compensation available to the licensee / lessee.
- (f) Should Council provide notice under (e) the licensee will be required to remove the infrastructure and reinstate the reserve to Council's satisfaction, at their own cost.

3. Construction Considerations

Council's preferred construction approach for installation of privately owned assets is to bore under roads; however, in some cases, Council may allow pipelines to be trenched across unsealed roads, provided satisfactory arrangements are in place to cater for public traffic.

Requirements for construction will be outlined in detail during the application process and will be controlled through the issuing of Consent to Work within Road Reserves. (as per section 63 of the *Road Management Act 2004*).

Any existing pipeline which is no longer serviceable, may remain in situ provided that the pipe is capped or filled to the satisfaction of Council's Asset Manager or his representative and does not compromise the performance of the road.

RELATED LEGISLATION

Local Government Act 2020

Road Management Act 2004

REFERENCES

