

Easement - Rights and responsibilities



Legal requirements

A person wishing to build a structure or place filling on land over which an easement exists must obtain the consent of Coliban Water - refer to *Water Act 1989 Section 148*.

Section 148 of the Water Act 1989 also requires that no structure may be built or filling placed within one metre laterally from any works of Coliban Water unless consent is obtained.

Easement rights for Coliban Water

Regulation 5 of the Water (Subdivisional Easement and Reserves) Regulations 2001 describes the easement rights that apply to the Authority for whose use it is created (that is, Coliban Water).

- (a) at all times, full and free access to enter upon and pass over the land (with or without plant);
- (b) to take onto and remove plant from the land;
- (c) to clear and excavate the land;
- (d) to construct pipeline works or channel works on, over or under the land;
- (e) to use and operate pipeline works or channel works on the land;
- (f) to inspect, maintain or change pipeline works or channel works on the land (including a change in their size or number);
- (g) to remove any matter from or deposit any matter on the land.

Registered Easements

If a plan of the easement is registered on title, Coliban Water is entitled to use the easement and is not required to repair damage to buildings or works constructed or located so as to interfere with the exercise of rights conferred by the easement, if reasonable care is taken in gaining access to and using the easement – *Subdivision Act 1988 Section 12 (5)*.

Tree Removal from Easements

If a tree is considered by Coliban Water to be obstructing or damaging Coliban Water's works then we can require the owner of the property to remove the tree at the owner's expense - refer to *Water Act 1989 Section 149*.

Restrictions or Requirements on Channels

A property owner or occupier must:

- Not do anything that can interfere with the Coliban Water asset or maintenance of the asset;
- Not obstruct channels;
- Not plant trees that could be capable of sending out a root liable to interfere the channel;
- Not plant or landscape up to the toe of the bank;
- Not erect occupational crossings over channel without written consent of Coliban Water;
- Allow room for access and maintenance;
- Place an access gate in any fence crossing the channel (negotiated with Coliban Water).
- Ensure electric fencing is signed.

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Restrictions or Requirements on Pipelines

Coliban Water must have access to the easement at all times. Where possible, the Coliban Water representative will notify the owner or occupier before entry is gained.

Coliban Water approval is necessary for any activity which may affect the pipeline, such as construction of road or track crossings, installation of land drains or mole drainage systems, and deep ripping or the levelling of ground.

There is a limit on what can be planted on the easement, which excludes any vegetation that may impede access or operations, repair and maintenance works (e.g. no trees are to be planted over the top of the main).

In addition, Coliban Water must be notified prior to the commencement of any of the following types of work in the immediate vicinity of the easement:

- Excavating, trenching and the like
- Boring or drilling
- Installation of buried services
- Erection of fencing
- Deep ripping
- Erection or replacement of power poles
- Construction of roads, track and drains
- Clearing drains
- Digging dams
- Heavy vehicle traffic
- Levelling of farm land
- Temporary flooding or wash outs
- Blasting or seismic activity
- Planting of trees
- Concreting work, paving foundations, temporary or permanent buildings
- Installation of mole drainage systems
- Carrying out any work which may affect the pipeline or easement

A property owner or occupier must not:

- Erect structures (especially permanent structures) to be built over the pipeline or easement;
- Construct tracks or roads for heavy equipment crossing or extending along the easement;
- Undertake deep ripping within the easement;
- Sow forest plantations within the easement;
- Undertake any activity that could disturb the pipe, such as excavation, stripping of top soil, drainage works etc.

Things not restricted by easements

- Normal farm activities such as ploughing, sowing, stock grazing etc;
- Planting of shrubs – within reason and allowing access;
- Normal traffic;
- The easement does not need to be fenced.

Access to easements

Normal pedestrian access is required by Coliban Water where the pipeline is located near the road boundary, but vehicle access is required when pipeline is some distance from a roadway.

In an emergency, however, heavy machinery may be required to access the length of the easement.

Typically pedestrian or light vehicle access would be required to the valves once or twice a year.



For specific information on your rights and responsibilities in relation to easements, contact Coliban Water's Property Manager on 1300 363 200.

This document was correct at the time of printing. May 2008

For the latest version of this document please refer to www.coliban.com.au