



**EASEMENTS FOR SEWERAGE, WATER AND  
STORMWATER PIPELINES  
POLICY NO: ES 13**

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*Our Vision*

Nambucca Valley ~ Living at its best

*Our Mission Statement*

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

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**1.0 Policy objective**

To provide Council with legal access to operate, maintain and replace Council owned service infrastructure that is located within private property

To provide a clear indication to property owners that Council owned infrastructure is located on their property and may impose a constraint to potential development of that property.

**2.0 Related legislation**

Section 191A of Local Government Act 1993  
Section 88B of the Conveyancing Act 1919

**3.0 Definitions**

**3.1 Easement**

An easement is a burden on a property to allow full and free right for authorised persons from the party having the benefit of the easement to access the easement for the purposes of inspecting, operating, maintaining, repairing or replacing the pipes located within the easement.

The easement is a portion of land with specified dimensions that is defined on the land title plan.

**4.0 Policy statement**

An appropriate easement shall be created over all Council owned water supply, sewerage and stormwater pipelines that are located within private property.

The easement instrument shall be a burden on the land title and reserves the right for Council authorised persons to enter the easement at any time without notice for the purpose of constructing, extending, maintaining, controlling, inspecting, replacing and managing the work on the Council owned infrastructure

## **4.1 Policy Requirements**

### **4.1.1 Subdivision Approvals**

As part of any subdivision approval the developer shall be required to provide an easement over any existing or proposed Council owned sewer, water and stormwater pipes located within private property.

The easement shall be created so that the pipes are located centrally within the width of the easement.

The subdivision plan shall be provided to Council for approval clearly showing all easements required. Pursuant to Section 88B of the Conveyancing Act 1919 an instrument shall be created on all land titles where an easement is required. The wording of the instrument shall be in accordance with the relevant clause of Schedule 4A Part 9 of the Act.

### **4.1.2 Minimum Easement Width**

The minimum width of an easement for both sewerage and stormwater pipelines shall be 3m.

The minimum width of an easement for a water supply pipeline shall be 2m

The minimum width of an easement with more than 1 pipeline shall be 4m and the pipes shall have a minimum separation between the outside walls of the pipes of 1m.

### **4.1.3 Deep Sewers and Large Pipes**

Where deep sewers or large pipes are proposed the required easement width may be greater than 3m. The easement width shall be determined by Council's Manager Water and Sewerage or Manager Civil Works following an assessment of the maintenance access requirements.

### **4.1.4 Restriction on Use**

Property owners should note that the creation of an easement is a restriction on use and may be a potential constraint to the maximum development density that may otherwise be permissible on the site.

Lot sizes for new development shall make allowance for the constraints imposed by the easement so as to allow for building areas that are similar to those available on the neighbouring lots. Where pipelines and accompanying easements are located along a side boundary of a lot consideration should be given to increasing the width of the lot frontage.

## **5.0 History**

For many years easements were not considered necessary where water supply pipelines and sewer mains were installed in private property. This was due to the extensive powers given to Councils for access under the Local Government Act 1919 (Section 382 – 384) and the Public Works Act 1912.

The Local Government Act 1993 (Clause 3(1) of Schedule 7) ensures the legality of decisions prior to 1 July 1993, but does not confer any power of entry of the Crown that was previously available under the aforementioned Acts. Section 191A of the Act also provides Council with the power of entry to access Council owned infrastructure in order to operate, maintain or replace it in an appropriate manner.

Local Government NSW consider that pipelines should have easements created with the right to enter the easement at any time without notice for the purpose of constructing, extending, maintaining, controlling, inspecting, replacing and managing the work on the Council owned infrastructure.

Council has required easements to be created in recent times, however the minimum width was previously set at 2m. This is no longer considered to be an adequate width to provide for reasonable access to or the protection of Council's assets. Lot sizes are getting smaller and houses larger and it is vital that appropriate easements are provided to enable Council to continue to operate and maintain the assets

An easement is also considered to be the best means of indicating to a property owner that there is a constraint on the land as it is clearly visible on a title plan.

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