



POLICY AND GUIDELINES FOR BUILDING OVER OR ENCROACHING ON HUNTER WATER EASEMENTS OR PROPERTY

POLICY SUMMARY

Hunter Water may permit encroachment onto our easements, our land or building over significant assets like storm water channels or major water mains where the encroachment does not impact:

- safety
- accessibility to Hunter Water's asset for maintenance, replacement, etc
- costs and time required for Hunter Water to access and maintain its asset
- the design functionality of Hunter Water's asset.

Where encroachments over stormwater channels are permitted, in addition to meeting the above, the applicant will be required to lodge an enduring indemnity with Hunter Water. Hunter Water will need to consider the underlying financial resources supporting the indemnities and may require appropriate third party support to be in place which specifically recognise the indemnity.

In accordance with the IPART approved fees and charges, the applicant is required to pay an initial application fee, and where deemed necessary, pay by agreement an hourly rate for more detailed assessment of the development proposal. A site specific investigation of the circumstances, operating environment and the current and likely future access constraints will be undertaken by Hunter Water.

Where Hunter Water considers our requirements can be realistically satisfied a conditional approval may be offered. Where Hunter Water considers the development proposal unacceptable, the proposal will be refused.

In addition to recovery of costs a commercial fee for use may also be sought.

BACKGROUND

Hunter Water seeks to protect certain assets and public safety by means of either acquiring land, or an easement over the land, in which the asset is contained.

Major structures such as reservoirs, pump stations and treatment plants have generally been constructed on lands acquired by Hunter Water. For water mains, sewer mains and storm water systems, both property and easement acquisition are used as a means of protecting access for maintenance, operation and replacement activities.

Previously, varying types of encroachments have occurred over Hunter Water property, easements and assets. Over time Hunter Water has learnt from many of these examples that despite the best endeavours, Hunter Water has faced severe limitations to access, operate and maintain or replace these assets. Prior examples, therefore, are not to be necessarily taken to be acceptable design and construction practice for today.

Any application for permission to encroach on Hunter Water property or easements should be made in accordance with the following requirements: -

ASSESSMENT PROCEDURE

1. Payment of a Preliminary Assessment Fee and Detailed Assessment Fee

In accordance with the IPART approved fees and charges, the applicant is required to pay a preliminary assessment fee. Where deemed necessary the applicant, shall pay by agreement an additional hourly rate for more detailed assessment of the development proposal. The current value of the fees mentioned above can be supplied upon request.

2. Assessment Considerations

The following general principles will be considered when conducting a review of any application to build over or encroach on Hunter Water property or easements: -

(i) Maintenance/Replacement/Augmentation Requirements

The proposal must not diminish Hunter Water's ability to access the asset for operation, maintenance or asset replacement purposes.

The proposal must not increase the risk to public safety either because of the proposed work or from failure of our services.

The proposal must not be exposed to damage as a result of the failure of our services.

Where a structure is proposed to be placed over an easement, property or asset, a minimum vertical clearance of 5.5 metres is likely to be imposed to facilitate access of plant (tracked excavators or similar) for future maintenance or replacement.

Horizontal clearances may also be required, however, these will be determined in relation to the site specific needs of Hunter Water.

Structures at ground level must be easily dismantled to facilitate unimpeded and urgent access to Hunter Water's assets for operation, maintenance or replacement activities to be carried out. Removal and replacement of any approved structure will be at the owner's cost.

The proposal must not create a safety issue for Hunter Water's staff or increase the replacement/maintenance cost or the replacement/maintenance technique of the Hunter Water asset in the corridor.

The proximity of existing or proposed buildings to easement or property boundaries will be considered in the context of ease of access for repair or replacement of the assets concerned.

(ii) Liability

Structures proposed to be placed over Hunter Water assets, easements or property, have the potential to impede asset functionality, cause damage to property and/or other consequential losses. To protect Hunter Water, the asset or land owner as deemed appropriate by Hunter Water, shall continuously indemnify Hunter Water from any claim resulting from the presence of the built form of the additional structure.

Where Hunter Water may incur any additional liability as a result of any structure being built on Hunter Water land or within an easement, approval will only be granted where ongoing indemnity, binding on current and subsequent owners, is provided to Hunter Water.

In considering the indemnity, Hunter Water will need to be satisfied there are likely to be sufficient financial resources supporting the indemnity in the event a liability arises. Hunter Water may require appropriate third party support to be maintained which specifically recognise the indemnity. The value of the indemnity may vary depending on the type of structure proposed.

The amount of insurances or indemnities may need to be increased over time to reflect inflation and any change in risk exposure that may occur.

In the event the indemnity and/or insurance is not maintained, Hunter Water will have the right to require the removal of the structure.

Hunter Water will require the payment of legal costs incurred to prepare agreements to accommodate the specific circumstances of individual structures over the stormwater channel.

(iii) Access

Proposed structures over a property, easements or assets of Hunter Water shall not create 'confined spaces', further restricting access for the operation, maintenance or replacement activities of Hunter Water and presenting a potential safety risk for Hunter Water staff.

A confined space may result where the enclosure of space over an asset such as a storm water channel occurs.

Conditional approval may be granted where the proposed structure does not create an area that would be deemed to be a confined space due to the presence of the structure.

3. Guidelines for Permissible Structures

Structures that would generally meet the requirements of this policy are those that can be relocated or removed within a short time to facilitate emergency repairs. This will generally be restricted to structures such as: -

- Garden sheds no larger than 3m x 3m
- Driveways
- Car parks (removable panels)
- Footpaths
- Retractable awnings
- Fences constructed from removable panels
- Playground equipment not permanently fixed to the ground that can be lifted by two people
- Gardens beds containing vegetation no higher than 2m.

The removal and reinstatement of any structure will be at full cost to the asset owner.

4. Specific Information Required for Assessment

Any application to encroach on Hunter Water land or easements will need to be supported by detailed information sufficient to allow for a thorough review. This will generally include: -

- Site plan
- Detail of the proposed structure(s) and all appurtenances
- Proposed method of indemnity
- Flood study and engineers design where structures are proposed over storm water channels.
- Justification of how the proposal satisfies this policy.

5. Right of Refusal

In all circumstances Hunter Water reserves the right to refuse encroachment over our easements, property or assets.

6. Right to Rescind or Limit Approval to Current Owner

Hunter Water reserves the right to rescind any permission granted or limit permission to the current owner/occupier of the property.