



Queensland Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

ISSN 0155-9370

VOL. 392]

TUESDAY 11 APRIL 2023

[No. 61

Acquisition of Land Act 1967
State Development and Public Works Organisation Act 1971

TAKING OF LAND NOTICE (No. 1) 2023

Short title

1. This notice may be cited as the *Taking of Land Notice (No. 1) 2023*.

Easements taken

2. The Easements described in Schedule 1 are taken by the Coordinator-General pursuant to the *State Development and Public Works Organisation Act 1971* for works authorised by the Governor in Council to undertake, for the purpose of the Rookwood Weir Project, and vests in Sunwater Limited.

Rights and obligations

3. That the rights and obligations conferred and imposed by the Easements in Schedule 1 includes the matters set out in Schedule 2.

SCHEDULE 1

An Easement over all of Lot 1711 on Crown Plan PAK4069 contained in Title Reference 30135060. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\1711PAK4069\1711 PAK4069 Inundation.dwg – REV.B dated 13 May 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 1857 on Crown Plan PAK4091 contained in Title Reference 30135060. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\1857PAK4091\1857 PAK4091 Inundation.dwg – REV.B dated 16 March 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 75 on Crown Plan PN112 contained in Title Reference 30219034. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\75PN112\75 PN112 Inundation.dwg – REV.B dated 16 March 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 1 on Survey Plan 166189 contained in Title Reference 50522536. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\1SP166189\1 SP166189 Inundation.dwg – REV.B dated 30 June 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 2 on Registered Plan 908640 contained in Title Reference 50157863. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\2RP908640\2 RP908640 Inundation.dwg – REV.B dated 30 June 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 7 on Crown Plan PAK40219 contained in Title Reference 30381124. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\7PAK40219\7PAK 40219 Inundation.dwg – REV.B dated 16 March 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 77 on Crown Plan PN112 contained in Title Reference 30559123. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\77PN112\77 PN112 Inundation.dwg – REV.B dated 13 May 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 1 on Survey Plan 132038 contained in Title Reference 50329664. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\1-3SP132038\1 on SP132038 \1 on SP132038 Inundation.dwg – REV.B dated 29 June 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 2 on Survey Plan 318747 contained in Title Reference 51245109 (previously described as part of Lot 2 on Survey Plan 158491). The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\2SP158491\2 SP158491 Inundation.dwg – REV.B dated 13 May 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 1 on Survey Plan 158491 contained in Title Reference 50441219. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\1SP158491\1 SP158491 Inundation.dwg – REV.B dated 16 March 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 81 on Crown Plan PN111 contained in Title Reference 30604007. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\81PN111\81 PN111 Inundation.dwg – REV.B dated 16 March 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 1 on Crown Plan PN4 contained in Title Reference 30568129. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\1PN4\1 PN4 Inundation.dwg – REV.B dated 16 March 2021 held in the Office of the Coordinator-General.

An Easement over all of Lot 25 on Crown Plan PN188 contained in Title Reference 30568131. The location of the area impacted by inundation is substantially identified on plan OD13146 Sunwater Rookwood Weir Project\Data Survey\Survey Calcs\Inundation Sketches\25PN188\25 PN188 Inundation REV C.dwg dated 28 October 2021 held in the Office of the Coordinator-General.

SCHEDULE 2

State Development and Public Works Organisation Act 1971
Rights and Obligations Under Easement

1. Definitions and Interpretation**1.1 Definitions**

Acts means the *Water Act 2000* (Qld) and the *Water Supply (Safety and Reliability) Act 2008* (Qld).

Approvals means any approvals, grants, permits, licences, leases, tenure or authorisation (and includes any renewal, extension, replacement modification or amendment of the same) whether granted under the Acts, by an Authority, or otherwise, and includes all environmental and regulatory approvals required for the Operation of the Water Infrastructure including a Designation.

Authority includes:

- (a) any government in any jurisdiction, whether federal, state, territorial or local;
- (b) any provider of public utility services, whether statutory or not; and
- (c) any other statutory or government authority, instrumentality or body,

having jurisdiction, rights, powers, duties or responsibilities related to or in respect of the Land or any activities to be carried out on the Land.

Balance Land means the balance area of the Land not including the Easement Area.

Biosecurity Management Plan means any plan of that name prepared by the Landowner and given to the Easement Holder (as amended from time to time) which relates to biosecurity obligations and land management practices on the Land.

Business Day means any day other than:

- (a) a Saturday, Sunday or public holiday in Brisbane or Rockhampton; or
- (b) any day in the period 24 December to 2 January inclusive.

Claim includes any and all actions, claims, notices, proceedings, judgments, demands, losses, damages, costs, charges, payments and expenses, however arising, whether present or future, unascertained, immediate, future or contingent and whether at law, in contract or in equity.

Commercial Vehicles means industrial equipment, commercial vehicles or tracked equipment with a gross vehicle mass not exceeding 8 tonnes.

Consequential Loss means indirect loss, consequential loss, loss of bargain, loss of revenue, loss of profit and loss of opportunity.

Designation means any ministerial designation affecting the Easement Area or the Land for community infrastructure (including the Water Infrastructure) made from time to time under the *Planning Act 2016* (Qld).

Easement means this document evidencing the rights and obligations of the Landowner and Easement Holder.

Easement Area means that part of the Land over which water may be stored and identified as Inundation Areas on the plan(s) as identified on the plans described in Schedule 1 and held in the Office of the Coordinator-General.

Easement Holder means Sunwater Limited ACN 131 034 985 and includes its successors in title and where the context permits includes each of the Easement Holder's employees, contractors, subcontractors, agents and other authorised persons of the Easement Holder.

Fencing and Related Work means the construction of erosion protection measures, fencing, gates and associated or incidental works which are, in the reasonable opinion of the Easement Holder, required in order to minimise the risks of erosion or other impacts of inundation, or for the safety and protection of persons and livestock.

Fitzroy River means the body of water of that name.

Landowner means the registered owner of the Land and includes the Landowner's successors in title and where the context permits includes each of the Landowner's employees, contractors, subcontractors, agents and other authorised persons of the Landowner.

Landowner's Property means any improvements or other facilities that are located within the Easement Area as at the date of this Easement.

Land means the land which contains the Easement Area.

Operation means existence, construction, operation and maintenance.

Prohibited Activities means those activities identified in Annexure A.

Prohibited Matter has the meaning given under the *Biosecurity Act 2014* (Qld).

Restricted Matter has the meaning given under the *Biosecurity Act 2014* (Qld).

Rookwood Weir means the structure designed to alter the water flow characteristics of the Fitzroy River at approximately 265 kilometres Adopted Middle Thread Distance (AMTD).

Water Infrastructure means the Rookwood Weir and includes any permanent, semi-permanent additions, alterations or structures installed or constructed within or adjoining the Fitzroy River which are:

- (a) for the purpose of capturing, storing, supplying, or releasing water; or
- (b) necessarily incidental purposes to the capture, store, supply or release of water, or management and operation of such infrastructure, including any required road and bridge upgrades.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. In the interpretation of this Easement, unless the context otherwise requires:

- (a) Singular includes plural and vice versa;

- (b) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (c) A reference to any party to this Easement or any other agreement or document includes the party's successors and substitutes or assigns.
- (d) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Easement.
- (e) A reference to *writing* includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (f) All *obligations* are taken to be required to be performed duly and punctually.
- (g) *Do* includes do, permit or omit or cause to be done or omitted.
- (h) No rule of *construction of documents* shall apply to the disadvantage of a party, on the basis that the party put forward this document or any relevant part of it.
- (i) A reference to legislation or to a provision of legislation includes a modification, re-enactment of or substitution for it and a regulation or statutory instrument issued under it.
- (j) A reference to *dollars* or *\$* is to Australian currency.
- (k) A reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally.
- (l) Unless stated otherwise, one provision does not limit the effect of another. A reference to *includes* or *including* means *includes, without limitation, or including, without limitation*, respectively.
- (m) If anything is required to be (or may be) done on or by a day that is not a Business Day, it may be done instead on the next Business Day. For example, if a notice can be given by a certain date (*Nominated Date*), and that date is not a Business Day, the notice can be given by the next Business Day after the Nominated Date.
- (n) A reference to an item or thing includes the whole and any part of it.
- (o) If 2 or more persons are named as Landowner, this Easement binds them jointly and severally; and
- (p) Where anything is permitted in an emergency the opinion of the Easement Holder as to the existence or non-existence of an emergency is conclusive.

1.3 Severance

If it is held by a court that:

- (a) any part of this Easement is void, voidable, illegal or unenforceable; or

- (b) this Easement is void, illegal or unenforceable unless any part of this Easement is severed from this Easement,

that part will be severed from this Easement unless to do so would change the underlying principal commercial purposes of this Easement.

2. Rights and Obligations of Easement Holder

2.1 Use and Access Rights

- (a) The Easement Holder may use the Easement Area for water storage including overland flow and consequent inundation of the Easement Area without notice which results from the Operation of the Water Infrastructure.
- (b) The Easement Holder and all persons authorised by the Easement Holder may at all reasonable times (with or without vehicles, equipment and materials):
- (i) enter upon such parts of the Easement Area as are reasonably necessary for the purposes permitted by clause 2.2; and
 - (ii) access to and from the Easement Area over the Balance Land using the access tracks on the Balance Land from time to time, or the most direct route from an adjoining public road, over such parts of the Easement Area and Balance Land as are reasonably necessary for the purposes permitted by clause 2.2.

2.2 Purposes for Access

The purposes for which the Easement Holder may access, occupy and use the Easement Area are to:

- (a) assess the integrity, capacity and condition of the Easement Area having regard to the Easement Holder's rights under this Easement;
- (b) clean and maintain, remove waste, contaminated soil, litter and other accumulations from the Easement Area where the same may adversely affect the Operation of the Water Infrastructure or the quality of water stored;
- (c) remove, from within the Easement Area, any buildings or improvements, which could reasonably be expected to adversely affect the Operation of the Water Infrastructure or the quality of water stored;
- (d) carry out any works within the Easement Area which may be required to repair erosion or other impacts of inundation which may adversely affect the Operation of the Water Infrastructure, the Balance Land, or the quality of water stored;
- (e) plant and maintain trees and vegetation reasonably necessary for the prevention or minimisation of erosion or required by the Approvals or any approval relevant to the Operation of the Water Infrastructure;

- (f) subject to the requirements of the Approvals and having obtained any necessary approvals under the *Vegetation Management Act 1999* (Qld) and the *Planning Act 2016* (Qld):
 - (i) mow, slash and poison vegetation along the Easement Area;
 - (ii) clear the Easement Area of trees, undergrowth or vegetation; and
 - (iii) undertake works on the Easement Area in respect of the Water Infrastructure or water storage capacity of the Easement Area;
- (g) temporarily restrict access to the Easement Area if reasonably required for safety purposes;
- (h) construct roads or access tracks within the Easement Area for the purpose of all weather access;
- (i) comply with any requirements of the Approvals;
- (j) assess compliance by the Landowner with this Easement;
- (k) erect any Fencing and Related Works on the Easement Area which may be required, and provide alternative sources of water for livestock if the erected fence or gate restricts any access to water by livestock;
- (l) access to the Easement Area for the Operation of Fencing and Related Work within the Easement Area; and
- (m) do such other works and things on, under or through the Easement Area which are incidental to or ancillary to the exercise of the Easement Holder's rights under this Easement, the Approvals and the Acts.

2.3 Easement Holder's obligations

In exercising its rights under this Easement, the Easement Holder must act reasonably and:

- (a) use its best endeavours to cause as little inconvenience and disruption as is reasonably practicable to the Landowner's use of the Land (taking into account the impacts of water inundation of the Easement Area or impacts that are inherent in the exercise of the Easement Holder's rights);
- (b) repair any damage it causes to any property on the Balance Land owned by, or under the control of, the Landowner so far as is practicable to its condition prior to the exercise of such rights;
- (c) use existing access roads and tracks whenever possible;
- (d) ensure existing gates are left as found after use;

- (e) use all reasonable precautions to prevent the outbreak or spread of and to control any Prohibited Matter or Restricted Matter on the Land as a result of the Easement Holder's exercise of its rights under this Easement. For the avoidance of doubt, the Easement Holder is under no obligation to control or eradicate any Prohibited Matter or Restricted Matter infestation on the Land which existed prior to the commencement of this Easement;
- (f) where fencing is removed in carrying out any work, provide reasonable alternative measures to prevent livestock straying and on completion either reinstate the fencing or construct a suitable gate;
- (g) take, and ensure all persons authorised by it take, all due care and reasonable precautions so as to prevent death or injury to any person or damage to property of the Landowner;
- (h) comply with the Grantor's reasonable Biosecurity Management Plan requirements;
- (i) not shoot, fish, hunt or light fires on the Land;
- (j) provide a minimum of 5 Business Days' notice to the Landowner of the Easement Holder's intention to access the Land, unless a shorter period of time is agreed with the Landowner. However, the Easement Holder may access the Land in the event of an emergency without prior notice;
- (k) if requested by the Landowner, identify and agree access points and access tracks for the purpose of entering upon the Easement Area; and
- (l) repair access tracks where damages occur as a result of the Easement Holder accessing the Easement Area.

2.4 Easement Holder's powers

If the Landowner breaches this Easement, and the Easement Holder has provided the Landowner with notice requiring the breach to be remedied within a reasonable time, and the breach has not been remedied within that time, the Easement Holder may do anything the Easement Holder thinks is reasonably necessary to correct the breach (for example, removing a structure erected on the Easement Area by the Landowner in breach of this Easement).

3. Landowner's Obligations

3.1 Landowner's acknowledgement

The Landowner acknowledges and agrees:

- (a) the exercise of its rights as owner of the Easement Area may be adversely affected from time to time by inundation of the Easement Area by water and/or the Operation of the Water Infrastructure and that no objection or Claim will be made by the Landowner; and
- (b) that inundation outside of the Easement Area may occur during flood events.

3.2 Landowner's obligations

- (a) If the Easement Area cannot reasonably be accessed directly from a public road, the Easement Holder may access over a route or routes through the Balance Land as may be agreed by the Landowner and Easement Holder, to gain all weather access to and from the Easement Area. The agreement of the Landowner to such a route or routes does not place any obligation whatsoever on the Landowner to construct or maintain such route or routes.
- (b) The Landowner must:
- (i) not construct or allow to be constructed upon the Easement Area any buildings, retaining walls, sheds or other structures except where the Easement Holder has given its prior approval (acting reasonably);
 - (ii) not alter the ground level of the Easement Area, change its topography or cause inundation of the Land by water;
 - (iii) not obstruct or interfere with the exercise of the Easement Holder's rights by the Easement Holder under this Easement;
 - (iv) not do anything that jeopardises or obstructs the safe or efficient operation of, or interferes with the operation, flow or storage of water through or in, the Water Infrastructure;
 - (v) comply with the requirements of the Approvals as identified by the Easement Holder from time to time;
 - (vi) promptly provide its written consent as landowner to any applications for, and otherwise provide all reasonably required assistance relating to, any Approval which the Easement Holder wishes to make;
 - (vii) not grant any right or interest over or in relation to the Easement Area which may:
 - (A) have the effect of conflicting with, restricting or preventing the Easement Holder from exercising any of its rights under this Easement; or
 - (B) adversely affect the carrying out of the Landowner obligations under this Easementexcept where the Easement Holder has given its prior approval, which approval must not be unreasonably withheld;
 - (viii) not do any act or thing that damages or causes damage to the Easement Holder's property;
 - (ix) not cause a nuisance that adversely affects the Easement Holder's rights and powers under this Easement or any works on the Easement Area from time to time;
 - (x) promptly abate any nuisance caused;

- (xi) use the Landowner's best endeavours to prevent any one doing any of the things that the Landowner is required not to do under this Easement and not allow anyone else to do any of those things;
 - (xii) pay for all costs and expenses associated with repair or replacement of the property of the Easement Holder to the extent the Landowner causes or contributes to damage or loss of the property of the Easement Holder;
 - (xiii) take all reasonable precautions to prevent outbreak of fire or Prohibited Matter or Restricted Matter on the Easement Area;
 - (xiv) give notice to the Easement Holder as soon as the Landowner becomes aware of any significant erosion, environmental hazard or order or direction from a relevant authority affecting the Easement Area or Balance Land; and
 - (xv) remove sick, injured or dead livestock from the Easement Area.
- (c) The Landowner is responsible for the breaches of this Easement, wilful or negligent acts or omissions or other default of its agents, tenants, licensees, mortgagees, contractors or other persons granted a right by the Landowner to enter onto, pass through or otherwise occupy the Land. An act or omission of any of those people is treated for the purposes of this Easement as if it was an act or omission of the Landowner personally.

3.3 Activities by the Landowner

- (a) The Landowner must not without the prior approval of the Easement Holder (which must not be unreasonably withheld):
- (i) install any concrete or bitumen paths or driveways on the Easement Area;
 - (ii) construct any improvements on the Easement Area;
 - (iii) build gardens or landscape using brick, concrete or other permanent materials on the Easement Area;
 - (iv) excavate, drill, dig or alter the surface level of the Easement Area;
 - (v) erect any fence or gate on the Easement Area;
 - (vi) place on or use the Easement Area for the transport or storage of any heavy object, vehicle or thing, other than a Commercial Vehicle that would be reasonably expected to use, cross or access the Easement Area;
 - (vii) plant or cultivate any trees or crops within the Easement Area;
 - (viii) undertake any blade ploughing, deep ripping or other ground penetrating activity in the Easement Area; or
 - (ix) burn any debris or rubbish on or immediately adjacent to the Easement Area.
- (b) Despite clause 3.3(a) and subject to the Landowner otherwise complying with the terms of this Easement, the Landowner may conduct the following activities on the Easement Area without being required to seek the written consent of the Easement Holder, provided the activities are not likely to adversely impact the Easement Area and the Landowner complies with all relevant laws and requirements of Authorities:

- (i) Prohibited Matter or Restricted Matter control and eradication programmes; and
 - (ii) ongoing maintenance of the Easement Area.
- (c) In carrying out any of the activities in clauses 3.3(a) and 3.3(b), the Landowner must not cause or contribute to damage to the property of the Easement Holder.
- (d) The Landowner may continue grazing the Easement Area during periods where the Easement Area is not inundated, provided the grazing is operated and undertaken in accordance with best industry practice, including stock numbers. The Easement Holder may restrict the use of the Easement Area for grazing, if, in the Easement Holder's reasonable opinion, it is necessary to protect water quality.

3.4 Landowner's powers

If the Easement Holder breaches this Easement, and:

- (a) the consequence of the breach is that an immediate threat or danger is posed to stability, security or integrity of any improvements or fixtures owned by the Landowner on the Balance Land; or
- (b) paragraph (a) does not apply, however the Landowner has provided the Easement Holder with notice requiring the breach to be remedied within a reasonable time, and the breach has not been remedied within that time,

the Landowner may do anything the Landowner thinks is reasonably necessary to correct the breach (for example, removing a structure erected on the Land by the Easement Holder in breach of this Easement).

4. Prohibited Activities

The Landowner must not, and must not allow nor permit any person to, do anything on the Easement Area which causes or contributes to a Prohibited Activity.

5. Release

-
- (a) Subject to paragraph (b), the Landowner releases the Easement Holder to the fullest extent permitted by law against any Claim for property damage, injury, death or consequential loss arising directly or indirectly from or in connection with or in relation to the exercise of the Easement Holder's rights or anything done by the Easement Holder on the Easement Area, except to the extent the Claim is caused or contributed to by the Easement Holder's breach of this Easement or any negligent or deliberate act or omission of the Easement Holder.
 - (b) Despite any other provision of this Easement, the Landowner releases the Easement Holder from any Claim whatsoever arising directly or indirectly from or in connection with or in relation to:
 - (i) the inundation of water, or the flow or overflow of water, in, over, on or through the Easement Area;

- (ii) any damage to the Landowner's Property or any other property of the Landowner situated on the Easement Area from time to time caused by the inundation of water, or the flow or overflow of water, in, over, on or through the Easement Area; or
 - (iii) the existence of, or the operation or use of the Water Infrastructure by the Easement Holder,
- whether or not such Claim arises from the negligence, default, wrongful act or breach of law of the Easement Holder

6. Mining or petroleum tenement

The Landowner must give the Easement Holder a copy of any notification received by the Landowner in respect of any application for a mining or petroleum or other resource tenement under the *Mineral Resources Act 1989* (Qld), the *Petroleum Act 1923* (Qld), the *Petroleum and Gas (Production and Safety) Act 2004* (Qld), the *Geothermal Energy Act 2010* (Qld), the *Greenhouse Gas Storage Act 2009* (Qld) or any similar or replacement legislation, in respect of land which includes all or any part of the Easement Area, within 7 days after the Landowner receives such notification.

7. Limitation of Liability

Despite any other provision of this Easement, neither party is liable to the other for any Consequential Loss however caused (including by a party's negligence), that is suffered or incurred by any of them in connection with this Easement.

8. Removal of Assets Upon Termination of Easement

- (a) Upon termination of this Easement, the Easement Holder:
 - (i) is to ensure the Easement Area is left in a safe and stable condition (*rehabilitation*); and
 - (ii) will unless directed by the Landowner otherwise, at its own cost and expense, remove all of the Easement Holder's infrastructure or property from the Easement Area.

9. Sale by Landowner

In the event of sale or transfer of the Land by the Landowner, the Landowner must procure its buyer to enter into a deed on terms reasonably required by the Easement Holder whereby the buyer covenants in favour of the Easement Holder to be bound by the provisions of this Easement.

10. Surrender

- (a) The Easement Holder may by notice to the Landowner (*Surrender Notice*) require a surrender of this Easement, which notice encloses a Form 10 Surrender (or such form that replaces it) which has been appropriately completed and signed by the Easement Holder.
- (b) Upon receipt of the Surrender Notice, the Landowner must promptly, and within 20 Business Days of receipt execute and return the documents enclosed with the Surrender Notice to the Easement Holder.
- (c) The date for the surrender to take effect will be the date nominated in the Surrender Notice or such other date agreed between the parties (*Surrender Date*).
- (d) The Easement Holder must:
 - (i) surrender the Easement Area to the Landowner on and from the Surrender Date;
 - (ii) obtain all Approvals and comply with all laws in connection with the surrender of this Easement, including in relation to the registration of the surrender with the Queensland Land Registry;
 - (iii) prepare at its cost all documents to effect the surrender, and pay all of the costs incurred by the Landowner in connection with reviewing and signing those documents, including the preparation, execution and registration with the Queensland Land Registry of a surrender of this Easement and associated survey plans; and
 - (iv) perform all obligations imposed on the Easement Holder under this Easement with respect to the Easement Area up to and including the Surrender Date.
- (e) The Landowner must sign all documents that are reasonably required to effect the surrender of this Easement contemplated by this clause 10, must obtain the consent of any person holding an interest in the Land that is required in connection with the surrender and provide all reasonable assistance to the Easement Holder to effect the surrender.
- (f) No compensation is payable by a party to the other in circumstances of a surrender under this clause 10.

11. Dispute Resolution

- (a) If a party becomes aware of a dispute arising between the parties under the terms of this Easement, the party alleging the dispute will give written notice to the other party setting out the nature of the dispute (*Notice of Dispute*).
- (b) Upon receipt of a Notice of Dispute, the parties agree, before issuing any court proceeding, to negotiate with each other in good faith to achieve a resolution of the dispute.

12. GST

12.1 Interpretation

- (a) In this clause:

GST means the goods and services tax as imposed by the GST Law together with any related interest, penalties, fines or other charges.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended).

- (b) Expressions used in this clause and in the GST Act have the same meanings as when used in the GST Act.

12.2 Recipient of supply to pay GST

- (a) Except where this Easement specifies otherwise, an amount payable by a party under this Easement in respect of a taxable supply by the other party represents the value of the supply exclusive of GST.
- (b) The recipient of the supply must, in addition to that amount and at the same time, pay to the supplier the amount of GST payable in respect of the supply.

12.3 Reimbursement of expenses

If this Easement requires a party to pay for, reimburse or indemnify against any expense or liability (**reimbursable expense**) incurred by the other party (**payee**) to a third party, the amount to be paid, reimbursed or indemnified is the amount of the reimbursable expense net of any input tax credit to which the payee is entitled in respect of the reimbursable expense (**net amount**).

12.4 Supplier to provide tax invoice

- (a) The party receiving payment for a taxable supply must, when required by the GST Law, present to the payer of that payment a tax invoice for that taxable supply.
- (b) A party is not obliged, under clause 12.2, to pay an amount for GST in respect of a taxable supply to it, until given a valid tax invoice for the supply.

13. General

13.1 Must be in Writing

All notices required by this Easement must be in writing.

13.2 Methods of Service

- (a) Any notices to the Landowner must be delivered or posted to its address as set out below:
- (i) Landowner Address –
- (A) if the Landowner is a corporation – to the registered address of the corporation; or

- (B) if the Landowner is an entity other than a corporation - to the address last known to the Easement Holder
- (b) Any notice by the Landowner to the Easement Holder may be served on the Easement Holder by delivering or posting it to its address in this Easement (or subsequent address notified by the Easement Holder to the Landowner).
- (i) Easement Holder Address – Green Square North, Level 9, 515 St Pauls Terrace, Fortitude Valley QLD 4006 or PO Box 15536, City East QLD 4002
- (c) Notices cannot be served by email, without the prior written consent of the recipient. Any notice given by email, without such consent, will be invalid.
- (d) The following provisions apply in relation to service by post:
- (i) any notice sent by post must be sent by registered mail; and
- (ii) any notice sent by post is conclusively deemed to have been given on the fifth Business Day after the date of posting;
- (e) Notices given in accordance with paragraphs (a) to (d) will be treated as having been conclusively served.

13.3 *Validity of Notices*

Any notice by a party will be valid if it is signed by any delegate, director, secretary, attorney or authorised officer of the relevant party, or by the party's solicitors.

13.4 *Costs*

- (a) The Easement Holder will pay the costs of registration of this Easement.
- (b) The Easement Holder must pay any stamp duty on the Easement.

Annexure A – Prohibited Activities

Fertilisers

Applying to pasture or treating soil with any chemical or fertilizer other than one used in accordance with sound industry practice and being either:

- (a) excreta produced by domestic farm animals (other than in commercial quantities); or
- (b) chemicals or fertilisers which may lawfully be used.

Noxious weed control

Applying any herbicide, pesticide or chemical to eradicate noxious weeds, plants or any other Prohibited Matter or Restricted Matter other than in accordance with a Biosecurity Management Plan, sound industry practice and any legal requirements, Approval conditions and manufacturer's instructions.

Controlling feral animals

Setting baits with any poison or toxic substance or chemical to eradicate any feral animals or other animals other than in accordance with a Biosecurity Management Plan, sound industry practice and any legal requirements, Approval conditions and manufacturer's instructions.

Treating livestock

Dipping livestock or open-pen spraying of livestock.

Vegetation

Burning off vegetation other than in accordance with an authority issued by the local fire board.
Ringbarking, cutting or removing any timber (other than to create necessary fire breaks).

Buildings and improvements

Constructing buildings or other improvements (except fencing). Making additions or alterations to buildings or other improvements.

Constructing or altering fences other than fencing designed to protect livestock grazing areas, including but not limited to:

- (a) temporary seasonal or permanent subdivisional fencing;
- (b) fencing off water access points; or
- (c) boundary fencing.

Other activities

Breach of any Biosecurity Management Plan.

Quarrying, mining or excavating. Removing or dealing with stone, gravel, sand or other material. Any industrial activity.

Intensive animal husbandry.

Other use as determined by the Easement Holder to be inconsistent with the safe and efficient use of the Water Infrastructure.

(SCHEDULE ENDS).

ENDNOTES

1. Made by the Governor in Council on 6 April 2023.
2. Published in the Gazette on 11 April 2023.
3. Not required to be laid before the Legislative Assembly.
4. The administering agency is the Department of State Development, Infrastructure, Local Government and Planning.