

QUEENSLAND LAND REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

FORM 14 Version 4
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25/07/2013 10:57

CE 608**1. Nature of request**

REQUEST TO REGISTER STANDARD TERMS
DOCUMENT FOR EASEMENT

Lodger (Name, address, E-mail & phone number)

Northern SEQ Distributor-Retailer Authority
PO Box 953
Caboolture Qld 4510
Ph: (07) 3385 2242
E: realestate@unitywater.com.

**Lodger
Code**
222

2. Lot on Plan Description

NOT APPLICABLE

County**Parish****Title Reference****3. Registered Proprietor/State Lessee**

NOT APPLICABLE

4. Interest

NOT APPLICABLE

5. Applicant

NORTHERN SEQ DISTRIBUTOR-RETAILER AUTHORITY
33 KING STREET CABOOLBURE QLD 4510

6. Request

I hereby request to register pursuant to s169 of the Land Act 1994 the attached Standard Terms document containing Easement covenant for Northern SEQ Distributor-Retailer Authority.

7. Execution by applicant

NORTHERN SEQ DISTRIBUTOR-
RETAILER AUTHORITY

25/07/13
Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

GREG ANTHONY BURNETT
PROPERTY MANAGER
DELEGATED OFFICER

Title Reference [Title Reference]

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Easement unless the context or subject matter require otherwise:

- (a) **Easement Land** means the Servient Tenement referred to in Item 2 of the Form 9;
- (b) **Matter** means buildings, structures or other materials or things erected, placed, found or installed upon the Easement Land and includes trees and plants within the Easement Land;
- (c) **Owner** means the Grantor named in Item 1 of the Form 9 and the successors and assigns; and
- (d) **Relevant Works** means:
 - (i) where the purpose of this Easement is "Sewerage":
sewer(s) and/or pipeline(s) for the purpose of conveying sewerage and all kinds of waste through, across or under the Easement Land together with manholes, stopcocks and all other usual or necessary fittings and attachments (including pumps and/or pump stations where required) as well as works for the protection and/or support of such things; and
 - (ii) where the purpose of this Easement is "Water Supply":
water reticulation mains and/or pipelines for the purpose of conveying water supplied by Unitywater through, across or under the Easement Land together with manholes, stopcocks, meters, pressure control devices, pumps and/or pump stations, water reservoirs, and all other usual or necessary fittings and attachments as well as works for the protection and/or support of all such things; and
- (e) **Unitywater** means the Grantee named in Item 5 of the Form 9 and the successors and assigns.

1.2 Interpretation

In this Easement:

- (a) a reference to a statute includes Orders in Council, Proclamations, Regulations, Rules, Local Laws and Ordinances made under the statute and any statute amending, consolidation or replacing the statute;
- (b) headings have been included for ease of reference and guidance and this Easement is to be construed without reference to them;
- (c) the singular number includes the plural and vice versa;
- (d) words importing an masculine gender includes all other genders; and
- (e) words importing persons include companies and corporations and vice versa; .
- (f) If a covenant contained in this Easement is or becomes invalid or unenforceable, the remaining covenants contained in this Easement remain in full force and effect; and
- (g) If a party to this Easement comprises 2 or more legal entities, the covenants contained in this Easement bind each of them jointly and severally.

Title Reference [Title Reference]

2. RIGHTS OF UNITYWATER

2.1 Access

Where the purpose of this Easement includes Access, the following will apply:

The Owner grants to Unity water the full and free right and liberty at all times, after the date of this Easement, to enter upon and remain, pass and repass on and over the Easement Land at will and as often as the occasion requires, with employees, agents and contractors and other persons authorised by Unitywater and with or without vehicles, plant and equipment of any description whatsoever.

Where the purpose of this Easement includes Sewerage or Water Supply or both the following will apply:

2.2 Sewerage or Water Supply or Both

The Owner grants Unitywater the full and free right and liberty at all times, after the date of this Easement, to enter upon the Easement Land for the purposes of constructing and thereafter forever using and maintaining the Relevant Works as it shall from time to time think fit and in so doing, Unitywater by its employees, agents and other persons authorised by Unitywater has the right to:

- (a) construct, install, extend, deepen, widen, cleanse, add to, remove, inspect, maintain and repair the Relevant Works and when and where thought fit by Unitywater to remove and replace the Relevant Works with new Relevant Works (whether of a similar nature to those replaced or not);
- (b) to change the size and number of any pipes which form part of the Relevant Works;
- (c) dig into, sink shafts in, and erect scaffolding upon the Easement Land and to open and break up the soil of the Easement Land or any part of the Easement Land including its sub-surface;
- (d) remove and dispose of spoil created as a consequence of exercising its rights hereunder;
- (e) clear and keep clear the Easement Land by any means or method and to cut and remove timber, trees and undergrowth from the Easement Land and to burn off such timber, trees and undergrowth;
- (f) construct and maintain on the Easement Land such access tracks, gates and appurtenant works as it considers necessary;
- (g) enter upon and remain, pass and repass on and over the Easement Land for all or any of the purposes aforesaid with or without vehicles, plant and equipment of any description whatsoever;
- (h) enter and exit to and from the Easement Land over such part or parts of the Owner's land adjoining or adjacent to the Easement Land as is reasonably required by Unitywater and Unitywater shall consider most convenient or necessary for the purpose of passing between the Easement Land and the most convenient point of entry to or exit from the Owner's land (whether adjoining a constructed road or not);
- (i) do such other works and things through, across, in or under the Easement Land as are incidental to the proper exercise of the rights granted to Unitywater under this Easement; and
- (j) use such part or parts of the Owner's land immediately adjacent to or adjoining either side of the Easement Land as may be reasonably required by Unitywater for the proper exercise of the rights granted to Unitywater under this Easement.

3. PROPERTY IN RELEVANT WORKS

The Relevant Works are and remain the property of Unitywater notwithstanding any actual or apparent affixing to the Easement Land. Unitywater shall be solely responsible, for the operation and maintenance of all Relevant Works.

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4. FENCING

4.1 Removal

For the purpose of gaining access to the Easement Land Unitywater may demolish or break open any fencing on or adjacent to the Easement Land. However, if livestock are contained within the fenced area, Unitywater must give reasonable notice to the Owner to enable the Owner to secure the livestock.

4.2 Reinstatement

Unitywater must either:

- (a) reinstate all fences (other than a fence erected in contravention of Clause 5) damaged by Unitywater in the exercise and performance of any of the rights and liberties granted to Unitywater under this Easement; or
- (b) if the fences are not reinstated, install a gate using materials and employing workmanship which is not less than the quality of the materials and workmanship in the existing fence. The gate installed pursuant to this subclause becomes the property of the owner of the fence in which the gate is installed and after installation shall be maintained by the owner.

5. NO STRUCTURES ON THE EASEMENT LAND

The Owner must not at any time without the express written permission of Unitywater (which must not be unreasonably withheld):

- (a) erect any buildings or structures (other than fences) upon the Easement Land or any part of it;
- (b) permit the Easement Land or any part of it to be used in such a way as to obstruct or interfere with the Relevant Works and/or the proper and effective use of the Relevant Works by Unitywater;
- (c) install concrete, bitumen or other pavement or driveways (except residential driveways) on the Easement Land or gardens or landscaping involving concrete, brick or other permanent materials; or
- (d) remove or stockpile or permit the removal or stockpiling of any soil, sand, gravel or other substance or material on the Easement Land or construct any roads, dam walls or other earthworks on the Easement Land which would in any way obstruct or interfere with the Relevant Works and/or the proper and effective use of the Relevant Works by Unitywater.

6. DAMAGE TO STRUCTURES

- (a) Unitywater acting reasonably at all times and complying with all relevant laws, will determine how and in what manner the rights granted to Unitywater under this Easement are exercised.
- (b) Unitywater must not wilfully damage or destroy any Matter to any extent greater than is reasonably necessary in order to exercise its rights under this Easement but:
 - (i) Unitywater is not otherwise responsible for any damage to or destruction of any Matter in the course of the exercise by Unitywater of its rights under this Easement; and
 - (ii) subject to Clause 4, Unitywater is not under any obligation to reinstate or repair any Matter damaged or destroyed in consequence of the exercise by Unitywater of its rights under this Easement and its only obligation where such Matter has been so damaged or destroyed is to leave the Easement Land in as clean and tidy state as practicable having regard to the nature of the matter which has been damaged or destroyed and the work which it has done; and

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- (iii) Unitywater is not in any event responsible for any inconvenience or disturbance to the Owner or occupiers of the Easement Land arising out of the exercise by Unitywater of its rights under this Easement.

7. REMOVAL OF UNAUTHORISED STRUCTURES

If a Matter is erected, placed, found or installed upon the Easement Land in contravention of Clause 5, Unitywater may, in addition to any other remedies and after having first given the Owner reasonable notice of its intention to invoke this clause, enter upon the Easement Land and remove or demolish the Matter and, if it does so:

- (a) it may dispose of the Matter or any resultant demolition materials in such manner as it sees fit without being liable to account to the Owner therefore (except as provided in subclause (b) of this clause); and
- (b) it may recover, in any Court of competent jurisdiction, costs actually incurred by it in taking that action (including internal wage and salary costs) less any moneys actually received by it as a result of disposing of the Matter or any resultant demolition materials.

8. PROTECTION OF RELEVANT WORKS

The Owner will not do any act or make any omission which will jeopardise or prejudicially affect the safety or reliable working of any Relevant Works.

9. RATES AND CHARGES

The Owner is responsible for all local authority rates and assessments and lawful charges in relation to the Easement Land.

10. FURTHER ASSURANCES

The benefit and burden of this Easement shall pass with and bind the Easement Land so as to enure to and bind all persons deriving title thereto from and under the Owner and Unitywater respectively and the Owner, whenever required by Unitywater or the person or persons for the time being entitled to the benefit of this Easement, must do all such things and give all such assurances as are reasonably required for the proper and effective carrying into effect of the rights conferred under this Easement but not so as to render the Owner liable to be called upon to contribute towards the maintenance and upkeep of the Relevant Works.

11. SPECIAL COVENANTS FOR STATE RESERVE LAND

- (a) The following clauses are in addition to or replace where noted those set out above and will form part of the covenants of this Easement when any land is designated as a "Reserve" in Item 3 of the Form 9.

- (b) In this clause:

"Minister" means the Minister administer the *Land Act 1994* (as amended from time to time); and

"Trustee" means the relevant Trustee of the State Reserved Land.

- (c) **Reinstatement of fencing**

Clause 4.2 of this Easement is deleted and replaced with the following:

Unitywater must either:

- (a) *Reinstate all fences damaged by it in the exercise of any of its rights granted herein; and*

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(b) *In lieu of reinstating any such fence, install a gate the quality and materials of workmanship of which must be not less than the quality and materials of workmanship of the existing fence.*

(d) Removal of Unauthorised structures etc

Clause 7 of this Easement is omitted and replaced with the following:

If anything is erected, placed, found or installed upon the Easement Land in contravention of Clause 5, Unitywater may, in addition to any other remedies, and having given the Owner reasonable notice of its intention to invoke this clause, enter Easement Land and remove or demolish the Matter. If it does so it may dispose of the Matter or any resultant demolition materials in such manner as it sees fit without being liable.

(e) Removal of Trees

Unitywater must not cut or remove timber or tress from the Easement Land without first giving reasonable notice to the Owner and obtaining all necessary permits. Such notice will not be required under this clause in the event that there is an actual or potential danger to persons or property or there is any interference or jeopardy to the supply of the Relevant Works.

(f) Removal of Assets upon termination of easement

Under the Land Act 1994, an easement over a reserve ends when the dedication of reserve is revoked unless a written approval is provided by the Minister that the easement may continue over unallocated State Land when the dedication of reserve is revoked.

Upon termination of the Easement, Unitywater

- (i.) must ensure that the Easement Land is left in a safe and stable condition to the satisfaction of the Minister; and
- (ii.) will unless directed by the Minister otherwise, at its own cost and expense, remove all of the Relevant Works from the Easement Land; and
- (iii.) will remove, at its own cost and expense, all of the Relevant Works from the Easement Land that may cause contamination or environmental harm to the Easement Land as defined by the *Environmental Protection Act 1994* or similar legislation.

(g) Indemnity and Risk

The following clauses will apply for the duration of the Easement and will continue to apply during the periods of rehabilitation and any removal of the Relevant Works under clause 11(f):

(i.) **Indemnity**

- a. Unitywater indemnifies and agrees to keep indemnified the Minister, the State of Queensland, Trustee and Owner (the "indemnified parties") against all actions, suits, proceedings, claims, demands, costs, losses, damages and expenses ("Claims") arising out of or in any way connected to or resulting from the granting of this Easement to Unitywater or which is connected to or resulting from Unitywater's use and occupation of the Easement Land (all of which are referred to as "the indemnified acts or omissions") save to the extent that the claim arises as a result of any negligent act or omission of the indemnified parties, however, any negligent act or omission of one of the indemnified parties does not negate the indemnity to any other indemnified parties.
- b. Unitywater hereby releases and discharges the indemnified parties from any Claim relating to the indemnified acts or omissions which may be made against the indemnified parties, save to the extent that the Claim arises as a result of any negligent act or omission of the

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indemnified parties, however, any negligent act or omission of one of the indemnified parties does not negate the release and discharge in favour of any of the other indemnified parties.

(ii.) **Public Risk**

- a. Unitywater must effect a public liability insurance policy with an insurer authorised under the *Insurance Act 1973* (Commonwealth) or, in any other case, to the satisfaction of the Minister naming Unitywater as the insured covering legal liability for any loss of, or damage to any property and for the injury (including death) to any person arising out of anything done or omitted on or about the easement land or any improvements thereon and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof subject to the terms and conditions of the insurance policy.
- b. Such policy must:
 - (a) be for an amount not less than \$20,000,000.00 (Twenty Million dollars) in respect of all claims arising out of a single event or such higher amounts as the Minister may reasonably require; and
 - (b) be effected on a "claims occurring" basis so that any claim made by Unitywater under the policy after expiration of the period of policy cover but relating to an event occurring during the currency of the policy will be covered by the policy subject to the claim meeting the policy's other terms and conditions; and
 - (c) be maintained at all times during the currency of the Easement, and upon receipt of any Notice of Cancellation, Unitywater must immediately effect another public liability insurance policy in accordance with the provisions of this Clause 11(g)(ii.).
- c. Unitywater must also provide a certificate of currency within 14 days of a request by the Owner who may only make such request once a year.
- d. Unitywater must, as soon as practicable, inform the Minister and Owner in writing, of the occurrence of any event that Unitywater considers is likely to give rise to a claim under the policy of insurance effected and must ensure that the Minister and Owner are kept fully informed of subsequent actions and developments concerning the claim.

(h) **Power of Attorney**

Whilst the Easement Land remains unallocated State Land or is dedicated as a Reserve pursuant to the Land Act 1994 as amended from time to time or is registered solely in the name of the State of Queensland, Unitywater irrevocably appoints in so far as it is legally able to the State of Queensland the true and lawful attorney of Unitywater enabling the attorney to do all such things as the attorney may consider necessary or desirable to effect a surrender of this easement upon the default by Unitywater of any condition, covenant or clause of this easement provided however that the State of Queensland may only exercise its right to surrender the easement under this clause if:

- (i.) Unitywater has breached a condition, covenant or clause of this easement; and
- (ii.) the State of Queensland has given written notice to the breach of Unitywater; and
- (iii.) the State of Queensland has allowed Unitywater 90 days from the date of receipt of the notice to remedy the breach; and
- (iv.) Unitywater has not remedied the breach by the expiration of that 90 days.