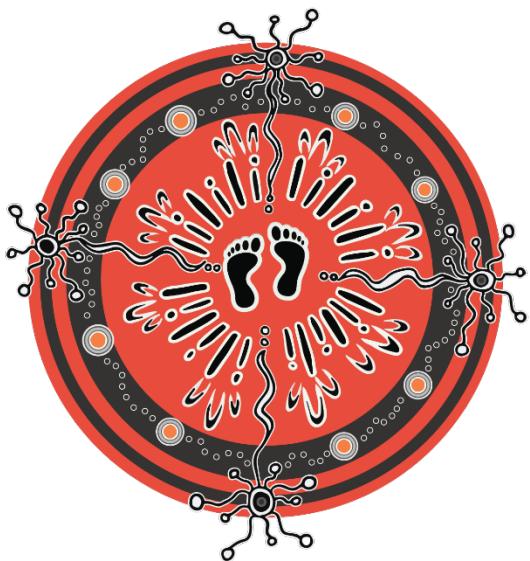


Pipelines Compulsory Acquisition Process Guidelines

December 2025

Acknowledgement of Country



Department of Climate Change, Energy, the Environment and Water acknowledges the traditional custodians of the land and pays respect to Elders past, present and future.

We recognise Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to place and their rich contribution to society.

Artist and designer Nikita Ridgeway from Aboriginal design agency – Boss Lady Creative Designs, created the People and Community symbol.

Pipelines Compulsory Acquisition Process Guidelines

Published by NSW Department of Climate Change, Energy, the Environment and Water
Energy Climate Change and Sustainability Group

<https://www.energy.nsw.gov.au>

First published: December 2025

ISBN: 978-1-923516-32-8

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For any enquiries about the requirements under the Pipelines Act 1967 please visit <https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/our-role-networks/pipelines> or email energy.submissions@planning.nsw.gov.au

Contents

Acknowledgement of Country.....	ii
1 Introduction.....	1
1.1 Scope of these guidelines	2
1.2 Reasonable steps to enter into an agreement.....	2
1.3 Amendments to the guidelines	3
1.4 Summary of the process	4
2 Reasonable steps to be taken	6
2.1 Process	6
2.2 Pre-acquisition requirements.....	7
2.2.1 Provide the owner with a commencement letter.....	7
2.2.2 Relevant considerations to assist in reaching an agreement.....	8
2.2.3 When pre-acquisition requirements are altered.....	9
3 When agreements cannot be reached.....	9
3.1 Minimum timeframe for notifying the owner	10
3.2 Details to be provided to the Minister.....	10
3.3 Department will issue owner letters.....	11
3.4 What happens after feedback is received?.....	11
4 Pipeline licence application inclusions	12
4.1 Documentation requirements	12
4.2 Licence applicant to demonstrate reasonable steps.....	12
5 Additional information and resources	13
5.1 Additional guidance materials.....	13
5.2 Complaints handling.....	13
5.3 Glossary of terms.....	14

1 Introduction

The *Pipelines Act 1967* (the Pipelines Act) allows land and easements to be vested in a licensee when a pipeline licence (or variation) is granted by the NSW Minister for Energy (as the Minister administering the Pipelines Act).

Before the licence is granted, the pipeline proponent will sometimes seek to acquire land or an easement over land which is held by a third party to construct and operate a pipeline. If the pipeline proponent and the owner of the land cannot reach agreement, the Minister for Energy (the Minister) may consider land to be 'available for compulsory acquisition' in certain circumstances. The processes outlined in these guidelines are applicable for both the acquisition of land and easements over land. An easement is a legal right to use and access part of the land.

Under section 22(1)(d)(ii) of the Pipelines Act, the Minister may find lands or easements over lands to be available for compulsory acquisition if the Minister is satisfied:

*that the applicant has taken **all reasonable steps** to enter into an agreement with the owner to acquire the lands or easements and those steps have not resulted in any such agreement.*

Reasonable steps may vary depending on the unique circumstances of a proposed acquisition. Reasonable steps could vary across different geographic areas, for different projects and over the course of time as community expectations change.

The Minister must consider whether the pipeline proponent has acted in a way consistent with these guidelines. These guidelines outline the steps the pipeline proponent can take for the Minister to be satisfied that "all reasonable steps" have been taken, under section 22(1)(d)(ii) of the Pipelines Act. It is a matter for the Minister to determine whether the pipeline proponent has acted reasonably consistent with the guidelines. The process is similar to the process to compulsorily acquire an interest in land under the *Land Acquisition (Just Terms Compensation) Act 1991* (**Just Terms Act**). However, the pre-acquisition procedures of the Just Terms Act are not applicable.

These guidelines apply to new pipeline projects and existing pipeline projects that already have development consent where the pipeline proponent may already be negotiating with owners.

Further information on the requirements for pipelines in NSW can be found at [Pipelines | NSW Climate and Energy Action](#)¹.

Details in this document may be subject to change. If there is a change, the NSW Government will publish the changes on its website at [Pipelines | NSW Climate and Energy Action](#).

¹ <https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/our-role-networks/pipelines>

1.1 Scope of these guidelines

Under section 14(1)(d) of the Pipelines Act, if the Minister is satisfied that:

- (d) the lands, or the easements, specified in the application for the licence —
 - (i) are vested in the applicant, or
 - (ii) are available, in accordance with section 22, for compulsory acquisition, and

the Minister may grant a licence in relation to the lands, including those the subject of easements, specified in the application or such of those lands as he or she thinks fit.

That is, for the Minister to grant a licence under the Pipelines Act, or a variation under section 19 of the Pipelines Act, lands or easements over lands must either be vested in the pipeline proponent, or available for compulsory acquisition under section 22 of the Pipelines Act. The process outlined in these guidelines is the same for both acquisition of land and of easements.

The Pipelines Act already aligns the processes to determine compensation for land or easements acquired by compulsory process to the Just Terms Act with respect to compensation. The non-compensation processes are modelled on the Just Terms Act and set out in these guidelines.

Before the Minister can be satisfied that they should vest the easement or land in the applicant by compulsory acquisition under section 21(1) of the Pipelines Act, they must be satisfied that the applicant has taken "all reasonable steps to enter into an agreement with the owner to acquire the lands or easements and those steps have not resulted in any such agreement".

The Minister must consider whether the pipeline proponent has acted in a way consistent with these guidelines when determining whether all reasonable steps have been taken when determining a licence application that includes compulsory acquisition of land and/or easements over land under section 22(1)(d)(ii) of the Pipelines Act.

It is not intended to provide an exhaustive list.

The Pipelines Act outlines certain requirements for a licence applicant when acquiring lands under sections 22(1)(a), (b) and (c), such as Crown lands. These guidelines do not address these requirements.

The Pipelines Regulation 2023 (Pipeline Regulation) specifies that a licence applicant must provide evidence of how all reasonable steps have been taken when making a licence application that includes lands or easements of the type contemplated in section 22(1)(d)(ii) of the Pipelines Act.

1.2 Reasonable steps to enter into an agreement

At all times, the Minister encourages the acquisition of lands or an easement in lands for pipelines by agreement.

The Centre for Property Acquisition sets key principles that apply to making a genuine attempt to acquire land by agreement in the Minimum negotiation period² (that is, usually 6 months) for acquisition of land document. Those principles, while made in the context of the Just Terms Act, are a useful guide for this process, which is comparable.

² https://www.nsw.gov.au/sites/default/files/2022-07/Minimum_negotiation_period_for_acquisition_of_land.pdf

Based on these key principles, the reasonable steps a pipeline proponent may take to acquire lands or an easement by agreement are to:

- communicate with the owner with the express aim of achieving agreement
- clearly communicate the methodology for calculating land value, and all benefits being offered to owners
- ensure that owners are aware that negotiation could involve seeking recovery of legal, valuation, accounting, and other relevant fees in advance, without obligation
- genuinely consider the position of the owner, but not so as to require the licence applicant to subordinate its position
- act honestly
- be proactive about sharing information, including any valuation report and results of investigations and inquiries
- ensure offers are genuine, and that there is a timely response to any counteroffer
- provide timely responses to questions raised by the owner
- where possible, have meetings to discuss any offers
- offer to bring the valuer engaged by the pipeline proponent along to at least one meeting with the owner.

Owners will have an opportunity to negotiate a range of conditions during the voluntary agreement stage with the pipeline proponent. This includes but is not limited to land access, technical requirements for land use, and monetary compensation. However, if a voluntary agreement is not reached between the owner and pipeline proponent, compulsory acquisition of the land or easements can still occur.

1.3 Amendments to the guidelines

The Department of Climate Change, Energy, the Environment and Water (department) will publish the current version of the guidelines on [our website](#).

1.4 Summary of the process

Table 1: Process summary

Step	Summary of process	Indicative timing
1	Pipeline proponent introduces project to community and owners	Occurs as part of project planning and before development application Proponents should also publish information about the project on their websites and project pages. Proponents should make a reasonable attempt to publicise the project in relevant social media and community forums.
2	Pipeline proponent commences negotiation with individual owners	Issues a commencement letter beginning a usual negotiation period of 6 months. The Minister will consider what is reasonable on a case-by-case basis.
3	A period of genuine negotiation, during which the pipeline proponent should: <ul style="list-style-type: none">make an offer based on an independent valuation reportcommunicate with the owner/s and encourage them to discuss the offergenuinely engage with the owner/s, in line with section 1.2, including considering any counter offer.	Usually 6 months from the time the pipeline proponent issues the commencement letter, however the Minister will consider what is reasonable on a case-by-case basis.
Development consent must be received before taking these next steps		
4	Pipeline proponent advises the Minister that agreement has not been reached and that a future licence application is likely to include compulsory acquisition without agreement.	Steps 4 and 5 can take place concurrently.
5	Pipeline proponent notifies the owner where agreement has not been reached that it intends to apply to the Minister for a pipeline licence on the basis that lands or easements need to be compulsorily acquired.	Usually 60 days before applying to the Minister for a licence.

6	Pipeline proponent applies to the Minister for a pipeline licence.	Usually at least 60 days after notifying the owner that compulsory acquisition without agreement is likely to be required (step 5).
7	The Minister instructs the department to send a letter to the owner/s notifying them that a pending pipeline licence will include compulsory acquisition.	<p>Letter should be sent by registered mail as well as electronic mail where an email address has been provided.</p> <p>Provide a minimum timeframe of 28 days for the owners to respond. In their response, the owner can indicate whether in their view the licence applicant has met the requirements in the compulsory acquisition process.</p>
8	The Minister considers responses from the owner/s as part of the determination of the licence application.	
9	The department assesses the licence application (including any land and easement acquisitions).	
10	The Minister determines the licence application. Any land/easements to be compulsorily acquired are vested in the pipeline proponent if pipeline licence is granted.	
11	The department arranges Gazettal notice for land acquisitions.	As soon as practicable following the grant of a licence with lands.
	Enquiries	<p>Email energy.submissions@planning.nsw.gov.au</p>

2 Reasonable steps to be taken

Where lands or easements over lands are of the type contemplated in s 22(1)(d)(ii) of the Pipelines Act, the pipeline proponent must take “*all reasonable steps*” to enter into an agreement with the owner to acquire those lands or easements before such lands or easements will be available for compulsory acquisition.

Under the Pipeline Regulation, the pipeline proponent must provide evidence to the Minister of all the steps they have taken to seek to reach agreement.

Reasonable steps may vary depending on the unique circumstances of a proposed acquisition. Reasonable steps could vary across different geographic areas, for different projects and over the course of time as community expectations change. The Minister will consider whether the pipeline proponent has acted in a way reasonably consistent with these guidelines.

The process outlined in these guidelines is intended to parallel most of the process under the Just Terms Act. However, significant parts of the process are fundamentally different under the Pipelines Act. For example, under the Pipelines Act, the lands and easements over land are vested in the pipeline proponent after the pipeline licence is granted when the Minister publishes notification in the Gazette, rather than vested in the acquiring authority under the Just Terms Act.

This results in a process where the pipeline proponent will do some of the pre-acquisition steps, and the Minister will initiate some of the pre-acquisition steps.

2.1 Process

Step 3 of the Process summary table

The processes that are required of an authority of the State with acquisition powers under the Just Terms Act are considered to model what reasonable steps the Minister would expect to have occurred before granting a licence application that includes the compulsory acquisition of land or an easement for the purpose of the pipeline licence. The Minister may be satisfied that reasonable steps have been taken even if the steps taken do not reflect the Just Terms Act process, having regard to the circumstances of a particular acquisition. This process includes the following 3 actions, which make up Step 3 in Table 1, and are outlined in more detail in part 2.2:

- a. issue a ‘commencement letter’ to the owner(s) (similar to a letter advising commencement of the negotiation period under section 10A of the Just Terms Act)
- b. inform the owner about their rights and obligations
- c. provide all relevant information that will help the pipeline proponent and the owner/s to reach an agreement.

Pipeline proponents who are negotiating with owners should do (a), (b) and (c). If the usual 6 months have passed and no agreement is reached, the pipeline proponent may then inform the Minister. Both parties (the pipeline proponent and the owner) can, however, agree to shorten the period, or the Minister may approve a shorter period. Note that the negotiation timeframe is continuous on the change of ownership of a property.

Steps 4 and 5 of the Process summary table (can take place concurrently)

At least 60 days before lodging a licence application a pipeline proponent must inform the Minister that it intends to apply for a pipeline licence that includes the compulsory acquisition of lands or easements. Once this has occurred (or at the same time), the pipeline proponent must also advise the owner in writing, and continue to negotiate with the owner for a further minimum 60-day period.

Steps 6, 7, 8 and 9 of the Process summary table

Where a pipeline proponent proceeds to apply for a pipeline licence on the basis that compulsory acquisition is required, the department, on behalf of the Minister, will inform the owner that an application of that nature has been received and confirm its intention to determine the licence. This correspondence will set out the owner's rights with respect to compensation. The owner can provide a submission to the department within 28 days.

Step 10 of the Process summary table

The Minister will then form an opinion as to whether "reasonable steps to enter into an agreement" have been taken.

At all times, the Minister encourages the acquisition of land and easements by agreement.

The processes for determining compensation for land and easements acquired by compulsory process in the Pipelines Act (section 22A) are aligned to the Just Terms Act.

2.2 Pre-acquisition requirements

These pre-acquisition requirements reflect those of parties issuing a 'commencement letter' under section 10A of the Just Terms Act. The suggested content, approach, rights and obligations reflect those of the Just Terms Act and the guidance materials followed by acquiring authorities.

2.2.1 Provide the owner with a commencement letter

The commencement letter should contain:

- a statement that the pipeline proponent has an obligation to make a genuine attempt to acquire the land by agreement before applying to the Minister to compulsorily acquire the land or easement
- a statement that the usual 6-month negotiation period commences from the date of receipt of the commencement letter (or such other date as is appropriate in the circumstances, including by reference to previous communications between the owner and the pipeline proponent)
- contact details of the primary point of contact (Acquisition Manager)
- the purpose that the land or easements are proposed to be acquired for and details about relevant project approvals
- the process to be followed once the usual 6 months concludes
- reference to the Valuer-General website, or Centre for Property Acquisition website so that owners know where to seek independent information about Valuer-General compensation.

In the commencement letter, a pipeline proponent should inform the owner that:

- the owner is entitled to a compensation package that is to be assessed under Part 3 of the Just Terms Act
- the owner can engage a lawyer and valuer
- the pipeline proponent is encouraged to clearly communicate that it will pay the owner's reasonably incurred legal, valuation (up to one), accounting, or other reasonable fees in connection with the proposed acquisition prior to executing any access agreements, deed of option agreements or compensation packages, or as soon as possible after a deed of option, is signed if that is what the owner prefers
- the owner has an obligation to inform the pipeline proponent about any other interests in the land that they are aware of, for example, any unregistered lease holders.

A pipeline proponent should:

- proactively inform the owner of the types of compensation available under the Just Terms Act
- proactively inform the owner of the types of reasonable costs the pipeline proponent will cover between the date of the commencement letter and the completion or discontinuance of the acquisition
- give the owner the opportunity to provide evidence to support their compensation claim.

2.2.2 Relevant considerations to assist in reaching an agreement

A pipeline proponent should:

- make a reasonable effort to meet face-to-face with the owner (and, failing that, propose an online meeting)
- make a reasonable effort to arrange an in-person meeting with any experts, including valuers, before the valuation reports are finalised. Where an in-person meeting has not been possible due to practical challenges, an online forum should be offered to owners
- propose an early exchange of valuation reports and any other material supporting the respective positions on the owner's entitlement to compensation
- provide any offers to the owner in writing
- ensure an ongoing dialogue with the owner to ensure they are informed of the timing of any further offers and the date by which the negotiations are set to conclude
- give the owner reasonable time to consider and respond to any offers made by the pipeline proponent
- respond promptly to counteroffers
- give reasons for not accepting an offer or proposing an alternative offer.

The owner may bring a range of support people (for example, mediator, legal representative, support person) to face to face negotiations, and it is expected that both parties engage in the process.

2.2.3 When pre-acquisition requirements are altered

The pipeline proponent is not required to continue with every part of the pre-acquisition process if:

- the owner notifies the pipeline proponent that the owner is not prepared to negotiate with the pipeline proponent for the acquisition of the land by agreement, or
- the owner cannot be located after the pipeline proponent makes reasonable inquiries
- the owner is non-responsive to various attempts at communication by the pipeline proponent.

When a pipeline proponent cannot locate the owner, and native title is not an issue, the pipeline proponent must satisfy the Minister that adequate steps have been taken to find the owner before the compulsory acquisition can be approved.

Where the owner cannot be located, the pipeline proponent should satisfy the following minimum requirements before the application for acquisition can be considered:

- publication of a notice in a local paper, and
- erection of a notice on a board or other structure in a conspicuous place on the land proposed to be acquired, and
- Australia-wide white pages search for surname of owner (or similar search), or
- (if a title search indicates that the owner is likely to be deceased) publication of a notice in the public notices section of a nationally circulated newspaper.

3 When agreements cannot be reached

To provide owners with a minimum 90-day notice period to finalise negotiations, similar to that afforded by the Just Terms Act, notification is carried out by both pipeline proponents and the department.

Pipeline proponents should advise the Minister and the owner where there is likely to be a need for compulsory acquisition without agreement at least 60 days before applying for a licence.

The department (on behalf of the Minister) and the pipeline proponent then advise the owner in writing about the details of the application expected from the pipeline proponent and the rights of the owner to claim compensation.

The Just Terms Act applies (with such modifications as may be prescribed by the Regulations) to the payment of any such compensation as if the vesting of lands or easements under section 21 were effected by an acquisition notice under that Act. Where no agreement is reached with the pipeline proponent, the Valuer-General can determine the amount of compensation.

A pipeline proponent cannot provide this information to the Minister or the owners before receiving the necessary development consent for the pipeline project.

3.1 Minimum timeframe for notifying the owner

The minimum 90-day notification period is provided through:

- Pipeline proponents providing a 60-day notification period; and
- The department providing a 28-day notification and response period after receipt of a licence application (see Section 3.3).

The pipeline proponent should advise the Minister and the owner, not less than 60 days before applying for a pipeline licence, of the details of any lands or easements over lands that are to be included in the pipeline licence application.

3.2 Details to be provided to the Minister

The pipeline proponent should supply the Minister with the same details expected to be provided when an acquiring authority seeks approval to issue a proposed acquisition notice under the Just Terms Act. These include specific details of the land parcel, its ownership, the land or easement proposed to be acquired and the reason for the compulsory acquisition (that is, a description of the project).

Additionally, the pipeline proponent should include documents including a registered deposited plan and site map, copy of the commencement letter and, to demonstrate that the correct owners have been identified:

- title search/es (not more than 6 months old)
- ASIC documents where companies are on title
- dealing documents corresponding with the title search references
- registered deposited plans and site maps
- easement details
- copies of the commencement letters issued
- native title searches
- details of any compensation claims received.

A pipeline proponent should also provide detailed file notes from all conversations with the owner including:

- summary of all correspondence sent and received and meetings held
- detailed notes of all meetings conducted with the owner and their experts.

3.3 Department will issue owner letters

Where owners have not reached a negotiated land agreement with the pipeline proponent, the department (on behalf of the Minister) will issue letters to owners to advise them that the licence application being assessed/ determined includes a request for the compulsory acquisition of land or an easement over the land.

The letter will invite the owner to provide feedback on the negotiation to reach an agreement, with a minimum timeframe of 28 days for the owner to respond.

Commencement of 28 days taken from the date the notice is sent by registered mail. The Minister will consider responses received, or post-marked no later than 28 days after the date the notice was sent by registered mail. Feedback submitted outside of this period may not be considered. Owners are encouraged to consolidate all relevant previously submitted feedback during this period.

The department will acknowledge receipt of correspondence from owners.

3.4 What happens after feedback is received?

The department will assess all submissions received and provide a summary to the Minister before the Minister considers the licence application.

The department will also provide a recommendation on each negotiation to the Minister on the determination of the licence application.

Where an agreement with the owner to acquire lands or easements has not been reached and compulsory acquisition occurs in accordance with section 22(1)(d)(ii) of the Pipelines Act, compensation will be determined by the Valuer-General in accordance with the Just Terms Act.

4 Pipeline licence application inclusions

4.1 Documentation requirements

The licence application must include all relevant documentation to provide evidence that the pipeline proponent has taken all reasonable steps to enter into an agreement with the owner to acquire the land or easements.

To demonstrate that the correct owner/s have been identified, suitable documents include, but are not limited to:

- title search/es (not more than 6 months old)
- ASIC documents where companies are on title
- dealing documents corresponding with the title search references
- registered deposited plans and site maps
- easement details
- copies of the commencement letters issued
- native title searches
- details of any compensation claims received.

Pipeline proponents should also publish information about the project on their websites and project pages. This should include:

- clear information on the project
- clear and up-to-date information on project timing
- their approach to community engagement (including engagement with Aboriginal communities)
- information on how to make contact/complain.

4.2 Licence applicant to demonstrate reasonable steps

To demonstrate that the negotiation period has been conducted in good faith, a pipeline proponent should carefully document the whole 6-month (or longer) process and any continuing negotiation at the time of the licence application, including:

- file notes from all conversations with the owner (negotiation records)
- summaries of all correspondence sent and received
- detailed notes of all meetings conducted with the owner and their experts.

While this is not an exhaustive list, it indicates the type of conduct required to demonstrate that a genuine attempt was made.

5 Additional information and resources

5.1 Additional guidance materials

At all times, pipeline proponents should consider the codes and standards that apply across NSW business and authorities when negotiating with owners. Some of these guidelines and codes are:

- NSW Government [Property Acquisition Standards](#)
- Centre for Property Acquisition [Minimum negotiation period for acquisition of land](#)
- The Energy Charter [Landholder & Community Better Practice Engagement Guide](#)
- The Energy Charter [Better Practice Social Licence Guideline](#).

5.2 Complaints handling

A pipeline proponent should develop and make a set of procedures for handling complaints and disputes. For example, this could include joining an ombudsman scheme. A pipeline proponent should make their procedures available to affected owners.

Affected owners are encouraged to raise complaints or disputes with the pipeline proponent in the first instance.

In the event of a complaint or dispute from an owner, the pipeline proponent should:

- deal with the complaint or dispute in accordance with the pipeline proponent's procedures for handling complaints and disputes
- make reasonable endeavours to resolve the dispute.
- advise the owner:
 - of any right the owner has to access an ombudsman scheme (if applicable), including to lodge a complaint or for free independent information and advice, or any other external dispute resolution body, and
 - of the telephone number and other contact details of an ombudsman scheme (if applicable).

5.3 Glossary of terms

Term	Definition
Centre for Property Acquisition	An independent agency that helps communities across NSW understand the property acquisition process, provide impacted people with access to support services, and work with acquiring authorities to promote fair, transparent, and consistent practices.
Department	Department of Climate Change, Energy, the Environment and Water
Just Terms Act	<i>Land Acquisition (Just Terms Compensation) Act 1991</i>
Land	Has the meaning as defined in section 3 of the Pipelines Act unless explicitly stated otherwise
Owner	Has the meaning as defined in section 3 of the Pipelines Act unless explicitly stated otherwise
Minister	NSW Minister for Energy as minister administering the Pipelines Act
Pipelines Act	<i>Pipelines Act 1967</i>
Valuer-General	An independent statutory officer appointed by the Governor of NSW to oversee the valuation system. In certain situations where no agreement is reached, the Valuer-General determines the amount of compensation.