



# CONSTRUCTION OF SEWERAGE AND STORMWATER PIPELINES

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## **1.0 POLICY OBJECTIVE**

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

To ensure Council owned service infrastructure that is located within private property, is constructed in a way that allows it to be maintained for the life of the asset.

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

## **2.0 RELATED LEGISLATION**

- Section 191A of Local Government Act 1993
- Section 88B of the Conveyancing Act 1919
- Design and Building Practitioners Act 2020
- Design and Building Practitioners Regulation 2021
- Water Management Act 2000
- Relevant Australian Standards

## **3.0 DEFINITIONS**

### **3.1 Easement**

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

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

## **4.0 POLICY STATEMENT**

An appropriate easement shall be created over all Council owned sewerage and stormwater pipelines, pits and auxiliary infrastructure associated with those pipelines that are located within private property.

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

### **4.1 Policy Requirements**

#### **4.1.1 Subdivision Approvals**

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

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

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

#### 4.1.2 Minimum Easement Width

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

The minimum width of an easement to cover existing pipes where there is more than one pipeline shall be 4m or 1.5m each side measured from the outside wall, whichever is greater. For new pipes and associated easements, the pipes shall have a minimum separation between the outside walls of the pipes of 1m.

#### 4.1.3 Deep Sewers and Large Pipes

Where deep sewers or large pipes are proposed the required easement width may be greater than 3m. The easement width shall be determined by the Council's Director of Engineering Services following an assessment of the maintenance access requirements.

#### 4.1.4 Restriction on Use

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

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

#### 4.1.5 Requirements for Building within the Vicinity of Sewer and Stormwater Pipelines

There will be instances where structures erected outside of the easement will still have a likely impact on the integrity and life of the sewer or stormwater pipeline. In this instance, the Requirements for these activities will be guided by *Building within the Vicinity of Sewer and Stormwater Pipelines Guideline*. Additionally, engineering zone of influence considerations for any surrounding structures will need to be assessed by a suitably qualified person.

#### 4.1.6 Design requirements

Civil designs must be provided to the Council by a suitably qualified person detailing the pipe size, pipe type, pipe strength, pipe grade and pipe depth. The design shall be reviewed by the Council's Director of Engineering Services following an assessment of the maintenance requirements and load cases.

## 5.0 COSTS

All costs associated with the creation of any easement, protection or replacement works shall be borne by the developer/proponent. The developer/proponent shall bear the costs of any and all works associated with strengthening of or foundation enhancements.

## 6.0 HISTORY

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

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

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

The Council has required easements to be created in recent times, however there was no documented minimum width. A minimum width is necessary to provide for reasonable access to or the protection of Council's assets. Lot sizes are getting smaller and houses larger; it is vital that appropriate easements are provided to enable the Council to continue to operate and maintain their assets

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

Recent changes under the Design and Building Practitioners Act 2020 and Design and Building Practitioners Regulation 2021 clarify the requirements for designers of stormwater and sewer.