



# Council Drainage Easements

This information sheet provides general advice related to the City's requirements for the creation, building over and removal of a Council drainage easement.

## **What is an easement?**

An easement is a section of land registered on the Certificate of Title providing Council (or other parties) a right to access the land for a specific purpose. While the property owner still owns the land, they have given up certain rights on that portion of the land covered by the easement.

## **When is an easement required?**

Easements are commonly created for protecting underground or overhead services such as stormwater drains, sewer or power and to provide rights of carriageway (or right of way).

*(Only Council stormwater drainage easements will be discussed in this Information Sheet. For enquiries regarding easements as a result of other services, please contact the relevant service authority e.g. the Water Corporation or Western Power).*

A Council drainage easement may be created for the purpose of:

- Constructing a new drain.
- Maintaining or upgrading an existing drain.
- Possible future requirement of a drain.
- Provision of overland flow paths for stormwater runoff.

Where an existing Council drain exists within a property but there is no easement, Council still has powers to protect the drain under the Local Government Act 1995.

## **What can be placed over a drainage easement?**

While an easement may not have a significant effect on a property, it is important to note that Council will impose restrictions to placing certain structures on an easement. Property owners/developers are advised to check their Certificate of Title and Diagram of Survey for confirmation of any Council or other authority easements when planning to develop or subdivide.

Generally, structures that cannot be removed or dismantled, such as a part of a building, will not be permitted to be constructed along the easement. Consideration should also be given to how retaining walls and fences are placed against an easement. The easement may also influence the type of landscaping and tree selection in its vicinity, as deep root systems may enter the joints and slits of stormwater pipes which could affect the pipes' performance.

Although there are restrictions to building over a Council drainage easement, some structures can be constructed under certain conditions. These are structures that are lightweight and demountable, for example:

### *Above all - Service*

- Carports;
- Patios;
- Pergolas;
- Garden sheds (maximum dimension 3 metres x 3 metres); or
- Swimming pool pumps.

**What are the conditions for building over a drainage easement?**

Constructing of any of the items mentioned above on a Council drainage easement or over a Council drain requires prior approval by Council. If approved, the City will require that the following conditions are adhered to:

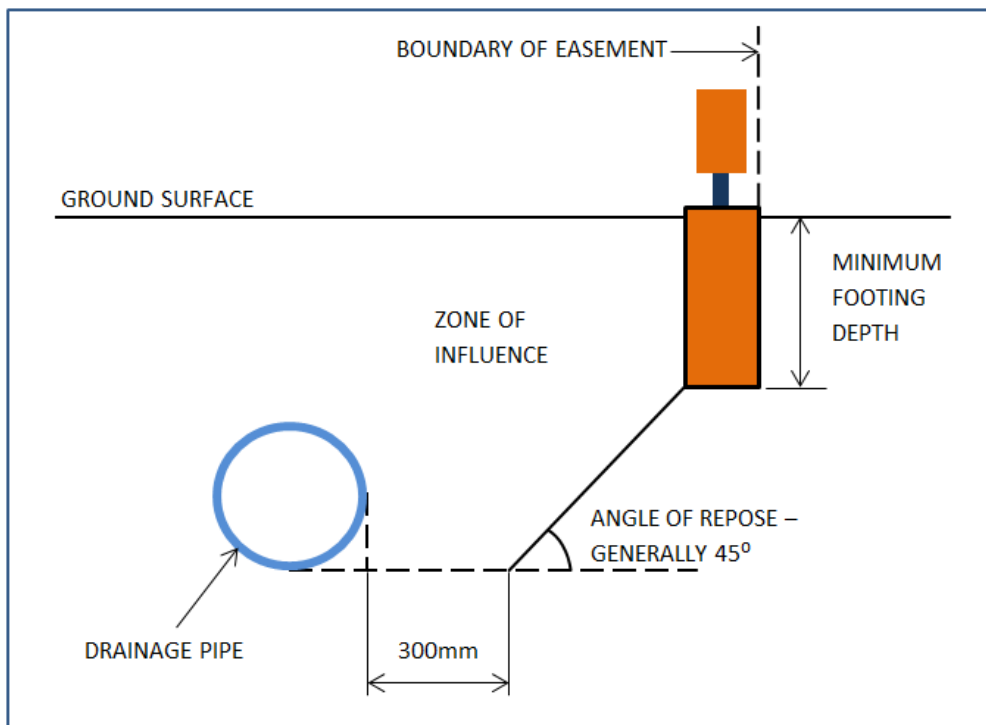
1. The structure/pool pump is to be constructed in such a manner that it can be dismantled should any maintenance works be required on the drainage line.
2. Should access be required along the easement which requires removal of the structure/pool pump, the owner shall dismantle or relocate the item at his or her cost within 48 hours or as required by the City. The City shall not be responsible for the reassembly of any items that are dismantled.
3. The City shall not be held responsible for the reinstatement of footings or paving over the easement and in view of this it is required that brick paving or a maximum 610mm x 610mm concrete slabs be used.
4. No part of any structure is to be constructed over a drainage manhole.
5. For structures requiring footings, the footings along the boundary are to be constructed to a minimum depth outside the zone of influence of the drainage asset as shown in Figure 1 below.
6. For a garden shed, the maximum permitted size of shed shall be 3m x 3m.
7. For a pool pump, the pump is to be located to minimise pipe lengths within the easement and placed on pavers or slabs no greater than 610mm x 610mm. No part of the swimming pool is to be constructed within the City's drainage easement.

The above conditions shall also apply to future purchasers of the property and the current owner is to advise the future owners of the agreement.

Prior to commencement of any works, the owner is to acknowledge and agree to abide by the conditions by signing and returning to the City a duplicate copy of the letter that will be sent to the applicant stating these conditions when the application is made.

In addition to the above conditions for demountable structures, the City requires that the following conditions be adhered to when constructing all new structures:

1. Eaves of buildings are not to overhang the easement by more than 750mm.
2. House services such as, but not limited to, stormwater and wastewater are not to be constructed within the drainage easement.



**Figure 1: How to determine minimum footing depth along the boundary of an easement**

**In which instances will the City agree to the removal of a drainage easement?**

The City will support the removal of a drainage easement once it is satisfied that the purpose for which the easement was created is no longer applicable.

In situations where the City's road drainage is connected upstream of the stormwater drainage system to which the easement applies, the City will reject all applications for the removal of the easement.

Where the City's road drainage does not connect upstream of the stormwater drainage system to which the easement applies, the City may support the removal of the easement provided the applicant carries out the following:

1. Demonstrates that the stormwater drainage system upstream of and including the property in question is no longer in service. If still in service, the applicant shall discontinue all connections upstream including within the subject property to the said drainage system and direct all stormwater discharge into soakwells.
2. Provides the City with a report of the geotechnical investigations carried out on all properties connected to the section of the stormwater drainage system that is being made redundant prior to commencement of earthworks. The report is required to determine if ground conditions are satisfactory for the containment of stormwater on-site.
3. Removes the City's redundant pipes and other stormwater drainage infrastructure from the site. Blocking off all connections to the exhumed infrastructure with concrete, backfill with materials free of deleterious material and compact to the City's requirements. Once complete, arrangements must be made with City staff for an inspection of these works to be carried out.
4. Processes the legal surrender of easement via the City's solicitors.
5. Pays for all costs associated with the above works.

In certain cases, a Council drainage easement may have been placed over a portion of land where no drain currently exists. In these situations, once the City is satisfied that the easement is not required, the City will agree to its removal on the condition that the applicant processes the legal surrender of the easement via the City's solicitors and pays for all costs associated with the surrender.

**Who should I contact for more information?**

Should you require further information regarding the City's drainage easements, please contact the City's Development Engineering Officers on 9231 0606.

*The information contained within this information sheet is intended as a guide only. It is recommended that the advice and assistance of the City's Planning Services staff be sought prior to lodgement of a planning application. Please contact Planning Services on 9231 0606 or speak with a Planning Officer at our Administration Offices **between 8:15am and 5pm Monday to Friday.***