Maintenance of watercourses and drainage easements within private properties

Head of Power

Local Government Act 2009

Objective

The objectives of this policy are to outline Moreton Bay Regional Council’s policy position on:

(a) Council’s maintenance responsibilities within watercourses and drainage easements on private property;

(b) Circumstances when Council will enter private property and undertake maintenance of watercourses and drainage easements.

Definitions/Application

Definitions

“Watercourse” -
1. A natural or artificial channel through which water flows
2. A brook, stream, creek or river
3. The bed of a stream that flows only seasonally
4. Dams, detention basins and other similar infrastructure

“Easement” - an easement is a section, portion or parcel of land registered on a property title, which gives someone the right to use the land for a specific purpose even though they are not the land owner. An example is a drainage easement for the purpose of stormwater drainage.

“Private property” - for the purposes of this policy, refers to all tangible real properties owned by persons and non-government legal entities, whereby a legal relationship between persons and the State enforces a possessory interest or a legal title in that thing. Owners of real property have the right to sell, rent, mortgage, transfer, exchange or exclude others from entering their property.

Application

This policy applies to all private properties within the Moreton Bay region.

Policy Statement

1. Council is not responsible for vegetation maintenance, including the clearing of weeds and trees or any other maintenance of overgrown vegetation, to watercourses or easements located within private property.

2. Council is responsible for maintenance and repair of Council-owned infrastructure located within a watercourse or easement. Council may, from time to time, need to undertake maintenance of a watercourse or easement for catchment management purposes on private property.
Policy: 2150-068 - Maintenance of watercourses and drainage easements within private properties

3. Where an easement exists, Council has right of access. However it is customary for consultation to be carried out and permission to enter received from the property owner/s, prior to the commencement of work.

4. Where no easement exists, Council has no rights or obligations to undertake construction works or maintenance activities to the watercourse located within private property.

**Review Triggers**

This policy is reviewed internally for applicability, continuing effect and consistency with related documents and other legislative provisions when any of the following occurs:

1. The related documents are amended.
2. The related documents are replaced by new documents.
3. Amendments are made to the head of power which affect the scope and effect of this policy.
4. Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at least once every two years for relevance and to ensure that its effectiveness is maintained.

**Responsibility**

This policy is to be:

1. implemented by the Director Engineering, Construction and Maintenance and relevant Operations Department officers.
2. reviewed and amended in accordance with the "Review Triggers" by the authorised Operations officers at the direction of the Director Engineering, Construction and Maintenance.

**Version Control**

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