



Council Policy

Improvements and Maintenance of Watercourses and Drainage Channels

Version 6 - 25 October 2021

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Policy - External Improvements and Maintenance of Watercourses and Drainage Channels

Introduction

Purpose

To define Council's obligations and policy about maintenance, improvements and rehabilitation of watercourses including Drainage Reserves and Channels.

Scope

This policy applies to improvements and maintenance of watercourses including drainage reserves and channels.

The policy recognises that where possible, watercourses and drainage channels and their associated vegetation should be left undisturbed unless extraordinary circumstances apply. Council recognises that there are instances in which the condition of watercourses may deteriorate as a result of erosion and/or sedimentation, weed growth, dumping or accumulation of rubbish. In such cases, maintenance and/or rehabilitation of these waterways may be required.

When modifications are proposed to a watercourse (either natural or modified) Council's 'Protection of Watercourses and Drainage Channels policy' applies.

Policy statement

1. Section 94(1) of the Roads Act 1993 states:

A Roads Authority may, for the purpose of draining or protecting a public road, carry out drainage work in or on any land in the vicinity of the road, (this does not apply to State Rail Authority land).

2. Drainage Easements (Benefiting Council):

- (a) Maintenance – Council may be responsible for the maintenance of its structures within private property where Council has acquired a drainage easement on such property.
- (b) Improvements – All requests for improvements in Council drainage easements within private property are to be received and assessed as to whether the work is of net benefit to the community and the environment and prioritised according to budget constraints. If Council is to contribute to the works, the property owner must contribute at least one-half of the cost of the work.

If the work is required to facilitate the development of the land, then the works, if approved, will be at the owner's full cost.

3. Natural Watercourses:

- (a) Maintenance – Property owners are responsible for maintaining watercourses within private property including watercourses that have been altered from their natural state, through realignment, channel enlargement, filling and the like, (refer to *Council's Protection of Watercourses and Drainage Channels Policy* and the *Water Management Act 2000*).
- (b) Council will address significant incidences of bank and bed erosion/scour/siltation, if this damage is a direct result of Council's actions.

4. Reduction of Owners Contribution:

Should damage occur to private infrastructure on properties containing natural watercourses and or drainage easements and such damage as determined by the Manager Asset Management is a direct result of Council's actions then the owner's contribution to the proposed work may be reduced.

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5. Watercourses and all drain types (if work approved by Council) within Public Reserves, Drainage Reserves, Public Road Reserves or Council owned land:
 - (a) Maintenance – Council is responsible for maintenance of watercourses and drainage channels in council-managed public land. Works will be conducted in accordance with conditions stipulated in any relevant environmental assessment or permit.
 - (b) Improvements and Rehabilitation – All requests for improvements and rehabilitation will be assessed to determine desirability, prioritised according to budget constraints, potential environmental impacts, cost-benefit analysis and considered for allocations of funds in Council's Works Programs.

6. Inter-allotment Drainage Easements (Benefiting private property owners)
 Maintenance, Improvements and Rehabilitation:
 All works to drains in inter-allotment drainage easements within private property are the responsibility of property owners and users of the easement. These drains are 'private' drains and do not belong to Council.
 If there is a problem, that is damaged or defective pipes or flooding to a lower property, Council (under Section 124 of the *Local Government Act 1993*) may direct the owners and users of the drain to undertake repairs or maintenance.

7. Unapproved Drainage Works on Council Land.
 - (a) Property owners are required to accept natural flows from adjoining properties and control and dispose of flows properly. If unapproved drainage works are carried out on Council land, Council may remove the works and recover costs from the owner that carried out the work.

8. Unapproved Drainage Works on Private Land.
 - (a) If unapproved drainage works (approvals required under the *Lake Macquarie Local Environment Plan*) are carried out on private land, Council will require the owner to remove the works at the owner's expense.
 - (b) Maintenance – where existing unapproved drainage infrastructure is located on private owned land, Council will not maintain the infrastructure.

Principles

Lake Macquarie City Council values the importance of watercourses and drainage channels for the multiple environmental, social, utility and aesthetic values they provide. Improvement and maintenance activities will consider the following principles:

- Reduced risk of flood damage in developed areas
- Reduced stormwater runoff
- Prevention of excessive erosion of waterways, slopes and banks
- Enhanced in-stream water quality
- Improved water quality in downstream waters, including Lake Macquarie and the ocean
- Reduced public and private maintenance costs

Review and Evaluation

This policy will be reviewed and evaluated in four years.

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Controlled Document Information

Authorisation Details

Folder No:	F2004/11062	TRIM Record No:	D10322656
Audience:	External - Drainage and Natural Areas		
Department:	Asset Management	Officer:	Infrastructure Asset Management Coordinator - Dean Chapman
Key focus area(s):	Improvements and maintenance of watercourses		
Review Timeframe: Max < 4 years	4 years	Next Scheduled Review Date:	25 October 2025
Authorisation:	Adopted by Council - 25 October 2021		
Authorisation - Council Adoption Date:	25 October 2021		

Related Document Information, Standards & References

Related Legislation:	(Legislation Name) Roads Act 1993 – Section 94(1) Water Management Act 2000 Fisheries Management Act 1994 Local Government Act – Section 124	(Relationship/Context) Definition for the roads authority to carry out drainage works To provide for the sustainable and integrated management of the water sources of the State for the benefit of both present and future generations To conserve, develop and share the fishery resources of the State for the benefit of present and future generations 124 Orders - council may order a person to do or to refrain from doing a thing specified
Related Policies (Council & Internal):	(Policy Name) Protection of Watercourses and Drainage Channels Policy	(Relationship/Context) Policy is to recognise the environmental, social, and utility values watercourses and drainage channels provide, particularly where natural characteristics have been maintained and/or reinstated.
Related Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements:	(Document Name) Protection of Watercourses and Drainage Channels Procedure	(Relationship/Context) Procedure to ensure consistent application of the policy for proposals involving management or restoration works on natural or modified watercourses
Standards COP's & Other References	(Standard, COP or Other References)	(Relationship/Context)

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Definitions

Term / Abbreviation	Definition
Drainage Easement	A legal restriction on the property title legally allowing drainage through land and defining the properties or parties burdened and benefiting from the drainage easement.
Drainage Reserve	A separate strip of land containing a drain, designated Drainage Reserve and owned by Council.
Watercourse	A stream of water whether perennial or intermittent, flowing in a depression of a natural channel or a natural channel artificially improved or in an artificial channel, which has changed the course of the stream.

Consultation (update for each version created)

Key Departments, Teams, Positions, Meetings:	Infrastructure Asset Delivery Team, Assistant Manager Community Assets
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Version History

Version No	Date Changed	Modified By	Details and Comments
2	5/11/2010	H Thomson	Document format updated
3	28/6/2012	Rod Keft	Updated to current template, removed reference to Rivers and Foreshores Act [repealed] and replaced with Water Management Act 2000, changed Department of Infrastructure Planning and Natural Resources to Department of Planning and Infrastructure, expanded LEP to Local Environment Plan, reworded sections 3(a) and 5(a), reworded last sentence in the Policy Objectives.
4	18/03/2015	Toni Woodcock	Updating to new word format
4	26/03/2015	Brent Welham	Corrections - removal or additions to Policy Statement 2(a), 4, 5(b) and 8(a).
4	03/06/2015	Toni Woodcock	Updating related documents
5	10/04/2017 15/05/2017	Toni Woodcock	Updating template, completing relationship/context in Related Document Information table, updating Consultation table Extension of review period from 2 years to 4 years due to minimum changes in legislation
6	16/09/2021	Dean Chapman	Updated template. Clarified relationship with Protection of Watercourses and Drainage Channel Policy