



Brighton Council

POLICY NAME: Construction of structures over Council mains

POLICY NO: AP01

PURPOSE OF POLICY:

Conditions in respect to a resident's request on constructing a structure over an easement or over a Council pipe inside a property boundary, ie. for the purpose of erecting an outbuilding.

SCOPE:

Residents of the Brighton Municipality.

POLICY:

Easements are created on titles to allow Council access to properties to maintain, and at some future time increase the capacity of its services within the easement, or for the purpose of installing services at a future date. In some cases, such as Gagebrook, pipes exist on private property without any easements.

Section 13 of the Urban Drainage Act 2013, deals with the erection of buildings over drains. An extract is shown below:

PART 13 - PROTECTION OF STORMWATER ASSETS

13. Protection of stormwater assets

(1) Unless subsection (11) applies, a person must not, without a general manager's consent, cause or permit -

(a) any prescribed structure to be built on, or any filling to be placed on or removed from, land over which -

(i) an easement exists in favour of the relevant council; or

(ii) an easement exists for public stormwater systems; or

(b) any prescribed structure to be built on, or any filling to be placed or removed from, within one metre laterally from the outer edge of any public stormwater systems of the council or such other distance as determined by the general manager; or

(c) any prescribed structure to be built above or below any area prohibited by paragraph (b); or

(d) the removal of any soil, rock or other matter that supports, protects or covers any stormwater-related works of the council.

(7) An application for the general manager's consent under subsection (1) must be made in the manner determined by the general manager, and must be accompanied by any plans and other information that the general manager requires.

(8) The general manager may -

(a) refuse the application; or

(b) grant the application; or

(c) grant the application subject to any terms and conditions that he or she thinks fit.

(9) A person who, with the consent of a general manager, causes or permits anything referred to in subsection (1) to be done must make sure that it is done in accordance with any terms and conditions subject to which the general manager gave his or her consent in granting the application under subsection (8)(c).

(10) Terms and conditions subject to which the general manager grants an application under subsection (8)(c) are binding on the successors in title or assigns of the person who applied for that consent.

To guide with enforcing the act the following rules apply to all existing services:

1. No structures are to be constructed over manholes
2. No structures are to be constructed over the connection point to the council owned main, including the first inspection opening (I.O.) for stormwater.
3. No structure to be permitted by Council within easements controlled by other authorities.

Where a structure is permitted by Asset Services to be constructed over a Council main the following rules apply:

1. A structure must not impose any loads on the pipe.
2. Replacement of the service with a different material may be required at the owner's expense.
3. The property owner is to enter into a Part 5 Agreement under Section 71 of the Land Use Planning and Approvals Act 1993, that indemnifies council of any future costs arising as a result of the construction of the structure over the Council Service.

The following rules apply to structures constructed over easements:

1. Structures not to be permitted where future services are proposed or a capacity increase is considered likely in the future.
2. Access to be maintained to the easement at some point within the property or adjoining properties, to allow work to be carried out on the service if required.

ROLES & RESPONSIBILITIES:

Notwithstanding the above, the Manager Asset Services may authorize construction of a structure over Council Services after considering all relevant information.

REFERENCES:

Section 13 of the *Urban Drainage Act 2013*

ADMINISTRATIVE DETAILS:

Policy compiled: June 2002

Adopted by SMT: June 2002

Reviewed date: October 2016, September 2019

To be reviewed: September 2021

Responsibility: Municipal Engineer

A handwritten signature in black ink, appearing to read "R. V. Sanderson". The signature is written in a cursive, flowing style.

GENERAL MANAGER