	<b>ADMINISTRATIVE POLICY</b>	
	<b>Building Over or Adjacent to Constructed Council Drainage Systems and Easements</b>	
	POLICY NO	062
	DEPARTMENT	Engineering & Commercial Infrastructure
	PROGRAM	Technical Services
APPROVED BY CEO	29 August 2017	

## 1.0 Scope

The policy sets out Mackay Regional Council's (MRC) requirements and technical guidelines applying to all buildings and structures on private property that contain MRC's drainage infrastructure. In terms of this guideline, drainage infrastructure includes all stormwater mains and associated infrastructure, such as access holes, connection points between household and MRC services.

The guideline provides requirements for approval of permits under Local Law No. 1 (Administration), Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) and Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads).

## 2.0 Purpose

Property owners and developers occasionally want to build new buildings or structures near to, or over, existing under or in-ground infrastructure associated with MRC's stormwater services. MRC wishes to ensure such developments can proceed without impeding MRC's current and future ability to offer services and without causing unnecessary risk of damage to both MRC's and privately-owned infrastructure.

This guideline aims to:

- (a) Ensure protection against structural damage to existing underground infrastructure services from construction works and/or imposed loads;
- (b) Ensure access is available for future maintenance of MRC assets/infrastructure;
- (c) Prevent consequential damage to the owner's structures;
- (d) Maintain the amenity (functional use) of the property and allow the occupant use of the property without unnecessary constraints;
- (e) Ensure that MRC's costs and liabilities are minimised when constructing, replacing, maintaining or obtaining emergency access to constructed public drainage systems located within private property.

### 3.0 Reference

- Mackay Regional Council – “Conditions for Approval – Building Over or Adjacent to Constructed Council Drainage Systems and Easements”;
- Local Law No. 1 (Administration) 2011;
- Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011;
- Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011;
- Queensland Development Code, MP 1.4 – Building over or near relevant infrastructure.

### 4.0 Definitions

For stormwater drains the building, structure or material is defined as being located over or adjacent to the stormwater drainage system if the building, structure or material is located such that the offset of the nearest point of the structure from the centerline of the stormwater drain is a distance less than the sum of the depth to the invert of the stormwater drain plus the pipe diameter plus two (2.0) metres, divided by two and in the case of open drainage systems that the offset of the nearest point of the structure from the centerline of the open stormwater drain is a distance less than the sum of the depth to the invert of the stormwater drain plus two (2.0) metres.

To assist in interpretation the following definitions shall apply:

**CCTV** shall mean closed-circuit television inspection conducted to inspect the condition of existing underground assets.

**Council** shall mean the Mayor and Councillors of Mackay Regional Council.

**Demountable** shall mean any structure or roof that can be manually dismantled and removed from its current position by two people within a four hour period.

**Easement** shall mean an area of land, or part of a lot reserved by law for a specified purpose, such as for access.

**Horizontal Distance** shall mean the minimum distance between the outermost edge of the walls, slab, footing, driven pile, bored pile and any integral parts of the building and the outside of the service or associated structure.

**Qualified Engineer** shall mean Suitably qualified Engineer (civil, structural or geotechnical) having RPEQ accreditation or listed on the National Professional Engineer Register (NPER).

**Invert Level** shall mean the bottom, inside of the pipe, drain etc.

**Maintenance Hole** shall mean a chamber with a removable cover that allows human and machine access to an underground pipeline.

**MRC** shall mean Mackay Regional Council.

**Inspection Opening** shall mean a structure in the line of the stormwater between maintenance holes, which provides equipment access, but not personal access to the stormwater.

**Structure** shall mean and includes all non-demountable buildings such as a masonry fence, house, deck, pergola, swimming pool, retaining wall and water storage tank.

**Interference** shall mean dig up, expose or damage.

**Zone of Influence** shall mean the area under the ground, which is deemed to be loaded by the footings of the building or structure.

## 5.0 Background

The following four performance criteria identify the specific objectives MRC aims to achieve for the purpose of this guideline:

- (1) the carrying out of building work near or over a stormwater drain or associated structure must not:
  - (a) interfere with or adversely affect the function of the service; or
  - (b) place any additional load on the service.
- (2) Adequate access must be provided to the stormwater drain for future maintenance.
- (3) Adequate access must be provided to any access covers associated with a stormwater drain.
- (4) Access must be maintained to a stormwater connection point at all times.

**Note** that this guideline and associated documentation applies only to stormwater systems and proposed works outside of the scope of QDC MP 1.4.

## 6.0 Policy Statement

Guidelines for consideration of erection of structures over or near drainage infrastructure are contained in the document '*Mackay Regional Council – Conditions for Approval – Building Over or Adjacent to Constructed Council Drainage Systems and Easements*'.

## 7.0 Review of Policy

This policy will be reviewed when any of the following occur:

1. The related documents are amended or replaced.
2. The Chief Executive Officer can vary all administrative policies at any given time.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

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Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	New Policy		CEO	29.08.17



Conditions for Approval  
- Building Over or  
Adjacent to Constructed  
Council Drainage Systems  
and Easements

Version 5 | June 2017

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## 1. INTRODUCTION

### 1.1 Citation

This document shall be known as the Technical Services “Conditions for Approval - Building Over or Adjacent to Constructed Council Drainage Systems and Easements”.

### 1.2 Objectives and Scope

#### Scope of Policy

This policy and associated technical guidelines applies to all buildings and structures on private property that contain MRC’s drainage infrastructure. For the purpose of this policy, MRC’s drainage infrastructure includes all stormwater mains and associated infrastructure, such as access holes, connections points between household and MRC services.

#### Objectives

Property owners and developers occasionally want to build new buildings or structures near to, or over, existing under or in-ground infrastructure associated with MRC’s stormwater services. MRC wishes to ensure such developments can proceed without impeding MRC’s current and future ability to offer services and without causing unnecessary risk of damage to both MRC’s and privately-owned infrastructure.

This policy aims to:

- (a) Ensure protection is provided against structural damage to existing underground infrastructure services from construction works or imposed loads;
- (b) Ensure access is available for future maintenance of the services;
- (c) Prevent consequential damage to the owner’s structures;
- (d) Maintain the amenity (functional use) of the property and allow the occupant use of the property without unnecessary constraints.
- (e) Ensure that MRC’s costs and liabilities are minimized when constructing, replacing, maintaining or obtaining emergency access to constructed public drainage systems/assets located within private property.

### 1.3 Head of Power

The head of power for the implementation of this policy is given under Chapter 3 Part 3 Division 2 Sections 77 and 80 of *the Local Government Act*. Associated requirements are referred to under the *Building Regulations 2006 (S56)*, the *Workplace Health and Safety Act 1995* and the Queensland Development Code MP 1.4 – Building over or near relevant infrastructure.

### 1.4 Definition

For a stormwater drain the building, structure or material is defined as being located over or adjacent to the stormwater drainage system if the building, structure or material is located that the offset of the nearest point from the centreline of the stormwater drain is a distance less than sum of the depth to the invert of the stormwater drain plus the pipe diameter plus two (2.0) metres, divided by two and in the case of open drainage systems that the offset of the nearest point of the structure from the centerline of the open stormwater drain is a distance less than the sum of the depth to the invert of the stormwater drain plus two (2.0) metres..

**CCTV** shall mean closed-circuit television inspection conducted to inspect the condition of existing underground assets.

**Demountable** shall mean any structure or roof that can be manually dismantled and removed from its current position by two people within a four hour period.

**Easement** shall mean an area of land, or part of a lot reserved by law for a specified purpose, such as for access.

**Horizontal Distance** shall mean the minimum distance between the outermost edge of the walls, slab, footing, driven pile, bored pile and any integral parts of the building and the outside of the service or associated structure.

**Qualified Engineer** shall mean suitably qualified engineer (civil, structural or geotechnical) having RPEQ accreditation or listed on the national professional Engineer Register (NPER).

**Invert Level** shall mean the bottom, inside of the pipe, drain etc.

**Maintenance Hole** shall mean a chamber with a removable cover that allows human and machine access to an underground pipeline.

**Inspection Opening** shall mean a structure in the line of the sewer between maintenance holes, which provides equipment access, but not personal access to the sewer.

**Structure** shall mean and includes all non-demountable buildings such as a masonry fence, house, deck, pergola, swimming pool, retaining wall and water storage tank.

**Interference** shall mean dig up and expose MRC infrastructure, including exposing damage.

**Zone of Influence** shall mean the area under the ground, which is deemed to be loaded by the footings of the building or structure.

## 2. PRINCIPLES

The guideline is to be implemented according to the following requirements:

### 2.1 Performance Criteria

The following four performance criteria identify the specific objectives MRC aims to achieve for the purpose of this policy.

- (1) The carrying out of building work near or over a stormwater drain or associated structure must not:
  - (a) interfere with or adversely affect the function of the service; or
  - (b) place any additional load on the service.
- (2) Adequate access must be provided to the stormwater drain for future maintenance.
- (3) A two (2.0) metre radius exclusion zone measured from the centre of an access lid is to be provided to any access covers associated with a stormwater drain.
- (4) Access must be maintained to a stormwater connection point at all times.



## **2.2 Guiding Principles**

MRC's policy to managing the issue of building over or near MRC infrastructure is guided by the following principles:

- (i) Where possible, locate MRC infrastructure on public land.
- (ii) Where not possible, acquire easements over MRC's infrastructure on private land.
- (iii) Where (i) - (ii) are not possible, require / request building / structure be located elsewhere on the property.
- (iv) Where (i) - (iii) are not possible, relocate service to road reserve (or other agency property).
- (v) Where (i) – (iv) are not possible, and if the hydraulic integrity of agency services may be degraded by relocating the service, and an inspection shows the structural condition of the infrastructure suitable to building over, or it can be improved (e.g. by relining), then permit building over infrastructure with conditions, using a MRC policy to guide decisions.
- (vi) Where (i) – (iv) are not possible, and if the hydraulic integrity of agency services (as a whole) will not be degraded by relocating the service around the building / structure, relocate infrastructure around new building / structure.

This document applies only to stormwater infrastructure and scenarios outside the application of QDC MP 1.4 and the relevant acceptable solutions identified.

## **2.3 Environmental Considerations**

In addition to a technical assessment under this policy, any proposal for building over or adjacent to a constructed drainage system will be subject to an assessment in accordance with MRC's Local Planning Scheme of the merits or impacts of the proposal. Compliance with the technical requirements of this policy is not to be taken as implying that MRC approval will be issued.

The purpose of the Policy is to set out guidelines to assess this impact and determine any developer contribution / development condition required to offset or mitigate this impact.

## **2.4 Easement Requirements for MRC Drainage Systems**

MRC will acquire drainage easements over all constructed public drainage systems within private property.

When a development application is submitted and the property contains a MRC drainage system not burdened by a drainage easement, development consent shall be conditional upon the property owner agreeing to grant MRC a drainage easement. All costs including legal and surveying associated with the creation of the easement are to borne by the applicant.

Easement documentation shall include items such as:

- Indemnities in MRC's favour for any future damages due to failures in the drainage system.
- Provide enforceable requirements where MRC can at some future date require removal of the owner's structure to enable repair of the drainage

system with all costs for both removal and reinstatement being borne by the property owner.

- Ensure that the easement requirements be lodged against title deeds so that the current and prospective future owners are aware of the ongoing requirements.

Where a developer / property owner obtains MRC approval to reconstruct and / or relocate any existing constructed public drainage system within the subject site, the developer / property owner shall create drainage easements in favour of MRC, to suit the relocated / reconstructed drainage system;

All costs associated with the reconstruction and/or relocation of MRC's drainage system are to be borne by the applicant. This also includes hydrological and hydraulic studies and design plans prepared by a Qualified Engineer.

## **2.5 Hydraulic Design Requirements**

The design Average Exceedance Probability (AEP) for major events shall be 1%.

For in-fill development and reconstruction works within existing developed areas, MRC may vary the design AEP to be compatible with existing conditions. Where MRC approves a lower AEP for in-fill development, it will not be less than 2%.

For minor events, the AEP depends on the zoning of the land being serviced by the drainage system. The minor system design AEPs shall be:

- Open space 100%
- Residential 50%
- Commercial 20%
- Industrial 20%
- Rural Residential 20%
- Central Business 6.67%

For cross-drainage requirements, refer to Tables 7.3.1 and 7.3.2 in QUDM.

Where a development is designed in such a way that the major system flows involves surcharge across private property, then the underground system (both pipe and inlets) shall be designed to allow the collection and containment of flows having an AEP of 1% from the upstream catchment within an easement in the private property.

A surcharge path shall be defined for systems even where 1% AEP flows can be maintained within the underground system. Easements shall be provided in private property over pipe systems and surcharge paths.

## **2.6 Reserves**

### Urban Developments

All overland flow paths and open channels not located within a road reserve or park reserve shall be located within an easement or drainage reserve.

All detention basins shall be located within a drainage reserve.

Easements shall be provided through private property over underground drains or overland paths to the lawful point of discharge. All easements shall be in MRC's favour and provided free of cost to MRC.

Overland flow paths between allotments may be provided within local linkage or linear parks which shall have a minimum width of 15 m. Narrow reserves between allotments to cater for overland flow paths only, will require specific approval and are generally not acceptable.

Any linkage of reserves is to be designed as an integral part of a development by providing access to parks, schools, shops and other community facilities.

The location and layout of any linkage of reserves shall confirm to the principles of Crime Prevention through Environmental Design (CPTED).

The minimum width of the easement or reserve shall be the greater of:

- a) The sum total of the outer width of the largest underground culvert plus 2.5m either side.
- b) The sum total of the open channel (including batters up to 1:4 slope) plus 1.0m from the top of each batter point on each side.
- c) Where MRC has approved open channel batters greater than 1:4 the minimum width of the easement will be the sum total of the required setback at FSL (Finished Surface Level) from the top of the batter shall be 1.0m away from the batter point and 4.0m away from the top of the opposing batter so as to provide adequate and safe access for MRC plant to maintain the channel.

Evidence of any Deed of Agreement necessary to be entered into to construct any part of the drainage system shall be submitted prior to the issuing of a Decision Notice for Operational Works. Easements will need to be created prior to the endorsement of the plan of survey for the subdivision.

Evidence of any Agreement reached with adjacent landowners to allow an increased flood level on their property, or otherwise adversely affect their property and witnessed by an independent person shall be submitted prior to the issuing of a Decision Notice for Operational Works.

#### Rural Residential Development

MRC will assess the length of any downstream easement, to its lawful point of discharge, on an individual basis. In general, an easement, capable of containing the flow from a storm event having a 1% AEP, will be required immediately downstream of the development except in the following circumstances:

- (a) Where a well-defined natural watercourse exists; and
- (b) Where the watercourse can contain the 1% AEP flow.

MRC will assess the length of any downstream easement, to its lawful point of discharge on an individual basis.

An easement is to be provided upstream of any culvert inlet where the calculated 1% AEP headwater extends beyond the road reserve and into private property.

Evidence of any Deed of Agreement necessary to be entered into to allow an increased flow level on their property, or otherwise adversely affect their property and witnessed by an independent person shall be submitted prior to the Issuing of a Decision Notice for Operational Works.

#### Easement Conditions

In general, Easement Conditions to be applied to the area in question shall follow the general format of that contained in Appendix B.

## 2.7 Permanent Structures over MRC's Drainage System

The construction of buildings or other permanent structures over constructed public drainage systems is not favoured and will generally not be approved by MRC. However, in certain cases, consideration may be given to a development proposal which can satisfy the minimum requirements for construction and maintenance access and also comprehensively demonstrate that objectives of this policy will be met. In these cases it will also be necessary to demonstrate that the site cannot be reasonably developed without building over, or by relocating MRC's drainage system.

Filling over MRC's drainage systems may be permitted, subject to the approval of MRC's technical staff with supporting hydraulic studies prepared by a Qualified Engineer in the relevant field.

The hydraulic study is to demonstrate that there are no adverse effects including diversion of overland flow paths and flooding of upstream and downstream properties.

*Note: Construction of buildings or other permanent structures under constructed public drainage systems is not permitted.*

MRC may permit structures over constructed public drainage systems which are lightweight and easily demountable or removable such as carports and car stand areas. Easement Conditions in favour of MRC will need to be created on the title, requiring any costs related to dismantling, removal and subsequent reassembling, re-installation, re-instatement of the above structures to be borne by the property owner.

Fences are not to be built over MRC's drainage system as they impede the overland flow path, unless it can be demonstrated that there are sufficient openings to cater for the overland flow and also prevent the potential for debris blockages. Fences must be designed to be able to be readily dismantled. All costs associated with the removal and reinstatement of the fences is to be borne by the applicant.

## 2.8 Minimum Requirements for Construction and Maintenance Access

MRC may give a property owner approval to build a permanent structure over an existing MRC drainage system where the structure provides adequate access for MRC to reconstruct and maintain the drainage system. MRC will not approve a structure over a public drainage system which will result in MRC incurring additional costs by having to use specialized equipment or construction techniques.

### (a) Dimensional Requirements

MRC's dimensional requirements for access are governed by the minimum horizontal and vertical clearances necessary for standard machinery to gain access to and undertake construction and maintenance of public drainage systems. These clearances include:

- (i) The vertical height from the surface level over the public drainage system to the underside of the overlying structure. This is generally governed by the vertical swept path of backhoes, excavators and cranes and must take into account clearances necessary to load and unload standard trucks. The minimal vertical height shall be 5.0 metres.
- (ii) The horizontal distance between permanent obstructions along the line of the public drainage system. This is generally governed by turning

circles and horizontal swept paths of backhoes, excavators and cranes and must take into account the limited manoeuvrability capabilities of these standard machines. The horizontal clearance shall be the minimum of three(3.0) metres or the pipe / channel diameter plus two(2) metres.

The vertical and horizontal clearances through the structure for access to the MRC drainage system is governed by the travelling heights, width and turning radius of standard construction machinery, and must take into account the size of loaded vehicles required to deliver construction materials or equipment. The minimum vertical clearance shall be three and a half (3.5) metres and the horizontal clearance shall be three and a half (3.5) metres on straight sections with increases provided as necessary on vertical and horizontal curves. A right of carriageway in favour of MRC will need to be created over the access way prior to occupation of the building.

*Note: The above dimensional values are minimums only. The required clearances will vary according to the size of the MRC drainage system and are subject to the discretion of MRC's technical staff.*

b) Structural Provisions

***Design Standards – Minor Structures***

Figures 1 and 2 showing the exclusion zone and design of footings required under this Policy, are given in the Appendix of this document. Prior to commencing works on the structure, a plan of the footing design shall be assessed and approved by an appropriately Qualified Engineer. A copy of the approved plan must be submitted as part of the Building Over Stormwater Application.

• Minor Structures

These shall include but not be limited to the following:

- Garages (Clause 10a) under 63 m<sup>2</sup> that do not require any cut / fill in excess of one half (0.5) m.
- Carports (Class 10a) under 63 m<sup>2</sup> that do not require any cut / fill in excess of one half(0.5) m.
- Patios, decks, verandas, stairways and similar structures. (Class 10 a)
- Retaining walls (Class 10b) (including ones requiring fill over the stormwater line) up to two(2) m in height.

(a) *For Footings in Zone B*

- (i) All footings shall be extended so that the base of the footing is founded a minimum of 300 mm below the angle of repose in Zone B;
- (ii) A relevantly Qualified Engineer (RPEQ) shall certify that the footing will not impose any additional loading on the stormwater. The Engineer is required to submit a Compliance Certificate for Building Design (Form 15).

(b) *For Footings in Zone A*

- (i) All loads shall be transferred by beams across Zone A onto either supporting piers or a continuous footing which shall be founded a minimum of 300 mm below Zone B;

- (ii) A minimum clearance of 600 mm shall be provided between the base of the transfer beam and top (obvert) of the stormwater;
- (iii) A Qualified Structural Engineer shall certify that the footing will not impose any additional loading on the stormwater and that the footing is structurally adequate to span Zone Q. The Engineer is required to submit a Compliance Certificate for Building Design (form 15);
- (iv) Where the age of stormwater to build over is greater than two(2) years of age the stormwater is to be Closed Circuit Television inspected. If the condition of the stormwater is deemed to be unsuitable by MRC, the section of stormwater shall be either of the following:
  1. Relocated clear of the proposed building or structure at the applicant's expense. The design is to be submitted and approved by MRC prior to the construction of the stormwater.
  2. Replace with a pipe material nominated by MRC from property boundary to property boundary at the applicant's expense.
  3. Relined by a contractor nominated by MRC for the full length of pipe between manholes. Costs to the applicant will be determined by MRC based on the condition of the existing stormwater.

### **Design Standards – Major Structures**

Figures 1 and 2 showing the exclusion zone and design of footings required under this Policy, are given in the Appendix of this document. Prior to commencing works on the structure, a plan of the footing design shall be assessed and approved by a Qualified Engineer. A copy of the approved plan must be submitted as part of the Building Over Stormwater Application.

- Major Structures

These shall include but not be limited to the following:

- Dwellings of all kinds (Class 1a, 2,
- In-ground swimming pools (Class 10b)
- Commercial and industrial buildings (Classes 3 to 9)
- Garages over 63 m<sup>2</sup> (Class 10a)
- Carports over 63 m<sup>2</sup> (Class 10a)
- Retaining walls greater than 2 m in height (Class 10b)

In General, establishment of major structures over the stormwater system is not favoured. Alternative designs need to be provided by a Qualified Engineer to verify that a viable alternate route for stormwater of similar capacity exists through the site or other locations should the built over section of the system failure.

(a) *For Footings in Zone B*

- (i) All footings shall be extended so that the base of the footing is founded a minimum of 300 mm below line of repose in Zone B;

- (ii) A relevantly Qualified Engineer (RPEQ) shall certify that the footing will not impose any additional loading on the stormwater. The Engineer is required to submit a Compliance Certificate for Building Design (Form 15).
- (b) *For Footings in Zone A*
- (i) All loads shall be transferred by beams across Zone A onto either supporting piers or a continuous footing which shall be founded a minimum of 300 mm below line of repose Zone B;
  - (ii) A minimum clearance of 600 mm shall be provided between the base of the transfer beam and top (obvert) of the stormwater;
  - (iii) A relevantly Qualified Engineer (RPEQ) shall certify that the footing will not impose any additional loading on the stormwater and that the footing is structurally adequate to span Zone A. The Engineer is required to submit a Compliance Certificate for Building Design (Form 15).

Where the age of stormwater to be built over or adjacent to is greater than 2 years the stormwater is to be Closed Circuit Television (CCTV) inspected. If the condition of the stormwater is deemed to be unsuitable by MRC, the section of stormwater shall be either of the following:

1. Relocated clear of the proposed building or structure at the applicant's expense. The design is to be submitted and approved by MRC prior to the construction of stormwater.
2. Replace with a pipe material nominated by MRC from property boundary to property boundary at the applicant's expense.
3. Relined by a Contractor nominated by MRC for the full length of pipe between manholes. Costs to applicant will be determined by MRC based on the condition of the existing stormwater.

(c) *Right of Access by MRC*

Provision is to be made to ensure that MRC has uninhibited legal right of access through the overlying structure to the MRC drainage system.

To ensure that MRC has uninhibited access through the overlying structure, for emergency purposes, gates or doors cannot be installed along the path of access, between the public road and the MRC drainage system.

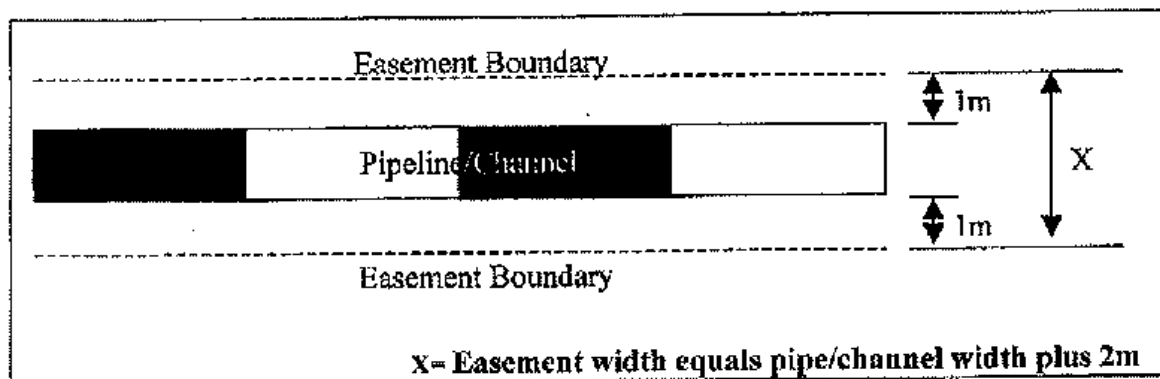
To ensure that MRC has legal right of access through the overlying structure, a Right of Carriageway is required to be granted to MRC over the full length and width of the access, between the public road and the public drainage system. The Right of Carriageway shall be created to facilitate the minimum dimensions required by Paragraph 2.8(a)(ii).

## **2.9 Minimum Easement Width Requirements**

The width of any drainage easement is controlled by the minimum practical width necessary for standard machinery to carry out reconstruction of the public drainage system to current standards and Occupational Health & Safety requirements. For

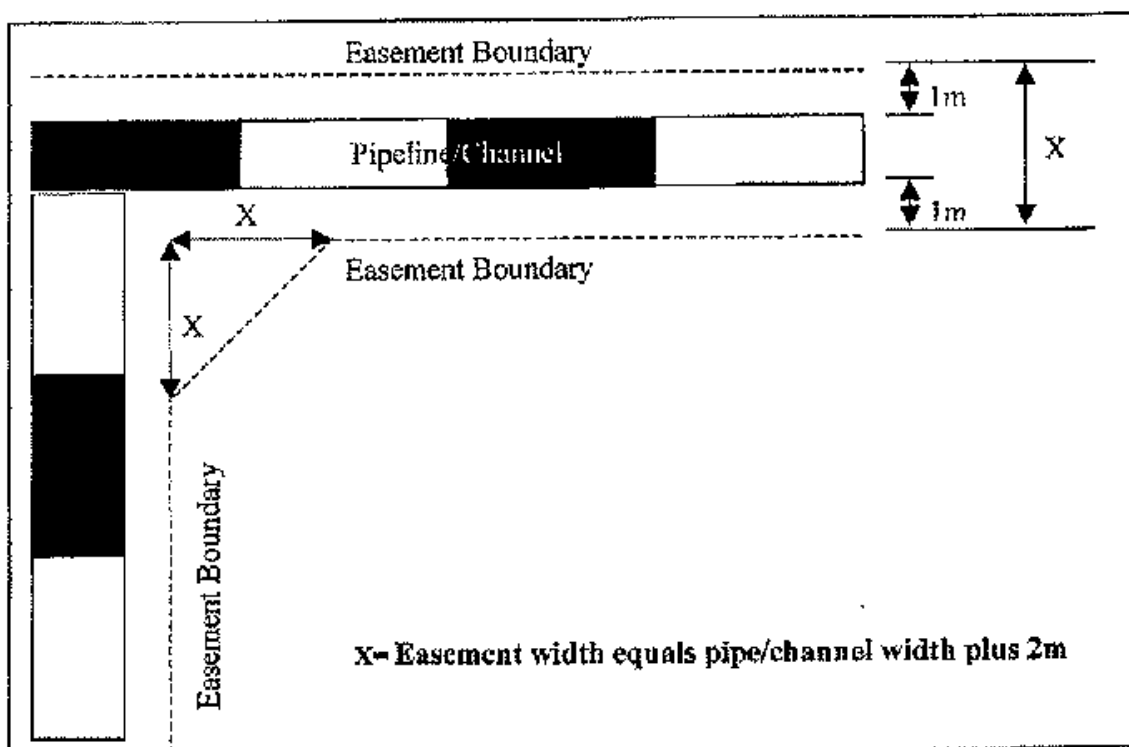
this reason, the minimum width of any drainage easement shall be three(3.0) metres.

For pipes / channels having a width greater than one(1.0) metre, the drainage easement shall have a minimum width equal to the external width of the pipe / channel plus two(2) metres, rounded to the next 0.1 metre (See Figure 1 below).



**Figure 1 – Drainage Easement Width (Straight)**

If bends occur in the MRC drainage system then the minimum easement width shall be increased as detailed in figure 2 below.



**Figure 2 – Drainage Easement Width (Bend)**

### 3. SITE WORKS

- 3.1 Prior to commencing works, the exact location and depth of the stormwater drainage system shall be ascertained on-site. Any discrepancies between the actual and recorded location and depth shall be reported to MRC for investigation before proceeding. All costs for such investigation shall be borne by the applicant.
- 3.2 Adequate measures shall be taken to ensure the stormwater drainage system is protected from damage at all times. In particular, heavy earthmoving equipment



and driven piles shall not be used near the stormwater drainage system. In the event that the system is damaged MRC must be notified immediately. All costs associated with rectification of damage to MRC assets will be recovered from the owner / builder / applicant.

#### 4. INSPECTION REQUIREMENTS

4.1 The following stages of work shall be presented for inspection as applicable:

- (a) **All footing systems located within the zone of influence** prior to construction shall be inspected and certified by the building certifier or a professional engineer.
- (b) **All exposed stormwater drains** prior to backfilling a MRC Inspector shall first be given the option of inspecting the exposed stormwater pipes. A minimum 24 hours notification of inspection is required.
- (c) **All stormwater drains** to be CCTV inspected before and after building works. Ten (10) days' notice is required. Costs are to be met by the applicant.

#### 5. STORMWATER DRAINAGE SYSTEM IMPROVEMENTS

5.1 Prior to commencing any site works the applicant shall make application to MRC for an assessment of the following:

- (a) **The condition of the stormwater drains** – All stormwater drains shall be inspected, at the applicant's expense, by MRC's CCTV inspection camera to ascertain the internal condition of the sewer;
- (b) **The need for additional maintenance holes** – additional maintenance holes may be necessary adjacent to the building to improve emergency operations;
- (c) **The need to renew the stormwater drain** – old or damaged pipes will generally require renewing from property boundary to property boundary;
- (d) **The need to reline the sewer between maintenance hole to maintenance hole.**

5.2 Where the assessments of Condition 5.1 have identified the need for improvements to the stormwater drainage system, the applicant shall liaise with MRC to effect these improvements at the applicant's expense.

#### 6. INGROUND SWIMMING POOLS

Due to the special nature of and loads imposed by inground swimming pools, these structures shall not be built over or adjacent to the stormwater system as defined under section 1.4.

6.1 An inground swimming pool must be located clear of the stormwater drain's zone of influence unless the depth of the stormwater is greater than two and one half(2.5) m in which case the swimming pool must be offset a minimum of two and one half(2.5) m from the stormwater.

6.2 For stormwater drains greater than 225 mm in diameter, the application will be assessed on a case by case basis.

## **APPENDIX A**

### **Building over Stormwater Application Form**



## BUILDING OVER STORMWATER APPLICATION

*To be completed and returned to enable the issue of a Permit*

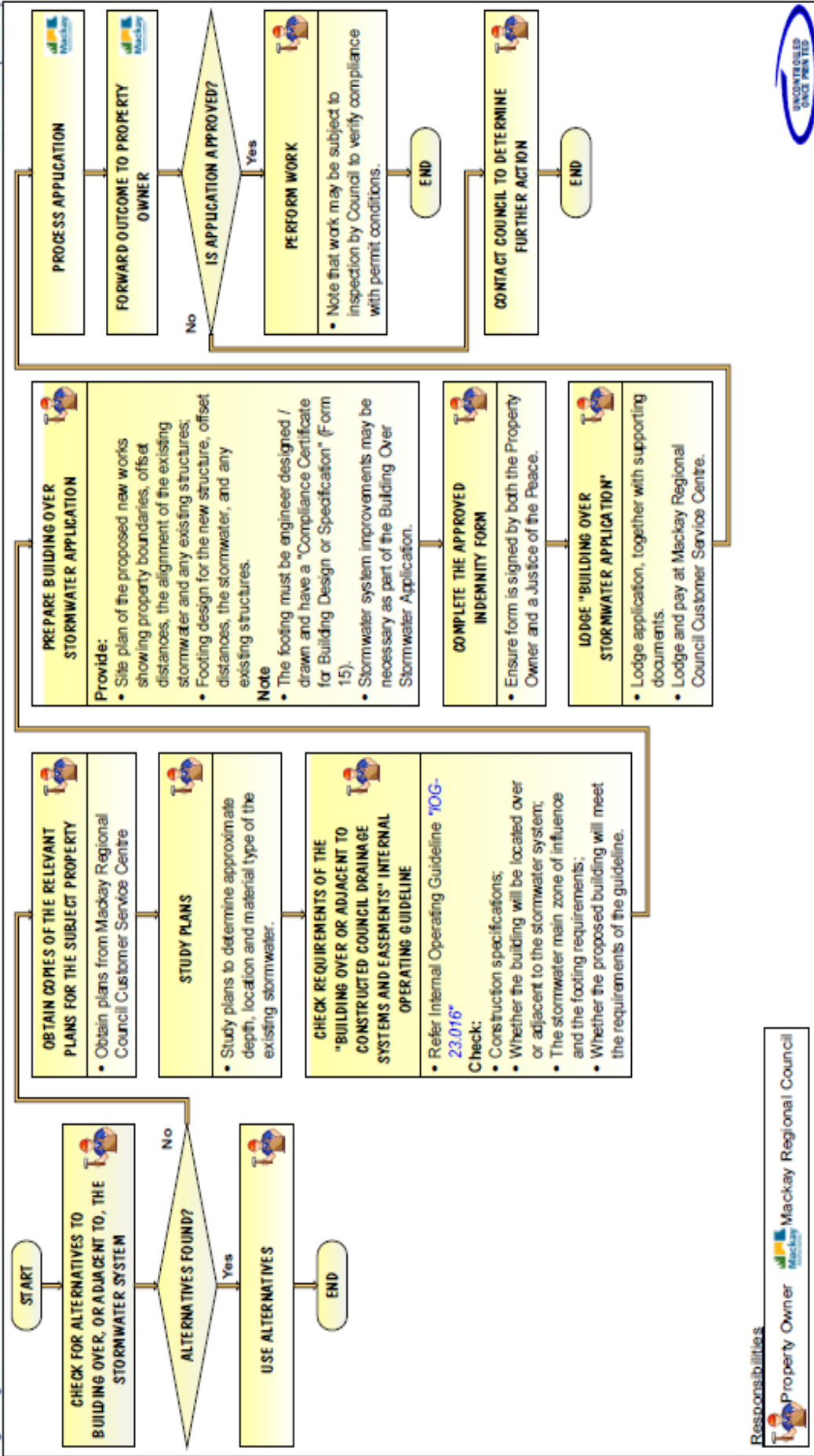
1. Applicant's name:
2. Applicant's postal address
3. Owner's name:
4. Owner's address:
5. Site address where work is to be carried out:
6. Property description where work is to be carried out:
7.  New Dwelling                       Existing Dwelling                       Other
8. We hereby apply for permission to construct the following works: *[Detailed description of works to be carried out]*

**NOTE: The applicant recognises that there will be no refund on the application fee once the application has been receipted.**

Signature of Owner:	<input type="text"/>	Date:	<input type="text"/>
Signature of Applicant	<input type="text"/>	Date:	<input type="text"/>

**PRIVACY DISCLAIMER:**  
Mackay Regional Council is collecting your personal information in order to process your application. This information will only be disclosed to any other third party with your written authorisation or as we are required to by law.

<b>For Council Use Only:</b>		
Permit No: _____	Date Issued: _____	Initials: _____
Date Received: _____	Receipt No: _____	Amount Paid: _____
BOAS P/P: _____	Is application signed?: Yes / No	

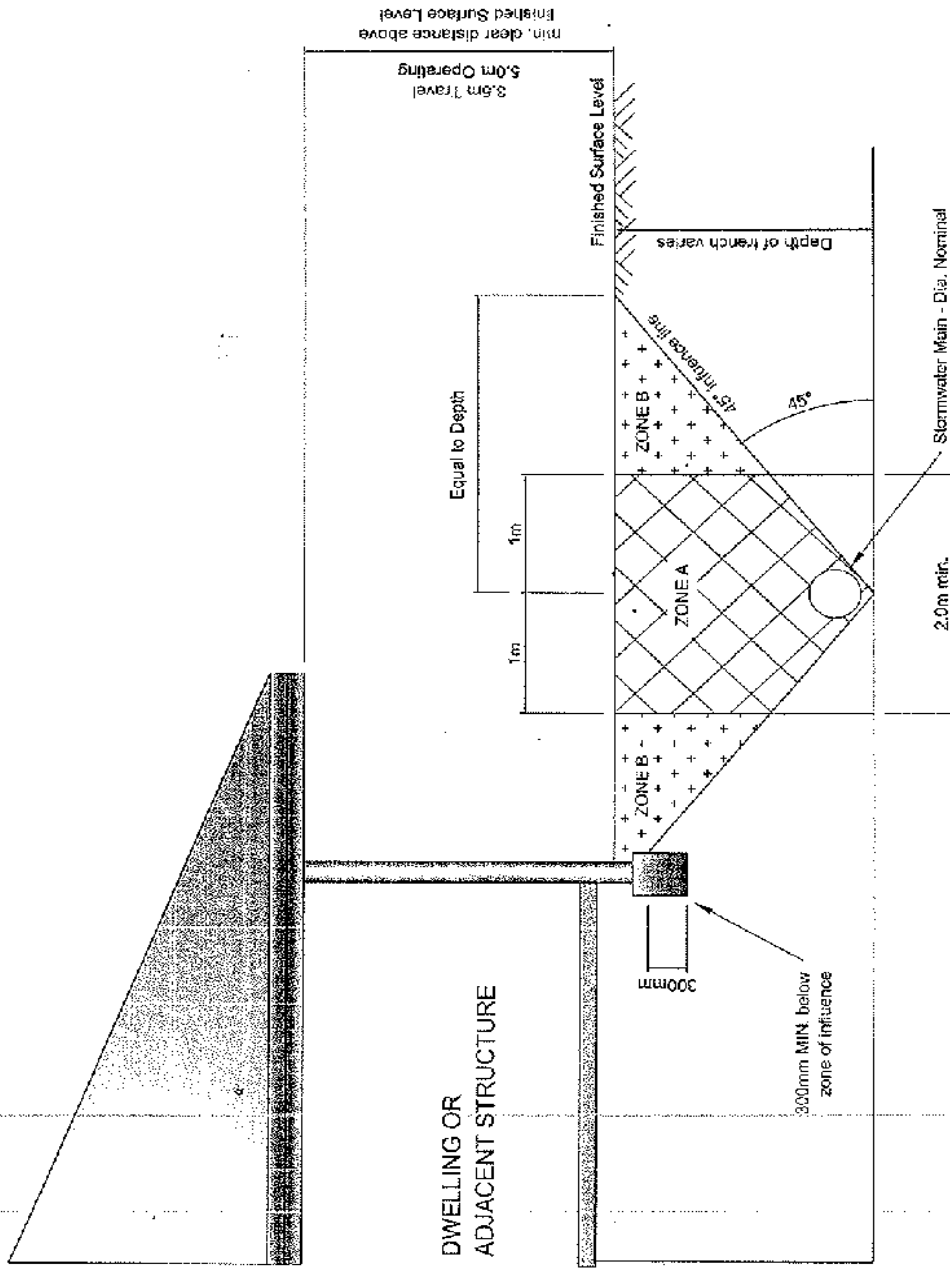


**Responsibilities**

 Property Owner



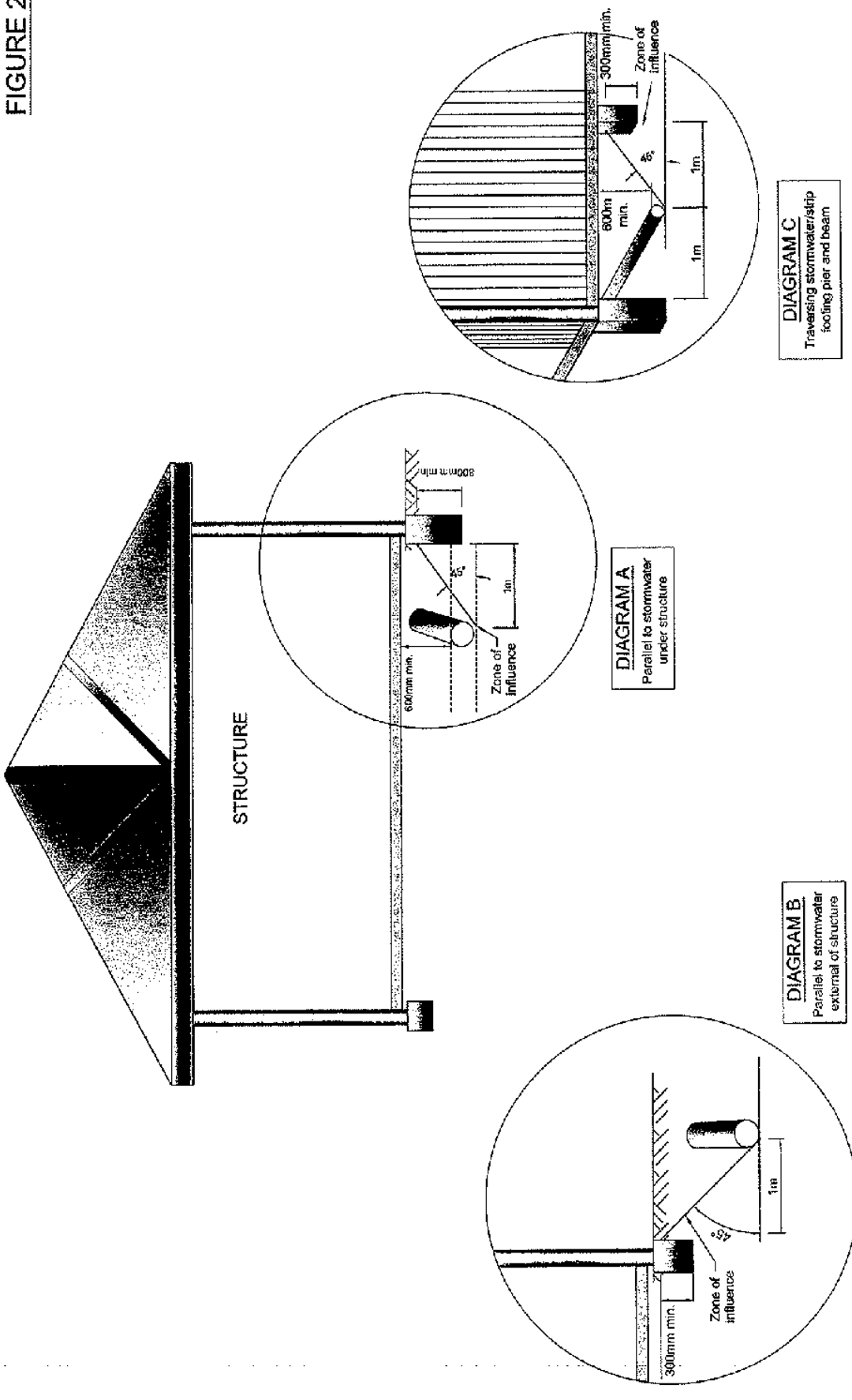
**FIGURE 1**



**NO FOOTINGS PERMITTED IN ZONE A**

SHEET 1 OF 1		WORKS JOB No.		DRAWING No.		AMEND.	
STANDARD		BUILDING OVER STORMWATER		EXCLUSION ZONE & DESIGN FOOTINGS		A3-3796 A	
 <b>Mackay</b> REGIONAL COUNCIL		DIRECTOR ENGINEERING SERVICES ORIGINAL SIGNED BY S.M. HOLLEY STUART HOLLEY RPED 0940		DATE 14/2/2007		DATE 14/2/2007	
DATE	14/2/2007	DATE	14/2/2007	DATE	14/2/2007	DATE	14/2/2007
DESIGNER	SURVEYOR	ENGINEER	INSPECTOR	APPROVED	APPROVED	APPROVED	APPROVED
DATE	DATE	DATE	DATE	DATE	DATE	DATE	DATE
MANAGER TECHNICAL SERVICES	MANAGER TECHNICAL SERVICES	MANAGER TECHNICAL SERVICES	MANAGER TECHNICAL SERVICES	MANAGER TECHNICAL SERVICES	MANAGER TECHNICAL SERVICES	MANAGER TECHNICAL SERVICES	MANAGER TECHNICAL SERVICES
ORIGINAL SIGNED BY G. HAWES	ORIGINAL SIGNED BY G. HAWES	ORIGINAL SIGNED BY G. HAWES	ORIGINAL SIGNED BY G. HAWES	ORIGINAL SIGNED BY G. HAWES	ORIGINAL SIGNED BY G. HAWES	ORIGINAL SIGNED BY G. HAWES	ORIGINAL SIGNED BY G. HAWES
G. HAWES RPED 0583	G. HAWES RPED 0583	G. HAWES RPED 0583	G. HAWES RPED 0583	G. HAWES RPED 0583	G. HAWES RPED 0583	G. HAWES RPED 0583	G. HAWES RPED 0583
FILE NAME	18TD-DWG5\MWORKS\A3-3796.DWG	FILE NAME	18TD-DWG5\MWORKS\A3-3796.DWG	FILE NAME	18TD-DWG5\MWORKS\A3-3796.DWG	FILE NAME	18TD-DWG5\MWORKS\A3-3796.DWG
NO.	DATE	DESCRIPTION	APPROVED	APPROVED	APPROVED	APPROVED	APPROVED
A	14/2/2007	TITLE BLOCK & MIN. CLEAR DISTANCE REVISED	CTW	APPROVED	APPROVED	APPROVED	APPROVED
AMENDMENTS AND REVISIONS							

FIGURE 2



DRAWING FILE NAME  
 \STD-DWG\WORKSIA3-3796.DWG

AMENDMENTS AND REVISIONS			
NO.	DATE	DESCRIPTION	APPVD.

DESIGNED  
 DRAWN  
 CHECKED  
 DATE 12/12/07  
 M.A.S. G. Hawks  
 G. HAWKS  
 REGD. 5683

**MACKAY**  
 CITY COUNCIL

EXECUTIVE MANAGER  
 INFRASTRUCTURE SERVICES  
 S. M. HALL  
 STUART HOLEY  
 04. 11. 01  
 PHONE (07) 4968 4477  
 FAX (07) 4944 2431

**STANDARD  
 BUILDING OVER STORMWATER  
 EXCLUSION ZONE & DESIGN  
 FOOTINGS**

DRAWING No.  
**A3-3797**  
 AMEND.  
 SHEET 1 OF 1



## **APPENDIX B**

### **STANDARD EASEMENT CONDITIONS**

Title Reference [                      ]

This is the Schedule referred to in EASEMENT IN GROSS dated                      2014.

**1. GRANT OF EASEMENT**

The Grantor hereby grants to the Grantee and all person authorised by the Grantee the full and free right and liberty at all times hereafter with or without machinery, motor cars, and vehicles of any description laden or unladen to pass repass along over and upon and across the Servient Tenement for stormwater and drainage purposes and to exercise all powers, authorities and discretions vested in it by law for the passage or conveyance of storm water.

**2. GRANTEE'S RIGHTS**

2.1 The Grantee has the right at all reasonable times, upon giving prior written notice to the Owner (except in the case of an emergency when no notice will be required) with or without vehicles, machinery, plant and equipment and materials, to enter upon the Servient Tenement to pass and repass along the same at all times for the purposes of using and repairing the Works and in so doing the Grantee's Employees may:

- (1) remove and replace the Works with new Works;
- (2) change the size and number of any pipes forming part of the Works;
- (3) extend, deepen, widen, repair, renew, mow, cleanse, add to, inspect and maintain the Works including altering, replacing, relaying or changing the size, shape or type;
- (4) dig into, sink shafts into and open and break up the soil of the Servient Tenement;
- (5) remove and dispose of soil created as a consequence of the Grantee exercising its rights under this Easement;
- (6) do such other Works and things on or under the Servient Tenement as are incidental to the exercise of the Grantee's rights under this Easement;
- (7) take down any fencing or structure erected on the Servient Tenement.

2.2 In exercising its rights under this Easement the Grantee and the Grantee's Employees will subject to Clause 3:

- (1) exercise the rights in a proper and workmanlike manner so as to cause as little inconvenience and disruption as possible to the Grantor's Land;
- (2) repair any damage it may cause to the surface of the Servient Tenement or adjoining land.



Title Reference [                      ]

**3. GRANTOR'S OBLIGATIONS**

3.1 The Grantor must not without the prior written consent of the Grantee:

- (1) construct or allow to be constructed upon the Servient Tenement any buildings or structures;
- (2) permit the Servient Tenement to be used in such a way as to obstruct or interfere with the Works and/or the proper and effective use of the Works by the Grantee;
- (3) install or have installed any concrete or bitumen paths or driveways on the Servient Tenement or gardens or landscaping using brick, concrete or other permanent materials;
- (4) alter the surface level of the Servient Tenement;
- (5) obstruct, interrupt, impede, impair, or interfere with or divert the flow of storm water drainage along the Servient Tenement and will not change or alter anything done by the Grantee in terms hereof.

3.2 If the Grantor wishes to construct upon the Servient Tenement any building or structure it will provide the Grantee with detailed plans enabling the Grantee to consider the request and the Grantee may in its absolute discretion refuse such request.

3.3 If the Grantee consents to the construction of a building or structure upon the Servient Tenement, the Grantor:

- (a) will ensure that the building or structure is built in a proper and tradesmanlike manner in accordance with the plans submitted to the Grantee and will be maintained so as not to interfere with the Works;
- (b) acknowledges and accepts that the building or structure will be built upon the Servient Tenement at the sole risk of the Grantor and will be used and occupied at the sole risk of the Grantor;
- (c) acknowledges and accepts that it may be necessary for the Grantee to:
  - (i) demolish the whole or part of the said building or structure;
  - (ii) carry out work under or upon the surface of the Servient Tenement which may have an adverse impact upon the said building or structure or interfere with the use and enjoyment of the said building or structure or the land;
- (d) acknowledges and accepts that it cannot make any claim for compensation whatsoever arising from the Grantee exercising its rights under this easement or at law;
- (e) the Grantee's consent to erection of the said building or structure on the Servient Tenement shall not be deemed in any way an assumption by the Grantee of any

Title Reference [                      ]

obligation towards the Grantor or to any person on the Servient Tenement and the Grantee shall not be thereby deemed to incur any liability.

- (f) indemnifies and will keep indemnified the Grantee against all actions, demands, claims, costs arising in any manner whatsoever from the construction, erection, use or occupation of the said building or structure upon the Servient Tenement.

#### 4. **PROPERTY IN WORKS**

4.1 The Works remain the property of the Grantee despite being fixed to the Servient Tenement.

#### 5. **GENERAL**

##### 5.1 NOTICES

- (1) Any notice under this Easement must be in writing; and
- (2) Either party may serve a notice to the other party by:
- (a) giving it to that party personally;
  - (b) posting it to the last known address of that party;
  - (c) sending it to the party's facsimile number.
- (3) When served by post a Notice will be deemed to have been received on the second business day after posting and when sent by facsimile will be deemed to have been received at the time at which transmission confirmation is received by the Sender.

##### 5.2 COSTS

The Grantee shall pay the Grantor's costs of and incidental to this Easement, and the Grantee will pay the survey plan and registration fees in respect of this Easement and any plan necessary to effect registration of this Easement.

#### 6. **CONSTRUCTION AND INTERPRETATION**

##### 6.1 DEFINITIONS

- (1) **"Grantee"** means the Grantee described in item 5 of the form 9 and its successors and assigns;
- (2) **"Grantee's Employee's"** means each of the Grantee's employees, contractors or other persons authorised by the Grantee;
- (3) **"Grantor"** means the Grantor described in item 1 of the form 9 and includes:
- (a) the executors, administrators and assigns of the Grantor and each of them;

Title Reference [                      ]

- (b) the registered owner for the time being of the Servient Tenement and the land of which it forms part from time to time.
- (4) **“Servient Tenement”** includes any part of the Servient Tenement.
- (5) **“Work”** means:
  - (a) open earth drains, pipes or mains for the purpose of conveying storm water under or over the Servient Tenement together with all other usual and necessary fittings and attachments; and
  - (b) temporary stormwater detention basin; and
  - (c) works for the protection and/or support of each of those things.

## 6.2 CONSTRUCTION

Reference to:

- (1) a person includes:
  - (a) a corporation and governmental body; and
  - (b) the legal representative, successors and assigns of that person;
- (2) a right includes a remedy, authority or power;
- (3) a gender includes all genders;
- (4) the singular includes the plural and the plural includes the singular;
- (5) any Act includes all amendments or substitutions for that Act and the Regulations made under that Act.

## 6.3 SEVERABILITY

If a provision contained in this Easement is invalid or unenforceable, that provision will, as far as possible, be read down to the extent necessary for it to be valid or enforceable but, if it cannot be read down, it will be severed from the document and the remaining provisions will remain in full force and effect.

## 6.4 HEADINGS

Headings are for convenience only and do not effect the interpretation or form part of this Easement.



## **APPENDIX C**

### **STANDARD INDEMNITY CONDITIONS**

Deed Poll made at  
2017

on the

day of

Given by

\_\_\_\_\_ (insert name) ("Owner")

\_\_\_\_\_ (insert address) ("Property")

In favour of **Mackay Regional Council ABN 56 24 721 069** of 73 Gordon Street, Mackay in the State of Queensland ("**Council**")

## RECITALS

- A. Council has relevant water, sewerage and/or drainage infrastructure located on or adjacent to the Property.
- B. The Owner intends to build the structure described in an application made to Council for consent dated on or about the date of this Deed (**Structure**).
- C. The Owner is required to obtain Council's consent to build the Structure on the Property.
- D. In consideration for Council granting its consent, the Owner has agreed to indemnify and cause future owners of the Property to indemnify Council on the terms of this deed.

## THIS DEED PROVIDES:

### 1. INDEMNITY

- 1.1 The Owner is liable for and indemnifies Council from and against all liability, loss, costs and expenses (including legal fees, costs and disbursements on the higher of a full indemnity basis and a solicitor and own client basis, determined without taxation, assessment or similar process and whether incurred by or awarded against the Council) arising from or in connection with:
  - (a) the construction of the Structure on the Property;
  - (b) the existence of the Structure on the Property; or
  - (c) the removal of the Structure from the Property.

### 2. COVENANT

- 2.1 Immediately prior to the sale or transfer of the Owner's interest in the Property, the Owner must:
  - (a) obtain from the purchaser/transferee an indemnity in favour of the Council and a covenant in an identical form to this deed; and
  - (b) deliver the purchaser/transferee's duly executed indemnity and covenant to Council.
- 2.2 Upon receipt by Council of the purchaser/transferee's duly executed indemnity, the Owner will be released and discharged from all liability in respect of this deed.
- 2.3 If the Owner fails to comply with clause 2.1, the Owner will remain liable to Council under this deed.

### 3. GOVERNING LAW AND JURISDICTION

- 3.1 The construction, performance and validity of this deed shall in all respects be governed by the laws of Queensland.
- 3.2 The parties agree to submit to the exclusive jurisdiction of the courts situated in Queensland.
- 3.3 A reference in this document to the Owner includes the person's executors, administrators and successors (as the case may be).

**EXECUTED** as a deed poll

Signed, sealed and delivered by the Owner in the presence of:

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Full name of Owner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Full name of Witness

## **APPENDIX D**

### **TYPICAL FORM OF APPROVAL**



**Permit to Build Over and Adjacent to Council  
Drainage Systems and Easements**  
*Local Government Act Chapter 13, Part 7, Division 2, S.956 E & F*

Date of Issue:

Permit For:

Applicant's Details:

Name	
Postal Address	

Owner's Details:

Name	

Property Details:

Address	
Description	

The following conditions apply to this permit:

<u>Concurrency Agency Response</u>
<u>Concurrency Agency Advice</u>

**Note:**

- a. ***This permit is valid for two (2) years from the date of issue.***
- b. ***This approval does not imply that issues/requirements relating to planning and/or building legislation have been complied with. It is the applicant's responsibility to ensure that all relevant information pertaining to this permit is passed on to the building certifier for their records and information.***

Signature	
Name:	
Position	

MACKAY REGIONAL COUNCIL IS COLLECTING YOUR PERSONAL INFORMATION IN ORDER TO PROCESS YOUR APPLICATION. THIS INFORMATION WILL ONLY BE DISCLOSED TO ANY OTHER THIRD PARTY WITH YOUR WRITTEN AUTHORISATION OR AS WE ARE REQUIRED TO BY LAW.