



## Infrastructure and Environment

City of Albany  
Policy

**Upgrades and Maintenance  
of Watercourses and  
Drainage Channels**

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## Objective

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

This policy recognises that watercourses and drainage channels and their associated vegetation should be left in as undisturbed a state as possible unless extraordinary circumstances apply. Notwithstanding this, Council recognises that there are instances in which the condition of watercourses may deteriorate as a result of erosion and/or sedimentation, overgrowth with weeds or dumping or accumulation of rubbish. In such cases, where there is an identifiable public interest it is recognised that maintenance and/or rehabilitation of these waterways may be required.

## Policy Statements:

### A. Drainage Easements (Benefiting Council):

**Maintenance** – Council may be responsible for the maintenance of its structures within private property where Council has acquired a drainage easement on such property.

**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 landholder benefits from works, landholder may be required to contribute to costs apportioned to the estimated benefit.

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.

### B. Natural Watercourses within Private Land:

- **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.

Property owners are responsible for maintenance of watercourses within their property. However, such activities should occur with care and consideration of the physical and ecological integrity of the watercourse and in accordance with relevant environmental legislation and guidelines.

In general, only minor maintenance activities are permitted. Activities that include the destruction and removal of native vegetation and the modification of watercourses will require an approval from Council. Other permits may also be required to comply with State Legislation.

Major maintenance work that is excavation, filling, diversion, scour protection, improvements and similar work, will require development consent including the necessary approvals from state government authorities.

- **Improvement and Rehabilitation** – Owners wishing to make improvements or to rehabilitate watercourses in private property are responsible for arranging and carrying out the work at their own cost.

The owner will need to obtain development consent from Council, including the necessary approvals from state government authorities.

Council may determine that an easement in favour of Council should be created over the improved watercourse in order to ensure drainage of a public road, in which case granting of the easement should be at no cost to Council.

### **C. Floodplains**

- Council identifies floodplains as natural seasonal wetland systems and will not provide drainage structures or maintenance to privately owned drainage structures within private owned lands.

### **D. Watercourses and all drain types (if work approved by Council) within Public Reserves, Drainage Reserves, Public Road Reserves or Council owned land:**

- **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.
- **Improvements and Rehabilitation** – All requests for improvements and rehabilitation will be assessed to determine necessity, suitability and potential environmental impacts before being prioritised according to budget constraints, cost-benefit analysis and considered for allocations of funds in Council's Works Programs.

### **E. 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.

### **F. Unapproved Drainage Works on Council Land.**

- 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.

### **G. Unapproved Drainage Works on Private Land.**

- If unapproved drainage is carried out on private land, Council can require the owner to remove the works at the owner's expense (1).
- Maintenance – where existing unapproved drainage infrastructure is located on private owned land, Council will not maintain the infrastructure.

### **H. City of Albany right to undertake works**

- Whilst this policy outlines limits of responsibilities in maintaining watercourses and drainage channels in private land, it does not extinguish the right of the City to undertake works in these areas if the City believes there is a defined community good.
- This right is legislated in the Local Government Act 1995, Section 3.27 which confers rights on the City to undertake things on land that is not local government property as prescribed in Schedule 3.2.
- Schedule 3.2 - Particular things local governments can do on land even though it is not local government Section 3.727(1) states the City can:
  - Carry out works for the drainage of land.
  - Do earthworks or other works on land for the prevention or reducing flooding.

## Scope

This policy applies to all City of Albany ratepayers, land managers, elected members, managers, employees, volunteers, responsible officers, contractors and subcontractors.

## Legislative and Strategic Context

<b>Related Legislation:</b>	(Legislation Name) Main Roads Act 1993 – Section  Water Management Act 2000  Rights in Water Irrigation Act 1914  Local Government Act 1995 – Schedule 3.2	(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  Governs the management of water in western Australia and defines a watercourse to mean stream, creek, brook or river through which water flows.  Schedule 3.2 – Particular things local government can do on land even though it is not local government property
<b>Related Policies (Council &amp; Internal):</b>	(Policy Name) Storm water management Strategy	(Relationship/Context) Provides the direction to Council with sound objective criteria that sets to guide local Government decision making underpinned by robust analysis to deliver stormwater planning and investment.

## Review Position and Date

This policy and procedure is to be reviewed by the document owner every three years.

## Associated Documents

- Stormwater Management Strategy
- Asset Management Plan –Part 3 Stormwater
- *Planning and Development Act 2005*, Sect.214
- *Department of Water and Environment Regulation* [www.water.wa.gov.au](http://www.water.wa.gov.au)

## Definitions

Key terms and acronyms used in the policy, and their 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
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.
Floodplain	Floodplains are broad areas of low flat land adjacent to the main floodway (flow path) of a river or creek. These area can become swampy and inundated through seasonal groundwater rise or by rain or stormwater inflow.