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<b>Policy/Code Title:</b>	<b>Policy – Drainage Easement Dedication</b>
<b>Policy/Code Number:</b>	P020.002
<b>Directorate:</b>	Assets and Services
<b>Department:</b>	Parks and Waterways
<b>Strategic Direction:</b>	1. A Clean, Green and Sustainable City
<b>Strategic Goal/s:</b>	1.1 Kogarah’s natural areas, including our waterways, atmosphere, bushland and foreshore areas are protected and enhanced.  1.1.1. Ensure that Pollution and runoff from our catchment into our natural areas is effectively managed.
<b>Responsible Officer:</b>	Manager Parks and Waterways
<b>Relevant Legislation:</b>	
<b>Adoption / Amendment / Revision / Date:</b>	Adopted 22 July 2013
<b>Resolution Number:</b>	Min No. 79/2013
<b>Amendment History:</b>	Adopted 7 October 1975, 27 May 2002 (Min No. 192/2002) Revised 30 November 2010
<b>Review Year:</b>	2016

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## **Policy Statement**

### **1. Introduction / Background**

This Policy provides information in relation to the dedication of drainage easements, where required, over property that is the subject of a development application

### **2. Definitions of Terms**

WSUD - Water Sensitive Urban Design

### **3. Purpose**

To ensure that new development incorporates appropriate stormwater management techniques including; appropriate provision of stormwater drainage, Water Sensitive Urban Design (WSUD) and re-use strategies.

### **4. Objective/s**

To outline Council's standard requirements with regard to the dedication of drainage easements, where required, over property that is the subject of a development application.

### **5. Application / Scope**

New development where the dedication of a drainage easement is required.

### **6. Principles / Body**

- 1) The applicant is required to include the easement on the linen plan with an appropriate notation of the intention to dedicate an easement to drain water, and to lodge the linen plan and three copies thereof.
- 2) The applicant is required to submit an instrument under Section 88B of the Conveyancing Act in the terms approved by and completed to the satisfaction of Council, prior to the release by Council of the approved strata plan.
- 3) The applicant is required to submit an undertaking that the Section 88B Instrument will be lodged with the strata plan and that there will be no amendment of the Instrument after its approval by Council.
- 4) The applicant is required to furnish an undertaking that he will advise Council of the number of the strata plan immediately upon its registration.
- 5) The applicant is required to meet his own costs and undertake to pay all legal costs incurred by Council in regard to the creation of the drainage easement, completion of the Section 88B Instrument and any other matter attendant thereto.

- 6) Council is to have the right to lodge a caveat against the property should it be found either:
- a) the Section 88B Instrument was not lodged with the strata plan or deposited plan at the Land and Property Institute, or
  - b) that there has been any amendment to the Section 88B Instrument after it has been approved by Council.

**7. Community Consultation / Public Exhibition**

Not applicable.

**8. Relevant Legislation**

NSW Conveyancing Act 1919.

**9. Related and Associated Council Policy and Procedures**

Water Management Policy.

**10. Responsible Officer / Policy Owner**

Manager Parks and Waterways is the responsible officer. The functions the Manager Parks and Waterways will perform in relation to this policy are:

- Provide a point of contact about the meaning and application of the policy;
- Update the policy when necessary to ensure is current;
- Implement communications, education and monitoring strategies;
- Ensure policy is included on Council's policy register and record management system; and
- Investigate breaches and enforcing compliance.

**11. Responsibilities**

Manager Parks and Waterways is responsible for the implementation, application and review of the policy across the organisation.

The Manager Parks and Waterways may delegate their responsibility to the Stormwater Projects Engineer and relevant Planning and Development staff.

**12. Approval**

The Executive Team has the authority to approve this policy. However, Council's practice is those policies that have a significant impact on the Community be adopted by Council.

This policy was adopted by Council on 22 July 2013.

### **13. Monitoring**

The Manager of Parks and Waterways will monitor the application of this policy in accordance with new development requiring a drainage easement, Council's four year delivery plan, one year operational plan and any legislative changes which would necessitate changes.

### **14. Review Date**

This policy is scheduled to be reviewed every three (3) years. The due date for review is July 2016.

However, this policy may be reviewed prior to this date if required.

### **15. Record Keeping, Confidentiality and Privacy**

All documents created in relation to this policy will be kept in accordance with the NSW State Records Act 1998 and Kogarah City Council's Corporate Records Policy and associated records management practice.

Members of the public can access Council's documents in accordance with Government Information Public Access (GIPA) Act 2009 and Privacy and Personal Information Protection Act (PPIPA) 1998.

The Government Information (Public Access) Act became effective from 1 July 2010 it replaced previous legislation relating to access/rights to information i.e., Freedom of Information (FOI) Act 1989 and s12 of the Local Government Act 1993.

### **16. Breaches and Sanctions**

Council may refuse to grant or renew an approval, or may cancel a licence already issued, if the requirements of this Policy are not adhered to.