
EASEMENT FOR DRAINAGE PURPOSES – RUSSELL ISLAND

Objective Reference: A2159809
Reports and Attachments (Archives)

Attachments: [Attachment 1 – locality plan](#)
[Attachment 2 – area of easement](#)

Authorising Officer: Peter Best
General Manager Infrastructure & Operations

Responsible Officer: Brad Salton
Group Manager City Infrastructure

Report Author: Len Purdie
Principal Engineer

PURPOSE

To seek approval to acquire an easement at 1 American Avenue, Russell Island, described as lot 43 on SP126449, for stormwater drainage purposes.

BACKGROUND

A stormwater overland flow path has been identified that discharges south of Banksia Street to where it crosses High Street and runs along Bamboo Road, Russell Island. It is contained mostly in land owned by council, but does pass through private land that includes a section of 1 American Avenue. To be able to drain the area and in particular the roads, an easement is required over that section of 1 American Avenue that carries the overland flow. This road is identified in the Green Sealing Program and requires a lawful point of discharge to discharge stormwater from the road. The establishment of a drainage easement enables the water to be legally discharged from the road across private property.

This lot is identified in the *Redland Shire Council, Southern Moreton Bay Islands Concept Drainage Design, 2007*, provided to GHD as being required for drainage purposes.

The cost to council is the compensation to the land owner for the easement, survey plans and associated documentation which is expected to be in the order of

Acquiring this easement will benefit council, as it will match Redland City Council's (RCC's) strategic plan for the Southern Moreton Bay Islands (SMBI). The resident will have an allocated drainage path on the property that defines the area influenced by flooding and the available building area.

ISSUES

Redland Shire Council (RSC) enlisted GHD in 2007 to undertake a concept drainage design for SMBI. In this report, it was identified that this allotment is part of the natural overland flow path in the area. To be able to lawfully discharge stormwater from the road, an easement is required in the favour of Council to

manage the discharge. While the land will remain in the property owners' names, having access to an easement for drainage purposes will enable council to carry out stormwater works, enable stormwater to be discharged lawfully and protect the stormwater corridor.

STRATEGIC IMPLICATIONS

Legislative Requirements

In the *Acquisition of Land Act 1967* (the *Act*), Division 1 General section 5 (purposes for which land may be taken) 1(b) states:

land may be taken under and subject to this Act where the constructing authority is a local government –

- (i) for any purpose set out in Schedule 1 which the Local Government may lawfully carry out;

Section 6 (easements) of the same act, also states:

- 1) when for any purpose it is not necessary that the constructing authority should take the whole estate in any land, but it is sufficient for such purpose to take any easement, the constructing authority may take such easement only for that purpose the provisions of this Act shall apply as if the easement were land.

Risk Management

Where council decides to acquire an easement and access the land for drainage purposes, it will be necessary to comply with the notification periods prescribed within the *Act*.

Financial

It is expected that the cost to acquire the easement will be in the order of [REDACTED] which includes the costs for all relevant legal fees, the cost of the survey and compensation. An allocation is available in 2016/2017.

People

Not applicable.

Environmental

The acquisition of the proposed drainage easement will minimise environmental harm, by maintaining the natural overland flow path.

Social

Facilitates the sealing of the road network and improve road amenity.

Alignment with Council's Policy and Plans

The acquisition of the proposed drainage easement supports Council's policy and plans to obtain the best return both socially and economically from Council's assets.

CONSULTATION

Consultation has been undertaken with:

- Group Manager City Infrastructure; and
- Principal Property Consultant.

OPTIONS

1. That Council acquire an easement at 1 American Avenue, Russell Island, described as lot 43 on SP126449, for stormwater drainage purposes or;
2. That Council not proceed with the creation of a stormwater easement, at 1 American Avenue, Russell Island, described as lot 43 on SP126449, for stormwater drainage purposes.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. That Council acquire an easement over part of lot 43 on SP126449, for stormwater drainage purposes pursuant to Section 6 of the *Acquisition of Land Act 1967*;
2. That the Chief Executive Officer be delegated authority under section 257(1)(b) of the *Local Government Act 2009* to negotiate the purchase price pursuant to Division 3 of the *Acquisition of Land Act 1967*;
3. That, if negotiations with the owner are unsuccessful as per item 1, Council proceed with resumption action under Division 2 of the *Acquisition of Land Act 1967* and the acquired land is then dedicated as road pursuant to Section 51 of the *Land Title Act 1994*;
4. That the Chief Executive Officer be delegated authority (under s.257(1)(b) of the *Local Government Act 2009* to negotiate, make, vary, discharge and sign all necessary documentation; and
5. That the report and attachments remain confidential.

Figure 2: Area of easement

