

Easements in Subdivisions

Introduction

Where easements (and particularly Drainage Easements) are made in favour of “Lots on Plan”, a recent ruling has made it clear that Council does NOT have rights or powers in this case and may not undertake works or make conditions in relation to infrastructure and /or land that may be clearly for the benefit of the community and not just a small number of neighbouring landowners.

Many developments that are presented to Council involve the subdivision of titles that were created prior to the commencement of the Subdivision Act 1988. Where the parent plan of subdivision has appropriated drainage easements in favour of the lots on that plan, it is common that Council has also needs to have rights to these drainage easements to ensure that downstream communities are not adversely impacted.

The majority of these easements cover Council infrastructure or are in locations that could be utilised by Council to provide future infrastructure.

Drainage Easement Tables to include Council as a Beneficiary

Council now requires that any new Plan of Subdivision, which is submitted for certification and has retained existing drainage easements created in pre Subdivision Act plans, also include in the Easement Table another easement set aside as shown below (only relevant parts of the Easement Table are shown)

<u>Subject Land</u>	<u>Purpose</u>	<u>Width</u>	<u>Origin</u>	<u>Land Benefited/ In Favour of</u>
	Drainage		This Plan	Greater Geelong City Council

This requirement is also extended to post 1988 Plans of Subdivision prepared under the Subdivision Act where the easement table includes existing drainage easements with the beneficiaries being the lots /land in an old LP.

In the majority of cases, the above will satisfy Council’s interest in the drainage easement. In the cases where it is felt that the above case is not applicable to your development, ie there is no need to appropriate such an easement, then you are encouraged to contact Council officers to discuss the matter prior to submitting the plan for Certification.