

## Building Over or Near Sewerage Infrastructure Policy

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Responsible Officer	Manager Water & Waste	Date Approved:	20/11/2024
Review Officer:	Director Infrastructure Services	Review Due:	20/10/2028
Author:	Coordinator Governance & Compliance	Commencement:	20/11/2024

### 1. PURPOSE

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This policy outlines the requirements for building construction on a lot that contains, or is adjacent to a lot that contains, Council's sewerage infrastructure to ensure that:

- building work for a building or structure on a lot which contains, or is adjacent to a lot that contains, sewerage infrastructure does not adversely affect the operation of the sewerage infrastructure or place a load upon it which may result in structural damage to the sewerage infrastructure; and
- building work does not permanently prevent access to the sewerage infrastructure for the purpose of inspection, maintenance or replacement; and
- any building work allows for venting of the sewerage infrastructure which ensures persons near maintenance access covers are not harmed by gases.

### 2. SCOPE

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This policy applies to all sewerage service areas within the Mareeba Shire Council local government jurisdiction.

### 3. POLICY STATEMENT

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The construction of buildings over or near existing sewers will be assessed on a case-by-case basis and will be considered where all other alternative options for location of building structures upon the land parcel have been ruled out. Building over or near sewerage infrastructure may be approved in certain cases where a development proposal can satisfy the minimum requirements for construction and maintenance access and comprehensively demonstrate that the objectives of this policy will be met. Such cases must demonstrate that the site cannot be reasonably developed other than by building over (or near) or by relocating Council's sewerage infrastructure.

Residential dwellings are not permitted to be located over sewerage infrastructure where the proposal does not comply with the *Queensland Development Code* MP1.4 (QDC MP1.4).<sup>1</sup> Those parts of a residential dwelling that are considered ancillary to the dwelling such as decks, garages and the like will be considered subject to compliance with this policy and related procedure.

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<sup>1</sup> FNQROC Development Manual Design Manual D7 Sewerage System D7.16 s 1(g).

**Human Rights Compatibility Statement**

This policy has been drafted in alignment with obligations under s 58 of the *Human Rights Act 2019* (Qld).

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Where a Development Approval or Operational Works Approval (OWA) has been issued, any instances of building over or near sewerage infrastructure are still subject to a separate approval for building over or near sewerage infrastructure unless specifically noted otherwise in the OWA. Where a proposal does not comply with QDC MP1.4, applicants should meet with Council officers to discuss the building proposal prior to lodging an application.<sup>2</sup>

For applications referred to Council, the following table provides guidance on the type of sewerage infrastructure that can or cannot be built over.<sup>3</sup>

<b>Not Permitted</b>	<b>Permitted</b> - subject to the design being given Council Approval
<ul style="list-style-type: none"><li>• Gravity reticulation mains of 225DN</li><li>• Gravity trunk mains of &gt;225DN</li><li>• Sewerage pressure mains of any size</li><li>• Maintenance structures (see note)</li><li>• Property connection branches (see note)</li></ul> <p>Note: may be considered in exceptional circumstances</p>	<ul style="list-style-type: none"><li>• 150DN gravity reticulation mains</li></ul>

Building work within a sewerage easement (or combined services easement) maybe considered subject to the building work complying with the requirements of this policy and related procedure and any other relevant requirements deemed reasonable by Council at the time of approval. All building work within a sewerage easement is subject to written approval by Council. Note that in the instance of combined services easements, approvals are to be obtained from all relevant asset owners.<sup>4</sup> Where an existing registered easement instrument is not in place, an easement instrument will be required detailing responsibilities of the property owner in relation to encroachments and continued access to the sewer.

For any proposal to build over or near sewerage infrastructure, the applicant will be required to demonstrate how access to the sewer for maintenance purposes can be practically undertaken by Council.<sup>5</sup>

Clearances and acceptable solutions for building work located over or near sewerage infrastructure will consider the performance criteria and the acceptable solutions of the QDC MP1.4. For 225DN and trunk infrastructure Council may impose additional requirements to those set out in QDC MP1.4. Council will consider the function of the main, depth, size and access/maintenance requirements in determining the minimum clearance required.<sup>6</sup>

All proposals for building over sewerage infrastructure must be assessed by a Building Certifier or structural engineer prior to consideration by Council to verify compliance with the mandatory technical specifications and minimum clearances contained within QDC MP1.4.<sup>7</sup>

Initial proposal assessment is based upon the following flow model:

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<sup>2</sup> Ibid D7.16 s 1(d).

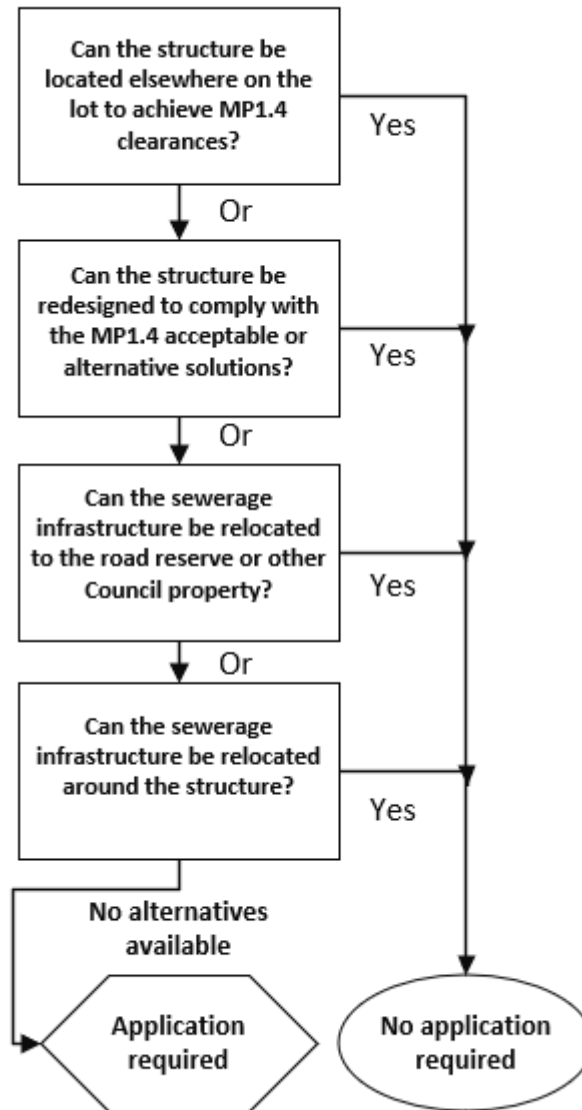
<sup>3</sup> Ibid D7.16 s 1(f).

<sup>4</sup> Ibid D7.16 s 1(h).

<sup>5</sup> Ibid D7.16 s 1(i).

<sup>6</sup> Ibid D7.16 s 1(j).

<sup>7</sup> See *Queensland Development Code MP1.4 (November 2013) Building Over or Near Relevant Infrastructure* as commenced 15 December 2014.



As a minimum requirement, the following options must be considered as a preferred alternative to building over Council's sewerage infrastructure:

- 1) Redesign of the building; or
- 2) Repositioning of the building on the land parcel; or
- 3) Relocating the existing sewer or site of the proposed building such that the sewer is a minimum of 1.5 meters distance from the building and clear of the zone of influence from the footings and foundations of any buildings/structure; or
- 4) Replacing the existing sewer main which is located less than or within 1.5 meters of the building and within the zone of influence of the footings and foundations with uPVC sewer pipe of class SN8.

Council, at its sole discretion, will assess and determine the appropriateness of relocating of existing sewerage infrastructure under option 3 above.

Where proposed building work does not comply with an **acceptable solution** or **alternative solution** as defined<sup>8</sup> to apply to class 1 buildings and class 10 buildings or structures, or where the building work is for buildings of classes 2 through 9 located less than five meters from relevant infrastructure, a Building Over or Near Sewerage Infrastructure application must be lodged and Council will exercise jurisdiction as a concurrence agency observing relevant response timeframes.<sup>9</sup> The following will apply:

- All applications must be made in the approved form accompanied by the prescribed fee; and
- All applications for building over sewerage infrastructure will be assessed by Council's authorised engineer; and
- All applications will be assessed in accordance with Council's *Building Over or Near Sewerage Infrastructure Procedure*; and
- Approvals will remain current for a period of two (2) years.

#### **Easement establishment fees – responsibility**

In circumstances where Council assessment of the proposed building work results in the determination that a registered easement is required, the following will apply:

- Where the proposed building structure **cannot** be located upon the subject lot in a manner which avoids the necessity for building over Council sewerage infrastructure, easement establishment fees will **not** apply;
- Where the proposed building structure **can** be located upon the subject lot in manner which avoids the necessity for building over Council sewerage infrastructure and where the property owner chooses to proceed with positioning of the building structure over Council sewerage infrastructure, easement establishment fees **will apply**, and the property owner is responsible for payment of the easement establishment fees.

#### **Requirements to refurbish or replace or refurbish sewerage infrastructure**

Where it is of the Council's opinion that the existing infrastructure has degraded to a standard where replacement or refurbishment is required, Council will not provide approval to construct over or near sewerage infrastructure until the infrastructure is replaced or refurbished to the required standard.<sup>10</sup>

Where an approval is issued under this policy and where Council deems as a result of post work inspections that the sewer has been adversely impacted by such works, Council may undertake corrective works and seek to recover costs from the building owner.

## **4. DEFINITIONS**

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**Acceptable Solution** – means a building design solution that complies with the performance requirements for the relevant class of building outlined in Chapter 3 of MP 1.4 of the QDC.<sup>11</sup>

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<sup>8</sup> See *Building Act 1975* s 14 and sch 2.

<sup>9</sup> See *Planning Regulation 2017* sch 9 pt 3 div 3 tbl 7. Note statutory timeframe for Council response as concurrence agency - 20 business days.

<sup>10</sup> *FNQROC Development Manual Design Manual D7 Sewerage System* D7.16 s 2(a).

<sup>11</sup> See *Building Act 1975* s 14.

**Alternative Solution** – means a building design solution that complies with the performance requirements for the relevant class of building in Chapter 3 of MP 1.4 of the QDC or is shown to be at least equivalent to the relevant acceptable solution.<sup>12</sup>

**Easement Establishment Fees** – means the cost of:

- a. surveying of the land by a licensed surveyor; and
- b. Queensland Titles Registry fees applicable to lodgement and registration of a Form 9 Easement instrument.

**MP 1.4** - means **Mandatory Part 1.4** of the *Queensland Development Code* (QDC)

## 5. RELATED DOCUMENTS AND REFERENCES

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*Building Act 1975* (Qld)

*Building Over or Near Sewerage Infrastructure Procedure* (MSC)

*FNQROC Development Manual Design Manual D7 Sewerage System v No. 05/23* (Far North Queensland Organisation of Councils)

*Planning Regulation 2017* (Qld)

*Queensland Development Code Mandatory Part 1.4 (November 2013) Building Over or Near Relevant Infrastructure* (State Department of Communities, Housing and Digital Economy)

## 6. REVIEW

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It is the responsibility of the Manager Water & Waste to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every four (4) years or as required by Council.

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<sup>12</sup> Ibid sch 2.