	<p style="text-align: center;">GOVERNANCE POLICY</p> <p style="text-align: center;">MANAGEMENT OF STORMWATER ACROSS FOOTPATHS</p>	Policy Number Version Number Issued Last Review Next Review GDS	G1.31 2 December 2015 February 2023 February 2028 9.63.1.1
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MANAGEMENT OF STORMWATER ACROSS FOOTPATHS

1. POLICY

This policy sets out The Flinders Ranges Council (Council) approach on what action is to be taken in the situation where water runoff from property adjoining a public road causes damage to the footpath, the crossing to the property and/or the kerbside.

The objective of the policy is to protect the community owned infrastructure from damage and avoid potentially hazardous or dangerous conditions to be created from such runoff and to prevent ongoing and repetitive repair works and costs.

2. SCOPE

The *Local Government Act 1999* (Act) defines “road” as follows;

road means a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes—

- (a) a bridge, viaduct or subway; or
- (b) an alley, laneway or walkway;

The Act empowers Council to issue orders and develop policies about such matters.

Section 218 of the Act empowers Council to issue orders on owners of land adjoining a road, requiring the owner to carry out specific works to construct, remove or repair a crossing place from the road to the land. Section 254 also empowers Council to issue similar orders.

Both these sections require Council to adopt a policy on the issues.

Orders under Section 254 can include (among other things) Hazards on lands adjoining a public place:

Where the public place is a road, Council may take action necessary to protect the road or to remove a hazard to road users. This applies when a situation exists that is causing, or is likely to cause, damage to the road or a hazard to road users. An example given under this section is to require fill of an excavation, or to prevent drainage of water across the road.

The notice may be served on the owner or occupier.

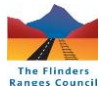
Section 255 of the Act requires Council to give written notice to the person on whom it is proposed to serve such an order, advising of the proposed action, terms of the proposed order and the time that will be given to comply. Such notice is required to state the reason for the proposed action and invite the person to show why the proposed action should not be taken. Subsection 255(12) empowers council to issue an order without notice in an emergency.

Section 256 of the Act requires that the order must inform the person on their rights of review.

Section 257 of the Act empowers Council to carry out the work if the order is not complied with and recover the cost as a charge against the land.

Section 258 of the Act provides for a penalty of \$2,500 and expiation fee of \$210 if the order is not complied with.

Section 259 of the Act outlines Councils responsibility to develop policies in relation to orders under Part 2 of the Act.

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3. IMPLEMENTATION OF POLICY

In the event of:

- A complaint from a member of the public;
- Report of concern from Council staff or Councillors

The issue will be assessed by Council staff and a report submitted to Council identifying the actual or potential damage, hazard or danger that exists, with suggestions made on how this issue may best be addressed or rectified. The report will also identify the properties that are causing the problem and assess if there is any practical joint option between property owners (if there is more than one) that might reduce the damage, hazard or danger.

In the event that there is an emergency situation, the Chief Executive Officer may issue an order without notice under Subsection 255(12) of the Act.

4. PROCEDURES TO BE FOLLOWED

Council will assess the submitted report on the identified issue of concern. If Council forms the opinion, having regard to the report, that the matter needs to be rectified, the owner(s) or occupier(s) of the property(s) identified within that report as causing or contributing to the problem, will be informed accordingly. This will be done in writing, requesting that the owner(s) or occupier(s) consider the matter and liaise with Council staff as to the most appropriate means of rectification.

If the property owner(s) or occupier(s) and Council are unable to reach a suitable resolution to the rectification of the identified problem, then Council reserves the right to take appropriate action under Section 255 of the Act in order to manage the problem.

5. MONITORING AND REPORTING

Council will be advised of each step taken to rectify the issue identified.

Should the person served with the order fail to comply with it, Council may consider one or all of the following actions;

- Prosecute the person for failure to comply with the notice.
- Carry out the work itself or through a contractor.
- Recover the cost of the works as a charge against the property.

6. RESPONSIBILITIES

The Council is accountable for ensuring the proper operation of this Policy.

The Chief Executive Officer & Senior Leadership Team will actively contribute to and ensure their departmental activities are conducted in an environment to ensure adherence to this Policy.

7. LEGISLATION


Local Government Act 1999

8. REFERENCES

Nil

9. REVIEW

To be reviewed within 12 months after a General Election, in line with any legislation changes or by resolution of Council.

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Adopted by Council 7 December 2015
Resolution 309/2015

Review Date	Version Number	Change	Resolution
07 December 2015	1	New Policy	309/2015
13 February 2018	1	Reviewed by PRRC 30Jan18 – No changes	020/2018
21 March 2023	2	Minor grammar and formatting changes only	46/2023