

WATER CORPORATION — EASEMENTS

3034. Hon Rick Mazza to the minister representing the Minister for Water:

- (1) In my question regarding the Water Corporation and Easements on 25 June 2020, can the Minister clarify his answer that “The landowner continues to ... maintain the land as the titleholder of the land”?
- (2) Is the Minister stating that in regards to easements, the landowners (assuming that there is no prior agreement) are legally obligated to also maintain the easements held by the Water Corporation?
- (3) If the answer is yes, can the Minister provide the legal authority for this view as I understand that the common law position in Western Australia in regard to easements is that a landowner is not legally obligated to maintain an easement held by the Water Corporation?

**Hon Alannah MacTiernan replied:**

- (1) Unless expressly stated in the Deed of Easement, the Water Corporation does not acquire responsibility for the land itself or its maintenance within the registered easement area. This responsibility remains with the title holder for the freehold of the land. The easement rights granted to the Water Corporation are for legal access to its water services infrastructure only.
- (2) An easement allows the Water Corporation legal access rights to its water services infrastructure. As part of that agreement, the landowner must ensure that this access is available to the Water Corporation. The onus is on the landowner to ensure that Water Corporation can access the land. All landowners (or tenant if property leased) are covered by the *Occupier's Liability Act 1985* whether they have an easement or not, and have a duty of care as occupiers.
- (3) *Occupiers Liability Act 1985.*  
*Water Services Act 2012*  
Any stated conditions within easement document.