

Report and Consent - Build over an easement application Regulation 130

Form current as at 1 July 2023

Application fee \$311.80

Please note: this is not a permit

Name of Applicant: _____

Postal Address: _____

I hereby apply for consideration of my application under regulation 130 of the Building Regulations 2018.

Building Permit No: _____

at Property Address: _____

Reasons why the siting of the building outside the easement is not appropriate:

I acknowledge that I have read the information handout, guidelines and agreement documentation associated with the consent process.

Applicant Signature: _____

Date:

email: building@murrindindi.vic.gov.au

By Mail

Municipal Building Surveyor
Murrindindi Shire Council
PO Box 138
ALEXANDRA VIC 3714

In Person

Alexandra
28 Perkins Street

Kinglake
19 Whittlesea-Kinglake Road

Yea
15 The Semi Circle

If you require further information or assistance with completing this application form, please contact us on 03 5772 0333 or email building@murrindindi.vic.gov.au

Checklist - Building Over an Easement Application

Have you provided the following information?

1. A completed and signed copy of the application form.
2. Payment of the applicable fee
3. A copy of the reply from the sewerage authority (Goulburn Valley Water) if the easement is sewerage and drainage easement.
4. A dimensioned plan clearly indicating the extent of the desired encroachment of the building into the easement.
5. A plan indicating structural details of the building/structure encroaching over and within the easement
6. Copy of Title

Important note: It will not be possible to process your application until this above information is provided.

Information Handout - Construction of Buildings Over Easement

A. Building over easements containing drainage pipes and pits.

Council's Infrastructure Services guidelines generally are not to permit construction of buildings over easements containing drainage assets except for;

- Minor detached outbuildings (e.g. sheds less than 10sq.m. in area, or open freestanding carports) providing the outbuilding is not proposed to be constructed over a pit or inspection opening; or
- Pergolas; or
- A maximum of 600mm width of eave overhang, providing the eave height is at least 3.0m above the finished ground surface at the easement. If a proposal is in accordance with the above exceptions, the applicant must first agree to the conditions of approval prior to Council consent being granted

B. Buildings over drainage easements where no drainage assets are currently present.

Council's Infrastructure Services guidelines generally is not to permit buildings over drainage easements, where there are no drainage pipes or pits or inspection openings, unless the application meets the requirements as in (A) above in the same way as for easements containing drainage assets;

or the easement for drainage is expunged through Town Planning processes at the expense of the applicant. In this respect:

- A planning application must be lodged for this purpose through Planning Services;
- The applicant may be requested to provide supporting information or calculations as to why there is no detriment to the existing or future drainage network;
- An engineering assessment by Council to review the planning application will be required and this assessment may:
 - o Agree with the request; or
 - o Conclude that the easement is still required.

C. Buildings over other easements, which do not include drainage.

Where easements exist for other services (e.g. water, sewerage, gas, telecommunications, electricity), written consent is first required from the responsible service authority before Council can give its consent.

An applicant must meet the consent requirements of each service authority having an interest in the easement.

Guidelines - For Council Consent

Guidelines for assessing each application:

- A viable alternative location for the proposed building or works is not available on the site;
- The proposed structure or works will not prejudice or unduly obstruct or limit the ongoing maintenance of any existing Council's storm water drain or asset located within the easement;
- Overland flow is unlikely to take place along the line of the easement in the event of the capacity of drainage in the easement or adjoining easement being exceeded;
- The proposed structure will not jeopardise the drainage of an abutting allotment or prejudice Council's future drainage network;
- Approval to build over the easement has been obtained from all Statutory Authorities and parties that have rights over the easement; and the proposed structure is in conformity with the Building Code of Australia.
- Three sets of plans of the proposed structure are to be provided.
- Written consent from any service authority e.g. Goulburn Valley Water SP-Ausnet etc (having services or an interest in the easement) is required along with a plan indicating the locations and depth of any service mains.
- Details of location and depth of storm water mains should be obtained from Council's Engineering Services Department.
- If the easement contains sewer and/or storm water main(s) the footings for the structure will be required to be designed to go around, across or along the side of the drains, as appropriate. This normally requires an Engineer's design for a suspended slab, pier and beam, or deep footings, to be submitted.
- Council will not permit construction over a storm water pit or other inspection opening.
- Excavations and footings are to be kept at least 600mm clear of any drain.
- The building cannot be constructed over the property storm water inlet, and must be relocated to the satisfaction of the Manager, Infrastructure Asset.
- No works are to commence unless a Building Permit is issued.
- Prior to Council approval the agreement 'Prior to Consent To Build Over An Easement' (attached) is to be completed and signed.

AGREEMENT PRIOR TO CONSENT TO BUILD OVER EASEMENT

CONDITIONS:

1. All conditions of approval of Council are to be complied with by the owner and successors in title.
2. The building is to be sited clear of any drainage or other inspection opening, including a property inlet in the easement, subject to (6) below.
3. Council reserves the right to excavate, lay, repair or replace pipes within the easement and to remove, and not replace, structures built on the easement, whether or not consent for those structures has been given.
4. Council not being held liable for any damage to structures on the easement, which may be caused as a result of any such works on the basis that reinstatement of such damage, is the responsibility of the owner.
5. Excavation for footings to be kept clear of pipe drains if easement contains an underground drain.
6. The property inlet is to be relocated to the satisfaction of the Council and at no cost to Council if the building will be sited over it.
7. A Building Permit must be obtained prior to commencement of works.
8. Prior to building approval, any drain existing in the easement is to be located and a detailed drawing included in the building application drawings indicating the means of foundation construction on the basis that:
 - i. footings are used which
 - are at least 600mm clear of any drain, drainage pit or other inspection opening, including a property inlet
 - are carried down to at least the underside of the drain to solid ground; or
 - ii. a slab on ground construction is used which includes a saw-cut construction joint along the line of the easement, permitting later removal if necessary.

I _____ have read and understand the above conditions and am prepared to abide by them. Also, I will not sell or mortgage my property at _____ without first disclosing the existence of the attached letter and these conditions to the purchaser or mortgagee and such purchaser or mortgagee is to advise subsequent purchasers or mortgagees.

Signed: _____

Date: _____