

Build over easement

Regulation 130

What information do I need to submit with my application?

- This form completed and signed
- Application fee
- Copy of Certificate of Title, including title plan and any encumbrances, and a search receipt no older than 3 months
- Site, floor and elevation plans
- Section showing footing and angle of repose details
- Description of all vegetation in the affected area of the proposed building
- Approval and stamped plan from relevant authority

OWNERS DETAILS

Owners name:

Owners address:

Phone number:

Email:

Agent:

*Please Note: The owner of this property must be the applicant, therefore if you are not the owner, please nominate yourself as the "Agent"

BUILDING SURVEYOR DETAILS

Building Surveyor Name:

Practitioners No:

PROPOSED WORKS

Proposed Works:

Lot No:

Street No:

Street Name:

Suburb:

Side Street (if on a corner):

Dimensions:

Frontage:

metres

Depth:

metres

Situation on:

side of street i.e. north, south east, west

Being the owner of the land described in this application, I HEREBY REQUEST consent to construct, erect and/or retain the building and/or structure described hereto over the sewers and/or the stormwater drainage easement as described above, I agree this is subject to the conditions set out in the Conditions of Consent on page 2 of 3

OWNERS SIGNATURE

Signature :

Date:

Conditions of Consent

The owner hereby agrees:

1. To permit the Council to enter into and upon the building or other structure and/or the easement for the purpose of inspecting, constructing, maintaining or repairing any sewer or drain or other works now laid or which may be hereinafter laid by Council, and if necessary for that purpose, to excavate through the floor of the said building or other structure.
2. To be solely responsible for all injury, loss or damage which may be occasioned to the said building or other structure by reason of or incidental to the carrying out of the inspection, construction, maintenance or repair of the said sewer or drain or other works or by reason of or incidental to the presence of the said sewer or drain or other works.
3. To indemnify the Council against all actions, claims, suits and demands arising out of or incidental to the erection and/or retention of the said building or other structure over the said sewer, drain or other works and/or the said easement.
4. To pay to the Council any additional costs incurred by it in inspecting, constructing, maintaining or repairing the said sewer or drain or other works of the Council by reason of the said building or other structure having been erected over such sewer or drain or other works and/or the said easement.
5. Not to sell or mortgage land in which this consent refers without first disclosing the contents of this consent (including these conditions) to the purchaser or mortgagee.
6. To indemnify the Council against all or any claims, demands, causes of action of whatever nature, costs, charges and expenses against the Council arising from flooding and/or water damage caused by the overland flow of stormwater through the building or other structure over the said sewer or drain or other works of the Council and/or the said easement.
7. Unless the Proposed Building/Works are commenced and completed within 2 years from the date of this consent, or any extension thereof, which must be provided in writing, this consent shall lapse.
8. It is the owner's responsibility to comply with conditions of this consent.
9. Failure to comply with any standard or further special conditions will invalidate this consent.
10. To abide by any further written conditions (Special Conditions) which Council may impose before or during the construction or erection of the Proposed Building/Works. Where applicable, a copy of the Special Conditions, if any, will be included in Council's letter confirming its consent to the Proposed Building/Works being constructed over the drainage easement.

Special conditions

All special conditions to be endorsed on the letter of approval.

Note: This consent does not constitute a Building Permit or a Permit under the Planning and Environment Act for the use of land for any purpose not in conformity with any Interim Development Order or Planning Scheme made pursuant to such Acts and does not absolve the person to whom it is given from complying with any Statute or Regulations made thereunder and particularly with the Building Regulations 2006, any applicable Council Local law or the provisions of any Planning Scheme or other Interim Development Order affecting the land.

Guidelines for proposed structures/works over an easement

Prohibited buildings/site works over a stormwater drainage easement:

- Any part of a dwelling (Standard 600mm eaves exempt)
- Any part of a habitable/out building e.g. Granny flat or study
- Any part of a commercial/industrial building
- Brick garages – Unless under specific circumstances
- Swimming pools

Acceptable light weight buildings, structures and site works (subject to conditions):

- Metal clad sheds, garages or the like
- Open structures e.g. Gazebo, veranda, carport or similar
- Loose paving e.g. Brick tile
- Swimming pool barrier (lightweight)
- Portable Spa
- Site fill/site cut max 500mm

Approval may be given for Buildings and Works to be located over an easement for the purpose of drainage and sewerage set out on the plans of subdivision of land registered and approved at the Office of Titles subject to the following conditions:

1. A viable alternative location for the proposed building or works is not available on the site.
2. The proposed structure or works will not prejudice or unduly obstruct or limit the ongoing maintenance of any existing Council stormwater drain or asset located within the easement.
3. The proposed structure will not jeopardise the drainage of an abutting allotment or prejudice Council's future drainage network.
4. Approval to build over the easement has been obtained from all relevant Statutory Authorities and parties that have rights over the easement.
5. The proposed structure is in conformity with the Building Code of Australia.
6. The pipe diameter does not exceed 375mm.
7. The drainage pipe has not been identified as a main drain.
8. If the memo from the Drainage Engineering Department has a recommendation not to approve the proposed building works over the easement consent cannot be granted.
9. The property is not located in an overland flow path, unless subject to special conditions.
10. Where conditions 1 to 10 above are satisfied, and the structure does not form any part of a habitable dwelling consent may be granted subject to the owner lodging a building over easement application.