

Minor Building Over Easement Application 2022 - 2023



General Information

On the title to many properties, an area may be designated as an easement. Easements are areas of land that are generally kept as a clear space to allow for the installation of services like stormwater drains and sewers. Where such services exist, the easement generally needs to be kept clear for maintenance and/or access from time to time.

A property owner may be allowed to construct certain structures on or over an easement subject to certain conditions. For example, it may be possible to construct pergolas, small sheds, green houses, small retaining walls, etc. over easements where these works do not interfere with assets installed by the servicing authorities.

Property owners should consider all factors prior to applying to build over an easement and, if possible, keep all works clear of any easement. Approvals are required for any works of a permanent nature to be located on easements.

Application Procedure

The approval of Council is required where Council has rights to that easement. Easements may also be reserved in favour of other authorities for whom their approval would also be required, e.g. Melbourne Water, Yarra Valley Water and South East Water. A check of a current copy of the property title would show details of any registered easement and for what purpose the easement has been provided (usually shown as Drainage Easement).

If an easement is shown on your title indicating Council has rights to it and you wish to build over it, you will need to apply to Council's Engineering Department with the following:

- One copy of scaled plans showing a site plan and detail of the extent of the encroachment onto the easement and all other buildings on the allotment;
- Pay the \$153.50 application fee (valid until 30 June 2023);
- Complete a copy of the **Minor Building Over Easement Application** form; and
- Complete a copy of the **Agreement for Construction of Minor Building and/or Works on an Easement**. This must be completed and signed by all registered owners of the property and not agents acting on the behalf of the property owners unless they provide a copy of their Power of Attorney.

Note. It is in the applicant's interest to ensure the appropriate forms and plans are completed in full and provided to Council so that the application can be properly considered within reasonable time, usually 20 working days. Following consideration of an application, written advice will be sent to the applicant advising them of the result of the application. Council reserves the right to keep all or part of the application fee, should an application be unsuccessful.

Lodge your application:

In person at: City of Monash, 293 Springvale Road, Glen Waverley, or
City of Monash, 3 Atherton Road, Oakleigh

By mail: P.O. Box 1, GLEN WAVERLEY VIC 3150 (cheque & credit card only)

All enquiries regarding Building Over Easements should be emailed to mail@monash.vic.gov.au or by phone on 03 9518 3555.

MINOR BUILDING OVER EASEMENT APPLICATION

APPLICANT DETAILS			
Name	(title, first name & surname of applicant)		
Company (applicant's if applicable)			
Address	(postal address of applicant)	Postcode	
Contact No's (business hours)	(telephone)	(fax)	
Email		Dated	
SITE DETAILS (of the subject land)			
Site Address	(street address of the subject land)		
Owner/s' Name/s	(title, first name & surname of owner(s))		
Owner's contact (business hours)	(telephone)	(email)	
REASON FOR APPLICATION			
Describe Works in/on Easement			
HOW AND WHERE TO PAY			
<p>In person at: City of Monash, 293 Springvale Road, Glen Waverley, or City of Monash, 3 Atherton Road, Oakleigh</p> <p>By mail: P.O. Box 1, GLEN WAVERLEY VIC 3150 (cheque & credit card only)</p> <p>DO NOT LODGE THIS APPLICATION VIA EMAIL</p> <p>I authorise the City of Monash to charge my Minor Building Over Easement Application payment to:</p> <p><input type="checkbox"/> MasterCard <input type="checkbox"/> Visa <input type="checkbox"/> American Express</p> <p>Number: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Expiry: <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/></p> <p>Name on card: _____ Signature: _____</p> <p>Telephone: _____ Total Amount: \$153.50</p> <p>Please note: In line with common practice, a receipt will not be issued for payments received through the mail or email.</p>			
<p>Office Use Only: Application: RC Allocation Reference: EASE Total Payable: \$153.50</p> <p>1.80.840.6820.000.3293</p>			

Privacy Statement:

Monash City Council ("Council") collects personal information via this form to facilitate the processing of this application, and related purposes which the individual to whom the information relates may reasonably expect. Council will not release or provide access to personal information to any other person or body, unless (a) it has been authorised to do so by the person to whom the information relates, (b) it is permitted or required to do so by law, or (c) it is appropriate or required in the performance of the functions of Council. If you refuse to supply the requested information we may not be able to process your request. You may gain access to your personal information by contacting Council's Information Privacy Officer via email at legal@monash.vic.gov.au.



WHEREAS _____ is/are the Owner(s) of the property
Name(s) in full

Address of subject land

AND WHEREAS the property is subject to a Drainage and Sewerage Easement _____ metres wide along and within the _____ boundary

AND WHEREAS the Council may construct and/or has constructed a drain and/or associated assets in the said easement

AND WHEREAS the Owner has applied to the Council for permission to erect a building and/or other construction and/or carry out earthworks over portion of the said easement

AND WHEREAS the Council has agreed to grant such permission upon the Owner executing this Indenture and entering into the covenants hereinafter set forth

NOW in consideration of the agreement by the Council as hereinbefore recited the Owner for himself his heirs executors and administrators and any other Owner or occupier of the said property **HEREBY COVENANTS** with the Council as follows:

1. **TO** permit the Council to enter into and upon the building or other structure and/or said easement for the purpose of inspecting constructing maintaining or repairing any drain or other works laid or to be laid therein by the Council.
2. **TO** make no claim against the Council for any injury loss or damage which may be occasioned to any building or buildings or other improvements and/or any business carried out on the land by the Owner arising out of the erection or retention of the said building and/or other improvements over the said drain or other works by reason of or incidental to the carrying out of construction maintenance or repair or any drain or other works or by reason of or incidental to the presence of the said drain or other works in the said easement.
3. **TO** indemnify and keep indemnified the Council against any claim suit action or demand arising out of or incidental to the construction of or the presence of the said building and/or other improvements over the said drain or other works.
4. **TO** pay to the Council any additional cost incurred by it in regard to the construction maintenance or repair of any drain or other works constructed in the said easement by reasons of the construction thereover of the said building and/or other improvements.
5. Unless the structure and/or other improvements herewith described is erected within 12 months from the date of this agreement or any extension of 12 months which the Council may in writing give to the Owner, this agreement will lapse.
6. **TO** not sell or mortgage land to which this agreement refers without first disclosing the contents of this agreement to the purchaser and/or mortgagee.
7. **TO** not demolish re-erect or modify the said building if any save with the previous consent in writing of the Building surveyor and save in accordance with plans and specifications approved by the Surveyor.
8. The Owner hereby charges the land with all costs and expenses incurred by the Council in connection with or because of the construction of or existence of the said building or other improvements or any approved demolition re-erection or modification of the said building or other improvements or remedying any default of the Owner hereunder and authorises the Council to lodge a caveat at the Office of Titles forbidding the registration of any person or transferee as proprietor of and any instrument affecting the land unless the Council consent in writing thereto.

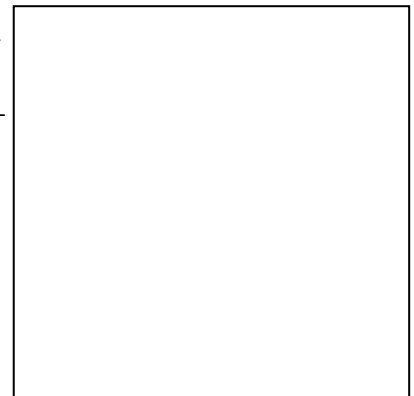
SIGNED AND/OR SEALED BY

or Company Seal or ABN or ACN

the said _____
Print Owner(s) name(s)

Signature(s) _____
All Owners to sign

in the presence of _____ on _____
Signature of Witness Date



SIGNED ON BEHALF OF COUNCIL BY _____ on _____
Delegated Officer Date