

Major Building Over Easement Application 2024 – 2025

General Information

On the title of 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, greenhouses, 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 the Council is required where it has rights to that easement. Easements may also be reserved in favour of other authorities for which 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 Certificate of Title will show details of any registered easement and why the easement has been provided (usually shown as Drainage Easement). **It is the applicant's responsibility to obtain the permission of all the relevant authorities that have rights over the easement before any works begin.**

If an easement is shown on your title indicating Council has rights to it, and you have been advised by Council's Engineering Department that a Major Use of Easement Application is required, then an agreement will need to be made between Council and you (as the owner of the property) under Section 173 of the Planning and Environment Act 1987. This agreement will be registered on the Certificate of Title for the property. You will need to provide Council's Engineering Department with the following:

- Five** printed copies of A4 sized plans showing a site plan showing all buildings on the site and the extent of the encroachment onto the easement (an example is shown attached);
- Two** printed copies of structural plans showing how the structure protects Council's assets in the easement. A cross section of the easement should be included.
- Complete a copy of the **Major Build Over Easement Application** form; and
- Pay the \$720.90 application fee (valid until 30 June 2025).

A title search and company search (where necessary) will be undertaken and an Agreement relating to Section 173 of the Planning and Environment Act 1987 will be sent for the owner to obtain legal advice and to subsequently sign.

If during the title search, it is noted that there is a mortgage registered over the property, you will be required to also obtain the mortgagee's consent and pay fees that the mortgagee requires to be paid for the granting of this consent.

Following consideration of an application, written advice will be sent to the applicant advising them of the result of the application. Should their application be successful, this advice will include preliminary approved plans prior to the agreement being finalised. This preliminary approval will be revoked if any of the following occur.

- **Consent from the mortgagee cannot be obtained.**
- **If a Company Seal on the Agreement cannot be read the Council will revoke the approval as the Titles Office will not register the Agreement with an illegible Company Seal.**
- **The forms are incomplete or incorrectly completed.**

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

You can lodge your application using the following methods.

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 at 03 9518 3555.

More information is available at Council's webpage [Building Over Easements | City of Monash](#)

Privacy Collection Statement

Monash City Council ("Council") collects personal information via this form to provide you with the service you are seeking and/or to fulfil its statutory responsibilities, and for related purposes which you may reasonably expect. Council will not release or provide your personal information to any other person or body, unless (a) it has been authorised to do so by you, or (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 do not supply the requested information, we may not be able to provide you with the service and/or fulfil our statutory responsibilities. You may gain access to your personal information by contacting Council's Privacy Officer via telephone on 9705 5200 or email at mail@monash.vic.gov.au. Further details are available at the Privacy page on Council's website (www.monash.vic.gov.au).

Example Plan

		<p>NOTES</p> <ol style="list-style-type: none"> 1. THE DISTANCE TO THE LOCATION OF, AND THE NAME OF THE NEAREST STREET CORNER MUST BE SHOWN IF THE PROPERTY IS NOT A CORNER BLOCK. 2. DISTANCES MUST BE SHOWN IN METRES WITH ONE OR TWO DECIMAL PLACES. 3. DO NOT USE LINE PROJECTIONS OR ARROWS TO SHOW DISTANCES.
<p>CITY OF MONASH</p>		<p>DRAWN</p>
<p>APPLICATION FOR THE USE OF EASEMENT AT :</p>		<p>SCALE</p>
<p>SHEET 1 OF 1 VOL : FOL : LOT :</p>		<p>DATE</p>
<p>SITE PLAN</p>		<p>A4</p>