

Minor Building Over Easement Application

2025 – 2026

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 clear to allow for services like stormwater drains and sewers to be installed. Where these services exist, the easement generally needs to be kept clear to allow for maintenance and/or access.

However, 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 structures do not interfere with assets installed by the service authorities.

Property owners should consider all factors before applying to build over an easement and should discuss what they are planning with the relevant authority, including the Council. Approvals are required for any works of a permanent nature to be located on easements.

Application Procedure

Council is required to approve applications where it has rights to that easement. Approval may also be needed from other authorities 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 Minor Building Over Easement is required, you will need to apply to Council's Engineering Department with the following:

1. 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.
2. Pay the \$175.10 application fee (valid until 30 June 2026).
3. Complete a copy of the **Minor Building Over Easement Application** form.
4. 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 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 that the appropriate forms and plans are completed in full and provided to the Council so that the application can be properly considered within a reasonable time, usually 20 working days. Following consideration of an application, written advice will be sent to you advising you 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-

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

City of Monash, 3 Atherton Road, Oakleigh

By email: mail@monash.vic.gov.au (we will contact you by telephone to obtain your payment details)

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 the Council's webpage [Building Over Easements | City of Monash](#)

MINOR BUILDING OVER EASEMENT APPLICATION

APPLICANT DETAILS			
Name	title, first name & surname of applicant		
Company applicant's if applicable			
Address	postal address of the applicant	Postcode	
Contact No's business hours	telephone	home	
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			
You can submit and pay for this application- In person at: City of Monash, 293 Springvale Road, Glen Waverley, or City of Monash, 3 Atherton Road, Oakleigh (Monday – Friday, 8:30 am – 5.00 pm) By email: mail@monash.vic.gov.au (we will contact you by telephone to obtain your payment details)			
Office Use Only: 1.80.840.6820.000.3293		Allocation Reference: RC EMI	
		Total Payable: \$175.10	

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).

AGREEMENT FOR CONSTRUCTION OF MINOR BUILDING AND/OR WORKS ON AN EASEMENT

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 a 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 regarding 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 are 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 are to sign

in the presence of _____ on _____
Signature of Witness Date

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

