



Building Over Easement Application Form

Referral of Building Permit Application/Building Design for report and consent to Construct Building Over Easement or Public Drain vested under Council control pursuant to Building Regulations 2006, Part 3, Division 2 Regulation 310(1).

1. Payment of **\$250.00** is required with this application.
2. **Applicant** *(please print name of person making application)*

I/We _____
of _____
(Address including company name if applicable)

Hereby give a copy of a building permit application or building design to Council to construct the building described hereunder over the easement or public drain vested under Council control for consent in accordance with Schedule 2 of the Building Act 1993 & Part 2 of Schedule 4 of the Building Regulations 2006, subject to conditions set out on the back of this application.

(Description of Buildings or parts of Buildings proposed to be constructed over easement)

I/We Are / are not the owner/s of the property detailed in Item 4 below.

Tel No: _____ **Fax No:** _____
Signed: _____ **Date:** _____
 _____ **Date:** _____

3. **Owner of Property** *(if not the applicant)*

I/We _____
of _____
 are aware of this application.

4. **Property Details:**

Street No: _____ **Lot No:** _____
Street Name: _____ **Suburb:** _____
Tel No: _____
Signed: _____ **Date:** _____
 _____ **Date:** _____

5. **Information to be submitted with this application:**

- 5.1 Two (2) dimensioned drawings showing the structure(s). and their footings, proposed to be constructed, and its/their position relative to the easement/drain.
- 5.2 Legible copy of property title, including easement classification.

Conditions of Consent

1. before any building and works are commenced, the owner must enter into an agreement under section 173 of the *Planning and Environment Act 1987* agreeing to the following matters:
 - 1.1 the owner will not make any claim for damages or loss of any kind against Council resulting either directly or indirectly from the erection of the building over the easement or from Council maintaining or using the easement;
 - 1.2 the owner will indemnify Council against all actions, claims, demands, damages, expenses and/or costs by or at the instance of any person or body arising from the building being located over the easement;
 - 1.3 the owner authorises Council (and its representatives) to enter the land for the purpose of maintaining and using the easement without any liability;
 - 1.4 the owner will pay Council the reasonable cost and expense of the work caused directly or indirectly by the building being located over the easement;
 - 1.5 the owner pays Council any additional reasonable costs incurred by Council inspecting, constructing, repairing, cleansing, removing, renewing, altering, maintaining or reinstating any drain, pipe or other works of Council by reason of the erection of the building over the easement;
 - 1.6 the owner agrees, at all times, to carry out and comply with all directions of Council's building surveyor in relation to the construction of the building on any part of the easement or the carrying out of any building work in or over the easement.
 - 1.7 the owner agrees to ensure that any floor surface of the building constructed on or over the easement will be constructed in such a manner so as to be capable of being removed if access to any drain or pipe laid in the easement becomes necessary;
 - 1.8 the owner agrees to provide Council with proper means of ingress and egress to and from the easement.
 - 1.9 the Owner agrees that:
 - 1.9.1 the building must be removed and cleared from the easement, at the owner's expense, as and when required by any service authority having rights under the easement; and
 - 1.9.2 if the owner wishes the building to be reinstated after being removed, this must be at the owner's expense, once the service authorities have completed any work within the easement.
 - 1.10 The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 agreement.

Please note that this Consent does not constitute a building approval under the *Building Regulations 2006* or a planning permit under *Planning and Environment Act 1987* and the owner must also comply with any Statute or Regulation or Planning Scheme or any Local Law.

You should be aware that a section 173 agreement is a legal document and should be prepared by a lawyer with expertise in planning law. In Council's experience, the most cost effective way to prepare a section 173 agreement is if you ask us to instruct our solicitors to prepare the agreement.

If the application is approved, a Council stamped copy of the drawing will be forwarded to the applicant.

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Phone 9599 4444 • Fax 9598 4474
Website: <http://www.bayside.vic.gov.au>
Email: enquiries@bayside.vic.gov.au , hours of business 8.30am – 5.00pm
Monday – Friday (except public holidays)

Council collects personal information of property owners and applicants for the purpose of processing the application and for internal research purposes. Council may disclose this information to appropriate service authorities. If the information is not provided, Council may not be able to process the application. If the owner or applicant have any queries or wish to gain access to their information, they may contact Council's privacy officer on 9599 4444 or at privacy@bayside.vic.gov.au.