

BANYULE CITY COUNCIL

POLICY – BUILDING OVER EASEMENT

OBJECTIVE:

- To physically protect (ie prevent damage to) existing Council stormwater drains within easements vested in Council.
- To protect the rights of Council and property owners to utilise existing easements for drainage purposes, whether it be in constructing new drainage, tapping into existing drains, or maintaining existing drains.
- To ensure Council has ready access to existing stormwater pits and drains for maintenance purposes.
- To ensure that Council is not burdened with construction obstacles, difficulties, safety hazards, costs or delays associated with removing structures from easements or realigning works around structures where it is necessary to gain access to stormwater drains for maintenance purposes, to re-lay or upgrade sections of drainage, or to construct new drains.

POLICY:

While every application to build over an easement will be assessed on its own merits, in general, permission will **not** be given for structures (other than those listed in Schedule 'A') to be constructed over easements where any one of the following conditions apply:

- The proposed structure can be reasonably re-sited off the easement.
- The easement is a floodway and the proposed structure is enclosed or would obstruct the natural flow of stormwater.
- Council stormwater drains exist within the easement and access is required or the structure cannot be constructed without affecting the drain.
- New or upgrading of stormwater drains within the easement may be required in the future.
- Habitable rooms are proposed to be constructed over the easement.

In assessment of an application, reference is to be made to the flowchart in Schedule 'B'.

Where approval to build over an easement is granted, such shall be subject to the owner of the property executing Council's standard indemnity agreement (Attachment 1) and obtaining approval from all other relevant authorities.

Where indemnities have been executed, such information will be included on Council's property database and would be available to prospective purchasers of the land affected by such indemnity.

The policy accords with regulations set out under the Water Act 1989 (Sec.148), Local Government Act 1989 (Sec.198), Subdivision Act 1988 (Sec.12), and Council's Local Law No. 1 (Part 5).

SCHEDULE 'A'

Any building or structure which in the opinion of Council's Engineering Services Section:-

- a) can be readily dismantled and re-erected; or
- b) has footings designed to maintain the integrity of, and permit maintenance to any Council drain already contained, or likely to be constructed in the easement; or
- c) would not prevent Council from maintaining and undertaking work on the drain, except by using extremely disruptive and costly methods.