

BUILDING OVER EASEMENTS AND/OR NEAR COUNCIL STORMWATER DRAINAGE

Assets Guideline



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Responsible Department:	Growth and Investment
Responsible Team:	Development Services
Relevant Legislation:	Building Regulations 2018 Water Act 1989
Relevant Council Documents:	Nil
ECM ID:	TBC

Purpose and Intent

This guideline document provides an overview of the requirements for obtaining a Build Over Easement (BOE) consent for works over, or within one (1) metre lateral offset of a Council stormwater drainage asset. It seeks to protect the structural integrity and serviceability of Council stormwater assets, while recognising the needs of both the landowners and the current and future needs of the municipality.

Scope

The scope of this guideline document ensures all works proposed near Council drainage assets are constructed in a manner that protects the landowner’s rights to use the land while not hindering Council and/or relevant service authorities from accessing and utilising the easement. This guideline applies to:

- all drainage easements within the City of Casey where Council has rights
- council stormwater pipes, pits and associated infrastructure
- works within one (1) metre lateral offset of such assets
- earthworks affecting drainage infrastructure

Legislative Framework

Regulation 130 of the Building Regulations 2018 states that the report and consent of the relevant service authority must be obtained for an application for a building permit to construct a building over an easement vested in that authority.

Section 148 of the Water Act 1989 states that Council consent is required to construct any structure or undertake any earthworks within one (1) metre lateral offset of a Council stormwater drainage asset. This requirement also applies to assets not located within an easement.

Each application for consent is assessed on its merits by the responsible Council Officer.

Definitions

KEY TERM	DEFINITIONS
Angle of repose	The steepest angle at which loose material (such as soil) remains stable, defining the zone of influence around a buried pipe
Asset	Stormwater infrastructure (drainage pits and pipes) owned and/or managed by Council
Council	The City of Casey, being a body corporate constituted as a municipal Council under the Local Government Act 2020
Councillors	As outlined in the Local Government Act 2020

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Council officer	The Chief Executive Officer and appointed staff of Council
Easement	An area of land, or part of a lot, reserved by law for a specific purpose, such as the containment of stormwater drainage assets
Footing	Below-ground supporting part of a structure
Lightweight material	Materials such as polycarbonate and steel sheeting
Zone of influence	The region surrounding a buried stormwater drainage asset, defined by the angle of repose (which determines the minimum depth and location of nearby footings)

Assessment and Approval

Guiding Principles

The assessment and determination of applications under this guideline will be undertaken in accordance with the following principles:

- **Public Infrastructure Protection:** Drainage assets must remain structurally sound and serviceable.
- **Access Preservation:** Unrestricted access must be maintained for inspection, maintenance and renewal.
- **Risk-Based Decision Making:** Private development must not increase Council's operational or renewal costs.
- **No Additional Lifecycle Cost:** Encroachments must not obstruct designated overland flow paths or increase flood risk.
- **Future Asset Provision:** Council must retain the ability to upgrade, upsize or replace drainage infrastructure.

Applications will be assessed consistently and transparently. Approvals of similar proposals does create precedent.

Approval Categories

The following table establishes the classifications of building, structures and works proposed over or within one (1) metre lateral offset of a Council stormwater drainage asset.

Council reserves the right to require assessment if risks are identified and to reclassify an application where site-specific risk factors warrant a higher level of assessment.

Proposed Building, Structure or Works	Conditions
CONSENT NOT REQUIRED	
Sheds less than 10m ²	Non-masonry
Paving less than 10m ²	No structural slab; sand base only
Minor lightweight landscaping (includes crushed rock pathways, stepping stones)	No structural base or compaction over asset Fully removable
Clotheslines	No footing within 600 metre lateral offset
Timber boundary fences	
Lightweight garden edging	No structural footing load
Temporary or portable items (includes furniture, garden ornaments, trampolines or similar that are not affixed to the ground)	
Surface mulch/turf works	No excavation beyond 150 mm

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Proposed Building, Structure or Works	Design Requirements
PERMISSIBLE WITH CONSENT (MINOR BUILDING OVER EASEMENT) <i>This applies to lightweight, non-habitable and demountable structures with minimal structural risk</i>	
Timber decks (non-roofed)	Footings outside 600mm offset and below zone of influence
Unenclosed pergola or veranda	Lightweight material, independently supported and demountable by two people within four hours
Shade sail	Footings to be below zone of influence
Carport	Non-masonry and independently supported
Driveways	Maintain minimum 600mm cover over drainage asset
Non-structural concrete slab	Removable and no-load transfer
Hot water systems	Independent pad
Retaining wall < 600mm	Footings to be below zone of influence
Minor cut/fill < 300mm	Minimum 600mm pipe cover to remain
Landscaping	Non-structural and no root intrusion risk
Trees	Maximum mature height of 5 metres
Pool fence/isolation barrier	Minimum pit clearance to be maintained
Solid boundary fence	Footings to be outside offset
Eaves	Minimum 2.5 metres high from finished surface levels
Rainwater tanks	Above ground only
Gazebo	Footings to be below zone of influence
Stairs and/or landing	Footings to be below zone of influence
Paving greater than 10m ² constructed on a sand base	
PERMISSIBLE WITH CONSENT (MAJOR BUILDING OVER EASEMENT) <i>Structural works which require in depth engineering assessment</i>	
Sheds greater than 10m ²	Provide footing details and angle of repose to be assessed (if proposed)
Non-habitable outbuilding	Non-masonry, provide footing details and angle of repose to be assessed
Carpark/hardstand	Vehicle load assessment
Proposed Building, Structure or Works	Design Requirements
Structural slab	Provide footing details and angle of repose to be assessed
Slab with construction joints	Joint spacing assessed

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Retaining wall > 600mm	Provide footing details and angle of repose to be assessed
Fill 300-1000mm	Compaction and cover verification
Roofed structural deck	Provide footing details and angle of repose to be assessed
Carport over drainage asset	Provide footing details and angle of repose to be assessed
PROHIBITED STRUCTURES <i>The following works are not supported within drainage easements or within one (1) metre lateral offset of a Council stormwater drainage asset</i>	
Carport, garage, shed, fence or other structure constructed of masonry.	Dwelling or habitable building (including footings)
Commercial or Industrial building (including footings)	Enclosed pergola, veranda or sunroom
Small second dwellings (i.e. Dependent persons unit, caravans and similar) (including footings)	Swimming pools, saunas, spas or ponds (in-ground)
Structures directly over stormwater access pits	Service metres or infrastructure
Private drainage infrastructure	Basement beneath easement
Fill exceeding 1000mm	Any structure preventing future upsizing or that would require asset relocation
Shipping containers (for habitable uses including sleepouts, studios, offices, small second dwellings or home-based businesses)	Shipping containers (for non-habitable uses including outbuildings)

Assessment Criteria

All applications to construct buildings, structures or undertake works within drainage easement or within one (1) metre lateral offset of a Council stormwater drainage asset will be assessed against the following criteria:

- asset diameter, depth and condition
- zone of influence impacts
- footing location and depth
- impact on access to pits
- earthwork Implications
- structural load transfer
- hydraulic and overland flow impacts

Exceptions may be considered where:

- there are no Council stormwater drainage assets within the easement, and Council is satisfied it will not use the easement in future
- there is no viable alternative location for the proposal
- the proposal will not obstruct access to a stormwater drainage asset

- the proposal will not obstruct the reasonable overland flow of stormwater
- the proposal satisfies the design requirements

Design Requirements

Demountable Structures

Drainage assets must remain structurally sound and serviceable.

- Must be constructed of lightweight materials
- Must be capable of manual removal by two persons within four (4) hours
- Must be independently supported (not attached to buildings)

Clearance to Pits

- No structure within 600mm of a stormwater access pit
- Pits must remain uncovered
- Any pit level adjustments must be supervised by Council

Footing offset

Minimum 600mm lateral offset from outside edge of a drainage asset.

Zone of Influence

Footings must extend below the zone of influence of the drainage asset.

The zone of influence is determined by:

- 300mm horizontal offset below the pipe base
- 300mm vertical offset beyond the pipe edge

The zone of influence extends to the ground surface at an incline equal to the angle of repose.

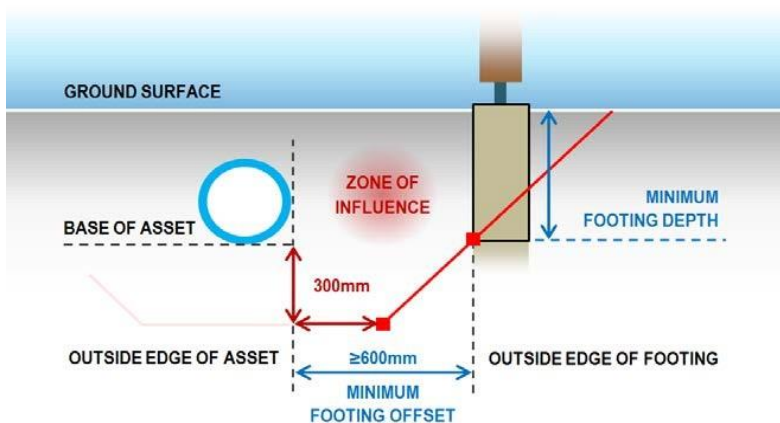


Figure 1: Zone of influence and minimum footing depth and offset detail

No Additional Load

Footings must not impose structural loading on drainage assets.

Services Crossing

Services must:

- Cross at 90-degree angle
- Maintain minimum 300mm horizontal offset or the minimum offset required by the relevant service authority.
- Maintain minimum 150mm vertical clearance or the minimum offset required by the relevant service authority.

Earthworks

- Minimum 600mm cover over pipes to be maintained
- Maximum 1000mm additional fill
- Excavation must not undermine supporting angle of repose cast by the asset

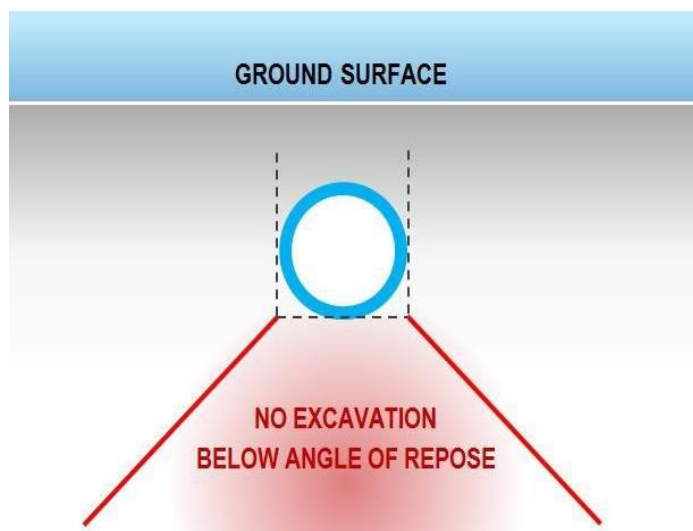


Figure 2: Supporting Angle of Repose of Asset

Conditions of Consent

Consent to build over an easement is conditional on the property owner providing written acceptance that they will comply with all standard and special conditions outlined in Council's Indemnity Agreement submitted upon application. Council's standard conditions establish that the owner will:

- Allow Council unrestricted access rights for the purpose of inspecting, maintaining, repairing or constructing any current or future Council asset.
- Allow Council to excavate through the floor or building or structure if required for the purpose of inspecting, maintaining, repairing or constructing any current or future Council asset.
- Allow Council to dismantle part or all the building or structure if required for the purpose of inspecting, maintaining, repairing or constructing any current or future Council asset.
- Be solely responsible for all injury, loss or damage to the building or structure by reason of or incidental to Council inspecting, maintaining, repairing or constructing any current or future Council asset or by reason of or incidental to the presence of the Council asset.
- Indemnify Council against all actions, claims, suits and demands arising out of or incidental to the erection and/or retention of the building or structure over the Council asset and/or easement.
- Pay to Council any additional costs incurred by Council in inspecting, maintaining, repairing or constructing a Council asset by reason of the building or structure having been erected over a Council asset and/or the easement.
- Complete the proposed building/works within two (2) years from the date of the build over easement consent, or any extension thereof provided in writing.
- Not sell or mortgage land to which the build over easement consent refers without first disclosing the contents of this consent (including these conditions) to the purchaser or mortgagee.
- Allow Council to perform a CCTV condition report prior to works being undertaken, to allow Council to repair or maintain the asset to ensure the asset remains serviceable.
- Undertake a CCTV condition report from the closest pit upstream to the closest pit downstream within thirty (30) days of works being completed as directed by Council. This is to verify that no damage has occurred to the Council asset due to the consented works being undertaken. The condition report will be organised by Council but paid by the applicant.

Non-Compliance

Failure to comply may result in:

- Withdrawal of consent
- Enforcement action under relevant legislation
- Removal of unauthorised structures
- Recovery of costs incurred by Council