





**Murrumbidgee**  
COUNCIL

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## Building Over or Adjacent to Council Infrastructure Policy

	Name	Position	Signature	Date
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## **PART 1 – PRELIMINARY**

### **1. Name of the Policy and Purpose**

This policy is the ***Building Over or Adjacent to Council Infrastructure Policy*** and its purpose is to protect the Council's interest should problems arise following the construction or placement of a building or structure over or within the zone of influence of Council water, sewerage and stormwater infrastructure.

### **2. Aim of Policy**

The aim of the policy is to:

- a. Provide direction as to what is permitted when seeking consent to construct or erect a building or structure over or adjacent to water, sewerage or stormwater infrastructure, based on the following order of approach:
  - i. Reposition the proposed building or structure;
  - ii. Relocate the affected infrastructure;
  - iii. Provision of protection measures and build in the vicinity of underground infrastructure;
- b. Provide guidelines that Council deems acceptable with regard to building over or in the vicinity of its underground infrastructure.
- c. Ensuring that there is no adverse impact upon the operation, maintenance, replacement or structural integrity of Council's infrastructure.

### **3. Scope of policy**

This policy applies to:

- a. The construction of all Class 1-10 buildings and structures as set out in the Building Code of Australia
- b. Where Council determines that the location of a building or structure is near or in the vicinity of Council infrastructure, including those that are:
  - i. within, or likely to be within the zone of influence of a water, sewer or stormwater pipe; and
  - ii. within, or likely to be within the minimum clearance requirements to enable maintenance and repair; and
  - iii. likely to prevent or otherwise limit access for the purpose of maintenance or repairs; and
  - iv. encroach or likely to encroach upon any easement.
- c. All new development in the Murrumbidgee Council Local Government Area that is to connect to Council's infrastructure, as a result of the amplification and expansion of the infrastructure network.

## 4. Definitions

In this policy:

**Application** means an application for consent under Part 4 of the Act to carry out development, and includes an application for a complying development certificate and an application to modify a development consent.

**Building Code of Australia (BCA)** means the National Construction Code, Volumes I, II & III.

**Council** means Murrumbidgee Council.

**Development process** means application, assessment, determination, and enforcement.

**Easement** means a legal right that attaches to land or a part of land (the 'burdened land') and allows a benefiting party to use the land in a particular manner.

**Infrastructure asset** means the physical components concerned with the supply of water, sewerage and stormwater services owned and maintained by Council. This would include gravity sewer mains, sewer maintenance holes, pressure sewerage mains, water mains and associated structures and utilities and stormwater mains.

**Invert** means the outside edge of the lowest part of the cross section of a pipe.

**Light weight building or structure** means structures such as demountable aboveground swimming pools and rainwater tanks that are able to be removed via manual handling, and buildings up to 60m<sup>2</sup> in floor area constructed as portal frame or similar with bolted base connections, able to be removed using machinery without the need for partial or total demolition.

**Structure** means anything that is constructed and is identified in the Building Code of Australia as a Class 1-10 building that may either be fixed, moveable, temporary or permanent.

**Zone of influence** means the area extending both horizontally and longitudinally along the alignment of an underground pipeline within which settlement or disturbance of the ground may cause damage to structures within this zone, or load from structures on the surface may have an impact on the pipeline.

Any other word or expression used in this policy has the same meaning as it has in the Environmental Planning & Assessment Act, 1979 and any instruments made under the Act, unless it is otherwise defined in this policy.

Notes in this policy do not form part of the policy.

## PART 2 – GUIDELINES AND APPLICATION REQUIREMENTS

### 5. Limitations and restrictions

The following limitations and restrictions apply:

- a. Council will not permit the erection of a structure or a building over its water supply infrastructure, or within the zone of influence of that infrastructure, whether or not the infrastructure is within an easement.
- b. Council will not permit the erection of a structure or a building over its stormwater infrastructure, or within the zone of influence of that infrastructure, whether or not the infrastructure is within an easement.
- c. Council may permit the erection of a structure or building over its sewer infrastructure if it can be demonstrated that no alternative options for their siting exist, and compliance with the controls set down in clause 9 are met.
- d. Any costs associated to repair or relocate Council infrastructure shall be borne by the developer.

### 6. Controls

The controls in this part have been developed so as to inform developers, consultants, designers and the general public as to what Council deems acceptable with regard to building over or in the vicinity of water, sewer and stormwater infrastructure, including associated access points, utilities and easements.

Council's first position is that structures are not to be constructed over sewer mains or within the sewer zone of influence. Where the structure cannot be repositioned, or where it is impractical to relocate services, the following controls apply:

- a. Structures and/or construction generally **will not be permitted** to be built over and/or in close proximity to the following:
  - An easement containing a pressurised sewer or within 1 metre from any point on the outside edge of the pressurised sewer or associated vent or maintenance structure;
  - Where sufficient clearances to sewer manholes, inspection shafts, or maintenance points and junctions cannot be achieved;
  - Concrete pipes, asbestos cement pipes or vitreous clay pipes as they may be cracked and have leaking joints and require rehabilitation or replacement before construction to minimise the likelihood of any problems or structural failure. If local conditions permit, these pipes can be replaced with alternative pipe materials, subject to approval by Council;
  - Any gravity sewer that, in the opinion of Council, is in poor condition. The condition of the sewer must be reviewed by Council and, as necessary, has been CCTV inspected, its structural condition assessed and, as appropriate, rehabilitation works undertaken. The costs associated with the CCTV inspection are to be at the applicant/owner's expense;
  - Within 1 metre of a sewer connection servicing an adjoining property;
  - Class 1 and Class 2-9 buildings.

- b. Structures or buildings that **may be permitted** to be built over and/or in close proximity to the following:
- Landscaping, including terraced garden beds;
  - Concrete driveways, paths or decorative paving;
  - Class 10a buildings, including non-habitable garages, carports, sheds, pergolas and the like;
  - Class 10b structures, including fences, retaining walls, swimming pools, flag-poles and the like.
- c. The following setbacks and clearances apply for all structures:
- i. A minimum setback of 1.5 metres is required from the centre of any maintenance shaft or manhole, as well as a minimum vertical clearance of 2.4 metres;
  - ii. Where access structures, maintenance shafts or manholes are located in the rear of a property, a minimum side setback of 900mm is required.
- d. The following controls apply to landscaping, including raised garden beds, paved areas, driveways, flagpoles, retaining walls and fences:
- i. An application is not required provided that all works comply with the exempt development requirements set out in clause 1.16 and part 2, division 1 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008;
  - ii. Footings for retaining walls or fences over 600mm in height are not permitted within 1.5m of a pipeline or manhole. Any retaining wall or fencing crossing a pipeline must be supported to ensure loads are not transferred to the pipeline;
  - iii. Where the sewer main is shallow, 1.0m or less, root barriers are to be installed around any new tree plantings. Any selected tree or shrub species should have a non-invasive root system so as to prevent damage to Council's infrastructure assets.
- e. The following controls apply to Class 10a buildings, including non-habitable garages, carports, sheds, pergolas and the like:
- i. Footings are not permitted within any existing or proposed easement;
  - ii. Footings are not permitted within 1.5m of a pipeline or manhole;
  - iii. The foundations of any structure are to be constructed in such manner that no loads due to the structure are transferred onto Council's infrastructure assets or their foundations.
- f. The following controls apply to swimming pools.
- i. Swimming pools are not permitted within any existing or proposed easement;
  - ii. Above ground swimming pools are not permitted within 1.5m of a pipeline or manhole;
  - iii. In-ground swimming pools are to be located outside the zone of influence, plus 2 metres from any pipeline (water, sewer, stormwater) or manhole.

- g. Easements and restrictions on the title of the land shall be required in the following instances:
- i. In all new subdivisions, easements shall be provided for all Council infrastructure (including but not limited to water mains, stormwater mains and sewer mains). The easement shall be referenced on the plan of subdivision and in a Section 88B instrument on the title of the land;
  - ii. Where the development involves work being undertaken on existing infrastructure, including the provision of new infrastructure or the relocation of existing infrastructure. The easement will be registered on a plan and in a Section 88B on the title of the land;
  - iii. The width of any easement shall be in accordance with the following table:

**Table 1: Easement widths**

<b>Depth to pipe invert</b>	<b>Minimum width of easement</b>
Up to 2.5m	3.0m
Greater than 2.5m	To be determined by Director
Low pressure sewer systems	1.0m or twice the depth of the invert, whichever the greater

Note 1: Where possible underground infrastructure shall be centrally positioned within the easement.

Note 2: The Director has the power to vary the width of an easement for low pressure sewer systems.

## **PART 3 – OTHER MATTERS**

### **7. Legislation and related matters**

The following legislation and related matters were referenced in the drafting of the policy:

- (a) Environmental Planning and Assessment Act, 1979
- (b) Environmental Planning and Assessment Regulation, 2021
- (c) Local Government Act, 1993
- (d) Local Government (General) Regulation, 2021
- (e) National Construction Code, Vol I, Building Code of Australia Class 2-9 Buildings, 2022 (as amended)
- (f) National Construction Code, Vol II, Building Code of Australia Class 1 & 10 Buildings, 2022 (as amended)
- (g) National Construction Code, Vol III, Plumbing Code of Australia 2022 (as amended)

### **8. Directorate**

This policy was prepared by Planning, Community and Development Directorate for the Infrastructure Directorate.

### **9. Policy Review**

This Policy:

- To be reviewed within the first year of the new Council term;
- May be reviewed and amended at any time at Council's discretion (or if legislative or State Government policy changes occur).