

BUILDING POLICY

Policy Number:	3.2.3
Approved by	Council
Date Approved/Effective	17 December 2019
Date of Next Review:	1 October 2020
Related Policies:	Nil
Applicable to Unit(s):	Municipal Services, Built Environment
Responsible Officer:	Municipal Building Surveyor
Statutory Reference:	<i>Building Regulations 2018</i>

OVERVIEW

To establish building policy to manage:

- building over easements;
- sheds on vacant land;
- the construction of fences on street alignments; and
- the procedure for building complaints where a private building surveyor has been appointed.

THE POLICY

1. Building over easements

Overview

The building of over easements policy is designed to ensure the protection of Council's existing and future assets situated within easements. In special circumstances, Wellington Shire Council may conditionally approve an application to build over such easements under the *Building Interim Regulations 2018, regulation 130*, however the application requires the following:

- (1) *The consent and report of a council, drainage authority, electricity supply authority, sewerage authority or gas supply authority must be obtained to an application for a building permit to construct a building over an easement vested in the council or authority.*
- (2) *This regulation does not apply to implied easements under the Subdivision Act 1988.*

The Policy

The Municipal Building Surveyor is authorised to approve applications for building work over an easement, in accordance with regulation 130 of the *Building Interim Regulations 2018*, where:

- Consent to the proposed development has been received from Council's Built Environment Business Unit; and
- The owner indemnifies Council by agreeing to standard conditions:

A section 173 agreement may be requested by the Municipal Building Surveyor for the construction of a building over the easement.

2. Non habitable buildings on Vacant Land

Overview

The Non Habitable Buildings on Vacant Land policy is to ensure the appropriate development and use of shed on vacant allotments, *Building Regulations 2018, regulation 87 - Siting of Class 10a buildings* requires the following:

- (1) Unless otherwise approved under the Subdivision Act 1988 or any corresponding previous enactment, a Class 10a building must be on the same allotment as a building of another class to which it is appurtenant.*
- (2) The consent and report of the relevant council must be obtained to an application for a building permit for the construction of a building which does not comply with sub-regulation (1).*

Definitions

Building Code of Australia, Volume 2, Class 10a – Non-habitable building being a private garage, carport, shed or the like.

The Policy

- To recognise and facilitate the need for people to have storage facilities during the construction of a dwelling and for equipment needed to maintain farm land.
- To prevent the illegal occupation of non-habitable buildings on vacant allotments.
- To ensure consistency is maintained between Planning, Building and Environmental Health Legislation.
- To ensure applicants are aware of Council's policy at an early stage of a project.

Where an application under Regulation 87 is made for Council consent to build a non-habitable building on a vacant allotment the following shall apply:

- Each application shall be accompanied by a statutory declaration stating that the non-habitable building will not be used for any form of occupation or for any commercial purpose.
- Applications for class 10a buildings on vacant land within areas that are not prohibited under the planning scheme will only be approved where:
 - A building permit for a dwelling on the allotment has been issued;
 - The time frames (commencement and completion) detailed on the building permit for the construction of the dwelling are complied with; and
 - The owner agrees to remove shed, on expiry of the building permit, if for any reason the dwelling is not constructed.

3. Fences on street alignments Overview

The Fences on Street Alignments policy is to ensure the appropriate construction of fences on corner allotments and to ensure appropriate vehicular and pedestrian safety is maintained. *Building Regulations 2018, regulation 92* requires that:

- (1) The consent and report of the relevant council must be obtained to an application for a building permit to construct a fence within 9m of a point of intersection of street alignments and exceeding a height of 1m above the footpath.*

The Policy

The Municipal Building Surveyor be authorised to approve applications to construct fences within 9m of the point of intersection of street alignments and exceeding a height of 1m above the footpath where:

- The proposed fence height and location has been approved by, or has complied with, any requirement of Council's Built Environment Unit with respect to ensuring the fence does not interfere with or have a detrimental effect on vehicular traffic or pedestrian movement; and
- The fence will be more appropriate taking into account the prevailing heights, setbacks and design of existing front fences on nearby allotments; and
- The fence height will not result in a disruption of the streetscape; and
- The fence design respects the existing character of the street.

4. The procedure for building complaints where a private building surveyor has been appointed

Overview

The procedure for building complaints where a private building surveyor has been appointed to establish a policy to administer and implement Council's responsibilities under the *Building Act 1993* ("the Act") in circumstances where a private building surveyor has been appointed by the owner of a property to issue a building permit or carry out other functions in respect of building work being carried out or proposed to be carried out at the property.

The Policy

That the *Building Control Intervention Filter Criteria* ('the Filter Criteria') which is a risk assessment matrix, is used to identify standardised responses to complaints from the public where a private building surveyor has been appointed. The Filter Criteria recognises that Council has obligations to the public with regard to dangerous situations which it can remedy or cause to be remedied.

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

Related Documents

Type:	Details:
Procedure:	
Guidelines:	Building Control Intervention Filter Criteria