

POLICY ON STRUCTURES ON ROADS 2010

ACTIVITIES PERMITTED UNDER THE CHRISTCHURCH CITY COUNCIL PUBLIC PLACES BYLAW 2008

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POLICY ON STRUCTURES ON ROADS

1. INTRODUCTION

Permitting structures on roads can contribute to a more flexible approach to building design that adds to the character of the city; and a more pragmatic approach to address some of the functional and service requirements generated by the public or individuals.

Purpose

The purpose of this policy is to enable Council to reasonably control the use of:

- Public road airspace and to protect the public from nuisance and inconvenience that may arise from these commercial activities (structures encroaching on airspace of road).
- Public roads for private and commercial activities to occur without creating undue inconvenience to the public (structures encroaching on road).

Scope

These policies apply to non-habitable:

Structures over roads

- Open Verandas in business areas
- Overbuildings which make use of the airspace of a road for architectural features including balcony, oriel windows, egress facilities and building service plants
- Overbuildings which make use of the airspace of a road for increasing floor area
- Overbuildings which make use of the airspace of road for a pedestrian and/or vehicular air bridge

Structures encroaching on road:

- Retaining structures, carports, garages, parking platform, and cable-car station.
- Infrastructural structures.
- Other structures.

General Approach

In applying this policy the Council will take into consideration whether traffic, personal safety and the enhancement of visual amenity issues have been enhanced or at least maintained.

Costs of maintenance and removal of structures to which this policy applies rests with the owner of the building and not with the Council. This includes fences on roads.

An approval given under this policy only allows the use of an airspace over or use of a road controlled by the Council. The applicant will also need to obtain any other consents, permits or authorisations that are required.

A written Council permit/consent/deed of licence/building consent will be issued for any authorisation granted under this policy.

Principles of this Policy

The following principles apply when considering applications under this policy:

- The effects on existing roads and the impact on any future road works are minimal.
- The structure over the road or encroaching on the road should not cause inconvenience or any safety issues to other road users.
- The road space is surplus to roading requirements generally.
- The public's rights of access to the road is not unreasonably affected.

Definitions

For the purpose of this policy:

'Air bridge'	means a structure providing a pedestrian and/or vehicle link.
'Airspace'	means any part of the airspace above the surface of the road.
'Building consent'	means as defined in the Building Act 2004.
'Cable-car station'	means a station serving a cable car for goods and people.
'Carport, garage/ parking platform'	means a structure that is used for parking a motor vehicle.
'Information Bollards'	means bollards installed by Council to provide information to visitors to the city.
'Open verandas'	means structures suspended or cantilevered from buildings generally built on boundaries and include canopies, sun blinds and awnings.
'Overbuildings'	means any structure which extends into the airspace over a road and include enclosed balconies.
'Permit'	means a permit or approval issued by the Council under the Public Places Bylaw 2008 and in accordance with this policy
'Poster Bollard'	means a bollard installed by private company which has a contract with Council to promote events in the city.
'Resource consent'	means as defined the Resource Management Act 1991.
'Road'	means the whole of any land vested in Council for the purpose of a road and includes access way and service lanes as defined in the Section 315 Local Government Act 1974.
'Retaining structures'	means structural walls supporting land, driveways, walking tracks or steps.

Alignment

The policy gives effect to the Public Places Bylaw 2008.

The policy also allows the Council's decision making to be consistent with:

- Local Government Act 1974:
 - Section 319 General Powers of Council in respect of roads
 - Section 341 Leases of Airspace or subsoil of roads
 - Section 357 (2) Penalties for damage to roads
 - Section 334 Erection of monuments etc
 - Section 339 Transport shelters
 - Section 344 Gates and cattle stops across roads.
- The Christchurch City Plan
- The Banks Peninsula District Plan
- The Building Act 2004.

2. STRUCTURES ENCROACHING ON AIRSPACE OF ROAD

2.1. Open verandas in business areas (*Building consent required*)

Scope

Verandas are usually provided by building owners to provide protection and comfort to pedestrians in adverse weather conditions and in shopping precincts. In the Central City it is a requirement for building owners to provide such facilities in defined locations (shown on planning map 39E of the City Plan.)

Verandas are also present in strip shopping precincts in many suburban locations and this policy will continue to permit their replacement, and the construction of new verandas in new developments where appropriate.

Policy Details

It is vital that the presence of verandas does not effect road users, particularly drivers of motor vehicles. It is also equally important that these structures be permitted in locations where accidental damage by motor vehicles is unlikely, and for these reasons the following will apply:

- (a) A veranda will only be permitted where there is a physical barrier between the veranda and the carriageway; e.g. a kerb and channel between building and the carriageway, and where there is a footpath.
- (b) A veranda must be erected at a height of not less than 2.9 metres above the level of the footpath, creating a sufficient and comfortable environment for pedestrians. It must extend from the supporting building to a distance of 500 millimetres inside a vertical line drawn from the face of the kerb to minimise the risk of the structure being damaged by larger motor vehicles travelling close to the kerb.

For consistency of veranda design it is vital that existing design requirements which have evolved over decades be preserved. The design requirements are:

- (i) The fascia must not be less than 300 millimetres nor more than 450 millimetres in depth.
- (ii) The roof covering of the veranda must be of weather resistant material and be provided with gutters and down pipes.
- (iii) Ceilings of verandas must be lined with material compatible with adjacent buildings - also in colouring.
- (iv) A minimum lighting level of 5 lux under the veranda will be required to provide a level of safety to pedestrians during the hours of darkness.
- (v) Canopies, sun blinds and awnings are restricted to an area of less than 5m² where there is no appropriate stormwater disposal system.

2.2. Use of the airspace over roads for architectural features on buildings including balconies, oriel windows, egress facilities and building service plants. (*Building consent required*)

Scope

Previous bylaws and building standards permitted the use of airspace over roads for the above architectural features. This has led to some interesting building facades that form the road scenes.

A minor intrusion into the airspace of roads for these features will have insignificant implications for road users, but any intrusions will require the input of the Council's Urban Design Panel.

This policy will permit minor intrusions to the airspace of roads to create some flexibility for building owners in their building designs, the placements of building plants and services attached to buildings, for structural strengthening of buildings, recladding of buildings and any other minor modifications of buildings.

Policy Details

Airspace over roads is generally available for adjacent properties for the above mentioned features.

The features must not be less than

- (a) 2.6 metres above existing footpath level; and,
- (b) 6.0 metres above existing road level.

The following design parameters have been used to control the minor intrusions in the past:

- (a) Architectural features at a height of not less than 2.60 metres above the footpath level or 4.50 metres where no footway has been formed and constructed.
- (b) The horizontal projection shall generally not exceed 1 metre.

2.3. Use of the airspace over roads for increasing the floor area of a building (Resource consent, Building consent, and Deed of Licence required)

Scope

The Council will not generally grant rights to airspace above roads for the sole purpose of creating additional floor space (for an overbuilding) unless there are exceptional circumstances, such as where there is a clearly demonstrated need for increased floor space that cannot be met in any other way (i.e. by expansion upwards, sideways or backwards, or by moving to another site). When considering a request to grant rights to use airspace over a road for this purpose, the Council must be satisfied that the policy details below are met.

Policy Details

1. The proposed overbuilding must :
 - (a) Act as a landmark.
 - (b) Provide an additional viewing point.
 - (c) Provide an opportunity for an architectural statement.
2. An application under this section of the policy will be considered in the following circumstances:
 - (a) Where the design and location of the structure will not cause excessive shading at road level, or block light and views from adjoining buildings.
 - (b) If there are already over-buildings close by, building further structures will not have an adverse cumulative effect.
3. The terms and conditions for using airspace over roads for increasing floor area will be negotiated by the Corporate Support Unit. The terms and conditions may include (without limitation):
 - (a) The use to which the structure can be put; and/or
 - (b) Design requirements which must be to the Council's satisfaction.

**2.4. Use of the airspace over roads for a pedestrian and/or vehicular air bridge.
(Resource consent, Building consent, and Deed of Licence required)**

Scope

The Council will not generally grant rights to airspace above roads for the sole purpose of creating air bridges. When considering a request to grant rights to use air space over a road for this purpose, the Council must be satisfied that the policy details have been met.

Policy Details

1. Any proposal will need to meet a significant number of the following conditions or results:
 - (a) There are high levels of pedestrian traffic in the vicinity, some of which would be usefully diverted to an elevated walkway, without reducing the amount of pedestrian activity on the road to a level which detrimentally affects the vitality of existing activities on the road.
 - (b) A more direct link or a choice of routes between public buildings or places of interests (including car parking buildings) will be created.
 - (c) The new structure will act as a landmark.
 - (d) The new structure will provide an additional viewing point.
 - (e) The new structure will provide an opportunity for an architectural statement.
2. An application under this section of the policy will be considered in the following circumstances:
 - (a) Where the design and location of the structure will not cause excessive shading at road level, obstruction of footpaths or block light and views from adjoining buildings.
 - (b) Where joining buildings across the road will not result in excessively bulky built form.
 - (c) Where the structure can be joined to the host building/s in an architecturally sympathetic way.
 - (d) If there are already other air bridges or overbuilding close by, building further structures will not have an adverse cumulative effect.
 - (e) Where the alignment and location of the structure will not detract from views nor compromise the basic grid layout and urban form of the City Centre and the general openness of the road system.
3. The terms and conditions for a licence to occupy airspace will be negotiated by the Corporate Support Unit. The terms and conditions may include (without limitation):
 - (a) The use to which the structure can be put; and/or,
 - (b) Design requirements which must be to the Council's satisfaction.

3. STRUCTURES ENCROACHING ON ROADS

3.1 Retaining structures, carports, garages, parking platforms and cable-car stations. (Resource consent, Building consent, and Deed of Licence required)

Scope

The request to build such non-habitable structures often arise from owners in the hill areas where the terrain is steep and difficult. A majority of these properties were created prior to 1974 when vehicle access to properties was not required for subdivisions.

There are also requests from owners to build retaining structures on roads to support their properties following landslips or potential landslips that have been identified.

Property owners have a legal right of access onto a legal road and for this reason driveways in the older hill suburbs are often supported by retaining structures built on a legal road.

Likewise, there are a number of properties having exclusive use of parcels of legal roads for carports, garages, parking platforms and *cable-car stations*. These have significant advantages to occupiers and at the same time help to ease on-road parking pressures on roadways. The garage sites have also been used as one of the tools to enable residential developments in difficult terrain.

Policy Details

1. Any proposal will need to meet the following criteria:
 - (a) The structures do not cause any safety issues to any road users including pedestrians, cyclists and other commuters.
 - (b) Legal right of access is maintained for individual property owners.
 - (c) There is no conflict with the likelihood of future roadway widening or alterations.
 - (d) The applicant is unable to construct the structure on his or her land because of the nature of the terrain.
 - (e) The proposal is consistent with the provisions of the Christchurch City Plan Vol. 3, Part 13 Transport, or the Banks Peninsula District Plan Part VI, Chapter 35 Access, Parking and Loading.
 - (f) The road environment, and any council or other utility services, are not unduly compromised with the presence of the structure.
 - (g) The visual intrusion to the roadscape will have minimal effect on road users, and landscape mitigation measures must be provided when required.
 - (h) Garaging is only provided for storage of motor vehicles and is not for general storage purposes.
 - (i) Only one single garage site per residential allotment will be considered when that site does not front the occupier's property and a licence to occupy under such circumstances shall be terminated when alternative garageable space facilities complying with the rules of the City Plan or District Plan have been achieved on the occupier's property.

2. If the Council is satisfied with the above criteria, the owner is required to:
- (a) Enter into a Deed of Licence to occupy legal road with the Council. Such licence will be transferable to future owners with the Council's consent.
 - (b) Obtain resource and building consents as appropriate

For Existing Structures:

- (a) An occupier of a structure on a road normally has a licence granted by the Council. The licence is transferable to future owners of the property with the Council's consent.
- (b) The licence to occupy for a carport or garage shall be terminated when alternative garage facilities complying with the rules of the City Plan have been achieved on the occupier's property.

3.2 Infrastructural Structures (Permit required)

Scope

These structures include:

- (a) waste or water pump plants
- (b) waste container compounds
- (c) Council information bollards
- (d) gates and cattle stops on roads
- (e) private letter boxes in rural areas or where they are not adjacent to formed footpath.

Policy Details

The locations of existing structures resulted from past actions of Council and were placed for their practical function and convenience.

In determining the location of any new such structures, the following assessment matters must be satisfied:

- (a) Safety of all road users including pedestrians, cyclists and other commuters is not comprised.
- (b) Legal right of access is maintained for individual property owners and users.
- (c) There is no conflict with likely future roadway widening or alterations.
- (d) The proposal is consistent with the Council's Activity Management Plans and LTCCP.

Note: There are existing public utility infrastructures on roads (including telecommunication, electricity, gas and postal services). The placing and maintenance of such infrastructure is determined by statutory powers, exercised in consultation with local authorities.

Nothing above applies to gates and cattle stops across roads where section 344 of the Local Government Act 1974 will apply.

3.3 Other Structures (Permit required)

Scope

These structures include installations such as artwork, support structures for verandas or buildings, outdoor advertising, fences and other structures for which Council has contracts or agreements for e.g. poster bollards, information stations, private bus shelters.

4. Obtaining a Permit

Application forms can be obtained through Customer Services phone 941 8999 or downloaded from the Christchurch City Council website www.ccc.govt.nz/policies/

The application form sets out the information needed to accompany each permit (as appropriate) and where to send the completed application.

5. Fees

Fees and charges are set out in the Council's Schedule of Fees and Charges, which is available on request and can be found on the Council's website. The fees and charges are revised on an annual basis .

Permit fees may include the costs of permitting, monitoring and enforcement.

The Council reserves the right to charge rental fees for all commercial activities on a public road. The rent will be set at a level that reflects the location to ensure that business solely on private property are not unfairly disadvantaged.

The permit applicant must pay the full permit fee and supply all the required documentation before the permit will be issued.

Policy Details

In determining the location of such structures, the following assessment matters must be satisfied:

- (a) *Vehicle traffic is not compromised.*
- (b) *Pedestrian movements and access to private properties are not unduly compromised.*
- (c) *There is no conflict with utility services.*
- (d) *There is no affect on business entranceways.*
- (e) *Consultation has been carried out with building and business owners.*
- (f) *Issues arising in sensitive environments must be addressed e.g. adjacent to riverbanks, heritage buildings.*
- (g) *Outdoor advertising must comply with the requirements of the City Plan Vol. 3 Part 10 Heritage and Amenities or the Banks Peninsula District Plan Part VI Chapter 34 Signs.*
- (h) *Fences on roads will only be considered upon written application and only where cutting a bench below the road would not destabilise the road.*