

Structures on Roads Policy 2020

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1. INTRODUCTION

Roads are first and foremost for the movement and connection of people through walking, cycling and in vehicles by the community at large, and only by exception will the Council consider applications for structures on, over or under roads, as set out in this policy. The primary consideration is that the overarching functions of the road are not compromised now or in the future.

Permitting structures on, over or under roads can contribute to a more flexible approach to building design that adds to the character of the city. This policy presents a pragmatic approach to address the functional and service requirements generated by the public or individuals.

“Road” is land vested to the Council as defined in s315 of the Local Government Act 1974. This policy equally applies to both formed and unformed (paper) legal road.

1.1 Purpose

The purpose of this policy is to enable the Council to control the private use of public roads, including the airspace and subsoil of the roads:

- Protecting the public from nuisance and inconvenience that may arise from permitting structures for residential and commercial activities.
- Minimising the extent and impact of permitted encroachments to limit inconvenience to other road users and/or negative impacts on the streetscape.

1.2 Policy Scope

The policy applies to private non-habitable structures encroaching on, under or over roads. The Policy outlines the principles applying to most structures dealt with by the Council. If there is any doubt about a proposed structure on the road please email road.stop@ccc.govt.nz.

Habitable structures, boat sheds and other storage structures (other than garages) are excluded from this policy.

1.3 General Approach

In applying this policy the primary purpose of the Council’s roading network remains paramount; to provide network efficiency, capacity and personal safety now and in the future.

1.4 General Principles of this Policy for all applications

The following general principles apply when the Council is considering applications under this policy:

- The Council has full discretion when considering a structures on roads application.
- There must be no suitable alternatives to locate the proposed structure over, on, or under the road.
- The effects of the structure on the roads, such as amenity and accessibility, and the impact on any future roading projects, must be minimal.
- The structure encroaching over, under or on the road should not cause any potential safety issues.
- The road space to be used by the structure should be surplus to current roading requirements.
- The public’s rights of access to the road should not be unreasonably interfered with.
- The potential impact of an application on Ngai Tahu (see the District Plan Chapter 9) values, heritage sites and other significant historical and cultural sites.

- The potential impact of an application on views and sight lines along roads, including but not limited to views towards significant buildings and structures, and towards significant natural features such as the Port Hills.
- A structure must not negatively impact or obstruct other features within the roadway, including traffic signs and traffic signals; growing space for street trees; street furniture and permanent artwork.

2. APPLYING FOR APPROVAL/AUTHORISATION

Application forms are available on the Christchurch City Council website including an online option. The application form sets out the information needed to accompany each application (including a scaled plan) and how to submit it.

Applications for structures on roads will be considered on a case by case basis. The Council may require modifications to the applicant's proposal, and these will be discussed with the applicant before a decision is made.

An approval (including a lease or licence) given under this policy only authorises occupation of the road. Other consents (e.g. resource and building consents) may be required. It is the Applicant's responsibility to ensure they have all the relevant permissions and consents.

The terms and conditions may include (without limitation):

- The use to which the structure can be put; and/or,
- Design requirements which must be to the Council's satisfaction;
- Enter into a Deed of Licence or Deed of Grant to occupy legal road with the Council. Such licence can be available to future owners on application with the Council's consent.
- The costs of installation, maintenance and removal of approved structures rests solely with their owner.
- The applicant acknowledges their responsibilities under the Health & Safety at Work Act 2015 in respect of any construction on, under or over the legal road reserve, and in respect of any permitted structure and its use.

If the Council declines an application, we will provide reasons for the refusal in writing.

Licence or Lease

The Council (as the road controlling authority) can lease the legal road airspace and subsoil, providing it does not impede the passage of pedestrians and vehicles. However, the Council cannot lease the surface of the legal road. The Council does not normally issue leases for structures in the road's airspace or subsoil; a deed of licence is sufficient authorisation.

If approval is given the Council will determine whether it will issue a lease or licence.

Council as a Territorial Authority

The Council in its capacity as a territorial authority is required to carry out its statutory functions under the Resource Management Act 1991, the Building Act 2004, the Local Government Acts 1974 and 2002, and its Bylaws. The granting by the Council of any permission or consent under those Acts or the Council's Bylaws will not of itself be deemed an approval by the Council under this Policy. The Council must exercise its powers, including

any discretionary powers and duties, under those Acts and its Bylaws without regard to any application made, or approval given under this Policy.

3. FEES

Fees and charges are set out in the Council's Schedule of Fees and Charges, which is available on the Council's website. The fees and charges are revised on an annual basis. The application fee is non-refundable.

The applicant must pay the fee and supply all the required documentation before the application will be considered.

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

4. STRUCTURES ENCROACHING OVER ROAD AIRSPACE

4.1 Verandahs in commercial areas

Verandahs provide protection to pedestrians in adverse weather conditions for retail/commercial areas.

Verandahs are normally required in commercial/retail areas in the central City and suburban locations and should be cantilevered off the building.

In addition to the general principles the following apply when the Council considers an application for a verandah:

- (a) Verandahs are allowed where there is a physical barrier between the verandah and the carriageway; e.g. a kerb and channel between building and the carriageway, and where there is a footpath.
- (b) Verandahs are allowed in shared zones where there is no physical barrier between the footpath and the carriageway, but there remains sufficient width and height (a minimum of 4.5 metres) so the verandah will not interfere with vehicular traffic flows. A verandah between 2.9 and 4.5 metres height may be permitted if there is sufficient clear roadway width remaining, e.g. 4.5 metres. This will allow for the safe passage by emergency vehicles particularly Fire Emergency New Zealand (FENZ) trucks and clearance for electricity supply cables (if relevant).
- (c) A verandah (where a kerb exists) should be erected at a height of no less than 2.9 metres above the level of the footpath, creating a sufficient and comfortable environment for pedestrians, and taking into consideration the maintenance of significant streetscapes.
- (d) A verandah must extend no further from the building façade than within 500 millimetres of a vertical line drawn from the footpath face (looking to the building) of the kerb to minimise the risk of the structure being damaged by large motor vehicles travelling close to the kerb.

(e) For consistency of verandah design it is vital that the design principles be preserved. They are:

- I. The fascia must not be less than 300 millimetres nor more than 450 millimetres in depth.
- II. The roof covering of the verandah must be of weather resistant material and be provided with gutters and down pipes.
- III. Ceilings of verandahs must be lined with material coloured compatibly with adjacent buildings.
- IV. The verandah should maintain suitable lighting to avoid dark areas or shadows and Crime Prevention through Environmental Design principles will apply.
- V. Canopies, sun blinds and awnings are restricted to an area of less than 5 m² where there is no appropriate stormwater disposal system.

4.2 Architectural features on buildings

Architectural features on buildings can extend over the road airspace. Examples include balconies, oriel windows, egress facilities and building service plants.

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

This policy permits minor intrusions to the airspace of roads to create some flexibility for building owners in their building designs, the placement of building plants and services attached to buildings, for structural strengthening of buildings, re-cladding of buildings and any other minor modifications of buildings.

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, or other formally recognised advisory design panels or committees.

The architectural features must:

- (a) Be at least 2.6m above existing footpath level;
- (b) Be at least 6.0m above existing road level (no footpath);
- (c) Not exceed 1.0m horizontal projection; and

4.3 Overbuilding to increase the leasable floor area of a building and air bridges (pedestrian and/or vehicular)

The Council will not generally grant rights to airspace above roads for the sole purpose of creating additional floor space (overbuilding) unless exceptional circumstances apply and at the Council's absolute discretion.

Air bridges can provide a more direct link or choice of routes between buildings, for example carpark buildings, or places of interest. They can be useful as elevated walkways to divert pedestrians in areas of high pedestrian traffic without detrimentally affecting the vitality of existing activities on the road.

A proposed overbuilding or air bridge must:

- (a) Act as a landmark and/or
- (b) Provide an additional viewing point and/or
- (c) Provide an opportunity for an architectural statement and enhanced street amenity.

In addition to the general principles the following apply when the Council considers an application under this part of the Policy:

- (a) the design and location of the structure must not cause excessive shading at road level, or block light and views from adjoining buildings;
- (b) If there are already other overbuildings or air bridges close by, building further structures will not have an adverse cumulative effect.

For overbuildings:

- (c) the overbuilding must not cause damage to roading infrastructure if there is building movement caused from base isolation foundations during a significant seismic event, for example to light columns, traffic signal poles, wires, street trees, bus stops, etc.

For air bridges

- (d) the air bridge structure must be capable of being joined to the host buildings in an architecturally sympathetic way.
- (e) the alignment and location of the structure will not detract from views nor compromise the basic grid layout and urban form of the Central City and the general openness of the road system.
- (f) The design and location of the structure, specifically its height above an active road, should not compromise the passage of large vehicles and over-dimension vehicles if on that network. Normally air bridges will not be permitted over any route on the over-dimension network.

5. STRUCTURES ENCROACHING IN SUBSOIL UNDER ROADS

5.1 Seismic Movement Trenches

In the post-earthquake environment developers and landowners are utilising base isolation foundations to meet the revised requirements of the Building Code. This method is being used particularly in the Central City. Base isolation foundations allow a building to move in accordance with the waves created by an earthquake, but uses technology that dampens and decelerates the actual tremors and therefore are more likely to reduce the risks of injury, damage and building failure.

Depending on the construction methodology and the District Plan rules, base isolation foundations may need to extend into the public road subsoil to accommodate the zone of movement, and occasionally the elements of the foundations themselves.

In addition to the general principles, the following apply when the Council considers an application under this part of the Policy:

- (a) **Outside the Central City Zone:** base isolation foundations should be constructed within the property boundary to include the movement zone (+/- 400 to 750 mm) whenever feasible. This includes a sacrificial zone horizontal cover at the access to

the building from the street that may move or deform in a significant seismic event. All building movement should be contained within the private lot.

- (b) **For the Central City and exceptionally elsewhere** Build to the boundary of the road (within the private lot) all the foundations including base isolation installations. This entails allowing a sacrificial zone horizontal cover at the building's access that may move or deform across the adjacent road typically between +/- 400 and 750 mm in a significant seismic event. All underground services would be protected from potential movement, no structures on the road being interfered with or obstructed, and allows full public use of the road outside significant seismic events.
- (c) Damage to the footpath should be minimised and the underground trenches should be covered to eliminate trip hazards. The exceptional circumstances locations in (b) above may include but are not limited to the older suburban centres (e.g. Lyttelton, Merivale, Riccarton, etc.), heritage, historical and cultural sites.
- (d) The relocation of underground services (e.g. gas, electricity, water, sewage, telecoms cables, etc.) must be carried out at the developer's expense and must meet the standards applicable to the utility provider.
- (e) The structure must have a permanent and safe access cover complying with the Council's roading, planning policies and standards.

5.2 Subsurface privately owned tunnels

Privately owned tunnels can provide a more direct link or choice of routes between buildings, for example carpark buildings, related facilities severed by a busy road, or places of interest. They can be useful to divert pedestrians or move goods without detrimentally affecting existing activities on the road.

Privately owned underpasses in rural areas provided for stock control and movement are considered privately owned tunnels.

In addition to the general principles, following apply when the Council considers an application under this part of the Policy:

- (a) There must be high levels of pedestrian, or vehicular traffic or stock movements in the vicinity between privately owned sites.
- (b) A more direct link or a choice of routes between public buildings or places of interests (including car parking buildings), or paddocks must be created.
- (c) The new structure must enhance road user safety, and utilise Crime Prevention through Environmental Design principles for personal safety.
- (d) The new structure must provide an opportunity for an architectural statement (except stock underpasses).
- (e) Where the design and location of the structure will not cause disruption at road level, obstruction of footpaths, impact negatively on underground utilities and critical roading infrastructure.
- (f) Where the structure can be joined to the host building/s in an architecturally sympathetic way.

- (g) Where the alignment and location of the structure will not compromise the basic grid layout and urban form of the Central City and the general openness of the road system.

6. STRUCTURES ENCROACHING ON THE SURFACE OF ROADS

6.1 Retaining structures

Requests to build structures retaining land for access reasons often arise from property owners in the hill suburbs and Banks Peninsula where the terrain is steep and difficult. Retaining structures may also be needed to protect properties and the road from landslips and other natural hazards.

Anchors for private retaining walls that may need to encroach into the road land subsoil. Approval will be given providing the anchors are at least 2.5 metres below the road surface and are not in conflict with the assessment criteria.

For the assessment criteria see 6.2 below.

6.2 Carports, garages, parking platforms, access ramps, and cable-car stations

Requests to build structures for access, and parking often arise from property owners in the hill suburbs and Banks Peninsula where the terrain is steep and difficult.

Property owners have a legal right of access onto the road. The majority of these properties were created prior to 1974 when vehicle access to properties was not required for subdivisions.

A number of properties have exclusive use of parcels of legal roads for carports, garages, parking platforms, access ramps and cable-car stations. While having significant advantages for private occupiers, these built structures enable residential developments in difficult terrain and help to ease on-road parking pressures on limited road space.

Any proposal (6.1 or 6.2) will need to meet the following criteria:

- (a) The structures do not cause any safety issues to road users, particularly pedestrians and cyclists.
- (b) Legal right of access is maintained for individual property owners.
- (c) There must be no conflict with possible future roadway widening or alterations.
- (d) The applicant is unable to construct the structure on their land because of the nature of the terrain.
- (e) The proposal is consistent with Chapter 7 Transport of the Christchurch District Plan.
- (f) The road environment, and any Council or other utility service provider, 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) Detached garaging is principally provided to store motor vehicles and other modes of transport.
- (i) Only single storey structures will be permitted.
- (j) Double garages on the road reserve will only be permitted if directly in front the applicant's property. Otherwise only a single garage will be approved.
- (k) The structure is the applicant's responsibility and will be maintained by the applicant/owner.
- (l) Approval will be given providing the anchors for retaining structures are at least 2.5 metres below the road surface and are not in conflict with the other criteria.

For new and existing structures:

- (a) An occupier of a structure on a road normally has a licence granted by the Council. A licence can be issued 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 District Plan have been achieved on the occupier's property.

6.3 Exoskeletal Structures

Retro-fitted exoskeletal structures are being used to meet the updated requirements of the Building Code for earthquake strengthening on existing buildings. This engineering method is mostly used on commercial buildings in the Central City where the building footprint extends to the edge of the private property, meaning legal road space is required for the additional structure.

Exoskeletal structures provide an external steel cage to wrap an existing building that avoids more expensive solutions such as base isolated foundations or internal steel bracing. External bracing also ensures that the loss of leasable floor space is minimised.

The provision of bracing pillars and ground anchors in the legal road should not impede road users, particularly pedestrians, or other street infrastructure.

- (a) External exoskeletal structures will not be permitted to occupy road land, airspace and subsoil outside the Central City Zone (unless there are exceptional circumstances), because there are narrower footpath standards in the suburban centres.
- (b) All underground services must be protected from the structure. Occupation of the footpath should be minimised and the ground anchors should be covered to eliminate trip hazards. The maximum allowable obstruction for the support

structures of a central City footpath (minimum width 3 metres excluding the kerb) is 200 mm. If the footpath is less than 3 metres the maximum allowable encroachment for the support structures will be 100 mm.

- (c) The circumstances may include but are not limited to the older suburban centres (e.g. Lyttelton, Merivale, Riccarton, etc.), heritage, historical and cultural sites, aesthetics and natural and pre-existing features.
- (d) The relocation of underground and above ground services (e.g. gas, electricity, water, sewage, telecoms cables, etc.) must be carried out at the developer's expense and must meet the standards applicable to the utility provider.
- (e) The structure must comply with the Council's Urban Design Guidance and Crime Prevention through Environmental Design principles.

6.4 Essential Service Structures

Essential service structures assist in facilitating the provision of water, waste collective, facilities for sustainable transport modes.

These structures include:

- (a) waste or water pump plants
- (b) waste container compounds
- (c) Council information bollards
- (d) public bike stands
- (e) bus passenger shelters
- (f) other utility structures.

In addition to the general principles the following apply when the Council considers an application under this part of the Policy:

- (a) Legal right of access is maintained for individual property owners and users.
- (b) There must be no conflict with likely future roadway widening or alterations.
- (c) The proposal must be consistent with the Council's Service Plans and Long-term Plan.

In the event of concerns arising from existing structures, the structure will be assessed in terms of (a), (b), and (c) above.

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

6.5 Other Structures

A non-exhaustive list of other structures that may be permitted on, above or under the legal road include:

- Installations such as artwork, support structures for verandahs (which includes sunblinds, awnings and canopies), outdoor advertising, commercial bike stands, security bollards.
- Other structures for which Council has contracts or agreements e.g. poster bollards, information stations, private bus passenger shelters (*Adshels*).
- Gates and cattle stops encroaching onto the road reserve, (providing access to a property or placed across a road), are determined by the provisions of Sections 344 and 357 of the Local Government Act 1974. Applicants should also refer to the Council's Stock on Roads Bylaw 2017.
- Fences within a road corridor are generally not be approved. However in exceptional circumstances written applications may be considered under Section 357 of the Local Government Act 1974.
- Private letter boxes in rural areas or where they are not adjacent to formed footpaths. No written authorisation is required unless its replacement is in conflict with Assessment Matters below
- Electric Vehicle Charging Structures for the recharging of electrically powered vehicles (see the Council's Electric Vehicle Policy 2016 for authorisation process).

In addition to the general principles the following apply when the Council considers an application under this part of the policy:

- (a) Pedestrian movements and all access to private and business properties must not be compromised.
- (b) There must be no conflict with utility services.
- (c) If appropriate consultation must be carried out with building and business owners.
- (d) Issues arising in sensitive cultural and natural environments must be addressed e.g. adjacent to waterways, historical sites, indigenous sites, and heritage buildings.
- (g) Outdoor advertising must comply with the requirements of the District Plan Chapter 6 General Rules and Procedures.

[Note: The shifting of an existing letter box necessitated by a new entrance is the responsibility of the owner].

7. DELEGATIONS AND TRANSITIONAL PROVISIONS

Decision making authority under this Policy set out in the Register of Delegations is to be exercised as follows:

Clauses 4.1, 4.2 (when the structure does not extend more than 2 metres) and 4.3 (when the overbuilding extends no further than 2.5 metres): The Chief Executive, or a nominated manager.

Clauses 4.2, 4.3 (for both in all other cases), and 4.4: The Council, advised by the relevant Community Board.

Clauses 5.1, 6.1, 6.2, 6.3, 6.4 and 6.5: The Chief Executive, or a nominated manager.

Clause 5.2: The Chief Executive, or a nominated manager, as advised by the relevant Community Board.

The delegations will be reviewed by the Council from time to time. Applicants are advised to check the current version of the Council's Register of Delegations.

Transitional Provisions

Notwithstanding anything else this Policy only applies to applications received after the date of adoption of this Policy by the Council ("the Operative Date"). Structures on Roads applications received prior to the Operative Date will continue to be dealt with under the previous Structures on Roads Policy 2010, which continues to apply for that purpose.

8. DEFINITIONS

For the purpose of this policy:

AIR BRIDGE	A structure providing a pedestrian and/or vehicle link.
ANCHORS	Devices that fasten a retaining wall into adjacent subsoil and/or rock for greater stability and strength
BUILDING CONSENT	As defined in section 49 of the Building Act 2004
CABLE CAR STATION	A station serving a cable car for goods and people
CARPORT, GARAGE, PARKING PLATFORM	A structure used for parking a motor vehicle
ELECTRIC VEHICLE CHARGING STRUCTURE	A utility structure primarily used for recharging light electric road user charges (gross laden weight 3.5 tonnes or less) whose motive power is derived wholly or partly from an external source of electricity.
EXOSKELETAL STRUCTURE	A retro fitted external skeletal structure for earthquake strengthening an existing building which is anchored into the subsoil.
NON HABITABLE STRUCTURE	A structure not authorised for living purposes
HEALTH & SAFETY AT WORK ACT 2015 (HWSA)	This act may apply and applicants should seek legal advice in the event of any works on the legal road.

INFORMATION BOLLARDS	A bollard installed by the Council to provide visitor information for the City.
OVERBUILDING	A structure which extends into the airspace over a road and includes enclosed balconies
PERMISSION	An approval issued by the Council under the Public Places Bylaw 2018 and in accordance with this policy.
POSTER BOLLARD	A bollard installed by a private company contracted by the Council to <ul style="list-style-type: none"> • promote or advertise the City of Christchurch, arts, entertainment, tourism, events, public information, environmental enhancement, health, sports and education; and • other purposes acceptable and approved in writing by the Council.
RESOURCE CONSENT	As defined in section 87 of the Resource Management Act 1991
ROAD	The whole of any land vested in the Council for the purpose of a road and includes accessways and service lanes as defined in section 315 of the Local Government Act 1974. <i>(A road includes the whole width of the road reserve, including areas used by vehicles, pedestrians and for amenity value).</i> It includes: <ul style="list-style-type: none"> • Carriageway (formed road) • Footpath including kerbs, channels and berms • Land legally road that is not formed (unformed or paper road) • Subsoil below the legal road • Airspace above the legal road
RETAINING STRUCTURES	Structural walls supporting, driveways, walking tracks and steps (with or without anchors).
SEISMIC MOVEMENT TRENCH	Any in-ground structure (self-supporting) for the purpose of creating a seismic isolation void to enable the movement of a building or it's framing to move within during a seismic event.
TUNNEL	A structure in the road's subsoil that conveys vehicles, pedestrians, cables or pipes for private use.
VERANDAHS	Structures suspended or cantilevered from buildings generally built on the road boundary over the legal road reserve (usually footpath) and includes canopies, sun blinds and awnings

References and related documents

Document	Link
<i>Local Government Act 1974 s.334, 341 & 344</i>	http://www.legislation.govt.nz/act/public/1974/0066/latest/DLM415532.html?src=qs
<i>Health & Safety at Work Act 2015</i>	http://www.legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html?src=qs
<i>Road Stopping</i>	http://www.ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/policies/streets-roads-and-pavements-policies/
<i>Public Places Bylaw 2018</i>	https://ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/bylaws/public-places-bylaw-2018/
<i>Traffic & Parking Bylaw 2017</i>	https://ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/bylaws/traffic-and-parking-bylaw-2017/
<i>Stock on Roads Bylaw 2017</i>	https://ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/bylaws/stock-on-roads-bylaw-2017/

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