

Road Encroachment Operational Guidelines



Contents

- 1** Purpose
- 2** Background
- 3** Scope
- 4** Definitions
- 5** Council Consent Required
Statutory Requirements
- 6** Procedural Matters
- 7** Public Interest Criteria
- 8** Management Principles
- 9** Approval of Projections
or Encroachments
- 10** Projections and
Encroachments exempt
from Agreements or
Licence Fees

1. Purpose

These guidelines aim to explain the process Council uses to permit and regulate encroachments and projections into the road space.

They detail the responsibilities of applicants seeking permission for encroachments and projects into the road space.

They also outline when various internal Council departments may need to be consulted, to ensure projects that are supported at the planning stage ultimately obtain Council's consent at the construction phase.

3. Scope

These guidelines apply to the whole of the Municipality in regard to structures or parts or buildings that project or encroach into the road space.

2. Background

Melbourne's open spaces, parklands, wide roads and boulevards make it one of the world's most liveable cities. It is Council's role to ensure these advantages are maintained through effective planning controls.

While setbacks are traditionally imposed on residential buildings to enhance open spaces, modern development trends have seen an increase in proposals that include private encroachments or projections into public spaces.

Besides the loss of public space, these private encroachments can pose problems such as poor drainage, street obstructions and long term safety risks. They can also diminish Council's ability for good governance and increase liability risks for Council and the public.

Encroachments therefore must be carefully assessed and controlled, to ensure appropriate and sustainable development that is in the best interests of the public.

4. Definitions

The following definitions apply for the purpose of these guidelines.

4.1. **Road** - A road has the same meaning as in the *Local Government Act 1989* (LGA) which includes private roads, however despite this these guidelines do not apply to private lands encumbered solely for carriageway purposes. The definition of a road in the *Local Government Act* includes:

- (a) a street;
- (b) a right of way;
- (c) any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*;
- (d) a passage;
- (e) a cul de sac;
- (f) a by-pass;
- (g) a bridge;
- (h) a footpath, bicycle path or nature strip; and
- (i) any culvert or kerbing or other land or works forming part of the road.

4.2. **Road Reserve** is defined as the space between adjacent properties and the space above or below the road surface.

The Road Reserve has many valued functions and attributes, some of which are to:

- 4.2.1. Provide adequate natural light and air to the streetscape and buildings;
- 4.2.2. Allow sunlight penetration to ground level;
- 4.2.3. Facilitate the safe and efficient movement of people and traffic and ensure the safe and functional use of the road;
- 4.2.4. Provide access for pedestrians or vehicles to adjoining properties;
- 4.2.5. Allow traditional urban and historically significant views to be maintained;
- 4.2.6. Allow the growth and preservation of street trees;
- 4.2.7. Ensure access for emergency vehicles and services;
- 4.2.8. Provide for a variety of pedestrian experiences, activities and recreational opportunities;
- 4.2.9. Permit emergency repairs or maintenance works on buildings;
- 4.2.10. Permit hoisting of plant, machinery or materials to a building façade, floor, or roof;
- 4.2.11. Permit future public improvements and utilities to be installed;
- 4.2.12. Provide a safe environment for the public;

4.2.13. Permit installation of signage, street furniture and lighting;

4.2.14. Provide for the servicing of properties with gas, electricity, water, stormwater and waste water drainage and telecommunications;

4.2.15. Create spatial separation between buildings and break up bulk;

4.2.16. Permit the erection of temporary structures and site amenities for building construction works; and

4.2.17. Provide opportunities for the provision of public art, public services and other aesthetic improvements to the City.

4.3. **Council Land** - Roads and land vested in Council or owned by Council or under the care and management of Council, that are not set out on Crown Land.

4.4. **Crown Land** - Land not alienated (transferred as title) by the Crown. Section 138A of the *Land Act 1958* was introduced in 1990 and concerns Crown Land in stratum. It is administered by the Department of Sustainability and Environment (DSE) Section 138A provides for the licensing of air rights and below ground level rights over Crown Land, including roads on Crown land.

4.5. **Private Roads** - are roads that do not have public highway status, or are not declared roads within the meaning of the *Transport Act 1983* or are not under the care and management of Council.

5. Council Consent Required – Statutory Requirements

Council has care and management powers over many roads. Council also has a responsibility to ensure the health, safety and amenity of the public in public spaces. It is Council's responsibility therefore, to preserve these spaces for present and future public use, and ensure that these amenities are not diminished by the installation of private improvements, encroachments or obstructions.

- 5.1. Sections 206 and 207 and Schedules 10 and 11 of the *Local Government Act 1989* notes Council's powers over roads and specify requirements for Council's consent for a projection or encroachment into the road space.
- 5.2. Most encroachments or projections from buildings into the road space require Planning Permits pursuant to the *Planning and Environment Act 1989*.
- 5.3. *The Building Regulations 1994 - Division 2 - Projections* lists requirements for various projections or encroachments over the street alignment including a requirement for Council's consent to an application for a Building Permit.
- 5.4. Council's *Activities Local Law 1999* specifies permit requirements for various encroachments, occupation of space or works on roads.

6. Procedural Matters

6.1. Proper identification of land

- 6.1.1. Where a proposal involves a projection or encroachment it is important that the nature and the extent of the projection or encroachment along with the status of the affected land (Crown Land, Council Land or Private Road) is properly identified on the application and submitted drawings. The application for a proposed encroachment or projection should clearly show the street address, road space widths, title boundaries, levels and street alignment. The encroachment or projection should be identified on the drawings with clear dimensions, clearances from the road or kerb and clearances from other adjoining encroachments. Council cannot begin assessing applications until this information is received.
- 6.1.2. Land status advice is available from Council's Land Survey Team.

6.2. Permit requirements

- 6.2.1. It is the applicant's responsibility to identify and highlight any projections or encroachments into the road space. Unless specified as a condition of permit, encroachments not specifically applied for are not approved.
- 6.2.2. Planning Permit applications for projections or encroachments are considered against the policies and controls of the *Melbourne Planning Scheme* and the Management Principles set out in Clauses 7, 8 & 9 of this guideline.
- 6.2.3. Planning Permit applications are also referred to Council's Land Survey Team, Engineering Services and the Municipal Building Surveyor in circumstances where these guidelines require referral, or where the proposed encroachment does not satisfy the requirements of Clauses 7 and 8 of this guideline.
- 6.2.4. Encroachments and projections not requiring a Planning Permit may be permitted by Council provided they satisfy requirements of the Public Interest Criteria set out in Clause 7 and the Management Principles set out in Clause 8 of this guideline respectively. In such circumstances consent of Council continues to be required and Council's Engineering Services and/or the Building Branch must be consulted. In such instances Council's consent may be granted via a letter of approval, a Local Laws Permit or a Licence Agreement with Council if applicable.

6.3. Classification of encroachments or projections

- 6.3.1. The classification of the encroachment or projection needs to be determined as defined in Clauses 5 and 10 of this guideline.
- 6.3.2. Council will typically control non-exempt projections into the road space of Council Land or a Private Road, by way of an agreement under Section 173 of the *Planning and Environment Act 1989*. Council will typically require a lump sum licence premium (payable at the outset rather than an annual fee) for non-exempt projections into the road space of Council Land.
- 6.3.3. Written consent from the DSE is required for non-exempt projections upon or into Crown Land. Council must be indemnified from any claims pursuant to such encroachments or projections as part of any consent or agreement with the DSE.

7. Public Interest Criteria

- 7.1. Is the projection or encroachment, such as a plaza or a setback at a public access level, balanced by additional public open space within the property?
- 7.2. Are any significant views from the road or adjoining buildings to parks, waterways or landmark buildings or structures obstructed in any manner?
- 7.3. Will the design provide a visual interest or create a landmark?
- 7.4. Does the projection or encroachment improve public amenity in the area by providing shelter from the elements by way of canopies, verandahs etc?
- 7.5. Will the projection or encroachment cause excessive shadows at street level or on adjoining buildings?
- 7.6. Will the projection or encroachment present a problem for safety and welfare of the public, such as exit doors swinging into the public right of way, or a structure obstructing views of traffic signals or likely to obstruct the safe movement of pedestrians or vehicles?
- 7.7. Will the erection or maintenance of the projection or encroachment require a road closure more than twice a year for more than 20% of the width of the road adjoining the projection or encroachment?
- 7.8. Is the projection or encroachment including any wall faces exceeding 3m high adequately drained to a legal point of discharge?
- 7.9. Does the projection or encroachment provide additional floor space?
- 7.10. Are materials and fabric durable and low maintenance?
- 7.11. Can the projection or encroachment be practically removed if required in the future?
- 7.12. Will the projection or encroachment affect the planting or growth of street trees?
- 7.13. Is the design of the projection or encroachment compatible with the design of the building and adjoining buildings?
- 7.14. Are there any sharp intrusive elements proposed into the streetscape?
- 7.15. Will the projection or encroachment affect street lighting?
- 7.16. Will the projection or encroachment affect traffic signage or lines of sight to traffic control devices?
- 7.17. Will the projection collapse prematurely in the event of an earthquake or fire and in doing so impede access by emergency services or the safe egress of occupants?
- 7.18. Are clearances in Figures 1 and 2 complied with?
- 7.19. To what extent does the projection or encroachment affect the public and private rights on title or otherwise, of property owners and occupiers and the public?
- 7.20. Will the projection or encroachment adversely effect the operations of the emergency personnel?

Figure 1. Clearance to Trees and Signs

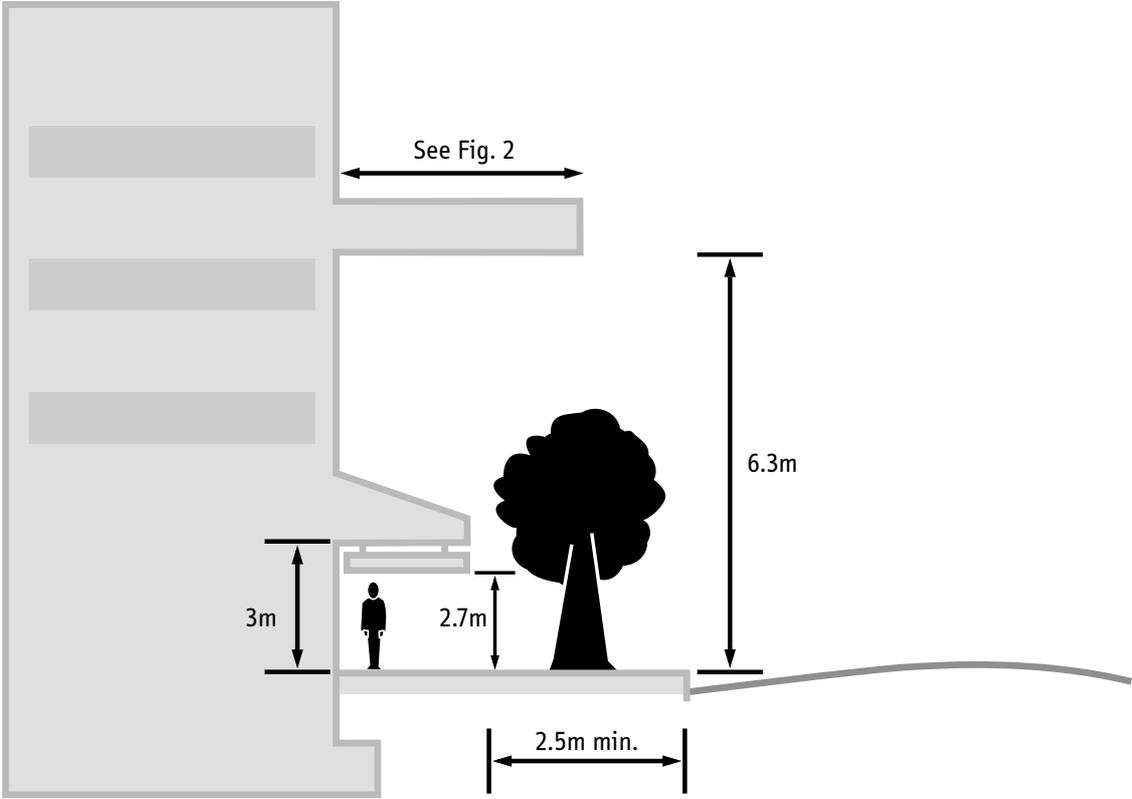


Figure 2. Building Projections into the Road Reserve

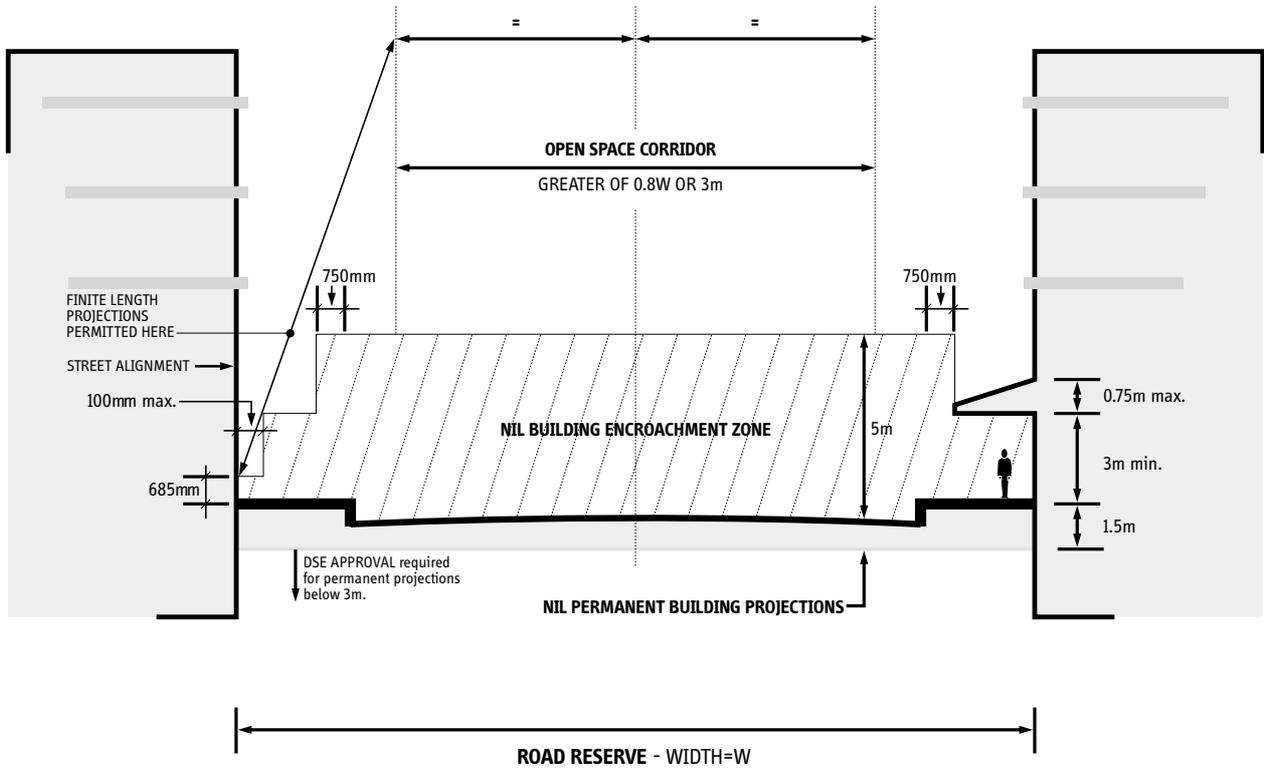
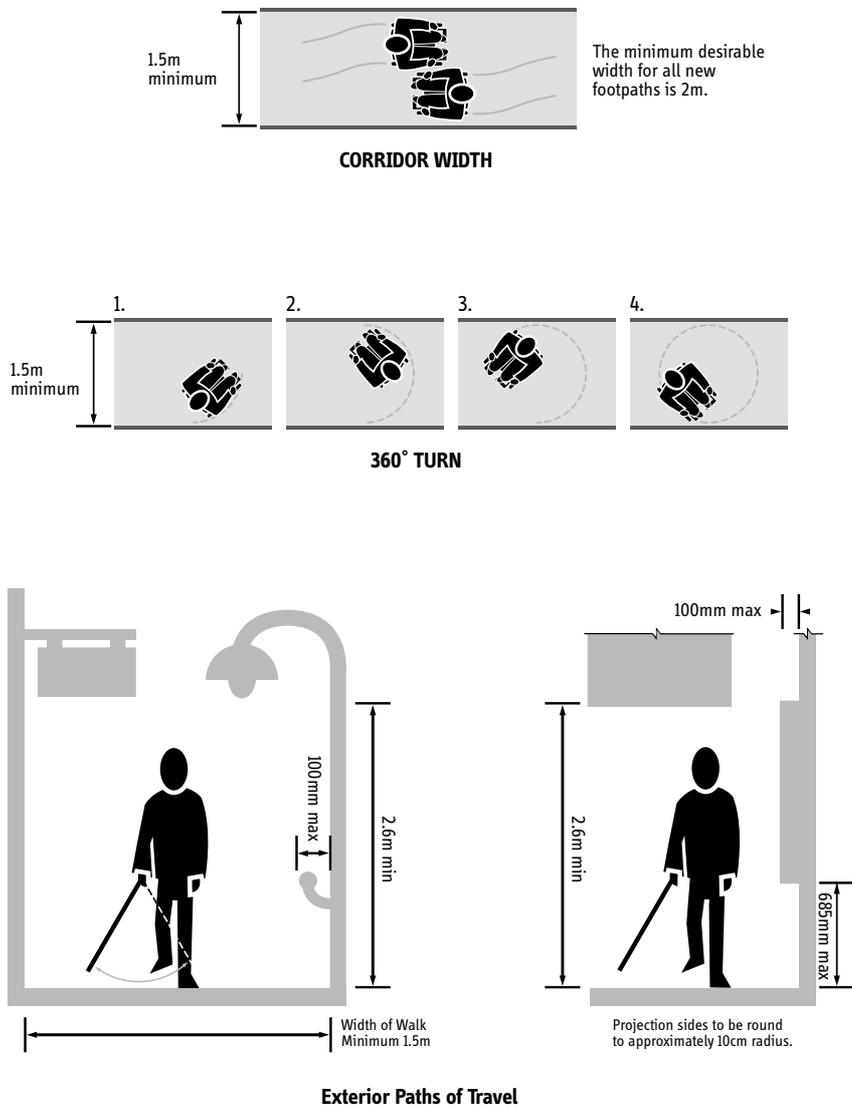


Figure 3. Minimum Accessibility Space Requirements for Footpaths



8. Management Principles

Projections and encroachments must satisfy clearances specified in Figures 1, 2 and 3. Specific projections or encroachments must also satisfy the following management principles as noted in the items below.

Encroachments above road level.

8.1. Fences and gates

Applications for permanent fences or gates on roads should be referred to Council's Survey Team.

An approval is required under Clause 10 of Schedule 10 of the *Local Government Act 1989* for the erection of a fence or gate on a road under Council's care and management. Council will typically oppose a fence across a road due to its potential impacts on property access. A gate will only be permitted when associated with safety and security issues, and then only after other Council and Community safety initiatives are first investigated, actioned as necessary, and shown to be lacking.

The above power is not exercised in regard to fences and gates on private roads. A *Local Government Act* approval is therefore not required.

All gates require an *Activities Local Law* permit. The Council's Municipal Building Surveyor will ensure egress and structural safety requirements are met. Council can cause a gate to be removed from a road, regardless of that road's status, if it perceives it is a safety risk. Gate specifications to meet these requirements are in the attached Fact Sheets.

A Planning Permit may also be required regardless of the status of a road.

All planning applications involving fences or gates on roads or easements of way must be referred to Council's Land Survey Team.

A Planning Permit for a gate on a road under Council's care and management should not precede an approval under the *LGA* unless exceptional circumstances apply. A Planning Permit issued for a fence or gate across a Council road must include the following:

- A condition that the fence or gate cannot be erected unless also permitted under the *Local Government Act 1989*;
- A note that the issue of the planning permit does not guarantee that a relevant approval will, or can, be provided under the *LGA*;
- A note that any *LGA* approval, if given, will be subject to appropriate conditions which typically include requiring an owner to enter into an agreement under Section 173 of the *Planning & Environment Act*, together with a rental payment to the Council. The agreement must address matters including indemnifications; public risk insurances; use of the enclosed road; provision of keys; retention of rights and rebuttal of adverse possession.

The agreement typically acts as a licence allowing the rental of any enclosed portion of road under the care and management of Council for an exclusive occupation. This is usually for a 5 year term, with a possible option to extend the licence for an additional 5 year period.

Council does not typically support the construction of gates across roads due to the extensive complications which inevitably arise regarding their proper management. In addition, Council has a responsibility to ensure Melbourne remains an open and accessible city.

Numerous issues are raised when a fence or a gate is proposed across a road. Some of these can be difficult to properly manage and include:

- The affects of a gate on the public and private rights on title or otherwise, of property owners and occupiers and the public;
- Proper consultation with all affected property owners and occupiers;
- Vehicular and pedestrian access to abutting properties;
- Provision or access to abutting and affected property owners, occupiers and to Council (if a Council road) and the service providers and authorities;
- The design of the gate does not affect stormwater drainage;
- All pertinent safety and security matters, including the affects of the gate and its design and siting on the egress requirements of building regulations, and the access requirements of the Metropolitan Fire and Emergency Services Board (MFESB);
- Maintenance of the gate and maintenance and cleansing of the enclosed portion of road;
- Prevention of the accrual of adverse possession rights;
- Retention of existing public and private rights over the road;
- Public risk insurance;
- Appropriate restrictions on the use of the enclosed road;
- The obtaining of any necessary planning permit;
- The requirements of emergency service providers and the statutory service authorities;
- For Council roads, the effects on Council infrastructure and services including garbage collection and cleansing services following referral to all relevant Council work areas and service providers;
- The historic significance of the road, its paving and its pattern and its present and potential contribution to the pedestrian and vehicle networks;
- The strategic planning implications and heritage issues involved; and
- Any other matter relevant to the proposal under consideration.



Examples of road space usage for building maintenance or emergency works.





These photos are examples of service cabinets that are unlocked, unsafe and unsightly.





These are examples of gates obstructing roads and laneways.





Pavement lights need regular maintenance or repair to ensure safety.



Fire exits obstructed by unplanned road encroachments.



Examples of road encroachments or obstructions blocking fire exit doors and laneway access.





A kiosk with barely adequate pedestrian access.



A myriad of obstructions, encroachments and services installations in a lane.



An unsafe encroachment into a laneway.



Inadequate disabled access caused by unplanned layout of encroachments.



Damaged ductwork due to inadequate vehicular clearance.



Unplanned, unsightly and unsafe service installations encroaching into the road space.



Unplanned, unsightly and unsafe service installations encroaching into the road space. Other problems include noise and dripping water from these installations.



Tactile indicators.



Canopies adjoining service lanes are prone to vehicle impact.



Barbed wire treatment to protect an inadequately designed awning strut.



Examples of inadequate reinstatement by service authorities.



Examples of inadequate reinstatement by service authorities.



Unsightly verandahs resulting from vehicular impact due to inadequate height or setbacks.



Adequate setbacks from laneways and kerbs are necessary to prevent vehicular impact.



A crane straddles the Bourke Street Mall to enable removal of unstable roofing from the GPO following a fire.



With the appropriate control of street encroachments, emergency vehicles are able to access this building site after a fire.



Linkbridges assist with effective traffic management and pedestrian safety.



Pedestrian links between buildings - enhancing pedestrian amenity with minimal impact on open space views.



A bridge lint that improves pedestrian access/amenity and has minimal impact on open space views.



Note greater verandah setbacks required for tree lined streets.



Wall mounted ashtrays when encroaching a public space are to have smooth or rounded edges.



Protrusion of the sharp rubbish containers inhibits and endangers the vision impaired.



Bollards used to delineate between pedestrian and vehicle zones where parking on the kerb can be an issue.



Encroachments can provide accessibility for pedestrians and vehicles whilst still giving the desired effect.



Good example of kerbside cafés providing access for all.



Protrusion of shop stall into road reserve impedes safe travel.



Shelters providing adequate pedestrian movement, however clear glass sides endanger the unwary.



Clear glass panels on the ends of this shelter are almost impossible to see and a danger to pedestrians.

8.2. Balconies

- Must be drained to a legal point of discharge;
- Unless specifically approved, should not be used to house equipment and plant such as air-conditioners etc;
- Any planter boxes and pots must be adequately anchored or restrained from falling over;
- The structure must be of durable materials requiring minimal maintenance over the life of the building;
- Handrails and balusters must comply with requirements of the *Building Code of Australia*;
- The balcony must have a minimum clearance of 3 metres from power lines and 2.5 metres from Council trees.

8.3. Canopies and verandahs

All planning applications involving canopies or verandahs projecting beyond the street alignment must be referred to Council's Engineering Services for comment unless they comply with the following:

- Canopies/verandahs shall comply with Figure 1 and Figure 2 of this guideline with the exception of Victoria Street, North Melbourne where a minimum setback of 450 mm may be permitted;
- Canopy/verandah height may be at the same height as the adjoining legal canopies/verandahs, but must not be lower than 2.7 metres above the surface of the footpath;
- Canopies/verandahs at a minimum height of 2.7 metres above the surface of the footpath must not have any signage or lighting installed underneath;
- The undercroft/ceiling of all canopies/verandahs must be lined with an approved smooth lining with no sharp edges;
- All on going maintenance costs must be payable by the owner;
- All canopies/verandahs must be drained to legal points of discharge;
- A 450mm setback or splay is required for the sides of the canopy/verandah if abutting a laneway.

8.4. Awnings

- Awnings of flexible material such as canvas are permitted within 450mm from the kerb and a minimum 2.4 metres above footpath level;
- Retractable awnings are permitted if designed and specified for this Terrain Category 2 wind conditions;
- When in the fully opened position the retractable awning should be a minimum of 2.4 metres above footpath level.

8.5. Architectural features

- Permitted when in compliance with Council's Building Regulations;
- Should be certified as constructed of durable materials compatible with the surface structure to which it is fixed;
- Should not reflect sunlight or other light onto the carriageway.

8.6. Signage

- Signage above front entry into a premise may project a maximum of 150mm at a minimum height of 2.4 metres above the surface of the footpath;
- Signage not setback a minimum of 750mm from the adjacent face of kerb must be at a minimum height of 5 metres from the surface of the road or laneway;
- Signage setback 750mm or more from the face of the kerb may be permitted to a minimum height of 2.6 metres above the surface of the footpath;
- In a laneway with a narrow footpath, the setback of a sign may be reduced to 450mm from the face of the kerb at a height of 2.7 metres from the surface of the footpath;
- The sign and supporting structure should not reflect sunlight or other light onto the carriageway;
- See also *Encroachments for Temporary Real Estate Agency Signage (8.45)*.

8.7. Air-conditioning units

All permit applications involving air-conditioning units projecting beyond the street alignment must be referred to Engineering Services for comments unless they comply with the following:

- The unit and supporting frame must comply with the extent of a projection permitted in Fig. 1, Fig. 2 and Fig. 3 of this guideline and any relevant Fact Sheets attached;
- If an air-conditioning unit is proposed in a laneway used for garbage removal or waste removal by bins or skips greater than 2 cubic metres a minimum clearance height of 6.3 metres should be considered;
- The air-conditioning units must be supported on a durable tray and frame with the condensing unit draining to a legal point of discharge;
- All fixings to the façade or wall must be certified by an appropriately experienced person. ie builder, engineer or architect.

8.8. Auto teller machines

All permit applications involving Auto Teller Machines (ATMs) projecting beyond the street alignment must be referred to Council's Engineering Services for comments unless they comply with the following:

- ATMs may be permitted to project 100mm maximum to a minimum height of 685mm from the surface of the footpath;
- There must be no sharp edges;
- Projection sides should be curved to approximately 100mm radius;
- The minimum footpath width at the ATM location should be 1.8 metres with a minimum pedestrian passageway of 1.5 metres at any local obstruction, such as a street light or tree;
- The location of the ATM should be as far as possible away from a street corner (minimum of 3 metres).

8.9. Exhaust ducts and service pipes

- Exhaust ducts and service pipes are not permitted to project beyond the street alignment below 2.7 metres above the footpath surface;
- Exhaust ducts and service pipes must be setback a minimum of 450mm from the face of the adjacent kerb, or where located directly over a road or laneway when there is no footpath, the exhaust duct or service pipe is not to protrude more than 300mm;
- Exhaust outlets should have a minimum horizontal clearance of 6 metres to any adjoining window or air intake grille above the base of the exhaust grille or outlet;
- A Building Permit is required for an exhaust duct or service pipe to penetrate through an external fire rated wall.

8.10. Handrails to stairs or ramps

All permit applications involving handrails to stairs or ramps projecting beyond the street alignment must be referred to Council's Engineering Services for comments unless they comply with the following:

- Handrails may be permitted to project 100mm maximum at a height between 865mm to 1 metre from the surface of the footpath;
- Handrails must be rounded with no sharp edges;
- Handrails must comply with the requirements of *Australian Standard (AS) 1428.1. 'Design for Access and Mobility, Part 1: General Requirements for Access - New Building Work.'*

8.11. Cladding

All permit applications involving cladding projecting beyond the street alignment must be referred to Council's Engineering Services and the Municipal Building Surveyor for comments unless they comply with the following:

- The cladding is adequately drained to a legal point of discharge;
- The cladding does not project over the street alignment below a height of 2.5 metres above the footpath;
- Above this height the cladding does not project more than 50mm beyond the street alignment;
- The cladding does not reflect sunlight or other light at eye level of pedestrians or drivers of vehicles.

Council may approve applications to re-clad existing buildings from ground level where the new cladding projects a maximum of 50mm beyond the street alignment.

8.12. Gas heaters

All permit applications involving gas heaters projecting beyond the street alignment must be referred to Council's Engineering Services for comment unless they comply with the following:

- The gas heaters may be permitted to project 300mm maximum at a minimum height of 2.4 metres from the surface of the footpath;
- Minimum setback from the adjacent face of kerb must be 750mm;
- Where no footpath exists or the footway is less than 1050mm wide, the minimum clearance from the surface of the roadway shall be 5.0 metres.

8.13. Street lights

Street lighting must conform to *AS1158, AS3771* and the *'Public Lighting Code September 2001'*. All light poles and fittings must be Council Standard Poles and Luminaires.

Decorative lighting is subject to the approval of Council's Engineering Services.

8.14. Banners, decoration and artwork hung over public places

A Local Law Permit or Planning Permit is required for any advertising sign or decorative display above a road or public place.

All applications involving structures between buildings projecting beyond the street alignment must be referred to the Municipal Building Surveyor for comments unless they comply with the following:

- The wire or banner has a minimum clearance from the road surface of 5.5 metres at its lowest point and the wire must be removed if not supporting decorations;
- The fixings to buildings are to the approval of the building owner and a civil or structural engineer;
- The banner is designed by an engineer for the appropriate wind loads;
- Any hanging objects do not have hard or sharp edges.

8.15. Flagpoles/antennae

All applications involving flagpoles/antennae projecting beyond the street alignment must be referred to Council's Engineering Services and the Municipal Building Surveyor for comments unless they comply with the requirements of Figure 1 and Figure 2 of this guideline.

8.16. Pole signs

All planning applications involving pole signs projecting beyond the street alignment must be referred to Council's Engineering Services for comments unless they comply with the requirements of Figure 1 and Figure 2 of this guideline.

However, where the footpath is less than 1050mm wide, the setback of a pole sign may be reduced to 450mm from the face of the kerb at a height of 2.7 metres from the surface of the footpath.

8.17. Temporary structures

- Temporary Structures such as road arches, scaffolds, gantries, fences and gates, hoardings or the like require permits from Council's Site Services Section;
- Requirements for permits are described in *Council's Public Safety and Amenity at Construction Sites: A Code of Good Practice*

8.18. Bridge links

Bridge links between buildings are permitted where:

- The structure satisfies Melbourne's *Planning Scheme* requirements;
- The link enhances pedestrian amenity;
- The structure is drained to a legal point of discharge;
- The structure has a minimum clearance of 5m (preferably 6.5m) to the road surface;
- The link is largely transparent to ensure open space views or historic views are not compromised;
- The link is not used for commercial purposes other than a pedestrian thoroughfare or seating for a café or restaurant;
- The width of the bridge is not more than 6m;
- Any maintenance, if requiring road occupation, is limited to 2 road closures in a calendar year;

- The structure is independently certified by a registered engineer for structural adequacy;
- Bridge links over Crown Land are subject to the approval and requirements of the DSE;
- Bridge Links on Council Land are subject to an agreement under *Section 173* of the *Planning and Environment Act 1989*;
- Bridge Links on Private Roads will not be approved without the written consent of the registered owner(s) of the road.

8.19. Cigarette trays, bins or wall-mounted ashtrays

- Any installation of wall-mounted cigarette trays and bins must be within the building line where possible and not encroach into the public space;
- The location of these containers must also take into account vehicular and pedestrian safety and access;
- Preference should be given to bins that have smooth or rounded edges;
- If a cigarette tray or bin encroaches into the public space, a Local Law Permit is required from the Council's Building Branch.

8.20. Traffic signs

- All traffic signs must comply with *AS 1742.2 Manual for Uniform Traffic Control Devices: Traffic Control Devices for General Use*;
- All parking controls signs shall comply with *AS 1742.11 Manual for Uniform Traffic Control Devices: Parking Controls*.

The installation or removal of any traffic sign or parking sign on either Crown or Council Land is subject to the approval of Council's Engineering Services.

8.21. Street furniture

- Street furniture (including street seats, street bins, street lighting, plant furniture, non-traffic signs, flagpoles, passenger shelters, footpath vendor shelters, horse troughs, drinking fountains, public toilets and the like) must comply with these guidelines and technical notes published by Council's Urban Design Branch;
- Street furniture must be purchased from Council approved suppliers, manufactured and installed in accordance with Council's standard drawings;
- The installation and location of street furniture is subject to the approval of Council's Engineering Services;
- A Road Opening permit is required to install street furniture.

8.22. Bollards

Bollards may be permitted as a visual or physical barrier to protect structures prone to vehicular impact:

- A Road Opening or Space Occupancy Permit has been obtained;
- The footpath is more than 1.8 metres in width or there is no footpath except for a protective kerb adjoining the building;
- The bollard is highlighted as a barrier complying with AS 1742.3;
- The owner agrees to maintain the bollard or guardrail for the permitted period;
- The bollard has rounded edges and is not greater than 150mm in diameter;
- The top surface is smooth and round and does not present a cavity for the accumulation of rubbish;
- Any fixings are countersunk and do not present a trip or tearing hazard;
- Standard bollard details can be obtained from Council's Urban Design Branch.

8.23 Boundary traps

Council requires sewer boundary traps for new buildings to be located within the curtilage of the property. This applies to buildings within the CBD and outside the CBD.

Architects and engineers should be made aware of this requirement so modifications are made at the planning stage.

Should the building cover the whole of the site, a recess shall be provided in a wall of the building in accordance with the requirements of the relevant sewer authority so the boundary trap can be accessed at all times.

Council will agree to boundary traps being located within the Road Reserve for buildings undergoing refurbishment and where the shell of the building is to remain intact.

Where it is agreed that a boundary trap may be located within the Road Reserve, the shaft of the boundary trap must terminate 300mm below the finished pavement level and its position and depth must be clearly marked on the adjacent wall. The submerged cover must be fabricated from cast iron.

8.24 Water and fire services

Except in the case of a private fire service, all other valves and branches must be located within the curtilage of the property except for a single valve at the main.

Only isolated stop valves are permitted in the Road Reserve. All other valves, branches and meters must be located within the curtilage of the property.

The above applies to all new buildings and where reasonably practicable to all new services installed in an existing building.

In the case of fire services, all installations must be in accordance with the requirements of Victoria Water's *Supply and Sewerage Plumbing Regulations 1986 Part VIII – Private Fire Service Installations* and be completed to the satisfaction of Council and the MFESB.

8.25 Tactile indicators

The tactile indicator requirements can be well adapted to new buildings, as a setback to any proposed stairway, escalator, travelator and ramp can be easily accommodated in the design. However for existing buildings, where the stairway, escalator, travelator or ramp begins at the street alignment, the retro fitting of tactile indicators will involve the installation of tactile indicators on Council's footpaths.

Council insists on a uniform approach to the installation of ground surface tactile indicators in the road space across the municipality. As such the installation of tactiles will only be approved when they comply with Council's specifications;

- The layout of tactiles must be site specific and mindful of the visual impact of the tactiles in the Road Reserve;
- The Council approved design, if not strictly in accordance with AS 1428, must be provided with a performance assessment by Council's Municipal Building Surveyor for use by the Relevant Building Surveyor;
- Works must be arranged by the property owner using Council's specifications and be performed by Council approved contractors;
- The owner must pay all associated costs for both the approval and installation of the tactiles;
- The owner is responsible for the ongoing maintenance of the tactiles pursuant to Part 10 of Council's *Activities Local Law*.

8.26 Pavement lights

8.26.1 Installation

- The installation of new pavement lights in the road space are prohibited. Council may grant a concession to this requirement where the installation is shown to be in the community's best interests.

8.26.2. Repair

- It is the responsibility of the building owner to maintain and keep in good repair the pavement lights, and to undertake and bear all costs of any works required by Council;
- Materials of construction must be similar to those used in the original design;
- The pavement lights and frame must be capable of sustaining an imposed load of 7kPa or a concentrated load of 40kN spread over a circular area of 1000 sqmm;
- The covering of pavement lights with timbers or steel plates is prohibited.

8.26.3. Removal

- A Road Opening Permit is required for the removal of pavement lights;
- The permit will be granted to the building owner subject to a statement from a building practitioner (Building Surveyor) that its removal will not compromise any regulations for light or ventilation of the relevant basement;
- The pavement light and supporting structure must be removed for a depth of 750mm and a new structural slab or plate cast satisfying minimum imposed loads as above;
- The surfaces must be rendered waterproof and damp-proof to prevent any dampness in the basement;
- The pit must be backfilled with 3% cement stabilised sand to the underside of the footpath pavement. The footpath must be reinstated in accordance with Council standards to match the adjacent pavement profile;
- The work area must be adequately barricaded and lit until the works are completed.

8.27 Retaining walls

- Both temporary and permanent retentions systems supporting the street require approval from Council's Municipal Building Surveyor;
- Requirements for excavations and retaining walls are set out in Chapter 9 of Council's *Public Safety and Amenity at Construction Sites: A Code of Good Practice*;
- The approval of the retention system can be addressed pursuant to provisions of Part 7 of the *Building Act 1993* with Council acting as Adjoining Property Owner or Agent as appropriate.

8.28 Entry steps/ ramps

- For new buildings entry steps and ramps should preferably be setback 900mm so any required tactile indicators can be accommodated within the property.

8.29 Crane foundations

- A Road Opening Permit is required to permit temporary crane foundations in the Road Reserve;
- A survey plan of all services within the street must be provided with the crane base, or foundations having a minimum 600mm clear of any service;
- A traffic management plan along with details of all public safety and amenity provisions for the crane operation must be provided for approval;
- Crane operations must comply with Council's policy on *Noise and Vibration Control* and any engine exhaust must comply with EPA requirements and must discharge clear of any adjoining property windows or air- intake grilles by a minimum of 12 metres;
- If permitted the area must be adequately barricaded and protected from vehicle impact;
- Adequate signage and lighting must be in accordance with *AS 1743.3* and Council's *Public Safety and Amenity at Construction Sites: A Code of Good Practice* must be installed;
- At the completion of works, all permanent intrusions such as concrete pads or piers must be removed for a depth of 1.5 metres below the Road Reserve and the road reinstated to Council's specifications.

8.30 Service connections

- A Road Opening Permit or Road Services Agreement must be obtained prior to any excavations or boring in the Road Reserve;
- All service covers shall be Class D whether located in a road or a footpath;
- A services plan must be prepared with any proposed service clearing any existing service by 450mm wherever practicable;
- Service covers or pits must not exceed 2 sqm in area and must not be installed in an area requiring tactile indicators for the vision impaired;
- Service pit covers must carry the emblem or logo of the service provider, be level with the footpath surface and not present a trip or slip hazard;
- Service covers must not be located within pedestrian access ramps at intersections;
- All stormwater drainage works within the Road Reserve must comply with Council's Drainage Specification;
- A minimum clearance of 1000mm is preferred between the proposed pit cover and any existing pit cover, tree or any other street furniture.

8.31 Trees/lawns

- Tree planting schedules and irrigation systems must be to the satisfaction of Council's Parks Recreation Group;
- A tree removal form must be obtained from Council's Parks & Recreation Group before the removal or relocation of any street tree;
- Tree plots must be constructed in accordance with Council's standard drawings;
- Requirements are available from Council's Parks & Recreation Group and Urban Design Branch.

8.32 Vehicle crossings

- A Road Opening Permit is required to install or remove a vehicular crossing;
- A Planning Permit is required for areas designated as Conservation Areas;
- Crossings must be constructed in accordance with Council's standard drawings as directed by Engineering Services;
- Crossings requiring the removal or relocation of a tree are subject to the approval and requirements of the Parks & Recreation Group;
- The property owner enjoying the benefit of a crossing must maintain and keep in good repair the crossing and undertake, and bear all costs of any works required by Council to maintain the crossing;
- The adjoining property owner's consent is required for crossings closer than 1 metre to an adjoining boundary;
- The property owner must arrange and pay for the cost of relocation or modification to any service such as telecommunications pits, water valve pits, covers, etc;
- The property owner must arrange and pay for any installations or modifications to street signage, parking signs and linemarkings;
- The removal of redundant crossings is at the property owner's cost;
- Engineering Services' requirements and Standard Specifications are available as part of the Road Opening Permit.

8.33 Footpath directional signs or plaques

- All directional signs and plaques are subject to Engineering Services' approval and requirements;
- A Road Opening Permit is required to install or remove directional signs or plaques.

8.34 Bus/tram shelters

- A Road Opening Permit is required to install or remove a bus or tram shelter;
- A Planning Permit is required for areas designated as Conservation Areas;
- A Planning Permit is required for advertising on/in bus shelters or tram shelters;
- The location of bus shelters and tram shelters are subject to Engineering Services' approval.

8.35 Tunnels

Tunnels for the provision of services and those providing pedestrian access or vehicular access from one parcel of land to another may be permitted, subject to the following:

- The installation or demolition of a tunnel is subject to Engineering Services' approval and requirements;
- The installation or demolition of a tunnel connected to any building requires a Building Permit;
- A Road Opening Permit is required to install or remove a tunnel;
- Tunnels must be designed for highway loadings as directed by Council's Engineering Services;
- Tunnels on Crown Land are subject to the approval and requirements of the DSE;
- Tunnels on Council Land are subject to an agreement under *Section 173 of the Planning and Environment Act 1989*;
- Tunnels on private roads will not be approved without the written consent of the registered owner(s) of the road.

8.36 Telephone booths

- A Road Opening Permit is required to install or remove a telephone booth;
- A Planning Permit is required for areas designated as Conservation Areas;
- A Planning Permit is required for advertising on/in telephone booths;
- The location of telephone booths are subject to the approval of Council's Engineering Services.

8.37 Monuments

- Must be sympathetic to religious and ethnic groups;
- A Planning Permit may be required to install a monument.

8.38 Post boxes

- A Road Opening Permit is required to install or remove a post box;
- The location of post boxes is subject to consultation with Council's Engineering Services.

8.39 Garbage receptacles

Council requires garbage facilities for all new buildings are located within the curtilage of the property. This applies to buildings regardless of whether or not they are located within the CBD.

Architects and engineers should be made aware of this requirement so modifications are made at the planning stage.

Should the building cover the whole of the site, a suitable space inside the building must be provided to facilitate the storage of refuse consistent with the property use.

Council may agree to garbage facilities being located within the Road Reserve where necessary, for buildings undergoing refurbishment or change of use and where the shell of the building is to remain intact. Any such approval are subject to the following:

- Use and redevelopment of the property must recognise and accommodate standard entitlement garbage receptacles within the boundary of the property, and if they exceed those entitlements, any larger bins;
- Where in the current operational management of the property there is a belief rubbish containers cannot be housed inside the property and therefore encroach onto roadways, the *Environment Local Law* requires the property owner/occupier to immediately make an application to seek approval from Council's Engineering Services for placement of the bin(s) on a suitable part of the road. An application must be made for a *Request to Vary the Environment Management Plan* under the *Environment Local Law*;
- Approval for a bin placement in the road reserve will be granted only after Council's Engineering Services or its Authorised Officer has inspected and considered the current use or intended redevelopment of the property.

Proposed variations must take into account amenity of the area, impact of encroachment and access requirements for contractors to the roadway and other buildings and property.

8.40 Kerbside cafés

- A Kerbside Café Permit must be obtained from Council's Street Activity Branch before any road occupation;
- The location of kerbside cafés are subject to the approval of Council's Engineering Services;
- All screens, umbrellas, awnings, furniture, etc. must be approved by Council before use;
- The permit holder must maintain and keep in good repair all screens, umbrellas, awnings, furniture, and all parts of the café, and undertake and bear all costs of any works required by Council to maintain the café;
- An annual fee is payable for kerbside cafés;
- Requirements for kerbside cafés are detailed in Council's Kerbside Café Code.

8.41 Ground anchors

- Temporary ground anchors must be de-stressed and cavities grouted on completion of permanent retention works;
- The first row of anchors must be a minimum of 1500mm below road level;
- A minimum clearance between ground anchors and any service installation must be 1000mm;
- Survey monitoring points must be established at minimum 30 metre centres on the road. Readings must be taken fortnightly and at least weekly where any vertical or horizontal movement of over 6mm is detected;
- A \$10,000 security deposit must be provided to Council and will be reimbursed upon successful completion of works and upon receiving written notification from the principal contractor that the ground anchors have been fully grouted and de-stressed.

8.42 Plant/sub-station doors

Doors for personnel entry and egress must not open into the Road Reserve.

Doors for access to plant/substation areas may be permitted to open into the Road Reserve if the doors:

- Are self closing and can be held fully open against the building wall for the time personnel are occupying the facility;
- In the fully open position do not encroach more than 100mm into the Road Reserve;
- Have a minimum clearance of 150mm from the footpath surface;
- Open onto a footpath with a minimum width of 1500mm.

The doors must be kept locked when not in use with the keys made available to approved personnel only.

8.43 Cabinets

Cabinets may be permitted to open into the Road Reserve if the doors are:

- Self closing;
- Have a minimum clearance of 150mm from the footpath surface;
- Open onto a footpath with a minimum width of 1500mm;
- Are made of stainless steel, including the frame and exterior fittings;
- Are locked with a 003 lock or the relevant authority locks when not in use.

8.44 A-Boards

Permits for portable advertising boards are issued by Council's Street Activity Branch in accordance with the provisions of the *Activities Local Law 1999*. As a minimum:

- A-boards must be no bigger than 1 metre x 1 metre;
- The footpath must be at least 3.5 metres wide;
- The distance between the nearest building alignment and the A-board must be at least 2 metres;
- A-boards must not be placed within 9 metres of an intersection;
- Only certain streets and precincts within the municipality are permitted to have A-boards on display.

8.45 Real estate signage (temporary)

Signage provided for or on a building must not project into the public space unless it;

- Is in accordance with any Planning Permit requirements;
- Does not adversely effect public safety or amenity;
- Is structurally sound and properly secured;
- Does not adversely effect the stability of the supporting structure;
- Is for a temporary purpose not exceeding 3 months;

Council may require a sign to be removed at any time if it considers it may constitute a hazard or danger, or which, in its opinion, is not in the interest of the community.

8.46 Access pits/hatches

Generally only public utility/service authority pits are permitted within the Road Reserve.

Licensed premises with existing hatches for the delivery of kegs to basements must conform with the following:

8.46.1 Maintenance

- It is the building owner's responsibility to maintain and keep in good repair all hatches, and to undertake and bear all costs of any works required by Council;
- Materials of construction must be similar to those used in the original design;
- Hatches and frames must be capable of sustaining an imposed load of 7kPa or a concentrated load of 40kN spread over a circular area of 1000 sqmm.

8.46.2 Removal

- A Road Opening Permit is required for removal of hatches;
- The hatch and supporting structure must be removed for a depth of 750mm and a new structural slab or plate cast satisfying minimum imposed loads as above;
- The surfaces must be rendered waterproof and damp-proof to prevent any dampness in the basement;
- The pit must be backfilled with 3% cement stabilised sand to the underside of the footpath pavement. The footpath must be reinstated in accordance with Council standards to match the adjacent pavement profile;
- The work area must be adequately barricaded and lit until the works have been completed.

9. Approval of Projections or Encroachments

If in the opinion of the Council or delegate, the projection or encroachment satisfies any Planning Scheme requirements, the public interest criteria (Clause 7) and the Management Principles of Clause 8 above, a permit may be provided with conditions as follows:

Conditions of Planning Permits

Crown Land - Where a proposal involves a non-exempt projection or encroachment over Crown Land, it may require licensing or an Agreement with the DSE and a note should be placed on the permit to alert the applicant to this. The format of such should be:

Building projections over Crown Land in this proposal may require an agreement or licensing pursuant to the *Land Act* and must be referred to the Secretary, Department of Sustainability and Environment (DSE) for assessment. The Agreement must indemnify Council against any claims pursuant to the projection or encroachment into the road and Council's obligations for care and management of the road.

Council Land - Where a proposal involves a non-exempt projection or encroachment over Council land, the relevant landowner must enter into an Agreement with Council under Section 173 of the *Planning & Environment Act 1987* and typically pay a lump sum licence premium (payable at the outset rather than an annual fee). The fee is to be related to the value of the subject street block and to the benefits that will be derived from the projections or encroachment. The fee is fixed/waived by the Group Manager Sustainable Regulatory Services (acting under Council delegated powers) following consultation with Council's Senior Valuer. Monies are credited to Council's Facilities Management Branch. The Agreement must:

- Be at no cost to Council;
- Be registered on the certificates of title to appropriate abutting lands and/or common property;
- Indemnify Council against all possible claims;
- Address maintenance and repair issues;
- Refute potential adverse possession claims; and
- Include public risk insurances, which will be the responsibility of a body corporate when a building has been subdivided.

The format of a permit condition should be:

"A legally binding agreement under *Section 173* of the *Planning and Environment Act 1987* shall be entered into between the landowner and the Responsible Authority prior to the commencement of the development concerning liability, maintenance and possession of parts of the development that extend into air space or sub-soil of land vested in the care and maintenance of Council;"

- Projections or encroachments over privately owned and privately controlled roads are not subject to a licence fee;
- Existing projections or encroachments at the time of implementing this guideline are exempt from this guideline unless Council's Group Manager, Sustainable Regulatory Services or Group Manager, Engineering Services deem exceptional circumstances apply;
- Despite the above, any projection or encroachment considered to raise unusual issues by Council's Group Manager, Sustainable Regulatory Services or Group Manager, Engineering Services, may either be exempted from, or subjected to, an agreement with conditions as deemed necessary and/or the charging of a licence fee. An example is commercial signage erected over Council land.

10. Projections and Encroachments Exempt from Agreements or Licence Fees

The following projections or encroachments are exempt from agreements under *Section 173* of the *Planning and Environment Act 1987* or a Licence Agreement as detailed in Clauses 5 and 6 above. They are however subject to permits pursuant to Planning, Building or Local Laws as applicable.

- Those of a width of 300mm or less.
- Those related to public utilities or services.
- Temporary advertising signs.
- Those permitted by Part 3 [Division 2] of the *Building Regulations 1994*.
- Part 3 of the *Building Regulations 1994* details various permitted projections and encroachments into a road (street). Council's consent and report is required in consideration of projections or encroachments different to those permitted in these regulations, or for any building over a public facility.

→ Those similar in nature to the following, (this includes the classes referred to in *Government Gazette 18 July 2002*).

- Verandahs and associated supporting structures (not utilised for floor space or for retail or commercial activities);
- Canopies, blinds and awnings;
- Architectural fixtures such as light fittings, flagpoles and banners;
- Architectural decorations such as cornices, railings, statues and turrets;
- Advertising signs that form part of, or are attached to, buildings on adjoining freehold land;
- Window mounted air conditioning systems;
- Scaffolding, hoardings and other site works of a temporary nature;
- Temporary ground anchors (removable, detensioned or released); and
- Building support foundations projecting under Crown Land.

The table below summarises the actions Planning Officers take in response to applications concerning projections or encroachment over Crown Land, or land in the care and management of Council.

Crown Land

Situation	Action by Council
Where projection or encroachment is listed as exempt	Process as normal application
Where projection or encroachment is not listed as exempt	Test projection or encroachment in accordance with Clause 9 and issue conditions on any permit requiring applicant to refer projection or encroachment to DSE for assessment of Licence OR Agreement under <i>S 138A</i> of the <i>Lands Act</i> or an agreement as permissible. Council to be indemnified in the agreement.

Council Land

Situation	Action by Council
Where projection or encroachment is listed as exempt	Process as normal application
Where projection or encroachment is not listed as exempt including where projection or encroachment links two or more buildings eg. bridge, walkway, tunnel	Test projection or encroachment in accordance with Clause 9 and issue conditions on any permit, requiring applicant to enter Section 173 Agreement concerning the projection or encroachment. Assess whether a licence fee is also applicable (note that delegation rests with GM SRS) and refer to Senior Valuer for estimate/valuation.

Note: All Section 173 agreements and licence agreements must meet the approval of Group Manager Development & Statutory Services

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the Melbourne City Council?
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9280 0717	廣東話
9280 0718	Ελληνικά
9280 0719	Bahasa Indonesian
9280 0720	Italiano
9280 0721	國語
9280 0722	Somali
9280 0723	Español
9280 0724	Türkçe
9280 0725	Việt Ngữ
9280 0726	All other languages
9280 0727	English



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