

Verge Encroachment Fact Sheet

This fact sheet provides information for any person or organisation wanting to undertake works which encroach onto Council's verge/nature strip/footpath area (the area from property boundary to property boundary line). It explains the standards the Port Augusta Council requires for any encroachment work and outlines the responsibility of the property owners. **All VERGE ENCROACHMENTS ALSO REQUIRE DEVELOPMENT APPROVAL**

Do I need a Permit/Section 221 Approval?

Yes, any work undertaken in the area between your property boundary and the kerb requires a permit. Failure to do this may result in an issue of non-compliance and in some cases, the work may need to be removed and reconstructed at your cost.

Why do I need a Permit?

Section 221 of the Local Government Act requires Council Consent to be obtained for works within the road reserve (property boundary to property boundary, which includes road, kerb and verge/nature strip / footpath area), to ensure it complies with the Council Policies. Council must ensure all landscaping works are suitable for safe pedestrian access, do not conflict with any existing infrastructure such as signs, poles, street trees, stormwater and tram ramps and do not create any hazard on the Council verge/nature strip/footpath area.

How do I obtain a Permit?

A formal application must be made to Council using the Section 221 Application to Undertake Works on Council Property Application Form. This can be accessed online at portaugusta.sa.gov.au, by clicking on Enquiries, Online Forms. You can also pick up a copy of the form from Councils Civic Centre at 4 Mackay, Port Augusta.

Councils Infrastructure Department will undertake the approval process with the details provided in the application form. You can then obtain quotes from Contractors to undertake the works

What if the road reserve is not owned by Council (private)?

If the roadway is not Council owned, no approval is required to be sought from Council, although an approval process may be required from the road asset owners.

Are there any other Statutory requirements that I should be aware of?

Section 223 of the Local Government Act 1999, Council must consult the public where an authorisation would result in any part of the road being fenced, enclosed or partitioned so as to impede the passage of traffic (vehicular or pedestrian) to any material degree

Under Section 224 of the Act Council may attach conditions to the granting of such an authorisation and under Section 225 Council may, by notice in writing, cancel an authorisation for a breach of a condition

Under Section 234 Council can remove and dispose of any structure or object from a public road if it has been placed there without an authorisation or the authorisation has expired.

Under Section 242 an application for the Council's authorisation to use a road for business purpose must be decided within two months after the relevant date and, if not decided in this time, will be taken to have been refused.

The Disability Discrimination Act 1992 makes it an offense for public places to be inaccessible to people with a disability

Section 25 of the Environment Protection Act 1993 imposes the general environmental duty on all persons undertaking an activity that might cause pollution, to take all reasonable and practical measures to prevent or minimise the resultant environmental harm

How long does it take to obtain Council approval?

Applications will usually take between 14 and 21 working days. If the works are complex and require a Development Application to be lodged, allow 28 working days. A letter will be posted or emailed together notifying you of the decision.

What are my responsibilities?

As the property owner, you are responsible for the cost and maintenance of any encroachments you undertake on your verge/nature strip/footpath area, including any modifications to the kerb and watertable. It is also your responsibility to ensure that any work done on your verge/nature strip/footpath area complies with Council standards, and the contractor you use is aware of any requirements. Councils recommend the contractor must be adequately insured and appropriately licenced to undertake the proposed works.

It is your responsibility to contact "Dial Before You Dig"



to check for any utilities and services, such as water, Communications and electrical that may be affected by your excavations.

Council will not accept liability for injury or property damage caused by work carried out privately on your verge/nature strip/ footpath area, or for accidents caused by these works.

Can I put my letterbox, retaining wall or fence on the verge?

Public Safety is Councils highest priority and therefore Council does not permit structures such as fences, walls or letterboxes within the verge/nature strip/footpath area

What is an Encroachment?

Encroachment generally involves building work, which constitutes “development” under the Development Act, 1993. As a result, a proposed encroachment will generally require a Section 221 Permit (under the Local Government Act, 1999), a Development Approval (under the Development Act, 1993) and possibly a section 222 permit if the structure is being used for a business purpose before construction can commence. “In Principle” support for encroachment is required prior to a development application proceeding to assessment. If received, that includes an encroachment that does not have “in principle” support for encroachment, the development application will be considered hypothetical and will be put on hold until an “in principle” decision on the Section 221 permit is made. If the Section 221 Permit is refused, the development application should be:

- Modified to meet the requirements of the Policy
- Withdrawn; or
- Refused on the basis that it does not have approval of the Council in its role as landlord for the elements of the encroachment.

What type of works can be classified as an encroachment?

Encroachments include, but not limited to

- Veranda's
- Carports
- Awnings
- Pergolas
- Signs
- Footings
- Retaining walls
- Balcony

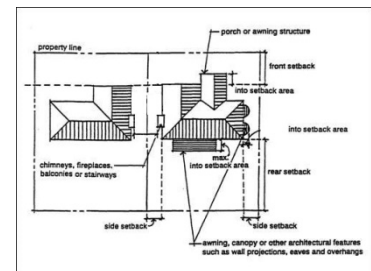
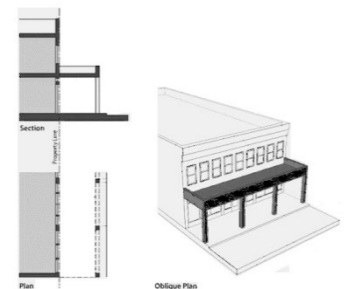
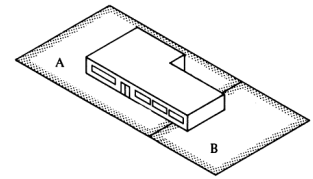
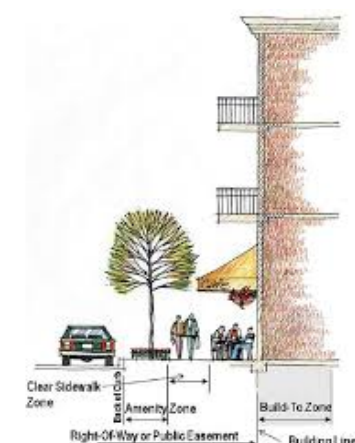
All require Development Approval

What is a Trafficable Pedestrian Refuse Area

An area (nominal width of 1.5 metres from the property boundary) is to serve as a pedestrian refuge and is to be kept clear for general pedestrian access. This area can be levelled grass or lawn, compacted rubble surface, compacted crusherdust, asphalt or bitumen seal, block paved or concrete. Any development of a verge without existing concrete of block paving must allow for the possibility of future construction by Council.

Where a property owner desires as part of a verge development to construct a block paved or concrete footpath (where no paved or concrete footpath exists on adjoining verges) its location within the verge and the materials used for its construction shall be parallel to the property boundary and be a minimum of 1.2 metres in width and located 300mm from the property boundary. Relocation of any service authority infrastructure will be at the cost of the property owner. All works must be to Councils specifications. Construction shall be at the property owners cost and shall be maintained by the property owner, in a safe and trafficable condition at all times.

The recommended block pavers or concrete shall be dark grey in colour. Pavers or concrete must be constructed to Councils specifications and laid flat and level and match connecting infrastructure and pits, e.g. Telstra service pits.



Fences are not permitted to block the pedestrian refuse area across verge

General Conditions, Provisions and Terms

For the purposes of undertaking works on the verge the Port Augusta City Council will grant permission to carry out work on a road reserve or on Council controlled land subject to the following additional general conditions and subject to completing a Section 221 Application Form:

1. General

Many property owners prefer to manage the Council owned area in front of their residences to a different standard than the service level provided by Council to enhance the visual appeal of the property. The strip of Council land between the kerb (or road edge) and the property boundary is known as the verge (commonly called nature strip or footpath area). Verge developments permitted are approached according to these guidelines, to ensure public safety.

Where property owners choose not to or are unable to maintain the verge adjacent their property, Council will service this area to the following standards;

- Council will ensure the verge surface is even and free of potholes or depressions or mounds that may present a trip hazard to pedestrians.
- Council will treat verges where a proclaimed pest plants have been identified (only if causing a hazard to pedestrians).
- Weed spraying as required

Council will not subsidise or assist with the development of verges in any form or manner. Any developed verge by a resident or property owner must be fully maintained by the resident or property owner including any plantings should be kept in reasonable health and not be an obstacle to pedestrians.

Council relies on the goodwill of residents and property owners to maintain the verge. If the property owner does not maintain the verge of long grass/weeds, when the height is over 300mm, Council will apply a treatment necessary to ensure pedestrian safety. In the first instance this will mean spraying of the grass/weeds.

Service Authorities have access and rights over this portion of the road reserve. The verge area may be occupied (above and below ground) by the following:

- Electricity
- Telecommunications
- Watermain and connections
- Sewer main and connections
- Port Augusta City Council stormwater drainage systems
- Port Augusta City Council Community Waste Water System (CWMS)
- Port Augusta City Council Footpaths (concrete or paved)
- Port Augusta City Council street furniture, Signage, bus shelters and street trees

Applications for permits that affect any of the above will not be approved unless the applicant can provide evidence that any of the above can be altered (Council can only approved those under its responsibility) BUT, will be responsible for all costs relating to the relocation of services or items.

No verge developments will be approved within 600mm of the kerb face. This space is to be kept free from obstacles to allow clear access for pedestrians exiting or entering vehicles. Exceptions to this may be considered by Council if certain conditions are met i.e. No Parking etc.

2. Development

The Local Government Act 1999 requires that all private development of the verge has Council approval. Property owners may develop their verge areas, provided the type or form of development maintains the following:

- Pedestrian access along the verge area in preference to walking on the roadway, regardless of whether a footpath has been constructed or not.
- Traffic sight line distances.
- Service Authority and Council access for installation of new services and maintaining services.

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- Provision is made for Council Street Tree/s as per Council's street tree planting program.
- Where a property owner develops the verge, the responsibility for ongoing maintenance rests with the property owner. The development may be removed by Council where adequate maintenance is not carried out.

3. Temporary Crossings Over Footpath

The area of the work and its immediate vicinity must be kept safe for pedestrians at all times. Warning signs and bunting must be erected during works.

4. Concrete Works

Where approval has been given for street works involving concrete, the following conditions shall apply:

- No concrete materials shall be cleaned into the street or kerb and watertable, and no cement slurry or other materials to be allowed to enter a Stormwater Entry Pit (stormwater system).
- On completion of concrete works the street is to be thoroughly cleaned of all cement and other materials or rubbish associated with the works.
- In heavily trafficked streets, vehicles associated with concrete works shall NOT be driven to or from the site in peak traffic hours 8 to 9am and 3-4pm. Prior to the commencement of any works the Council will confirm whether the street the subject of this permit is heavily trafficked.

5. Signs

Signs are to be placed at a height above the level of the footpath of not less than 2.5 metres for a permanent and rigid material.

Once an encroachment has both a Section 221 Permit, Section 222 Permit (if required) and Development Approval, these will be issued and construction can commence. Applicants should contact the Development Services section of Council to discuss the requirements for lodging a development application.

Fees associated with Encroachment are detailed and set in the Councils Schedule of Fees and Charges

6. Solid Construction

Public safety is Councils highest priority and therefore Council does not permit structures such as fences, walls and letterboxes within the verge area.

7. Reinstatement

When any development of a verge is altered or removed by the activity of a service provider, reinstatement will be subject to negotiation between the property owner and that service authority. Where a Council activity or operation alters or removes a conforming verge development, Council will endeavour to restore the verge to a reasonable standard.

The works shall be backfilled, compacted and the surface reinstated immediately after the works are completed.

Any other reinstatement of the verge area by the property owner will require reinstatement as per Council Policy 2.13.02 – Excavation and Reinstatement of Council Roads Footpaths or Properties, available on Council's website.

Any subsidence or other damage which occurs and is attributed to the work done under the application, shall be repaired by the applicant or the applicants agent within forty-eight (48) hours of receiving notification to do so by Councils authorised officer

8. Removal or Modification of Existing Developments

Where any verge has been developed (either before the adoption of these guidelines or following its adoption) in manner contrary to these guidelines and Council considers that the verge development could cause or is causing a hazard or obstruction to the public or Service Authority, then Council shall require the development to be removed or modified to Councils satisfaction. Any such removal or modification shall be at cost to the property owner except where Council deems otherwise.

9. Site Protection

Adequate warning of the presence of works on a road reserve or Council controlled land shall be given in accordance with the Manual of Legal Responsibilities and Technical Requirements for Traffic Control Devices, and

- a) Between sunset and sunrise such warning shall at least consist of a barrier with reflective warning sign on each side of works. If the site is not well lit, warning lights must be installed.
- b) Between sunrise and sunset such warning shall at least consist of a barrier with warning flags or warning sign on each side of the works.

Any steps necessary for the protection of the public shall be taken by the applicant at the applicant's expense.

10. Traffic Management

Work shall proceed without any interruptions to traffic. If traffic lane closure is required, the person carrying out the works shall have the appropriate approvals from Council prior to any road closure occurring.

If possible a pedestrian throughway of 1.2 metres shall be maintained. This pedestrian throughway shall be equivalent standard to existing or to the satisfaction of the authorised officer.

Adequate signage, barrier protection and redirection measures must be in place if construction of the driveway obstructs pedestrians or traffic. For standards and procedures refer to the Manual of Legal Responsibilities and Technical Requirements for Traffic Devices at www.dpti.sa.gov.au/standards/tass

11. Risk Assessment and Safe Work Method Statements

Risk Assessment and Safe Work Method Statements are required for certain activities to be carried out on Council land.

Risk Assessments are simply a careful examination of what, in your work, could cause harm to people, so that you can weigh up whether you have enough precautions or whether you should do more. It includes all the **risks** identified in the **risk assessment** and the measures needed to control the **risks**.

SafeWork Method Statements are required for all High Risk construction work. Under the WHS Act, the obligation to prepare a **SWMS** is now only a requirement if you are involved in high-risk construction work. The PCBU involved in carrying out the high-risk construction must ensure that a SWMS is prepared.

12. Indemnity

The Permit Holder agrees to indemnify and to keep indemnified the Council, its servants and agents and each of them from and against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against them or any of them arising out of or in relation to the issuing of the permit.

13. Insurance

The Permit Holder or (if the works are being undertaken by a contractor) any Contractor must take out and keep current a public risk insurance policy in the name of the Permit Holder or Contractor insuring the Permit Holder or contractor for the minimum sum of twenty million dollars (\$20,000,000) against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against the Permit Holder or Contractor in relation to the activity for the undertaking of the works. The Permit Holder must provide confirmation of insurance to the Council. Such policy must bear the endorsement of the Insurer indicating that the Insurer except the indemnity given by the Permit Holder or Contractor. This permit will not come into operation until proof of the insurance has been provided to the Council. The Permit Holders household Home and Contents insurance will normally include this type of cover.