

Attachment A

**Draft Local Approvals Policy for Construction-
Related Temporary Structures On and Above
Roads**

Draft Local Approvals Policy for Construction Related Temporary Structures On and Above Roads

Purpose

The purpose of this Policy is to provide the framework for regulating the design, approval and installation of construction-related temporary structures on and above public roads (“temporary structures”) within the City of Sydney local government area.

This Policy supplements provisions of the Local Government Act 1993, the Local Government (General) Regulation 2021, the Roads Act 1993 and the Roads Regulation 2018.

The Policy is a Local Approvals Policy prepared and adopted by Council under s158 of the Local Government Act 1993 to regulate temporary structures (being “articles” under Part E (2) of the Table in s68 of the Act).

The Policy addresses three aspects (parts) in accordance with the requirements of the Local Government Act 1993 and operates as follows:

- Part 1 - specifies any exemptions from this Policy
- Part 2 - specifies the criteria that Council must consider when determining whether to grant approval for a particular article or activity
- Part 3 - specifies other matters relating to approvals.

Objectives

The Policy aims to:

- a) control, regulate, approve installation and the use of temporary structures erected on and/or above roads ;
- b) minimise pedestrian, cycleway and vehicular obstructions and other impacts resulting from the placement of temporary structures;
- c) provide safe and accessible public passage including high-quality amenity in public places in the vicinity of worksites
- d) screen and secure worksites to enhance public safety and amenity; and
- e) minimise adverse visual impacts of temporary structures in the streetscape through the display of high-quality graphics (artwork and historic images) on several types of temporary structures.

When will the Policy be revoked?

Under s165(4) of the Local Government Act 1993, this Policy is automatically revoked 12 months after the NSW local government elections, unless the Council resolves to do so sooner.

Scope and purpose

The Policy applies throughout the City of Sydney local government area. The purpose of the Policy is to give force to the ‘Code of Practice: Construction-related Temporary Structures on and above Roads’ (the “Code”). The Code prescribes the technical standards applying to temporary structures that control the design, placement (installation) and use of temporary structures on and/or above a public road. The Code is also used to assess applications lodged by property owners, developers, builders, and contractors seeking approval to install temporary structures to facilitate demolition, excavation and construction works or maintenance activities on existing buildings.

How this Policy works

Part 1 - Exempt from approval

The Policy does not provide any exemptions from the need to obtain the approval of Council for the placement of temporary structures on and/or above a public road.

Part 2 - Criteria that Council will take into consideration in determining whether to give or refuse an approval to an application

The provisions set out in the Code will apply when seeking approval to install a temporary structure on and/or above a public road.

Part 3 - Other matters relating to approvals

The provisions of the Roads Act 1993 and Roads Regulation 2018 relating to the installation of temporary structures on and/or above a road will also be considered in the assessment and determination of applications seeking approval to install temporary structures.

The approval for the installation of temporary structures does not automatically permit the use of equipment (cranes and hoists) to swing or lift material across or over any part of a public road and/or other works/activities that take place in, on or over roads. These activities are regulated through a ‘Local Approvals Policy for Hoisting and Construction Activities on and above Roads’. A separate approval for these activities is required under category E(1) and E(2) of the table in s68 and s94 of the Local Government Act and s139 of the Roads Act 1993.

Definitions

Term	Meaning
Approval	an approval in force under the Local Government Act 1993 and Roads Act 1993 which includes the term ‘permit’
Article	a temporary structure, installed (exposed) on and/or above a road
Code	the ‘Code of Practice for Construction-related Temporary Structures on and above Roads (available on Council’s website adopted as part of this Local Approvals Policy
Footway	the part of a road that is set aside or formed as a path or way for pedestrian traffic (whether or not it may also be used by bicycle traffic) (Roads Act 1993)

Term	Meaning
Road	includes— (a) highway, street, lane, pathway, footpath, cycleway, thoroughfare, bridge, culvert, causeway, road-ferry, ford, crossing, by-pass and trackway, whether temporary or permanent, and (b) any part of a road and any part of any thing referred to in paragraph (a), and (c) any thing forming part of a road or any thing forming part of any thing referred to in paragraph (a).
Temporary structure	any of the following structures installed on and/or above a road: <ul style="list-style-type: none"> - hoarding - scaffolding - work and storage compound - cantilevered work platform - cantilevered overhead protective deck/platform - hung-scaffold - catch-scaffold - façade-mounted cantilevered materials landing platforms - building perimeter construction safety screens/shutters - jump-forms - tower crane structure - site sheds - other forms of temporary structures when placed on and/or above a road

Policy Statement

Footway obstructions resulting from the placement of temporary structures are often a necessary part of construction and building maintenance activities. In allowing the installation of these structures on and above roads it is essential that they have the least possible impact on residents, workers, visitors and the business community. To achieve these required outcomes the Code prescribes minimum acceptable standards that must be followed by persons undertaking works and activities.

Due to very high pedestrian and traffic volumes in the city, there are special needs and requirements that must be considered and followed when undertaking construction work, including the installation of temporary structures. This is necessary to ensure the safe, accessible and convenient passage and movement of pedestrians and cyclists.

There are also significant visual impacts that result from development activity and temporary structures (predominately hoardings and scaffolding) therefore they must have quality design features to minimise these impacts in the streetscape. Minimum design standards including the display of graphics therefore apply to some forms of temporary structures.

Legal status of this Policy

The Policy is aimed at the development and construction sectors where approval is sought to install temporary structures on or over a road (an activity under category E(2) of the table in s68 of the Local Government Act) and s138 of the Roads Act in association with development sites or buildings undergoing maintenance.

Enforcement of the Policy

Unless specifically varied by a condition of approval or a direction of an authorised person, the relevant provisions set out in the Code must be satisfied when installing a temporary structure on and/or above a road.

What are the implications for non-compliance with this Policy?

An authorised person of Council may issue penalty notices; give orders; initiate Court action for non-compliance with the Policy, Code and a determination (an approval); and for associated breaches of applicable legislation.

A person who is guilty of an offence under the various Acts administered by Council may be liable, on conviction, for a maximum penalty as prescribed by the applicable legislation.

Parties not acting in accordance with this Policy (and Code) and an approval to place a temporary structure on and/or above a road may be given notice in writing to comply before an infringement is issued. Council at all times reserves the right to issue an immediate infringement notice depending on the seriousness of the circumstance and at the discretion of the authorised person and consideration of Council's Compliance Policy and Prosecution and Civil Enforcement Policy.

Granting an approval

An approval for the installation of a temporary structure on and/or above a road (footway and/or roadway) is granted under s94 of the Local Government Act 1993 and s139 of the Roads Act 1993. An approval is issued subject to conditions imposed through s94 of the Local Government Act and s139(1)(d) of the Roads Act.

An approval is granted subject to a condition requiring permit-holders to ensure that temporary structures comply with minimum standards as prescribed in the Code and as set out in specific conditions forming part of the approval.

Amending an approval

A person to whom an approval is granted may apply to amend an approval under s106 of the Local Government Act. The assessment for an amendment to an approval will include the following matters:

- a) whether the approval as amendment is substantially the same as the original approval; and
- b) whether any prejudice will be caused to any person who made a submission concerning the original proposal; and
- c) after consultation with any other person or authority whose concurrence to the original approval was required; and

- d) an amended determination will replace the original approval from the date endorsed in the approval.

Extending an approval

Council may determine to extend an approval under s107 of the Local Government Act if it is satisfied there is good cause for doing so.

An approval may not be extended where a temporary structure:

- a) is structurally unsound;
- b) is not being satisfactorily maintained in accordance with the Code;
- c) is non-compliant with an approval;
- d) is not covered by a current public liability insurance policy or such policy has been withdrawn by the insurer; and
- e) any other circumstance as determined by Council.

An approval to extend a determination must be obtained before the lapsing date.

Revoking an approval

Council may revoke an approval under s108 of the Local Government Act for any circumstance set out in s109. An approval may also be revoked, for any reason, under s140 of the Roads Act 1993. Council may exercise its powers under these Acts where any of the following apply:

- a) the person holding an approval fails to act on directions to rectify a temporary structure particularly matters relating to inadequate structural adequacy or other public safety risk;
- b) or
- c) a public liability insurance policy for a structure/approval is not current or has been withdrawn by the insurer.

In circumstances where an approval has been revoked or lapsed, Council reserves the right to take action to have the unauthorised structure/s removed and recover all associated costs.

Responsibilities

Council is responsible for developing this Policy in accordance with the provisions of the Local Government Act 1993 and ensuring good governance including open and transparent consultation during its development and review. Authorised officers of Council will issue approvals to allow the installation and use of temporary structures, enforce conditions of approval and monitor/regulate non-compliances with this Policy, the Code and relevant legislation.

A holder of an approval is responsible for ensuring that a temporary structure is installed in accordance with an approval and is appropriately maintained. A person holding an approval must also comply with the Code.

Consultation

In accordance with s160 of the Local Government Act 1993 this Policy has undergone a public consultation process and formal consideration of comments prior to adoption.

References

Laws and Standards
• Local Government Act 1993
• Local Government (General) Regulation 2021
• Roads Act 1993
• Roads Regulation 2018
• Road Rules 2014
• Environmental Planning and Assessment Act 1979
• Environmental Planning and Assessment Regulation 2021
Policies and Procedures
• Code of Practice: Construction-related Temporary Structures on and above Roads
• Code of Practice: Hoisting and Construction Activities on and above Roads
• SafeWork NSW Code of Practice for Overhead Protective Structures

Review period

This Policy will be reviewed at least every 4 years from the date of Policy adoption.

Approval Status

Council approved this Policy on [DD MONTH YYYY].

Approval History

Stage	Date	Comment	TRIM Reference
Original Policy	<< date >>	<< >>	<< >>
Reviewed	<< date >>	<< >>	<< >>
Commence Review Date	<< date >>	<< >>	<< >>
Approval Due Date	<< date >>	<< >>	<< >>

Ownership and approval

Responsibility	Role
Author	Standards & Policy Specialist, Construction & Building Certification

Responsibility	Role
Owner	Manager Construction & Building Certification Services.
Endorser	City of Sydney Executive
Approver	City of Sydney Council