

# **Attachment A**

**Draft Local Approvals Policy for Hoisting and Construction Activities On and Above Roads**

# Draft Local Approvals Policy for Hoisting and Construction Activities on and above Public Roads

## Purpose

The purpose of this Policy is to provide the framework for regulating and approving the carrying out of hoisting operations and construction-related activities in and over public roads within the Council of 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 hoisting activities (being “hoisting” under Part E (1) of the Table in s68 of the Act) and regulate minor temporary construction-related structures installed in, on and/or above a public roads (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 and approve hoisting activities on and/or above roads ;
- b) control, regulate and approve the installation of minor temporary construction-related structures placed on roads;
- c) minimise pedestrian, cycleway and vehicular obstructions and other impacts resulting from temporary structures and activities being placed and carried out in, on and/or above public roads; and
- d) provide safe and accessible public passage and quality amenity in the vicinity of worksites.

## 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: Hoisting and Construction Activities on and above Roads (the “Code”). The Code prescribes the technical standards applying to hoisting activities , controlling other forms of construction-related activities including the placement (installation) of minor temporary structures. The Code is also used to assess applications lodged by property owners, developers, builders, and contractors seeking approval to hoist over roads and other public places and undertake other works and/or installations in a public place.

## How this Policy works

### Part 1 - Exempt from approval

The Policy does not exempt the need to obtain the approval of Council for any hoisting activities on and/or above public roads and the placement of minor temporary structures in, on or over on 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 undertake hoisting activities and install minor temporary structure in, 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 activity of hoisting and installing minor temporary structures in, on and/or above a road will also be considered in the assessment and determination of applications seeking approval to undertake these activities and works.

The approval for hoisting and the installation of minor temporary structures does not automatically permit the installation and use of other forms of construction-related temporary structures in, on and/or above roads such as hoardings, scaffolding, cantilevered structures and other forms of major temporary structures. These activities are regulated through a ‘Local Approvals Policy for Construction-related Temporary Structures on and above Roads. A separate approval for these structures and uses is required under category 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’
Articles	a minor temporary structure, installed (exposed) in, on or above a public place
Code	the ‘Code of Practice: Hoisting and Construction Activities on and above Roads (available on Council’s website) adopted as part of this Local Approvals Policy

Term	Meaning
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)
Hoisting	the action of raising or lowering a load (material, plant, equipment) or workers, by powered mechanical or manual means and includes hoisting using a crane; winch; elevated work platform; mast-climbing work platform; <i>suspended scaffold</i> ; personnel and materials hoist; boom lift including concrete placing boom; and building maintenance unit.
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).
Construction activities and minor temporary structure (article)	any of the following activities and/or minor temporary structures installed and undertaken in, on or above a public place: - mobile scaffold (of a height not exceeding 4.0 metres) - access ladders - barricades (to establish pedestrian exclusion zones or to create temporary pedestrian pathways) - temporary works - road openings - temporary pedestrian ramps on footways (typically used over concrete pumping static lines) - other forms of minor temporary structures and construction-related works carried out in, on or above a public place

**Policy Statement**

Footway obstructions resulting from the placement of minor temporary structures on and above roads and undertaking hoisting operations are often a necessary part of construction and building maintenance activities. In allowing minor temporary works and installations and hoisting activities in, on and/or above a public place 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 construction-related works and activities on and above roads.

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 works and hoisting activities including the installation of minor temporary structures on and above roads. This is necessary to ensure the safe, accessible and convenient passage and movement of pedestrians and cyclists.

## **Legal status of this Policy**

The Policy is aimed at the development and construction sectors where approval is sought to undertake hoisting activities and carry out works including installing minor temporary structures in, on and/or above a road (activities under category E (1) and E (2) of the table in s68 of the Local Government Act) and s138 of the Roads Act in association with development sites, construction works 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 undertaking hoisting and/or installing minor temporary structures in, 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.

Under the Local Government Act, parties without a required approval or acting in breach of a condition of an approval 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 hoisting activities and other works including and installing minor temporary structures in, on and/or above a road 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.

All approvals will be granted subject to a condition requiring permit-holders to ensure that activities comply with minimum standards as prescribed in the Code, in addition to 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 hoisting activities and/or construction-related works including installing minor temporary structures:

- a) are non-compliant with an approval;
- b) are not covered by a current public liability insurance policy or such policy has been withdrawn by the insurer; and
- c) any other circumstance as determined by Council.

An approval to extend a determination must be obtained before the approval's 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 comply with the Code and/or rectify works including minor temporary structures particularly matters relating to public safety risks;
- b) an approval has lapsed, and an application has not been lodged to extend an approval; or
- c) a public liability insurance policy held against an approval is not current or has been withdrawn by the insurer.

In circumstances where an approval has been revoked or has lapsed, Council reserves the right to take action to have all hoisting activities and other works ceased or unauthorised minor temporary structure/s removed from the public place 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 hoisting activities and construction-related work including the use of minor 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 all activities including hoisting and installation of minor temporary structures (and their use) are in accordance with an approval and are 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
• Protection of the Environment Operations Act 1997
Policies and Procedures
• Code of Practice: Hoisting and Construction Activities on and above Roads
• Code of Practice: Construction-related Temporary Structures on and above Roads

**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	19 August 2019	First edition	CM2019/000239
Amendment	<< date >>	Second edition	<< >>
Reviewed	<< date >>	<< >>	<< >>
Commence Review Date	<< date >>	<< >>	<< >>
Approval Due Date	<< date >>	<< >>	<< >>

**Ownership and approval**

Responsibility	Role
Author	Standards and Policy Specialist, Construction & Building Certification
Owner	Manager Construction and Building Certification Services.
Endorser	City of Sydney Executive
Approver	City of Sydney Council