



Encroachment Policy

Reference Number:	20/132343
Type:	Council Policy
Category:	Development and Infrastructure
Relevant Community Plan Outcome:	<ul style="list-style-type: none"> • A well-designed urban environment that is adaptive to a diverse and growing City. • The management of our City is progressive, responsive, and sustainable to ensure a united and unique place for future generations. • Enhance the diversity of open spaces to create innovative, accessible and flexible community spaces.
Responsible Officer(s):	General Manager Asset Management Services
First Issued/Approved:	6 April 2021
Minutes Reference:	CoS 3/04/2023, Item 4.18
Last Reviewed:	April 2023
Next Review Due:	April 2025
Applicable Legislation:	Community Titles Act 1996 Crown Land Management Act 2009 Development Act 1993 Disability Discrimination Act 1992 Encroachments Act 1944 Local Government Act 1999 Local Government Act (General) Regulations 2013 Planning, Development and Infrastructure Act 2016 Planning, Development and Infrastructure Regulations (General) 2017 Roads (Opening and Closing) Act 1991 Roads (Opening and Closing) Regulations 2006 Building Code of Australia 2016 By Law 3 – Local Government Land By Law 4 – Roads Road Traffic Act 1961
Related Policies:	Community Verge Development Policy Enforcement Policy Outdoor Dining Policy Path Policy
Related Documents:	Community Land Management Plans Community Plan 2020-2027 Footpath Encroachment Conditions

1. Purpose

As part of the need to manage a growing urban city such as City of Charles Sturt, it is essential Council develops and maintains an appropriate policy to manage encroachments of public lands while aligning with Council's Community Plan objectives, ensuring the safety and enjoyment of public lands for the benefit of the broader community and maintaining orderly development of the city.

Some encroachments of public lands may provide community benefit and deliver healthy, functional and attractive neighbourhood settings but they may also reduce public enjoyment and amenities. All requests for the encroachment of private assets over public lands will be considered individually, on merit and within the requirements of relevant legislation and Council policies and plans. Encroachments may also require application and assessment through the Development Application process.

The City of Charles Sturt Encroachment Policy provides information and a framework for managing proposed or existing encroachments of private assets into the public realm including within, above, below or through public roads, community land and other local government land.

2. Scope

This policy applies to proposed and existing encroachments associated with any form of development or change to public lands where the change or encroachment extends above, below, within or through public roads, community lands and other local government lands except those encroachments that do not require authorisation within provisions of section 221 (3)(a),(b) or (c) of the Local Government Act. This policy does not provide direction to encroachments of private lands not owned by Council.

All Footpath Encroachment permits issued prior to the endorsement of this Policy will remain valid until their termination either by expiration of term, change of registered proprietor or non compliance with permit conditions. After commencement of this Policy all terminated or expired Footpath Encroachment Permits will be reviewed in accordance with this policy.

Concessions to this Policy will be made for encroaching structures that have historical and/or heritage significance or are attached to buildings that have historical and/or heritage significance.

3. Policy Statement

3.1 Encroachment of Public Roads – New Applications

Overhead and ground level encroachments of public roads are generally not discouraged by Council. However, any proposal for an encroachment of public road must be shown to provide public benefit while complying with section 221(4) of the Local Government Act 1999 and Council's [Footpath Encroachment Conditions](#).

Below ground encroachments are discouraged and are unlikely to be granted approval except where it is for the placement of essential service infrastructure. Council has a separate permit process in place for assessing and approving applications to install underground services.

Public road encroachment proposals are to be reviewed and considered individually, on merit and within the requirements of any relevant Acts and Regulations. Certain encroachments may require public consultation on the proposal before Council can consider granting approval. Encroachments are assessed in accordance with the requirements of section 221 of the Local Government Act 1999. Such encroachment may be formalised by issuing a permit pursuant to section

221 of the Local Government Act 1999 or by the granting of an easement (except a Right of Way easement).

Permits will be issued to the registered proprietor or Community Corporation, they will be issued for an agreed term not exceeding 42 years and will be required to pay a fee in accordance with 'Permit - Install Permanent Structure Encroaching Public Road' published in Council's [Fees and Charges Register](#). Where a request to use the encroaching structure is for business purposes (section 222 – Local Government Act) determines that a permit can only be issued for a maximum individual term of 5 years, with the ability to renew at the end of each 5 year term. Permit conditions may also be issued. More information on Footpath Encroachments and permit conditions can be found here - [Footpath Encroachment Information](#).

Grants of easement will require the registered proprietor or relevant Community Corporation to provide a compensatory payment to Council for the loss of amenity caused by the encroachment. The value of the payment will be based on a valuation sourced or determined by Council from a registered valuer of Council's choice. Registered proprietors will be required to meet all expenses for valuation and preparing and registering the Grant of Easement.

Where approval is granted Council will retain the right to determine how the encroachment approval is to be formalised, this may be by issuing of a permit pursuant to section 221 of the Local Government Act 1999 or by the granting of an easement (except a Right of Way easement) for the encroaching structure.

3.2 Encroachment of Public Roads – Existing Encroachments

When an encroachment of a public road is identified by Council, or the property owner, action must be taken to notify the other party of the encroachment and to commence negotiations to remedy the encroachment or formalise approval for the encroachment to remain.

Encroachments of public roads are generally not discouraged, but will be reviewed individually, on merit and within the requirements of any relevant Acts and Regulations. Encroachments should demonstrate a public benefit and comply with Council's [Footpath Encroachment Conditions](#). Certain encroachments may require public consultation before Council can issue any approvals. Concessions to this Policy will be made for encroaching structures that have historical or heritage significance or are attached to buildings that have historical or heritage significance.

Council may request the encroachment is either removed or modified to ensure compliance with section 221(4) of the Local Government Act and/or to provide a public benefit and comply with Council's Footpath Encroachment conditions.

Where approval is granted Council will retain the right to determine how the encroachment approval is to be formalised, this may be by issuing of a permit pursuant to section 221 of the Local Government Act 1999 or by the granting of an easement (except a Right of Way easement) for the encroaching structure.

Permits will be issued to the registered proprietor or Community Corporation, they will be issued for an agreed term not exceeding 42 years and will be required to pay a fee in accordance with 'Permit - Install Permanent Structure Encroaching Public Road' published in Council's [Fees and Charges Register](#). Where a request to use the encroaching structure is for business purposes (section 222 – Local Government Act) determines that a permit can only be issued for a maximum individual term of 5 years, with the ability to renew at the end of each 5 year term.

Permit conditions may also be issued. More information on Footpath Encroachments and permit conditions can be found here - [Footpath Encroachment Information](#).

Grants of easement will require the registered proprietor or relevant Community Corporation to provide a compensatory payment to Council for the loss of amenity caused by the encroachment. The value of the payment will be based on a valuation sourced or determined by Council from a registered valuer of Council's choice. Registered proprietors will be required to meet all expenses for valuation and preparing and registering the Grant of Easement.

Where it is not possible to reach agreement as to any requested removals or modifications of the encroachment or the terms and conditions of a Permit or Grant of Easement, Council reserves the right to remove the encroachment in accordance with provisions of the Local Government Act 1999 where it presents a risk to safety or significant inconvenience to amenity.

3.3 Encroachment of Community Land and other Local Government land – New Applications

Encroachments of any private assets above, below within or through Community Land or other Local Government land should be avoided to ensure the land is retained for the benefit and use of the broader community and not annexed for the sole benefit or enjoyment of the encroaching property owner. Any building protrusions into or over public land should remain within the development footprint. An exception would only be considered where the built form and open space areas complement one another to deliver community benefit without reduction in useability and enjoyment of the open space by all public users. Requests for encroachment of private assets over community land or other local government land will be individually assessed on merit and within any legislative requirements and Council policies and plans.

Where encroachments are considered appropriate the Community Land Management Plan will have provisions included. Some Community Land will not permit encroachments where Council must consider their obligations for land dedicated for particular uses and purposes by a relevant Act. Community Land Management Plans can be viewed here - [Community Land Management Plans](#).

Where Community Land is proposed to be created by a developer through land division any proposed encroachments must first be discussed with Council prior to formalising a development plan. Council has prepared a list of available options for consideration by developers in these circumstances, these options can be found in Table 2 below.

Council will retain the right to determine how encroachment approvals may be formalised, this includes by issuing of a licence/lease pursuant to section 201 or 202 of the Local Government Act 1999 or by the granting of an easement for the encroachment.

Any lease or licence granted for encroachments of Community Land or Local Government land would require the payment of a fee by the licensee or lessee. Determination of the fee will be based on type of use - commercial or residential with charges as published in Council's [Fees and Charges Register](#).

The Local Government Act limits the length or term of an agreement that may be offered, and any term longer than 5 years may require a public consultation process be undertaken. Section 202 (4) and (4a)

of the Local Government Act restricts the duration of an initial licence or lease term to a total of 21 years with the opportunity to be granted a further 21 year term.

Grants of easement will require the registered proprietor or relevant Community Corporation to provide a compensatory payment to Council for the loss or reduction of amenity caused by the encroachment. The value of the payment will be based on a valuation sourced or determined by Council from a registered valuer of Council's choice. Registered proprietors will be required to meet all expenses for valuation and preparing and registering the Grant of Easement.

3.4 Encroachment of Community Land and other Local Government land – Existing Encroachments

Encroachments of any private assets above, below within or through Community Land or other Local Government land should be avoided to ensure the land is retained for the benefit and use of the broader community and not annexed for the sole benefit or enjoyment of the encroaching property owner. Exceptions may be considered where the encroachment complements the public land to deliver community benefit without reduction in useability and enjoyment of the open space by all public users or where the encroachment has historical or heritage significance.

Where encroachment into public land is identified it must be addressed in a timely manner to resolve the encroachment.

Private assets generally found to be encroaching into, above, below or within Community Land and other Local Government Land are items such as garden beds, retaining walls, irrigation systems, trees, buildings, sheds, garages, fencing, verandas, balconies, awnings, pergolas, pools, decking, spas etc.

When an encroachment is identified by Council, or the property owner, action must be taken to notify the other party of the encroachment and to commence negotiations to remedy the encroachment. Encroachments of public land generally should be avoided but it is accepted that some encroachments may not have been created by the current property owner or have been in situ for many years. Council may consider the retention of some encroachments where the encroachment delivers a community benefit without reduction to the useability and enjoyment of the open space by all public users. The property owner must be willing to enter into an agreement with Council to ensure matters of public safety, indemnity, public liability insurance and any other conditions that Council may consider relevant to maintain free and unrestricted public access and public safety are addressed and met by the property owner. Requests for the encroachment of private assets over community land or other local government land to remain will be individually assessed on merit and within any legislative or regulatory requirements and Council policies and plans.

Some public lands may not permit any form of encroachment, existing or otherwise. These public lands are generally those which -

- a. Council does not own and only manages and maintains on behalf of the Crown or another owner;
- b. Crown lands that are dedicated for specific purposes;
- c. Community land where the Community Land Management Plan does not expressly permit encroachments.

Council will retain the right to determine how encroachment approvals may be formalised, this may be by issuing of a licence/lease pursuant to section 201 or 202 of the Local Government Act 1999 or by the granting of an easement for the encroaching structure.

When reviewing the remedy of an encroachment/s Council will consider the form and type of the encroachment and categorise the encroachment into one of the following two (2) categories:

Encroachment Category 1 – being retaining walls, steps, moss rocks, irrigation systems and other similar forms of hard material or constructed landscaping encroachment.

Encroachment Category 2 – buildings, fencing, sheds, pergola, verandas, decks, pools or any other form of built encroachment.

Category 1

Council may request the property owner modify or remove the encroachment if it is found to be unsuitable for the area. Where the encroachment does not, or is modified such that it does not, present a public safety risk, substantially diminish the public use of the area, and where it can be shown to present a public benefit it may be retained, and a licence issued by Council to the property owner/s.

Where encroachment is permitted a licence agreement with terms and conditions Council considers relevant to the encroachment category may be issued to the property owner/s. Where this occurs terms of a licence agreement will be no longer than 5 years with the ability to renew for further terms of 5 years but not exceeding 42 years in total. Conditions will include the requirement for the property owner to maintain the encroachment in a manner that does not risk public safety or access to the area, to maintain public liability insurance and indemnify the council against any claims. The property owner will be required to remove the encroachment at the end of the licence term or earlier if requested by Council if the land is subject to upgrade/project works. Licences can only be issued where any relevant Community Land Management Plan expressly permits the encroachment.

Licences issued to property owner/s cannot be transferred to a new property owner. Property owner/s undertaking the sale of their properties must ensure they inform any prospective purchasers of the encroachment in accordance with the Land and Business (Sale and Conveyancing) Act 1994 and direct the successful purchaser to Council for application of a new licence agreement.

Council will not offer a Grant of Easement on Category 1 encroachments.

Where agreement cannot be reached between Council and the property owner to resolve the encroachment, or the terms and conditions of a licence agreement, Council reserves the right to remove the encroachment and reinstate the land in accordance with provisions within the Local Government Act and Council By Law No. 3.

Category 2

When considering Category 2 Encroachment requests, Council will require the property owner to remove the encroachment either immediately or at a time in the future as agreed with the property owner.

Where encroachment is permitted for a defined time period a licence agreement with terms and conditions Council considers relevant to the encroachment category will be issued to the property owner/s. Terms of a licence agreement will be no longer than 5 years with the ability to renew for further terms of 5 years but not exceeding 42 years in total. Conditions will include the requirement for the property owner to maintain the encroachment in a manner that does not risk public safety, to indemnify the council from any claim, to maintain public liability insurance at a specified limit and to remove the encroachment in accordance with the licence terms and conditions. Licences can only be issued where any relevant Community Land Management Plan expressly permits the encroachment.

Licences issued to property owner/s cannot be transferred to a new property owner. Property owner/s undertaking the sale of their properties must ensure they inform any prospective purchasers of the

encroachment in accordance with the Land and Business (Sale and Conveyancing) Act 1994 and direct the successful purchaser to Council for application of a new licence agreement.

Council may consider offering a Grant of Easement on Category 2 encroachments, but this Policy does not require it do so. Any consideration of a Grant of Easement will be made depending upon the form and extent of the encroachment and the impact of the encroaching structure on the usability and availability of the land and any future project works planned for the encroached area or land surrounding the encroached area.

Where agreement cannot be reached between Council and the property owner to resolve the encroachment, or the terms and conditions of a licence agreement or grant of easement, Council reserves the right to seek remedy under provisions of the Encroachments Act 1944.

Any lease or licence granted for encroachments of Community Land or Local Government land would require the payment of a fee by the licensee or lessee. Determination of the fee will be based on type of use - commercial or residential with charges as published in Council's [Fees and Charges Register](#).

Grants of easement will require the registered proprietor or relevant Community Corporation to provide a compensatory payment to Council for the loss or reduction of amenity caused by the encroachment. The value of the payment will be based on a valuation sourced or determined by Council from a registered valuer of Council's choice. Registered proprietors will be required to meet all expenses for valuation and preparing and registering the Grant of Easement.

4. Table of options

This table presents the following options for encroachments under, over, within or through a public road

Option	Considerations
Road to be closed (at a certain height)	<ul style="list-style-type: none"> Proposals to close a road at a certain height must be considered within requirements of the Roads (Opening and Closing) Act 1991 and subsequent Regulations. Period of licence/lease can extend beyond 42 years Public liability on the owner and with compensation to Council of an annual fee Future activity of the road will be limited Public consultation must be undertaken in accordance with the Local Government Act 1999.
Permit to encroach over Public Road – Residential Use	<ul style="list-style-type: none"> Any proposal for an encroachment of public road must be shown to provide public benefit while complying with section 221(4) of the Local Government Act 1999. Public consultation must be undertaken in accordance with section 223 of the Local Government Act where required.

	<p><u>Permits</u></p> <ul style="list-style-type: none"> • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be issued a permit for an agreed term not exceeding 42 years and will be required to pay a fee in accordance with 'Permit - Install Permanent Structure Encroaching Public Road' published in Council's Fees and Charges Register. • Permit holders would be required to maintain Public Liability Insurance for an amount determined by Council • Permit holders are responsible for maintaining and keeping the encroachment in a good condition so it does not create a public safety risk or contravene section 221(4) of the Local Government Act <p><u>Grant of Easement</u></p> <ul style="list-style-type: none"> • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be required to enter into a Grant of Easement on terms and conditions as required by Council. • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be required to pay a compensatory payment to Council for loss of amenity and use of the land. • Compensatory payments will be based on a valuation undertaken by a registered valuer of the amenity loss and use of the land. • Registered proprietors will be required to meet all Council expenses for valuation and preparing and registering the Grant of Easement. • Council is not obliged to offer a grant of easement.
Permit to encroach over Public Road – Commercial Use	<ul style="list-style-type: none"> • Any proposal for an encroachment of public road must be shown to provide public benefit while complying with section 221(4) of the Local Government Act 1999

	<ul style="list-style-type: none"> • Public consultation must be undertaken in accordance with section 223 of the Local Government Act where required. • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be issued a permit for an agreed term not exceeding 42 years to place a permanent structure on a public road. • Permit holders would be required to maintain Public Liability Insurance for an amount determined by Council. • Permit holders are responsible for maintaining and keeping the encroachment in a good condition so as not create a public safety risk or contravene section 221(4) of the Local Government Act. <ul style="list-style-type: none"> • Permit holders may be issued approval to conduct business activities on a road in accordance with section 222 of the Local Government Act. Each permit term cannot exceed 5 years. • Public road encroachments of permanent structures used in conjunction with outdoor dining activities will require the encroaching owner to pay an annual fee to Council. Fees will be based on commercial valuation of the area of encroachment. <p><u>Grant of Easement</u></p> <ul style="list-style-type: none"> • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be required to enter into a Grant of Easement on terms and conditions required by Council. • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be required to enter into a Grant of Easement on terms and conditions as required by Council. • The registered proprietor (or Community Corporation as defined by the Community
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	<p>Titles Act 1996) will be required to pay a compensatory payment to Council for loss of amenity and commercial use of the land.</p> <ul style="list-style-type: none"> • Compensatory payments will be based on a valuation undertaken by a registered valuer of the amenity loss and commercial use of the land. • Registered proprietors will be required to meet all Council expenses for valuation and preparing and registering the Grant of Easement. • Council is not obliged to offer a grant of easement.
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Table 2

The table below presents options and considerations to manage encroachments that are above, below, within, through or across land classified as Community Land in Section 193 (1) of the Local Government Act and other Local Government Land.

NB – These options provide only for land owned by Council and to which any dedicated uses pursuant to an Act are satisfied.

Options	Considerations
Licence/Lease by Alienation of Community Land – Residential Use - (Section 202 of the Local Government Act 1999)	<ul style="list-style-type: none"> • Lease/licence may only be issued where the relevant Community Land Management Plan expressly permits the encroachment. • Lease/licence term would be a maximum of 5 years with options of renewal for further terms of a maximum of 5 years. The combined terms cannot exceed 42 years. • Lease/Licence must be held by the registered proprietor of the encroaching structure. Where there are multiple encroachments from a Community Corporation the lease/licence may be held by the Community Corporation. • Fees would be payable to Council for the encroachment. These fees would be considered each year by Council and published in their Fees and Charges Register. • Lease/Licence holders would be required to maintain Public Liability Insurance for an amount determined by Council. • Lease/Licence conditions would be imposed to ensure an appropriate level of maintenance and upkeep to the encroachments. • Other Lease/Licence conditions would be imposed, where relevant, to maintain the

	visual cohesiveness of the encroachment with the adjoining open space.
Licence/Lease by Alienation of Community Land – Commercial Use – (Section 202 of the Local Government Act 1999)	<ul style="list-style-type: none"> • Lease/licence may only be issued where the relevant Community Land Management Plan expressly permits the encroachment and use of the area for commercial purposes. • Lease/licence term would be a maximum of 5 years with options of renewal for further terms of a maximum of 5 years. The combined terms cannot exceed 42 years. • Lease/Licence must be held by the registered proprietor of the encroaching structure. Where there are multiple encroachments from a Community Corporation the lease/licence may be held by the Community Corporation. • Fees would be payable to Council for the encroachment. These fees would be considered on a case by case basis and will be based on commercial rental valuations in the immediate area. • Lease/Licence holders would be required to maintain Public Liability Insurance for an amount determined by Council. • Lease/Licence conditions would be imposed to ensure an appropriate level of maintenance and upkeep to the encroachments. • Lease/Licence conditions would be imposed to manage commercial activities such as outdoor dining, these may include days, hours and types of operations. Any commercial activity proposed from the encroaching structure on or above Community Land must be consistent with the relevant Community Land Management Plan. • Other Lease/Licence conditions would be imposed, where relevant, to maintain the visual cohesiveness of the encroachment with the adjoining open space.
Exclusion of Community Land Classification of Encroached Lands – (Section 193 (4) (a) of the Local Government Act 1999).	A developer may seek to request Council consider the exclusion of Community Land classification from the encroached portion of proposed Community Land prior to the deposit of a land division and before the land is vested to Council ownership. Where lands have been excluded from Community Land status they are managed as Local Government Land and lease/licence durations are not limited. All other conditions noted in Lease/Licence of other Local Government Land - Residential and Commercial would still apply.

<p>Lease/Licence of Other Local Government Land – (Section 201(c) of the Local Government Act 1999).</p>	<ul style="list-style-type: none"> • Lease/licence term would be a maximum of 5 years with options of renewal for further terms of 5 years, without limitation to the number of renewals offered. • Lease/Licence must be held by the registered proprietor of the encroaching structure. Where there are multiple encroachments from a Community Corporation the lease/licence may be held by the Community Corporation. • Fees would be payable to Council for the encroachment. These fees would be considered each year by Council and charged according to either the residential use charges or commercial use charges noted for Community Land Licence/Lease. • Lease/Licence holders would be required to maintain Public Liability Insurance for an amount determined by Council. • Lease/Licence conditions would be imposed to ensure an appropriate level of maintenance and upkeep to the encroachments. • Lease/Licence conditions would be imposed to manage commercial activities such as outdoor dining, these may include days, hours and types of operations. • Other Lease/Licence conditions would be imposed, where relevant, to maintain the visual cohesiveness of the encroachment with the adjoining open space.
<p>Grant of Easement for Residential Use</p>	<ul style="list-style-type: none"> • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be required to enter into a Grant of Easement on terms and conditions as required by Council. • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be required to pay a compensatory payment to Council for loss of amenity and use of the land. • Compensatory payments will be based on a valuation undertaken by a registered valuer of the amenity loss and use of the land. • Registered proprietors will be required to meet all Council expenses for valuation and preparing and registering the Grant of Easement.

	<ul style="list-style-type: none"> • Council is not obliged to offer a grant of easement.
Grant of Easement for Commercial Use	<ul style="list-style-type: none"> • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be required to enter into a Grant of Easement on terms and conditions as required by Council. • The registered proprietor (or Community Corporation as defined by the Community Titles Act 1996) will be required to pay a compensatory payment to Council for loss of amenity and commercial use of the land. • Compensatory payments will be based on a valuation undertaken by a registered valuer of the amenity loss and commercial use of the land. • Registered proprietors will be required to meet all Council expenses for valuation and preparing and registering the Grant of Easement. • Council is not obliged to offer a grant of easement.

5. Other forms of encroachment

Permits relating to alterations of a public road within the City of Charles Sturt that are not covered in this policy but are managed as per the following:

- Outdoor Dining - [Outdoor Dining Information and Applications](#)
- Works on Public Road - [Works on Public Roads Information and Applications](#)
- Community Verge Development - [Community Verge Development Guidelines and Checklist](#)
- Goods on the Footpath - [Goods on the Footpath Applications](#)

Permits relating to alterations of community land within the City of Charles Sturt that are not covered in this policy but are regarded as encroachments are noted in By Law 3 – Local Government Land, please see [By Laws Register](#).

6. Definitions

Key Term – Acronym	Definition
Encroachment	Any fixed structure or object, either attached to a building or independent of a building, that is not immediately removeable and which is located either above, below, within or through a public road, community land or other local government land ie. awning, balcony, decking, veranda, fixed seating, planter boxes, fixed signage, trees or other vegetation, retaining walls,

	irrigation infrastructure, buildings, sheds, pipes, wires, cables, fences and fencing with concrete plinths etc. (this list is not exhaustive).
Community Land	Defined by section 193 of the Local Government Act 1999 as all local government land (except roads) that is owned by a council or under a council's care, control and management unless the land has been excluded from classification through a council resolution. Community land is considered to be at ground level and without any defined limit either above or below ground.

Public Road	<p>As defined by the Local Government Act 1999 and is considered to be at ground level and without any defined limit either above or below ground.</p> <p><i>public road</i> means—</p> <ul style="list-style-type: none"> (a) any road or land that was, immediately before the commencement of this Act, a public street or road under the repealed Act; or (b) any road— <ul style="list-style-type: none"> (i) that is vested in a council under this or another Act; or (ii) that is placed under a council's care, control and management as a public road after the commencement of this Act, <p>but not including an alley, laneway, walkway or other similar thoroughfare vested in a council; or</p> (c) any road or land owned by a council, or transferred or surrendered to a council, and which, subject to this Act, is declared by the council to be a public road; or (d) any land shown as a street or road on a plan of division deposited in the Lands Titles Registration Office or the General Registry Office and which is declared by the council to be a public road; or (e) any land transferred or surrendered to the Crown for use as a public road that was, immediately before the transfer, held by a person in fee simple or under a lease granted by the Crown, <p>(and includes any such road that is within the boundaries of a public square);</p>
Public benefit	<p>Public benefit can be demonstrated by the provision of the following, including but not limited to:</p> <ul style="list-style-type: none"> • shading to public walkways from ground level or first level encroachments, • provision of free public services without corporate advertising (ie.warning signage, automated external defibrillator machines, water fountains etc.), • reduction in urban heat within areas of high density development and limited green space, • electric vehicle charging stations where a portion of the charge is free to users, • increased surveillance to public areas where there has been demonstrated evidence of improper public behaviour or damage to public infrastructure.