

Local Planning Policy No. 7.4.9: Encroachments Over Crown Lands and the Impact of Policy Revocation

Local Planning Policy 7.4.9 Encroachments Over Crown Lands	Impact of Policy Revocation
<p>1. For the purposes of this Policy Crown Land is defined as:</p> <ul style="list-style-type: none"> (i) public roads (excluding Primary Regional Roads); (ii) ways vested in the Crown, whether Crown or freehold land; (iii) unmanaged reserves; (iv) managed reserves, where the management body consents to the airspace encroachment; (v) Crown land subject to a tenure, provided the tenure holder consents to the airspace encroachment; and (vi) unallocated Crown land. <p>2. For the purposes of this Policy an encroachment into Crown airspace is defined as being any part of a building or structure associated with a building that horizontally projects from the building, such as a balcony verandah or lesser intrusion, beyond the lot boundaries over one of the abovementioned parcels of land.</p>	<p>No impact.</p> <p>The <i>Land Administration Act 1997</i> defines Crown Land.</p> <p>The City's Vibrant Public Spaces Policy also elaborates on this by providing definitions for City owned and managed land relating to City freehold land, Crown reserve and road reserve.</p>
<p>3. The City of Vincent can support minor encroachments into Crown airspace, which are defined as:</p> <ul style="list-style-type: none"> (i) A building that has string courses, cornices, copings, eaves or window sills that project not more than 230mm into airspace over Crown land; but excluding bay 	<p>No impact.</p> <p>The City's existing policies establish acceptable development types and standards for encroaching onto Crown land.</p>

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<p>windows at street level forming part of a building under the Strata Titles Act 1985 (see s. 400 (1a) of the Local Government (Miscellaneous Provisions) Act 1960);</p> <p>(ii) Awnings or verandahs, whether supported by posts or otherwise, a minimum of 2.75m above the footpath of a public road, way, other public place or Crown land generally, and providing weather protection to the public using roads beneath, or otherwise; provided the verandah does not form a balcony which increases floor space or is used for commercial purposes (see s.400 (2) (a) of the Local Government (Miscellaneous Provisions) Act 1960);</p> <p>(iii) Plinths, flowerpots, lightfittings, flagpoles, sunscreens (for the purposes of this Policy defined as similar devices/structures as depicted in clause (v) below), and signs; provided such signs are related purely to the building and/or businesses located in that building, and are not of a general advertising nature;</p> <p>(iv) Mouldings and minor ornamental features intruding no more than 12mm at street level; or (for example, where the intruding structure is of an ornamental nature, and does not form a permanent, loadbearing, original part of the relevant building) – such further depth as may be determined by a DLI Regional Manager as appropriate under those particular circumstances (see Reg 33 of the Building Regulations 1989); and</p> <p>(v) Curtains or other similar temporary apparatus designed to provide weather protection to clients using alfresco dining facilities in roads, ways or other public places.</p>	<p>The following policies of the City prescribe standards to guide development types encroaching onto Crown land:</p> <ol style="list-style-type: none"> 1. Policy No. 7.1.1 Built Form – awnings over the pedestrian footpath. 2. Vibrant Public Spaces Policy – street furniture, affixed eating area furniture, pop-up parklet and pop-up eatlet, and permanent parklet and eatlet. 3. Local Planning Policy: Signs and Advertising – awning and verandah signs, and portable signs. 4. Local Planning Policy: Planning Exemptions – exempts the need to obtain development approval on Crown land for certain signs, street furniture, affixed eating area furniture, pop-up parklet and pop-up eatlet, and permanent parklet and eatlet. <p>Proposed developments that do not meet these standards would be assessed against the objectives of these policies and due regard matters contained in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>. This is assessment process is required under these Regulations.</p>

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<p>4. Any encroachments into Crown airspace greater than the above will require consent and tenure from the Minister for Lands in accordance with the State Land Services Policies and Bulletins relating to Balconies Over Crown Lands.</p>	<p>No impact.</p> <p>The State Land Services Policies and Bulletins referred to in the Policy no longer exist.</p> <p>Consent for encroachments over Crown lands is not a planning policy matter. This because the City provides consent for encroachments over public places and public thoroughfares that is local government property pursuant to the <i>Local Government Regulations 1996</i>. Consent from the Minister for Lands would be required for other Crown land, pursuant to the <i>Land Administration Act 1997</i>.</p>
<p>5. The City's Technical Services Department have the discretion to refuse encroachments over Crown Land of which the City has vested care, control and management regardless of whether the encroachment/s comply with the requirements specified in clause 3, as such encroachments may be deemed inappropriate by the City in certain locations.</p>	<p>No impact. The provision in the Policy is superfluous, as this power exists under the planning framework.</p> <p>Prescribed standards in the City's existing policies relating to development into Crown land provide acceptable development outcomes, as well as outcomes that would not be supported.</p> <p>The City's existing policies guide the exercise of discretion in decision making. Power exists under the planning framework for the decision maker to refuse proposals.</p>