

# Encroachment Policy 2024 for Endorsement

Strategic Alignment - Our Places

Public

Tuesday, 4 June 2024

**City Planning, Development and Business Affairs Committee**

**Program Contact:**

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**Approving Officer:**

Ilia Houridis, Director City Shaping

## EXECUTIVE SUMMARY

The purpose of this report is to provide Council with a further opportunity to discuss the draft Encroachment Policy as resolved at the Council meeting on 14 May 2024. The report and associated Policy have been revised based on feedback at the City Planning Development and Business Affairs Committee on 7 May 2024, and seeks adoption of the Encroachment Policy contained in **Attachment A**.

On 14 November 2023 Council resolved to endorse amendments to the Encroachment Policy, for the purposes of public consultation ([Link 1](#)). Public consultation commenced on 29 January 2024 and closed on 26 February 2024. A total of eight submissions were received from key stakeholders and the community.

The Encroachment Policy (the Policy) provides criteria for managing different forms of encroachments in the public realm to ensure they contribute positively to public safety and amenity. The Policy provides the basis for the City of Adelaide's assessment and decision-making on encroachments as land custodian of public roads. Encroachments over parks, reserves or private land are not covered by the Policy.

The Policy has been reviewed in the context of the recently adopted National Heritage Management Plan and newer forms of encroachment such as ground anchors.

The proposed Policy amendments seek to improve the effectiveness and provide further clarity regarding acceptable and unacceptable encroachments into the public realm including clearer guidance on where balconies are permitted in the city as well as maintenance requirements.

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## RECOMMENDATION

The following recommendation will be presented to Council on 11 June 2024 for consideration

THAT THE CITY PLANNING, DEVELOPMENT AND BUSINESS AFFAIRS COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Notes the Encroachment Policy Consultation Summary contained in Attachment A to Item 7.5 on the Agenda for the meeting of the City Planning, Development and Business Affairs Committee held on 4 June 2024.
2. Adopts the Encroachment Policy contained in Attachment B to Item 7.5 on the Agenda for the meeting of City Planning, Development and Business Affairs Committee held on 4 June 2024 and notes that this will replace the Encroachment Policy dated 11 February 2020.
3. Authorises the Acting Chief Executive to make minor typographical, syntactical and technical amendments to the document contained in Attachment B to Item 7.5 on the Agenda for the meeting of the Agenda for the meeting of the City Planning, Development and Business Affairs Committee held on 4 June 2024, for the purposes of finalising the documents.
4. Requests the Administration work with State Government Agency, Planning and Land Use Services, to review the design of apartment buildings including the provision of balconies as raised by Planning and Land Use Services in their submission summarised in Attachment A to Item 7.5 on the Agenda for the meeting of City Planning, Development and Business Affairs Committee held on 4 June 2024.

## IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	<p><b>Strategic Alignment – Our Places</b></p> <p>Encourage bold, interesting and purposeful development that supports the changing needs of our community and city.</p>
Policy	<p>This report proposes amendments to Council's Encroachment Policy dated 11 February 2020.</p> <p>The Encroachment Policy is intended to support a public realm that is welcoming and user friendly, cultivating a positive relationship between the public and private realms and strengthening the character and identity of the capital city.</p> <p>The draft Encroachment Policy for consultation aligns with:</p> <ul style="list-style-type: none"> <li>• Temporary Use of Public Space Policy</li> <li>• Objects on Footpaths Guidelines</li> <li>• Outdoor Dining Guidelines</li> <li>• Lighting Policy and Operating Guideline</li> <li>• Undergrounding (Overhead Electricity and Telecommunication Cables) Policy</li> <li>• Cabling and Communication Policy</li> <li>• City Works Operating Guidelines</li> <li>• National Heritage Listing of the Adelaide Park Lands and City Layout</li> <li>• Adelaide Event Guidelines</li> <li>• Adelaide Park Lands Event Guidelines</li> <li>• Adelaide Park Lands Events Policy.</li> </ul>
Consultation	Community consultation on amendments to the Encroachment Policy opened on 29 January 2024 and closed on 26 February 2024 and was undertaken in accordance with Council's Community Consultation Policy.
Resource	Not as a result of this report
Risk / Legal / Legislative	<p>Amendments to the Encroachment Policy seek to provide policy currency, address risk and protect Council against future liability. The review has had regard to relevant legislation, including:</p> <ul style="list-style-type: none"> <li>• Planning and Design Code</li> <li>• <i>Local Government Act, 1999 (SA)</i></li> <li>• <i>Planning, Development and Infrastructure Act, 2016 (SA)</i></li> <li>• <i>Encroachments Act, 1944 (SA)</i></li> </ul>
Opportunities	The Policy review has identified opportunities to clarify policy as it relates to unacceptable encroachments, including to enable adaptive reuse, and as it relates to signage and ground anchors.
23/24 Budget Allocation	The review was undertaken within existing resources.
Proposed 24/25 Budget allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	The Encroachment Policy will be used for the ongoing assessment and management of encroachments in the public realm.
23/24 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	The ongoing administration, monitoring and review of the Policy will be undertaken with existing resources.
Other Funding Sources	Not as a result of this report

# DISCUSSION

## Background

1. The purpose of this report is to note consultation feedback on the draft Encroachment Policy and to seek adoption of the attached Encroachment Policy.
2. On 14 November 2023 Council resolved to endorse amendments to the Encroachment Policy, for the purposes of public consultation ([Link 1](#)).
3. The draft Encroachment Policy (the Policy) for consultation proposed to:
  - 3.1. Update exceptions to Unacceptable Encroachments which relate to heritage-listed properties and adaptive reuse buildings where no alternative access options are available.
  - 3.2. Allow for temporary ground anchors to support construction.
  - 3.3. Reference new legislation and Council policies.
  - 3.4. Reinforce the importance of maintaining the built form edge as an attribute of the National Heritage listing of the Adelaide Park Lands and City Layout
  - 3.5. Ensure canopy columns or pillars are not fixed to footpaths.
  - 3.6. Ensure encroachments are a minimum of 1 metre away from a trunk and/or major limb of a street tree.
  - 3.7. Ensure CCTVs do not extend beyond the fascia line of a verandah or balcony.
  - 3.8. Include criteria for above awning projecting signage.
4. The Policy provides criteria for managing different forms of encroachments in the public realm to ensure they contribute positively to public safety and amenity. The Policy provides the basis for the City of Adelaide's assessment and decision-making on encroachments as land custodian of public roads. Encroachments over parks, reserves or private land are not covered by the Policy.
5. The Policy has been reviewed in the context of the recently adopted National Heritage Management Plan and newer forms of encroachment such as ground anchors.
6. The proposed Policy amendments seek to improve the effectiveness and provide further clarity regarding acceptable and unacceptable encroachments into the public realm.
7. The Policy has been updated to provide clearer guidance on where balconies are permitted in the city and to include a new statement in the Policy regarding maintenance, breaches and enforcement. Changes made to the draft Policy following the Council meeting on 14 May 2024 are shown in **Attachment B** in red text with yellow highlighting.

## Public Consultation

8. Public consultation opened on 29 January 2024 and closed on 26 February 2024 and involved:
  - 8.1. Public notice in the Advertiser.
  - 8.2. Letter to key stakeholders including:
    - 8.2.1. Department for Infrastructure and Transport
    - 8.2.2. Urban Development Institute of Australia
    - 8.2.3. Planning and Land Use Services division of the Department for Trade and Investment (PLUS)
    - 8.2.4. Urban Development Institute of Australia SA
    - 8.2.5. Property Council of Australia SA
    - 8.2.6. The Office for Design and Architecture
    - 8.2.7. Australian Institute of Architects.
  - 8.3. Your Say Adelaide survey.
  - 8.4. Information sheets and the Policy available online and at the Customer Centre, Libraries and Community Centres.
  - 8.5. Open invitation to meet with a member of Administration to discuss the content of the Policy.
  - 8.6. Internal consultation process.

9. A consultation summary report is provided in **Attachment A**, in summary:
  - 9.1. A total of eight submissions were received from key stakeholders and the community.
  - 9.2. Three (3) formal submissions were received from the key stakeholders listed in 7.2, they are:
    - 9.2.1. Department for Infrastructure and Transport
    - 9.2.2. The Office for Design and Architecture
    - 9.2.3. PLUS (late submission).
  - 9.3. A meeting was held with PLUS during the consultation period and advice was received of an intention to develop design guidelines for apartments. A late formal submission dated 22 April 2024 was received from PLUS that:
    - 9.3.1. Notes the State Planning Commission intends to progress a Code Amendment in 2024 to review design guidance for apartment-type accommodation.
    - 9.3.2. Recognises the alignment between the Policy and the State Planning Commission's initiative to provide appropriate flexibility in building design.
    - 9.3.3. Outlines dialogue has commenced between PLUS and Administration with the aim of aligning, to the extent possible, the Code Amendment and the Policy, and encourages Council to enable this collaboration to continue.
  - 9.4. Five (5) submissions were received from community members via Your Say Adelaide.
  - 9.5. Key issues raised during public consultation included:
    - 9.5.1. Ensuring encroachments do not impact the safe operation of the Council road network.
    - 9.5.2. Ensuring encroachments do not impact State Government transport infrastructure, including tram, train and bus infrastructure such as stops, stations, catenary wires, poles and other similar facilities.
    - 9.5.3. Encroachments for the adaptive reuse of heritage buildings should be limited.
    - 9.5.4. Measurement standards should be consistent with performance criteria outlined in recognised standards or guidelines such as the Austroads Guide to Road Design.
10. Amendments to the Policy following consultation are shown in red in **Attachment B** (amendments made prior to consultation are shown in blue), and are summarised as follows:
  - 10.1. The Policy glossary is updated to define 'effective footpath clear width' as:
 

*The unobstructed walking and/or wheeling space excluding street trees, street signs and street furniture.*
  - 10.2. Clarify when exceptions for adaptive reuse of heritage listed properties will be considered, that is where no alternative access options are available and other means would result in the loss of original building fabric.
  - 10.3. Insert a requirement for under footpath service connections to private property to be via the shortest route available.
  - 10.4. Insert a requirement that an accepted encroachment must not hinder, damage or interfere with existing or future City of Adelaide or State Government infrastructure.
  - 10.5. Amend requirements for verandah, awnings and pergolas such that encroachments:
    - 10.5.1. Are not fixed to canopy columns or pillars to pavements.
    - 10.5.2. Do not extend beyond the traditional verandah post alignment.
    - 10.5.3. Increase the effective footpath clear width from 1.8 metres to 2 metres wide and from 1.8 metres to 2.4 metres in high pedestrian areas.
  - 10.6. Amend requirements for balconies to ensure:
    - 10.6.1. First floor balconies are not enclosed, and do not extend more than 5 metres from the boundary line and beyond the prevailing traditional verandah post alignment.
    - 10.6.2. Above first floor balcony encroachments are not located along Frome Road.

### **Council resolution on 14 May 2024**

11. Council has resolved on 14 May 2024 that the Encroachment Policy be referred to the City Planning, Development and Business Affairs Committee for further discussion.

### **Next Steps**

12. Pending decision by Council, the amended Policy (**Attachment B**) will be published to the City of Adelaide website and take effect from the date of Council endorsement.
  - 12.1. All applications received from the date of adoption will be assessed against the new Policy.
  - 12.2. Encroachments approved under the previous Policy will be allowed to remain provided the permit holder continues to meet the conditions of the permit.

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## **DATA AND SUPPORTING INFORMATION**

**Link 1** – [Agenda City Planning, Development and Business Affairs Committee, Tuesday, 7 November 2023](#)

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## **ATTACHMENTS**

**Attachment A** – Consultation Summary Report – Draft Encroachment Policy 2024

**Attachment B** – Encroachment Policy 2024

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