

Guidelines for temporary hoarding, scaffolding or fencing on footpaths

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1. Introduction

Council recognises that organisations and businesses may need to erect temporary hoarding, scaffolding or fencing over the public footpath while undertaking building or other work on their property.

Nevertheless, the erection of structures on or over the footpath can impede pedestrian access, potentially block traffic sightlines and pose a risk to the community and therefore needs to be regulated so as to protect public safety and amenity and enable the free flow of traffic.

These guidelines set out the conditions placed upon the erection of temporary hoarding, scaffolding and fencing over the footpath in the City of West Torrens and provide a framework for assessing applications and managing the system of authorisations for such activities.

2. Statutory requirements

2.1 Local Government Act, 1999

Under Section 221 of the Local Government Act 1999 a person must not make an alteration to a public road without the authorisation of Council.

Under Section 224 of the Act Council may attach conditions to the granting of such an authorisation and under Section 225 Council may, by notice in writing, cancel a authorisation for breach of a condition.

Under Section 223 Council must consult the public where an authorisation would result in any part of a road being fenced, enclosed or partitioned so as to impede the passage of traffic (vehicular or pedestrian) to any material degree.

Under Section 242 an application for the Council's authorisation to use a road for a business purpose must be decided within two months after the relevant date and, if not decided in this time, will be taken to have been refused.

Under Section 234 Council can remove and dispose of any structure or object from a public road if it has been placed there without an authorisation or the authorisation has expired.

2.2 Disability Discrimination Act 1992

The Disability Discrimination Act (DDA) makes it an offence for public places to be inaccessible to people with a disability.

2.3 Environment Protection Act 1993

Section 25 of the Environment Protection Act 1993 imposes the general environmental duty on all persons undertaking an activity that might cause pollution, to take all reasonable and practical measures to prevent or minimise the resultant environmental harm.

3. Definitions

'Applicant' means all persons named in the application form for a authorisation, all of whom will be bound by the conditions of the authorisation.

'Authorisation' means an authorisation for the erection of temporary hoarding, scaffolding or fencing on or over a road within the City of West Torrens.

'Council' includes Council members, employees and agents.

'Hoarding, scaffolding or fencing' refers to structures used to screen off a building site or other site that may pose a safety risk to the public. It may include:

- a fence used to separate the public from a construction site, evacuation, or vacant land to prevent unauthorised entry
- overhead protection for the public adjacent to a demolition or construction site
- overhead protection for the public adjacent to a demolition or construction site with sheds on top
- 2 metre high open wire or mesh fixed to metal rails and posts
- 1 metre high plastic barrier mesh fixed to star droppers or similar
- concrete barriers generally known as "new jersey kerbing"
- modular plastic barriers which provide a flexible interlocking system which, when filled with sand or water offer a level of impact resistance
- bunting / flags supported on star droppers or similar or mobile barriers
- plastic cones.

'Road' extends from the property boundary to property boundary and includes the carriageway, footpaths and verges owned or under care and control of Council.

4. The authorisation

4.1 The authorisation

An authorisation for temporary hoarding, scaffolding or fencing on footpaths entitles the authorisation holder to erect hoarding, scaffolding or fencing over the footpath area outside their premises for a limited period of time while work is being undertaken on the premises.

An authorisation for temporary hoarding, scaffolding or fencing on footpaths will be:

- issued in the name of the applicant
- non transferable
- valid only for the times and dates on the authorisation
- valid only for the area stipulated on the authorisation
- valid only for the activity described on the authorisation
- subject to fees and charges set out in the City of West Torrens Fees and Charges Schedule, as endorsed by Council
- subject to the conditions set out in these Guidelines
- subject to any other directions made by Council.

Council may amend the conditions of the authorisation at any time with or without the consultation of the holder of the authorisation and add or remove directions to the authorisation in addition to conditions at any time.

Council reserves the right to cancel or suspend an authorisation at any time.

4.2 Applications for an authorisation

An application for an authorisation must be made on the approved Council application form.

Applications will be considered on their merits and assessed against conditions in the guidelines.

Applications will be accompanied with documentation to enable Council to assess whether the conditions for approval have been met. This documentation is specified at section six.

Authorisations will be issued for the expected duration of the work but will not exceed three months. A new application form will be completed where additional time is needed. Applications must be returned to Council two weeks before the expiry of the original authorisation.

4.3 Activation of an authorisation

An authorisation will not commence to operate and no structures are to be placed on or erected over the footpath until:

- the applicant has received a copy of the authorisation signed by Council and signs the copy in the presence of a Council compliance officer
- payment is received of all fees
- a Certificate of currency showing the required level of public liability Insurance is returned to the Council endorsed by the authorisation holder's insurer

4.4 Responsibilities of the holder of an authorisation

The holder of an authorisation will ensure that the activities specified in the authorisation are undertaken in accordance with the details submitted with the application and comply with the conditions of these Guidelines and with Council policy and by-laws.

Holders of an authorisation will be responsible for meeting the following standard conditions for the term of a permit:

- To comply with all applicable industry standards, health or safety standards, current standards of Standards Australia or any applicable codes of practice.
- To comply with state and federal legislation. The issue of the permit does not absolve the permit holder or their agents from any overriding legislation.
- To maintain in good condition and to recognised standards all structures erected or installed on or over the road. Such structures remain the property of the applicant pursuant to Section 209 of the Local Government Act, 1999.
- To indemnify and to keep indemnified the Council its employees, servants and agents and each of them from and against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against them or any of them arising out of or in relation to the issuing and granting of the authorisation.
- To maintain a current public risk insurance policy in the name of the authorisation holder insuring the authorisation holder for the minimum sum of TWENTY MILLION DOLLARS (\$20,000,000) in the terms set out below.
- To accept total responsibility to make good any damage that occurs to Council roads or to public infrastructure as a result of the erection or installation of structures by the authorisation holder.
- To provide proof, upon the request of Council, of current public liability insurance at any time.
- To not assign or otherwise transfer an authorisation without first obtaining the consent of the Council in writing.

- To notify Council and obtain prior approval for any changes to the approved activity contained in the authorisation. (Changes to the activity may cause conditions to the authorisation to be altered. If this is the case a new permit will be issued).
- To notify Council within 14 days of any changes to circumstances that would affect the validity of the authorisation (e.g. change of ownership of a company).
- To make the authorisation available for inspection upon request by an authorised Council officer or police officer.
- At the expiration or earlier termination of the authorisation to remove, if so directed by the Council, any structure or object erected or installed on the road and to reinstate the road to the satisfaction of the Council.
- To ensure that pedestrian access and cleanliness of the footpath is maintained at all times.
- To minimise any disturbances or nuisances to owners of land adjacent to the road or to vehicles or pedestrians travelling along the road.

In the event that the authorisation holder has failed to comply with any of the conditions of the authorisation or for any other justifiable circumstance, including reinstatement, maintenance, repair or removal, the Council may revoke the authorisation.

An authorisation does not confer on the applicant any exclusive right, entitlement or interest in the road (unless specifically provided pursuant to Section 223 of the Local Government Act, 1999) and does not derogate from the Council's powers arising under the Act.

Insurance

The holder of an authorisation will agree to indemnify and to keep indemnified the Council, its employees, servants and agents and each of them from and against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against them or any of them arising out of or in relation to the issuing and granting of the authorisation.

Notwithstanding the above, the holder of an authorisation shall not be rendered liable for personal injury to or the death of any person or loss of or damage to any property resulting from any breach by the Council of any provision of the authorisation or any negligent act or omission of the Council or its employees, servants and agents.

The holder of an authorisation will maintain a current public risk insurance policy in the name of the authorisation holder insuring the authorisation holder for the minimum sum of TWENTY MILLION DOLLARS (\$20,000,000) against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against the authorisation holder in relation to the activity.

The holder of an authorisation will provide confirmation of insurance to Council in the form of a Certificate of Currency. Such a Certificate will bear the endorsement of the Insurer indicating that the Insurer accepts the indemnity given by the authorisation holder and any excess payable for each claim.

The holder of an authorisation, where appropriate, will ensure that it is licensed or registered to carry out the activity authorised by the issuing of an authorisation.

The authorisation will become immediately invalid if the authorisation holder ceases to have current public liability insurance as set out above.

5. Special conditions of authorisations

5.1 Directions of government departments and statutory authorities

The holder of an authorisation will:

- comply with all relevant requirements of government departments and statutory authorities.
- comply with any direction of Council (which is required by a government department or statutory authority) to remove, raise, lower or otherwise alter the position of a hoarding, scaffolding or fencing.
- prior to the installation of any structure on a public footpath or road, check the location of underground cables, wires, pipes and or other item which is the property of the Electricity Trust of South Australia, Telstra, SA Water and/or United Water, Boral Ltd, or other federal, state or local Government department or authority or other infrastructure owner.
- ensure that hoardings do not interfere with or cause damage to or affect in any way any wire, post, cable, pipe or other item which is the property of the Electricity Trust of South Australia, Telstra, SA Water and/or United Water, Boral Ltd, or other federal, state or local government department or authority or other infrastructure owner.
- accept total responsibility to make good any damage that occurs to the above public infrastructure.

5.2 Location

To maintain public access and circulation, structures must be:

- located entirely within the alignments of the authorisation holder’s premises and not encroach across the frontage of adjacent properties
- allow a minimum of at least 1.8 metres of footpath to be kept clear for pedestrians at all times.

5.3 Design and construction

Structures on the footpath will not pose a hazard or obstruction to users of the footpath. On all sides exposed to the public, hoardings will be free of projections of any kind including shakes and slivers of timber, nails, sharp edges and corners of metal sheets.

Lights will be fixed at each corner of the hoarding and on any hoarding at intervals not exceeding 6 metres at a height of 1.5 metres above ground level. Lights will be kept clean and illuminated from sunset to sunrise during the whole of the period for which the footpath is occupied

No placards, signs or advertisements of any description shall be posted on or attached to any hoardings, scaffolding or fencing or exhibited within such space without Council approval.

The road or footpath adjacent to the hoarded area will be kept clear of plant, equipment, materials, debris and rubbish at all times and will be swept at least twice daily and the sweepings removed.

Hoardings must be of the type and meet the specifications as follows:

Type A:	A fence used to separate the public from a construction site, evacuation, or vacant land to prevent unauthorised entry.
When to be used:	To separate the public from a construction site evacuation, or vacant land to prevent unauthorised entry.
Specifications:	<ul style="list-style-type: none"> • Type A hoardings shall be a minimum height of two metres and shall be constructed as set out hereunder, or to similar design using other materials of equivalent strength as approved. • On all sides exposed to the public, hoardings shall be free of all hazards to the public (i.e. nails, sharp edges and corners of metal sheets, etc). Hoarding supports must not protrude past the hoarding

	<p>line and shall be painted a uniform beige colour or otherwise approved.</p> <ul style="list-style-type: none"> • The hoarding shall be kept free of graffiti and billposters. • A hoarding over two metres in height will require being approved in terms of the Development Act.
Type B:	Overhead protection for the public adjacent to a demolition or construction site.
When to be used:	Whenever development work is to be carried out on or within two metres of a footpath, roadway or the like and where that development work is to be carried out at the height greater than four metres, or more than half the distance from the development work to the footpath, roadway or the like, then a protective covering (type B hoarding) is to be provided.
Specifications:	<ul style="list-style-type: none"> • A waterproof covering shall be erected over any footpath beneath the overhead decking of type B hoarding at a minimum height of three metres above ground level. Drainage of stormwater from the hoarding shall be so arranged as to prevent water from dripping upon or flowing onto the footpath or onto land adjoining the site, or causing dampness in any part of any wall or foundation. • The vertical area between the top of a type A hoarding and the overhead protective covering of a type B hoarding shall be sealed with 1.4mm diameter galvanised steel mesh, apertures to be not greater than 25mm x 25mm and such other covering as may be approved or required by the licences and permits officer.
Type C:	Overhead protection for the public adjacent to a demolition or construction site with sheds on top.
When to be used:	When site sheds (other than toilets) are not able to be located on the site or public realm at ground level.
Specifications:	<p>The structure is required to be designed by a practising structural engineer and have due regard for:</p> <ul style="list-style-type: none"> • vehicular impact • minimum 3 metre clearance • provides protection to the public from falling objects, stormwater, and dust. <p>The structure requires approval in terms of the Development Act.</p>
Type D:	Two metre high open wire or mesh fixed to metal rails and posts.
When to be used:	Where there is low pedestrian numbers and the chance of material falling through the gaps in the wire or mesh is minimal.
Specifications:	<ul style="list-style-type: none"> • Wire mesh or open wire adequately fixed or tied to metal or timber uprights either concreted 600mm into the ground or supported on concrete shoes, not projecting from the fence line. • The wire mesh or open wire shall also be fixed to horizontal rails positioned not more than 100mm from the top and bottom of the fence. • Tie back bracing to the hoarding may be required for stability.
Type E:	One metre high plastic barrier mesh fixed to star droppers or similar.

When to be used:	Where there is no construction, demolition work being carried out and the site/allotment is reasonably level and does not present a risk to entry of unauthorised persons.
Specifications:	<ul style="list-style-type: none"> Propriety brand plastic barrier mesh fixed or tied to supports which have adequate lateral support and spaced at no more than three metre centres.
Type F:	Concrete barriers generally known as 'New Jersey kerbing'.
When to be used:	To afford pedestrians a measure of protection from vehicular impact when forced on to a roadway because of construction or demolition activity.
Specifications:	<ul style="list-style-type: none"> To comply with the Australian/New Zealand Standard 3845:1999 "Road Safety Barrier Systems", and Australian Standard 1742.3-1996 "Manual of Uniform Traffic Control Devices – Traffic Control Devices for works on Roads". Note: The Standard refers to a risk analysis to be carried out on a site prior to the placement / erection of concrete barriers. This will be discussed at a Site Meeting.
Type G:	Modular plastic barriers which provide a flexible interlocking system which, when filled with sand or water offer a level of impact resistance.
When to be used:	To delineate work area from pedestrian and in certain cases vehicular traffic.
Specifications:	<ul style="list-style-type: none"> Modular plastic barriers may only be used when complying with "Australian Standard AS 1742-3-1996, Traffic Control Devices for Works on Roads", and Australian Standard 1742.3-1996 "Manual of Uniform Traffic Control Devices – Traffic Control Devices for Works on Roads". When in use, modular plastic barriers must be interlocked and filled with either sand or water. When draining modular plastic barrier of water, care must be taken that contaminated water does not enter into the stormwater drainage system.
Type H:	Bunting / Flags supported on star droppers or similar or mobile barriers.
When to be used:	To advise pedestrians and vehicular traffic of temporary works being carried out.
Specifications:	<ul style="list-style-type: none"> Proprietary brand flags and star droppers and Australian Standard 1742.3-1996 "Manual of Uniform Traffic Control Devices – Traffic Control Devices for Works on Roads."
Type I:	Plastic cones.
When to be used:	<ul style="list-style-type: none"> For short periods of time to prevent pedestrians walking into a hazard and to advise vehicular traffic of hazards such as line marking.
Specification:	Propriety Brands, minimum height of 300mm and Australian Standard 1742.3-1996 "Manual of Uniform Traffic Control Devices – Traffic Control Devices for works on Roads."

5.4 Maintenance and repair

The holder of an authorisation will, during the period of the authorisation, maintain the structures erected over the footpath and keep them in good safe and proper repair and condition.

The holder of an authorisation will erect warning signs and install appropriate warning devices as warranted by the structures.

Council may at any time inspect the structures and the holder of the authorisation will comply with all reasonable requirements of the Council in relation to the maintenance and repair of the structures.

If the holder of an authorisation does not or does not adequately repair and maintain the structures, Council may carry out any such repair and maintenance and will be entitled to recover its costs from the authorisation holder for doing so.

5.5 Damage to the footpath

The holder of an authorisation will take all reasonable precautions to avoid damage to the road and any Council owned property located within or adjacent to the road.

The authorisation holder will immediately notify the Council of damage that does occur to the road or any Council owned property located within or adjacent to the road;

Any damage whether unintentionally or negligently resulting from the holding of an authorisation erecting temporary hoarding, scaffolding or fencing on a footpath will be recovered under the provisions of Section 233 of the Local Government Act 1999.

Where damage is caused to the footpath and reinstatement work is necessary, Council will carry out the reinstatement work at the authorisation holder's expense.

The authorisation holder will be responsible for reimbursing the Council for all its reasonable costs to repair or rectify any damage caused as a result of the use or misuse of the road.

6. Documents to be submitted to Council

Applications for authorisations will be accompanied with documentation to enable Council to assess whether the conditions of the authorisation have been met. This documentation will include:

- Certificate of currency of public liability insurance, as specified in 4.4 above.
- A detailed plan showing the:
 - length of the hoarding in metres
 - depth from the property alignment in metres
 - total area (a x b) in square metres
 - location on the footpath and the width of the remaining footpath for pedestrian access area.
- A description of the type of hoarding to be erected and the construction materials to be used.

7. Compliance

7.1 Monitoring

Authorised officers of Council will monitor the placement of temporary hoarding, scaffolding or fencing on footpaths and operators are required to comply with any direction provided by such officer.

7.2 Erection of structures without an authorisation

Where a temporary hoarding, scaffolding or fencing is erected without an authorisation, Council will require the property owner to remove the structures immediately from the footpath. Failure to do so (or subsequent reinstatement of structures without an authorisation) may result in the issue of an expiation fee and Council may impound the structures.

Property owners will ensure that authorisations are kept current to avoid such action being taken.

7.3 Breaches of authorisation

If the authorisation holder breaches a provision of an authorisation, Council will give the authorisation holder written notice to remedy the breach which has occurred.

Repeated breaches of authorisation may result in the cancellation of the authorisation without refund.

- first breach of the authorisation – verbal warning issued with compliance to be achieved within 28 days
- second breach of the authorisation – written notice with compliance to be achieved within 28 days
- third Breach - cancellation of the authorisation.

Council may give less than 28 days notice should it be determined that the grounds for cancellation are to protect the health and safety of the public, or otherwise to protect the public interest.

7.4 Removal of structures

On termination or expiration of an authorisation, the authorisation holder will remove all structures from the footpath within twenty eight (28) days calculated from the date of service of written notice of termination. Where such structures are not removed within twenty eight (28) clear days, the Council will be entitled to remove the structures.

7.5 Revocation or suspension of an authorisation

The authorisation may be revoked or suspended by the Council at any time by written notice to the authorisation holder under Section 225 of the Local Government Act 1999. The revocation or suspension of the authorisation by the Council shall not give rise to any claim for damages on any basis by the authorisation holder.