

COUNCIL POLICY NO: 095

Responsible Directorate	Planning and Development
Responsible Section	Regulatory Services
Responsible Officer	Manager Regulatory Services

OBJECTIVE:

1. The Town of Cambridge *Local Government and Public Property Local Law 2017* prohibits the obstruction of verge areas and local government property unless permitted by the Town.
2. This policy sets out the conditions and requirements under which the Town of Cambridge will grant a permit to allow use of verge areas and local government property, particularly during major works, building or demolition works on adjoining property.

SCOPE:

This policy applies to all Directorates of the Town of Cambridge.

1. This policy applies to any person who wishes to use the verge area and local government property, particularly during major work on an adjoining property.
2. If associated with work that requires a building permit, the person to whom a building permit is issued is responsible to ensure that the verge area or local government property is used in accordance with the permit conditions. In all other cases, the Permit holder is the responsible person.
3. A permit must also be obtained where a building permit is not required, but where major works are to take place on an adjoining property that are likely to require use of the verge area for similar purposes such as major landscaping and/or driveway reconstruction or property maintenance.
4. Under the Town's local law, amongst other things it is an offence to obstruct a thoroughfare (which includes the verge area) or store equipment and/or materials in or on it without a permit. It is also an offence to damage any Town property in the street. The local law provides for a series of penalties and/or prosecution for breaches.
5. Damage to Town property in the verge area such as the road pavement, paving, kerbs, footpaths, drains, street trees, plants and the like is often caused by building and/or demolition works. The policy attempts to prevent this damage by setting out the standard conditions in a permit given to a person to use the verge area during building and/or demolition works.

POLICY STATEMENT:

PART A – APPLICATION FOR PERMIT TO USE VERGE AREA OR LOCAL GOVERNMENT PROPERTY

A person wishing to use the verge or local government property for the temporary storage of items, materials or goods must by submit an application on the prescribed Application Form to obtain a permit from the Town.

A valid permit is required to be held by the responsible person/ applicant at all times the activities are on the verge or local government property.

The Town may revoke a permit if any conditions are not complied with and the responsible person/applicant has not remedied the non-compliance within the times specified in writing by the Town.

The Town may generally grant a permit to use the verge or local government property during works on adjoining properties, except where:-

1. Granting the permit would result in an unacceptably high safety risk to others;
2. It is likely that an unacceptable level of damage to Town property or other infrastructure would result;
3. Trees are likely to be damaged or removed and a Tree Protection Zone cannot be established; and
4. The applicant or persons engaged by the applicant have previously:-
 - (a) Failed to obtain a permit;
 - (b) Consistently failed to comply with permit conditions; or
 - (c) Failed to repair damage caused to the satisfaction of the Town.

PART B – APPROVAL OF PERMITS

Conditions of a permit to use a verge area or local government property may vary from site to site, but as a minimum will include the following, which may be varied, added or amended by an authorised person of the Town:-

1. Acknowledgement and acceptance by the applicant of the conditions of the permit, including the obligations, responsibilities, limitations and restrictions therein.
2. Where a permit is granted as part of a development application, building or demolition licence, the duration will be for the same period of time as stipulated on those approvals. Where no time period is stipulated or where no building permit is required, the permit will be for 12 months or as otherwise specified on the Permit.
3. The permit holder must ensure that the local government property (including the verge) is kept safe for the public to use at all times.
4. At all times, the activities or storage of items or materials must ensure that:-
 - (a) clear sight visibility is maintained at all times for a person using the abutting street or using a driveway for access to or from the street; and
 - (b) there is no impediment or obstruction to other persons using the street.
5. Where there is no path, a safe and clear access of a minimum width of 1m along that part of the verge immediately adjacent to the kerb must be maintained.

6. Where the site is located in a high traffic area or where vehicle access to the site may cause a hazard, the Town may require that a temporary crossing be installed or a Traffic Management Plan to be submitted.
7. In cases of high pedestrian volume such as locations near schools or shopping areas where a temporary crossing is unsuitable or the scale of work presents a potential danger to pedestrians, or high traffic volumes exist on the adjoining street, the Town may require the applicant to erect a temporary fence around the verge or local government property and to redirect pedestrians to a safer route.
8. Where a verge area or local government property is not fenced off as a condition of a permit, the permit holder must ensure that the area is kept safe for the public to use. In particular, where vehicles or trailers obstruct a footpath, the Owner may be issued an Infringement Notice, without warning.
9. The permit holder must ensure all redundant crossovers are removed and the verge area or local government property is reinstated to the satisfaction of the Town.
10. Nothing in a permit to use a verge or local government property in any way authorises the removal of, or damage to a street tree, unless prior written approval is specifically given by the Town in accordance with the Council 'Street Trees' Policy.
11. Signs erected by the town are not to be obscured, covered or tampered with, without the prior written permission of the Town.
12. Where required, the permit holder must erect and maintain a Tree Protection Zone in accordance with the Council's Tree Protection During Property Development Policy No: 100 and any other Town's specifications.
13. The permit holder must ensure that rubbish is placed in bulk bins only on the verge area or local government property. Loose piles of discarded material and loose rubbish that may litter the surrounding area are NOT permitted on verge areas or local government property.
14. The permit holder must ensure that materials, such as sand, soil, cement, and other materials are contained and do not leak or leach into the Town's drainage system or otherwise damage the Town's infrastructure.
15. Nothing in a permit in any way authorises the permit holder to damage infrastructure or property owned by others, such as gas, water supply or sewerage, telephone service, cable services for TV, internet and similar or electrical power. In the event of any damage, the permit holder is required to immediately notify the owner or utility concerned.
16. On receipt of notification by the Town of any urgently required repairs or changes to permit conditions to ensure public safety, the permit holder must take all steps to comply with that notice in the time period specified.
17. The permit holder must undertake to repair any damage caused to the Town's property in accordance with the Town's specifications and requirements.
18. The permit holder must notify the Town's Compliance section by phone on 9347 6000 or email mail@cambridge.wa.gov.au: attention compliance services:-
 - (a) If an extension to the duration of the permit or variation to its associated conditions is requested;

- (b) Five working days before works on the adjoining property have been completed; and
 - (c) When any requested repairs or rectification works have been completed.
19. The permit holder agrees to indemnify the Town from any claims that may arise from use of the verge area or local government property.
20. On completion of works, the verge area or local government property is to be cleared of all materials, rubbish, sand and the like and returned to the level before building work commenced or as otherwise approved by the Town.
21. The permit holder must ensure that deposited material is sufficiently lit during darkness to ensure the safety of persons using the street.
22. Where a parking work zone or Construction Management Plan (CMP) is in place, the conditions attached to that work zone or CMP take precedence.
23. Site Offices and Sheds

Site offices or sheds to hold building material may only be installed on verges or local government property where the applicant can satisfy the Town that there are no viable alternate locations. Standard conditions in relation to placing bulk bins, building materials, site offices and materials sheds on verges or local government property include:-

- (a) They must not be placed in such a way as to obstruct or overhang a footpath, carriageway, access way, or driveway;
 - (b) They must be placed on the verge that immediately abuts the property being serviced, or if not permission is obtained from the owner or occupier;
 - (c) No sight distance obstruction is caused;
 - (d) No damage is caused to any Town property in the verge such as a sign, kerb, footpath, street tree or garden maintained by the Town;
 - (e) No obstruction or damage is caused to a manhole, inspection pit, fire hydrant, water or gas valve, electrical substation, drainage gully, water channel or other service in the verge area for which access may be reasonably required;
 - (f) It is not placed on a service in the verge area that is not covered with a trafficable lid; or
 - (g) Site sheds and/or site offices must not be placed on a verge more than 48 hours before being used on the adjoining site.
24. Prohibited Activities

The following activities are prohibited on a verge or local government property:

- (a) Any activity which causes a 'nuisance' to another person;
- (b) Any building activities;
- (c) Any mixing of cement, gyprock, slurry or other like materials or the washing of slurry onto the verge or local government property;
- (d) Any cutting of masonry, timber or other building materials by use of cutting discs, angle grinders or electrical saws;
- (e) The storage of temporary or site toilets; or
- (f) Any other activity deemed inappropriate and/or not approved by an authorised person.

BULK BINS

1. A person may leave a bulk waste bin on their verge for up to two weeks without a permit. If a bulk waste bin will be on the verge for longer than two weeks, the hirer of the bin must apply for a permit.
2. Where possible, a bulk waste bin should be stored on private property.
3. If safe to do so, a bulk waste bin can be stored on the verge immediately adjacent the property.
4. The placement of a bulk waste bin must comply with signed parking restrictions, and be clear of the footpath and roadway.
5. A bulk waste bin **must not** be placed on the roadway, across a footpath, in public parking bays or in rear lanes, if they obstruct public vehicle movement. If a bulk waste bin is stored on a road, footpath or in a lane the supplier/hirer will be given 24 hours to remove it. If not, the Town may remove the bin and a penalty may apply.
6. The hirer of a bulk waste bin is liable for any damage to the footpath, street trees, drainage pits, verge, kerb or road surface resulting from storage of the bulk waste bin.
7. The hirer is responsible for removal of all debris left on the verge after the bulk waste bin has been removed.
8. Dangerous or hazardous waste must not be deposited in a bulk waste bin.
9. Asbestos must not be deposited in a bulk waste bin, and must be handled in accordance with *Health (Asbestos) Regulations 1992*.
10. A permit is not required to place a bulk waste bin on a verge or local government property providing:-
 - (a) It is not placed in such a way as to obstruct or overhang a footpath, carriageway, access way, or driveway or impede the move of a person or vehicle;
 - (b) It is placed on the verge that abuts the property being serviced;
 - (c) No obstruction to visual sight is caused;
 - (d) No damage is caused to any Town property in the verge such as a sign, kerb, (e)footpath, street tree or garden maintained by the Town;
 - (e) No obstruction or damage is caused to a manhole, inspection pit, fire hydrant, water or gas valve, electrical substation, drainage gully, water channel or other service in the verge area for which access may be reasonably required;
 - (f) It is not placed on a service in the verge area that is not covered with a trafficable lid; or
 - (g) It is not placed on a verge more than 48 hours of being used, and is removed within 72 hours of being filled.

PART C – APPEALS

Part 9 of the *Local Government Act 1995* applies, and relates to a decision refusing a permit, giving a notice, or varying a decision. That Part should be referred to, but allows a person to lodge an objection or a request for a review of a decision to a Committee, to Council or the State Administrative Tribunal.

PART D – ENFORCEMENT

The Town will undertake inspections as required to ensure compliance with permit conditions and the Town of Cambridge *Local Government and Public Property Local Law 2017*.

1. Frequency will depend on the scale of works undertaken, the risk to the public as assessed by the Town, complaints about a particular site, or past performance of a permit holder.
2. Where a verge area is not being used in accordance with the conditions of a permit or local law, the Town will issue a 'Request to Comply' or Notice under the Town of Cambridge *Local Government and Public Property Local Law 2017* to the permit holder to rectify the situation in accordance with the timeframe stipulated in the notice.
3. If not complied with, the Town may undertake the required works and recover the cost of doing so from the permit holder, including deduction from any bonds held.
4. On the second or any subsequent occasion in involving a particular site or permit holder, as well as a Notice to make good any breach of a permit or local law, the Town may issue an Infringement Notice under the Town of Cambridge *Local Government and Public Property Local Law 2017* to the Permit holder.
5. On the third or any subsequent occasion in involving a particular site or permit holder, as well as a Notice to make good any breach of a permit or local law, the Town may prosecute for failing to comply with the conditions of a permit issued under the Town of Cambridge *Local Government and Public Property Local Law 2017* and any other law that may have been breached.
6. Where a 'Request to Comply' or Notice has been issued and has not been complied with in the time specified, the Town may impound any materials or goods involved in the contravention.
7. The Town may also revoke the permit.
8. The owners of any vehicles or trailers blocking footpaths may be issued with an Infringement Notice without warning.
9. Where a verge is being used for storage during construction work on an adjoining property where a building permit is not required and a permit is required to use the verge area, the Town will request the responsible person to obtain a permit within the time period specified in the request, which may include lodgment of a required bond. If not complied with in the time specified, the Town may issue an Infringement Notice as well as a Notice to remove any material stored on the verge.

DEFINITIONS:

Definitions are taken as those detailed in the *Local Government Act 1995* and associated legislation and the *Town of Cambridge Local Government and Public Property Local Law 2017* and include the following:-

authorised person means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law and any member of the Western Australian Police;

bulk rubbish container means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

local government property means anything which belongs to, is owned by or is under the care, control or management of the local government, and includes any flora and fauna thereon;

street means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

verge means that portion of land that lies between the front of a property and the edge of the thoroughfare, and between imaginary lines extended at a 90 degree angle with the thoroughfare from the edge of the thoroughfare to meet the side boundaries at the front of the property.

Document Control

Office Use Only:

Previous Policy No	Policy No. 4.2.6
Statutory Legislation and Compliance	<i>Local Government Act 1995</i>
Related Documents/Legislation	<i>Town of Cambridge Local Government and Public Property Local Law 2017</i>
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