Policy Template

Works in the Local Government Road Reserve

***Note:*** *WALGA provides this policy template for Local Governments to develop or amend policy relevant to works in the local road reserve. This policy template provides suggested wording only. Local Governments should consider developing and implementing a policy according to their relevant Local Law, governing documents and operational requirements.*

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**Policy Number:**

**Date of Adoption:**

**Council Resolution:**

**Schedule for Review:**

# Introduction

Works in the road reserve can create potential hazards giving rise to personal injury or damage to property resulting in loss, litigation or prosecution if reasonable care is not taken to protect people in the road reserve. Works may also interfere with current or future activities of the [Shire/Town/City] or impact on the functionality of infrastructure; therefore, it is essential the [Shire/Town/City] is engaged to approve such works.

Any party planning works in the road reserve under the control of the [Shire/Town/City] has a duty of care to take all reasonable steps to prevent injury to people or damage to property while carrying out the works. Under current occupational safety and health legislation, an employer is required to provide a safe place of work for employees. In addition, any person in control of a workplace must take measures to ensure people who have access to that workplace, including road users, are not exposed to hazards.

The *Land Administration Act 1997* states, “subject to the *Main Roads Act 1930* and the *Public Works Act 1903*, the local government within the district of which a road is situated has the care, control and management of the road.” This comes with the responsibility of ensuring works in the road reserve under the control of the [Shire/Town/City] are approved and comply with the requirements of relevant legislation and governing documents. Any person planning to undertake works in the road reserve under the control of the [Shire/Town/City] should first contact the [Shire/Town/City] to obtain information on the relevant permit conditions and approval procedures.

Annexure 1 identifies the process for making an application to the [Shire/Town/City] for approval of works in a road reserve under the care, control and management of the [Shire/Town/City].

Note: Where works intended on a state road (excluding freeways) it is common for Main Roads WA being responsible for the carriageway and related infrastructure and the Local Government being responsible for the verge area. An applicant must liaise with both parties to determine their requirements.

# Policy Objective

To ensure works undertaken in the road reserve under the control of the [Shire/Town/City] are in accordance with the [Shire/Town/City’s <insert title> Local Law] and [if applicable, a Permit Conditions Policy adopted by Council in accordance with the Local Law].

# Policy Statement

All planned works in the road reserve under the control of the [Shire/Town/City] require a [Road Obstruction Permit or written approval] from the [Shire/Town/City] in accordance with [title of Local Law].

The [Shire/Town/City] shall only approve works that comply with the [title of Local Law] and governing documents; and the applicant has met all conditions covering the issue of a [Road Obstruction Permit or written approval].

# Policy Scope

This policy applies to:

1. Planned works in the road reserve under the care and control of the [Shire/Town/City].
2. Unplanned works in the road reserve under the care and control of the [Shire/Town/City].

# Statutory Authority

*Local Government Act 1995*

*Local Government (Uniform Local Provisions) Regulations 1996 (sections 5, 6 and 17)*

*Land Administration Act 1997*

*Occupational Safety and Health Act 1984*

*Environmental Protection (Noise) Regulations 1997*

[Relevant Local Law]

It is acknowledged the *Telecommunications Act 1997* provides certain exemptions to telecommunications carriers from State and Territory laws including the powers and functions of a local government body. Notwithstanding, it is in the best interest of all concerned that in the majority of cases, telecommunications carriers and other utility providers that have exemptions abide with the requirements of Local Government so as to mutually manage and maintain safety in the road reserve for the benefit of all users.

# Related Policies, Standards, Guidelines and Procedures

The following policies, guidelines and procedures are relevant to this policy:

*Traffic Management for Works on Roads Code of Practice* 2018 or latest version (Main Roads Western Australia).

*Utility Providers Code of Practice for Western Australia* 2015 or latest version (Utility Services Providers Committee).

*Restoration and Reinstatement Specification for Local Governments in Western Australia* 2002 or latest version (Institute of Public Works Engineering Australia, WA Division Inc.)

[List as applicable]

# Definitions

**Applicant** means a person who applies for a <permit or written approval>.

**Carriageway** means a portion of a road that is improved, designed or ordinarily used for vehicular traffic, and includes the shoulders, and areas, including embayment’s at the side or centre of the carriageway, used for the stopping or parking of vehicles; and, where a road has two or more of those portions divided by a median strip, the expression means each of those portions separately. (*Road Traffic Code 2000*)

**City** means the [City of name – delete if not applicable].

**Duty of care** means the legal duty of all employers, employees and others including contractors and consultants who have an influence on the potential hazards at a work site, which requires them to take reasonable care to protect the health and safety of others at the work site including road users who may be at foreseeable risk of harm. (*Occupational Safety and Health Act 1984*; and Traffic Management for Works on Roads Code of Practice).

**Emergency works** means works to address an immediate life threatening situation or address an immediate event likely to cause substantial damage to public or private property and the consequences of not taking action are judged to be worse than if action is taken.

**Footpath** means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists. (*Road Traffic Code 2000*)

**Kerb** includes the edge of a carriageway.

**Local Government** means a Local Government established under the *Local Government Act 1995*.

**Local law** means [title of relevant local law].

**Permit** means a permit issued under the [title of relevant Local Law].

**Person** means any person, company, public body, association or body of persons corporate or unincorporated and includes an owner, occupier, licensee and permit holder.

**Planned works** means works that are planned for the future and do not require an immediate response. Planned works may be maintenance or capital type works.

**Road authority** means the organisation that has responsibility for the care, control and management of the road(s) subject to any works or events.

**Road reserve** includes the land set aside, gazetted under an enactment, included in a plan of survey as a roads reserve, or commonly used by the public as a road and all verges, traffic islands, median strips and other provisions associated therein for the conveyance or travel of people but does not include tenements or freehold land. (Traffic Management for Works on Roads Code of Practice)

**Shire** means the [Shire of name – delete if not applicable].

***Thoroughfare*** means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end (*Local Government Act 1995*). This meaning does not include a private thoroughfare, which is not under the management or control of the [Shire/Town/City].

**Town** means the [Town of name – delete if not applicable].

**Traffic management plan** means a document containing Traffic Guidance Schemes and documentation of project details in regard to traffic management at a site. The documentation of project details includes, *inter alia*, responsible personnel, proposed timing of the works, approvals that have been gained, traffic volumes/type details, documentation of risk management and special provisions for specific road user types e.g. pedestrians and cyclists. (Traffic Management for Works on Roads Code of Practice).

**Unplanned works** means works to address unanticipated day-to-day maintenance or rectification of failures/breakdowns that require a timely response.

**Utility provider** means an organisation that provides services consumed by the public, such as, electricity, gas, water, sewerage, communications, transportation, etc.

**Verge** means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare but does include any footpath.

**Works** means construction and maintenance work in work sites wholly or partly within the road reserve boundaries or any other works that cause interference or obstruction to the normal use of a road by any road user.

# Works requiring a [permit or written approval]

A person shall not, without a [Road Obstruction Permit or written approval]:

1. Cause any interference or obstruction to a vehicle or a person using a thoroughfare as a thoroughfare.
2. Interfere with, excavate, damage, or destroy any thoroughfare, kerb or footpath or any other structure in the road reserve.
3. Dig or otherwise create a trench through or under a road, kerb, footpath or any portion of the road reserve.
4. Make any alterations to the carriageway or any other thing in a thoroughfare.
5. Place or install any thing on any part of a thoroughfare, including gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust (unless installing or maintaining a permissible verge treatment).
6. Erect or install any structure or service above or below ground or on any structure which is [Shire/Town/City] property for the purpose of supplying any water, power, sewer, communications or similar service.
7. Make any excavation on or erect or remove any fence on [Shire/Town/City] property.
8. Provide, erect, install or use in or on any building, structure or land abutting a thoroughfare any hoist or other thing for use over the thoroughfare.
9. Install a full or part closure of a thoroughfare or part of a thoroughfare.

# Application to undertake works in the road reserve

## 9.1 Application

An application for a [permit or written approval] shall:

1. be in the form determined by the [Shire/Town/City];
2. be signed by the applicant;
3. provide the information required by the form; and
4. be forwarded to the CEO or their delegate together with any fee imposed and determined by the [Shire/Town/City].

The [Shire/Town/City] may require an applicant to provide additional information reasonably related to the application before determining the application for a [Road Obstruction Permit or written approval].

The [Shire/Town/City] may require an applicant to give local public notice of the application for a [Road Obstruction Permit or written approval].

## 9.2 Timeframe for application

Submission of an application for a [Road Obstruction Permit or written approval] is required at least [number] working days prior to the intended commencement date of the proposed works. Late applications can be considered, but time constraints may limit the approval process.

## 9.3 Decision on application

The [Shire/Town/City] may:

1. Approve the application and issue a [Road Obstruction Permit or written approval].
2. Approve the application and issue a permit subject to conditions.
3. Refuse to approve the application for a [Road Obstruction Permit or written approval] (whereupon the applicant will receive written notice of the refusal).

## 9.4 Conditions on works

The [Shire/Town/City] may set standard conditions on works. The conditions may include, but are not limited to:

* Standard approved times and days of the week works can occur.
* A Noise Management Plan [may] be required for works undertaken outside the following hours: [7am – 7pm Monday – Saturday (excluding public holidays)].
* Compliance with parking restrictions.
* The applicant to notify all affected householders/businesses in writing at least 24 hours prior to commencing works.
* Utilities in work area must be located in accordance with Perth One Call 100 or Dial-Before-You-Dig.
* The entity undertaking the works to have public liability insurance.
* Indemnify the <Shire/Town/City> against any claim or action arising from the operation.

*Note: Provided in an addendum at the end of this policy template (but does not form part of this policy template) are some examples of permit conditions on works in the road reserve.*

## 9.5 Repetitive works

For instances of repetitive works occurring over an extended period, an applicant should seek advice on the permit arrangements with the [Shire/Town/City].

## 9.6 Unplanned works

Instances commonly arise when a person must undertake works within the road reserve in response to a failure/breakdown of their infrastructure. On occasions these works are short term, do not disturb [Shire/Town/City] infrastructure, and do not disrupt road users. In such instances, advising or seeking approval from the [Shire/Town/City] [may be unnecessary].

If the works disturb or will disturb [Shire/Town/City] infrastructure and/or cause or will cause interference or obstruction to the normal use of a thoroughfare by any user, the [Shire/Town/City] must be consulted to determine approval requirements.

## 9.7 Emergency works

Due to the nature of emergency works, approval need not be obtained from the [Shire/Town/City] to commence such works; however, advice shall be provided as soon as practicable.[[1]](#footnote-1) Obtain the specification for reinstatement work including sign-off from the [Shire/Town/City].

# Traffic management

In most instances, to fulfil duty of care obligations, works in the road reserve will require traffic management to ensure the safety of all road users and workers/staff associated with the site. Submit a traffic management plan endorsed by an appropriately qualified person with the application for a [Road Obstruction Permit or written approval].

A detailed discussion is required with the [Shire/Town/City] if the works requires closure of roads or major interference to vehicular or pedestrian traffic.

Traffic management plans for works on roads are to be prepared in accordance with the current version of the Traffic Management for Works on Roads Code of Practice (Main Roads WA).

## 10.1 Works near permanent traffic signals

Any traffic management plan at permanent traffic signals on a Local Government road that requires the following is defined as “complex traffic arrangements” (section 5.2.2 of the Traffic Management for Works on Roads Code of Practice):

1. Alteration to the function of the traffic signals or signal display (e.g. flashing yellow, masking displays, modifying movements or phasing); or

2. Closure of a traffic lane (including tapers or road closures):

a. within a signalised intersection, or

b. within 30 m of the stop line on the approach, or

c. within 30 m of the adjacent stop line on the departure, or

3. Closure of any part of a signalised dedicated turning lane.

The [Shire/Town/City] shall authorise a traffic management plan for complex traffic arrangements at permanent traffic signals on a local road. Submit the plan to Main Roads WA at least 15 working days prior to the works commencing. Main Roads WA must approve the plan before works commence.

## 10.2 Safety at site works

Any parties performing works in a Local Government road reserve has a duty of care to take all reasonable steps to prevent injury to any person or damage to property while carrying out the works. Protect excavations and site works by applying traffic management and temporary road safety barrier systems in accordance with the Traffic Management for Works on Roads Code of Practice and approval conditions of the [Shire/Town/City]. All temporary restorations and reinstatements must be fit for purpose and maintained in a safe condition to the approval of the [Shire/Town/City].

# Compliance with and variation of conditions

When an approved application for a [Road Obstruction Permit or written approval] is subject to conditions or is taken to be subject to conditions, the [Road Obstruction Permit holder or applicant] shall comply with each of those conditions.

The <Shire/Town/City> may vary the conditions of a [Road Obstruction Permit or written approval] and the [Road Obstruction Permit or written approval] shall comply with those conditions as varied.

# Long term use of contractors or sub-contractors

A utility provider is responsible for ensuring contractors or sub-contractors acting (long term) on their behalf are conversant with the requirements of the *Utility Providers Code of Practice of Western Australia* and the obligation to consult with and obtain approval from relevant parties, including the [Shire/Town/City], prior to proceeding with works in the road reserve. [[2]](#footnote-2)

# Inspections

The [Shire/Town/City] may inspect the works as appropriate to ensure compliance with conditions of the [Road Obstruction Permit or written approval].

# Cancellation of permit

The [Shire/Town/City] may cancel by written notice the [Road Obstruction Permit or written approval] if the [Road Obstruction Permit holder or applicant] has not complied with a:

1. Condition of the [Road Obstruction Permit or written approval]; or
2. Provision of any written law which may relate to the activity regulated by the [Road Obstruction Permit or written approval].

# Restoration requirements

Any restoration in the road reserve is to be carried out as soon as practicable following the works as agreed with the [Shire/Town/City]. “Restoration” is the work undertaken to reinstate and restore any disturbed area or structure in the road reserve. [[3]](#footnote-3)[[4]](#footnote-4)

The specification for reinstatement work including sign-off of works undertaken and maintenance period shall be obtained from the [Shire/Town/City]. Unless otherwise specified by the [Shire/Town/City], all restoration and reinstatement shall be in accordance with the *Local Government (Uniform Local Provisions) Regulations 1996; Utility Providers Code of Practice of Western Australia*; and the *Restoration and Reinstatement Specification for Local Governments in Western Australia*.

The person undertaking the works is responsible for the duty of care ensuring the safety of the public as well as workers during all works and reinstatement until the site is accepted as satisfactory by the [Shire/Town/City].

# Annexure 1

1. LG may (1) Approve application and issue permit (or written approval); or (2) Approve application and issue permit (or written approval) subject to conditions; or (3) Refuse the application and issue written notice to applicant
2. LG will review traffic management plan and provide advice to applicant
3. LG will inform applicant of reinstatement and restoration standards required after works completed

**PLANNED WORKS**

*(Planned works means works that are planned for the future and do not require an immediate response. Planned works may be maintenance or capital type works)*

**UNPLANNED (SHORT TERM) WORKS**

*(Unplanned works means works to address unanticipated day-to-day maintenance; or rectification of failures/breakdowns that require a timely response)*

**EMERGENCY WORKS**

*(Emergency works means works to address an immediate life threatening situation or address an immediate event likely to cause substantial damage to public or private property and the consequences of not taking action are judged to be worse than if action is taken)*

Unplanned works will disturb LG infrastructure; and/or interfere with or disrupt road users

As soon as practicable inform LG that emergency works are occurring

Determine any requirements the LG may have to assist in responding to the emergency

Likely that informing LG is unnecessary

Submit (1) application for permit (or written approval); and/or (2) traffic management plan for approval (if required). The traffic management plan must be endorsed by an appropriately qualified person

Applicant undertakes works

A Local Government is likely to have a local law identifying its requirements for a person to undertake works in the local road reserve.

An applicant should contact the relevant Local Government (LG) to determine their needs before proceeding with any planned works.

Applicant undertakes works

Consult the LG to determine their requirements

LG requires a permit application and/or associated traffic management be submitted

Applicant completes work and reinstates/restores LG infrastructure to agreed standard

Applicant completes work and reinstates/restores LG infrastructure to agreed standard

A detailed discussion is required with the LG if the works require closing roads or will cause major interference to vehicular or pedestrian traffic

Unplanned works will not disturb LG infrastructure; and/or interfere with or disrupt road users

LG infrastructure reinstated/restored to agreed standard

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# Addendum

Some examples of Permit Conditions include:

* Provide 48 hours’ notice between Monday and Friday prior to the operation due date.
* Adequately sign and barricade the area of operation from vehicles and pedestrians. Install full temporary signage for an obstructed lane in accordance with AS 1742.3.
* Use barricades, hoardings, fences, walkways or other protective structures to provide safe movement of pedestrians and provide safe access for pedestrians at all times.
* Maintain protective structures in good order.
* Sufficiently illuminate protective structures at night from sunset to sunrise.
* Provide unimpeded movement of all path users, with or without disabilities, within the road reserve during building works.
* Maintain the area in a safe and trafficable condition and maintain a continuous path of travel (minimum width of 1.5 metres) for all users at all times during construction works. Note: Erect appropriate warning signs if safety of the path is compromised by either construction damage or a temporary obstruction (in accordance with AS1742.3). Install temporary pedestrian facilities suitable for all users if a continuous path is not possible to maintain. Obtain prior approval from the <Director Technical Services> if the erection of scaffolding, site fencing or the like is required, or building materials stored within the road reserve.
* Maintain access to commercial properties and businesses at all times.
* Comply with the requirements of the Western Australia Police Force.
* Comply with the requirements of WorkSafe WA with at all times.
* Provide full protection to footpath/road under outriggers.
* The bin must not exceed two (2) metres in width.
* Place bin adjacent to kerb line on verge with footpath to remain clear of obstruction and available for pedestrian use at all times.
* The bin must have an approved reflective device or flashing amber lights placed at either end and illuminated from dusk to dawn every night.
* Place no material adjacent to the bin. Contain all rubbish within the bin. Empty the bin immediately once full.
* Repair any damage to road or footpath at the applicant’s expense in accordance with <Shire/Town/City> specifications within 24 hours.
* The <Shire/Town/City> reserves the right to amend the conditions of the permit and/or request immediate removal of the obstruction without prior notice at any time.
* Place the bin on the road directly adjacent to the kerb line at the approved location, but not in contact with the kerb.
* Adhere to existing kerb side “Clearway” & "No Stopping" restrictions at all times.
* Hours of work to comply with *Environment Protection (Noise) Regulations 1997*.
* The applicant to engage a Main Roads Western Australia accredited traffic management organisation to supply and implement traffic management; and provide a copy of the plan to the <Shire/Town/City> prior to commencing works.
* Vehicles may not make use of the set aside bays at any time.
* Fence off building materials with bunting and reflective tape and remain clear from pedestrian traffic. Cap and secure star pickets.
* No storage of loose construction material in set aside bays.
* Store equipment and materials on the verge to a minimum of one (1) metre from the base of street verge trees and any other infrastructure located on the verge.
* Perform no building activity on the thoroughfare or verge area.
* Applicant to re-apply before expiry date of permit if works are to continue beyond permit expiry date.
* The <Shire/Town/City> reserves the right to cancel the permit for non-compliance of the above conditions.

1. Utility Providers Code of Practice for Western Australia (Utility Providers Services Committee) 2015, clause 6.1.1 (f), p. 8 [↑](#footnote-ref-1)
2. ibid., clause 7.4, p. 17 [↑](#footnote-ref-2)
3. ibid., clause 9.1, p. 21 [↑](#footnote-ref-3)
4. Restoration and Reinstatement Specification for Local Governments in Western Australia (Institute of Public Works Engineering Australia, WA Division) 2002, clause 2.1.3, p. 6 [↑](#footnote-ref-4)