



# **Formalise an Existing Encroachment on Council Land**

## Conditions

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- 1) Council will consider the application but may resolve to grant or not to grant a legal agreement at its discretion. Council will only consider granting a legal agreement to the owner of the property immediately adjoining that portion of roadway. The legal agreement may be in the form of creation of an Easement to Permit Encroaching Structures to Remain, or a Positive Covenant, or a Lease to occupy part of a Council Roadway.
- 2) If the request is to purchase Council owned land, then the application will be considered in accordance with Council's Policy "Procedure for Sale of Council Land".
- 3) Council's application and processing fees (see page 3) must accompany the application.
- 4) The legal agreement is subject to a market valuation. This capital payment or rent will be determined by an independent Valuer.
- 5) Prior to the issue of a legal agreement, the applicant must pay all Council's costs including but not limited to valuation, survey, legal costs and any Stamp Duty incurred.
- 6) Prior to the issue of a legal agreement, the applicant must obtain a Public Risk Insurance Policy in the amount of twenty million dollars (\$20,000,000) against any action that may arise from damage to property or injury to any person using the footway. Council must be nominated as an 'Interested Party' on the policy and indemnified against any claim.
- 7) The grant of a legal agreement will be in accordance with Council's Policy for Managing Encroachments on Council Road Reserves and Procedures for Leasing & Licensing of Council Controlled land. In respect of a classified (main) road grant will be subject to the concurrence of the Roads and Maritime Services (RMS).