

Auckland City Council Bylaws

Bylaw No. 6 – Construction 2008

Explanatory Note

The Building Act 2004 and the Building Regulations 2004 are the principal building control documents and these documents establish minimum building standards for most activities. This bylaw addresses building and construction related issues not addressed by the Building Act or Building Regulations or other legislation.

This bylaw establishes the placement and minimum height requirements for verandahs, balconies and awnings extending over public places and allows council to remove such structures if they do not comply with this bylaw. Provisions also allow the council to request building owners to temporarily remove verandahs, balconies and awnings to enable construction work to occur beneath or near to them.

On rare occasions, council is asked to approve projections over public places, such as architectural features and opening windows that are less than 2.5 metres above a public place. This bylaw allows an authorised officer to consider such requests, and approve them if they are considered reasonable.

This bylaw also defines the responsibility of owners regarding drains serving private properties and addresses other issues relating to drainage such as the sharing of common drains and the construction of drains intended to become public drains. The bylaw requires construction sites to be provided with sanitary facilities (e.g. portaloos), requires provisions to be implemented to prevent surface runoff containing silt entering onto other land, drains or bodies of water and from debris being deposited on the road from vehicles leaving building works. Provision relating to the use of public places, construction, excavation and demolition activities seek to protect public safety.

Sanitary drainage in the Isthmus and Central Area of Auckland City is provided by Metrowater (a council-controlled organisation) on its terms and conditions. Please refer to Metrowater for further information.

Street damage deposit charges and the alteration, construction, repair and removal of vehicle crossings are addressed by the bylaw.

Notes in italics are not parts of this bylaw, but are intended to explain the contents of the bylaw or give further information on matters within the bylaw.

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6.1 Interpretation and Definitions

6.1.1 In this bylaw unless the context requires otherwise:

Authorised Officer means any officer of the Auckland City Council or (where relevant) of any council controlled organisation, authorised to carry out or exercise the duties of an officer under this bylaw.

Applicant in relation to any street damage deposit means any person who pays a street damage deposit.

Architectural Feature means any part of a building or any attachment to a building extending out from the external building line over land owned, under the control or managed by the council.

Awning means a lightweight structure with either a permanent covering material or a moveable canvas, plastic or similar material that may be erected in situations where district plan rules do not require verandahs.

Balcony means a platform enclosed by a railing or balustrade projecting from or recessed into the face of a wall of a building or structure and constructed to take all loads imposed upon it.

Building work means the same as in section 7 of the Building Act 2004.

CCO means a council-controlled organisation as defined in Part 6 of the Local Government Act 2002 in which the council has control (by itself or jointly with other local authorities). As at the date this bylaw comes into force, it includes Metrowater and any CCO that replaces Metrowater.

Public place –

- a. means a place–
 - i. that is under the control of the council; and
 - ii. that is open to, or being used by, the public, whether or not there is a charge for admission; and
- b. includes–
 - i. a road, whether or not the road is under the control of the council; and
 - ii. any part of a public place.

Vehicle crossing means a formed access for vehicles to enter or leave private land from or to a road.

Verandah includes a porch, portico, shade, or covering (but does not include an awning) over any public place for the purpose of shade or shelter, together with any supports therefore.

- 6.1.2 Reference in this bylaw to the council drainage system, or to public drainage or a public sewer, or drainage operated or owned by the council shall include drainage systems provided, operated, managed, controlled or owned by a CCO (for example, Metrowater)

6.2 Verandahs, Balconies and Awnings

Permission from an authorised officer

- 6.2.1 No person shall erect, cause to be erected or altered, any verandah, balcony or awning over any public place except with the permission of an authorised officer. An authorised officer may impose conditions relating to the materials to be used in construction and design of the structure to ensure the public place is protected and that maintenance and cleaning operations in the public place are not hindered.

- 6.2.2 The junctions between a new verandah and any adjoining existing verandah shall be made waterproof.

District plan requirements may require building owners to build verandahs over the footpath in various parts of the city. A resource consent as well as a building consent may be required for any verandah, balcony or awning attached to a building especially if this protrudes over a public place.

- 6.2.3 The council may require an airspace lease in respect of any verandah, balcony or awning that protrudes over a public space.

Minimum height

- 6.2.4 The minimum height of any part of the underside of a verandah, balcony, or awning shall be three metres above the finished surface level of the public place beneath it.

District plan requirements may also set a maximum height for the verandah.

Width

- 6.2.5 Every verandah, balcony or awning extending over a public place shall be of the suspended type. A verandah, balcony or awning over a footpath shall not be closer to the kerb line than 500 millimetres, measured as a vertical line drawn from the face of the kerb, unless an authorised officer specifically approves its design.

Standing on verandahs

- 6.2.6 No person shall stand on any verandah erected over a public place except for the purpose of inspection, maintenance or egress in the case of fire.

Lamps

- 6.2.7 No person shall erect or suspend from any verandah, balcony or from the face of any building any lamp or gas appliance over or across any public place except with the permission of an authorised officer. The height of any such lamp or gas appliance shall be not less than 3 metres above the public place below.

Maintenance of verandah, balcony or awning

- 6.2.8 Any verandah, balcony or awning over a public place shall be maintained in a clean and waterproof condition and a state of good repair by the owner of the building.

Removal of non-complying structures

- 6.2.9 Where any verandah, balcony or awning does not comply with the provisions of this bylaw the council may serve a notice in writing requiring the owner of the building to which the verandah, balcony or awning is attached to clean, repair, pull down, alter or remove the verandah, balcony or awning so that it complies with this bylaw and/or the relevant requirements of any applicable district plan rule.

- 6.2.10 Where any person fails to comply with any notice under clause 6.2.9 within the time specified in the notice an authorised officer may have the verandah, balcony or awning cleaned, repaired, pulled down, altered or removed, as the case may be. The cost incurred in doing so shall be recoverable by the council as a debt from the owner.

- 6.2.11 Any verandah, balcony or awning removed by the council shall be released to the owner upon payment of the costs incurred in its removal, transport and storage.
- 6.2.12 An authorised officer may, by written notice to the owner of a building with a verandah, balcony or awning over a public place, require the temporary removal of that verandah, balcony or awning, to enable construction work to take place near to or beneath that structure.
- 6.2.13. The removal and reinstatement of the verandah, balcony or awning and the building consent for such work shall be at the cost of the person or organisation responsible for the work requiring such removal and reinstatement.
- 6.2.14. Where written notice is given to an owner under clause 6.2.12 above the owner must apply for any building consent necessary under the Building Act 2004 for the building work involved in removing and reinstating the verandah, balcony or awning. Such an application must be made within one month of receiving notice under clause 6.2.12 above, and is to be made in accordance with specifications for that building and as contained in the notice to the owner.
- 6.2.15. The council may reduce the width of any verandah or awning before its reinstatement, if any activities within the public place necessitate such a reduction or to comply with the council's district planning or bylaw requirements.

6.3 Projections from Buildings

Projection – architectural features

- 6.3.1 Architectural features at a height of not less than 3 metres above the level of a formed footpath, or 4.5 metres above ground level where no footpath has been formed, may project over a public place with the approval of an authorised officer.

Air space lease

- 6.3.2 The council may require an airspace licence in respect of any architectural feature to which clause 6.3.1 applies.

Hoisting materials

- 6.3.3 Nothing may be fitted to any building for the hoisting of materials of any nature over a public place except with the permission of an authorised officer.
- 6.3.4 No foundations relating to the temporary support for any crane are to be constructed in, on or under a public place.
- 6.3.5 Except with the prior approval of an authorised officer no ground anchors for any crane are to be constructed in, on or under a public place without prior approval of an authorised officer. The council may require a lease to be entered in respect of any ground anchors for any crane that are to be constructed in, on or under a public place.

Windows over public places

- 6.3.6 No opening portion of a window, which opens out over a public place, shall be less than 2.5 metres above the public place except with the permission of an authorised officer.

Foundation projections

- 6.3.7 No foundation shall project beyond the boundary or building line under a public place provided that an authorised officer may, if it is considered that the projection will not injuriously prejudice the installation of underground services of any nature, permit a projection not exceeding 200 millimetres, where the depth below ground level to the top of the projection exceeds 2 metres.

6.4 Drainage

Legislation

- 6.4.1 This bylaw shall be read subject to the provisions of Part 26 of the Local Government Act 1974.

Provisions relating to stormwater are also covered in council's Stormwater Management bylaw 2008.

Private drains

- 6.4.2 The owner of a building or premises shall be responsible for any private drains serving his/her property up to and including the connection to the public sewer irrespective of whether that connection is on his or her property or not.

Work on private connections

- 6.4.3 A private connection to a public sewer may only be constructed, repaired or renewed with a building consent where this is required or with the consent of an authorised officer in any other case.

Abandoning connections

- 6.4.4 The owner of any drain connected to a public sewer shall advise the council before abandoning that connection to the public sewer and shall comply with any conditions required by an authorised officer for that abandoning.

No sharing of private drainage

- 6.4.5 Notwithstanding section 459(2)(a) of the Local Government Act 1974, no lot shall share a private drain with another lot unless approved by an authorised officer, and in granting such approval an authorised officer may set such conditions as he or she considers appropriate.

- 6.4.6 No person shall, without prior written permission from an authorised officer, cause or allow any wastewater from any well or hydraulic appliance, or any subsoil or surface drainage, roof water or condensing water to enter any foul water sewer or any drain connected to such sewer.

6.5 Public Sewers and Drains

Materials and standards

- 6.5.1 All foul water and stormwater drains and drainage which are intended to become public drains (pursuant to section 462 of the Local Government Act 1974 or as a condition of a subdivision consent or otherwise) shall comply strictly with standards of work issued by the council or the CCO. Such standards may include, but need not be limited to, requirements and specifications for materials, design capacity, construction techniques, the testing and certification of work, the provision of "as built" plans, and minimum diameters of pipe work, manholes and other parts of the works.
- 6.5.2 Approval of the CCO shall be obtained prior to any work commencing on drainage that is to become public drainage. This is in addition to obtaining any necessary building consent.
- 6.5.3 No person shall connect any private drainage to any public drainage system until the public drainage system has passed adequate testing to the satisfaction of the CCO.

6.6 Construction Sites

Sanitary conveniences to be provided

- 6.6.1 Every person undertaking building work shall provide adequate readily accessible sanitary conveniences for all persons engaged on that work.
- 6.6.2 Every sanitary convenience provided in accordance with clause 6.6.1 shall be sited in such a position as not to create a nuisance or cause offence to persons, either in a public place or to persons residing or working in any premises adjacent to or near the site where building work is being undertaken.
- 6.6.3 Every sanitary convenience provided in accordance with clause 6.6.1 shall be maintained in a clean condition at all times.

Surface water run-off

- 6.6.4 Every person undertaking building work shall at all times, from the commencement of construction or commencement of site works until building work is completed, ensure that adequate provision to the satisfaction of the council is made for the protection of other land (including streams, roads, and drains) from surface water run-off.

Clean road

- 6.6.5 A person in charge of a construction or demolition site or conducting construction or demolition works on a site shall, if required by an authorised officer, ensure that mud and dirt and other debris is removed from vehicles prior to their departure from the site if there is a likelihood of that debris being deposited in any public place.

6.7 Public Safety

Permit

- 6.7.1 No person shall, for the purpose of carrying out any excavations, demolition, construction, building or building maintenance work, obstruct, operate on, over, or under, or deposit material on any footpath, carriageway or other public place except pursuant to a permit issued by an authorised officer.

See also similar provisions in the Public Places Bylaw 2008

Permit conditions

- 6.7.2 Any permit issued in accordance with clause 6.7.1 including any permit for a safety fence, hoarding, gantry, scaffolding or other safety issues shall be issued subject to any conditions, restrictions and limitations as an authorised officer considers necessary or desirable to ensure the safety and convenience of the public and the protection of any public place.

6.8 Demolition

- 6.8.1 Every person carrying out the demolition or removal of a building or part thereof above a plane of 45 degrees from the boundary of a public place shall comply with the following requirements:
- One storey only at a time shall be demolished or removed commencing from the uppermost level,
 - No material shall be stored or stacked upon any floor of the building,
 - All material shall be lowered to the ground as soon it has been displaced,

- d. No external wall or part thereof abutting on any street or public place shall be demolished or removed except at such time and under such conditions as an authorised officer may approve,
- e. No material shall be thrown onto any street or public place,

Dust removal

- f. Water shall be sprayed upon all displaced materials for the purpose of preventing or lessening the diffusion of dust arising from any demolition activity,
- g. A ball and crane or other mechanically-assisted demolition methods shall not be used on any building closer than the height of the building from the street frontage or within 12 metres of the street boundary (whichever is the greater) unless approval has been obtained from an authorised officer to close the public place adjacent to the work. The authorised officer may specify the amount of public place to be closed off to allow the work to be carried out without endangering public safety. Where an authorised officer so approves the contractor shall pay supervisory costs incurred by the council to maintain public safety,
- h. No portion of a building closer than its height from the public place shall be left standing when it is no longer stable unless arrangements have been made to the satisfaction of an authorised officer for the protection of the public in such circumstances,
- i. Where required by an authorised officer, demolition work shall be carried out under the supervision and control of a Registered Engineer and the confirmation of an Engineer's appointment shall be submitted by the applicant prior to the issue of a demolition permit,

Footpath protection

- j. A hoarding or gantry shall be erected to the requirements of Clause F5 of the New Zealand Building Code where in the opinion of an authorised officer there is a need to safeguard people or other property from demolition activities occurring on any land,

Further requirements

- k. The owner of any site shall comply with any requirements of an authorised officer during the progress of demolition or removal work, in connection with:
 - i. the safety and convenience of the public
 - ii. the protection of adjacent buildings, and
 - iii. the protection of the surface of the street and any other public place.

Dispensations

- 6.8.2 An authorised officer may in an appropriate case dispense with compliance with any of the requirements of clause 6.8.1.

6.9 Protection of Public during Building Operations or Building Maintenance

- 6.9.1 No person shall erect any building or undertake maintenance on any part of a building adjacent to any public place if there is a likelihood of objects falling onto the public place until there has been erected a fence or hoarding or gantry or barrier so as to shut off and render safe the pedestrian and vehicular traffic using or which may use the adjacent parts of the public place. No such fence, hoarding, gantry or barrier shall be erected without first having obtained a building consent.

Site fences, hoardings and gantries erected pursuant to clause 6.9.1 above shall comply with the requirements of Clause F5 of the New Zealand Building Code. Acceptable Solution F5/AS1 provides one acceptable solution to the requirements of F5.

- 6.9.2 Where permission has been given for construction or maintenance of a verandah or other structure to be erected over a public place the necessary work shall be carried out at such times and in such a manner as an authorised officer shall approve having regard to the conditions of pedestrian and vehicular traffic. Where an authorised officer does not authorise the complete closure of the footpath affected then operations shall proceed over half of the footpath width at a time, with the remainder of the footpath being protected with an adequate hoarding, to the satisfaction of an authorised officer.

6.10 Lifting Material and Equipment over Public Places

Hoisting materials

- 6.10.1 The design of new buildings and their method of construction shall be carried out so far as is practicable to provide for the unloading and hoisting of materials and equipment on and over the building site itself and clear of any public place.

Permission to hoist

- 6.10.2 No person shall undertake the mechanical hoisting of building materials or equipment from or over any public place without a permit from an authorised officer. Permission may be refused if an authorised officer is of the opinion that it is unnecessary for the air space above the public place to be used because building materials and equipment can reasonably be unloaded on or over the site from vehicles driven onto the building site and clear of the street, or that the building can reasonably be designed or redesigned so as to provide for off-street unloading operations during its construction.

Conditions

- 6.10.3 An authorised officer in granting a permit pursuant to clause 6.10.2 may impose such conditions as are necessary to ensure the safety of the public, including persons on the public place who are engaged in the hoisting operations. The following conditions shall apply to every consent:

- a. Areas over which or from which hoisting is to be carried out must be coned, roped, fenced or barricaded off as directed by an authorised officer,

Gantry

- b. A clearly defined and fully protected gantry type throughway or bypass, substantially constructed, must be provided for pedestrian use, over any footpath alongside any public place from which materials and equipment are to be hoisted. This protected throughway shall be to the approval of an authorised officer, and it shall extend along the full length of the frontage of the site. Where it is required by an authorised officer the protected throughway shall extend beyond the frontage of the building to provide radial protection to the footpath,
- c. Crane jibs may swing over unprotected public roadways and footpaths but not the loads hanging from them. The load must be luffed back over footpath gantries as soon as practicable and before slewing the jib so that loads are not at any time suspended over unprotected areas. No vehicle which is being unloaded from a coned off area shall move away until its last load has been hoisted clear of the roadway,
- d. The lifting or lowering of materials or equipment on trays without sides is prohibited. The tray must be enclosed on all sides to a height not less than the height of the load.

Insurance

- 6.10.4 Insurance cover shall be taken out by the consent applicant for any construction work that may affect public safety indemnifying the council for a minimum amount of \$1,000,000 or as determined by an authorised officer, in respect of any claims for injury or damage to persons or property, such cover to be with a registered insurance office and in a form satisfactory to an authorised officer. An authorised officer may reduce or waive this requirement in the case of minor works when the risk is considered minimal.

6.11 Excavation

Underpinning and Lateral Support

- 6.11.1 Where any person proposes to carry out excavation at or steeper than a slope of 1 vertical to 2 horizontal from the ground level at an adjacent property boundary, or from any building foundations on any site, that person must provide information showing the measures to be taken to protect any existing buildings on that site from such excavation.
- 6.11.2. No excavation work shall be carried out until such time as sufficient information has been supplied to satisfy an authorised officer that the proposed work is satisfactorily designed to maintain the stability of the building(s), and the programme for excavation and underpinning is clearly laid out on the plans so that the building's stability is ensured during the operations.
- 6.11.3 Where excavation is to be carried out below this slope of 1 vertical to 2 horizontal satisfactory evidence must be produced to the council that the applicant has notified the adjoining owner/s of the proposed work. Copies of such notification shall be provided to an authorised officer.

Where underpinning is proposed on the site of an existing building, a building consent must be obtained for that site and the authorisation of the owners of the building must be obtained. No building consent will be issued until an authorised officer has approved any underpinning measures considered necessary for the protection of the building.

6.12 Street Damage

Building work requires street damage deposit charge

- 6.12.1 No person shall undertake any building work, which is building work included in the first schedule to this bylaw without having first paid to the council:
- a street damage deposit charge; and
 - a pre-works inspection fee (unless that person agrees that the condition of the road reserve is at least as good as that which exists on either side of the work site) and a post-works inspection fee.

For the avoidance of doubt, the person who pays the street damage deposit charge (the applicant) may be liable for inspection fees in addition to those referred to in paragraph (b) above.

Use of deposit

- 6.12.2 An authorised officer may apply the street damage deposit charge payable under clause 6.12.1 towards any inspection fees charged by the council and unpaid, and towards the cost of any work or repair carried out by the council, during, or at the completion of building work, site work or excavation work to reinstate the road reserve to at least as good a state of repair as that which immediately preceded the commencement of the work.

Waiving of deposit

- 6.12.3 An authorised officer may waive the requirement for the payment of a street damage deposit charge in whole or in part, where he or she determines that the building work, site work or excavation work proposed is unlikely to cause damage to the road reserve.

Refunding deposit

- 6.12.4 At the completion of building work and after the issue of the code compliance certificate for the building work undertaken, the council shall refund any street damage deposit charge paid, less any deductions for inspection fees incurred and unpaid and any costs incurred by the council, including any reasonable administrative costs, to repair any damage to the road reserve arising from any building work, or site work.

- 6.12.5 If a street damage deposit charge is not sufficient to cover the inspection fees charged and the cost of any work undertaken by the council, including any reasonable administrative costs, to repair any damage to the road reserve arising from any building work or site work, the applicant will be liable for the balance.

Warranty Period

- 6.12.6 If the council identifies any defects within the warranty period in the repairs to the road reserve undertaken by the applicant as stated in the Street Compliance Report, the council may repair the defect and recover the costs incurred, including any reasonable administration costs, from the applicant.

Recovery of Debt

- 6.12.7 Any amount owing by the applicant to the council may be recovered by the council from that person or entity as a debt due in any court of competent jurisdiction.

6.13 Vehicle crossings

- 6.13.1 No person shall construct, repair, remove or widen any vehicle crossing without a permit from council.
- 6.13.2 Any permit for works in relation to a vehicle crossing shall be subject to such conditions concerning thickness, dimensions, reinforcement and materials as the council or an authorised officer considers reasonably necessary to:
- protect the road, including any footpath or berm, adjacent to the vehicular crossing;
 - ensure the vehicle crossing can withstand the weight of vehicles likely to use it;
 - ensure safe and convenient use of the road by pedestrians and vehicles.
- 6.13.3 Every owner of land to which a vehicle crossing provides access, shall maintain the vehicle crossing in order to meet the requirements of clause 6.13.2. If in the opinion of an authorised officer, any crossing is in a bad or unsafe state of repair, or fails to meet the requirements of clause 6.13.2, the authorised officer may by notice in writing, require the owner of the land to which the crossing provides access, to repair, reconstruct, or renew such crossing to the satisfaction of the council. Every owner who fails to comply with such a notice within the period specified commits an offence against this bylaw.
- 6.13.4 If any owner of land is in default in carrying out works as required under clause 6.13.3, the council may carry out those works itself and recover from the owner the cost of doing so, together with reasonable administrative and supervision charges.

6.14 Setting of fees and charges

- 6.14.1 The council may prescribe fees and charges for authorities, approvals, permits and consents under this bylaw in accordance with section 150 of the Local Government Act 2002.

Fees, including the street damage deposit charge, lease fees and licence and permit fees, may be set as part of the council's long-term plan or annual plan

First schedule

Building work requiring a street damage deposit charge

Building work requiring a street damage deposit charge
Residential swimming pools and associated fences
Residential alterations and additions
New, single unit, single storey dwellings
Multi unit and multi storey dwellings
Commercial building work
Building work CBD area
All other building work requiring a building consent
Demolition and removal works
Pre-work, WIP and post work inspection fee