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## ENCROACHMENT LICENCES - WHAT YOU NEED TO KNOW

Encroachment licences are issued by Local Councils and provide that the Local Council has consented to part of their land or the road being occupied by a structure owned by the neighbouring property. The Council can make an Encroachment Licence subject to conditions that it considers appropriate.

The following are examples of structures which quite often encroach on Council land or roads and require an Encroachment Licence:

- Garages
- Car decks, carports or car pads
- Balconies
- Retaining walls
- Gates and fences
- Porches
- Decks

Encroachment Licences for garages, carports, car decks and car pads are common in Wellington due to the hilly and steep nature of Wellington's landscape. Encroachment Licences for apartment balconies are also common, especially where the balcony is outside the legal boundaries of the apartment complex and overhangs the sidewalk.

So, if any structure on your property encroaches onto Council land or road then you will be required to obtain an Encroachment Licence from the Council.

If you do not obtain an Encroachment Licence then the Council could, if they wished to do so, request that the

structure be removed.

Is an Encroachment Licence transferrable upon a sale of the property? No, each subsequent owner of the property needs to apply to the Council for a new Encroachment Licence. However, the Council are likely to issue a new Licence to the purchaser if there is an existing licence, subject to annual fees being paid, encroachment structure being in good repair, etc.

If you are looking at purchasing a property and there is a structure which encroaches onto Council land or a road, we would suggest, whether or not there is an existing Encroachment Licence, that the agreement be conditional upon your obtaining an Encroachment Licence or being satisfied that the Local Council will issue one to you following settlement.

Failing to ensure you can obtain an Encroachment Licence prior to committing yourself to the purchase, could following settlement result in the Council requesting you pull down that part of the structure which encroaches on the road or Council land at your cost.

### **20 MINUTE FREE**

**WANT to review your Family Trust structure?  
 THEN call us and take advantage of our 20 Minute Free interview**