



INFRASTRUCTURE



A CODE OF PRACTICE FOR
PROTECTION OF COUNCIL ASSETS AND
CONTROL OF BUILDING SITES

DECEMBER 2000



PROTECTION
OF COUNCIL ASSETS
AND CONTROL
OF BUILDING SITES



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GLOSSARY

The following are explanations of terms as they are used within the Code.

Builder. A person who has applied to council (or any other person to whom such an application may be made) for a building permit; if no such application has been made, the person in charge of the building work being carried out.

Building. Includes any structure or building, whether temporary or permanent, or any part of such building or structure.

Building work. Work for, or in connection with, the construction, renovation, alteration, demolition, relocation or removal of a building, landscaping, concreting and subdivision road construction. In particular and without limiting the above, building work which affects the assets of utilities must be undertaken in accordance with all applicable legislation and regulations and by appropriately authorised people.

Contractor. A person who contracts to conduct building work, for example, excavators, tilers and concreters.

Council officer. Any person appointed in writing by council to be an authorised or delegated officer for specified purposes or functions in accordance with relevant legislation.

Infrastructure. Built or constructed improvements including kerbing, footpaths, stormwater systems, planting and beautification work.

Owner. In relation to a building, means the owner of land on which the building is situated.

Refuse. Includes any solid or liquid domestic or commercial waste, debris or rubbish, and without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by, or in connection with, building work.

Refuse facility. A suitable rubbish receptacle capable of restricting debris and other waste from leaving the building site.

Road. Includes a street, right of way, any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*, a passage, a cul de sac, bypass, a bridge or ford, a footpath, bicycle path or nature strip, any culvert, kerbing or other land or works forming part of the road.

Security. A payment or guarantee made to council for the purposes of securing public assets and infrastructure from the cost of damage during building work.

Supplier. A person responsible for delivering materials and/or equipment, for example, timber and brick deliveries.

Purpose of the Code of Practice

The Code of Practice (Code) has been developed because councils and the development industry face difficulty preventing damage to infrastructure and recovering costs from those responsible for causing damage. Minimum performance requirements are described within the Code to reduce infrastructure damage. The Code applies to developments of broadacre subdivisions, suburban infill, commercial, industrial and residential activities. The Code should be adhered to during the defects liability period.

Major types of infrastructure damage occurring within municipalities include:

- broken footpaths and kerb channels
- road pavement damage (sealed and unsealed)
- siltation on roads and in drainage systems
- dispersal of builders' refuse.

Objectives of the Code

The Code aims to:

- define standards that should be observed by parties undertaking building work
- reduce the extent of infrastructure damage
- induce owners, builders, contractors and suppliers to act responsibly when conducting building work
- reduce costs to the development sector and the community as a whole
- define roles and responsibilities of respective parties
- reduce pollution from refuse and sediment
- optimise the safety of people on and around building sites
- improve the presentation of development sites.

The Code applies to all parties involved in building work including:

- owners
- builders
- contractors
- building surveyors
- councils
- developers
- servicing authorities.

Under the *Local Government Act 1989*, councils have the ability to make local laws to protect infrastructure. Therefore, councils have discretion to vary operational provisions of the Code, depending upon circumstances that may arise. However, they should uphold the principles of the Code.

RELATIONSHIP BETWEEN THE CODE AND LEGISLATION

The Code must be read in conjunction with relevant legislation, regulations and other Codes of Practice which apply to the building and construction industry. The following legislation must be observed:

Building Act 1993

Local Government Act 1989

Planning and Environment Act 1987

Subdivision Act 1988

Litter Act 1987

Occupational Health and Safety Act 1985

Environmental Protection Act 1970.

Where inconsistencies exist between legislation and the Code, the legislation will prevail.

PRINCIPLES FOR PARTIES INVOLVED IN BUILDING WORK

The following principles should be applied, where relevant, to building work.

Principle 1

Precautions should be taken during building work to minimise damage to infrastructure, avoid pollution and optimise public safety.

Application of the principle

- All parties involved in building work have a responsibility to ensure they are aware of their obligations to protect infrastructure prior to the commencement of building work.
- Builders and/or building surveyors should take preventative action and also inform council of any potential public safety issues, which could arise from building work.
- Builders should inform all contractors and suppliers of their responsibility to protect infrastructure while on building sites.
- Builders should ensure that access to the building site is clearly defined and that suppliers know where materials and/or equipment should be set down. Temporary vehicle crossings may be constructed to help minimise infrastructure damage.
- Prior to the commencement of building work, an assessment may be made of the need for temporary fencing (including silt fences) at building sites. Limiting access through the use of temporary fencing could help reduce damage to infrastructure as a point of entry is clearly defined.
- When determining whether temporary fencing is required, council officers may consider the nature and scope of building work; the extent of the project as well as materials, equipment and/or wastes that may be stored on site.
- Where required, builders should provide a facility for the containment of refuse. The facility should be kept in place for the duration of the building work and should be emptied prior to overflowing. Builders should avoid placing the facility on any council land, road or street.
- Builders should ensure that temporary vehicle crossings, site fencing, silt and refuse control mechanisms are in place before building work starts.

Principle 2

Councils have discretion to determine whether preventative measures are required to protect infrastructure during building work.

Application of the principle

Councils may seek security when they believe infrastructure could be damaged.

- Builders may, agree to protect council infrastructure and repair any damage caused by building work, or, elect to provide security to cover the potential cost of infrastructure damage.
- If council officers believe that building work may result in damage to an existing driveway, footpath, kerb or other part of the road, the builder responsible for the building work must, when requested provide security to the council. Building work should not begin prior to the provision of security.
- The security required may be determined by council officers after a site inspection and will be proportionate to the likely cost of repairing the damage. Security will be returned upon the completion of works or, where appropriate, may be retained by council to offset the cost of repairs and any balance will be refunded.

Refunds should be issued within seven days of council receipt of Occupancy Permit or Final Inspection Certificate.

Councils may determine whether Temporary Vehicle Crossing Permits are required.

- Upon receipt of advice that a Building Permit has been issued, council officers may inspect building sites and advise the builder whether a Temporary Vehicle Crossing Permit is required to protect existing roads.
- When determining whether a Temporary Vehicle Crossing Permit is required, council officers should take into consideration the scope of building work to be undertaken and the likelihood of infrastructure damage occurring.
- If a Temporary Vehicle Crossing Permit is required, the builder should ensure the crossing is constructed in line with council specifications prior to the commencement of building work. Council should issue details of their standard temporary vehicle crossing, with every permit, even if the permit is issued by a private building surveyor.

Principle 3

Councils have the authority to determine whether site inspections will be conducted to evaluate the condition of infrastructure prior to, during and after building work.

Application of the principle

- Prior to the start of building work, builders should notify council of any existing infrastructure damage. (Builders are encouraged to notify council of existing infrastructure damage, as failure to do so could result in the assumption of builder liability.)
- Where builders have reported existing infrastructure damage, council officers may inspect the damage.
- Council officers may evaluate the condition of infrastructure surrounding building sites after being notified that a building surveyor has been appointed or upon notification that a building permit has been issued.
- Council officers may complete 'condition reports' and obtain the builder's agreement regarding the condition of infrastructure adjacent to, or near the property prior to the commencement of building work. The 'condition report' may be updated upon completion of the building work. This report should be maintained on council records and may assist in the identification of those responsible for damaging infrastructure.
- If council officers consider that building work has caused infrastructure damage, a notice should be issued to the builder requiring repair works be completed. An inspection should be conducted to see whether works have been carried out to the satisfaction of the council.
- On completion of building work, council officers may inspect the site to ensure that appropriate care and/or reinstatement has been undertaken with regard to public infrastructure.

Principle 4

Owners, builders, contractors and suppliers are responsible for repairing infrastructure damage they have caused.

Application of the principle

- Owners, council officers and builders may monitor the condition of infrastructure throughout the building process and record any damage which has resulted from building work.
- If suppliers or contractors have caused infrastructure damage, builders should inform them of their responsibility to conduct and/or meet the cost of repair works.
- Where contractors and suppliers have not repaired damaged infrastructure, builders should conduct repair works and recover costs from the contractors or suppliers who have caused the damage.
- Where owners, builders, contractors or suppliers have not repaired damage they have caused, councils may repair the damage and where the people responsible for the damage are known, they should be charged for the cost of repair works.

Review

It is intended that the Industry Committee will be reconvened approximately 12 months after the release of the Code to access its effectiveness and review the best practice local law.

BEST PRACTICE LOCAL LAW

PROTECTION
OF COUNCIL ASSETS
AND CONTROL
OF BUILDING SITES

DECEMBER 2000

1. TITLE

This is Local Law Number.....of the.....Council and shall be titled “Protection of Council Assets and Control of Building Sites”

2. PURPOSE OF LOCAL LAW

This Local Law is made for the purposes of: -

- (a) providing for the peace, order and good Government of the Municipal District;
- (b) protecting public assets vested in Council from damage, accelerated deterioration or abuse during the building process;
- (c) providing a physical environment which aims to minimise hazards to health and safety of persons attending building sites and those adjacent, opposite or passing building sites;
- (d) prohibiting, regulating and controlling the presence and disposal of refuse, rubbish and soil on and from building sites within the municipal district to reduce hazards to the environment and promote an environment where residents can enjoy a quality of life that meets the general expectation of the community;
- (e) defining the standards to which persons engaged in building work should adhere; and
- (f) educating and inducing persons involved in building work to act responsibly to reduce the extent and cost of infrastructure damage for the benefit of the wider community.

3. AUTHORISING PROVISION

This Local Law is made under (*insert the relevant legislative provision*).

4. COMMENCEMENT AND REVOCATION

- (1) This Local Law comes into operation on the day on which the making of the Local Law is advertised in the(*insert the relevant publication*).
- (2) On the commencement of this Local Law, the following (provision(s) of) Local Law(s) are revoked:[*Detail the Local Law or the specific provisions of a Local Law which become redundant upon the making of this Local Law (if any)*]

5. AREA OF OPERATION

This Local Law shall apply and have operation throughout the whole of the Municipal district.

6. CESSATION DATE

Unless earlier revoked, this Local Law ceases to operate at the expiration of(*insert the relevant period such as ten years*) from its commencement date.

7. DEFINITIONS

Where inconsistencies exist between any definition in this Local Law and those contained within other relevant legislation, the definition in the relevant legislation will prevail.

‘appointed agent’ means the person authorised in writing by an owner of a building or land to make an application, appeal, referral or representation on their behalf.

‘Asset Protection Permit’ means a written permit issued by Council for the protection of public assets and infrastructure during building work.

‘builder’ a person who has applied to the Council (or any other person to whom such an application may be made) for a building permit or, if no such application has been made, the person in charge of any building work being carried out.

‘builders’ refuse’ includes any solid or liquid domestic or commercial waste, debris or rubbish, and without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with building work.

‘building’ includes any structure or building, whether temporary or permanent, or any part of such building or structure.

‘building work’ work for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a building including *landscaping, concreting and subdivision road construction*. In particular and without limiting the above, building work which affects the assets of utilities must be undertaken in accordance with all applicable legislation and regulations and by appropriately authorised people.

'carriageway' means the portion of the road generally available for traffic by registered motor vehicles (whether sealed, formed or unconstructed)

'construction period' means the period in which building work is carried out.

'Council' means theCouncil (*insert the official name of the Council*).

'Council Officer' means any person appointed in writing by Council to be an Authorised or Delegated Officer for specified purposes or functions in accordance with relevant legislation.

'land' means any land or building in separate ownership or separate occupation.

'minor building work' means building work valued at less than \$5,000 but excludes demolition and removal of buildings and structures (regardless of value).

'municipal district' means the municipal district of the Council.

'owner' in relation to a building means the owner of land on which the building is situated.

'penalty units' has the meaning attributed to them under section 110 of the *Sentencing Act 1991* ie. each penalty unit has the value of \$100.

'refuse facility' means a suitable rubbish receptacle capable of restricting debris and other waste from leaving the building site.

'road' includes a street; right of way; any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*; a passage; a cul de sac; by-pass; a bridge or ford; a footpath, bicycle path or nature strip; any culvert, kerbing or other land or works forming part of the road.

'security bond' means a payment or guarantee made to Council for the purposes of securing public assets and infrastructure from the cost of damage during building work.

'stormwater system' means stormwater system which provide for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems and natural waterways.

'temporary vehicle crossing' is a constructed form of wooden panels or other Council approved structure over a bed of sand, that extends from the boundary of a property over any public assets such as footpaths, nature strips, kerbs and channels to the road (carriageway), and is designed to minimise damage to the assets, caused by motor vehicles and materials entering and leaving the property, during the currency of building work.

'vehicle crossing' is a bridge or crossing constructed to council specifications, over any footpath or channel next to a road (carriageway) to enable a person using the road to have access to land on the other side of the footpath or channel.

PART 2 – ASSET PROTECTION

If the provisions detailed below are already within current Local Laws, Councils should either revoke the provisions from the existing Local Laws or leave them out of this Local Law. Councils should not duplicate provisions.

The Local Law developed by Council should functionally complement the prevailing circumstances within the municipality. Therefore detailed below are two different approaches to the development of a Local Law for the Protection of Council Assets and Control of Building Sites – Option 1 and Option 2. The self regulatory approach is encouraged (Option 1). When developing the Local Law, Councils may use either Option or they may combine elements of both Options. It is the responsibility of each Council to determine what provisions should be included within their Local Law. The choice of two Options is to ensure that the Local Law developed reflects the prevailing circumstances within each municipality.

OPTION 1 (Self Regulatory Alternative)

8. ASSET PROTECTION

- (1) Prior to the commencement of any building work (including work that does not require a building permit) Council must be notified about what, if any, damage already exists to any: -
 - (a) footpath;
 - (b) kerb and channel;
 - (c) nature strip;
 - (d) vehicle crossing; and
 - (e) other assets vested in Council.which is
 - (f) on or adjacent to the land to which the building permit relates; or
 - (g) likely to be affected by the building work.
- (2) Council must, as soon as is reasonably practicable (as a guide it should be within 7 days) notify the owner, builder or appointed agent of the obligations imposed by sub clause (1). Notification may occur:
 - (a) after receiving notice of the appointment of a relevant building surveyor; or
 - (b) after a building permit has been issued; or
 - (c) prior to the commencement of building activities which have the potential to damage Council assets.

- (3) If the owner, builder or appointed agent, does not give notice to Council in accordance with sub clause (1), it is deemed, for the purposes of sub clause (4), that there was no existing damage to the: -

- (a) footpath;
- (b) kerb and channel;
- (c) nature strip;
- (d) vehicle crossing; and
- (e) other assets vested in Council.

which is

- (f) on or adjacent to the land to which the building permit relates; or
 - (g) likely to be affected by the building work.
- (4) (a) Council must, as soon as is reasonably practicable (as a guide it should be within 7 days) after receiving notice of the issue of an Occupancy Permit or Certificate of Final Inspection, cause an inspection to be carried out of the: -

- (i) footpath;
- (ii) kerb and channel;
- (iii) nature strip;
- (iv) vehicle crossing; or
- (v) other assets vested in Council.

which is

- (vi) on or adjacent to the land to which the building permit relates; or
- (vii) likely to be affected by the building work.

- (b) If, as a result of the inspection, Council considers that the building work has caused damage to the: -

- (i) footpaths;
- (ii) kerb and channel;
- (iii) nature strip;
- (iv) vehicle crossing; or
- (v) other assets vested in Council.

it may give notice to the owner, builder or appointed agent, requiring that person to repair or cause to be repaired to the satisfaction of Council, the footpath, kerb and channel, nature strip vehicle crossing or other assets vested in Council within 28 days of the notice being given.

OPTION 2 (Regulatory Alternative)

8. ASSET PROTECTION

- (1) For the protection of public assets vested in Council and for the safety of persons on, adjacent to, opposite, or passing a building site, Council may require the owner, builder or appointed agent to obtain an Asset Protection Permit:
- (i) after receiving notice of the appointment of a relevant building surveyor; or
 - (ii) after a building permit has been issued; or
 - (iii) prior to the commencement of building activities which have the potential to damage Council assets.
- (a) On the payment of an application fee, council officers may issue an Asset Protection Permit in respect of any land where building work is to be carried out.
- (b) An Asset Protection Permit may allow a person to enter land from a road other than by a permanently constructed vehicle crossing whether or not public assets or infrastructure are likely to be damaged.
- (c) The Asset Protection Permit may be subject to such conditions as Council or the issuing council officer determines including: -
- (i) requiring protection works to be done;
 - (ii) requiring the payment of a security bond;
 - (iii) requiring the erection of temporary fencing to the satisfaction of Council;
 - (iv) requiring that any or all public assets or infrastructure damage be repaired, replaced or re-instated within a specified time; or
 - (v) requiring a temporary crossing to be installed to Council's specification before commencement of any building work or delivery of any materials to the property.
- (d) An Asset Protection Permit expires on the date specified in the permit and if not specified, 12 months after the date of its issue unless it is renewed.
- (e) The owner, builder or appointed agent responsible for any building work must ensure that: -
- (i) no entry to the property takes place other than across the temporary vehicle crossing;
 - (ii) no materials are deposited on any part of the road without the approval of Council;
- (f) Regardless of whether a building permit has been issued the owner, builder or appointed agent must:
- (i) notify Council in writing, of the proposed building work at least 7 days before building work commences; and
 - (ii) Provide to Council, written notice of any prior damage to any part of the road at least 7 days prior to the commencement of any building work or the delivery of any equipment or building materials.
- (g) The owner, builder or appointed agent responsible for building work must repair to the satisfaction of Council damaged roads, channels, drains, vehicle crossings or other assets vested in Council adjacent to the land where the building work takes place or which is likely to be affected by the building work for which a permit has been obtained. In circumstances where the owner, builder or appointed agent are clearly not responsible for the infrastructure damage, they should make every effort to ensure the responsible party repairs the damage. *(as a guide the owner, builder or appointed agent could obtain a statutory declaration detailing who was responsible for causing the damage).*
- (h) The amount of any security bond required under paragraph (ii) of sub clause (c) must be proportionate to the likely costs of repairing any potential damage to any existing road, channel, drain, vehicle crossing or other public asset arising from the building work. *(As a guide the security bond will generally not exceed 1% of the total building cost).*
- (i) Upon completion of the building work, the amount of the security bond: -
- (i) may be retained by the Council to offset the costs of repairing any damage; or

PART 4 – STORMWATER PROTECTION

- (ii) may be refunded to the person who lodged it, upon Council's satisfaction that no damage has been caused, or that any damage caused has been repaired by, or on behalf of that person to Council's satisfaction.
- (j) For purposes of determining whether any damage to public assets has resulted from the execution of any building work on a property, failure to provide notice under sub clause (e) (iii) or (iv) will give rise to an assumption that there was no existing damage to such assets prior to the building work taking place.
- (k) Where Council so determines, it may agree to accept an alternative form of security to a security bond.
- (l) It is a defence to a prosecution for damage caused to assets vested in Council, that there was in force at the time of the alleged offence a current Asset Protection Permit relating to the land and that there was compliance with the terms and conditions of the Asset Protection Permit.

PART 3 –INSPECTIONS

9. INSPECTION

- (1) Council may determine if and when inspections of building sites may be conducted. Inspections may be conducted at any reasonable time.
- (2) If Council identifies any damage which appears to result from non-compliance with this Local Law, council officers may direct the responsible party to reinstate the damage within a specified time. Council officers will provide the responsible party with written confirmation either at the time of the inspection or within a reasonable timeframe (*as a guide it should be within 7 days*).

10. STORMWATER PROTECTION

- (1) Where any building work is being carried out on any land, the owner, builder or appointed agent must ensure that the site is developed and managed to minimise the risks of stormwater pollution, through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice. This includes adoption of measure to: -
 - (a) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting roads or washed into the stormwater system; and
 - (b) prevent building cleanup, washdown or other wastes being discharged offsite or allowed to enter the stormwater system.

PART 5 – CONTROL OF BUILDERS' REFUSE

11. CONTAINMENT OF REFUSE

- (1) Where any building work (other than minor building work) is being carried out on any land, the owner, builder or appointed agent must: -
 - (a) provide a facility for the purpose of disposal of builders' refuse and provided the facility contains all builders' refuse on the land to the satisfaction of Council, its size, design and construction will be at the discretion of the builder;
 - (b) place the facility on the land and keep it in place (except for such periods as are necessary to empty the facility) for the duration of the building work;
 - (c) not place the facility on any Council land, road or street without a permit;
 - (d) empty the facility whenever full and if necessary, a replacement facility should be provided during the emptying process.
- (2) The requirement to provide a facility may be waived at Council's discretion.

12. DISPOSAL OF BUILDERS' REFUSE

During building work: -

- (a) the owner, builder or appointed agent must ensure that all builders' refuse, which requires containment is placed in the facility referred to in clause 11 (1) (a); and
- (b) the owner, builder or appointed agent must ensure that builders' refuse is not deposited in, or on any land other than in accordance with clause 11.
- (c) the owner, builder or appointed agent must ensure that builders' refuse is not deposited in or over any part of the stormwater system.

13. REMOVAL OF BUILDERS' REFUSE

- (1) On any land where building work is being, or has been carried out, the owner, builder or appointed agent must remove and lawfully dispose of all refuse including, without limiting the generality of the above, the builders' refuse in the facility referred to in Clause 11, within 7 days of completion of the building work or issue of an occupancy permit, whichever occurs last.
- (2) The driver of any vehicle involved in placing or removing builders' refuse facilities must access the building site by way of a temporary vehicle crossing, unless otherwise permitted by Council and in accordance with that permission.

14. SANITARY FACILITIES

- (1) The owner, builder or appointed agent must not undertake or carry on any building, engineering or other work necessitating the employment of persons on a site unless a sewerated toilet or a fresh water flush with water seal type portable toilet (closed) system is provided, serviced as required (as a guide at least monthly) for the use of the persons on that site to the satisfaction of council officers.
- (2) Notwithstanding sub clause (1) where buildings are being constructed on adjacent sites simultaneously by the same person and Council allows one sewerated toilet system or a fresh water flush with water seal type portable toilet (closed) system is provided, serviced as required for every three adjoining sites, no offence will arise.
- (3) Council officers may enter into or upon any premises, yards or lands at any reasonable time for the purpose of inspecting any sewerated toilet, portable toilet (closet) systems, urinals, pans, receptacles, vehicles, plant and any other things and places therein and thereon and for the purpose of carrying out the provisions of this Part.

PART 7 – ADMINISTRATION AND ENFORCEMENT

15. OFFENCES

Failure to comply with any provision of this Local Law constitutes an offence.

16. NOTICE TO COMPLY

- (1) Where a council officer is of the opinion that an owner, builder or appointed agent has failed to comply with any requirement under this Local Law, he or she may serve a Notice to Comply in the form of Schedule 1 to this Local Law on the owner, builder or appointed agent.
- (2) A Notice to Comply, issued in accordance with this Clause, must state the situation to be remedied, the date by which the situation must be remedied and may include the time of day by which the situation is to be remedied.
- (3) The time and date specified in a Notice to Comply served under this Clause by which the situation must be remedied must be reasonable in the circumstances. What will be reasonable will vary depending on matters to be remedied, but should take into account, if applicable;
 - (a) the amount of work involved;
 - (b) the degree of difficulty;
 - (c) the availability of necessary materials or other necessary items;
 - (d) climatic conditions;
 - (e) the degree of risk or potential risk; or
 - (f) any other relevant matter.
- (4) An owner, builder or appointed agent served with a Notice to Comply who fails to remedy a situation in accordance with a Notice to Comply within the time specified therein is guilty of an offence under this Local Law.
- (5) If any owner, builder or appointed agent served with a Notice to Comply fails to carry out any work stipulated in a Notice to Comply, Council may, approve the carrying out of the work by another person; or carry out the work itself and recover the cost of performing the work from the owner, builder or appointed agent.
- (6) An owner builder or appointed agent may make representations to the Council about matters contained in the Notice to Comply.

17. POWER TO ACT IN URGENT CIRCUMSTANCES

- (1) Council may, where an owner, builder or appointed agent has failed to comply with any requirement of this Local Law, take action considered necessary to prevent any danger to the environment or any nuisance arising, provided that:-
 - (a) Council considers the circumstances to be sufficiently urgent and that the time necessary, or potential difficulty in serving a Notice to Comply may place a person, animal, property or the environment at risk or in danger of substantial detrimental effect;
 - (b) the Chief Executive of the Council or his/her delegate not being the council officer administering this Clause, approves of the proposed action; and
 - (c) details of the circumstances and of the remedial action taken are as soon as practicable forwarded to the owner, builder or appointed agent.
- (2) Action taken by Council under this Clause shall not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved.
- (3) Council should issue a Notice of Urgent Works in the form of Schedule 2 to the owner, builder or appointed agent prior to the works being undertaken.

18. PENALTIES

Any person who contravenes or fails to comply with any provision of this Local Law or contravenes or fails to comply with a Notice to Comply shall be guilty of an offence and shall be liable to a penalty of 10 penalty units¹ for a first offence and to a further 2 penalty units¹ for each day after conviction during which the contravention continues; and upon conviction for the second or subsequent offence, shall be liable to 20 penalty units;¹ and as an alternative to prosecution for the offences, may be served with an infringement notice in the form of Schedule 3.

¹ Indicative proposed penalties only.

19. GIVING OF INFORMATION

Any person apparently in charge of any building work or any owner, builder or appointed agent must give his or her name and address when requested by a council officer.

20. INFRINGEMENT NOTICES

- (1) Where a council officer has reason to believe that a person is guilty of an offence or offences for which an Infringement Notice may be issued under this Local Law, the council officer may serve on that person an Infringement Notice.
- (2) The penalty fixed for any Infringement Notice under this Local Law is 2 penalty units.¹

21. HOW IS PAYMENT TO BE MADE?

Any person issued with an Infringement Notice may pay the penalty indicated to the cashier at the Municipal Offices.

22. WHEN MUST THE PENALTY BE PAID?

To avoid prosecution, the penalty indicated should be paid within 28 days from the date of the issue of the Infringement Notice.

23. PERSON MAY DISREGARD THE NOTICE

Any person issued with an Infringement Notice is entitled to disregard the Infringement Notice and defend the prosecution in court.

24. CAN COUNCIL WAIVE THE NOTICE?

- (1) Any person issued with an Infringement Notice may make a written representation to Council or a member of Council staff within 28 days of the issue of the Infringement Notice.
- (2) Council may consider any written representations and any other relevant information and must consider any such material brought to his or her attention within 28 days of the issue of the Infringement Notice to which it relates.

25. WITHDRAWING THE NOTICE

- (1) Council may at any time prior to payment withdraw an Infringement Notice with a view to prosecuting for an offence.
- (2) Where an Infringement Notice has been paid and subsequently withdrawn, the person upon whom it was served is entitled to a refund of any payment which that person has made on the Infringement Notice.

26. FAILURE TO COMPLY WITH NOTICE

In the event of the failure of a person served with an Infringement Notice to pay the amount specified within 28 days of the issue of the Infringement Notice or such further time as Council may permit, Council may pursue the matter by prosecuting for an offence or by taking any steps which may be available for enforcing penalties by registration of Infringement Notices.

¹ Indicative proposed penalties only.

NOTIFICATION

The Resolution for making the Local Law was agreed to by the Council
on the day of Year.....

Notices of the proposal to make this Local Law were published respectively in the:
..... on the day of Year..... (Government Gazette)

Notices of the proposal to make this Local Law were published respectively in the:
..... on the day of Year..... (Newspaper)

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..... on the day of Year..... (Government Gazette)

Notices of the making of this Local Law were published respectively in the:
..... on theday ofYear..... (Newspaper)

A copy of this Local Law was forwarded to the Minister on the
.....day ofYear.....

*** The procedures listed above are specific to Victoria. Each jurisdiction should supplement the procedures listed above with notification procedures specific to their jurisdiction.

LOCAL LAW NO. OF THE COUNCIL

SCHEDULE NO. 1

NOTICE TO COMPLY

To: (Name)

(Address)

The following constitutes a breach under Clause of Council's Local Law No.
To remedy the breach you must carry out the following work, by
..... date [and time if desired].

Work to be undertaken

.....
.....

You should contact (contact officer) at the Municipal Offices, between the hours of
..... for any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for payment of the penalty of \$
for the first/second* or subsequent offence and Council will proceed to carry out the work and you will be liable for the
cost of carrying out that work.

Date (insert date)

(Name of council officer)

Telephone No.

(Signature of council officer)

*strike out whichever is not applicable.

LOCAL LAW NO. OF THE COUNCIL

SCHEDULE NO. 2

NOTICE OF URGENT WORKS

To: (Name)

(Address)

The following constitutes a breach under Clause of Council's Local Law No.

To remedy the breach you must carry out the following work, by

..... date [and time if desired].

Work to be undertaken

.....
.....

You should contact (contact officer) at the Municipal Offices, between the hours of for any further information about this Notice.

If you fail to comply with this Notice, Council will carry out repair works which are necessary to cause the immediate abatement or minimisation of the risk or danger and you will be charged for the cost of works.

Date (insert date)

(Name of Chief Executive Officer or his/her delegate)

Telephone No.

(Signature of Chief Executive Officer or his/her delegate)

Under seal to be affixed

LOCAL LAW NO. OF THECOUNCIL

SCHEDULE NO. 3

INFRINGEMENT NOTICE

Date of Notice No. of Notice

TO:

Surname:

Other names:

Address (if known):

.....

I, (full name of council officer) have reason to believe that you have committed an offence against Local Law No. *(insert relevant number)* of the Council as indicated below:

Clause	Nature of Infringement	Penalty
		2 Penalty Units ¹

Date:

Time:

Location of alleged infringement:

.....

If you pay the penalty indicated within 28 days from the date of this Notice at the Office, of , Offices, Address , of , this matter will not be brought before a Court.

You may elect to disregard this Notice and defend the prosecution in Court.

¹ Indicative proposed penalties only.

CONTRIBUTORS TO DEVELOPMENT OF CODE AND BEST PRACTICE LOCAL LAW

This Code of Practice and Best Practice Local Law were developed in 1999 by a consultative working group auspiced by the Building Policy Unit and Local Government Division of the Department of Infrastructure.

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