ATTACHMENT 2: Summary of proposed changes to the Protection of Council Assets and Control of Building Sites Local Law

Section	Local Law 2011	Summary of change	Comments
Table of Contents	**Update title of the document** Protection of Council Assets and Control of Building sites Local Law 2011 Date Resolved by Council 22 August 2011 Commencement Date: 1 September 2011 Revocation Date: 1 September 2011 **Removed Part B**: 8. Notice of intention to undertake building work 11. Protection of public infrastructure assets **Wording Part B:** 10. Changed from Applying for the security bond to Security Bond **Removed Part C:** 12. Control of building sites and replaced with new clauses **Part D - Administration and Enforcement** Removed: 15. Notice to comply - Moved to Part B Asset Protection 16. Urgent Inspection - Moved to Part B Asset Protection 18. Power of entry and inspection	**Update title of the document** Protection of Council Assets and Control of Building sites Local Law 2021 Date Resolved by Council XX Commencement Date: 1 September 2021 Revocation Date: 1 September 2031 Updated to include additional Clauses and numbering updates **Part B - Asset Protection** Addition of new clauses 9. Correction, amendment, cancellation and suspension 10. General permit provisions 11. Fees and charges 12. Delegation 13. Notice to Comply 14. Urgent circumstances 15. Impounding 16. Appeals 17. Security Bonds 18. Asset Protection Permit 19. Exemptions **Part C - Control of Building Sites** Addition of new clauses 20. Building work hours 21. Occupation of Council Land and Roads 22. Hoardings and other structures 23. Run off 24. Temporary cross over 25. Refuse facility 26. Toilets 27. Vehicles entering and leaving land 28. Requirement to maintain a safe environment 29. Amenity impacts from building sites 30. Damage to Roads, Council Land and Council Assets **Part D: Administration and Enforcement changed to Part D: Enforcement** 31. Offences 32. Infringement notices 33. Offences in relation to Authorised Officers Schedule A: Penalties fixed for Infringements	Changes reflect new clauses and rewrite of existing clauses to expand on specific aspects of enforcement in relation to building sites.
Part A – FORMAL PARTS	**1. Title** **This Local Law is called the "Protection of Council Assets and Control of Building Sites Local Law 2011"**	**1. Title** **Title amended**	

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		This Local Law is called the "Protection of Council Assets and Control of Building sites 2021"	
PART A – FORMAL PARTS	**2. Objects**	**2. Objects** Included additional Objects (d) protect the amenity of persons who reside near and pass by building sites; (e) provide for the administration and enforcement of this Local Law; and	Changes more accurately reflect the purpose of the Local Law
PART A – FORMAL PARTS	**3. Authorising provision** **This Local Law is authorised by section 111(1) of the *Local Government Act 1989***	**3. Authorising provision** **Amended to:** **This Local Law is authorised by section 111 of the *Local Government Act 1989***	
PART A – FORMAL PARTS	**4. Commencement of the Local Law**	4. **Commencement of the Local Law** Date changed from 2011 to 2021	
PART A – FORMAL PARTS	**5. Sunset of the Local Law**	**5. Sunset of the Local Law** Date changed from 2021 to 2031 unless revoked sooner by Council	A Local Law can be revoked prior to the Local Law sun setting
PART A – FORMAL PARTS	**7. Definitions** Definition of "Asset Protection Permit" removed "builder" means a person who has applied to Council (or any other person by 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. "building work" means work for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a building and includes landscaping, concreting, paving and subdivision road construction (extending to installation of utility services and drainage). Definition of "builders refuse" removed Definition of "building site" removed Definition of Council revised "Council" means Boroondara City Council and where this Local Law requires or empowers things to be done by Council, includes any member of Council staff to whom	**7. Definitions** Inclusion of the following definitions: "Act" means the Local Government Act 2020. "appointed agent" means a person authorised by an owner of land to make an application on the owner's behalf. "builder" means a person who has applied to the Council, or any other person by whom an application may be made, for a building permit or the person in charge of any building work being carried out, or the person identified on the building permit. Revised definition of "building work" "building work" includes work for or in connection with the construction, renovation, alteration, relocation, or removal of building and includes landscaping, concreting, paving and subdivision road construction (extending to installation of utility and drainage) Revised definition of "Council" "Council" means Boroondara City Council. Inclusion of "Local Law" "Local Law" means the Protection of Council Assets and	Extension of definitions provided for clarity and intent. Those removed have been well defined within the relevant sections of the Local Law Asset Protection removed as the Local Law references all Permits Building site removed - term is in plain language Definition of "building work" - minor change to improve clarity Builders refuse removed as not referenced in the Local Law Definition revised to be consistent with Council's other Local Laws

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	such requirement or power has been delegated. Definition of Council controlled land revised "Council-controlled land" means any land which Council occupies, manages or otherwise controls. Definition of Owner revised as incorrect "owner" means in relation to building work, the owner of land on which the building work is carried out. Definition of "permit" revised "permit" means a permit issued by Council in accordance with Clause 12 (c). Definition of "public infrastructure asset" removed "public infrastructure asset" means items, facilities or systems owned, managed or otherwise Controlled by Council which provide or facilitate a public service, including (but not limited to) roads, bike lanes, bicycle and shared paths, bicycle road and footpath markings, footpaths, stormwater systems, lighting, fencing, retaining walls, trees, landscaping, kerb and channel, traffic management devices, traffic signals, signs, line marking, nature strips, street furniture, car parks, bridges, buildings and structures. Definition of "security bond" removed "security bond" means a security bond required to be paid to Council in accordance with clause 9.6.	Control of Building Sites Local Law. Definition of "land" revised "land" has the same meaning as the *Interpretation of Legislation Act 1984.* Definition of "Council controlled land" revised "Council land" means any land which Council owns, occupies, manages, or otherwise controls. Inclusion of "Council Policy" "Council Policy" means a policy adopted by Council from time to time in connection with this Local Law. Correction of definition of Owner "owner" in relation to any land, has the same meaning as it has in section 3 of the *Local Government Act 1989.* Definition of "permit" revised "permit" means a permit granted under this Local Law or another local law made by Council. Definition of "penalty unit" removed. Definition of "public infrastructure asset" removed as no longer referenced in the Local Law Definition removed - term is in plain language and adequate explaining on Clause 17 – Security Bonds	
Part B – Asset Protection	**Part B – Asset Protection**	**Part B Asset Protection changed to Part B - ADMINISTRATION**	Change of Parts more accurately reflects the flow of work that occurs during building works. Starting with the requirement for a permit and relevant administration of the permit and related matters (Part B - Administration), requirements of the builder once the works commence (Part C - Asset Protection) and finally enforcement where breach occurs (Part D - Enforcement).

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Part B - Administration - Clause 8	Clause 8" Notice of intention to undertake building work" removed and replaced with Clause 8 "Permits" **8. Notice of intention to undertake building work** 8.1 An owner must not commence or allow or authorise anyone else to commence building work on the owner's land unless notice is given to Council in accordance with this clause. 8.2 The notice must be given to Council no less than 21 days before the building work commences. 8.3 The notice must be in writing and include: (a) the owner's name or, if more than one owner, the names of an owner nominated for the purposes of this clause; (b) the owner's residential address or, if more than one owner, the nominated owner's residential address; (c) an address for the service or posting of notices under this Local Law; (d) if the owner wishes to appoint an agent for the service or posting of notices, the name, residential address and postal address of the agent, together with evidence that the agent has agreed to being the appointed agent; (e) a description of the proposed building work including the costs of the building work. 8.4 The notice may include a written or photographic (or both written and photographic) survey showing the condition of public infrastructure assets located on, under or adjacent to the owner's land.	Clause 8 was previously Clause 9. Wording has been changed. **8. Permits** 8.1 Where occupation or activity on Council land is required, and that occupation or activity on Council land, person or class of persons have not been exempted from the requirement of a permit need to obtain a permit: 8.2 A person who makes an application for a permit must: 8.2.1 lodge with Council an application in a form approved by Council; 8.2.2 pay the application fee. 8.3 Council may require a person to provide additional information before further considering an application for a permit. 8.4 Council may require a person applying for a permit to give public notice of the application and if public notice is given any person may make a submission in relation to the application. 8.5 Council may: 8.5.1 grant the permit; 8.5.2 refuse to grant the permit; 8.5.3 grant the permit subject to conditions; or 8.5.4 determine that no permit is required. 8.6 in considering an application for a permit, Council must consider: 8.6.1 any policy or guideline adopted by Council relating to the subject matter of the application for the permit; 8.6.2 any written objection, submission or comment received in respect of the application, where they are invited under clause 8.3 above. 8.7 A permit will be in the form approved by Council from time to time and may include any condition which Council considers to be reasonable and appropriate, including but not limited to: 8.7.1 a requirement that a security bond, release, indemnity and/or guarantee (in a form specified by Council) be lodged with or given to Council to secure the proper performance of the permit; 8.7.2 a requirement that notice be given to Council as to when the activities authorised by the permit will be carried out or will occur; 8.7.3 a time limit on the permit or on the activities authorised by it; 8.7.4 a provision for the extension of the permit;	Clause 8 "Notice of intention to undertake building work" removed and replaced with Clause 8 "Permits" This clause was removed as it meant that if Council did not respond to a notification of the intention to complete building works within 21 days, Council had no recourse to ask the Owner/Builder to obtain a permit and security bond for the works. The requirement for an Asset Protection Permit has been included in Part B - Administration Clause 18. This inclusion ensures that all works requiring an Asset Protection Permit can be enforced.

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		8.7.5 the payment of a fee, charge, fare or rent; 8.7.6 a standard to be applied to the activities authorised by the permit, or to which the activities authorised by the permit must be carried out; 8.7.7 that the permit is conditional upon the rectification, remedying or restoration of any situation or circumstance; 8.7.8 where the applicant is not the owner of the land that the consent of the owner be obtained. 8.8 Unless otherwise stated in the permit, a permit authorises the person or persons named on the permit to carry out the activity authorised by the permit (including the engaging of contractors or the appointment of agents) and is not transferable.	
Part B - Administration - Clause 9 - Asset Protection Permits	**Clause 9** - Asset Protection Permits moved to Clause 18 and replaced with Clause 9 - Correction, amendment, cancellation and suspension **9. Asset Protection Permits** 9.1 Within 14 days of receiving notice pursuant to clause 8, Council must notify the owner or, if the owner has nominated an agent, the agent whether: (a) Council requires the owner to obtain an Asset Protection Permit in accordance with this clause; or (b) Council requires the owner to provide further information about the building work. 9.2 If Council notifies the owner or agent that it requires further information about the building work: (a) Council must specify in the notice what further information is required; (b) Council is not required to determine whether an Asset Protection Permit is required until the information is provided; (c) the owner must not commence building work until the information is provided. 9.3 If Council does not give notice in accordance with clause 9.1 or within 14 days of Council being provided the further information pursuant to clause 9.2, Council is deemed to have determined that an Asset Protection Permit is not required. 9.4 Where Council determines that an Asset Protection Permit is required, the owner must not commence building work until the owner obtains the Asset Protection Permit. 9.5 Council may from time to time determine: (a) the fee for an Asset Protection Permit, which fee may include different fees for different types of building work or according to the risk to public infrastructure assets from the building work;	Clause 9 - Asset Protection Permits removed and replaced with Correction, amendment, cancellation and suspension and General Permit Provisions **9. Correction, amendment, cancellation, and suspension** 9.1 Council may correct a permit if the permit contains: 9.1.1 a clerical mistake or an error arising from any accident, slip or omission; or 9.1.2 a material miscalculation of figures or a material mistake in the description of any person, premises, thing or property referred to in the permit. 9.2 Council may cancel, suspend or amend any permit at any time if: 9.2.1 it is requested to do so by the permit holder; or 9.2.2 it considers that there has been: 9.2.2.1 a material misrepresentation or concealment of fact in relation to the application for the permit; 9.2.2.2 any material mistake in relation to the grant of the permit; or 9.2.2.3 any material change of circumstances which has occurred since the grant of the permit; or 9.2.2.4 any default in the payment of a fee, security bond, guarantee or other payment, or in the provision of a release, indemnity or other thing, required by a permit. 9.3 Council may cancel or suspend a permit at any time if Council is satisfied that there has been a substantial failure to comply with: 9.3.1 a permit condition; or 9.3.2 a notice to comply relating to the premises, item or activity to which the permit relates. 9.4 Council may cancel or suspend a permit at any time where Council determines that the permit may result in a hazard,	New clause which enables Council to make amendments to a permit as required.

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	(b) the form of an application for an Asset Protection Permit; (c) the conditions under which an Asset Protection Permit is subject. 9.6 Without limiting clause 9.5, an Asset Protection Permit may be subject to such conditions as Council determines, including: (a) requiring the payment of a security bond; or (b) requiring protection works to be done; or (c) requiring the erection of temporary fencing to the satisfaction of Council; or (d) requiring that any or all damage to public infrastructure assets be repaired, replaced or re-instated within a specified time; or (e) requiring a temporary vehicle crossing to be installed and thereafter used to Council's satisfaction. (f) A combination of paragraphs (a) to (e) 9.7 An Asset Protection Permit expires if the building works are not commenced within 12 months of the Asset Protection Permit being issued. 9.8 Where an Asset Protection Permit is issued subject to a condition that the owner pay a security bond: (a) Council may set the amount of the security bond; (b) the building work must not commence until the security bond is paid in full to Council; (c) Council must retain the security bond and only apply it towards the cost of repairing damage to a public infrastructure asset in accordance with clause 10; (d) Council must refund the security bond to the owner if, after the building work is completed: i. the owner gives notice to Council, and ii. Council does not apply the security bond in accordance with clause 10 within 30 days of such notice being given.	danger or inconvenience to any other person, premises, thing, or property.	
Part B - Asset Protection - Clause 10 - Applying for the security bond	**Part B - Administration - Clause 10 - Applying for the security bond** Moved to **Clause 17** and renamed "Security bonds" Wording changed to reflect requirement for a Security Bond 10.11. Applying the security bond 10.1 Council may at any time cause a public infrastructure asset which is on, under or adjacent to the owner's land to be inspected to record the condition of the public infrastructure asset including: (a) before the building work commences; (b) during the building work; (c) after the building work is completed; and	**Part B - Administration - Clause 10 - Applying for the security bond moved to Clause 17** Moved to Clause 17 and renamed "Security bonds" Wording changed to reflect requirement for a Security Bond, process for determining the bond, how a bond may be used and release of the bond **17. Security Bonds** 17.1 In deciding to grant a permit, Council may, at any time, require the applicant to lodge or provide to Council a security bond or guarantee in such amount and in such a manner as Council determines.	

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	(d) after notice is received in accordance with clause 9.8(d). 10.2 Where Council causes an inspection of the public infrastructure asset to be undertaken in accordance with this clause, the person undertaking the inspection must record in writing or photographically (or both written and photographically) the condition of the public infrastructure asset. 10.3 The recording of the public infrastructure asset is conclusive evidence of the condition of the public infrastructure asset as at the time the recording was made. 10.4 Where Council has issued an Asset Protection Permit subject to a condition that the owner pay a security bond and the recording of a public infrastructure asset made in accordance with this clause indicates damage to the public infrastructure asset: (a) the damage shall be deemed to have been caused by the building work on the owner's land unless the owner had included a survey with the notice required to be given under clause 8 and the survey indicates that the damage existed before the building work commenced; (b) Council may give a notice to the owner or the agent requiring the owner to repair the damage to Council's satisfaction within the time specified in the notice; (c) if the public infrastructure asset is not repaired to Council's satisfaction within the time specified in the notice, Council may arrange to repair the public infrastructure asset without any further notice to the owner or agent; and (d) if Council arranges to repair the public infrastructure asset in accordance with this clause, Council may deduct the cost of the repair from the security bond and i. if the security bond is more than the cost of the repair, refund the balance to the owner; or ii. if the security bond is less than the cost of repair, recover the additional cost of the repair from the owner as a debt.	17.2 In the event that a person to whom a permit is issued breaches or fails to comply with the permit conditions attached to the permit or this Local Law, Council may apply so much of the security bond or guarantee as is necessary to remedy that breach or failure to comply and repair any damage caused by that breach or failure to comply. 17.3 In the event that the security bond or guarantee is insufficient to remedy the breach or failure to comply and repair any damage caused by that breach, the person to whom a permit is issued is liable for the additional cost of the repair. 17.4 Upon expiry of a permit, Council must, unless clause 17.2 applies, release any remaining security bond or guarantee to the person who paid the security bond or guarantee. 17.5 If, there is any remaining amount which would be released pursuant to clause 17.4, and Council cannot locate the person entitled to the money, the money must be dealt with in accordance with the Unclaimed Money Act 2008.	
Part B - Asset Protection **New Clause 10 - General permit provisions**	N/A	**New Part B - Administration - Clause 10** **10 General permit provisions** 10.1 The holding of a permit or compliance with a condition included in a permit does not of itself relieve the permit holder from: 10.1.1 compliance with any other legislation with respect to the subject matter of the permit; or 10.1.2 liability for any damage sustained by any person as a result of an activity undertaken by or on behalf of the permit holder pursuant to the permit.	New clause which enables Council to enforce matters which sit outside the conditions stated on a permit. Updated expiry date on the permit from 1yr to 3 years to allow for building work that is delayed or requires greater than one year to complete e.g. multi-storey developments. The changes reduce the administrative requirement for the applicant and Council to renew a permit every year. It is Council's experience that the majority in building works are completed within 3 years. .

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		10.2 A person who: 10.2.1 makes or allows to be made any false representation or declaration in or in relation to the application for a permit; or 10.2.2 omits relevant information from an application for a permit – is guilty of an offence. 10.3 Except where expressly stated in this Local Law or in a permit, the permit will operate from the date it is granted for a period of 3 years.	
Part B - Asset Protection - Clause 11 Protection of public infrastructure assets **New Clause 11 - Fees and Charges**	Clause 11 Protection of public infrastructure assets removed and replaced with New Clause 11 - Fees and Charges 11.1 Without limiting clauses 8, 9 and 10, the owner of land upon which building work is undertaken is liable for damage caused to a public infrastructure asset by the building work. 11.2 Where an owner: (a) fails to give notice in accordance with clause 8; or (b) gives notice in accordance with clause 8 but did not include a survey of the public infrastructure assets with such notice in accordance with clause 8.4 - any damage to a public infrastructure asset evidenced by a recording made in accordance with clause 10 is deemed to have been caused by the building work. 11.3 Where an Authorised Officer is satisfied that damage to a public infrastructure asset was caused by building work carried out on the owner's land or is deemed by this clause to have been caused by such building work, the Authorised Officer may give the owner notice directing the owner to repair the damage to the satisfaction of Council and within the time specified in the notice, which time must be reasonable having regard to: (a) the degree of risk or potential risk; (b) the amount of work involved; (c) the degree of difficulty; (d) the availability of necessary materials or other necessary items; (e) climatic conditions; or (f) any other relevant matter.	Clause 11 Protection of public infrastructure assets removed and replaced with New Clause 11 - Fees and Charges - See below.	Clause 11 covered under Clause 13 Notice to comply
Part B - Asset Protection **New Clause 11 - Fees and Charges**	**Previously Section B Asset Protection - Clause 9.5** Council may from time to time determine: a) the fee for an Asset Protection Permit, which may include different fees for different types of building work; b) the form of an application for an Asset Protection Permit	**Part B - Administration** **New Clause 11 Fees and charges** 11.1 Council may from time to time, by resolution, determine the fees and charges to apply under this Local Law, which may include an administrative or processing fee or	Provision with respect to fees and charges has been expanded upon to provide greater clarity and intent.

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	c) the conditions under which an Asset Protection Permit is subject.	charge, and Council must give reasonable public notice of its resolution to determine or alter fees and charges. 11.2 In determining any fees and charges, Council may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so. 11.3 Council may waive, reduce or alter any fee, charge, bond, guarantee or payment applying under this Local Law, with or without conditions.	
Part B - Asset Protection **New Clause 12 Delegation**	N/A	**Part B - Administration** **New Clause 12 Delegation** 12.1 Pursuant to section 78(c) of the Act, Council delegates all of its powers, functions and duties under this Local Law to the person holding the position of Chief Executive Officer. 12.2 Pursuant to section 78(d) of the Act, Council authorises the person holding the position of Chief Executive Officer to delegate a power, function or duty referred to in clause 12.2 to the holder of a position as a member of Council staff.	New clause added to provide clarity regarding powers of delegation.
Part B - Asset Protection **New Clause 13 Notice to comply**	**Part D Administration and Enforcement** New Clause 13 Notice to comply, previously Part D Administration and Enforcement - Clause 15 **15. Notice to comply** 15.1 An Authorised Officer may, by giving a Notice to Comply, direct the owner or occupier of land or other relevant person to remedy any situation which constitutes or may constitute a breach of this Local Law. 15.2 The time specified in a Notice to Comply given under this Local Law must be reasonable in the circumstances having regard to: (a) the degree of risk or potential risk involved in the work; (b) the amount of work to be performed in order to comply with the Notice to Comply; (c) the degree of difficulty of that work; (d) the availability of necessary materials or other necessary items; (e) climatic conditions. 15.3 A person who fails to observe any requirement specified in a Notice to Comply is guilty of an offence.	**Part B - Administration** New Clause 13 Notice to comply, previously Part D Administration and Enforcement - Clause 15 **13. Notice to Comply** 13.1 If Council reasonably believes that a person has contravened or failed to comply with the Local Law or a permit granted under this Local Law, Council may cause to be served on the person a written notice to comply which: 13.1.1 requires the person to stop contravening or failing to comply with the Local Law or a permit; 13.1.2 contains a direction stating what action is required to stop contravening or failing to comply with the Local Law or a permit; 13.1.3 contains a direction stating what action is required to achieve compliance with this Local Law or a permit; 13.1.4 contains a direction to remedy any consequences arising from the conduct contravening or failing to comply with the Local Law or a permit; or 13.1.5 any combination of the above. 13.2 A notice to comply must be in writing and include: 13.2.1 the name of the person or if not known the statement "the owner" or "the occupier"; 13.2.2 the clause of the Local Law contravened or failed to comply with or the condition of the permit; 13.2.3 the action and/or direction; 13.2.4 the time and date for compliance;	Clause moved from Part D Administration and Enforcement to Part B Administration and wording changed. Administrative function prior to enforcement. This clause has been expanded to specify and clarify the requirements to be included in a Notice to Comply.

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		13.2.5 the date on which it is issued; and 13.2.6 the name the name or other unique identifier of the officer issuing the notice to comply. 13.3 The time and date required by a notice to comply served under this Local Law must be reasonable in the circumstances and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable: 13.3.1 the amount of work involved; 13.3.2 the degree of difficulty to carry out the work; 13.3.3 the availability of necessary materials or other necessary items; 13.3.4 climatic conditions; 13.3.5 the degree of risk or potential risk; 13.3.6 the response if any by the person to be served with the notice to comply; and 13.3.7 any other relevant matter impacting ability to complete works. 13.4 Any person to whom a notice to comply is directed and who fails to comply with, or contravenes, the notice to comply is guilty of an offence. 13.5 If a person does not comply with a notice to comply, Council or an authorised officer or any employee or any other person authorised in writing by Council or an authorised officer, may enter upon any private land or public land on which there is any such failure to comply and do all acts, matters or things that are required to comply with the notice to comply. 13.6 All costs and expenses including any administration fee incurred by council in carrying out any acts, matters or things are a debt due to Council from the person on whom the notice to comply was issued.	
Part D - Administration and enforcement moved to Part B Administration	**Part D - Administration and enforcement - Clause 16 Urgent Circumstances** **16. Urgent circumstances** 16.1 In urgent circumstances arising as a result of a failure to comply with this Local Law, an Authorised Officer may take action to remove, remedy or rectify a situation without first giving a Notice to Comply, provided that: (a) it appears to the Authorised Officer that a breach of this Local Law is likely to occur, is occurring or has occurred; (b) the Authorised Officer considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with giving a Notice to Comply may place a person, property or thing at risk or in danger; and	Part D - Administration and enforcement - Clause 16 Urgent Circumstances moved to Part B Administration - Clause 14 Urgent Circumstances **14 Urgent circumstances** 14.1 Council may act to remedy any circumstance which threatens a person's life, health or property, or an animal, or to prevent any danger to the environment or any nuisance arising, without serving a notice to comply, provided that: 14.1.1 the circumstance arises out of a person's use of Council Controlled land or a road or a failure to comply with a provision of this Local Law 14.1.2 Council considers the circumstance to be sufficiently urgent that the time necessary to serve, or the potential difficulty in serving, a notice to comply may place the person's	Clause moved to Administration as the decision to exempt a permit due to urgent circumstances is determined when Council is notified of the works, prior to granting a permit. Wording updated for clarity.

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	(c) wherever practicable, the prior consent of Council's Chief Executive Officer, or his or her delegate, is obtained. 16.2 In deciding whether circumstances are urgent, the Authorised Officer must take into account, to the extent relevant: (a) whether it is practicable to contact the person by whose default the situation has arisen; or (b) whether there is an urgent risk or threat to public health, public safety, the environment or property. 16.3 An Authorised Officer who takes action under this clause 16 must ensure that as soon as practicable: (a) details of the circumstances and remedying action are forwarded to the person in breach of the provision of this Local Law in respect of which the action was taken; and (b) a report of the action taken is submitted to the Chief Executive Officer. 16.4 Any costs incurred by Council to remove, remedy or rectify a situation under this clause 16 may be recovered by Council from the person responsible.	life, health or property, or the animal or the environment at risk or the danger of substantial detriment; 14.1.3 the action taken is no more than the minimum necessary to remedy the urgent circumstance; 14.1.4 the person on whom a notice to comply under clause 13 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it; and 14.1.5 All costs and expenses including any administration fee incurred by Council in carrying out any acts, matters or things are to be paid to Council by the person on whom the notice to comply would have been issued.	
Part B - Asset Protection **New Clause 15- Impounding**	N/A	**Part B - Administration** **New Clause 15 - Impounding** 15.1 Council may seize and impound any item which is, has been or is being used, possessed, placed, or left in contravention of or by a failure to comply with this Local Law. 15.2 Where an item has been impounded under this Local Law, Council must, if it is practicable to do so, serve notice of the impounding on the person who appears to be the owner of it; 15.3 On receipt of evidence that, to Council's satisfaction, shows that a person is the owner of an impounded item, and on payment of a fee determined by Council, an impounded thing must be given back to: 15.3.1 its owner; or 15.3.2 a person who provides satisfactory evidence to Council of his or her authority from the item's owner to act on the owner's behalf. 15.4 Where an impounded item has not been claimed within 30 days of notice being given in accordance with clause 15.2, or within 30 days of the thing being impounded if it is not practicable to serve notice of the impoundment in accordance with clause 15.2, Council may: 15.4.1 sell the impounded thing and recover the costs of the impounding and storage of the thing; or	No provision in the current local law to remove items from Council land. The new clause enables Council to remove any items on Council land that are not permitted to be there and may pose a risk to the community.

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		15.4.2 if the cost of selling the thing exceeds the costs of the impounding and storage, destroy, or give away the thing as the case requires. 15.5 if the thing is sold and the amount recovered exceeds the costs of the impounding and the storage of the thing, the excess of the money must be returned to the owner of the thing or dealt with in accordance with the *Unclaimed Money Act 2008.*	
Part B - Asset Protection **New Clause 16- Appeals**	N/A	**Part B - Administration** **New Clause 16 - Appeals** 16.1 A person who has been issued with a notice to comply may request Council to review the decision to issue the person with the notice to comply. 16.2 Where a request for the review of the decision to issue a notice to comply has been made, the person requesting the review must do everything practicable to cooperate in the prompt and timely review of the decision to serve the notice to comply. 16.3 Unless Council notifies the person to the contrary, the person must still comply with a notice to comply.	This clause enables a person who has been issued a notice to comply provision to appeal the decision, where no review process previously existed.
Part B - Asset Protection **New Clause 19 - Exemptions**	N/A	**Part B - Administration** **New Clause - Exemptions** 19.1 Council or an authorised officer may exempt any person or class of persons from the requirement to obtain a permit: 19.1.1 on application; 19.1.2 on its own motion; or 19.1.3 by way of Council Policy. 19.2 An exemption granted under clause 19.1 may: 19.2.1 operate for a specified period; and 19.2.2 be subject to conditions. 19.3 Council or an authorised officer may require an applicant under clause 19.1.1 to provide additional information before determining an application for an exemption. 9.4 A person must comply with the conditions of an exemption granted under this clause 19.	The current Local Laws requires all building works to obtain a permit. This clause enable a person undertaking works of a minor nature that are determined to be unlikely to impact Council Assets and/or deemed urgent an exemption from applying for a permit.
Part C - Control of Building Sites	**Part C - Control of building sites Clause 12 - Controlling building sites**	Part C - Control of building sites Clause 12 - Controlling building sites - removed and replaced Part C - Control of Building Sites	Part C – Control of building sites contains only one clause which is inadequate to ensure that building sites do not unduly impact on the amenity of the area,

Section	Local Law 2011	Summary of change	Comments
	12. Controlling building sites A builder must undertake building work so as to: (a) not allow the discharge of building refuse from the building site; (b) not damage public infrastructure assets; (c) not, without a permit, place any materials, vehicles, structures, plant or equipment associated with the building work on Council-Controlled land; (d) provide a facility or facilities of sufficient size and design on the building site for the storage of building refuse until such time as the building refuse is disposed of; (e) regularly empty the facility or facilities referred to in paragraph (d) so as not to cause a build-up of building refuse and, without limitation, within 7 days of completion of the building work;	Refer to new clauses below	cause environmental impacts and damage Council assets. Further clauses have been included to ensure all aspects of building works can be adequately enforced.
Part C - Control of Building Sites **New Clause 20 - Building work hours**	N/A	**Part C - Control of Building Sites** **New Clause 20 - Building work hours** 20.1 A person must not, without a permit, carry out or allow to be carried out, building work for which a building permit has been granted, or is required, pursuant to clause 18 between the following hours: 20.1.1 before 7am or after 6pm on a Monday to Friday (inclusive); 20.1.2 before 9am or after 5pm on a Saturday; 20.1.3 on a Sunday; or 20.1.4. on a public holiday. 20.2 Clause 20.1 does not apply to: 20.2.1 any employee or agent of an out of hours permit holder; 20.2.2 any building work required because of an emergency; 20.2.3 any building work which is subject to a permit issued under the Planning and Environment Act 1987 if that permit contains a condition which: 20.2.3.1 restricts the times during which building work may be performed; and 20.2.3.2 the condition is more restrictive than clause 20.1; or 20.2.4 any person to whom section 48A(5) of the Environment Protection Act 1970 applies; or 20.2.5 building work which is carried out by an occupier or owner of land being home maintenance.	New clause to cater for "building works" under the new Local Law. Excludes a resident that is completing maintenance on their home. Change in hours aim to reduce the burden of construction fatigue on residents with a later start time on Saturdays (from 8am to 9am)
Part C - Control of Building Sites	N/A	**Part C - Control of Building Sites** **New Clause 21 - Occupation or Obstruction of Council**	New clause to cater specifically for Occupation of Council Land in relation to Building Works where none existed.

Section	Local Law 2011	Summary of change	Comments
New Clause 21 Occupation of Council Land		**land and roads** 21.1 A person must not, without a permit: 21.1.1 place any building materials, plant, equipment or any other thing associated with building work on a road or Council land; 21.1.2 erect or install anything associated with building work on a road or Council land; 21.1.3 occupy a road or Council land in connection with, or for the purposes of, building work; or 21.1.4 obstruct a road or Council land in connection with, or for the purposes of, building work. 21.2 If clause 21.1 above is contravened, the builder is also guilty of an offence, whether the person who contravened clause 21.1 above is identified or prosecuted. 21.3 Clause 21.1 does not apply to a delivery of any building materials associated with building work, plant or equipment, or any other thing on a road or Council land which is less than half an hour in duration.	
Part C - Control of Building Sites **New Clause 22. Hoardings and other structures**	N/A	**Part C - Control of Building Sites** **New Clause 22 - Hoardings and other structures** 22.1 A person must not, without a permit, place or construct any hoarding, scaffolding or other structure on or over a road or Council land.	New clause to cater specifically for Hoardings and other structures in relation to Building Works where none existed.
Part C - Control of Building Sites **New Clause 23 Run off**	N/A	**Part C - Control of Building Sites** **New Clause 23 - Run off** 23.1 Where building work is being carried out on any land the owner, the builder, and any appointed agent must ensure that contaminated water, including, run off of chemicals, sediments, concrete, soil, wash down, animal waste and other pollutants does not enter the storm water system from the land or the washing or cleaning of tools or in any other way. 23.2 The builder will be guilty of an offence for a breach of clause 23.1.	New clause to cater specifically for run off in relation to Building Works where none existed. Council has received a number of complaints in relation to damage to assets caused by run off. Run off from building sites can pollute waterways and significantly damage the storm water network.
Part C - Control of Building Sites **New Clause 24 Temporary cross over**	N/A	**Part C - Control of Building Sites** **New Clause 24 - Temporary cross over** 24.1 Where building work is to be carried out, the owner, the builder and any appointed agent must not, without a permit,	New clause to cater specifically for temporary cross over in relation to Building Works where none existed.

Section	Local Law 2011	Summary of change	Comments
		place or construct a temporary vehicle cross over on a road or Council land. 24.2 The owner and the builder will each be guilty of an offence for a breach of clause 24.1.	
Part C - Control of Building Sites **New Clause 25 Refuse facility**	N/A	**Part C - Control of Building Sites** **New Clause 25 - Refuse facility** 25.1 Where building work is being carried out on any land, the owner, the builder and any appointed agent must ensure that: 25.1.1 a facility is provided for refuse which is of a size and construction to adequately contain all refuse generated on the land during the building work; 25.1.2 the facility remains on the land for the duration of the building work (other than when required to be emptied); 25.1.3 the facility is not placed on Council land or a road without a permit under Council's Amenity Local Law or any other applicable law; and 25.1.4 the facility is emptied whenever full and promptly replaced (if necessary). 25.2 During building work: 25.2.1 the owner of land on which the building work is being carried out; or 25.2.2 the builder engaged to carry out the building work; or 25.2.3 any appointed agent- must ensure that: 25.2.4 all refuse which requires containment is placed in the facility provided under clause 25.1; 25.2.5 the refuse is not deposited in or on any land other than in accordance with clause 25.1, and 25.2.6 the builder's refuse is not deposited in or over any part of the storm water system. 25.3 On any land where building work is being, or has been, carried out: 25.3.1 the owner of the land on which the building work is being, or has been, carried out; 25.3.2 the builder engaged to carry out the building work; and 25.3.3 any appointed agent- must remove and lawfully dispose of all refuse, including refuse in the facility provided under clause 25.1, within seven (7) days of the completion of the building work or issue of an occupancy permit, whichever occurs last. 25.4 The driver of any vehicle involved in placing or removing a facility provided under clause 25.1 on or from land must access the land by way of a temporary vehicle crossing installed or constructed in accordance with this Local Law.	New clause to cater specifically for refuse facility in relation to Building Works where none existed.

Section	Local Law 2011	Summary of change	Comments
Part C - Control of Building Sites **New Clause 26 Toilets**	N/A	**Part C - Control of Building Sites** **New Clause 26 - Toilets** 26.1 The: 26.1.1 owner of land on which building work is being carried out; 26.1.2 builder engaged to carry out the building work; and 26.1.3 appointed agent- must not undertake or carry on any building work necessitating the employment or engagement of persons on the land unless: 26.1.4 a sewered toilet or a fresh water flush with water seal type portable toilet (closed) system is provided on the land; and 26.1.5 the toilet system provided under clause 26.1.4 is serviced as required, and in any event at lease monthly, to the satisfaction of Council or an authorised officer. 26.2 A toilet must not, without a permit, be placed on or occupy a road or Council land. 26.3 Clause 26.1 does not apply if: 26.3.1 buildings are being constructed on adjacent pieces of land simultaneously by the same person; 26.3.2 there is at least one (1) toilet system provided under and in accordance with this clause 26 on one of those pieces of adjacent land; and 26.3.3 that toilet system services no more than three pieces of adjacent land on which building work is being undertaken.	New clause to cater specifically for toilets in relation to Building Works where none existed.
Part C - Control of Building Sites **New Clause 27 Vehicles entering and leaving land**	N/A	**Part C - Control of Building Sites** **New Clause 27 - Vehicles entering and leaving land** 27.1 The owner of the land on which building work is being carried out, the builder and any appointed agent must ensure that: 27.1.1 a motor vehicle enters or leaves the land on which building works are being carried out via a vehicle crossing or temporary vehicle crossing; 27.1.2 soil, earth, clay, or other debris is not deposited on a road from a vehicle entering or leaving the land.	New clause to cater specifically for vehicles entering and leaving land in relation to Building Works where none existed.
Part C - Control of Building Sites **New Clause 28 Requirement to maintain a safe environment**	N/A	**Part C - Control of Building Sites** **New Clause 28 - Requirement to maintain a safe environment** 28.1 The owner, the builder, and a person in charge, of any: 28.1.1 land on which building works are being undertaken; or 28.1.2 vehicle parked on or adjacent to any road or Council	New clause to cater specifically for requirement to maintain a safe environment in relation to Building Works where none existed.

Section	Local Law 2011	Summary of change	Comments
		land, must ensure that the land is maintained, and the vehicle is parked and loaded, in such a way so as not to cause or potentially cause any: 28.1.3 injury to a person or animal; 28.1.4 damage to a Council owned or Controlled asset or any other asset not owned or Controlled by the owner or person in charge; or 28.1.5 detriment to the amenity of adjacent land or the neighbourhood.	
Part C - Control of Building Sites **New Clause 29 Amenity impacts from building sites**	N/A	**Part C - Control of Building Sites** **New Clause 29 - Amenity impacts from building sites** 29.1 The owner, the builder, and a person in charge, of any land on which building works are being undertaken is guilty of an offence if the amenity of the area is detrimentally affected by the emission of noise, dust, dirt, odour, litter, vermin or in any other way.	New clause to cater specifically for amenity impacts from building sites where none existed.
Part C - Control of Building Sites **New Clause 30 Damage to Roads, Council Land and Council Assets**		**Part C - Control of Building Sites** **New Clause 30 - Damage to Roads, Council land and Council Assets** 30.1 A person who is carrying out building work must not without a permit, remove, destroy, damage, or interfere with any road, Council land or other Council asset. 30.2 If any road, Council land or other Council asset is removed, destroyed, damaged or interfered with the person who removed, destroyed, damaged or interfered with the road, Council land or other Council asset and the builder are guilty of an offence. 30.3 A permit is evidence of a consent given under the Road Management Act 2004.	New clause to cater specifically for damage to Roads, Council Land and Council Assets in relation to Building Works where none existed.
Part D - Administration and enforcement changed to Part D Enforcement	**Part D - Administration and enforcement**	**Part changed to Part D - Enforcement**	Administrative function of the local law moved to Part B. This section retitled and focuses on Enforcement
Part D - Administration and enforcement	**Part D - Administration and Enforcement** **Clause 13** (b) fails to comply with a condition of an Asset Protection Permit; 13.3 In addition to any penalty imposed pursuant to this Local Law, a penalty not exceeding 2 penalty units will	**Part D - Enforcement** Re-worded 31.1.2 fails to comply with a condition of a permit; Re-worded 31.3 In addition to any penalty imposed pursuant to this Local Law, a penalty not exceeding 2 penalty units will apply	Enables Officers to enforce any type of permit issued in relation to building works conducted on Council land e.g. Road opening permit.

Section	Local Law 2011	Summary of change	Comments
	apply for each day after conviction for an offence during which a contravention of this Local Law continues.	for each day that a contravention of this Local Law continues after a finding of guilt or conviction for an offence against it.	
Part D - Administration and enforcement **Clause 13 Offences**	N/A	**Part D - Enforcement** **Moved from Clause 13 to Clause 31**	
Part D - Administration and enforcement **Clause 14 Infringements**	**Part D - Administration and enforcement** **Clause 14 - Infringement Notices** 14.1 Where an Authorised Officer reasonably believes that a person has committed an offence against this Local Law, the Authorised Officer may issue and serve on that person an infringement notice as an alternative to prosecution for the offence. 14.2 If an offence is a continuing offence, an Infringement Notice may be issued on each day the offence continues. 14.3 The penalty indicated must be paid to Council within twenty eight (28) days of the issue of the Infringement Notice, to avoid prosecution. 14.4 A person issued with an Infringement Notice is entitled to not pay the penalty indicated in the Infringement Notice and, instead, to defend a prosecution in Court.	**Part D - Enforcement** Revised wording for clarity Moved from Clause 14 to Clause 32 32.1 Where an authorised officer reasonably believes that a person has contravened or failed to comply with this Local Law the authorised officer may issue an infringement notice. 32.2 Where an infringement notice is issued under this Local Law the penalty payable in respect of the infringement notice is: 32.2.1 the amount specified in Schedule A; or 32.2.2 if no amount is specified in Schedule A, 5 penalty units.	Revised wording for clarity
Part D - Administration and enforcement **Clause 17 Offences in relation to Authorised Officers**	**Part D - Administration and enforcement** **Clause 17 - Offences in relation to Authorised Officers** 17.1 A person must not give information that the persons knows or believes to be false to an authorised officer who is performing a function under this Local Law	**Part D - Enforcement** **Moved from Clause 17 to Clause 33**	
Part D - Administration and enforcement **Clause 14 Infringements**	**As per Part D - Administration and Enforcement** **Clause 14 Infringement** **14.6 Where an Infringement Notice is issued under this Local Law the penalty payable in respect of Infringement Notice will be:** **(a) with respect to clause 9.4 - five (5) penalty units; or** **(b) with respect to all other clauses - two (2) penalty units.**	**Schedule A - Penalties Fixed for Infringement** **Clause 14.6 replaced with Schedule A- Penalties Fixed for Infringement** **Schedule A lists 32 Penalties related to Offences of the Local Law**	Penalties have increased to act as a deterrence to non-compliance. Additionally a person can receive multiple infringements where previously they would only receive one for the breach of a permit condition or Clause 12 Controlling building sites. Example; 18.1.5 Person carries out or allows to be carried out building work on the land without obtain a permit (10 penalty units) 23.1 Person did not ensure contaminated water did not enter storm water system (10 Penalty units) Total infringement amount $2000.

Section	Local Law 2011	Summary of change	Comments