



**MORNINGTON
PENINSULA**
Shire



**COMMITTED TO A
SUSTAINABLE
PENINSULA**



BUILDING AND WORKS CODE OF PRACTICE

**ANNEXURE TO
GENERAL PURPOSES
LOCAL LAW
(2012)**

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PART 1 - INTRODUCTION

BACKGROUND

1. This Code of Practice (**the Code**) has been developed as a tool to manage the effects of building development within the Mornington Peninsula Shire, enhancing sustainable infrastructure and supporting the wellbeing of local communities and the environment.

In accordance with Goal 5.2.2 of the Community Plan, to manage and protect community assets and services to minimise operational risk, the Code describes minimum performance requirements and encourages responsible site management to reduce infrastructure damage and protect public amenity and safety. The Code applies to developments of broadacre subdivisions, suburban infill and rural development, commercial, industrial and residential building and demolition activities.

Major types of infrastructure damage occurring within the Mornington Peninsula Shire include:

- broken footpaths, kerb and drainage pits
- Road pavement damage (sealed and unsealed)
- silt on Roads and in Drains
- dispersal of Builder's Refuse
- pollution of downstream and receiving water bodies.

OBJECTIVE OF THE CODE

2. The objective of the Building and Works Code of Practice is to protect public assets and infrastructure during Building Work and to provide an environment where activities on and related to Building Sites and Building Work complement the safety and amenity of the public and the community.

PART 1 – INTRODUCTION (CONT'D)

RELATIONSHIP BETWEEN THE CODE AND THE LOCAL LAW

3. The Code has been incorporated by reference in Council's General Purpose Local Law (**Local Law**).

Clause 38 of the Local Law provides that:-

- “(1) A person in charge of a building site or a works site for which a building permit or works permit has been issued must comply with any conditions or requirements in the Council's *Building and Works Code of Practice*.
- (2) A person in charge of a building site or a works site on land within the Urban Growth Boundary under the Planning Scheme for which a building permit or works permit has been issued, must also obtain an Asset and Amenity Protection Permit prior to the commencement of work on the building site or works site.
- (3) The requirement of this provision do not apply where minor building work is being undertaken.”

DEFINITIONS

4. Any word defined in the Local Law has the same meaning in the Code. Further, in the Code:

'Asset and Amenity Protection Permit' means a written permit issued by Council for the protection of public assets and infrastructure during Building Work.

'Builder' means a person who has applied for a building permit or, if no such application has been made, the person in charge of any Building Work being carried out.

'Builder's 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, food wrappers and containers, 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.

PART 1 – INTRODUCTION (CONT'D)

DEFINITIONS (CONT'D)

4. (cont'd)

'Building Site' means any parcel of Land on which Building Work is occurring as defined herewith.

'Building Work' means work for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a Building or installation of a swimming pool including landscaping, concreting, Subdivision and Road construction.

'Construction Period' means the period in which Building Work is carried out.

'Council Officer' means any person appointed in writing by Council to be an Authorised Officer or delegate for specified purposes or functions in accordance with an Act or regulation.

'Hoarding' means an enclosure that separates a Building Site from adjacent properties during Building Works within commercially zoned precincts or areas of significant numbers of people.

'Minor Building Work' means Building Work valued at less than \$10,000, excluding demolition and removal of Buildings and structures and installation of swimming pools (regardless of value).

'Owner' in relation to a Building means the Owner of Land on which the Building is situated.

'Refuse Facility' means a suitable rubbish receptacle capable of restricting debris and other waste from leaving a Building Site.

'Site Fencing' means an enclosure that separates a Building Site from adjacent properties during Building Work, and;

- i. is not less than 1.5 metres in height,
- ii. is capable of preventing litter from being transported from the Building Site by wind,
- iii. has not more than one access opening to the Building Site which is:
 - fitted with gates not less than 1.5 metres in height that prevents litter from being transported from the Building Site by wind,
 - located to correspond with the location of the Vehicle Crossing for the Building Site,
 - kept closed at all times when Building Work is not in progress.

PART 1 – INTRODUCTION (CONT'D)

DEFINITIONS (CONT'D)

4. (cont'd)

'Site Identification' means a sign which is at least 600 millimetres in height and 400 millimetres in width, is erected at the entrance to the Building Site and is clearly visible from the Road, and includes;

- i. the lot number, as described on the Certificate of Title relevant to the land;
- ii. the name of the Person in Charge of the Building Site;
- iii. the postal address of the Person in Charge of the Building Site;
- iv. the contact telephone number or numbers for the person in charge of the building site.

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

'Temporary Vehicle Crossing' is a structure or material placed that extends from the Road to the property boundary or to within the property boundary, sufficient to minimise the damage to public assets such as kerbs and Footpaths and to stabilise ground so as to minimise the amount of mud or debris being trafficked by motor vehicles and materials entering and leaving the property during the currency of Building Work.

'Vehicle Crossing' is a physical means of entry or exit for vehicles from adjoining land to a roadway;

PART 2 – ASSET PROTECTION

ASSET AND AMENITY PROTECTION PERMIT

5. For the protection of public assets vested in Council and for the protection and safety of persons on, adjacent to, opposite, or passing a Building Site, Council requires the person in charge of a Building Site or works site for which a building permit or planning permit has been issued to undertake Building Work, but not including Minor Building Work, to obtain an Asset and Amenity Protection Permit: see clause 38 of the General Purposes Local Law.
- a. On the payment of an application fee, Council may grant an Asset and Amenity Protection Permit in respect of a Building Site.
 - b. An Asset and Amenity Protection Permit may allow a person to enter a Building Site from a Road other than by a permanently constructed Vehicle Crossing whether or not public assets or infrastructure are likely to be damaged.
 - c. An Asset and Amenity Protection Permit may be subject to such conditions as Council determines including: -
 - i. requiring protection works to be done
 - ii. requiring the erection of Site Fencing or Hoardings to the satisfaction of Council
 - iii. requiring that any or all public assets or infrastructure damage be repaired, replaced or re-instated within a specified time
 - iv. requiring a Temporary Vehicle Crossing to be installed to Council's satisfaction before the commencement of any Building Work or delivery of any materials to the property, and be maintained for the duration of the Building Work.
 - d. The person in charge of a Building Site must repair, to the satisfaction of Council, damaged Roads, Channels, Drains, Vehicle Crossings or other assets vested in Council which has been determined referable to the Building Site for which a permit has been obtained.
 - e. If a Council Officer identifies that damage has occurred as a result of non-compliance with the Code, the Council Officer may arrange for the damage to be reinstated and may seek reimbursement for costs associated with reinstatement, including administrative charges

PART 3 – SITE CONTAINMENT & IDENTIFICATION

SITE CONTAINMENT

6. The person in charge of a Building Site must ensure that;
- a. All Building Work is contained entirely within the Building Site.
 - b. Prior to the commencement of any Building Work, a Building Site must be provided with a Hoarding or Site Fencing.
 - c. Site Fencing is to be erected on the boundary of the Building Site's property line, and must not protrude in or on any Land other than the Building Site where practicable.
 - d. If a Builder has more than one adjoining Building Site then the Site Fencing may enclose all of the Building Sites under the Builder's control.
 - e. Each section of the Site Fencing is to be erected as close as practicable to vertical at all times.
 - f. Site Fencing must remain erected and in place until the completion of the Building Work.
 - g. Entry to the Building Site must not take place other than across the Vehicle Crossing for the Building Site
 - h. Materials must not be deposited, stored or stockpiled on any part of the Road without the approval of Council.
 - i. The requirement to provide Site Fencing under this clause may be waived or varied at Council's discretion.

SITE IDENTIFICATION

7. The person in charge of a Building Site must provide Site Identification.

PART 4 – INSPECTIONS

INSPECTIONS

8. Council may determine if and when inspections of Building Sites may be conducted.
9. Inspections of a Building Site may be conducted by a Council Officer.
10. If a Council Officer identifies any damage during an inspection of a Building Site which appears to result from non-compliance with the Code, the Council Officer may direct the person in charge of the Building Site to make the area safe and reinstate the damage within a specified time. The Council Officer will provide the person in charge of the Building Site with written confirmation either at the time of the inspection or within a reasonable timeframe.
11. If Council considers that works on a Building Site have created a risk to the public that requires immediate action to make the area safe, Council will undertake appropriate action to remove the risk to the public and recover any costs associated with doing so, including the cost of after hours attendance as part of the reinstatement costs

PART 5 - ENVIRONMENTAL PROTECTION

NOISE

12. The person in charge of a Building Site shall have regard to Local Law No.2, Environment, Part 3 – Noise Control and to the Policies, Regulations, Standards and Guidelines issued from time to time by the Environmental Protection Authority

STORMWATER PROTECTION

13. Where any Building Work is being carried out, the person in charge of a building site must ensure that the Building 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 or other associated Builder's Refuse in accordance with currently accepted best practice. This includes adoption of measures to:-
 - a. minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting Roads, adjoining Land or washed into the Stormwater System,
 - b. prevent building cleanup, wash down or other wastes and Builder's Refuse being discharged offsite or allowed to enter the Stormwater System,
 - c. ensure all Vehicles delivering materials to the site are prevented from depositing mud, sand, soil or stones onto Council's Road network,
 - d. ensure that any waste which has spilled onto the Road, nature strip or surrounding area is removed as soon as practicable so that any residues are prevented from entering the Stormwater System,
 - e. ensure that any Footpath adjacent to the Building Site or likely to be affected by the Building Work is kept clear of mud and dirt at all times,
 - f. ensure that the Building Site is managed and controlled in accordance with the principals of relevant best practice guidelines as issued from time to time by the Environmental Protection Authority, Melbourne Water or any other relevant organisation that may come into operation.

PART 5 - ENVIRONMENTAL PROTECTION (CONT'D)

DUST

14. Where any building work is being carried out, the person in charge of a Building Site must ensure that the site is managed to minimise the risk of detrimental effects to the health and amenity of nearby residents through reduced visibility, reduced air quality and the effects of deposition of dust generated from the building site.

CONTAINMENT AND REMOVAL OF REFUSE

15. Where any Building Work (other than Minor Building Work) is being carried out, the person in charge of a Building Site must:
- a. provide a closed Refuse Facility for the purpose of disposal of Builder's Refuse which is of robust construction, not less than 1 cubic metre in volume and has a lid which is attached to the container with hinges and from which litter cannot escape,
 - b. place the Refuse 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 a Refuse Facility on any Council Land, Road or street unless approved by Council,
 - d. keep a Refuse Facility closed to prevent wind borne litter escaping from the Refuse Facility,
 - e. empty a Refuse Facility whenever full and, if necessary, provide a replacement facility during the emptying process.
16. The requirement to provide a Refuse Facility may be waived at Council's discretion.

PART 5 - ENVIRONMENTAL PROTECTION (CONT'D)

CONTAINMENT AND REMOVAL OF REFUSE (CONT'D)

17 During Building Work: -

- a. the person in charge of a Building Site must ensure that all Builder's Refuse, which requires containment, is placed in the Refuse Facility referred to in clause 15,
- b. the person in charge of a Building Site must ensure that Builder's Refuse is not deposited in, or on any Land other than in accordance with clause 15,
- c. the person in charge of a Building Site must ensure that Builder's Refuse is not deposited in or over any part of the Stormwater System.

18 Any Land where Building Work is being, or has been, carried out, the person in charge of a Building Site must remove and lawfully dispose of all Builder's Refuse including, without limiting the generality of the above, the Builder's Refuse in the facility referred to in clause 15, within 7 days of completion of the Building Work or issue of an occupancy permit, whichever occurs last.

PART 6 – SANITARY FACILITIES

SANITARY FACILITIES

19. The person in charge of a Building Site must not undertake or carry on any Building Work or other work necessitating the employment of persons on a Building Site unless a sewered toilet or a fresh water flush with water seal type portable toilet (closed) system is provided, and serviced as required (as a guide at least monthly) for the use of the persons on that Building Site to the satisfaction of a Council Officer.
20. Notwithstanding sub clause 19, where Buildings are being constructed on adjacent Building Sites simultaneously by the same person and Council allows one sewered toilet system or a fresh water flush with water seal type portable toilet (closed) system between them, no offence will arise.
21. A Council Officer may enter into or upon any premises, yard or Land at any reasonable time for the purpose of inspecting any sewered toilet, portable toilet (closet) systems, urinals, pans, receptacles, plant and any other things and places therein and thereon and for ascertaining compliance with this Part.

PART 7 – PEDESTRIANS & TRAFFIC

PEDESTRIAN AND VEHICULAR TRAFFIC - HAZARDS AND SAFETY

- 22 Building Work must not cause an impediment or detriment to, or be carried out in an unsafe manner so as to pose a risk to the safety of, pedestrians and vehicles.

For the purposes of this clause, impediment, detriment and risk to safety to pedestrians or vehicular traffic may be caused by:

- a. mud or debris on a Road or Footpath; or
 - b. material referable to Building Work on a Road or Footpath; or
 - c. equipment referable to Building Work on a Road or Footpath; or
 - d. excavation on or immediately adjacent to a Road or Footpath; or
 - e. damage referable to Building Work on, or directly adjacent to, a Road or Footpath; or
 - f. Building Work on a Road or Footpath
23. Works required to be undertaken within the Road or Road Reserve may be subject to the requirement of a traffic management plan in accordance with section 99A of the *Road Safety Act 1986* and Australian Standard AS 1742.3 Traffic control devices for works on roads which should be in operation for the duration of the works.

For the purposes of this clause, the traffic management plan shall include provisions for the safe travel of all vehicular traffic, bicycles and pedestrians.