

July 2020

1. Introduction

The Public Assets and Control of Building Sites Guidelines adopted by Knox City Council have the following objectives:

- to encourage responsible urban development practices;
- to minimise damage to public assets and the associated cost of repair to or replacement of those assets;
- to avoid adverse environmental impacts on public assets; and
- to achieve throughout the municipality, better health, safety and amenity outcome associated with works in a public place or certain building works on land.

2. Public Assets

2.1 This Section impacts on service authorities and persons intending to carry out works in a public place.

2.2 Any works affecting public assets require the prior granting of an approval under Part 9 of *Amenity Local Law 2020*.

2.3 Public assets include but are not limited to:

- footpath;
- crossovers;
- kerbing
- roads;
- naturestrips;
- trees;
- signs;
- parklands;
- drains; and
- water courses

located in public places within the municipal district of Knox City Council.

2.4 The Local Law defines “public place” to mean:

- a road; and/or
- land which is owned, occupied or managed by Council.

2.5 A road is extensively defined in the Local Law.

2.6 The approval required under the Local Law will address how the works should be carried out in such a way as to avoid or minimise:

- damage to public assets; and
- any adverse impact on public health, safety and amenity.

3. Building Sites

- 3.1 This Section impacts on builders and land owners involved in building works on private land where such works require a building permit under the *Building Act 1993*.
- 3.2 It is the responsibility of the land owner to ensure that an approval for works required under the *Amenity Local Law 2020* is obtained beforehand, failing which the owner will be in breach of the Local Law and may be issued with an infringement notice for ten penalty units or fined up to twenty penalty units by a Court.

As at 1 July 2020, one Penalty Unit is equivalent to \$100.00
- 3.3 The approval will address the following issues:
 - containing building refuse within the site;
 - road and footpath cleanliness;
 - provision of toilet facilities;
 - any adverse impact on public health, safety and amenity;
 - avoidance of stormwater erosion;
 - quality of any water being discharged from the site;
 - the need for temporary fencing of the site; and
 - repairs to and reinstatement of damaged assets.
- 3.4 Having regard to the significant amount of refuse which finds its way from building sites onto Council streets, the approval holder will be responsible for providing onsite a suitable container with a secure lid to store all building and site refuse produced in relation to the building works.
- 3.5 In addition to the problems associated with site refuse, other debris including mud and dust are, often carried or blown onto streets from building sites.
- 3.6 In wet conditions, drivers of vehicle's leaving a building site must ensure that the vehicle wheels are free of any mud.
- 3.7 In windy conditions where dust is created on a building site, the approval holder must arrange to suppress the dust by either installing an appropriate watering device, by frequently hosing the problem area, or by providing for some other approved method of dust suppression.
- 3.8 Where cleaning vehicle wheels or dust suppression is achieved by hosing or watering, measures must be put in place to ensure that contaminated water is not discharged offsite, into the drainage system or into any waterway.
- 3.9 All building sites must be provided with a minimum of one onsite chemical toilet for use by persons working on the site.

4. Approval Process

- 4.1 The *Amenity Local Law 2020* requires that an approval be obtained under the Local Law prior to:
 - the commencement of any works on public property;
 - the placement of any building material on public property; or
 - the commencement on land of any works requiring a building permit under the *Building Act 1993*.

- 4.2 An application for an approval must be on the Council approved form and accompanied by the appropriate fee:
 - \$187 for Road Opening Works;
 - \$187 for Asset Site Protection;
 - \$745 bond for placement of building materials in a public place;
 - \$1,490 bond for access through Council reserve; or
- 4.3 Council has the right to require additional information from the applicant in relation to the application.
- 4.4 Persons affected by the Local Law are required to obtain and to adhere to an approval.
- 4.5 The conditions attaching to any approval will depend on the nature of the works.
- 4.6 Authorised officers will police compliance with both the Guidelines and the Local Law and have adequate powers to:
 - issue reasonable directions;
 - issue infringement notices with a penalty of ten penalty units; and
 - commence prosecution proceedings in the Magistrates' Court for habitual or serious offenders.

5. Repairs and Reinstatement

- 5.1 If an approval holder is responsible for damage to any public asset, that person may be required to repair or reinstate the public asset:
 - at the approval holders cost;
 - to Council's satisfaction including the time limits for compliance.
- 5.2 If the approval holder refuses or fails to carry out the work satisfactorily or at all, Council may carry out the work and claim the cost in reliance of its statutory powers under the *Local Government Act 1989*.
- 5.3 The statutory process allows Council or its appointed contractor to carry out the work and to recover the cost from:
 - the approval holder; or
 - the land owner where an approval required under the Local Law has not been obtained.
- 5.4 If the landowner is responsible for the cost, the *Local Government Act* provides that it will become a charge on the property and until paid will attract interest under the *Penalty Interest Rates Act 1983*, currently prescribed at 12.3 percent.
- 5.5 In summary, Council has the discretion to decide whether any necessary work to repair or reinstate damaged public assets is to be carried out by:
 - Council; or
 - the person responsible for causing the damage; or
 - the land owner.

6. Enforcement

- 6.1 Whilst it is anticipated that most persons will support the implementation of the Guidelines, Council is aware that on occasions, some offenders will be:
- issued with an infringement notice (ten penalty units); or
 - prosecuted in the Courts and fined up to twenty penalty units.
- 6.2 As at July 2020 one penalty unit is equivalent to \$100.00.
- 6.3 The City of Knox will use its best endeavours to ensure awareness of these Guidelines.

7. Guidelines Review

- 7.1 Council will review these Guidelines every two years to achieve the objectives set out in section 1.
- 7.2 If Council decides to amend the Guidelines following a review under section 7.1, it may consult with the community and relevant parties.
- 7.3 Notwithstanding the review process under section 7.1 and 7.2, Council may amend the Guidelines from time to time and notify the changes by public notice.