

CITY OF PORT PHILLIP REPORT

ORDINARY MEETING OF COUNCIL

24 MAY 2010

7.	FOOTPATH TRADING REVIEW
LOCATION/ADDRESS:	WHOLE OF MUNICIPALITY
GENERAL MANAGER:	SUE WILKINSON, ENVIRONMENT AND PLANNING
PREPARED BY:	SUE WILKINSON, ENVIRONMENT AND PLANNING AND ANITA LANGE, SPECIAL PROJECTS MANAGER
FILE NO:	11/01/97-06
ATTACHMENTS:	1 –SUMMARY OF ADDITIONAL SUBMISSIONS ON THE DRAFT FOOTPATH TRADING GUIDELINES 2 - COMMUNITY CONSULTATION AND TRANSITION PLAN 3 – COMMENTS ON MATTERS RAISED IN COUNCIL RESOLUTION OF 12 APRIL 2010 AND ON OTHER RELEVANT MATTERS PROPOSED TO BE INCLUDED IN THE FINAL PROPOSED FOOTPATH TRADING GUIDELINES AND IN IMPLEMENTATION OF THE NEW GUIDELINES 4 – PROPOSED FINAL CITY OF PORT PHILLIP FOOTPATH TRADING GUIDELINES – MAY 2010 (PLACING OF FOOTPATH OBJECTS ON FOOTPATHS)

1 EXECUTIVE SUMMARY

- 1.1 This report addresses the matters arising from the 12 April 2010 Council report and recommends that Council adopts the final City of Port Phillip Footpath Trading Guidelines –May 2010 (Placing of Footpath Objects on Footpaths).

2 RECOMMENDATION

That Council:

- 2.1 Notes the responses to the matters arising from the 12 April 2010 council report and that the option nominated as the recommended option has been included in the proposed final *City of Port Phillip Footpath Trading Guidelines – May 2010 (Placing of Footpath Objects on Footpaths)* as attached (Attachment 4).
- 2.2 Adopts the final *City of Port Phillip Footpath Trading Guidelines –May 2010 (Placing of Footpath Objects on Footpaths)* as attached (Attachment 4) and

authorises the General Manager Environment and Planning to approve the final designed version of the document.

- 2.3 Pursuant to Section 112(2) of the Local Government Act 1989 cause notice to be published in the Government Gazette of the amended document *City of Port Phillip Footpath Trading Guidelines –May 2010 (Placing of Footpath Objects on Footpaths)* as attached (Attachment 4) an incorporated document of the Footpath Activities Local Law No. 7 (2009).
- 2.4 Approves the changes to the implementation of the Guidelines to :
- Adopt the Ask, Tell, Enforce approach to enforcement, and
 - Allow a 12 month transition period and refer any requests for a longer transition period to the Footpath Trading Panel for review and recommendation.

3 BACKGROUND AND CONTEXT

- 3.1 The Council agreed to release the draft Footpath Trading Guidelines for public review on 9 February 2010 until 26 March 2010. Since that time, the Council has reviewed the submissions and survey responses received on the 12 April 2010.
- 3.2 Twenty–nine submissions were received after the advertised closing date of 26 March 2010. Those submissions received up until 12 April 2010 were tabled at the council meeting and were therefore considered at the council meeting of the same date. Since that time, an additional 8 submissions have been received up until the date of preparation of this report, making a total of 104 submissions received and 66 completed surveys. The additional submissions not previously reported to the Council as part of the 12 April 2010 Council report are summarised in Attachment 1. There are no new issues raised in the submissions received after 12 April 2010.
- 3.3 The Community Consultation and Transition Plan was used to guide the footpath trading review. A key aspect in the design of the review has been to provide the community and especially traders with a clear and reasonable process, ample opportunity for consultation and ensure there is scope to modify the guidelines prior to introducing the new guidelines. Since that time, the Community Consultation and Transition Plan has been used to guide the review and there has been extensive consultation undertaken. The updated plan and status report is provided at Attachment 2.

4 DISCUSSION

- 4.1 At its meeting on 12 April 2010 the Council resolved to amend the Guidelines to include six changes for further consideration and requested a further report on a number of matters. As well, a number of other issues were raised at the meeting or required further consideration in order to finalise the Guidelines. An analysis of these matters is provided at Attachment 3 with the recommended option nominated.
- 4.2 Attachment 4 includes the proposed final guidelines - *The City of Port Phillip Footpath Trading Guidelines –May 2010 (Placing of Footpath Objects on Footpaths)*. This document has been amended to include the following:
- all the changes adopted by Council on 12 April 2010,
 - all the options nominated as the recommended option in Attachment 3,
 - changes to the text to ensure consistency of the document,
 - changes to the text following a 'plain English' review of the text, and
 - changes to the overall design of the document including improved diagrams.
- 4.3 It is recommended that Council adopt the proposed final *City of Port Phillip Footpath Trading Guidelines –May 2010 (Placing of Footpath Objects on Footpaths)*.
- 4.4 The final design of the document will be completed following adoption by council. It is recommended that the council authorise the General Manager Environment and Planning to approve the final design version of the document.
- 4.5 At its meeting on 12 April 2010 Council also requested further investigation into options regarding fee relief to transition in the new guidelines.

5 ALIGNMENT TO COUNCIL PLAN

5.1 Alignment To Council Plan

- 5.1.1 The proposal is consistent with the Council Plan and in particular the Plan's emphasis on Enhancing Liveability and section 4.1 A sense of place and section 4.2 Shaping the future of our city.

5.2 Policy Implications Plan

- 5.2.1 This proposal is consistent with the Council Plan and Council's Local Laws.

5.3 Finance / Resource Implications

- 5.3.1 There are staff resource implications related to the implementation of the new Guidelines which have been considered in the 2010/2011 draft City of Port Phillip Budget.

5.4 Legal & Risk Implications

- 5.4.1 Legal/risk issues have been addressed as part of the Guidelines. Proposed changes to the Guidelines, to the permit administration process as well as the production of new application forms will assist in making these responsibilities clearer.
- 5.4.2 Pursuant to Section 112(2) of the Local Government Act 1989, Council must publish notice in the Government Gazette of the amended incorporated document City of Port Phillip Footpath Trading Guidelines –May 2010 (Placing of Footpath Objects on Footpaths). This will be undertaken following adoption of the final version of the guidelines.

6 IMPLEMENTATION STRATEGY

- 6.1 The next steps are:
- Council adopts revised guidelines – 24 May 2010.
 - Council causes notice to be published in the Government Gazette of the revised *City of Port Phillip Footpath Trading Guidelines –May 2010 (Placing of Footpath Objects on Footpaths)*.
 - Implementation of new guidelines and issuing permit renewals – early June 2010.
 - New guidelines apply – 1 July 2010.
- 6.2 The Community Consultation and Transition Plan will be used to support a smooth transition from current situation to the new arrangements. The key steps post the adoption of the new guidelines are as follows:
- Late May 2010 - renewal notices issued with new application form and self-assessment letter to ensure all details are correct on system.
 - May – 30 Jun 2010 – payments received from applicants for renewals with completed self-assessment forms.
 - Mid June 2010 - reminder notice issued for renewal of permits.
 - July – Dec 2010 – All permits will be re-assessed against the new guidelines. Site visit of approximately 900 premises will be undertaken to assist assessment of permits and to ensure compliance with new guidelines. Agreement of transition plans where approved with up to 12 months to comply with new permits. Refunds will be issued if a reduction in footpath trading occurs after the site assessment. Permits and new applications will be referred to the Footpath Trading Panel for further consideration where appropriate, including where there may be a case for a longer transition period than 12 months.
 - Mid July 2010 - Final notice issued for permit holders. Permits will be cancelled if not paid.
 - July 2010 – June 2011 - Ongoing administration and enforcement of footpath trading.
 - After July 2011 there will be more proactive inspection and greater enforcement of permits

7 OFFICER DIRECT OR INDIRECT INTEREST

- 7.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.