

STRATEGY AND POLICY REVIEW COMMITTEE

1 JUNE 2009

POLICY AND PLANNING

A3

**REVIEW OF SUBMISSIONS FOR
FOOTPATH ACTIVITIES LOCAL LAW 7
2009**

LOCATION/ADDRESS:

RESPONSIBLE EXECUTIVE DIRECTOR:

**GEOFF OULTON, DIRECTOR
COMMUNITY DEVELOPMENT AND
PLANNING**

AUTHOR:

**KIRSTEN HUGHES, ACTING MANAGER
PARKING, HEALTH AND ENFORCEMENT**

FILE NO.:

TRIM 16/07/49

ATTACHMENTS:

**ATTACHMENT 1. PROPOSED FOOTPATH
ACTIVITIES LOCAL LAW 7 (2009).**

**ATTACHMENT 2. PROPOSED PUBLIC
NOTICE ADVERTISING CREATION OF A
NEW LOCAL LAW.**

1. EXECUTIVE SUMMARY

- 1.1. The Footpath Activities Local Law 7 (1999) ceases to have effect after 30 June 2009, as a result of the sunset provisions in the Local Government Act 1989.
- 1.2. A new proposed Footpath Activities Local Law 7 (2009) has been released for public comment. The proposed Local Law was advertised in *The Age* on 29 April 2009, *The Port Phillip Leader* on 5 May 2009 and *The Emerald Hill Weekly* on 6 May 2009, as well as the Government Gazette, inviting submissions which would be considered under s223 of the *Local Government Act 1989*. The final date for submissions was 27 May 2009.
- 1.3. As no submissions have been received, it is recommended that the proposal be adopted.

2. RECOMMENDATION

That the Strategy and Policy Review Committee recommend that Council resolve to:

- 2.1. Make the Footpath Activities Local Law No 7 (2009) in the form of that attached to the officer's report;
 - 2.2. Give notice in the Government Gazette and by public notice that it has made the Footpath Activities Local Law No 7 (2009) in accordance with section 119(3) of the Local Government Act 1989
 - 2.3. Send a copy of the Footpath Activities Local Law No 7 (2009) to the Minister in accordance with section 119(4) of the Local Government Act 1989.
 - 2.4. Affix the Common Seal to Footpath Activities Local Law No 7 (2009).
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3. DISCUSSION

- 3.1. The *Local Government Act 1989* gives Councils the ability to make Local Laws.
- 3.2. One of the Local Laws that Council had created was the *Footpath Activities Local Law 7 (1999)*. The purpose of this Local Law was to regulate and control activities on footpaths, to ensure the areas are managed to provide access and to ensure amenity considerations are met, whilst also providing business with an opportunity to trade on Council land.
- 3.3. For the financial year 2008/9 approximately \$900K of income was generated as a result of permitted footpath trading activity.
- 3.4. In April 2009 a proposed *Footpath Activities Local Law 7 (2009)* was presented to Council. The proposed Local Law was subsequently advertised in *The Age* on 29 April 2009, *The Port Phillip Leader* on 5 May 2009 and *The Emerald Hill Weekly* on 6 May 2009, as well as the Government Gazette, inviting submissions which would be considered under s223 of the *Local Government Act 1989*. The final date for submissions was 27 May 2009.
- 3.5. No submissions have been received at the date of writing.
- 3.6. Internal Consultation

The people who have been engaged with in relation to this issue are:

- Mike McIntosh, Manager Economic Development.
- Geoff Oulton, Executive Director, Community Development and Planning.

3.7. External Consultation

The external people and/or organisations who have been engaged with in relation to this issue are:

- Public
- Maddocks Lawyers
- Victoria Police

Maddocks Lawyers provided the drafting of the Local Law and advice on minor re-wording of some sections, to improve clarity of the Local Law.

Public advertising appeared in *The Age*, *The Emerald Hill Weekly* and *Port Phillip Leader*, as well as the CoPP website.

3.8. Criterion for recommendation

It is a statutory requirement to consider submissions in relation to the proposed new Local Law. It is also essential that Council continue to have a Footpath Activities Local Law beyond 30 June 2009, as there are significant financial and amenity issues associated with the operation of an effective

Footpath Activities Local Law. It is essential that a new Local law is operative from 1 July 2009.

3.9. Social, environment, economic, cultural issues

Social

The existence of a Local Law that allows the use of public space, whilst also balancing access and amenity concerns. The Local law provides a balance for competing interests in a dynamic and diverse location.

Economic

The proposed Local Law provides a balance that promotes the protection of Council assets, as it allows use under certain conditions.

Environmental

The requirements provided for in the Footpath Activities Local Law 7 (2009) ensure consideration is given to waste management and litter issues in outdoor trading areas.

Cultural

The ability to manage Footpath Activities ensures significant diversity in the use of footpath areas, and is a significant contribution to the café culture of Melbourne.

3.10. Policy and legislative implications

The current Footpath Trading Guidelines are being reviewed and it is possible that once this review is complete, there may need to be some amend the Local Law at some point in the future.

3.11. Risk implications

It is imperative that the Local Law is in place by 1 July 2009 to ensure continuity of the permit system. Failure to install it by this date would cause serious service continuity issues, as permits would not be able to be issued.

3.12. Implementation

The new Local Law will take effect on 1 July 2009. This will require some minor systems changes to the modules used for generating infringements, but this is routinely done at this time of year anyway.

Advertising for the new local law will occur in the Government Gazette, Emerald Hill Weekly and Port Phillip Leader and The Age in the general format of Attachment 2.