



**STRATEGY AND POLICY  
REVIEW COMMITTEE**

**AGENDA**

**5 NOVEMBER 2008**

## Welcome

Welcome to this Strategy and Policy Review Committee Meeting of the Port Phillip City Council.

Committee Meetings are a useful way for Councillors to be presented with, and consider, a large amount of information, from which a recommendation to the full Council can be made. They also allow the public to be involved in the decision making process of Council.

## About this meeting

There are a few things to know about tonight's meeting. The first page of tonight's Agenda itemises all the different parts to the meeting. Some of the items are administrative and are required by law. In the agenda you will also find a list of all the items to be discussed this evening.

Each item has a report written by a Council officer outlining the purpose of the report, all relevant information and a recommendation. The Committee will consider the report and either accept the recommendation or make amendments to it.

As this Committee does not have delegated authority, all decisions of the Committee are not final and will be presented to the next Ordinary Meeting of Council for further refinement and adoption.

A recommendation is carried if it receives majority support of the Councillors in attendance at the Committee meeting.

## Public Question Time

Provision is made at the beginning of the meeting for question time from members of the public. Question time is limited to 20 minutes unless the meeting resolves to extend this time.

If you would like to ask a question tonight, please fill in the blue 'Do You Wish to ask a Question or make a Public Comment' form located outside the chamber and give it to the Administrative Officer.

## Public Comment

Any person who has made a written submission on an item pursuant to section 223 of the Local Government Act and requested that she or he be heard in support of that written submission will be entitled to address the Committee.

If you would like to address the Committee on any of the items being discussed tonight, please fill in the blue 'Do You Wish to ask a Question or make a Public Comment' form located outside the chamber and give it to the Administrative Officer.

When your item is being discussed the Chairperson will call your name and ask you to address the Committee. You will have 3 minutes to speak. If somebody has already raised an issue you agree with, there is no need to repeat it.



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# **PORT PHILLIP CITY COUNCIL**

## **STRATEGY AND POLICY REVIEW COMMITTEE**

**To Councillors**

Notice is hereby given that a meeting of the **Strategy and Policy Review Committee** of the **Port Phillip City Council** will be held in the **Council Chamber, St Kilda Town Hall** on **Wednesday, 5 November 2008 commencing at 6.00 pm.**

### **AGENDA**

- 1. APOLOGIES**
- 2. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**  
Minutes of the Strategy and Policy Review Committee held on 6 October 2008.
- 3. CORRESPONDENCE**
- 4. PUBLIC QUESTION TIME**
- 5. COUNCILLOR QUESTION TIME**
- 6. PRESENTATION OF REPORTS**
  - 6.1 Policy and Planning**
  - 6.2 Governance and Compliance**
- 7. CHIEF EXECUTIVE OFFICER'S REPORT**
- 8. REPORTS BY DELEGATES (COUNCILLOR) APPOINTED TO OTHER BODIES**
- 9. URGENT BUSINESS**
- 10. PRESENTATION OF CONFIDENTIAL REPORTS**
  - 10.1 Policy and Planning**
  - 10.2 Governance and Compliance**

David Spokes  
Chief Executive Officer  
31 October 2008

# STRATEGY AND POLICY REVIEW COMMITTEE

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**Responsible Executive Director:** Geoff Oulton, Executive Director, Community Development And Planning

#### 6.2 GOVERNANCE AND COMPLIANCE

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**Responsible Executive Director:** Sally Calder, Executive Director, Organisation, Systems & Support

### 10. PRESENTATION OF CONFIDENTIAL REPORTS

#### 10.1 POLICY AND PLANNING

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**Responsible Executive Director:** Geoff Oulton, Executive Director Community Development and Planning

**Note** – This Item Is Classified As A Confidential Item In Accordance With Section 89 (2)(h) Of The Local Government Act 1989.

#### 10.2 GOVERNANCE AND COMPLIANCE

Nil.

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**STRATEGY AND POLICY REVIEW COMMITTEE**  
**5 NOVEMBER 2008** **POLICY AND PLANNING**

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**A1** **AMENDMENT TO LOCAL LAW NO 3 –  
CONSIDERATION OF SUBMISSIONS**

**LOCATION/ADDRESS:**

**RESPONSIBLE EXECUTIVE DIRECTOR:** **GEOFF OULTON, EXECUTIVE  
DIRECTOR, COMMUNITY  
DEVELOPMENT AND PLANNING**

**AUTHOR:** **KIRSTEN HUGHES, COORDINATOR  
LOCAL LAWS**

**FILE NO.:** **16/07/47**

**ATTACHMENTS:**

- 1. PROPOSED COMMUNITY AMENITY  
(AMENDMENT) LOCAL LAW NO 2 OF  
2008.**
- 2. PUBLIC NOTICE REGARDING  
AMENDMENTS TO THE LOCAL LAW.**

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**1. EXECUTIVE SUMMARY**

- 1.1. Council's Alcohol Action Plan was a policy document adopted on 22 September 2008. To implement aspects of that plan, the Community Amenity Local Law No 3 requirements pertaining to alcohol consumption in public places were reviewed. Council at its September meeting also resolved to give public notice of the proposal to amend Clause 45 of the community Amenity Local Law No. 3. The making of Community Amenity (Amendment) Local Law No 2 of 2008 will achieve those amendments.
- 1.2. Notice of the intention to create a Local Law was published in the Government Gazette on 2 October 2008 and in the Emerald Hill Weekly on 1 October 2008. No submissions were received.

**2. BACKGROUND AND CONTEXT**

- 2.1. Council's Alcohol Action Plan identified the restrictions of alcohol consumption covered under the Community as requiring review. In that light the Community Amenity Local Law No 3, Clause 45(3) is proposed to be amended to increase hours banning the consumption of alcohol in public places from 8pm until 9am the following day.
- 2.2. Further, clause 45(1A) and (1B) are to be included to ban the possession of alcohol (including alcohol in a sealed container) on the foreshore on New Year's Eve, from 12.01am and midnight and from midnight until 9am on New Years Day.

**3. RECOMMENDED OPTION**

- 3.1. As no submissions have been received, it is recommended that Council make the amendments to the Local Law as described in its public notice.

3.2. Criterion for recommendation

- S119(2) of the Local Government Act 1989 requires that council consider submissions in relation to the proposed Local Law amendments.
- The basis for the recommendation is that this local law amendment will support the City of Port Phillip's previously adopted Alcohol Action Plan (2008-2013), and that no submissions have been received.
- It is recommended that the proposed amendments to the Local Law are adopted without further alteration, as no submissions have been received.

3.3. Sustainability assessment

***SOCIAL EQUITY***

Social Pillar	Proceeding with the Local Law amendments in their current form, without any alterations, provide a practical amendment that supports City of Port Phillip's Alcohol Action Plan (2008-2013).
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***ECONOMIC VIABILITY***

Economic Pillar	As a result of reduced hours for alcohol consumption in public space, there should be reduced clean up costs. The maintenance of strong, financially viable entertainment precincts is supported as the image and perceptions of safety improve.
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***ENVIRONMENTAL RESPONSIBILITY***

Environmental Pillar	Reduction of ability to consume alcohol in public space will reduce alcohol related harm, resulting in the reduction of demand on alcohol related damage and vandalism, and reduction in noise pollution.
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***CULTURAL VITALITY***

Cultural Pillar	As a result of the amendment to the Local Law there is potential for reduction in the incidence of alcohol related violence in the community, improved safety for people in public areas, improved amenity for residents, and the reduction of drink driving incidents. Cultural vitality is supported by promotion of more responsible consumption of alcohol.
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3.4. Policy and legislative implications

The proposed local law amendment supports the objectives of the Alcohol Action Plan (2008-2013).

It was necessary to advertise amendments to the Local Law and then consider submissions, pursuant to s223 of the Local Government Act 1989. These provisions have been complied with.

It is considered appropriate and prudent to consider this matter within the caretaker period and not delay it until after the Council elections. The report seeks to implement a previous decision of council, is not considered an election issue and delay would potentially impact on management of alcohol related issues over summer.

**3.5. Risk implications**

The proposed amendment to the Local Law addresses some public safety concerns related to consumption of alcohol in public space.

**3.6. Resource implications**

There are no resource implications as a result of adopting the local Law amendments.

**4. ALTERNATIVE OPTIONS**

The only option available to Council other than adopting the amendments, is to not adopt the amendments, as there are statutory requirements associated with advertising any proposed amendment and failing to do so could be subject to legal challenge.

The matter could be delayed for consideration by the new Council, however for the reasons outlined above it is considered appropriate that the matter be dealt with now.

**5. PARTICIPATION AND ENGAGEMENT**

**5.1. Internal**

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

- Councillors
- Carol Mayell, Manager Community Development
- Peter Streker, Coordinator Community and Health Development
- Geoff Oulton, Executive Director – Community Development and Planning

**5.2. External**

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

- Victoria Police

- The general public – advertising for submissions was performed in the Government Gazette and the Emerald Hill Weekly, as well as on the City of Port Phillip internet site.

## **6. IMPLEMENTATION**

6.1. Implementation will be subject to the following timetable:

DATE	ACTION	PURPOSE
6 November 2008	Report to Council	Consideration of submissions received pursuant to s223 LGA and adopt the Local Law.
4 December 2008	Public notice in Government Gazette, Emerald Hill Weekly	Statutory requirement to advertise making of the Local Law.
8 December 2008	Letter and Copy of local Law to Office of Local Government	Statutory requirement to send copy of any new Local Law to the Minister.
8 December 2008	Commencement of Local Law	Enable implementation.

## **7. COMMUNICATION**

7.1. The statutory process of advertising the making of the Local Law will be supplemented by communication via press release, Council's web site and the Divercity Weekly column in the Emerald Hill Weekly.

## **8. RECOMMENDATION**

- 8.1. That the Council in accordance with section 119 of the Local Government Act 1989 ("the Act"), give notice in the Government Gazette and a public notice to advise of the making of a Local Law, the Community Amenity (Amendment) Local Law No 2 of 2008 (attachment 1).
- 8.2. That the notices in 8.1 be in the general form of the attached notice (attachment 2).
- 8.3. That pursuant to section 119 of the Act a letter is sent to the relevant Minister, with a copy of the new Local Law.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**3 NOVEMBER 2008** **GOVERNANCE AND COMPLIANCE**

<b>A2</b>	<b>PROPOSED DISCONTINUANCE AND SALE OF A SECTION OF RIGHT OF WAY NO. R2791 (510) AT THE REAR OF 208 ALBERT ROAD, SOUTH MELBOURNE</b>
<b>LOCATION/ADDRESS:</b>	<b>REAR 208 ALBERT RD, SOUTH MELBOURNE.</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>SALLY CALDER, EXECUTIVE DIRECTOR, ORGANISATION, SYSTEMS &amp; SUPPORT</b>
<b>PREPARED BY:</b>	<b>DAVID GRAFFEN, COORDINATOR PROPERTY &amp; VALUATIONS</b>
<b>FILE NO.:</b>	<b>34/14/510-01</b>
<b>ATTACHMENTS:</b>	<b>1. COPIES OF SUBMISSIONS RECEIVED 2. SITE PLAN 3. PHOTOGRAPHS</b>

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**1. PURPOSE**

This report concerns a proposal to discontinue and sell a section of Right of Way No. R2791 at the rear of 208 Albert Rd, South Melbourne. In accordance with the statutory procedures set out in the Local Government Act 1989 the proposal was advertised in local newspapers and submissions have been received in response.

Submissions have been made by abutting property owners in opposition to the proposal. The proposed purchaser has also requested to be heard in support of the proposal. In accordance with the statutory procedures this committee must consider all submissions and hear persons wishing to be heard in support of their submission before making a recommendation to Council.

**2. RECOMMENDATION**

That the Strategy and Policy Review Committee, having heard and considered submissions received in response to the proposal in accordance with the statutory procedures set out in Sections 206 and 223 and pursuant to Section 207 and clause 3 of Schedule 10 of the Local Government Act 1989, recommends that

- Submitters be given an opportunity to further address the February 2009 meeting cycle
- The February 2009 Council meeting cycle, after considering submissions received, makes the final decision on the proposal to discontinue the section of Right of Way R27291 at the rear of 208 Albert Rd, South Melbourne.

### **3. BACKGROUND AND CONTEXT**

The subject land is a small portion of laneway between the rear of 208 Albert Road and the rear of 5 Thomson Street in South Melbourne, measuring approximately 34.3 square metres. It is bounded by concrete walls on three sides and therefore serves no function as an access way. The owner of 208 Albert Road has applied to purchase the land and intends to use it for car parking.

It has been proposed to discontinue the section of right of way and to sell the land to an abutting property owner. The owner of 208 Albert Rd, South Melbourne has accepted the sale price for the land of \$85,750.00 plus an administration cost of \$2,500.00.

The statutory process for this proposal first commenced in May 2008 with a public notice appearing in the local newspaper on the 8<sup>th</sup> July 2008.

Following the receipt of late submissions, Council resolved on 22<sup>nd</sup> September 2008, to recommence the statutory procedures to ensure that community views are expressed and considered in compliance with the procedures set out in the Local Government Act.

The proposal was re-advertised in the local newspaper on 7<sup>th</sup> October 2008. In response to the public notice two submissions have been received in opposition to the proposal. The applicant has also requested to be heard by Council in relation to this matter.

The submissions in opposition to the proposal are attached to this report and summarized in the Consultation section of this report.

On 22 September the Council appointed the Strategy & Policy Review Committee to hear submissions on this matter on 5 November 2008. Once the submissions have been heard and considered, Council is able to make a decision to finalise the matter.

There are no legislative restrictions associated with the caretaker period which would restrict the council from deciding on this matter in November 2008. However, given that this proposal is contested, and the proximity of the election, there may be reasons to delay deciding on the proposal until February 2009.

### **4. CONSULTATION AND STAKEHOLDERS**

#### **Internal**

Council's Asset Management, Traffic Management, Strategic Planning, Planning and Building and Project Services business units were consulted and there were no objections to the proposal.

Council's Heritage Advisor has confirmed that there are no heritage issues.

#### **External**

The applicant for purchase is agreeable to the establishment of a Section 173 agreement that allows for the existence of services on adjoining buildings and maintenance of adjoining buildings by the respective property owners.

Two submissions have been received in opposition to the proposal and they summarised below;

1. Rockman and Rockman on behalf of the three owners of apartments at 5 Thomson Street (an abutting property).

The abutting owners of 5 Thomson Street object to the proposal unless the land is sold with a covenant on title preventing construction on the land and allowing for access to the land and airspace for the purpose of maintenance particularly in relation to windows, air vents and a glass balcony on the wall on the boundary of the land.

The owners of 5 Thomson Street have previously discussed the possibility of leasing or licensing the land but have considered the proposed rent or fees to be excessive.

2. Allard and Shelton on behalf of the owner of 218-220 Albert Road (an abutting property).

The abutting owner of 218-220 Albert Road objects to the proposal unless the land is sold with a covenant on title preventing construction on the land and allowing for access to the land and airspace for the purpose of maintenance particularly in relation to pipes and air vents on the wall on the boundary of the land.

### **Comment on objections**

The covenant proposed by the objectors would grant almost unfettered access to the land by abutting property owners, to the extent that the benefit of purchase is severely diminished.

A Section 173 agreement is considered to be more practical than the use of a covenant to restrict future use and development in this circumstance because a Section 173 agreement can allow for a little more flexibility in interpretation and process for approval, but still safeguards access to neighbouring properties for maintenance purposes.

A covenant would be highly prescriptive and could inadvertently prevent a development that is of no consequence to abutting property owners.

External consultation to Service Authorities has been undertaken and no objections were received although it should be noted that easements are required for electricity and sewerage assets. It should be noted that the easements will also restrict future development opportunities.

## **5. DISCUSSION**

### **5.1 OPTIONS**

#### **Option 1: Hear submissions and defer decision until February 2009**

The proposal would be laid on the table for a period and the new term of council would then make the final decision.

Option 2: Hear submissions and recommend sale of the right of way

The Strategy and Policy Review Committee could, after hearing all submissions, decide to make a recommendation to approve the discontinuance and sale of the right of way to the November 2008 meeting of Council. This has previously been the officer's recommendation. In this case, appropriate wording for the decision could be:

"That the Strategy & Policy Review Committee, having considered all submissions received in response to the proposal in accordance with the statutory procedures set out in Sections 206 and 223 and pursuant to Section 207 and clause 3 of Schedule 10 of the Local Government Act 1989, recommends that Council resolve.

To complete the discontinuance of the section of Right of Way R2791 at the rear of 208 Albert Rd, South Melbourne, and to sell the land to the owners of 208 Albert Rd, South Melbourne, subject to the following;

1. That the land to be sold is consolidated with the property at 208 Albert Road
2. That easements are created on title in favour of service authorities having assets in the land, and
3. An agreement pursuant to Section 173 of the Planning and Environment Act 1987 is established with the intention of restricting the future use of the land to preserve amenity and restrict any future buildings and works on the land by location, height and size in a manner that will not prevent and will permit maintenance and repair of buildings by abutting owners of properties at 5 Thomson Street and 218-220 Albert Road, South Melbourne."

Option 3: Hear submissions and recommend the right of way is not sold

Having considered all submissions, the Strategy & Policy Review Committee may choose to recommend to the November 2008 meeting of Council that the proposal be rejected.

**5.2 POLICY IMPLICATIONS**

The discontinuance and sale of the section of Right of Way is in accordance with the Council's discontinuance and sale policy and the powers and procedures set out in the Local Government Act.

**5.3 FINANCE / RESOURCE IMPLICATIONS**

The cost of selling the section of Right of Way will be absorbed within current operational budgets.

The sale price accords with a valuation of the land.

**5.4 LEGAL & RISK IMPLICATIONS**

By complying with legislation and policy and making reasonable conditions for service authorities and neighbours, there are no legal or risk implications.

5.5 SUSTAINABILITY ASSESSMENT

**SOCIAL EQUITY**

The sale of the section of right of way as proposed is seen as due compensation to the community for the loss of public land.

Small public spaces with limited visibility can be a source of private disputes over usage or can be a haven for difficult behaviour.

**ECONOMIC VIABILITY**

The income from the sale of the section of Right of Way is seen as due compensation to the community for the loss of public land. Sale of the land would relieve Council of a management and maintenance burden.

**ENVIRONMENTAL RESPONSIBILITY**

There are no sustainability implications in terms of environmental responsibility.

**CULTURAL VITALITY**

There are no sustainability implications in terms of cultural vitality.

**6. IMPLEMENTATION STRATEGY**

6.1 TIMELINE

If the proposal for the discontinuance and sale was approved, a notice would be published in the Government Gazette to formally discontinue the road.

A surveyor would then prepare plans for the creation of easement, title and title consolidation.

Council lawyers would then carry out conveyancing and the establishment of an appropriate Section 173 agreement.

The above could be accomplished within six months.

6.2 COMMUNICATION

In accordance with the statutory procedures, all submitters will be notified in writing of Council's decision and the reasons for it.

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**STRATEGY AND POLICY REVIEW COMMITTEE**  
**5 NOVEMBER 2008** **GOVERNANCE AND COMPLIANCE**

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**A3** **QUARTERLY FINANCIAL REPORT**  
**LOCATION/ADDRESS:**  
**RESPONSIBLE EXECUTIVE DIRECTOR:** **DAVID SPOKES, CHIEF EXECUTIVE OFFICER**  
**AUTHOR:** **DAVID SPOKES, CHIEF EXECUTIVE OFFICER**  
**FILE NO.:**  
**ATTACHMENTS:** **SEPTEMBER 2008 QUARTERLY FINANCIAL REPORT (ATTACHMENT 1)**

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**1. EXECUTIVE SUMMARY**

Quarterly Financial Report

- 1.1. The Quarterly Financial Report aims to provide Council with a summary of the major areas of activity and operational performance for the three months ended 30 September 2008.
- 1.2. To provide Council with details and reasons for significant variances against the forecast position.
- 1.3. To inform Council on the major organisational achievements and challenges for the quarter.
- 1.4. To present Council with a summary of its capital works delivery for the three months ended 30 September 2008.

Key Performance Indicator Report

- 1.5. The Key Performance Indicator Report aims to provide Council with a summary and analysis of the performance of the organisation for the three months ended 30 September 2008.

**2. BACKGROUND AND CONTEXT**

Quarterly Financial Report (Attachment 1)

- 2.1. Officers have reviewed their financial performance and provided reasons for major variances against forecast, details of which are contained in the body of the report.

**3. POLICY IMPLICATIONS**

- 3.1. This report and the recommendation arising from it does not have a direct impact on Council policy.

**4. SUSTAINABILITY IMPLICATIONS**

**Economic**

Council's net operating surplus for the three months ending 30 September 2008 is \$6.948M. This result is \$1.374M favourable compared to the projected surplus of \$5.573M due to a number of offsetting variances, the most significant being:

- Rates income being \$458K greater than forecast. This is due to special rates of \$537K being levied and is a timing variance which will reduce in quantum as payments are made to trader associations throughout the financial year.
- Interest received being \$289K greater than forecast due to higher interest rates and extra funds available for investment.
- Government grants being \$95K greater than forecast. This is due to higher than anticipated income from the Victorian Grants Commission within Finance & Investments and the receipt of additional grant funding in Community Development.
- Parking income being \$567K less than forecast. This is due to reduced patronage specifically in short term parking areas ie. South Melbourne Central and the Tourist Precinct. The part closure of Elwood carpark is also a contributing factor.
- Fees and charges being \$553K less than forecast. This is largely due to lower Long Day Care Centres fees & charges income predominantly due to the West St Kilda site not operating and a temporary lag in re-filling spaces following capital works at North St Kilda CCC and a reduction in box office sales and sponsorship monies from the film festivals.
- Contract payments \$1.023M less than forecast. This is due to the reversal of a \$312K year end accrual within Finance and Investments, delays in contract payments within Community Services \$258K and the balance requiring phasing adjustments.
- Materials and other costs \$798K less than forecast due to minor favourable variances across most departments largely a result of incorrect phasing of forecast expenditure.
- Capital Works & capital carry over (07/08) expenditure of \$2.418M is \$2.455M less than the forecast of \$4.872M.
- Capital expenditure of \$295K is \$183K less than the forecast of \$478K.
- Net transfers from reserves are \$2.626M greater than forecast. This primarily relates to tied grants transfers and will be offset at the end of the year when funds are identified for transfer back to reserves.

**5. INTERNAL CONSULTATION**

5.1. Executive Team

**6. RECOMMENDATION**

- 6.1. That the Quarterly Financial Report from the CEO detailing Council's financial performance for the three months ended 30 September 2008 be adopted.