



**10.1** ADOPTION OF COMMUNITY AMENITY LOCAL LAW 2023

**EXECUTIVE MEMBER:** BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

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**1. PURPOSE**

- 1.1 To update Council on the outcomes of the community engagement process in relation to the proposed Community Amenity Local Law 2023.
- 1.2 To propose that Council make the Community Amenity Local Law 2023, in accordance with the Local Government Act 2020.

**2. EXECUTIVE SUMMARY**

- 2.1 Council's Local Law No. 1 (Community Amenity) (the 'Local Law') was created in 2013. Local Laws are automatically revoked ten years after their making, unless revoked sooner. Council's current Local Law and the Procedures and Protocols Manual will cease to operate on 31 August 2023. Council is required to adopt new local laws prior to the revocation date.
- 2.2 At its meeting held on 1 March 2023, Council resolved to authorise the commencement of the statutory process (community engagement) for the making of the proposed Community Amenity Local Law 2023.
- 2.3 This process has been completed, and there have been no amendments made to the proposed Community Amenity Local Law 2023 as a result of the submissions received.
- 2.4 The proposed Community Amenity Local Law 2023 is now presented to Council for adoption, with a proposed date effective of 1 August 2023.

**3. RECOMMENDATION**

That Council:

- 3.1 Acknowledges and thanks the community for the feedback provided through the community consultation period.
- 3.2 Pursuant to section 71 of the Local Government Act 2020, makes the Community Amenity Local Law 2023 (Attachment 1) to replace the Local Law No.1 (Community Amenity) 2013 and that the Community Amenity Local Law 2023 takes effect on 1 August 2023.
- 3.3 Notes the tabling of the certificate pursuant to section 74(3) of the Local Government Act 2020 from Sherwell Harrison Munro Lawyers (Attachment 2).
- 3.4 Pursuant to section 71 of the Local Government Act 2020, gives notice of its decision to make Community Amenity Local Law 2023 in the Government Gazette, a local newspaper and on the City of Port Phillip's (Council) website, stating the title, objectives and the effect of the local law, and that a copy of the local law is available for inspection at Council offices and on the Council website.
- 3.5 Notes that the operating document – the Procedures and Protocols Manual that accompanies the new Community Amenity Local Law 2023 has been updated.



#### 4. KEY POINTS/ISSUES

##### Background

- 4.1 Victorian Councils have the broad power to make local laws under Section 71(1) of the Local Government Act 2020.
- 4.2 Council's Local Law No. 1 (Community Amenity) (the 'Local Law') will cease to operate on 31 August 2023 and Council is required to adopt new local laws prior to the revocation date.
- 4.3 On 6 April 2022, Council adopted Principles and Desired Outcomes for the draft Local Law. These, together with benchmarking, direct feedback from the community and stakeholders, Councillor consultation, internal workshops, a review of complaints and service requests, and in some cases, a review of challenges faced when enforcing the current local laws have all been considered in developing the new proposed Community Amenity Local Law 2023.
- 4.4 The proposed Community Amenity Local Law 2023 was presented to Council at a meeting held on 1 March 2023, where it was resolved to release the proposed Community Amenity Local Law 2023 and associated Community Impact Statement for community consultation.
- 4.5 Community consultation on the proposed Community Amenity Local Law 2023 was undertaken between 6 and 31 March 2023, to enable the community to have their say.

#### 5. CONSULTATION AND STAKEHOLDERS

##### Methodology

- 5.1 The aim of community engagement was to seek feedback on the proposed Community Amenity Local Law 2023.
- 5.2 The engagement ran from 6 March to 31 March 2023. The community was invited to complete a custom online survey on Council's Have Your Say platform or lodge a written submission.
- 5.3 In-person consultation opportunities were available through the Neighbourhood Engagement Program included seven pop ups allowing people to have their questions answered and encourage input.
- 5.4 Engagement was supported by a detailed communications plan to coordinate messaging including boosted social media posts, website, e-newsletters and newspaper advertisements.
- 5.5 Posters and postcards with QR codes were displayed at ASSIST counters and libraries and handed out.
- 5.6 A dedicated project email address [proposedlocallaw2023@portphillip.vic.gov.au](mailto:proposedlocallaw2023@portphillip.vic.gov.au)
- 5.7 Key stakeholders were contacted directly and invited to participate in engagement activities, including meetings with officers.

##### Community Reach

- 5.8 769 people visited the online Have Your Say platform.
- 5.9 Boosted social media posts reached 4,208 people.
- 5.10 Council's social media posts were shared and promoted on other community pages.
- 5.11 Additional outreach occurred through a Councillor-led forum on 28 March 2023.



Synopsis of Community Consultation Feedback

5.12 Refer Attachment 3 Summary Community Engagement Report.

5.13 A summary of the feedback received by Council is provided below.

- A total of 168 community members were engaged primarily via an online survey (155) through Council's Have Your Say platform, as well as email responses / written submissions (13).
- Of the 155 surveys received, 97% were Port Phillip residents.
- Elements supported
  - There was a high level of support for Clause 17 Behaviour on Council Land, with significant public support for a response to anti-social behaviour and nuisance (72 respondents).
  - Clause 43 Furniture and Other Items on Council Land and Footpaths was also well supported as current behaviour is seen to create safety risks through blocked footpaths, reduced cleanliness, and the creation of visual clutter (46 respondents).
  - There was strong support for Clause 51 Dangerous or Unsightly Land to require owners or owners' corporations to take responsibility for land adjacent to their properties and not allow nature strips and land adjacent to property to be unsightly or occupied with furniture (27 respondents).
  - Generally, Clause 23 Shopping Trolleys was also well supported as respondents thought this law would improve amenity and reduce safety and access risks (22 respondents).
  - The change to Clause 35 Special Events Permits to allow fire with a permit also received general support (17 respondents).
- Elements less supported
  - There was less support for amendments to Clause 15 Asset Protection Permit which proposed to enable Council to pursue owners (if unsuccessful with builders), for asset damage as this was perceived as a transfer of responsibility from the builder to the owner (8 responses).
  - The proposal to extend the time that builders can operate from 3pm to 5pm on Saturdays (Clause 52 Managing Amenity on Building Sites), had less support from the community who expressed concerns about noise and disruption (15 respondents).
- Short stay accommodation
  - There were 23 comments in the final open-ended question regarding the absence of an amendment to the Local Law to respond to increasing anti-social behaviour generated by short term rentals.
- Hoon driving
  - Sixty (60) respondents said that hoon driving events are an issue in Port Phillip.
- Camps and homelessness, drug use and antisocial behaviour
  - Eleven (11) respondents provided feedback regarding ongoing issues with camps, and gatherings, anti-social behaviour (13) and drug use (6).



## 6. PROPOSED COMMUNITY AMENITY LOCAL LAW 2023

### Key considerations

#### 6.1 Local Law in General

- Having reviewed the community engagement findings, Officers do not recommend making any further changes to the proposed Community Amenity Local Law 2023.
- There was broad support for the proposed Community Amenity Local Law 2023 and generally favourable scores for the specific changes that were included in the Have Your Say survey.
- There were low numbers of responses to the two areas where there was less support: Asset Protection Permits and extended permit hours for builders on Saturdays. It is Officers' view that these numbers do not warrant a change to the proposed Community Amenity Local Law 2023.
- It is proposed that the final adopted Community Amenity Local Law 2023 include graphic design elements to enhance clarity / ease of understanding.
- Refer Attachment 1 Community Amenity Local Law 2023.

#### 6.2 Camps and homelessness, drug use and anti-social behaviour

- Eleven (11) respondents provided feedback regarding ongoing issues with camps, gatherings; anti-social behaviour (13), and drug use (6). These numbers are relatively low compared to the feedback on other clauses. Feedback provided was not specific to proposed clause inclusions / changes.
- Council has responded to these issues by including an expanded Behaviour on Council Land clause (to include anti-social behaviour and a nuisance focus) and a new ban on furniture on Council land. It is intended that these changes will support addressing the issues raised.
- Additionally, Council will continue to work closely with Victoria Police in relation to community safety, and advocate strongly for increased Police visibility, and consistent joint patrols of our high streets.

6.3 It is proposed that the new Community Amenity Local Law 2023 become effective on 1 August 2023. In the lead up to that date, Council will be communicating the changes to traders, individuals and the community via its website, social media and directly in the field. This communication has commenced.

6.4 It is proposed that for the new Clause 23 Shopping Trolleys, a 12-month lead in time is provided to relevant traders and supermarkets to allow them time to re-fit their trolleys with the required perimeter locks. In the meantime, abandoned shopping trolleys will be responded to using our current process, as set out below:

- Where a shopping trolley has been left on a road or Council land, the proprietor of the premises identified on the shopping trolley is notified and given reasonable opportunity to recover the trolley, unless the shopping trolley or its location poses a danger.
- If the proprietor does not recover the shopping trolley within a reasonable period of time, an Authorised Officer may impound the shopping trolley.
- Where a shopping trolley that has been left on a road or Council land contains personal belongings, an Authorised Officer must take all reasonable steps to



ensure that the belongings are removed for safekeeping and returned to the owner.

- 6.5 Enforcement of the new Community Amenity Local Law 2023 will be undertaken in line with standard operating procedures, which ensure that Authorised Officers are clear, considerate and consistent in their decision making. Where infringements are issued or prosecution is warranted, Council and its Officers will adhere to the Attorney General's Guidelines for the Infringements Act 2006 (legislating authorities) and the Victorian Model Litigant Guidelines.

## 7. OTHER MATTERS

### 7.1 Short Stay Rental Accommodation

- Council has resolved to seek a report into its options for regulating and managing short stay accommodation. This is due to be presented to Council in August 2023. Any proposal to introduce new local laws or fees etc for short stay accommodation properties would be subject to a separate community engagement process.
- In the meantime, Council website information has been updated and includes links for people with complaints about short stay properties to lodge them through the Council portal.
- Further, Council successfully advocated for a motion to be passed at the 19 May 2023 MAV State Council Meeting calling for *“more effective and uniform State Government legislation in relation to short stay accommodation, including AirBNB, in all types of dwellings to alleviate amenity impacts, and to consider limiting the amount of time in a given year whereby dwellings can be rented out on a short stay basis in areas where housing availability has been identified as a particular issue”*.

### 7.2 Hoon events

- Sixty (60) respondents said that hoon driving events are an issue in Port Phillip. Many of the comments refer to noise from motorbike and car engines, rather than specific 'hoon' gatherings that other Councils have experienced that typically occur in industrial estates. Currently, Council records show that only one such 'hoon' event occurred in the past 2 years, being that held at Station Pier in October 2021.
- It is clear from community feedback that hoon driving behaviour on Beaconsfield Parade and near Station Pier causes significant noise pollution that impacts upon our residents. The creation of unreasonable noise is a breach of the Environment Protection Act.
- Victoria Police hold existing powers to penalise the majority of hoon / loud driver behaviours observed in Port Phillip.
- Officers do not recommend introduction of a hoon event local law at this stage, as 'hoon' behaviour is currently being considered by the State Government and the Police have powers to deal with noisy and illegal driving.
- A recommendations report is expected from the DTP Hooping Committee Reference Group (CRG) in 2023.
- Council will continue to Collaborate with the Environment Protection Agency (EPA) and Victoria Police on the use of acoustic cameras and seek to develop a trial, ideally within Port Phillip. There is evidence that acoustic cameras have



been used very effectively by Councils in Greater London to enforce vehicle noise and deter hoon gatherings. More time is needed to examine issues with the technology, costs and logistics.

- Council will also monitor the State government's response to the CRG report that includes recommendations to the Minister for Roads and Road Safety on tackling hoon behaviour.

## 8. LEGAL AND RISK IMPLICATIONS

- 8.1 All Local Government authorities are required to develop a Local Law in accordance with the Local Government Act 2020 (Act).
- 8.2 Section 71 of the Act gives the power to Councils to Make a Local Law.
- 8.3 Section 72 of the Act outlines the requirements for the making of a Local Law, including a requirement that a local law must not be inconsistent with any Act (including Charter of Human Rights and Responsibilities Act 2006) or regulations.
- 8.4 Section 73 of the Act outlines community notice and consultation requirements including that:
  - (6) If (a) the Council proposes to alter a proposed local law in respect of which notice has been given under subsection (3) and (b) the alteration will affect the rights or responsibilities of any person – the Council must comply with subsections (2) to (5) and conduct a further community engagement process in respect of the proposed alteration.
- 8.5 Section 84 of the Act provides that the local law is revoked 10 years after its making, unless sooner revoked. Port Phillip's Local Law No.1 (Community Amenity) 2013 will be revoked on 31 August 2023. If the Community Amenity Local Law 2023 is not adopted prior to 31 August 2023, Council will not have any 'local laws' for the municipal district until the local law is adopted. Accordingly, there is a risk that there will be a period where there is no ability for Council to function in relation to activities regulated by the local law.
- 8.6 Prior to recommending the final Community Amenity Local Law 2023 to Council for adoption, various assessments were completed including Risk Assessment, Gender Assessment, Competitive Neutrality Assessment, Compatibility with Charter of Human Rights Assessment, Accessibility Assessment.
- 8.7 With the introduction of the Local Government Act 2020, Council local law penalties were changed from being fixed at \$100 to being set pursuant to the Monetary Units Act 2004. What this means is that a penalty unit is increased periodically by the State Government and is currently \$184.92. What follows is that the penalties for infringement notices will increase on a yearly basis, with the value of a penalty unit increasing to \$192.31 in 2023-2024.
- 8.8 Section 74(3) of the Act provides that before Council can adopt a local law, a certificate must be obtained from an external lawyer, stating that the proposed local law is consistent with local law requirements. Refer Attachment 3 Certificate Pursuant to Section 74(3) of the LGA.

## 9. FINANCIAL IMPACT

- 9.1 Preparation of the new Community Amenity Local Law 2023 has cost approximately \$130,000. This includes the costs of project management, legal drafting, community



consultation and systems changes associated with the forms and record keeping systems used in its administration.

- 9.2 Once adopted, implementation, administration and enforcement of the new Local Law will be managed within existing budgeted resources.

**10. ENVIRONMENTAL IMPACT**

- 10.1 The Community Amenity Local Law 2023 is anticipated to have positive impacts on the environment through protecting the amenity, natural and built assets, and cleanliness of the City.

**11. COMMUNITY AND SOCIAL IMPACT**

- 11.1 The Community Amenity Local Law 2023 aims to support the creation of a liveable, safer and healthier city by regulating activities that occur in public and private places that may impact on urban character, local amenity and the fair enjoyment by or safety of others.

**12. ECONOMIC IMPACT**

- 12.1 The Community Amenity Local Law 2023 supports well managed economic recovery and development through regulating the use of public space for activities that generate economic benefits in the city such as events, parklets, footpath trading and construction projects.

**13. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- 13.1 The Community Amenity Local Law 2023 is a key initiative identified in the Council Plan. It supports *Liveable Port Phillip* and *Well Governed Port Phillip* strategic directions.

**14. IMPLEMENTATION AND COMMUNICATION**

- 14.1 Officers have developed a detailed implementation plan to guide approach to implementation of amended or new clauses, including communication and education initiatives for those who may be particularly impacted.
- 14.2 The implementation plan identifies the tasks and changes that need to occur ahead of the Community Amenity Local Law 2023 taking effect on 1 August 2023. This includes procedures, staff awareness and training, website updates, system changes, general communications and tailored information to those who are impacted.
- 14.3 There is also work underway to improve data capture and reporting on Local Law enforcement.
- 14.4 Key dates for the introduction of the new Local Law are:

21 June 2023	Council Report to make the new Community Amenity Local Law 2023
1 August 2023	Date effective for the Community Amenity Local Law 2023
22 June 2023 – 30 Sep 2023	Gazettal, design, publishing, community information period.

# MEETING OF THE PORT PHILLIP CITY COUNCIL

## 21 JUNE 2023



### 15. OFFICER DIRECT OR INDIRECT INTEREST

15.1 No officers involved in the preparation of this report have any material or general interest in the matter.

#### ATTACHMENTS

1. Draft Community Amenity Local Law 2023 [↓](#)
2. Certificate pursuant to section 74(3) of the Local Government Act 2020 [↓](#)
3. Summary Community Engagement Report [↓](#)