



- 8.4 LOCAL LAW NO.1 (COMMUNITY AMENITY) REVIEW - COMMUNITY CONSULTATION SUBMISSIONS**
- WARD:** WHOLE OF MUNICIPALITY
- GENERAL MANAGER:** FIONA BLAIR, INFRASTRUCTURE & AMENITY
- PREPARED BY:** LILI JAMES, MANAGER SAFETY AND AMENITY
TERRY WRIGHT, COORDINATOR LOCAL LAWS AND ANIMAL MANAGEMENT
- TRIM FILE NO:** 16/01/662
- ATTACHMENTS:**
1. City of Port Phillip Local Law No.1 (Community Amenity) Review Proposed Amendments Marked
 2. Submission Spreadsheet for Local Law No.1 (Community Amenity) Review
 3. Submissions for Local Law No.1 (Community Amenity) Review - Redacted

PURPOSE

To present the submissions received from the community during the Section 223 process on the amended and new clauses proposed to be included Council’s Local Law No.1 (Community Amenity). Following consideration of the submissions any required changes will be made to the Local Law No. 1 (Community Amenity) prior to presenting the Local Law to Council for adoption.

I. RECOMMENDATION

That Council:

- 1.1 Considers the submissions received pursuant to Section 223 of the Local Government Act 1989 process, conducted in relation to the new and amended clauses proposed to be incorporated into the Principal Local Law, Local Law No.1 (Community Amenity).
- 1.2 Hears from those who have requested to speak in support of their submission at the meeting on 4 October 2017.
- 1.3 Thanks the submitters for providing feedback on the proposed changes to the Local Law No.1 (Community Amenity) received during the s223 process.
- 1.4 Makes recommended final changes to the clauses and amendments included in the Principal Local Law No.1 and presents the new and amended clauses proposed to be incorporated into the Principal Local Law, Local Law No.1 (Community Amenity) for adoption at the Ordinary Meeting of Council on 1 November 2017.



2. BACKGROUND

- 2.1 Port Phillip City Council, in compliance with its statutory requirements, created the Local Law No. 1 (Community Amenity) on 1 September 2013. As a result of several years working with the current Local Law No. 1 (Community Amenity), Council Officers identified the need to enhance and improve the clarity of some clauses and to develop some new clauses to be able to more effectively respond to local issues and enforce compliance. The proposed amended and new clauses and changes to the definitions were identified as required to improve the safety and amenity of the community.
- 2.2 Council endorsed at its Ordinary Meeting of Council on 19 July 2017 to commence the statutory process for the making the proposed new and amended clauses and for these clauses to be incorporated into the Principal Local Law No. 1 (Community Amenity) (Attachment 1).
- 2.3 A community consultation and submission process was conducted in accordance with s223 of the Local Government Act 1989 from 25 August to 8 September 2017. Further information is provided in section 5 of this report. The timeline for submissions must be a minimum of 28 days.
- 2.4 The City of Port Phillip Local Law No. 1 (Community Amenity) September 2013 can be accessed at:
<http://www.portphillip.vic.gov.au/Local-Law - No1-Community and -Amenity- 2013 – final-pdf>
- 2.5 The City of Port Phillip Local Law No. 1 (Community Amenity) with proposed amendments marked is included in Attachment 1.

3. KEY INFORMATION

3.1 Submissions received during the s223 process.

Council must formally consider and hear from those who wish to speak to their submission ahead of adopting the proposed amendments to the Principal Local Law No.1.

A total of twelve submission from 10 respondents have been received by Council an extensive community engagement process in accordance with s223 of the Local Government Act (refer to section 5). The full list of all submitters and a summary of their submissions in provided in attachment 2. Attachment 3 includes the full content of submissions received by Council.

A summary of the submission and considerations for the amended clauses in Local Law No.1 is provided below as follows:

3.1.1 Clause 42 Grand Prix Parking

Amendment includes the requirement to display a valid Grand Prix parking permit in the Local Area Zone during the four Days of the Grand Prix between the hours of approximately 9am to 5pm and introduction of a \$250 infringement for failing to display the valid permit.

Submissions: Two submissions were received regarding this clause, one from a resident who attended the 'drop in' session at the Port Melbourne Town Hall, and another from the a representative from the Australian Grand Prix Corporation, including:

- The resident was not supportive of amendments to clause 42 and she wanted Council to consider that residents may not receive any or sufficient parking permits for themselves or their visitors and therefore the \$250 penalty for failing to display a valid permit is



unreasonable.

- The Australian Grand Prix Corporation representative suggested that if Council want to implement this clause that vehicles need to display both the Local Access Zone (LAZ) sticker and a Council parking permit as he alleges that many people sell their LAZ stickers to other people visiting the municipality.

Background: The Grand Prix Corporation currently distribute two stickers to residents to be used by residents and their visitors to park in the LAZ on the four race days. Residents and visitors can collect additional stickers from Council's Town Halls. If a Council permit is introduced there may be additional administrative costs. Council Officers are aware that some residents go on holidays during or prior to the Grand Prix and have left their cars on the street without a LAZ sticker displayed. These residents could potentially receive an infringement for failing to display a valid permit. Since 2016, Council has implemented additional 2P parking restriction overlays in Herbert Street, Richardson Street, Nimmo Street, Erskine Street and Mcgregor Street to reduce the impact on locals of visitors parking in the LAZ.

3.1.2 Clause 60 Shopping Trolleys

Amendment: includes to require that any proprietor of a premises which makes shopping trolleys available for use to ensure that from 1 July 2018 onwards, each shopping trolley has a coin operated lock or a perimeter restraint system.

Submissions: Three submissions were received in relation to this clause, including a resident who attended the 'drop in session at the Port Melbourne Town Hall, an owner of a small retailer in Balaclava and the Director of Trolley Services Australia (the company engaged by Woolworths and Dan Murphy to collect and return abandoned trolleys to the retail store).

A summary of the points raised in the submission includes the following:

- The resident was supportive of amendments to clause 60.
- The small business owner was supportive of the requirement for large retailers to install coin operated lock or perimeter constraint system on their shopping trolleys however wanted the exemption for businesses with less than 10-20 shopping trolleys. The small business owner stated he has been in business since 1995 and has never lost a trolley. He stated that many local small businesses are already struggling with the cost of rents, power and general outgoings.
- The Director of Trolley Services Australia raised concerns regarding the cost of installing and maintaining coin and wheel locking. The lock system would also inhibits the ability for trolleys to be moved to different stores and so does the proposed mandatory contact details. Trolley Tracker have offered to work with Council to undertake an education program instead of installing coin and wheel locking which has significant financial cost. Trolley Tracker are concerned that trolleys may be abandoned even with the installation of the coin and wheel locking and have the understanding that the liability would rest with the person who dumps the trolley and not the retailer.

Background: From 2014-2016 Council received between 105-109 requests to remove abandoned shopping trolleys annually. At times a single complaint may require 15-20 abandoned shopping trolleys to be collected from a given area.

Council's Local Laws Officers report that trolleys belonging to Aldi, Coles, Woolworths, IGAs and



Dan Murphy have been abandoned however the majority of dumped trolleys belong to Coles and Woolworths. Council's Officers report that the areas with the highest incidents of abandoned trolleys are St Kilda, Balaclava, Port Melbourne and South Melbourne areas. Trolleys that are not collected within 48 hours are impounded and only a small number of trolley owners collect the impounded trolleys and pay the required release fee of \$150 (Local Law No.1).

3.1.3 Clause 36 Domestic Waste and Recyclable materials

Amendment: Clause 36 has been amended to read that 'any owner of any flats or units must provide a clearly defined storage area for the storage of bins and every occupier must keep the bin allocated to the flat or unit in that defined storage area'. Clause 36 in Local Law No. 1 has also been amended to permit a waste bin to be stored in a lane or other similar area where permission is given by an authorised officer and the placement of the bin does not cause an obstruction to vehicular or pedestrian traffic. This has been added to allow for storage of rubbish bins in laneways or streets where there is no place on the land to store the bin such as heritage buildings, where front and rear of the building are built to the boundary line. In other circumstances domestic waste bins must be returned to the property 24 hours after collection.

Submissions: Two submissions, from a resident and local business owner were received in relation to clause 36, Domestic Waste and Recyclable materials, including:

- One resident wanted this local law further amended to require domestic waste bins located on land belonging to apartment blocks to be screened and not visible from the street.
- A business owner was concerned that the laneway abutting his business was cluttered with rubbish bins left out in the laneway all week making it difficult for staff and clients to safely access the car park.

Background: In accordance with clause 36 'any owner of any flats or units must provide a clearly defined storage area for the storage of bins and every occupier must keep the bin allocated to the flat or unit in that defined storage area'. The clause does not specify the location of the bins.

Commercial waste bins require Council permission to be placed on the land and if required a waste management plan can be requested by Council to protect the safety and amenity of the environment. Council's Local Laws staff investigated and responded to the concerns raised by the business owner.

3.1.4 Clause 57 Allowing land to be kept in a dangerous or unsightly manner

Amendment: This clause has been reviewed to improve the ability of Council to respond to complaints of derelict or unsightly buildings or land. The penalty amount for a breach has been increased to 10 penalty units or \$1000 infringement and maximum of 20 penalty units or \$2000 if the matter is heard in a Magistrates' Court.

Submission: One submission was received from a resident who was concerned about the state of a property and Council's ability to respond, specifically:

- Resident raised concerns about a property in Elwood, specifically unauthorised goods being dumped on the footpath or nature strip and non removal of graffiti, broken light fittings and fences not being repaired.

Background: The concerns related to dumped rubbish and graffiti can be addressed by clause 57 'Allowing land to be kept in a dangerous or unsightly manner', which has been strengthened. This



amended clause would permit Council's Local Laws Officers to enforce compliance where the landowner permits any structure to become dilapidated or further dilapidated, fails to maintain any building in a state of good repair and appearance, (including undertaking temporary repairs as required to ensure on site safety and security and to avoid the appearance of neglect out of character with other premises in the vicinity) and allows any graffiti to remain on any building or structure on the land. Dumped rubbish is littering and enforceable under the Environmental Protection Act 1970.

3.1.5 Other submissions

Acting Inspector, Port Phillip Local Area Commander, provided a submission stating that the Police have no issues with the proposed Local Law changes to the Principal Local Law No.1.

Four submissions received were unrelated to the new and amended clauses proposed to be incorporated into the Principal Local Law, Local Law No.1 (Community Amenity), including:

- a) A resident wanted outdoor heaters on all restaurants to be banned, plastic bags in all shops to be banned and Council to refuse to acknowledge Australia Day or hold a citizenship ceremony on January 26. This is out of scope of the Local Law review and was not included in the s223 process.
- b) A resident from Port Melbourne found the documents difficult to read and wanted a copy of the current Local Law No.1 with amendments marked up to be posted on Council's *Have your say* webpage and sent to her home. A copy was posted on Council's webpage and mailed to the resident.
- c) A member of a not for profit organisation asked a question regarding glass on the beach which was responded to by email.
- d) Acting Inspector, Port Phillip Local Area Commander, provided a submission requested that documentation submitted to Council on 13 July 2017 regarding governing the consumption of alcohol on Carlisle Street from 9am to 8pm be considered as forming part of the Police submission. The letter from the Police dated 13 July 2017 respectfully requests consideration is given to a 12 month trial whereby the local law reflect the consumption of alcohol at any time on Carlisle Street.

Background: There were no changes proposed to clause 54 in relation to governing the consumption of alcohol on Council land. Restrictions to the consumption of alcohol on Council land can be made by Council through its current Local Law. Council is able to designate an area as alcohol/liquor free. The consumption of alcohol is scheduled to be considered by Council at its Ordinary Meeting of Council 4 October 2017.

3.1.6 Further correspondence regarding Local Laws Review

After the s223 process was completed, a letter was received by the Mayor on 15 September 2017 from the Beacon Cove Neighbourhood Association, expressing their concern that the review of the Local Laws No.1 did not reveal a way to enforce a clean-up of the site at 1-7 Waterfront Place, Port Melbourne.

Background: Amenity concerns related to the property at 1-7 Waterfront Place can be addressed by amended clause 57, 'Allowing land to be kept in a dangerous or unsightly manner'. The definition of unsightly land has been strengthened and the penalty amount is proposed to be increased, \$1,000 fine to

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\$2,000 (Magistrates' Court) per offence. A new offence under this Local Law will be committed for every month any breach of this clause continues, unless effective works have been undertaken to remedy any breach. Council's Local Laws Officers would be able to enforce compliance where the landowner permits the appearance of the land to be that of neglect and is out of character with other premises in the vicinity, allows any graffiti to remain on any building or structure on the land and allows the land to be in a condition that may promote the presence of vermin and other pests. However, Council is not be able to require a landowner to complete any works such as demolition or installing a fence where it is prohibited by a covenant, planning permit or other state and federal legislation.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

The local law review aligns to what our community values and is consistent with the key Directions in the Council Plan, including:

- 4.1 Direction 3 – We have smart solutions for a sustainable future. The proposed amended and new local law clauses will improve the environmental amenity. The laws consider human rights, and reduce the negative impact of waste on public land and water from residential properties negatively impacting on the environment.
- 4.2 Direction 4- We are growing and keeping our character. The revised local laws will assist Council to protect the amenity, character and liveability of nine neighbourhoods enjoyed by residents and visitors.
- 4.3 Direction 6 – Our commitment to you. Ongoing improvement of council’s local laws is identified as a commitment in the City of Port Phillip 2017-27 Council Plan, Direction 6.1, transparent governance and an actively engaged community.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Community members were invited to make submissions on the proposed local law amendments. The purpose of the changes to the Local Law No.1 and the process to make a submission to Council was advertised in the Government Gazette on 27 July 2017, Leader newspaper on 1 and 22 August 2017, the Age newspaper on 29 July 2017 and on Council’s social media and 'have your say' website from 27 July to 8 September 2017.
- 5.2 Copies of the amendments in the Principle Local Law No. 1 were available at Council’s corporate centres and libraries.
- 5.3 One community member attended a ‘drop in’ information sessions held on Thursday 11th August 2017 at St Kilda Town Hall and two community members attended a ‘drop in’ session held on Monday 8th August 2017 at the Port Melbourne Town Hall.
- 5.4 Special interest groups such as traders groups, local Life Saving, Yachting and Angling Clubs, small, medium and large grocery stores, supermarket chains, Port Melbourne Action Group, Beach Patrol and the Victorian Police were advised of the proposed changes to the Local Law in writing from the 4 August and 11 August 2017 and invited to make a submission.
- 5.5 A few thousand people viewed the posts on social media, which was used to promote the changes to the local law. Two of the three Facebook posts received higher than average (for our channels) reach and engagement. One tweet received higher than average engagement. The total of unique visitors to the ‘have your say’ page was 492 and of this group 268 were informed about the review by downloading a document or contributing to the survey tool.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The review of Local Law No.1 (Community Amenity) was completed in accordance with Council’s continuous improvement framework, the state government’s best practice guidelines and Section 119 of the Local Government Act 1989.
- 6.2 Council facilitated a community submission process in accordance with Section 223 of



the Local Government Act 1989 on the proposed clauses and amendments to its Principal Local Law No.1 (Community Amenity).

- 6.3 The proposed clauses to be included into the principal Local Law No. 1 is consistent with Council Policy and Legislative requirements, Charter of Human Rights and Guidelines for the “Making of Local Laws Manual” as prepared by the Department of Planning and Community Development 2010.
- 6.4 Throughout the preparation and drafting process of the draft Local Law No.1 (Community Amenity), officers have sought legal advice from Council’s legal representatives on issues as they have arisen, and where applicable that advice has been incorporated into the proposed or amended local laws.
- 6.5 Once a local law is adopted by Council it must be gazetted, and a copy forwarded to the State Government Minister with the responsibility for Local Government.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 The proposed changes will have a positive impact on the environment of our City, enhancing the cleanliness, safety and amenity of the municipality.

7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 The proposed clauses will have a positive social benefits for the community as it enhances residents’ peaceful enjoyment of their neighbourhood.

7.3 ECONOMIC IMPLICATIONS

- 7.3.1 Local Laws improve the amenity and liveability and attract more people to the City. The resulting increased vibrancy will facilitate a City that connects and grows business.
- 7.3.2 In accordance with amended clause 60 Shopping Trolleys, it is proposed that local business owners with shopping trolleys are required to have either coin operated or wheel locking devices installed on the trolleys. This is intended to reduce the numbers of dumped shopping trolleys on Council land.

7.4 FINANCIAL IMPLICATIONS

- 7.4.1 Funding for the development of the draft proposed clauses included in Local Law No.1 document have been provided within existing budgets. The total cost is estimated to be \$50,000 - \$60,000 and primarily includes legal expenses, advertising and community education expenses.
- 7.4.2 It is not anticipated that the endorsement of the proposed clauses will have an ongoing impact on Council’s budget or resources. There may be additional administrative costs associated with introducing a new Council Grand Prix parking permit. Council’s authorised officers will administer the local laws within approved operational budgets.



8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

8.1.1 Changes to the new and amended clauses in the Principal Local Law No.1 required as a result of the submission process will be made and the revised clauses presented to Council's Ordinary Meeting on Wednesday 1 November 2017 for adoption.

8.2 COMMUNICATION

8.2.1 The people who registered a submission during the s223 process have been notified that their submissions will be heard on Wednesday 4 October 2017 and invited to register their interest to speak at the Council meeting. The submitters will also be notified that the amended Principal Local Law No.1 (Community Amenity) will be presented to a Council meeting on 1 November 2017 for adoption.

8.2.2 The timelines will be posted on Council's *Have your Say* webpage.

8.2.3 Community education on the new and amended Local Laws No. 1 is presently scheduled for November to December 2017.

9. OFFICER DIRECT OR INDIRECT INTEREST

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