

## **AGENDA - ORDINARY MEETING OF COUNCIL – 19 JULY 2017**



**8.2**

**LOCAL LAW NO. I REVIEW**

**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.I (Community Amenity)
2. City of Port Phillip Local Law No. I - Community Impact Statement
3. City of Port Phillip Local Law No. I - Communication and Education Plan 2017

### **PURPOSE**

To present the amended and new clauses proposed to be included Council's Local Law No.I (Community Amenity) and to commence the statutory process for inclusion of these clauses into Local Law No.I (Community Amenity).

### **I. RECOMMENDATION**

That Council:

- 1.1 Approves the commencement of the statutory process for the making of the proposed new and amended clauses and for these clauses to be incorporated into the Principal Local Law No. I (Community Amenity) (Attachment 1).
- 1.2 Gives public notice of the exhibition of the draft clauses and amendments proposed to be incorporated in the Principal Local Law No I (Community Amenity), via the Government Gazette and public advertisement, and invite written submissions in relation to the draft Local Law to be received by the Council for consideration until the close of business Friday 8 September 2017 as per Sections 119 and 223 of the Local Government Act 1989.
- 1.3 Notes that any submissions received pursuant to Section 223 of the Local Government Act 1989 will be considered at an Ordinary meeting of Council to be held on 4 October 2017 in the Council Chambers, Port Melbourne Town Hall, in relation to the new and amended clauses proposed to be incorporated into the Principal Local Law, Local Law No.I (Community Amenity).
- 1.4 Considers the final clauses and amendments to the Local Law No I at its Ordinary Meeting of Council on the 1 November 2017.

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### **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. Under the provisions of the Local Government Act 1989, all local laws sunset ten (10) years after the date they commence. Section 119 of the Local Government Act 1989 outlines the statutory process which a Council must follow when making its Local Law.
- 2.2 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.
- 2.3 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>

### **3. KEY INFORMATION**

- 3.1 Local residents have the right to feel safe and enjoy the amenity of both private and public places without unreasonable interference resulting from the inappropriate activity of others.
- 3.2 Amendments were made to definitions of words included in the Local Law No. 1 to add clarity and reflect the introduction of new technology, for example the introduction of the use of projected images for advertising and use of bicycles for advertising signs.
- 3.3 A number of new and amended clauses have been proposed to be introduced into the City of Port Phillip Local Law No. 1. The details of the changes form part of the attached Community Impact Statement (Attachment 2).
- 3.4 The key proposed new and amended include the following:
  - 3.4.1 introducing the ability for Council's authorised officers to require land owners to erect temporary fencing to maintain the amenity and safety in the area and reduce risk to the community;
  - 3.4.2 improving the ability of Council to respond to complaints of derelict or unsightly buildings or land;
  - 3.4.3 improving the ability of Council to respond to behavioural noise and other activities from commercial properties used for backpacker accommodation that is detrimentally impacting on the amenity of neighbours;
  - 3.4.4 enabling Council to require the landowner to maintain any water pump and filtration system that has been installed to filter ground water into the stormwater system, and the legal point of discharge in good working order;
  - 3.4.5 enabling Council to protect the community from significant risk associated with glass waste on beaches within the municipality by designating the foreshore to be glass free during prescribed times such as on public holidays. Glass bottles cannot be easily removed by beach cleaning machinery and the presence of broken glass poses a safety risk to tens of thousands of people who utilise the beach during summer.

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- 3.4.6 exempting an individual (benevolent or charitable organisation) from requiring a permit where they have permission from Council for the provision of free services at designated locations.
- 3.4.7 improving the ability of Council to consider personal circumstances such as homeless or complex mental health issues when administering the local laws related to sleeping in motor vehicles;
- 3.4.8 enabling Council to forward to the Registrar of Unclaimed Money, the security bond or surplus funds forming part of the bond that are not claimed within 12 months of completion of the building works and to refund bond amounts not used for repairs to the person who lodged the bond.
- 3.4.9 strengthen the requirements for clothing recycling bins to be kept and maintained in a good condition and not to negatively impact on the local amenity particularly during public and school holidays.
- 3.4.10 improve the safety of inflatable signs or displays by requiring them to be anchored or secured.
- 3.4.11 permitting residential rubbish bins to be stored on public land such as laneways in circumstance where the bin cannot be stored on private land and where the bin does not cause an obstruction to pedestrian or vehicular traffic. This clause will offer an alternative to residents whose houses or businesses open directly onto a lane as is the case in many heritage areas. This clause will assist older and people with special needs to better manage their domestic waste.
- 3.4.12 removing reference to abandoned and derelict vehicles as these are contrary to the Local Government Act 1989 which has adequate provisions to deal with abandoned or derelict vehicles.
- 3.4.13 Enabling Council to require local businesses to install a coin deposit mechanism or a perimeter constraint system for shopping trolleys to reduce the number of abandoned trolleys.
- 3.5 The proposed changes to Local Law No.1 (Community Amenity) will improve the safety, amenity and enjoyment of the land by the community. It will empower Council's Local Laws and authorised Officers to take action and enforce compliance.
- 3.6 The state government is considering a Bill (Environment Protection Amendment (Banning Plastic Bags, Packaging and Microbeads) Bill 2016) seeking to restrict the supply and sale of plastic bags and plastic and polystyrene packaging. This time creating a local law banning plastic bags is not recommended.

On 23 May 2017, Council wrote to Daniel Andrews to formally endorse the Keep Australia Beautiful campaign calling on the State Government to join South Australia, Tasmania, Northern Territory, the ACT and Queensland in passing legislation to ban the distribution of free single use plastic bags. The letter also requested that the State Government pass the draft Environment Protection Amendment (Banning plastic bags, packaging and microbeads) Bill (2016) or, if not feasible, an alternative legislation to prevent the distribution of free single use plastic bags.

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- 3.7 Council's authorised Local Laws Officers respond to all litter (dumped rubbish) offences under Section 45 of the Environment Protection Act. The Act defines litter which includes plastic. A litter offence can occur either in a place not provided for the deposit of litter or in a place provided for deposit of litter that is inappropriate for litter of that size, shape, nature or volume.
- 3.8 The new proposed local laws address gaps in legislative powers required to respond to local amenity issues impacting negatively on the community such as dangerous and unsightly land, abandoned shopping trolleys and unreasonable behavioural noise in residential areas.



## 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 A community consultation and engagement plan has been developed for the proposed clauses and amendments in accordance with the guidelines and the Local Government Act 1989, (as detailed in Attachment 3).
- 5.2 The Communication and Engagement Plan includes pre and post adoption activities which will be undertaken to comply with the legislation and to ensure that a transparent and accountable process is being undertaken. It is proposed the consultation is undertaken with the community and special interest groups that may be impacted by the proposed changes and amendments as part of the process of the Local Government Act 1989. Further details are provided in Section 8.2 of this report.
- 5.3 Extensive consultation has been undertaken with Council staff and feedback received from the community via the Assist centre, correspondence or conversations with Council's Officers has been considered in drafting the proposed changes to the Local Law No.1.

### 6. LEGAL AND RISK IMPLICATIONS

#### 6.1 POLICY

- 6.1.1 The proposed local law clauses will assist Council to achieve its objective of growing and keeping the City's character and protecting its liveability, Council Plan 2017-27. In preparing the draft proposed local law clauses care has been taken to ensure consistency with existing Council Policies, such as for events and footpath trading.
- 6.1.2 The City of Port Phillip Procedures and Protocols Manual includes procedures and conditions that are applicable to the local laws included in the City of Port Phillip's Local Law No.1 (Community Amenity). In order to improve accessibility and understanding between the Local Law No.1 and this document, the sections are now numbered to reflect the relevant Local Law clause. For example Clause 73 of the Local Law refers to Delegations and sub-section 73 of this document includes the list of delegations with respect to powers under the Local Law.

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### **6.2 LEGAL/STATUTORY REQUIREMENTS**

- 6.2.1 A statutory process required under section 119 of the Local Government must be followed in making any local laws. Prior to endorsing any the proposed clauses and amendments it is incumbent on the Council to facilitate a community submissions process in accordance with Section 223 of the Local Government Act 1989.
- 6.2.2 The proposed clauses to be included into the principal Local Laws 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.
- 6.2.3 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.
- 6.2.4 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 \$40,000 - \$50,000 and primarily includes legal expenses, advertising and community education expenses. It is not anticipated that the endorsement of the proposed clauses will have an ongoing impact on Council’s budget or resources. Council’s authorised officers will administer the local laws within approved operational budgets.

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### **8. IMPLEMENTATION STRATEGY**

#### **8.1 TIMELINE**

A statutory process must be followed for the making of the proposed new and amended clauses to be incorporated into the Principal Local Law No. 1 (Community Amenity).

A summary of key dates for the review of the Local Law No.1 is as follows:

1 March to 19 July 2017	Review local laws to identify improvements.  Analysis of community issues and feedback received regarding current local law clauses included in the Local Law No.1 document.
19 July 2017	Present the proposed changes to the City of Port Phillip Local Law No.1 (Community Amenity) and the community consultation and engagement plan at an Ordinary Meeting of Council.
20 July to 30 August 2017	Community consultation and engagement. Inform the community of the proposed and amended local laws and invite submissions through s223 process.
4 October 2017	Ordinary Meeting of Council to hear submissions. Following consideration of submissions any required change will be made.
1 November 2017	Ordinary Meeting of Council to adopt amended local law clauses to be included in the City of Port Phillip Local Law No.1 (Community Amenity).
November 2017	Inform community and stakeholders of the new local laws and how they will be administered. Thank submitters for their input.

#### **8.2 COMMUNICATION**

- 8.2.1 Community members will be invited to make submissions on the proposed local law amendments. The purpose and proposed changes to the Local Law No.1 and the process to make a submission to Council will be advertised in the Government Gazette, Leader and the Age newspaper, and Council's website including "Have Your Say." Copies of the amended Local Law will be made available at Council's corporate centres and libraries. This will enable persons effected by the proposed law(s) to have the opportunity to be able to make a submission.
- 8.2.2 Two drop in community information sessions, on Thursday 11<sup>th</sup> August 2017 at St Kilda Town Hall and on Monday 8<sup>th</sup> August 2017 at Port Melbourne Town Hall.
- 8.2.3 Special interest groups, such as traders groups and the Victorian Police that may be interested in the process will be advised of the proposed changes to the Local Law in writing.

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### **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.