



12.1 LOCAL LAW: CLAUSE FOR STORING HEAVY VEHICLES - ADOPTION

EXECUTIVE MEMBER: FIONA BLAIR, GENERAL MANAGER, INFRASTRUCTURE AND AMENITY

**PREPARED BY: JOHN COATES, ACTING MANAGER, SAFETY AND AMENITY
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1. PURPOSE

- 1.1 To present for adoption the insertion of new clause 29A, Heavy Vehicles, as an amendment to City of Port Phillip Local Law No.1 (Community Amenity) in accordance with the provisions of the Local Government Act 1989. The amendment to the Local Law will commence on the day immediately following the day on which notice of its making is published in the *Victoria Government Gazette*.

2. EXECUTIVE SUMMARY

- 2.1 A petition was received by Council on 29 November 2017 and heard at the Ordinary Meeting of Council on 6 December 2017 which requested that the City of Port Phillip create a new clause within the Local Law No.1 (Community Amenity) that regulates parking heavy vehicles on residential premises.
- 2.2 The keeping and storage of heavy vehicles on residential premises can be regulated through Council's Local Law No.1 (Community Amenity) and is aligned to Direction 4 and Direction 6 in the Council Plan 2017 – 2027. *Heavy vehicle* has the same meaning as in rule 200 of the *Road Safety Road Rules 2017*. A *heavy vehicle* means a vehicle with a Gross Vehicle Mass (GVM) of 4.5 tonnes or more. *Residential premises* mean premises used primarily for residential purposes.
- 2.3 Council currently does not have a local law governing the keeping or storage of heavy vehicles on residential premises. Upon receipt of this petition we have recognised the community requirement for this local law and have since undertaken benchmarking with other local councils.
- 2.4 At its ordinary meeting on 20 June 2018, Council received, heard and considered submissions from the community regarding the proposed local law as part of the statutory process.
- 2.5 Final changes or recommendations to the proposed local law based on this feedback have been incorporated in to the proposed clause.
- 2.6 This report recommends that Council amends Local Law No.1 (Community Amenity) to include the new clause that regulates parking heavy vehicles on residential premises.



3. RECOMMENDATION

That Council:

- 3.1 Amends Local Law No.1 (Community Amenity) of 2013 (Local Law) by inserting clause 29A in the form attached to the report.
- 3.2 Authorises this amended Local Law to commence on the day immediately following the day on which notice of its making is published in the Victoria Government Gazette; ceases to operate on the day on which the Community Amenity Local Law No. 1 of 2013 ceases to operate; and operates throughout the whole of the municipal district.
- 3.3 Authorises the Chief Executive Officer to give notice of the making of the Local Law in accordance with section 119(3) of the Local Government Act 1989 (Act).
- 3.4 Authorises the Chief Executive Officer to send a copy of the Local Law to the Minister for Local Government in accordance with section 119(4) of the Act.
- 3.5 Authorises the Chief Executive Officer to write to each person who made a submission under Section 223 of the Act, advising them of the decision to amend the Local Law in the form attached to the accompanying Report and to give reasons for this decision
- 3.6 Publishes the Local Law on its website, and make copies available at all Town Halls.

4. KEY POINTS/ISSUES

- 4.1 Council received a petition with 80 signatures requesting that Council creates a new local law within the Local Law No.1 (Community Amenity) that will require residents to obtain a permit from Council prior to parking *heavy* vehicles on residential premises within the municipality. The petition states that this is required to protect the safety and amenity of the area and to restrict use that may impact negatively on the area and cause damage to Council and community assets.
- 4.2 Officers conducted benchmarking upon receipt of this petition and five out of nine Councils have local laws that regulate *heavy* vehicles on residential and/or public land. The Councils which have local laws regulating heavy vehicles are; City of Bayside, Frankston City Council, Hobsons Bay City Council, City of Yarra and Kingston City Council.
- 4.3 An amendment to the Local Law was drafted proposing a new clause requiring a permit to keep or allow to be kept a *heavy vehicle* on *residential premises*.
- 4.4 The definition for heavy vehicle will have the same meaning as in rule 200 of the *Road Safety Road Rules 2017*. That is: a vehicle with a Gross Vehicle Mass of 4.5 tonnes or more.
- 4.5 At the Council Meeting on 4 April 2018 Council approved the commencement of the statutory process for the making of the proposed clause, and to invite submissions as per the Section 223 process of the *Local Government Act 1989*.

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- 4.6 A community consultation and submission process was conducted in accordance with s223 of the *Local Government Act 1989* from 12 April to 11 May 2018. The timeline for submissions must be a minimum of 28 days. This was advertised in both the Leader and the Government Gazette.
- 4.7 At its ordinary meeting on 20 June 2018, Council received, heard and considered submissions from the community regarding the proposed local law as part of the statutory process.
- 4.8 No further changes or recommendations to the proposed local law clause have been proposed based community feedback supporting the proposed clause.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Community members were invited to make submissions on the proposed clause. The purpose and purport of the proposed clause and the process to make a submission to Council was advertised in the Government Gazette on 12 April 2018, Leader newspaper on 17 April 2018 and on Council's social media outlets from 12 April to 11 May 2018 including Council's Have Your Say website.
- 5.2 Copies of the Local Law No.1 (Community Amenity) with the proposed clause were available at all City of Port Phillip town halls and libraries.
- 5.3 Special interest groups such as the Victorian Trucking Association and the Australian Transport Association were contacted via email on 12 April 2018 requesting that they distribute information to their members regarding this proposed clause and were invited to make a submission.
- 5.4 275 people viewed the Have Your Say page and 46 people were informed about the Local Law by opening links or visiting the page on multiple occasions.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The addition to the Local Law No.1 (Community Amenity) has been developed in accordance with Councils 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 clause to be incorporated into the Local Law No.1 (Community Amenity).
- 6.3 The proposed clause to be included in the Local Law No.1 (Community Amenity) is consistent with Council Policy and Legislative requirements, Charter of Human Rights and Guidelines for "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 proposed clause, officers have sought advice on issues as they have arisen, and where applicable that advice has been incorporated into the proposed clause.



- 6.5 Once a local law has been adopted by Council it is required to give notice in the Government Gazette, a public notice and a copy forwarded to the State Government Minister for Local Government.

7. FINANCIAL IMPACT

- 7.1 The cost to develop the proposed clause is approximately \$7,000 (legal fees and advertising fees) and has been funded through the 2017/2018 approved budget.
- 7.2 It is not anticipated that the endorsement of the proposed clause will have an ongoing impact on Council's budget or resources. The cost for administering a new permit application process will be approximately \$2,000.
- 7.3 Council's authorised officers will administer the local law within approved operational budgets and resources.

8. ENVIRONMENTAL IMPACT

- 8.1 The proposed clause will have a positive impact on the environment throughout our city, enhancing the safety and amenity of the residential areas within the City of Port Phillip.

9. COMMUNITY IMPACT

- 9.1 The proposed clause will have positive social benefits for the community and is anticipated to enhance residents' peaceful enjoyment of their neighbourhood.
- 9.2 Residents who own *heavy vehicles* will be required to find alternative locations to store these vehicles.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Direction 4: We are growing and keeping our character. The revised local law will assist Council to protect the amenity, character and liveability of the municipality enjoyed by all residents.
- 10.2 Direction 6: Our commitment to you. Ongoing improvement of Council's Local Law No.1 (Community Amenity) is identified as a commitment in the City of Port Phillips Council Plan 2017 – 2027.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 As soon as practicable, the Chief Executive Officer to give notice of the making of the Local Law in in the Government Gazette in accordance with section 119(3) of the Local Government Act 1989 (Act).
- 11.1.2 As soon as practicable, the Chief Executive Officer to send a copy of the Local Law to the Minister for Local Government in accordance with section 119(4) of the Act.

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11.1.3 As soon as practicable, the Chief Executive Officer to write to each person who made a submission under Section 223 of the Act, advising them of the decision to amend the Local Law the reasons for this decision.

11.1.4 Publishes the Local Law on its website, and make copies available at all Town Halls.

11.2 COMMUNICATION

11.2.1 As outlined in points 11.1.1 to 11.1.4 above

11.2.2 Special interest groups such as the Victorian Transport Association have been advised of the process.

12. OFFICER DIRECT OR INDIRECT INTEREST

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

TRIM FILE NO:

16/01/662

ATTACHMENTS

**1. Amending Local Law No.1 and Final Local Law No.1
(Community Amenity)**