



- 8.3**
- WARD:** LOCAL LAW NO.1 COMMUNITY AMENITY  
WHOLE OF MUNICIPALITY
- GENERAL MANAGER:** FIONA BLAIR, INFRASTRUCTURE & AMENITY
- PREPARED BY:** TERRY WRIGHT, COORDINATOR LOCAL LAWS AND ANIMAL MANAGEMENT  
LILI JAMES, MANAGER SAFETY AND AMENITY
- TRIM FILE NO:** 16/16/35
- ATTACHMENTS:**
1. Attachment 1 - City of Port Phillip Local Law No 1 Community Impact Statement
  2. Attachment 2 - City of Port Phillip Local Law No. 1 Procedures and Protocols Manual (Including Footpath Trading Guidelines and Parking Permit Policy)
  3. Attachment 3 - City of Port Phillip Local Law No. 1 (Community Amenity Amendment) of 2017 (Local Law)
  4. Attachment 4 - Submission spreadsheet for Local Local No. 1 (Community Amenity Amendment)

## PURPOSE

To present for adoption the amended and new clauses to be included in the City of Port Phillip Local Law No.1 (Community Amenity Amendment) of 2017 (**Local Law**) and all incorporated documents in accordance with the provisions of the Local Government Act 1989. This Local Law and incorporated documents commence on the day immediately following the day on which notice of its making is published in the *Victoria Government Gazette*.

## I. RECOMMENDATION

That Council:

- 1.1 Makes Local Law No.1 (Community Amenity Amendment) of 2017 (**Local Law**) in the form attached to the accompanying Report.
- 1.2 Adopts the Procedures and Protocols Manual, Footpath Trading Guidelines and Parking Permit Policy in the respective forms attached to the accompanying Report.
- 1.3 Confirms the continuing operation of the Nature Strip Guidelines (2013).



- 1.4 Authorises this Local Law and the incorporated documents 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.
- 1.5 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)*.
- 1.6 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.
- 1.7 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 make the Local Law in the form attached to the accompanying Report and to give reasons for this decision (such reasons to reflect the reasons in the table set out in Attachment 4).
- 1.8 Publishes the Local Law, Procedures and Protocols Manual, Footpath Trading Guidelines, Parking Permit Policy and Nature Strip Guidelines on its website, and make copies available at all Town Halls.

## **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.
- 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 definitions, to improve the clarity of a number of clauses and to develop 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. The details of the changes are included in the Community Impact Statement included in Attachment 1.
- 2.3 Section 119 of the Local Government Act 1989 outlines the statutory process which a Council must follow when making its Local Law. 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>
- 2.4 Council endorsed at its Ordinary Meeting of Council on 19 July 2017 to commence the statutory process for making the proposed new and amended clauses and for these clauses to be incorporated into the Principal Local Law No. 1 (Community Amenity).
- 2.5 A community consultation and submission process was conducted in accordance with section 223 of the Local Government Act 1989 from 27 July to 8 September 2017. (The timeline for submissions must be a minimum of 28 days.) Public notice of the exhibition of the draft clauses and amendments proposed to be incorporated into the Principal Local Law No 1 (Community Amenity) was made via the Government Gazette and



- public advertisement, and written submissions were invited to be considered by Council.
- 2.6 A total of twelve submissions from ten respondents have been received by Council following an extensive community engagement process conducted in accordance with section 223 of the Local Government Act (refer to section 5). At its meeting on 4 October 2017, Council heard and considered submissions. Two submitters spoke to their submission at the Council Meeting.
- 2.7 Documents which have been incorporated into the draft City of Port Phillip Local Law No.1 (Community Amenity) include the City of Port Phillip Procedures and Protocols Manual, Footpath Trading Guidelines and Parking Permit Policy (Attachment 2).

### 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. The Local Law review has provided Council with the opportunity to consider the provisions which manage public amenity, public spaces and safety within the municipality in line with the state government's guidelines.
- 3.2 The review has included extensive communication and consultation with internal and external groups. The outcomes of those consultations have assisted in the shape the new clauses and amendments included in the Local Law No.1 (Community Amenity Amendment) of 2017 (**Local Law**) (Attachment 3).
- 3.3 The feedback received during the section 223 process was considered by Council on 4 October 2017 and where required Local Law amendments were made. A summary of submissions and officer's comments are provided in Attachment 4.
- 3.4 The key proposed amendments to Local Law No.1 include the following:
- 3.4.1 Clause 12, *Itinerant trading*, has been amended to provide an exemption from a permit requirement where a benevolent or charitable organisation has written permission from Council.
- 3.4.2 Section 19, *Busking, fundraising and street stalls*, has been amended to include an exemption for persons who are homeless or in need of secure accommodation or have complex needs in accordance with Council's Homelessness Action Strategy (2015-2020).
- 3.4.3 Clause 24, *Asset Protection Bond*, has been amended to include reference to the Unclaimed Money Act 2008. This will permit unclaimed Asset protection bond to be refunded to the Registrar of Unclaimed Money in accordance with the Unclaimed Money Act 2008.
- 3.4.4 Clause 25, *Clothing recycle bins*, has been amended to address amenity impacts associated with maintenance issues and frequency of collections, particularly on public holidays. Permit application requirements specified and include public liability insurance, bin type and collection requirements.



- 3.4.5 Clause 31A, *Requirement for fencing*, has been amended to include a new clause that provides further powers for officers to require a temporary fence to be installed on the land if the fencing is required to be maintain the amenity of the area and to reduce safety risk.
- 3.4.6 Clause 35, *Commercial premises*, has been amended to better enable the regulation of noise and other nuisances emanating from commercial premises, such as backpacker accommodation.
- 3.4.7 Clause 36, *Domestic waste*, has been amended to better manage the placement of domestic waste bins on public land and to permit bins to remain in laneways where permission is provided by Council, provided the bin is not an obstruction to vehicular or pedestrian traffic.
- 3.4.8 Clause 46, *Maintenance of Storm Water Pipes*, has been amended to include a requirement that a land owner must not to allow a stormwater pipe to become obstructed and the stormwater drains (including the legal point of discharge) servicing the land to be in disrepair. This will assist Council to protect the environment from damaging problems associated with ground water pumps that are not operating effectively.
- 3.4.9 Clause 46A *Ground table water management*, has been developed to require the owner of any land that is developed with a ground water pump and filtration system to ensure it is operating effectively. The land owner must provide evidence that the pump and filtration system has been serviced in the previous 12 months if requested.
- 3.4.10 Clause 49 *Interfering with Council Assets*, has been amended to permit residents to plant vegetation or modify the appearance of nature strips adjacent to their property in accordance with Nature Strip Guidelines or where approved by an authorised officer.
- 3.4.11 ~~Clause 53, *Camping on Council land*, has been amended to include exemptions for camping by homeless and persons with complex needs. This adds clarity to the definition of homeless and exemptions.~~
- [This paragraph has been deleted in accordance with the Council resolution of 7 March 2018 titled \*\*Late Report\*\* – Amendment of Report 8.3 Local Law No.1 Community Amenity presented to Council on 1 November 2017.](#)
- 3.4.12 Clause 57, *Allowing the land to be kept in a dangerous or unsightly manner*, has been amended to improve the ability of Council to respond to complaints of dangerous, derelict or unsightly buildings or land. The criteria to determine whether land is dangerous, unsightly or dilapidated has been clarified. There is a new requirement that the land owner must remove any graffiti on buildings or other structures on land. The owner or occupier of land on which a clothing recycling bin is located must ensure that the area surrounding the clothing recycling bin is tidy and neat in appearance and does not detract from the amenity of the area in which the land is located. The penalty amount for the 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 the Magistrates' Court. A new offence is committed under this Local Law for every month any breach of this sub-clause continues unless effective works have been undertaken to remedy any breach. This will enable Council to better respond to the safety and amenity concerns regarding dangerous and unsightly buildings and land.



- 3.4.13 Clause 60, *Shopping trolleys*, has been amended to require a proprietor of any premises with 30 or more shopping trolleys for use to have coin operated lock or perimeter constraint system from 1 July 2018 onwards. This amendment aims to better manage the problem of dumped shopping trolleys on Council land.
- 3.4.14 New clause 62A, *Glass and sharp objects on the beach*, has been developed to reduce the risk of injury by prohibiting the placing or leaving any glass or sharp objects on beach areas on public holidays. Glass bottles cannot easily be cleaned by the beach cleaning machinery and resulting broken glass poses a safety risk to the tens of thousands of people who utilise the beach during summer, in particular, and expect a safe environment.

Refer to Attachment 3 for a copy of Local Law No.1 (Community Amenity Amendment) of 2017 (**Local Law**) which includes amendments to existing and new clauses.



## **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 Law considers 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 Law 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 (Community Amenity) 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 (Community Amenity) and a copy of the Local Law is available at Council’s town halls and libraries.
- 5.3 One community member attended a ‘drop in’ information sessions held on Thursday 10 August 2017 at St Kilda Town Hall and two community members attended a ‘drop in’ session held on Monday 8 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 4 August to 11 August 2017 and invited to make a submission.
- 5.5 A few thousand people viewed the posts on social media, which were 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.
- 5.6 A summary of written submissions received along with officer comments is included at (Attachment 4). These submissions were heard and considered at the Ordinary meeting of Council on 4 October 2017.



**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 Act on the proposed clauses and amendments to its Principal Local Law No.1 (Community Amenity).
- 6.3 The clauses to be included into the principal Local Law No. 1 are consistent with Council Policy and Legislative requirements, and the Charter of Human Rights and Guidelines for the 'Making of Local Laws Manual' (Department of Planning and Community Development 2010).
- 6.4 Throughout the preparation and drafting process of the Local Law No.1 (Community Amenity Amendment) of 2017 (**Local Law**), officers have sought legal advice 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 IMPLICATION**

- 7.1.1 The proposed changes will have positive impacts 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 positive social benefits for the community as they enhance 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, local business owners with 30 or more shopping trolleys for use will be required to have either coin operated or wheel locking devices installed on the trolleys from 1 July 2018 onwards. This is intended to reduce the number 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 (Community Amenity Amendment) of 2017 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. Council's authorised officers will administer the local laws within approved operational budgets.

7.5 **SOCIAL & CULTURAL IMPLICATIONS**

- 7.5.1 Throughout the process of drafting, consulting and engaging with the community the principles of Council's Social Justice Charter have been considered. The laws consider and try to balance the needs of our diverse community, including traditional landowners, disadvantaged groups, special interest groups and the wider general community.
- 7.5.2 The proposed clauses are expected to have positive social benefits for the community as they enhance residents' peaceful enjoyment of their neighbourhood.

**8. IMPLEMENTATION STRATEGY**

8.1 **TIMELINE**

- 8.1.1 Once the Local Law No.1 (Community Amenity Amendment) of 2017 (**Local Law**) is adopted by Council, as soon as practicable Council will give public notice of the adoption of the amended City of Port Phillip Local Law No.1 (Community Amenity) via the Government Gazette and public advertisement in accordance with Section 119(3) of the Act.
- 8.1.2 As soon as practicable a copy of the adopted City of Port Phillip Local Law No.1 (Community Amenity Amendment) of 2017 will be sent to the Minister for Local Government in accordance with Section 119(4) of the Local Government Act 1989.
- 8.1.3 Key Internal and external stakeholders will be provided with education on the changes to the Local Law No.1 (Community Amenity Amendment) of 2017 from November to February 2017. The Local Law No.1 (Community Amenity Amendment) of 2017 will be published on Council's website and a copy is available at Council's Town Halls.

8.2 **COMMUNICATION**

- 8.2.1 The people who registered a submission during the section 223 process were notified that their submissions would be heard at an Ordinary Meeting of Council on Wednesday 4 October 2017. The submitters were invited to speak at the meeting in support of their submission.
- 8.2.2 Following the submission process all submitters were notified that their submissions would be considered and the amended Principal Local Law No.1 (Community Amenity Amendment) of 2017 would be presented to an Ordinary Meeting of Council on 1 November 2017 for adoption.





**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.