



# ORDINARY MEETING OF COUNCIL 4 APRIL 2018

## 12.2 PROPOSED LOCAL LAW: STORING HEAVY VEHICLES WITHIN MUNICIPALITY

**EXECUTIVE MEMBER:** FIONA BLAIR, GENERAL MANAGER, INFRASTRUCTURE & AMENITY

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### 1. PURPOSE

- 1.1 To present the proposed clause to be included in Council's Local Law No.1 (Community Amenity) and to commence the statutory process for inclusion of this clause into Local Law No.1 (Community Amenity).

### 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 land.
- 2.2 **Policy priorities and settings** - the keeping and storage of *heavy* vehicles on private land 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 2017-27. A *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 GVM of 4.5 tonnes or more.
- 2.3 Council does not currently have a local law governing keeping or storing *heavy* vehicles on private property within the City of Port Phillip (Local Law No.1 (Community Amenity)). These laws have not been introduced as community feedback has been minimal about *heavy* vehicles (such as trucks) stored on private, until receipt of this petition.
- 2.4 **Commitment of resources** – This report recommends that Council approves a statutory process for the making of a local law to regulate keeping and storage of *heavy* vehicles on privately owned land. Community engagement and consultation will be conducted as part of the statutory process.



### 3. RECOMMENDATION

That Council:

- 3.1 Approves the commencement of the statutory process for the making of the proposed new clauses and for the clauses to be incorporated into the City of Port Phillip Local Law No.1 (Community Amenity).
- 3.2 Gives public notice of the exhibition of the draft clause and amendments proposed to be incorporated in the Local Law No.1 (Community Amenity), via the Government Gazette and public advertisement, and invites written submissions in relation to the proposed clause to be received by Council for consideration until the close of business Friday 11 May 2018 as per Sections 119 and 223 of the *Local Government Act 1989*.
- 3.3 Notes that any submissions received pursuant to Section 223 of the *Local Government Act 1989*, in relation to the proposed clause to be included in the Local Law No.1 (Community Amenity), will be considered at an Ordinary Meeting of Council to be held on 20 June 2018.
- 3.4 Considers the final proposed clause to be incorporated into the Local Law No.1 (Community Amenity) at its Ordinary Meeting of Council on 18 July 2018.

### 4. KEY POINTS/ISSUES

- 4.1 Council received a petition with 80 signatures requesting Council to create a new local law in Council's Local Law No.1 (Community Amenity) that will require residents to obtain a permit from Council prior to parking *heavy* vehicles on residential land 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 safety and amenity and cause damage to Council and community assets.
- 4.2 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. It is proposed that Council creates a new local law that regulates the keeping and storage of *heavy* vehicles on private land. A *heavy* vehicle means a vehicle with a GVM of 4.5 tonnes (same meaning as in Rule 200 of the *Road Safety Road Rules 2017*).
- 4.3 Benchmarking with nine Local Government Authorities has identified that five of the nine Councils have either local or planning laws that regulate *heavy* vehicles on residential and public land.
- 4.4 The proposed new local law regulating the keeping and storing of *heavy* vehicles would require a person to obtain a permit from Council prior to keeping and storing a *heavy* vehicle on residential land. The criteria for issuing the permit would also need to be developed. A proposed local law is provided in Attachment 1.



## ORDINARY MEETING OF COUNCIL 4 APRIL 2018

- 4.5 The keeping or storing (stopping) of *heavy* vehicles (such as trucks) on roads within the City of Port Phillip municipality is regulated by state legislation (*Road Safety Road Rules 2017*).
- 4.6 Under state legislation, a *heavy* vehicle cannot be stopped on the road for longer than one hour unless the driver is engaged in dropping off or picking up goods. Council's parking officers enforce compliance with this regulation and can issue infringements for any breaches.
- 4.7 Although a Council may prohibit or restrict the use of a road (where Council is the responsible authority) by any motor vehicle of, or over, a certain size or weight, if in its opinion the weight poses an immediate risk of danger to people or damage to property (including damage to the Road itself), (schedule 11, clause 12, *Local Government Act 1989*), any changes would need to be consistent with the National Regulator for Heavy Vehicles and permission would need to be sought from VicRoads for any signage prohibiting trucks on roads.

### 5. CONSULTATION AND STAKEHOLDERS

- 5.1 A community consultation and engagement plan has been developed for the proposed new local law in accordance with the guidelines and the *Local Government Act 1989*.
- 5.2 Extensive consultation will be undertaken with Council staff and the community.
- 5.3 Benchmarking with neighbouring Local Governments and conversation with Council Officers has been considered in drafting the proposed local law.

### 6. LEGAL AND RISK IMPLICATIONS

- 6.1 A statutory process required under Section 119 of the *Local Government Act 1989* must be followed in making any local laws. Prior to endorsing any the proposed local law 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 The proposed local law 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.
- 6.3 Officers have sought legal advice from Council's legal representatives on this issue and where applicable that advice has been incorporated into the proposed local law.
- 6.4 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.



# ORDINARY MEETING OF COUNCIL 4 APRIL 2018

## FINANCIAL IMPACT

- 6.5 The cost to develop the proposed clause is approximately \$7,000 (legal fees and advertising of new local laws) and could be funded through the 2017/2018 approved budget.
- 6.6 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.
- 6.7 Council's authorised officers will administer the local law within approved operational budgets.

## 7. ENVIRONMENTAL IMPACT

- 7.1 The proposed changes will have a positive impact on the environment of our City, enhancing the safety and amenity of the residential areas with the City of Port Phillip.

## 8. COMMUNITY IMPACT

- 8.1 The proposed new local law will have positive social benefits for the community as it is anticipated to enhance residents' peaceful enjoyment of their neighbourhood.
- 8.2 Residents who own *heavy* vehicles will be required to find alternative locations to store these vehicles.

## 9. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 9.1 **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.
- 9.2 **Direction 6: Our commitment to you.** Ongoing improvement of Council's Local Law is identified as a commitment in the City of Port Phillips 2017 – 27 Council Plan.

## 10. IMPLEMENTATION STRATEGY

### 10.1 TIMELINE

A statutory process must be followed for the making of the proposed clause to be incorporated into the Local Law No.1 (Community Amenity).

A summary of key dates for the review is as follows:

29 November to 6 December 2017 Petition received and heard at Council Meeting



## ORDINARY MEETING OF COUNCIL 4 APRIL 2018

21 March 2018	Ordinary Meeting of Council to respond to petition and advise next steps that Council takes – Completed.
4 April 2018	Ordinary Meeting of Council to present the proposed clause to the City of Port Phillip Local Law No.1 (Community Amenity) and the community consultation and engagement plan.
12 April – 11 May 2018	Community consultation and engagement. Inform the community of the proposed clause and invite submissions through s223 process.
20 June 2018	Ordinary Meeting of Council to hear submissions. Following consideration of submissions any required change will be made.
18 July 2018	Ordinary Meeting of Council to adopt proposed clause to be included in the City of Port Phillip Local Law No.1 (Community Amenity).
July – August 2018	Inform Community and stakeholders of the new clause and how it will be administered. Thanks submitters for their input.

### 10.2 COMMUNICATION

- 10.2.1 Community members will be invited to make submissions on the proposed new clause. The purpose and proposed changes to the Local Law No.1 (Community Amenity) and the process to make a submission to Council will be advertised in the Government Gazette, Leader newspaper and Council's website including "Have Your Say." Copies of the proposed clause will be made available at Council's Town Halls.
- 10.2.2 Special interest groups such as the Victorian Transport Association may be interested in the process will be advised of the proposed clause in writing.

### 11. OFFICER DIRECT OR INDIRECT INTEREST

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 Local Law No.1 (Community Amenity)