



12.1 **PROPOSED LOCAL LAW: CLAUSE FOR STORING HEAVY VEHICLES - REVIEW SUBMISSIONS**

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

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1. PURPOSE

- 1.1 To present the submissions received from the community during the Section 223 process on the proposed clause to be included in 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 prior to presenting the final Local Law to Council for adoption on 18 July 2018.

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* means 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 This report recommends that Council receives, hears and gives consideration to submissions from the community regarding the proposed local law as part of the statutory process, and makes any final changes or recommendations to the proposed local law based on this feedback.



3. RECOMMENDATION

That Council:

- 3.1 Notes that pursuant to Council's resolution made at its Ordinary Meeting of Council on 4 April 2018, the draft Local Law No.1 (Community Amenity) has been on public exhibition for written submission as per the requirements of Sections 119 and 223 of the *Local Government Act 1989* for a period of 28 days.
- 3.2 Receives, hears and gives consideration to the public submissions made in regard to the draft Local Law No.1 (Community Amenity).
- 3.3 Notes a further report on the draft Local Law No.1 (Community Amenity) will be presented at the Ordinary Meeting of Council on 18 July 2018.
- 3.4 Thanks submitters for providing feedback on the proposed changes to the Local Law No.1 (Community Amenity) received during the s223 process.

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 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*.
- 4.4 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.
- 4.5 **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 clause to the Local Law No.1 (Community Amenity).

A total of 15 submissions have been received by Council after the community engagement process in accordance with the s223 process outlined in the *Local Government Act 1989*.

ORDINARY MEETING OF COUNCIL

20 JUNE 2018



The full list of submissions is provided in Attachment 1 and a summary of the submissions received with officer responses in Attachment 2.

A summary of the submissions and considerations for the proposed clause in the Local Law No.1 (Community Amenity) is provided below as follows:

- a) **Support:** Resident from Elwood advises that they support this Local Law as currently the parking of heavy vehicles might negatively affect community amenity. Advises that they consider the proposed Local Law as sufficient in meeting the needs of the residents. Has noted that they are against allowing this even with a permit, as heavy vehicles will always be detrimental to the amenity of the area.
- b) **Support:** Resident from Balaclava has written in advising that they believe residential areas should only be for people to live in, not for heavy vehicles to be parked in. Heavy vehicles may be loud, and emit fumes at all hours clogging small streets designed for cars not trucks. Believes that these vehicles should be parked where they won't affect people at home, being in industrial areas. Has noted they are against allowing permits to park in residential areas.
- c) **Support:** Resident from Port Melbourne wrote that vehicles should not take up space in streets or negatively impact the amenity of residents, eg. With loud engine noise in the mornings. Also against storing these vehicles on streets, such as Williamstown Road or around Port Melbourne Tennis Club. If residents cannot run commercial businesses from homes they should not be able to store commercial vehicles.
- d) **Support:** Resident from Albert Park writes in requesting no heavy vehicles on the streets, as they often park on the nature strip and damage trees and the road.
- e) **Support:** Resident from Elwood notes that heavy vehicles cause visual, noise and air pollution, traffic problems in residential streets, and damage to community assets. The resident also states that granting of the permit should have the neighbours taken into consideration.
- f) **Support:** Resident from Port Melbourne is strongly in support for the local law, stating that community assets and residential amenity need to be protected. Believes that the Local Law as drafted will appropriately protect the community as well as the Councils assets. Resident also states that the Council should be predisposed to not granting permits unless absolutely necessary to store truck on the land. And if this is the case there should be strict conditions which apply.
- g) **Support:** Resident from Port Melbourne believes that there is a clear negative impact on the local amenity caused by heavy vehicles. Resident would also like to think that any permit considers the neighbours.
- h) **Support:** Resident from Scarborough (previously Port Melbourne resident) stated that the suburb of Port Melbourne is not necessarily designed for heavy vehicles and hence they can block off roads and cause a large amount of damage to Council assets. The resident noted concerns about heavy vehicles blocking streets, and so if emergency services would want to access streets this may cause problems. The resident notes that he previously resided in a street in Port Melbourne where a heavy



vehicle had destroyed the nature strip, guttering, drain covers and crossover. The resident states that if a permit was to be issued to should be for a specific task/reason.

- i) **Support:** Resident from Port Melbourne supports the local law as vehicles are loud and often there is noise very early in the morning disturbing the amenity. The resident is also concerned that they damage gutters, drain covers, cross overs and nature strips due to the weight of the vehicle.
- j) **Support:** Resident from Port Melbourne supports the adoption of the local law in its current form.
- k) Aged care facility in South Melbourne suggests an exemption from fees for community organisations as this will directly affect their organisation.

4.6 Other Submissions

5 submissions received were unrelated to the proposed clause to be incorporated into the Local Law No.1 (Community Amenity). The submitters were thanked and the submissions passed along to the relevant team for response. The submissions are listed below:

- a) Resident from St Kilda has written in suggesting that Council look at fixing Acland Street and Fitzroy Street.
- b) Resident from Middle Park wrote in saying that trucks parking on residential streets on Canterbury road are causing damage to plants. Also writes that any area that is 2 hour parking residents should only be allowed one car park and no boats, caravans or trailers. Suggests specific parking location for heavy vehicles with security at Fishermans Bend or Garden City.
- c) Club representative from Baxter (3911) wrote in asking why our Council Plan does not address powered two wheelers (motorcycles and scooters) and encourage these as a form of transport.
- d) Resident from Port Melbourne wrote in asking about addressing businesses using public car parking for commercial use.
- e) Resident from Albert Park writes in requesting no heavy vehicles park on the streets, as they often park on the nature strip and damage trees and the road.

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 submissions 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 will be 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 without 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 Changes to the proposed clause to be incorporated into the Local Law No.1 (Community Amenity) will be made and presented to the Council at the Ordinary Meeting on Wednesday 18 July 2018 for adoption.

11.2 COMMUNICATION

- 11.2.1 The community members who provided a submission during the s223 process have been notified that their submissions will be heard on Wednesday 20 June 2018 and invited to register their interest to speak at the Council Meeting. The submitters will also be notified that the proposed clause to be incorporated into the Local Law No.1 (Community Amenity) will be presented to a Council Meeting on Wednesday 18 July 2018.
- 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.

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ATTACHMENTS

- 1. Full Submissions to Local Law No.1 (Community Amenity) Heavy Vehicles - Redacted
- 2. Summary of Submissions and Officer Responses to Local Law No.1 (Community Amenity)