

OFFICERS' ADVICE**oBIKES IN MONASH**

Submitting Councillor: Cr T Zographos

MOTION

That Council

- 1. Resolves that any oBikes left on any public or council land in Monash be removed immediately by council bylaws officers.*
- 2. An accompanying cost will be provided to council before oBikes Asia Pty Ltd can redeem the bikes.*

The desired outcome sought by the Notice of Motion cannot be achieved as it is beyond Council's powers to impound a bike solely on the basis of who owns and operates the bike.

Council's Local Law No.3 Community Amenity provides that a person must not (without a permit) place, or allow to be placed, any 'thing' on Council land or any road so as to endanger any other person or property. Another relevant provision is that a person, (again without a permit) must not leave or permit to be left any 'thing' on a road or Council land which encroaches on, or obstructs the free use of, the road or Council land or which reduces the breadth, or confines the limits, of the road or Council land.

It follows that a 'thing' can be a bicycle. However an offence only occurs if the bicycle is placed on a footpath or on Council land in a manner contrary to the controls described above. That is, the bike must be placed in a manner that endangers a person or obstructs the free use of a footpath or Council land upon which it is placed. If, in the view of an Authorised Officer, an offence was occurring, only then would it be open for an officer to impound the bicycle.

Whilst the extent of the use of oBikes in this city is unknown, the Cities of Melbourne, Port Phillip and Yarra have been dealing with the proliferation of oBikes being left in an inappropriate manner, by entering into a Memorandum of Understanding with the oBike operator. The MoU provides that oBikes cannot block footpaths, must always be parked upright and removed from dangerous locations within two hours. More specifically, under the MoU, the company is responsible for ensuring:

- oBikes do not obstruct footpath access
- oBikes are parked upright at all times
- oBikes are not parked on steps, ramps or other areas that provide directional assistance to the vision impaired
- oBikes are parked away from roadside kerbs and are not parked on traffic islands or against trees, buildings, light poles or street furniture
- any dangerously placed oBikes are relocated within two hours
- any oBikes reported as faulty, damaged or unsafe are immediately removed from service and must also be removed from the public realm within 24 hours; until suitably repaired
- any inappropriately placed oBikes are relocated within 48 hours
- excessive numbers of oBikes at a single location must be relocated within 24 hours

- bike locations are monitored regularly to avoid and manage potential breaches of the agreement.

If oBike fails to comply with the MoU, compliance officers from the three municipalities can confiscate and impound bikes.

The MoU was developed on the basis that local law controls are limited in their application and ability to deal with the issue. Whilst a MoU may be one option to deal with the issue it may also be that a Local Law control can be introduced that enables Council officers to impound bicycles placed on Council land that are owned and operated on a commercial basis. The estimated costs of doing so follows.

Budget Implications

Council's ability to make a local law that controls the placement of bicycles, owned and operated on a commercial basis, on Council land would need to be explored in the first instance. This is estimated to cost \$10k as advice would need to be sought that explores matters associated with both administrative law and a potential restriction on trade.

In the event that a control can be introduced, a change to the Council's Local Law No. 3 – Community Amenity would cost between \$10-15k, with the bulk of the costs being for legal advice and statutory advertising. The process of changing the local law is likely to take six months.

Impact on Internal Resources

Seeking advice and making changes to the Local Law will not have a significant impact on internal resources. Importantly however, the process of routinely impounding bikes will have a significant impact on the Community Laws team. Officer workloads have increased considerably in recent years having introduced a range of programs in response to community concerns and shifting expectations around overhanging branches, neighbourhood amenity and construction noise.

Relevance to Council Plan and Policies

The management of bicycles on footpaths is related to the following Council Plan Objectives:

- Inviting Open and Urban Spaces
 - Ensuring the 'walkability' of our city (hazards on footpaths impact on 'walkability')
 - Enhancing our activity centres with an increased focus on the moveability and prioritisation of pedestrians (hazards on footpaths impact on moveability and pedestrian access)
- A liveable Sustainable City
 - Expanding our advocacy on residential development outcomes and integrated transport (bicycle share programs are a sustainable community-based transport option)
 - Increasing our community engagement and education about town planning, animal management and community laws (Impounding oBikes will require changes to Local Law controls)

- Proactively managing risks from climate change and reducing Council's greenhouse emissions (Bicycle share programs assist in the reduction of greenhouse gas emissions).

Work Undertaken by Officers or Committees

There has been no work undertaken by Officers or Committees associated with oBikes at this point in time.