

ITEM 8.14	BOAT AND TRAILER PARKING IN WARRINGAH
REPORTING MANAGER	GROUP MANAGER DEVELOPMENT AND COMPLIANCE SERVICES
TRIM FILE REF	2013/168989
ATTACHMENTS	1 Boat Trailer Working Group - Discussion Report and Options Paper

EXECUTIVE SUMMARY

PURPOSE

To gain Council's endorsement to the recommendations for addressing boat and trailer parking within Warringah.

SUMMARY

Council made two resolutions in 2013 dealing with the parking of trailers on public roads and car parks. This report provides a response to the Council resolutions and proposes a submission to Transport NSW on the proposed amendments to legislation.

FINANCIAL IMPACT

Proposed changes to legislation if implemented may have a minor impact on Council's Regulatory Compliance budget.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That a submission be made to the Boat Trailer Working Party with the following points:

- A. Council supports Recommendation No. 1 for delegation to be given to Councils to issue penalty notices for unregistered vehicles (both motor vehicles and trailers) on a road or road related area.
 - B. Council recommends that the Impounding Act 1993 be amended to adopt the definitions of 'motor vehicle', 'trailer' and 'vehicle' from Road Transport (Safety and Traffic Management) Act 1999 for consistency and better ability to enforce restrictions under these Acts.
 - C. Council supports Recommendation No. 2 that the Impounding Act 1993 be amended to include a definition of "unattended" but with an amendment to reduce the time frame from three months to six weeks.
-

REPORT

BACKGROUND

Council made two resolutions in 2013 dealing with the parking of trailers on public roads and car parks. The March resolution relates to what can be done to restrict trailer parking and the May resolution relates to making a submission to proposed legislative changes by a State government working party. Given the items are directly related a single report in response has been prepared.

Part 1 – Investigation and Report on restricting trailers.

At the Council meeting of 26 March 2013, Council resolved to:

- a. *Write to the Minister for Roads and Maritime Services, The Hon Duncan Gay MLC and Shadow Minister for Roads and Maritime Services, The Hon Penny Sharpe MLC outlining Warringah's continuing problems with boats and trailers parking on residential streets, in sports ground car parks and general public car parking areas and renew calls for legislative reform to restrict such parking.*
- b. *Request the General Manager ensure Council Staff investigate and report to Council within three months ways to prevent boats and trailers parking in sports grounds and general car parking areas in Warringah for long periods of time.*

Following a campaign initiated in late 2011 by Woollahra Council and supported by Warringah, the Minister for Roads & Sports commissioned a 'Discussion report and options paper'. The paper was released (attached) in March 2013 by the Boat Trailer Working Group (BTWG), it highlighted that current legislation provides Local Government with very little opportunity to effectively target long term parking of boat trailers.

Part 2 – Submission to Boat Trailer Working Group

At the Council meeting of 21 May 2013, a Motion of Urgency resolved that:

- a. *Staff draft a submission to the Boat Trailer Working Group's Report and report this to Council Meeting on 25 June to be endorsed by Council and submitted by the closing date of 28 June 2013.*
- b. *Council notes that the report will not be circulated with the business papers on 25 June 2013 but prior to the Council Meeting on 28 June 2013.*

The common underlying issue is that current legislation allows all registered vehicles to park on road indefinitely unless they are subject to signposted parking restrictions. The perception is that some boats and trailers owners are exploiting this and storing their vehicles on road, which limits the turnover and availability of parking for others.

Part 1 – Investigation and Report on restricting trailers.

Current Legislation

Currently there are several pieces of legislation that Warringah Council may use in relation to vehicles.

Legislation	Section	Summary	Known Issues
Road Rules 2008 (Given force by the Road Transport (Safety	205	Allows Council's to install Parking restrictions	<ul style="list-style-type: none"> • Applies to all public road users • Shifts parking to adjacent areas.

and Traffic Management) Act 1999			<ul style="list-style-type: none"> • Parking restrictions apply to all road users and adversely impact on local residents. • Parking restrictions have proven ineffective to resolving the issue.
	200	Restriction on long (over 7.5m) and heavy (over 4.5t) must not be parked longer than 1 hr in built up area	<ul style="list-style-type: none"> • Not all boat/trailers are captured under the 7.5m or 4.5t restriction. • Only applies on public roads
Local Government Act 1993	632	<p>Allows Council to restrict or prohibit doing of things on land under Councils control.</p> <p>For example:</p> <ul style="list-style-type: none"> • Parking time limits in Council's car parks • Pay & Display Parking, parking in public reserves 	<ul style="list-style-type: none"> • Doesn't apply to on road parking
Impounding Act 1993	15 & 16	Allows for impounding of an article.	<ul style="list-style-type: none"> • Council cannot the impound articles when an owner is identified and wishes to keep the article.

The Road Transport (Safety and Traffic Management) Act 1999 contains definitions which separate a 'motor vehicle' and 'trailer'. However throughout this Act and other legislation the overarching term of 'vehicle' is used which is inclusive of both sub category definitions. The use of the word 'vehicle' restricts Councils from taking targeted action against trailers.

Definitions

Road Transport (Safety and Traffic Management) Act 1999

Motor vehicle: *means a vehicle that is built to be propelled by a motor that forms part of the vehicle.*

Trailer: *means a vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle that is being towed.*

Vehicle: *(a) any description of vehicle on wheels (including a light rail vehicle) but not including any other vehicle used on a railway or tramway, or*

(b) any other vehicle prescribed by the regulations.

Impounding Act 1993

Motor vehicle: (a) a motor vehicle within the meaning of the Road Transport (General) Act 2005* and includes a caravan or trailer

*(**Motor vehicle** means a vehicle that is built to be propelled by a motor that forms part of the vehicle in the Road Transport (General) Act 2005)

Current Research on trailers.

In the current financial year Council Rangers have received six formal complaints about boats/trailers.

A desktop review of some of the suggested hotspots was undertaken using aerial photography (attached) taken 2 months apart (typically March - May 2013). The review focussed on trailers that did not appear to have moved over the time period.

Location	No. spaces	March 2013 Trailers parked	May 2013 Trailers parked	Trailers that did not move between period
Blackbutts Rd, Belrose	Approx 150 Kerbside parking (Lockwood to Malbara)	5	7	3
Abbott Rd, Curl Curl	Approx 380 spaces angled parking behind kerb	10	12	5
Richmond Ave, Dee Why	62 spaces angled parking behind kerb	5 Jan 2013	8 March 2013	3
Jamesion Park, Narrabeen (Sailing club)	Approx 90 spaces general car park	15 September 2012	2 October 2012	1
David Thomas/Miller Reserves, Manly Vale	96 spaces general car park	0	0	0
Melwood Reserve, Forestville	Approx 160 spaces general car park	0	0	0
Freshwater Beach car park	125 spaces general car park	0	0	0

Council's Traffic Team undertook surveys of the Queenscliff and Freshwater area in 2011 for on-road parking of trailers. The number plates of the trailer/boats in the Queenscliff Area were recorded during the surveys. The results in the table below do not indicate whether the trailers remained in the same location between surveys.

<i>Queenscliff Area</i>	<i>Thursday 20 Jan 2011</i>		<i>Monday 7 Feb 2011</i>		<i>Sunday 20 Feb 2011</i>	
<i>Total On street parking spaces - 759</i>	<i>Trailer</i>	<i>Trailer/ /Boat</i>	<i>Trailer</i>	<i>Trailer/ Boat</i>	<i>Trailer</i>	<i>Trailer/ Boat</i>
TOTAL	2	10	3	7	2	8

<i>Freshwater Area</i>	Thursday 20 Jan 2011		Monday 7 Feb 2011		Sunday 20 Feb 2011	
	Trailer	Trailer /Boat	Trailer	Trailer/ Boat	Trailer	Trailer/ Boat
TOTAL	9	14	12	15	12	12

The results show that 10 -12 trailer and/or trailer/boats were parked on street in the Queenscliff area during the surveys on any of the days surveyed. The adjacent area of Freshwater was also surveyed with 24-27 trailer and/or trailer/boat parked on street as indicated in the above table.

In October 2010 the Warringah Traffic Committee considered the matter of trailer/boat parking in the Richmond Avenue, Dee Why. Surveys undertaken at that time showed there were 12 trailer/boats parking in the area, 9 were parked in the angled parking area in Richmond Avenue (which has 62 car spaces along the Dee Why Beach Reserve) and three in the adjacent surrounding streets of Dee Why. There were nine trailers with boats regularly parked in the angle parking area.

The Traffic Committee did not support the introduction of a parking time limit on the basis that such an action would displace the boat/ trailer parking to adjacent residential streets and then would impact on other residents and visitors. In this regard the resident who originally requested a parking time limit was opposed to a time limit (with no exemptions for residents) as it would *“resolve one problem while creating another more serious parking problem for residents”*.

It was observed that a six hour time limit installed by Manly Council in Kenneth Road had merely shifted trailer/boat parking to the unrestricted sections of Kenneth Road.

Options available under current legislation

Council's options to deal with boat trailer parking is limited by current legislation, for this reason Warringah Council wrote to the State government in support of changing the legislation. The current options and proposed legislative changes have been assessed and are detailed in this report and the BTWG discussion and option paper.

Road Rules

Section 205 allows Councils to erect parking signs to limit the time a vehicle is parked on a public road. Such consideration is undertaken through the Local Traffic Committee process, and has proven to be ineffective in resolving the issue. This is due to the fact that parking time limit in one area shifts parking to adjacent streets or areas, the parking restrictions apply to all road users and adversely impact on local residents parking needs.

Section 200 – prevents long and heavy vehicles over 7.5m in length or with a Gross Vehicle Mass of 4.5 tonnes from stopping for longer than 1 hour in a built up area. This is currently enforcement by Rangers. Approximately 110 penalties have been issued during the current financial year, although it is believed the majority were issued to trucks involved in deliveries or development.

Road Transport Regulations Resident Permit Parking Schemes

Whilst Parking Permit Schemes may be appropriate in certain circumstances, for the purpose of restricting boat trailers, Council staff concur with the Boat Trailer Working Group which advises that:

"while such a scheme can be effective in ensuring turnover, most trailers simply move to a nearby street where the restriction does not apply. Councils also note that parking permit schemes are expensive and cumbersome for Councils to manage and pose an ongoing administrative and compliance burden. Also, parking permit exemptions can only be applied to areas that are subject to a parking restriction, so in order to implement a parking permit

exemption, parking restrictions would need to be created across swathes of an LGA, to avoid trailers simply being moved to adjacent streets. This would be expensive for Councils to implement and enforce, would be unwelcome from an amenity perspective and an inconvenience for residents".

Impounding Act 1993

Council Rangers can only impound an unregistered vehicle/trailer if the owner cannot be located. If the owner of a vehicle/trailer (registered or un-registered) claims that the item is not abandoned, the item cannot be impounded. Only the NSW Police can issue a PIN if the vehicle/trailer is unregistered. During the current financial year, Council Officers have impounded 50 vehicles/trailers.

The Boat Trailer Working Group have proposed changes to this Act which may assist Councils, this has been addressed in Part 2 of this report

Part 1 - Conclusion

Letters were sent to State Parliamentarians on 17 May 2013 requesting they investigate modifying existing legislation as required by the resolution of 26 March 2013.

The parking of boats/trailers generates complaints as it can be considered unsightly by the community and take up available parking. It is desirable for long term parking of boats/trailers to occur on private property. The available information suggests that the incidence of boat/trailer parking on Warringah Streets accounts for small percentages of available parking and is more a perception than an actual problem.

The available options under current legislation are not effective and can, at best, only partly address the situation and the options have a broader impact on the community than just changing the parking habits of owners.

The Boat Trailer Working Party is making a recommendation to the government for changes to legislation which would provide Council with another tool of controlling long term boat/trailer parking. This is addressed in Part 2 of the report below.

Part 2 – Submission to Boat Trailer Working Group

The BTWG 'Discussion report and options paper' identified that:

- There are over 204,000 boat trailers registered in NSW
- There are over 192,000 vessels under 6m in length registered in NSW.
- RMS estimates that approximately 168,000 of these are stored on trailers.
- There are no statistics which indicate how many trailers are stored on public roads and how many are stored on private property.

The BTWG considered the current legislative options available for most Councils, and determined that all had significant drawbacks and did not believe that any were appropriate for dealing with boat trailers.

Due to the inability of current legislation to effectively deal with trailers, the BTWG made two recommended changes to legislation -

1. *That Roads and Maritime Services grant delegation to Councils under Section 12 of the Road Transport (Vehicle Registration) Act 1997 to issue penalty notices under Section 18 of the Act which states that a person must not use an unregistered registrable vehicle on a road or on a road related area.*

2. *The NSW Government considers modifying the Impounding Act 1993 such that “unattended” is defined as, “A vehicle which has been left unmoved in a public place for a period greater than three months. A vehicle may be considered unattended regardless of whether the vehicle is registered or otherwise”, or similar wording as appropriate.*

STAFF COMMENTS:

BTWG Recommendation 1:

Currently only NSW Police can issue penalties for unregistered vehicles. Council generally supports this proposal. Were Council to be delegated it would allow Council to have greater control of the process and may alert Council to possible abandoned vehicles earlier. At this stage it is unknown if the revenue generated from the penalties would be sufficient to cover staffing and resourcing costs. If not, then the increased workloads would have to be prioritised into current roles.

BTWG Recommendation 2

The wording of this recommendation relates to ‘vehicles’ which is not defined by the Impounding Act, the current definition of ‘motor vehicle’ under the Impounding Act is inclusive of trailers (unlike Road Transport Act 1999 which is exclusive of trailers). If the recommendation were adopted this would still require compliance with Section 16 (Impounding Act) –

16 Special procedures for impounding of motor vehicles

- (1) *An impounding officer must make all reasonable inquiries in an effort to find out the name and address of the owner of a motor vehicle before the officer impounds the vehicle.*
- (2) *If the impounding officer’s inquiries fail to reveal the name and address of the owner, the officer may proceed to impound the vehicle.*
- (3) *If the impounding officer’s inquiries do reveal the name and address of the owner, the officer is not to impound the vehicle until notice of the proposed impounding has been given to the owner and the period specified in the notice has elapsed.*
- (4) *The notice to the owner must be in writing addressed to the owner and must indicate that the vehicle may be impounded unless it is removed within a specified period (not less than 3 days) and may be destroyed if its value is less than \$500 (or such other amount as may be prescribed under section 18).*
- (5) *A motor vehicle may be impounded immediately (without following the procedures in this section) if the vehicle is in a public place and the impounding officer is satisfied on reasonable grounds that its immediate removal is justified because it is causing an obstruction to traffic (vehicular or pedestrian) or is or is likely to be a danger to the public.*

This section requires Council to contact the owner of the “unattended” vehicle, who may respond by claiming that the trailer it is ‘not abandoned’. In this case Council cannot take any action. The trailer may remain on the street, and the original reporting customer may not feel that Council has assisted them.

Although BTWP states a period 3 months (12 weeks), it is considered that this is too long to appropriately monitor then take enforcement action. A shorter period suggested, i.e. 42 days (six weeks) provides for owners who may use their trailer infrequently to remain on the street but make the role of Council’s Rangers easier to enforce.

Part 2 - Conclusion

The recommendations of the Boat Trailer Working Group are supported with additional amendments proposed. The alignment of definitions, including separate definitions of motor vehicles and trailers within all relevant legislation would provide greater clarity and simpler administration for enforcement. The reduction of time in which a trailer is parked from twelve weeks to six weeks before it is deemed 'unattended' would make monitoring and enforcement easier to administer.

CONSULTATION

This report has been prepared with the Roads Traffic and Waste Team.

TIMING

Submissions to the Boat Trailer Working Group are due by the 28 June 2013

POLICY IMPACT

Nil

FINANCIAL IMPACT

Proposed changes to legislation if implemented may have a minor impact on Council's Regulatory Compliance budget.