

## 7.4 Sex Work Decriminalisation - Community Communication

### Executive Summary

#### Purpose

The purpose of this report is to decide on the communication channels to inform the community about the State Governments sex work decriminalisation.

#### Background

The decriminalisation of sex work is being implemented by the State Government in two stages, with stage 1 having commenced in May 2022 to enable street based sex work in most locations. The second stage is expected to commence in December 2023 and will include changes to the planning scheme removing many of the specific requirements relating to brothels which will no longer be a land use term requiring a separate permit. The changes will also enable sex workers to operate home based businesses.

As a result of the proposed decriminalisation of sex work, the Urban Planning Delegated Committee resolved on the 6 September 2021 to:

- Note the Victorian Government has decided to decriminalise sex work in Victoria;
- Oppose the proposed changes;
- Voice concerns with the inadequate timeframes to allow elected representatives to engage with their communities and for meaningful feedback to be provided;
- Note that community consultation must form an integral part of any changes to the industry;
- Urge the Minister for Consumer Affairs to have full consultation with councils and community, consider the resource implications to council for enforcement, and seek additional evidence to accompany the proposed changes;
- Write to Minister for Consumer Affairs and shadow Minister for Consumer Affairs to advocate Council's positions;
- Send a copy of letter to Minister for Consumer Affairs to local members of parliament whose electorates cover Boroondara;
- Use Council's communication channels to inform the community about the upcoming changes; and
- Request the CEO or other senior officers to co-ordinate with other councils for advocacy.

Council officers are well advanced in actioning the matters from the UPDC resolution in September 2021 that seeks to raise community awareness, highlight the lack of consultation, identify specific concerns and advocate to the State Government against many of the changes. All actions have been implemented, or are ongoing.

The following resolution has been partly implemented:

*Use the Council communication channels, including, but not limited to letters, the Boroondara Bulletin, social media, and the Council website to inform the community regarding the changes to the sex work businesses and to encourage them to provide feedback to the Victorian Government.*

Given the current status of the sex work decriminalisation changes it is intended to approach the communication in a different way and therefore an updated decision of Council is required confirming the preferred approach.

The focus will now be on informing the community about the proposed changes to the sex work businesses through Council's website and an article in the Boroondara Bulletin.

### Key Issues

Almost two years has passed since Council's resolution on the 6 September 2021 regarding the decriminalisation of sex work businesses. During this time, Council has lodged a submission with the State Government opposing the changes, written to and met with the Minister for Consumer Affairs, attended planning industry forums, responded to media enquiries and prepared draft communications for the community.

However, there has been limited community concern or interest in the proposed changes. There has also been limited concern raised by other Councils.

Stage 1 of the decriminalisation of the sex work businesses occurred in May 2022 which resulted in no further conversation or community concern. Furthermore, the topic of sex work decriminalisation had limited political profile during the State election in November 2022.

Given that the legislation has now been passed and the Government has outlined the proposed approach to the planning changes, there is limited opportunity for the community to influence the decision makers.

As such, it is considered more appropriate to focus the community attention on what the changes will mean and what the relevant new requirements will be. This can be achieved by including an appropriate article in the Boroondara Bulletin and on the Council website.

### Next Steps

Officers have been working on an informative article for the Boroondara Bulletin and material for Council's website, including Frequently Asked Questions (FAQs). It is expected that this information will be available to the public prior to the implementation of the changes to the Planning Scheme in December 2023.

## **Officers' recommendation**

That Council resolve to:

1. Use the Boroondara Bulletin and Council website to inform the community regarding the changes to the planning requirements for sex work businesses as part of Stage 2 of the State Governments Decriminalisation of Sex Work.
2. Note that the decision in 1 above varies the previous Urban Planning Delegated Committee decision on 6 September 2021 regarding the communication channels for informing the community about the decriminalisation of sex work.

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**Responsible director:**        **Scott Walker, Director Urban Living**

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## **1. Purpose**

The purpose of this report is to decide on the communication channels to inform the community about the State Governments sex work decriminalisation.

## **2. Policy implications and relevance to community plan and council plan**

Council's previous submission relating to the decriminalising of sex work and previous Urban Planning Delegated Committee (UPDC) resolution from the 6 September 2021 has a strong alliance with the Boroondara Community Plan and the Council Plan. Council's submission and resolution seek to prevent significant impacts on residential amenity and the vibrancy of activity centres. Managing interface issues is the crux of land-use planning undertaken by Council.

The proposal outlined in this report is consistent with Theme 7 (Leadership and Governance) by ensuring community communication on the sex work decriminalisation is financially and socially responsible through transparent and ethical processes.

## **3. Background**

The decriminalisation of sex work includes reforms in areas of planning, public health and anti-discrimination and has been divided into two stages. The first stage implemented by the State Government commenced on 10 May 2022 and includes:

- the decriminalisation of street-based sex work in most location;
- the repeal of offences for working with a sexually transmitted infection (STI) and requirements to undergo regular STI testing;
- the repeal of offences for individual sex workers not using safer sex practices;
- the repeal of the small owner-operator sex work service provider register;
- changes to advertising controls applicable to the sex work industry; and
- amendments to the Equal Opportunity Act 2010.

The second stage is expected to commence in December 2023 and will include:

- abolishing the sex work service provider licensing system by repealing the Sex Work Act 1994;
- re-enacting offences relating to children and coercion in other legislation to ensure their continued operation following repeal of the Sex Work Act 1994;
- changes to planning controls to treat sex service businesses like other businesses;
- the establishment of appropriate liquor controls for the sex work industry; and

- the repeal of brothel and escort agency provisions in the Public Health and Wellbeing Act 2008 to remove specific sex work industry controls. As a result of the proposed decriminalisation of sex work in August 2021, the UPDC resolved on the 6 September 2021 to:

**1. Note the Victorian Government has decided to decriminalise sex work in Victoria. The decriminalisation of sex work will:**

- *remove offences and criminal penalties for consensual sex work. This will include decriminalising street-based sex work in most locations and repealing public health offences;*
- *repeal the Sex Work Act 1994 and regulate the sex work industry through existing regulatory agencies; and*
- *introduce supporting reforms in areas such as planning, public health and anti-discrimination.*

**2. Oppose the proposed changes which will directly impact councils and their communities by:**

- *Decriminalising street-based sex work in most locations;*
- *Dismantling the sex work licensing and registration system established by the Sex Work Act 1994 including the separation distance requirements between sex work businesses and particular land uses, including dwellings;*
- *Allowing brothels to apply for a liquor licence subject to the standard liquor licensing framework established under the Liquor Control Reform Act 1998;*
- *Shifting the enforcement of regulations relating to sex work to local councils under the Planning and Environment Act 1987;*
- *Allowing commercial sex work businesses to operate in commercial and residential zones, subject to requirements;*
- *Allowing sex workers to operate home-based businesses under the same planning controls as any other home-based businesses; and*
- *Allowing signage and advertising for sex work businesses to be considered in the same manner as any other business (i.e. sign size, location and lighting) including in residential areas.*

**3. Voice its concern that councils only received direct advice of this proposed change two days prior to the close of submissions which is grossly inadequate to allow elected representatives to engage with their communities and for meaningful feedback to be provided.**

**4. Note:**

- *Meaningful consultation with community and with local government on any proposals must occur before any changes are considered or introduced; and*
- *community consultation must form an integral consideration for any changes to the sex work industry.*

**5. Urge the Minister for Consumer Affairs to:**

- *ensure full consultation with councils and the community before any decisions are made;*
- *ensure appropriate time is provided for feedback, including consideration of council meeting cycles;*
- *consider the resource implications to councils to enforce new sex work provisions;*
- *provide additional evidence including Health Impact Statement, Social Impact Statement, Economic Impact Statement, case studies, and criminology assessment in regard to the proposed changes.*

**6. Urgently write to the Minister for Consumer Affairs and the shadow Minister for Consumer Affairs to advocate Council's position with a copy of that letter sent to all local members of parliament whose electorates covers Boroondara.****7. Use the Council communication channels, including, but not limited to letters, the Boroondara Bulletin, social media, and the Council website to inform the community regarding the changes to the sex work businesses and to encourage them to provide feedback to the Victorian Government.****8. Request the CEO or his delegate coordinate with other councils in regard to advocacy.**

In response to the above actions, the following has been completed:

- Lodgement of submission opposing the changes including to the planning controls;
- Letter to the Minister for Consumer Affairs signed by Mayors of Boroondara, Glen Eira and Stonnington councils raising concerns and seeking a meeting with Minister and further consultation;
- Meeting with the Minister for Consumer Affairs involving Mayors of Boroondara, Glen Eira and Stonnington councils outlining council's concerns;
- Attended planning industry training and information sessions that outlines the expected changes to the planning controls including raising specific concerns;
- Surveillance of media on any discussion about the topic;
- Respond to numerous media enquiries outlining the Council position; and
- Preparation of drafts for the various communication channels to inform the community about the proposed planning changes.

**4. Outline of key issues/options**

Given that the legislation has now been passed and the Government has outlined the proposed approach to the planning changes, there is limited opportunity for the community to influence the decision makers.

As such, it is considered more appropriate to focus the community attention on what the changes will mean and what the relevant new requirements will

be. This can be achieved by including an appropriate article in the Boroondara Bulletin and on the Council website.

This is considered a more appropriate approach to communications at this time on the following basis:

- It does not vary Council's strong opposition to the regulation of sex work under the planning system;
- Nearly two years has passed since the Minister for Consumer Affairs announced the proposed reform, and overall there has been little concern or interest in the changes;
- The legislation was passed in May 2022 which doesn't provide the community any opportunity to influence decision makers, as the decision has already been made;
- Stage 1 of the reform has already commenced which has generated very little further conversation; and
- Other councils and agencies haven't actively pursued or agitated concerns.

The communication should inform and educate the community on the changes that have occurred to date, and are further due to commence in December 2023. The use of the Boroondara Bulletin and Council's website are appropriate channels to inform the broad spectrum of the local community. Such communications can occur with a clear objective to advise interested community members on the proposed changes.

## **5. Consultation/communication**

The resolution seeking to inform the community about the changes in the planning controls demonstrates Council's commitment to consultation and communication to the local community.

As previously advocated by Council, it would have been preferable for the State Government to undertake extensive community consultation prior to the passing of the legislation.

## **6. Financial and resource implications**

Actioning the resolution regarding the communication of the planning changes to the wider community will remain within existing operational budgets.

## **7. Governance issues**

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under chapter 5 of the Governance Rules of Boroondara City Council.

The recommendation contained in this report is compatible with the Charter of Human Rights and Responsibilities 2006 as it does not raise any human rights issues.

## 8. Social and environmental issues

Council's previous submission and letters to the Minister for Consumer Affairs have raised concern with respect to residential amenity and the vibrancy of activity centres. The communication to inform the community regarding the proposed changes to the planning controls will not create any particular social or environmental issues.

**Manager:** **David Cowan, Manager Planning and Placemaking**

**Report officer:** Cassandra Rea, Coordinator Urban Planning