



**9.3 VICTORIAN STATE GOVERNMENT REVIEW INTO  
DECriminalISATION OF SEX WORK SUBMISSION**

**EXECUTIVE MEMBER: TONY KEENAN, GENERAL MANAGER, COMMUNITY AND  
ECONOMIC DEVELOPMENT**

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OFFICER**

**1. PURPOSE**

- 1.1 To endorse the written submission into the Victorian Government's Review into the Decriminalisation of Sex Work.

**2. EXECUTIVE SUMMARY**

- 2.1 The Victorian Government has launched a Review into the Decriminalisation of Sex Work.
- 2.2 At an ordinary meeting of Council on the 4 March 2020, Council passed a motion for officers to prepare a submission to the pending review and that this submission be brought to Council for endorsement.
- 2.3 On 21 May 2020, the Department of Justice and Community Safety (DOJCS) provided Council with twelve key questions to guide the consultation. Nine of these questions are relevant to local governments and have been used to inform this report and the accompanying submission.
- 2.4 A submission has been prepared for Council's consideration and endorsement that: -
- Highlights the City of Port Phillip's on-going commitment to social justice.
  - Provides a response to the nine consultation questions.

**3. RECOMMENDATION**

That Council:

- 3.1 Endorses the written submission (as provided as Attachment 1) to the Victorian Government's Review into the Decriminalisation of Sex Work.
- 3.2 Delegates authority to the Chief Executive Officer to make amendments to the document to correct any minor drafting errors that do not alter the intent.

**4. KEY POINTS/ISSUES**

- 4.1 The Victorian Government has launched a review into the decriminalisation of sex work.
- 4.2 There has not been a significant review of Victorian Government regulation regarding sex work since 1985.
- 4.3 Technological advancements in mobile communications have seen significant changes to the way sex work is conducted. This has resulted in existing regulations not keeping pace with change.
- 4.4 The increase in the use of web-based apps has enabled many private sex workers to advertise their services to clients.



- 4.5 In addition to the technological changes, local support services have noted sex workers' concern that the existing regulatory framework is unfair, inconsistent and works against the health and well-being of workers, clients and the public.
- 4.6 Sex work in Victoria is controlled and licensed by a number of Acts and Regulations which are in turn administered and enforced by multiple agencies.
- 4.7 The primary legislation applicable to the sex work industry is the Sex Work Act 1994 and Sex Work Regulations 2016. Other legislation and regulations that are relevant to the sex work industry include: -
- Occupational Health and Safety Act 2004;
  - Occupational Health and Safety Regulations 2007;
  - Public Health and Wellbeing Act 2008;
  - Planning and Environment Act 1987;
  - Crimes Act 1958 (Vic);
  - Crimes Act 1914 (Commonwealth); and
  - Migration Act 1958 (Commonwealth).
- 4.8 Brothels must also comply with laws that apply to all business such as Consumer Law, Business Registration, Taxation Law and Workplace Agreements.
- 4.9 Victoria's current system allows some forms of sex work through a licensing model. This allows for licensed brothels, escort agencies and private workers who are registered sex work providers. This means that other components of the industry are considered illegal (for example street-based sex work, many unregistered private workers and unregistered brothels).
- 4.10 The current licensing approach creates a two-tiered sex industry where a small percentage of the industry can meet compliance requirements while the majority of the industry cannot. These people are therefore forced to operate outside of the legal framework. This two-tiered system presents health and rights-based implications around safety of the worker and the right to participate in the commercial and consensual exchange of services between adults without criminal penalties.
- 4.11 At an ordinary meeting of Council on the 4 March 2020, Council passed a motion for officers to prepare a submission to the Review into Decriminalisation of Sex Work on behalf of Council and this submission be brought to Council for endorsement.
- 4.12 The Review will consider: -
- All forms of sex work, including sex work in commercial brothels and escort agencies, sexual services provided in massage parlours and similar businesses, sex work by small owner-operated businesses, and street-based sex work;
  - Workplace safety, including health and safety issues and stigma and discrimination against sex workers;
  - Regulatory requirements for operators of commercial sex work businesses;
  - Enforcement powers required to address criminal activity in the sex work industry, including coercion, exploitation, debt bondage and slavery;



- Local amenity and the location of premises providing sexual services and street-based sex work;
- The promotion of public health and appropriate regulation of sex work advertising; and
- The safety and wellbeing of sex workers, including the experience of violence that arises in the course of sex work and as a consequence of it, and worker advocacy for safety and wellbeing.

4.13 The Review will be utilising twelve key questions to guide the consultation, with nine being most relevant to local governments. Council has elected to provide responses to the nine questions most relevant to local governments

4.14 The Questions and Responses are provided at Attachment One.

## 5. CONSULTATION AND STAKEHOLDERS

5.1 In developing the Port Phillip's Community Safety Plan 2019 - 2023, the topic of street sex work was incorporated in the series consultation sessions. These included 'Have your Say' website, focus groups and interviews.

5.2 In developing the submission into the Review into Decriminalisation of Sex Work, officers have consulted with St Kilda Gatehouse and RhED.

## 6. LEGAL AND RISK IMPLICATIONS

6.1 Council has met its obligations under the relevant legislation including the *Charter of Human Rights and Responsibilities Act 2006*.

## 7. FINANCIAL IMPACT

7.1 There are no foreseen financial impacts associated with responding to the Review.

## 8. ENVIRONMENTAL IMPACT

8.1 Nil

## 9. COMMUNITY IMPACT

9.1 Council receives ongoing complaints from residents who have been affected by the negative impacts of street sex work; in particular, noise during the night, increased litter and concerns for personal safety and wellbeing.

9.2 Council is highly aware of the health, wellbeing and safety risks impacting on street-based sex workers who currently operate illegally.

9.3 Council's submission Council request that the Victorian Government pay specific attention to impact of decriminalisation on street-based sex work.

## 10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 The submission is aligned with:

10.1.1 The Council Plan 2017-27 which includes the direction one of 'We embrace difference and people belong'.

10.1.2 Community Safety Plan 2019 – 2023

## 11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

# ORDINARY MEETING OF COUNCIL 15 JULY 2020



11.1.1 Council officers will submit the Decriminalisation of Sex Work submission into the Department of Justice and Community Safety by the close of business on 17 July 2020.

## 11.2 COMMUNICATION

11.2.1 A copy of the endorsed submission will be made available on Council's website.

## 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.

**TRIM FILE NO:** 68/13/831

**ATTACHMENTS** 1. Review into the Decriminalisation of Sex Work - Attachment Report 15 July 2020)