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# Development of a Social Justice Charter

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## Context, Issues & Best Practice

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COMMUNITY PARTNERSHIPS UNIT  
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## **PREAMBLE**

The City of Yarra is a vibrant and diverse municipality. It is the traditional lands of the Wurundjeri, and a place of special significance for the broader Aboriginal community.

Council engages with its diverse community on a daily basis – a community that includes Aboriginal and Torres Strait Islander people, people who reside in public housing, people with disability, older people, people who inject drugs, homeless people, people from culturally and linguistically diverse backgrounds, people from a range of socio-economic backgrounds, and people of diverse sexuality and gender.

As such Council plays an important (and legally required) role in protecting and promoting its diverse population's human rights.

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# SECTION 1 INTRODUCTION

## 1.1 SOCIAL JUSTICE & HUMAN RIGHTS IN YARRA

Council actively works to reduce barriers so that all residents can participate in community and access services regardless of age, gender, sexuality, income, education, cultural background, language skills or disability. Yarra has a strong commitment to achieving social justice and continues to work with the community and all levels of government to challenge discrimination and address disadvantage.

Council has articulated its commitment to equality and human rights for people from all cultures and faiths by becoming signatories to the following:

- Refugee Council of Australia's 'Refugee Welcome Zones' ongoing campaign (2002);
- Community Accord, also signed by approximately 30 community groups (2006); and
- UNESCO's International Coalition of Cities Against Discrimination in Asia and the Pacific Ten-Point Commitment Plan. (2009).

Additionally, there are a number of existing strategies and policies which contain content addressing human rights issues and social justice in Yarra (see Appendix A).

In the Council Plan 2017-2021, **Objective Two – An Inclusive Yarra**, Council committed to investigating the development of a Social Justice Charter to further articulate Council's position.

## 1.2 OUR DEMOGRAPHIC, SOCIO-ECONOMIC & HEALTH PROFILE

The data used for this profile is sourced primarily from the ABS 2016 Census of population and housing. Census data has been accessed either directly from the ABS or through Yarra's community profile<sup>1</sup> produced by .id consulting. Having a clear picture of the municipality in terms of its diversity and socio-economic profile is important in the development of a social justice charter.

### 1.2.1 Birthplace

29% (25,055) of Yarra residents were born overseas in 2016, in over 140 countries. 19% of residents came from non-English speaking countries and 10% from main English-speaking countries<sup>2</sup> (primarily the UK and New Zealand). In total, 51% were either born overseas or born in Australia with at least one parent born overseas. The 10 top countries of birth in 2016 are shown in the table below.

Top 15 countries of birth	Number	%
England	3,314	3.8%
New Zealand	2,649	3.1%
Vietnam	2,625	3%
China	1,573	1.8%
Greece	1,131	1.3%
Italy	863	1%
USA	830	1%
Malaysia	742	0.9%
India	639	0.7%
Ireland	529	0.6%

<sup>1</sup> <https://profile.id.com.au/yarra>

<sup>2</sup> Main English speaking countries includes the United Kingdom, Ireland, New Zealand, USA, Canada and South Africa.

There is significant variation across Yarra, in terms of diversity, with as many as 36% of North Richmond residents born overseas (including 28% from non-English backgrounds) and as few as 17% in Fairfield-Alphington.

### 1.2.2 Recent Arrivals & Changing Trends

Settlement data from the Australian Government shows the number of permanent settlers to Yarra in the last three years<sup>3</sup>.

Year	Humanitarian	Family	Skilled	Total
2016 (Jan-Dec)	13	425	620	1058
2017 (Jan-Dec)	10	490	674	1174
2018 (Jan-Dec)	14	488	682	1184

Numbers have been quite stable in the last few years, with skilled migrants making up the bulk of settlers (58%), followed by those arriving through the family stream. As compared to Victoria, Yarra has a higher proportion using the family stream (41% as compared to 32%).

According to the 2016 ABS Census, 28% of Yarra residents born overseas were recently arrived in Australia (2011-2016), a slightly higher proportion than that of Greater Melbourne (24%).

### 1.2.3 Language

About 19,000, or 22%, of Yarra residents spoke a language other than English at home, representing a total of 120 different languages. The 10 biggest languages in Yarra, other than English, are shown in the table below.

TOP 10 LANGUAGES OTHER THAN ENGLISH	Number	%
Vietnamese	3,373	3.9%
Greek	2,285	2.6%
Mandarin	1,906	2.2%
Italian	1,567	1.8%
Cantonese	1,174	1.4%
Spanish	876	1.0%
Arabic	690	0.8%
French	627	0.7%
German	421	0.5%
Somali	411	0.5%

Vietnamese is the biggest language group after English. Greek is the second biggest language group, however given the ageing profile of the Greek population in Yarra the number of Greek speakers is decreasing. Mandarin is now the third biggest non-English language and has seen the biggest increase in numbers between 2011 and 2016. Of those who spoke another language, close to 4,500 people did not speak English well or at all, at the time of the last Census. The Vietnamese speaking population of Yarra had the highest number of people who didn't speak English well or at all (1,311), followed by Greek (623), Mandarin (607) and Cantonese (434).

<sup>3</sup> Source: Settlement Database, Australian Government

#### **1.2.4 Religion**

In the 2016 Census, about half of Yarra's residents did not identify with a religion. The biggest religion when grouped was Christianity, as shown below.

<b>RELIGION TOTALS</b>	<b>Number</b>	<b>%</b>
Christian total	26,034	30%
Non-Christian total	6,812	7.9%
Non-classifiable religious belief	868	1%
No religion	42,767	49.4%
Not stated	10,186	11.8%
<b>Total Population</b>	<b>86,657</b>	<b>100%</b>

The greatest increase in a religion between 2011 and 2016 was Islam (+387), however those who identified as “no religion” increased by over 13,000 between the Census years. Yarra residents who spoke a language other than English were more likely to identify as religious, with 40% of non-English speakers identifying as Christians (as compared to 30% on average), 15% as Buddhists (as compared to 4%) and 8% as Muslim (as compared to 2%).

#### **1.2.5 Home Ownership & Housing**

The City of Yarra's Housing Tenure data provides insights into its socio-economic status as well as the role it plays in the housing market. Analysis of the housing tenure of the population of the City of Yarra in 2016 compared to Greater Melbourne shows that there was a smaller proportion of households who owned their dwelling; a smaller proportion purchasing their dwelling; and a larger proportion who were renters.

Overall, 18.2% of the population owned their dwelling; 20.4% were purchasing, and 50.3% were renting, compared with 29.0%, 34.3% and 28.8% respectively for Greater Melbourne.

<b>Tenure Type</b>	<b>Number</b>	<b>%</b>
Fully owned	7,239	18.2
Mortgage	8,142	20.4
Renting - Total	20,042	50.3
Renting - Social housing	3,793	9.5
Renting - Private	16,069	40.3
Renting - Not stated	180	0.5
Other tenure type	256	0.6
Not stated	4,191	10.5
<b>Total households</b>	<b>39,870</b>	<b>100.0</b>

Yarra has a significant proportion of residents living in public/social housing, with 9.5% social housing noted across the municipality at the time of the last Census (Yarra has the highest proportion of social/public housing of any municipality in Victoria). If you look at Yarra's overseas born population it rises to 17%, and looking specifically at those Yarra residents who were born in non-English speaking countries, as many as 25% were living in public housing. Of the 7,550 residents who lived in public housing, 57% were born overseas, with 55% from non-English backgrounds.

Yarra has over 30 Rooming Houses (according to the Public Register Consumer Affairs).

The DHHS Rental Report for September 2018 identifies Yarra as one of the LGAs with the lowest proportion of new lettings affordable to households on Centrelink incomes for all Victorian Local Government Areas (LGA). Bayside, Boroondara and Yarra all have less than 1.0% available.<sup>4</sup>

Approximately 941 people are homeless in Yarra. This represents 11.9 people per thousand population which is significantly higher than the Victorian rate of 3.2 per thousand population. There are a growing number of households experiencing housing stress which is putting more people at risk of homelessness.<sup>5</sup>

### 1.2.6 Employment

The City of Yarra's employment statistics are an important indicator of socio-economic status. The levels of full or part-time employment, unemployment and labour force participation indicate the strength of the local economy and social characteristics of the population.

The size of the City of Yarra's labour force in 2016 was 53,592, of which 14,741 were employed part-time and 35,358 were full time workers. Over 5% of the population are unemployed.

Employment Status	Number	%
Employed	50,776	94.7
Employed full-time	35,358	66.0
Employed part-time	14,741	27.5
Hours worked not stated	677	1.3
Unemployed (Unemployment rate)	2,816	5.3
Looking for full-time work	1,572	2.9
Looking for part-time work	1,244	2.3
Total labour force	53,592	100.0
<b>Total Population</b>	<b>86,657</b>	<b>100%</b>

### 1.2.7 Income

Households form the common 'economic unit' in our society. the City of Yarra's Household Income is one of the most important indicators of socio-economic status. Analysis of household income levels in the City of Yarra in 2016 compared to Greater Melbourne shows that there was a larger proportion of high-income households (those earning \$2,500 per week or more) and a lower proportion of low-income households (those earning less than \$650 per week).

Overall, 32.6% of the households earned a high income and 15.7% were low income households.

The City of Yarra is home to a high proportion of residents living with socio-economic disadvantage, in what is an otherwise affluent municipality.

<sup>4</sup> <https://dhhs.vic.gov.au/publications/rental-report>

<sup>5</sup> Health and Well Being Status Report 2016 – City of Yarra

### **1.2.8 Department of Social Services – Support Payments**

Payment recipient numbers by payment type provided for September 2018 are as follows for the City of Yarra<sup>6</sup>. The most common payments were for pensioner concession cards (9,820), age pension (4,768), Health Care cards (4,439) and rent assistance (3,277).

<b>PAYMENT TYPE</b>	<b>Number (Sept. 2018)</b>
Pensioner Concession Card	9,820
Age Pension	4,768
Health Care Card Low Income Card	4,439
Commonwealth Rent Assistance (income units)	3,277
Disability Support Pension	2,555
Newstart Allowance	2,262
Low Income	2,232
Family Tax Benefit A	2,135
Family Tax Benefit B	1,880
Youth Allowance (student and apprentice)	1,467
Carer Allowance	1,198
Commonwealth Seniors Health Card	1,074
Austudy	552
Carer Payment	526
Parenting Payment Single	456
Parenting Payment Partnered	189
Youth Allowance (other)	106
Widow Allowance	42
Special Benefit	39
Carer Allowance (Child Health Care Card only)	24
ABSTUDY (Living allowance)	22
ABSTUDY (Non-living allowance)	13
Wife Pension (Partner on Age Pension)	7
Wife Pension (Partner on Disability Support Pension)	6
Partner Allowance	<5
Sickness Allowance	5
Widow B Pension	<5

### **1.2.9 Health & Well Being**

Outlined below are some key statistics taken from the Yarra Health Status Report<sup>7</sup> which further identifies the diversity of Yarra's population and notes some key factors impacting on the health and well-being of the community (social determinants of health):

- Yarra has the highest proportion of same-sex couple households in Victoria (4.4%).
- There are just over 300 Aboriginal and Torres Strait Islander people in Yarra, with equal numbers of males and females. The City of Yarra, especially the suburbs of Fitzroy and Collingwood, hold special historical significance for the Aboriginal community. These areas were a major hub of social and political activity for the Aboriginal community and today remain a critical centre for

<sup>6</sup> <https://data.gov.au/dataset/ds-dga-cff2ae8a-55e4-47db-a66d-e177fe0ac6a0/details>

<sup>7</sup> Health and Well Being Status Report 2016 – City of Yarra

Aboriginal services and organisations. In Victoria, Aboriginal Australians experience poorer health outcomes than non-Aboriginal Australians in almost every measure of health, which results in a significant gap in life expectancy.

- The need for assistance with day to day activities increases with age. In total, 2,832 people in Yarra have a need for assistance with core activities. Of those 79% are over the age of 50, however the ‘not stated’ category is high for this question with roughly 7%-10% of the population opting out of this question across the age groups.
- Based on the SEIFA Index (Index of Relative Socio-economic Disadvantage), levels of disadvantage in Yarra are highly concentrated in the main public housing areas of Richmond, Collingwood and Fitzroy.
- Even though Yarra has a lower rate of overweight and obese people compared to average rates across Victoria, it is still notable that 36% of the population is considered either overweight or obese. In addition, 22.5% of 24 the Yarra population has high blood pressure and 3.5% of the population is diagnosed with type 2 diabetes.
- The Yarra population has a higher risk of short-term alcohol-related harm compared to the Victorian average and the proportion of people at risk seems to be increasing. Yarra compares less favorably in the vast majority of alcohol-related indicators examined, including those that examine males and females independently. Males however compare significantly less favorably than females in all alcohol-related indicators examined, including emergency department rates, hospital admissions, ambulance attendances and treatment episodes. Alcohol-related assaults during high alcohol hours are also high, with rates for males and 18-24-year olds more than double the state rate.
- Yarra tracks well above state rates for most of the illicit drug indicators. Yarra has the highest rate of illicit and heroin related ambulance attendances, as well as overdose deaths. Yarra also has a particularly high rate of drug offences, emergency department presentations relating to illicit substances, and drug and alcohol clients. Although a significant portion of this can be attributed to visitors coming to the area both for support services and to trade and use illicit substances, the high emergency department and hospital admissions (which are based on patient residential addresses rather than location of incidence) suggests that those living in Yarra are experiencing drug-related harm through the use of illicit substances. The drug trade and associated health behaviours and outcomes therefore affect the municipality both from a community safety perspective, as well as from a resident health and wellbeing perspective.

## SECTION 2 POLITICAL & LEGISLATIVE CONTEXT

### 2.1: INTERNATIONAL DEFINITIONS & CONVENTIONS

It can be argued that human rights and social justice are complementary concepts. Whilst academics worldwide have often debated variations in the definitions of both concepts, in essence, it is agreed that human rights are concerned with restraints on the exercise of power whereas social justice is concerned with the redistribution of wealth and resources (in order to protect human rights)<sup>8</sup>. Put more simply, **social justice** is based on the concepts of **human rights** and equality (equal rights and equal opportunity for all), and can be defined as the way in which **human rights** are manifested in the everyday lives of people at every level of society.

#### 2.1.1 Human Rights

The term “human rights” was mentioned seven times in the United Nation's founding Charter, making the promotion and protection of human rights a key purpose and guiding principle of the Organization.

Amnesty International provides the following outline on Human rights development. In 1948, the “Universal Declaration of Human Rights” (UDHR) brought human rights into the realm of international law. Together with the “International Covenant on Civil and Political Rights” and the “International Covenant on Economic, Social and Cultural Rights”, the three instruments form the so-called International Bill of Human Rights.

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages.<sup>9</sup> Appendix B lists the 30 Articles (human rights) declared in the UDHR.

Human rights are based on dignity, equality and mutual respect – regardless of nationality, religion or beliefs. A person’s rights are about being treated fairly and treating others fairly, and having the ability to make choices about your own life. These basic human rights are:

- **Universal** They belong to all of us – everybody in the world
- **Inalienable** They cannot be taken away from us
- **Indivisible and interdependent** Governments should not be able to pick and choose which are respected.<sup>10</sup>

A series of international human rights treaties and other instruments adopted since 1945 have expanded the body of international human rights law. Currently, there are nine human rights international treaties, and one optional protocol, from which 10 treaty bodies have been established. Each of these treaty bodies monitor implementation of the treaty provisions by its States parties.

<sup>8</sup> [https://www.amnesty.nl/content/uploads/2015/10/can\\_human\\_rights\\_bring\\_social\\_justice.pdf](https://www.amnesty.nl/content/uploads/2015/10/can_human_rights_bring_social_justice.pdf)

<sup>9</sup> <http://www.un.org/en/universal-declaration-human-rights/>

<sup>10</sup> <https://www.amnesty.org.au/>

Some of the treaties are supplemented by optional protocols dealing with specific concerns. The nine core treaties are:

- 1) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1965;
- 2) International Covenant on Civil and Political Rights (ICCPR) 1966;
- 3) International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966;
- 4) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979;
- 5) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984;
- 6) Convention on the Rights of the Child (CRC) 1989;
- 7) Convention on the Rights of Persons with Disabilities (CRPD).
- 8) International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICMRW) 1990;
- 9) International Convention for the Protection of All Persons from Enforced Disappearance (CED).

There are ten human rights treaty bodies that monitor implementation of the core international human rights treaties:

- 1) Committee on the Elimination of Racial Discrimination (CERD)
- 2) Committee on Economic, Social and Cultural Rights (CESCR)
- 3) Human Rights Committee (CCPR)
- 4) Committee on the Elimination of Discrimination against Women (CEDAW)
- 5) Committee against Torture (CAT)
- 6) Committee on the Rights of the Child (CRC)
- 7) Committee on Migrant Workers (CMW)
- 8) Subcommittee on Prevention of Torture (SPT)
- 9) Committee on the Rights of Persons with Disabilities (CRPD)
- 10) Committee on Enforced Disappearances (CED)

### **2.1.2 Social Justice**

Social justice principles work together to manage inequities based on cultural, social, economic and political factors. For this reason, social justice principles aim to provide a fair allocation of resources and entitlements without discrimination.

The basic social justice principles are:

- 1) Access (greater equality of access to goods and services)
- 2) Equity (overcoming unfairness caused by unequal access to economic resources and power)
- 3) Rights (equal effective legal, industrial and political rights)
- 4) Participation (expanded opportunities for real participation in the decisions which govern their lives).

Social justice is an underlying principle for peaceful and prosperous coexistence. An organisation (or LGA/state/country) upholds the principles of social justice when they promote gender equality or the rights of indigenous peoples and migrants. They advance social justice when they remove barriers that people face because of gender, age, race, ethnicity, religion, culture or disability.<sup>11</sup> A “just” society (municipality) is an inclusive society (municipality).

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<sup>11</sup> <https://www.un.org/development/desa/dspd/international-days/world-day-of-social-justice/world-day-of-social-justice-2017.html>

Laws regarding discrimination based on gender, race, religion, sexual orientation, health, disability, civil rights etc. are directly related to social justice implementation (see 2.2 and 2.3 below) and are developed and enacted on an international, national and state level.

## **2.2: NATIONAL CONVENTIONS & LEGISLATION<sup>12</sup>**

Australia is a party to seven of the core international human rights treaties (see list in 2.1.1 – Treaties 1-7). It is against these treaties that human rights scrutiny processes under the *Human Rights (Parliamentary Scrutiny) Act 2011* are undertaken.

Under the *Human Rights (Parliamentary Scrutiny) Act 2011* (the Act) all new Bills and disallowable legislative instruments must be accompanied by a Statement of Compatibility assessing the compatibility of the legislation with the rights and freedoms recognised in the seven core international human rights treaties which Australia has ratified.

The Act also requires the establishment of a Parliamentary Joint Committee on Human Rights. The Committee has functions to:

- Examine Bills, Acts and legislative instruments for compatibility with human rights;
- Examine Acts for compatibility with human rights, and
- Inquire into any matter relating to human rights which is referred to it by the Attorney-General.

These human rights scrutiny processes are designed to encourage early and ongoing consideration of human rights issues in policy and legislative development. They also aim to improve parliamentary scrutiny of new laws for consistency with rights and freedoms in the seven-core international human rights treaties to which Australia is a party.

Australia also has periodic treaty body reporting obligations under the 7 international treaties and is an active participant in the Universal Periodic Review process which provides an in-depth analysis of Australia's compliance with our international human rights obligations.

Australia is also a party to:

- The Optional Protocol to the International Covenant on Civil and Political Rights establishing an individual communication mechanism;
- The Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty;
- The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict;
- The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women establishing an individual communication mechanism; and,
- The Optional Protocol to the Convention on the Rights of Persons with Disabilities establishing an individual communication mechanism.

The Australian Government also supports the United Nations Declaration on the Rights of Indigenous Persons as a non-legally binding document.

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<sup>12</sup> <https://www.ag.gov.au/RightsAndProtections/HumanRights/Pages/International-Human-Rights-System.aspx>

Australia is a party to the complaints (or 'communications') mechanisms in relation to the following five human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of Persons with Disabilities (CRPD).

Any individual can make a complaint against Australia if they are concerned that their human rights under these treaties have been violated.

Laws regarding discrimination include (but are not limited to):

- Racial Discrimination Act 1975,
- Sex Discrimination Act 1984,
- Aboriginal and Torres Strait Islander Heritage Protection Act 1984,
- Human Rights and Equal Opportunity Commission Act 1986,
- Crimes (torture) Act 1988,
- Disability Discrimination Act 1992,
- Equal Opportunity for Women in the Workplace Act 1999,
- Age Discrimination Act 2004.

### **2.3: STATE (VIC) CONVENTIONS & LEGISLATION<sup>13</sup>**

The *Charter of Human Rights and Responsibilities Act 2006* (the Charter) is a Victorian law that sets out the basic rights, freedoms and responsibilities of all people in Victoria. It is about the relationship between government and the people it serves. The Charter requires public authorities, such as Victorian state and local government departments and agencies, and people delivering services on behalf of government, to act consistently with the human rights in the Charter.

Twenty fundamental human rights are protected in the Charter because the Victorian Parliament recognises that, as human beings, we have basic rights, including the right to be treated equally, to be safe from violence and abuse, to be part of a family and to have our privacy respected.

The Victorian Government, local councils and other public authorities must not knowingly be in breach of these rights, and must always consider them when they create laws, develop policies and deliver their services. The Charter complements other laws – such as equal opportunity legislation – by setting out a familiar list of 20 rights that can be grouped under the four key principles of Freedom, Respect, Equality and Dignity.

#### **Freedom**

1. Freedom from forced work
2. Freedom of movement
3. Freedom of thought, conscience, religion and belief
4. Freedom of expression
5. Right to peaceful assembly and freedom of association
6. Property rights

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<sup>13</sup> <https://www.humanrightscommission.vic.gov.au/human-rights/the-charter>

7. Right to liberty and security of person
8. Fair hearing
9. Rights in criminal proceedings
10. Right not to be tried and punished more than once
11. Protection from retrospective criminal laws

### **Respect**

12. Right to life
13. Protection of families and children
14. Cultural rights, including recognition of the distinct cultural rights of the Aboriginal people of Victoria

### **Equality**

15. Recognition and equality before the law
16. Entitlement to participate in public life (including voting)

### **Dignity**

17. Protection from torture and cruel, inhuman or degrading treatment
18. Protection of privacy and reputation
19. Humane treatment when deprived of liberty
20. Appropriate treatment of children in the criminal process

Additional state laws related to discrimination include (but are not limited to):

- Racial and Religious Tolerance Act 2001;
- Multicultural Victoria Act 2004; and,
- Equal Opportunity Act 1995.

## **2.4: LOCAL GOVERNMENT CONVENTIONS & LEGISLATIVE REQUIREMENTS**

As stated in 2.3 the Charter of Human Rights and Responsibilities Act 2006 (Vic) requires local councils (and other public authorities) to act compatibly with human rights, and to consider human rights when developing policies, making laws, delivering services and making decisions. As a result, no matter which state or local government agency the community is dealing with, the same human rights apply.

Local councils must ensure that:

- all council decisions give proper consideration to human rights;
- all actions, policies and services are compatible with human rights;
- local laws are interpreted and applied consistently with human rights; and,
- people who work on behalf of councils do so in a way that respects human rights<sup>14</sup>.

By understanding and promoting human rights, local councils can help build a culture of human rights in the community.

Convention now is for local councils to establish their own Social Justice Charter which sets goals for the community to work together to promote and protect the inalienable rights afforded to all members of the community as legislated by the Victorian Charter of Human Rights and Responsibilities (2006).

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<sup>14</sup> <https://www.humanrightscommission.vic.gov.au/human-rights/the-charter-and-local-government>

## SECTION 3 SOCIAL JUSTICE & HUMAN RIGHTS IN AUSTRALIA

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### 3.1: NATIONAL ISSUES

So far in 2019 – issues related to refugees and people seeking asylum, indigenous rights and Australia Day, and gender equality remain at the forefront in news reports and public debate. Outlined below is analysis and commentary on what are the key issues (according to a leading advocacy group and also based on the results of a public national survey).

In December 2017 legislation to allow same-sex marriage, the Marriage Amendment (Definition and Religious Freedoms) Act 2017, passed the Australian Parliament and received royal assent from the Governor-General. This brought to a close a long period of debate on a key human right issue - marriage equality. The legislation was introduced after a majority of people voted “yes” to the Australian Marriage Law Postal Survey.

#### 3.1.1 Australian Lawyers for Human Rights (ALHR)<sup>15</sup>

The 2018 Human Rights Report Card from Australian Lawyers for Human Rights<sup>16</sup> (**ALHR**) has found Australia continues to significantly lag in key areas. Further, many states and territories continued to perform poorly in their approach to human rights.

The Australian government’s human rights approach to a) refugees, b) Indigenous people and c) those with disability are key national issues and have been highlighted in reports as being at risk of breaching its international human rights obligations. Australian Lawyers for Human Rights’ (ALHR) 2018 Human Rights Report Card scored Australia poorly on key areas including Indigenous rights (F-), refugees and people seeking asylum (F) and freedoms (F). See full ratings and specific comments below.

**Key Human Rights Performance Areas 2017 v 2018 Results**

Performance Area	2017 Score	2018 Score
Indigenous Rights	F-	F-
Business and Human Rights	C	C+
Refugees and People Seeking Asylum	F	F
LGBTI	D-	D
Freedoms	F	F
Disability Rights	D	D
Women and Girls' Rights	F	C
Children's Rights		D**

\*\*First year this performance area has been specifically tracked through a new sub-committee

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<sup>15</sup> Established in 1993, Australian Lawyers for Human Rights is an association of legal professionals active in practising and promoting awareness of international human rights standards in Australia.

<sup>16</sup> <https://alhr.org.au/alhr-2018-human-rights-report/>

## ***Refugees & People Seeking Asylum***

ALHR have called on the Australian government to bring every person transferred to Manus Island and Nauru to safety, and said the government had legal responsibility to ensure the protection of people subject to offshore processing.

ALHR have welcomed the passage of the Medevac Bill through the Senate following from the historic vote in the House of Representatives. They believe the Bill is necessary to ensure that people are able to access the urgent medical treatment they need, in line with Australia's international human rights obligations.

## ***Indigenous People***

In the view of ALHR Aboriginal and Torres Strait Islander peoples continue to experience disadvantageous treatment in their daily lives. There has been no progress towards reconciliation, civil, political, economic, social or cultural rights. In the 2018-19 Federal Budget of important areas such as justice, family violence, Closing the Gap and child protection, but there were major cuts to remote housing.

ALHR also highlights the the Federal Government has also done little to rectify the over-incarceration and suicide rates of Aboriginal and Torres Strait islander peoples by not providing funding to implement recommendations from the Northern Territory Royal Commission, or the Australian Law Reform Commissions 'Pathways to Justice' report. This is a human rights abrogation and shows a callous disregard for equal justice for First Nations People.

## ***Freedoms***

ALHR concerns regarding freedoms focused on:

- Encouragement of religious discrimination;
- Increases in surveillance /invasions of privacy/overbroad national security legislation;
- Demonizing foreigners and the United Nations; and
- Undermining of democracy/ the rule of law.

### **3.1.2 Roy Morgan Public Opinion Survey (2018)<sup>17</sup>**

In early 2018 new in-depth research (650 Australians) exploring the concerns of Australians has found Australians regard economic issues as the major problems facing Australia and the world at large. Economic issues led by financial problems and cost of living, unemployment, economic problems, housing affordability, poverty and the gap between rich and poor were mentioned by 32% of Australians as the most important problems facing Australia. These further themes emerged:

- 14% of respondents mentioned concerns related to religion, immigration and human rights which includes the contentious issues surrounding asylum seekers and Australia's treatment of refugees;
- Government, politics and leadership issues were mentioned by just under 14% of Australians;
- Social issues were mentioned by just over 13% of Australians;
- Environmental issues were mentioned by 11% of Australians;
- Under 5% (down from 15%) mentioned the Energy Crisis, Energy and Power supply, Electricity grid and Fossil fuel.

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<sup>17</sup> <http://www.roymorgan.com/findings/7504-most-important-problems-australia-the-world-february-2018-201803051043>

The main themes highlighted above covered a wide range of specific issues (see over page).

**Religion/Human Rights:** Religion, Religious fundamentalism, Human rights, Refugees, Asylum seekers, Boat people, Refugee and asylum problems, Detention of refugees, Immigration/Immigration policy, Intolerance, Racism, Racial tension, Aboriginal issues/health/rights, Multiculturalism, Integration and Assimilation and others.

**Social Issues:** Social apathy, Family breakdowns, Selfishness, Moral decline, Social welfare, Welfare dependency, Youth issues – Homelessness, apathy, discipline, Drugs and drug abuse, Education, Crime, Law and order, Anger, Violence, Aggression and others.

## 3.2: LOCAL ISSUES

Council has been very proactive in addressing a number of areas that are high on the national and international human rights agenda – including indigenous rights, the rights of refugees and people seeking asylum, and access and inclusion for people with disability.

Yarra has worked tirelessly to ensure that its large indigenous community is welcomed and acknowledged, that Yarra is a safe place for refugees and people seeking asylum, and that access and inclusion for all is a Council wide focus. This work has been done via policy positions, strategic planning and program delivery.

### 3.2.1 Indigenous Issues in Yarra

The Community Planning Unit in conjunction with the community and service providers is currently developing the Aboriginal Partnerships Plan 2019 – 2022. This document confirms Council's ongoing commitment to, and work with, the large Aboriginal and Torres Strait Islander community.

The Aboriginal Advisory Group is the Aboriginal and Torres Strait Islander community's official voice into Yarra City Council. The group provides the Aboriginal community with ongoing opportunities to raise issues of importance, influence policy development and give feedback on existing Council programs. The group oversees the development and implementation of the Aboriginal Partnerships Plan (2019-2022). The group also serves a vital purpose in ensuring that our projects, policies and other work remains in tune with local Aboriginal community needs, expectations and aspirations.

The 1<sup>st</sup> statement in Yarra's Multicultural Policy (see full statement in Appendix C) highlights Council's commitment to its indigenous community:

***Yarra City Council:***

- ***Affirms that Indigenous Australians are the first custodians of this country and continue to contribute to the cultural heritage of this land. Council recognises that cultural diversity existed before white settlement in the cultural diversity of the Indigenous nations living here pre-colonisation, and will actively work towards promoting and celebrating this.***

### 3.2.2 Refugees and Asylum Seekers

Yarra City Council has been a Refugee Welcome Zone since 2002, and it was one of the first local governments to join this initiative.

A Refugee Welcome Zone is a Local Government Area which has made a commitment in spirit to welcoming refugees into the community, upholding the human rights of refugees, demonstrating compassion for refugees and enhancing cultural and religious diversity in the community.

In 2005 when the first Refugee and Asylum Seeker Statement was adopted by Council, the welcome banners stating “City of Yarra Welcomes Refugees and Asylum Seekers” were hung outside the Collingwood Town Hall on special occasions such as Refugee Week. Council adopted a revised Refugee and Asylum Seeker Statement in 2015, which outlines Yarra’s commitment to a respectful and compassionate approach to Asylum Seekers (see Appendix D).

Early in 2018 Yarra City Council officially joined the Welcoming Cities Network. This network facilitates a national network of inclusive, vibrant communities internationally recognised for their ability to foster a sense of belonging and participation. It seeks to address and embrace the challenges and opportunities of migration. It aims to create more welcoming and inclusive communities by supporting local government leaders and communities to be more effectively resourced, networked and supported.

Yarra’s recently revised Multicultural Population Plan (2019 – 2022) has been developed in alignment with the Welcoming Cities standards as they closely reflect Yarra’s policy stance and are based on a human rights framework.

### **3.2.3 Access & Inclusion**

Council is committed to supporting people with disability to live full and active lives, ensuring that Yarra is an inclusive and accessible community and is a place where everyone can live well.

As a public authority, Council is required and is committed to demonstrate that it has properly considered human rights in all its decisions when making laws, developing policy and providing services.

The Access and Inclusion Strategy 2018-2024 (available for review on request) has a vision for an inclusive and accessible Yarra, encompassing a broad, strengths-based approach to contribute towards self-actualization of people with disability by improving access to information, built environment and facilities, engaging people with disability in consultations and events, and by creating a diverse and inclusive workforce. Council acknowledges that Universal Access and mainstream participation can bring solid and lasting change in the quality of lives of people with disability

### **3.2.4 Diversity & Inclusiveness**

Given Yarra was updating and/or introducing a number of plans/charters that would guide its continuing support for human rights, diversity and inclusiveness in 2018 – a community survey was undertaken to identify what “inclusiveness” looks like to the residents of Yarra.

The survey process aimed to encourage people to think about what makes them feel included in the community, and what Yarra could do to make sure all people, from all backgrounds and with different life experiences feel involved and included in the community. This was achieved by asking people to share stories of a) where they had seen or experienced inclusiveness in Yarra, and b) ideas for improving inclusiveness in Yarra.

While further review and reporting of the findings from this survey are still to occur, responses generally fell under one of the following key areas/themes regarding how/where to build inclusiveness:

- Programs & Services
- Community Connectedness
- Welcoming Diversity
- Community Events
- Participation & Inclusion
- Safe & Liveable Spaces
- Advocacy
- Local businesses
- Open Space

**In building inclusiveness, Council is working to protect and promote the freedom, respect, equality and dignity (4 key human rights themes from Victoria Charter of Human Rights) of the people and communities it represents.**

## **SECTION 4 BENCHMARKING**

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### **4.1: INTERNATIONAL APPROACHES**

International human rights law lays down obligations which countries are bound to respect. By becoming parties to international treaties, countries assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that countries must refrain from interfering with or curtailing the enjoyment of human rights.

The obligation to protect requires countries to protect individuals and groups against human rights abuses. The obligation to fulfil means that countries must take positive action to facilitate the enjoyment of basic human rights. As a result, countries establish their own human rights implementation guidelines and laws.

Obviously, there is a myriad of approaches to enshrining a nation's human rights – however there is a fairly consistent approach to replicating the language and structure of existing UN documents (e.g. treaties and definitions).

### **4.2: LOCAL APPROACHES**

A review of LGA Social Justice Charters (e.g. Hume, Port Phillip, Brimbank, Maribyrnong), and the VLGA tool kit for implementing the Victorian Charter of Human Rights and Responsibilities was undertaken and the following observations can be made about best practice in these documents.

Fundamentally – the Charters all outline how a specific Council aims to protect human rights by promoting social justice principles and addressing the social justice issues most associated with, and reflective of, their community. The Charters have:

- Clear definitions for social justice and human rights.
- Guiding principles or local “bill of rights” are a part of all documents. These principles appear to be generally built upon the accepted social justice principles of access, equity, rights and participation.
- Each document has identified a framework and a pathway to show how the Charter aligns with the Council Plan and connects with other key strategies and plans. In some cases, the charter sits above all other strategies that relate to “inclusiveness” and/or address social justice issues in the community.
- Each document identifies what its community looks like (demographically) and what social justice issues are at the forefront at a point in time.
- The documents show a commitment to action and commitment to accountability. That is, they outline the key rights under the Victorian Charter (Freedom, Respect, Equality and Dignity) and then identify how Council adheres to the obligations under these rights.

### **4.3: STRUCTURE & WORDING OPTIONS**

The documents reviewed as part of this report preparation suggest there are many consistent elements to most charters – however variations in wording/titles. A key variation which does not significantly impact on the actual documents is the name – some councils/bodies only use the term “social justice” whilst others include “human rights”.

It will be important that Council clearly identifies/links how the new Social Justice Charter relates to existing social justice commitments and actions identified in existing strategies and plans (e.g. Multicultural Policy, Access & Inclusion Strategy, Aboriginal Partnerships Plan etc.).

The structure of the charters varies – but generally reflect standard policies – that is:

- Preamble and/or Mayor Statement
- Vision and Objectives
- Definitions and Context
- Profile of municipality – including key social issues;
- Social Justice Principles & Framework; and,
- Obligations and Actions.

**Framework** considerations for Yarra could include a three-pronged approach (based on a slightly different version used by Maribyrnong) - Culture (vision & engagement), Commitment (policies, strategies, and advocacy), and Compliance (obligations and actions).

Within “Council Commitment” further consideration needs to be given as to where the Social Justice Charter will sit in terms of existing documents. One example is below.

## Council Plan (& Public Health & Well Being Plan)

### Social Justice Charter (Access, Equity, Rights, Participation)

Access &  
Inclusion  
Strategy &  
Action Plan 2018  
- 2024

Active Ageing  
Strategy &  
Action Plan 2018  
- 2024

Aboriginal  
Partnership  
Community Plan  
2019-2022

Multicultural  
Partnerships  
Plan 2019 - 2022

Reconciliation  
Action Plan  
2015 - 2018

0-25 years  
Strategy &  
Action Plan

Other (TBA)

The **obligation and actions** could be outlined under the 4 key Human Rights Principles in the Victorian Charter (Freedom, Respect, Equality and Dignity), or be broken down further to reflect each of the 20 stipulated rights. Consideration needs to be given as to how to ensure the actions reflect the 4 key social justice principles of Access, Equity, Rights and Participation.

## **SECTION 5 ENGAGEMENT & DEVELOPMENT OF CHARTER**

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### **5.1: ENGAGEMENT**

The charter needs to be a whole of council document and as such internal consultation is required to ensure that the document will be utilized and has shared ownership.

For human rights milestones to be actively complied to in the City of Yarra – and social justice issues actively addressed – education, information and communication regarding Council's position (and legal responsibilities) must reach:

- Councillors;
- Administration;
- Community; and,
- Third Parties (e.g. contracts and procurement, funding bodies)

Engagement and communication are vital, as that will ensure ongoing action.

**"At the end of the day, it's all about what action a city or government is willing to take to reach the lofty goals it sets out. Best practice isn't just in the words of the charter as I'm sure you'll agree."**  
*Mary Sims - former chief commissioner of the British Columbia Human Rights Commission*

### **5.2: DEVELOPMENT OF THE CHARTER**

When engaging with internal and external stakeholders (where relevant), it would be appropriate to test wording for the Charter, including:

- Guiding Principles (or a Yarra Bill of Rights);
- How the Social Justice Charter aligns with the other plans and strategies Council currently has that protect human rights (Appendix A);
- How the Social Justice charter applies to, and is implemented by, business units and program/service delivery; and,
- Identifying Council's current initiatives and activities in the 4 key areas of freedom, respect, equality and dignity.

The next steps in development will be to workshop and draft:

- Agreed definitions of Human Rights and Social Justice;
- Yarra's guiding principles; and
- Yarra's framework.

## **APPENDIX A**

### **Complementary Policies & Strategies**

- Council Plan 2017 - 2021
- Public Health and Wellbeing Plan 2017 - 2021
- Access & Inclusions Strategy & Action Plan 2018-2024
- Active Ageing Strategy & Action Plan 2018 – 2024
- Aboriginal Partnerships Community Plan 2019 – 2022
- Multicultural Partnerships Plan 2019 – 2022
- Language Services Policy (Aged & Disability Services)
- Community Engagement Policy 2014
- Employment Diversity Strategy [currently in development]
- Reconciliation Action Plan 2015–2018
- Policy Guidance Note on Affordable Housing in Significant Redevelopments

## **APPENDIX B**

### **Universal Declaration of Human Rights**

<b>Article 1:</b>	<b>Innate freedom and equality</b>
<b>Article 2:</b>	<b>Ban on discrimination</b>
<b>Article 3:</b>	<b>Right to life</b>
<b>Article 4:</b>	<b>Ban on slavery</b>
<b>Article 5:</b>	<b>Ban on torture</b>
<b>Article 6:</b>	<b>Right to recognition as a person before the law</b>
<b>Article 7:</b>	<b>Equality before the law</b>
<b>Article 8:</b>	<b>Right to effective judiciary</b>
<b>Article 9:</b>	<b>Ban on arbitrary detention</b>
<b>Article 10:</b>	<b>Right to public hearing</b>
<b>Article 11:</b>	<b>Right to the presumption of innocence</b>
<b>Article 12:</b>	<b>Right to privacy</b>
<b>Article 13:</b>	<b>Right to freedom of movement</b>
<b>Article 14:</b>	<b>Right to asylum</b>
<b>Article 15:</b>	<b>Right to a nationality</b>
<b>Article 16:</b>	<b>Right to marriage and family</b>
<b>Article 17:</b>	<b>Right to own property</b>
<b>Article 18:</b>	<b>Right to freedom of thought and religion</b>
<b>Article 19:</b>	<b>Right to freedom of opinion and expression</b>
<b>Article 20:</b>	<b>Right to freedom of assembly and association</b>
<b>Article 21:</b>	<b>Right to take part in government</b>
<b>Article 22:</b>	<b>Right to social security</b>
<b>Article 23:</b>	<b>Right to work</b>
<b>Article 24:</b>	<b>Right to rest</b>
<b>Article 25:</b>	<b>Right to an adequate standard of living</b>
<b>Article 26:</b>	<b>Right to education</b>
<b>Article 27:</b>	<b>Right to participate in cultural life</b>
<b>Article 28:</b>	<b>Right to to a social and international order</b>
<b>Article 29:</b>	<b>Duties and limitations</b>
<b>Article 30:</b>	<b>Salvatory clause</b>

## **APPENDIX C**

### **Multicultural Policy Statement**

Yarra City Council:

- Affirms that Indigenous Australians are the first custodians of this country and continue to contribute to the cultural heritage of this land. Council recognises that cultural diversity existed before white settlement in the cultural diversity of the Indigenous nations living here pre-colonisation, and will actively work towards promoting and celebrating this.
- Recognises cultural, linguistic and religious diversity as an integral part of Yarra's history and identity, and that this diversity enriches Yarra.
- Respects and promotes the expression of culture, language and religion free from vilification or discrimination, and that these are basic human rights for ALL people.
- Acknowledges that within multicultural communities, there are potentially vulnerable groups who may be at risk of further disadvantage such as women, refugees, people seeking asylum, older people, people who are Lesbian Gay Bisexual Transgender and Intersex (LGBTI), and people with disabilities.
- Promotes an inclusive community, in which people are enabled to participate fully in the social, cultural, economic and political opportunities of the municipality irrespective of race, gender, culture, language or religion.
- Welcomes refugees, people seeking asylum and other newly arrived migrants to the municipality with respect and compassion, and has a role to play in creating a welcoming and socially cohesive community.
- Rejects all forms of racial and religious vilification, violence, harassment and unlawful discrimination, and will work towards a community free of racism.

## **APPENDIX D**

### **Refugee & People Seeking Asylum Statement**

Yarra City Council:

- Recognises and welcomes all people who have arrived on humanitarian visas, people seeking asylum and those who come from refugee backgrounds who arrive on other visa types, including family migration and skilled migration.
- Recognises the United Nations definition of a person seeking asylum as an individual seeking international protection but whose claim has not been fully decided yet.
- Recognises the journey of people seeking asylum who are often fleeing from war and human rights violations. They have often experienced trauma and persecution and should be treated with dignity and compassion, while acknowledging these people also have strengths, which have contributed to their survival and resilience.
- Will provide opportunities for refugees and people seeking asylum to actively participate and contribute in community life.
- Will actively advocate for the rights of refugees and people seeking asylum to be free from hardship and enable them to actively participate in this community, while also challenging discriminatory beliefs and policies.
- Will celebrate and acknowledge the contributions refugees and people seeking asylum have made to Yarra and continue to do so, recognising these communities have inherent strengths and resilience.