

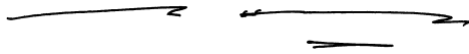
CERTIFICATE UNDER SECTION 74 OF THE LOCAL GOVERNMENT ACT 2020

I, **Mark Richard Hayes**, being a person who is:

- (a) an Australian lawyer who has been admitted to the legal profession for at least 5 years; and
- (b) not a Councillor of Yarra City Council

certify that, in my opinion, the draft Local Law attached to this Certificate and marked "MRH1" for identification is consistent with the local law requirements set out in section 72 of the *Local Government Act 2020*.

Dated: 30 September 2021



.....
Mark Richard Hayes
Maddocks

"MRH1"

Yarra City Council

**General (Consumption Of Liquor
In Public Places) Amendment
Local Law 2021**

DRAFT

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GENERAL (CONSUMPTION OF LIQUOR IN PUBLIC PLACES) AMENDMENT LOCAL LAW 2021

PART 1 – INTRODUCTION

1. Title

This Local Law is entitled “General (Consumption of Liquor in Public Places) Amendment Local Law”.

2. Purposes of Local Law

This Local Law is made for the purposes of:

- 2.1 amending Council’s General Local Law;
- 2.2 regulating the consumption and possession of liquor in certain public places within the municipal district, so that such consumption or possession does not interfere with the amenity and enjoyment of those places; and
- 2.3 the peace, order and good government of the municipal district.

3. Authorising Provision

This Local Law is made under section 71(1) of the *Local Government Act 2020*.

4. Commencement Date

This Local Law commences on 19 October 2021.

5. Revocation

This Local Law will cease to operate on the day on which Council’s General Local Law ceases to operate.

6. Application

This Local Law applies and has operation throughout the whole of the municipal district.

7. Interpretation

Unless the contrary intention appears in this Local Law the following words and phrases are defined as indicated:

- 7.1 “**Council**” means Yarra City Council;
- 7.2 “**General Local Law**” means the General Local Law made by Council on 3 August 2016, as amended from time to time; and
- 7.3 “**municipal district**” means the municipal district of Council.

PART 2 – AMENDMENTS TO THE GENERAL LOCAL LAW

8. Additional Definitions

8.1 In the General Local Law:

8.1.1 immediately after sub-clause 7.3 and immediately before sub-clause 7.4 insert:

7.3A “**AFL Grand Final Day**” means any day on which the Australian Football League stages the Grand Final;

8.1.2 immediately after sub-clause 7.21 and before sub-clause 7.22 insert:

7.21A “**Event**” means a festival or other event prescribed by Council;

8.1.3 immediately after sub-clause 7.24 and before sub-clause 7.25 insert:

7.24A “**liquor**” has the same meaning as in the *Liquor Control Reform Act 1998*;

8.1.4 immediately after sub-clause 7.27 and before sub-clause 7.28 insert:

7.27A “**municipal reserve**” means any area of open space owned by, vested in or under the management or control of Council, and includes parks and gardens;

8.1.5 immediately after sub-clause 7.32 and before sub-clause 7.33 insert:

7.32A “**prescribe**” means determine by resolution;

7.32B “**Prescribed Area**” means a public place (or part of a public place) prescribed by the Council under Part 20A;.

9. Insertion of New Part 20A

Immediately after Part 20 and before Part 21 of the General Local Law, insert:

PART 20A – CONSUMPTION OF LIQUOR IN PUBLIC PLACES

68A. Introduction to this Part

This Part is not intended to criminalise social or economic disadvantage or chronic health issues, nor to create barriers to seeking or receiving support from appropriate health and social services. People may be in vulnerable circumstances if they are:

- (i) experiencing homelessness
- (ii) socially, culturally or economically marginalised
- (iii) experiencing chronic physical or mental health issues

For these reasons, in situations in which provisions in this Part would usually apply, Authorised Officers must address the reason for the apparent breach of the provision and first offer the option of support through local health and outreach services and/or considering the non-punitive options set out in the Procedure and Protocols Manual.

68B. Prescription by the Council

- 68B.1 A prescription is only to be made under this clause 68B where it is evident to the Council that there is an extraordinary and imminent risk to public safety related to the possession, control or consumption of liquor in a public place (or part of a public place).
- 68B.2 The Council may prescribe a public place (or part of a public place) to be a Prescribed Area for the purposes of this Part.
- 68B.3 If the Council prescribes a public place (or part of a public place) to be a Prescribed Area, the prescription may also specify:
- 68B.3.1 days on; or
- 68B.3.2 times between which
- a person must not:
- 68B.3.3 consume any liquor; or
- 68B.3.4 possess or control any liquor other than in a sealed container
- in the Prescribed Area.
- 68B.4 The Council must not make a prescription without first complying with the Procedure and Protocols Manual.
- 68B.5 Any prescription by the Council under this Part will not be effective, and no person can be prejudicially affected or made subject to any liability under this Part, until notice of the prescription is published on the Council's website.
- 68B.6 A prescription by the Council under this Part may:
- 68B.6.1 expire, if it is specified to remain in operation only for a limited period and that period passes; and
- 68B.6.2 be revoked by resolution of the Council.

68C. General Prohibition

- 68C.1 A person must not:
- 68C.1.1 consume any liquor; or
- 68C.1.2 possess or control any liquor other than in a sealed container
- at any time:
- 68C.1.3 between 9pm and 9am on the following day while present in a municipal reserve;
- 68C.1.4 in a Prescribed Area, contrary to the terms of any prescription made in respect of that Prescribed Area;
- 68C.1.5 on a footway adjoining any area which is licensed under the *Liquor Control Reform Act 1998*, if the premises in respect of which the area is licensed:
- 68C.1.5.1 is open for business or otherwise trading; and

68C.1.5.2 does not have as its predominant purpose the sale of packaged liquor;

68C.1.6 within 10 metres of a pedestrian entrance or exit to an aquatic or leisure centre, a public library, a Maternal and Child Health Centre, a play centre, a child care centre, a pre-school, a school or any other building or structure used predominantly for the purpose of providing services to families or children, whether the person is on a footway or not; and

68C.1.7 while on any road (excluding a footway), whether in a vehicle or not.

68D Clarification

If a person is present in a municipal reserve between 9am and 9pm and the person's location is one of the places in or on which a person is prohibited from:

68D.1 consuming any liquor; or

68D.2 possessing or controlling any liquor other than in a sealed container under sub-clause 68C.1.4, 68C.1.5, 68C.1.6 or 68C.1.7, that person will, if they:

68D.3 consume any liquor; or

68D.4 possess or control any liquor other than in a sealed container, breach sub-clause 68C.1.4, 68C.1.5, 68C.1.6 or 68C.1.7 (as the case may be).

68E Additional Prohibitions

68E.1 Notwithstanding clause 68C, a person must not:

68E.1.1 consume any liquor; or

68E.1.2 possess or control any liquor other than in a sealed container

in:

68E.1.3 the area around Swan Street, Cremorne and Richmond, which is bounded by Tanner and Gipps Streets to the north, Church Street to the east, the railway line to the south and Punt Road to the west (being the area shaded red in the map attached to this Local Law), from 9pm on the day immediately preceding the AFL Grand Final until 9am on the day immediately following the AFL Grand Final; or

68E.1.4 any public place from 9pm on 30 December to 9am on 1 January.

68F Directions by Authorised Officer

68F.1 If an Authorised Officer observes a person contravening clause 68C or 68E, and it is clear to the Authorised Officer that the person is not vulnerable within the meaning of the Procedure and Protocols Manual, the Authorised Officer may direct the person to:

68F.1.1 cease the consumption of liquor;

68F.1.2 seal the container of liquor; or

68F.1.3 dispose of the liquor into a receptacle approved by the Authorised Officer.

68F.2 A person to whom a direction is given under sub-clause 68F.1 must comply with that direction.

68G Exceptions

68G.1 Nothing in clause 68C or 68E applies to any person who is:

68G.1.1 on premises which are or in an area which is licensed under the *Liquor Control Reform Act 1998*; or

68G.1.2 attending an Event prescribed by Council.

68G.2 Council may, for the purposes of this Part, prescribe a festival or other event as an Event to which clause 68C or 68E does not apply.

68G.3 Any prescription which is made by Council under sub-clause 68G.2 must be published on Council's website, and must specify:

68G.3.1 the period during which the Event is being conducted;

68G.3.2 the area of the municipal district in which the Event is being conducted, which may be described by words, a plan or a map or a combination of words, a plan and a map;

68G.3.3 areas within the Event that are designated as allowing responsible service of liquor and the specified times during which liquor may be served there; and

68G.3.4 the name of the person or persons conducting the Event.

PART 3 – AMENDMENT OF SCHEDULE 1

10. Amendments to Schedule 1

In Schedule 1 to the General Local Law, immediately below the reference to sub-clause 68.1 but above the reference to sub-clause 75.4 insert:

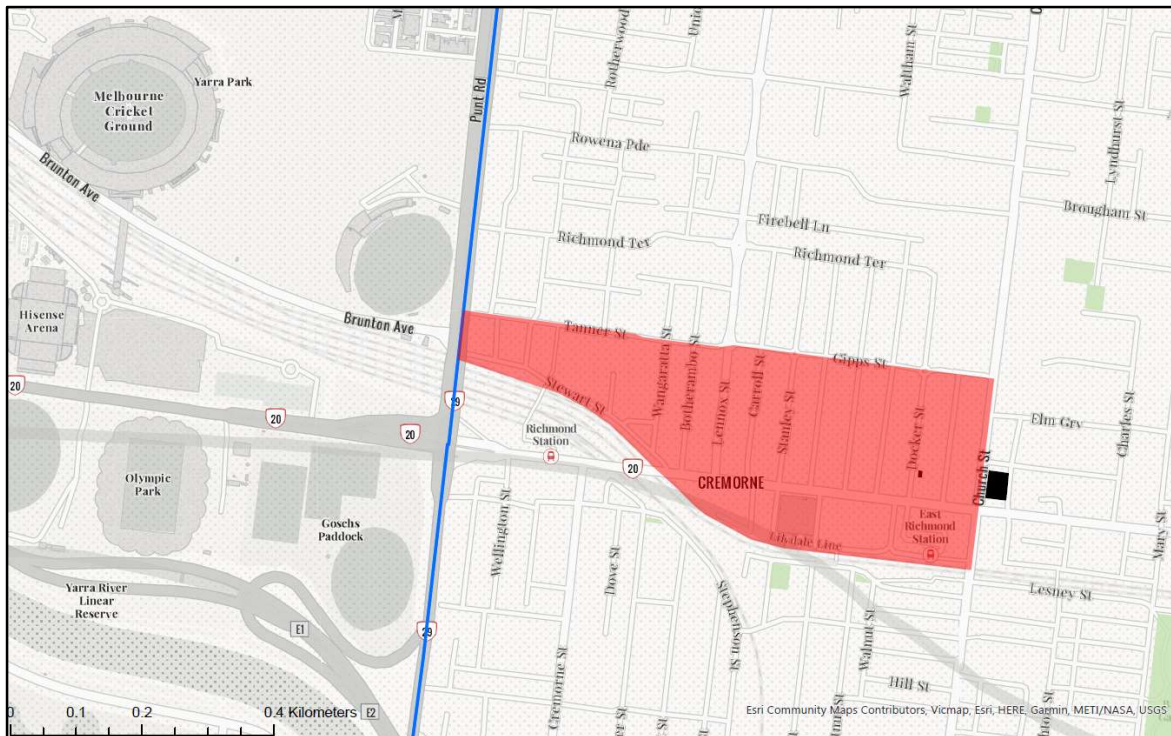
68F.2	Failure to comply with direction given by Authorised Officer	1	20

PART 4 – ATTACHMENT OF MAP

11. Attachment of Map

After Schedule 1 to the General Local Law attach the following:

ATTACHMENT



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