

**5.5 DOUBLE VACCINATION AND VISITORS TO COUNCIL FACILITIES**

Responsible Senior Officer: Jarrod Doake, Chief Operating Officer

**RECOMMENDATION**

*That:*

- (1) *Council delegates to the CEO the power to implement restrictions on entry to Council facilities in compliance with Chief Health Officer Directions;*
- (2) *Where the CEO, after conducting a risk assessment, proposes to implement restrictions on entry to Council facilities which are in excess of the Chief Health Officer Directions, such a proposal is to be reported to Council for a decision; and*
- (3) *If the Chief Health Officer Directions do not specifically cover the Civic Centre and the Oakleigh Service Centre, Council delegates to the CEO the power to implement restrictions on entry consistent with Chief Health Officer Directions for comparable facilities, such as leisure centres and public libraries.*

**BACKGROUND**

Covid-19, and in particular the Delta variant, poses significant challenges to Council in meeting its Occupational Health and Safety responsibilities toward its staff and visitors to its facilities. The risk mitigation approach which is becoming standard practice as metropolitan Melbourne emerges from lockdown is to require staff and facility users to be double vaccinated, other than in the case of limited exceptions or where an individual is not eligible for vaccination. It appears likely that, in the case of many Council facilities, double vaccination will be mandated in Chief Health Officer (CHO) Directions ("Directions"). However, current indications are that the situation may not be so clear in the case of facilities like the Civic Centre and the Oakleigh Service Centre.

**DISCUSSION**

The Directions which will apply to metropolitan Melbourne as it emerges from lockdown are yet to be released. However, the likely nature of Directions are indicated by (i) "Victoria's Roadmap: Delivering the National Plan" and (ii) the existing Directions for regional Victoria. Council will have no option but to comply with the Directions as they apply to metropolitan Melbourne.

The Roadmap lists broad categories of facilities and services. In the case of facilities and services run by Council, it appears that many will be covered by a requirement that visitors are fully vaccinated and adopt Covid-19 safe protocols. Unfortunately, the Roadmap is a high level document and the categories are not defined. Therefore, in some cases the best indication of the requirements relating to each category is provided by the Directions for regional Victoria.

The following table lists the likely Directions relating to double vaccination based on the evidence currently available, i.e. the Roadmap and Directions for regional Victoria:

Facility	Double Vaccination		
	Yes	No	Unsure
Community Centres	✓ <sup>1</sup>		
Community Halls	✓		
Neighbourhood Houses	✓ <sup>1</sup>		
Public Libraries	✓		
Galleries	✓		
Leisure Centres, including indoor and outdoor pools	✓ <sup>2</sup>		
Civic Centre and Oakleigh Service Centre			✓
Health Facilities, such as M&CH		✓ <sup>3</sup>	
Child Care Centres		✓ <sup>4</sup>	
Waste Transfer Station			✓ <sup>5</sup>
Sports Pavilions	✓ <sup>6</sup>		
Festivals, listening posts, etc.			✓ <sup>7</sup>

<sup>1</sup> Unvaccinated people receiving “essential support” cannot be excluded.

<sup>2</sup> Unvaccinated people using facilities for “essential medical care” cannot be excluded.

<sup>3</sup> Unvaccinated users can’t be excluded from a Health Facility. Covid-19 safe protocols will be required.

<sup>4</sup> The children will be unvaccinated because they are under the age of eligibility. Council’s Child Care Centres are already open servicing the families of essential workers. Covid-19 safe protocols are in place.

<sup>5</sup> The Transfer Station is currently operating using Covid-19 safe protocols. It will follow the Directions when they become available.

<sup>6</sup> Indications are that all participants in community sport will need to be double vaccinated, along with the need for all attendees to follow protocols such as hand sanitisation, social distancing and masks.

<sup>7</sup> Council will follow the Directions, with it being likely that such events will need to follow protocols such as hand sanitisation, social distancing and masks.

Council decision making is straight forward where double vaccination is a requirement of the Directions for entry to a facility. It is hoped that there will be no gaps. At the moment it is unclear if double vaccination for entry to facilities like the Civic Centre and Oakleigh Service Centre will be mandated.

Regardless of the potential gap in the Directions relating to the Civic Centre and Oakleigh Service Centre, Council has an obligation to protect staff and visitors to its facilities under the Occupational Health & Safety legislation. This obligation is wide ranging and involves exercising care to mitigate risks. At the same time, Council has obligations to visitors under the Equal Opportunity legislation and the Charter of Human Rights. These obligations sometimes clash.

This clash of obligations can be resolved via a risk assessment. Council can exclude visitors to facilities who are not fully vaccinated if the risk assessment indicates that it is appropriate to do so. However, any such mitigation strategy must be justified and proportionate to the risk.

In the case of the Civic Centre and the Oakleigh Service Centre, the risks and potential mitigation strategies in the absence of a CHO mandate to insist on visitors being double vaccinated are as follows:

<b>Risk</b>	<b>Mitigation Strategy</b>
Staff member(s) infected with Covid-19 from an unvaccinated visitor, leading to Council be held to be breach of its OH&S responsibilities	Implement a requirement that visitors are vaccinated, unless an exception applies or they are ineligible for vaccination
Customer(s) infected with Covid-19 from an unvaccinated visitor, leading to Council be held to be breach of its OH&S responsibilities	Implement a requirement that visitors are vaccinated, unless an exception applies or they are ineligible for vaccination
Reputational damage to Council due to staff or visitors catching Covid-19 from an unvaccinated visitor	Implement a requirement that visitors are vaccinated, unless an exception applies or they are ineligible for vaccination
Inability to continue to provide service if a number of staff are infected with Covid-19 from an unvaccinated visitor	Implement a requirement that visitors are vaccinated, unless an exception applies or they are ineligible for vaccination
A discrimination claim based on Council's refusal to provide service to an unvaccinated individual	Being unvaccinated is not a protected attribute and Council will continue to provide services to all online and over the telephone

As stated above, the CHO Directions for metropolitan Melbourne, once released, may mandate double vaccination for facilities such as the Civic Centre and the Oakleigh Service Centre. If they don't, a formal risk assessment will be conducted. However, it is clear from the above table that the result will be that an appropriate risk mitigation is to implement a requirement that visitors are vaccinated. This approach would be consistent with comparable facilities, such as leisure centres and public libraries.

Where, in the case of other Council facilities, a risk assessment suggests that Council should go beyond the CHO Directions, a report will be presented to Council seeking approval for the additional risk mitigations.

Risk mitigations (or controls) will be determined via a risk assessment with involvement from the Safety and Wellbeing team and key members of the Incident Control Group. The risk assessment will determine COVID-19 transmission and contraction risks to employees and other relevant persons. Recommendations for risk mitigation will align with CHO directions, COVID-Safe principles, industry practices, and any localised risk controls relating to the specifics of the location and service offering.

### ***SOCIAL IMPLICATIONS***

The aim is to limit adverse social impacts by ensuring compliance with Council's OH&S obligations and assisting in limiting the spread of the Covid-19 Delta variant, while at the same time ensuring the essential support is available to all.

### ***HUMAN RIGHTS CONSIDERATIONS***

Any impacts on Human Rights will be limited, and will be proportionate to the risk.

### ***GENDER EQUITY ASSESSMENT***

A gender impact assessment has not been undertaken on this proposal at this time.

### ***CONCLUSION***

Council has an obligation to protect its staff and visitors under the OH&S legislation. The spread of Covid-19 is a major risk. The recommendations assist in the management of this risk.