

COMMUNITY SERVICES COMMITTEE  
REPORT

Agenda Item 5.1

13 March 2007

**RELATIONSHIP DECLARATION REGISTER - ENDORSEMENT**

**Division** Community and Places

**Presenter** Colleen Lazenby, Manager Safety and Wellbeing

**Purpose**

1. To report on the community feedback received on the draft *Relationship Declaration Register Policy and Guidelines* and present the final draft for endorsement.

**Recommendation from Management**

2. That the Community Services Committee endorses the *Relationship Declaration Register Policy and Guidelines*.

**Key Issues**

3. The Relationship Declaration Register policy and guidelines were made available for public comment for a two week period, from 14 to 28 February 2007. The program has generated considerable interest with a total of 1,010 comments received.
4. There has also been considerable media interest about the proposed Relationship Declaration Register.
5. Systems and procedures are in place in order to make this program operational by 2 April 2007.
6. Comments relating to the Register during the community consultation phase raised the following issues:
  - 6.1. the Register falls outside of Council's jurisdiction;
  - 6.2. whether the Register should be open to all Victorians; and
  - 6.3. whether those under 18 years old should be eligible to register.
7. Responses to these concerns are outlined below:
  - 7.1. The development of a Relationship Declaration Register is in line with Council's objectives, role, and functions as per the *Local Government Act 1989*:
    - 7.1.1. Under Section 3C Sub Section (2) of the *Local Government Act 1989*, the objectives of Council include:
      - 7.1.1.1. (a) to promote the social, economic and environmental viability and sustainability of the municipal district.

- 7.1.1.2. (b) to improve the overall quality of life of people in the local community.
- 7.1.2. Under Section 3D Sub Section (2) of the *Local Government Act 1989*, the role of Council includes:
  - 7.1.2.1. (a) acting as a representative government by taking in to account the diverse needs of the local community in decision making;
  - 7.1.2.2. (b) providing leadership by establishing strategic objectives and monitoring their achievement;
  - 7.1.2.3. (d) advocating the interests of the local community to other communities and governments.
- 7.1.3. Under Section 3E Sub Section (1) of the *Local Government Act 1989*, the functions of Council include:
  - 7.1.3.1. (a) advocating and promoting proposals which are in the best interests of the local community;
  - 7.1.3.2. (b) planning for and providing services and facilities for the local community.
- 7.1.4. Section 7 of the *City of Melbourne Act 2001* sets out additional objectives, including:
  - 7.1.4.1. (a) to ensure a proper balance within its community between economic, social, environmental and cultural considerations within the context of the City of Melbourne's unique capital city responsibilities.
- 7.2. In regard to whether the City of Melbourne Relationship Declaration Register should be open to all Victorians, the following applies: under the *Local Government Act* Section 3E Sub Section (2) the City of Melbourne is permitted to work both within and outside its jurisdiction. This is particularly relevant for Melbourne as a capital city council and the primary activity centre for Victoria. Many of our events, programs and services are open to all, including residents, workers and visitors.
- 7.3. The availability of the register to those aged 16 years and over is in line with section 48 of the *Crimes Act 1958* (Vic) which stipulates the age of consent in Victoria as 16 years old. The following statements in the guidelines also make it clear as to the requirements for persons under the age of 18:
  - 7.3.1. *Persons applying to register must be aged 16 or over on the date of application. Any person aged 18 or over applying to register with a person aged under 18 on the date of application must sign a statement that they are not in a position of trust over that person.*
  - 7.3.2. *Any person under the age of 18 on the date of application must submit written consent to their making a relationship declaration from their parent(s) or legal guardian(s). The consent must be signed by a Justice of the Peace verifying that the document was signed in his/her presence by the parent(s) or guardian(s).*

### Time Frame

8. The Register will commence operation and be launched on 2 April 2007.

### Relation to Council Policy

9. The City of Melbourne has a strong commitment to community diversity and social justice. This commitment is translated into action in the development of policies and provision of services that improve the quality of life for all people who live in and access the municipality.
10. *Council Plan 2005-2009*, under Strategic Objective 3, 'Inclusive and Engaging City', includes various four-year strategies. Among these are:
  - 10.1. 'Welcome and facilitate all sectors of the community to participate in City Life' by:
    - 10.1.1. developing and implementing a Cultural Diversity Action Plan that aims to ensure the participation of people from culturally diverse communities; and promoting strong civic culture and engagement through expression of ideas, discussion and critical debate; and
  - 10.2. 'Encourage social equity, inclusion and wellbeing' by:
    - 10.2.1. engaging communities in cultural development, including marginal and high-need groups.
11. *A Strategy for a Safer City 2004-2006* under Priority Area 2: A Well Informed Community includes an action that aims to:
  - 11.1.1. address the needs of the gay, lesbian, bisexual, transgender and intersex communities by working with key services and groups to identify ways of reducing harm and crime within, and against, the gay, lesbian, bisexual, transgender and intersex communities.
12. A Relationship Declaration Register provides the City of Melbourne with an opportunity to affirm its commitment to and further develop these strategic objectives.

### Consultation

13. The draft policy and guidelines were made available for public comment for a two week period. All feedback from the community consultation period has been reviewed prior to presentation of the final draft of the policy and guidelines to Committee.
14. There has been considerable interest from the community with a total of 1,010 comments received. Of these 768 were in support and 242 were opposed. Twenty-two responses were also expressions of interest in registering a relationship.
15. Development of the City of Melbourne Relationship Declaration Register was first proposed at the Council Meeting held on 28 November 2006. Since that time a number of other Victorian local governments have expressed interest in establishing a Relationship Declaration Register. These include the Cities of Port Phillip, Yarra, Manningham and Stonnington. The City of Melbourne will meet with these Councils to explore the opportunities for development of a collaborative partnership.

### Government Relations

16. The City of Melbourne acknowledges the City of Sydney's generous support and assistance in the development of the *Relationship Declaration Register Guidelines and Policy*.

**Finance**

17. Establishment costs for the Register are estimated at \$16,000 and annual operating costs are anticipated to be \$4,500. The City of Melbourne Register will be managed by an existing staff position within the Safety and Wellbeing Branch, Community Services Group.

**Legal**

18. The legal implications arising from the recommendation made are accurately described in this report.

**Sustainability**

19. This policy supports the City of Melbourne's ongoing commitment to Social Sustainability under the triple bottom line reporting framework.
20. The Register is in line with a general international movement to address the issues of access and equity, inclusiveness and support to all groups within the community.

**Comments**

21. A copy of the final policy and guidelines for the Register is attached for consideration.

**Background**

22. On 28 November 2006 Council resolved to establish a means by which couples may formally declare, privately or publicly the existence of their relationships.
  23. On 13 February 2007 the draft policy and guidelines were presented to the Community Services Committee and endorsed for public comment for a period of two weeks ending 28 February 2007.
  24. The purposes of this report are to communicate the outcomes of the community feedback and present the final draft policy and guidelines for endorsement.
- 

**Attachments:**

1. Relationship Declarations Register – Policy and Guidelines

# ***CITY OF MELBOURNE RELATIONSHIP DECLARATION REGISTER POLICY AND GUIDELINES***

**March 2007**

## **Introduction**

The Melbourne City Council has adopted the City of Melbourne Relationship Declaration register as a means of recognising the relationship status of couples, irrespective of gender.

Under the program two people may declare that they are partners and have this declaration recorded in the City of Melbourne Relationship Declaration Register. While making a relationship declaration does not confer legal rights in the way marriage does it may be used in legal proceedings brought pursuant to the *Property Law Act 1958*, the *Administration and Probate Act 1958* and other legislation involving domestic partnerships.

Applicants will be required to sign a statement stating that they are making a relationship declaration in good faith and the information they provide is true and accurate.

The City of Melbourne reserves the right to cease the keeping of the Relationship Declaration Register at any time.

## **The relationship declaration**

Couples who participate in this program will be able to make the following written declarations before a witness or witnesses:

- They are a couple or are partners; and/or
- The length of time they have been a couple or partners; and/or
- They are mutually committed to sharing their lives together.

Couples who make a relationship declaration will receive a copy of their declaration in the form a certificate from the City of Melbourne.

The relationship declaration will be recorded in the City of Melbourne Relationship Declaration Register and issued with a registration number.

### **Confidentiality of data**

The collection, access and storage of information in connection with the City of Melbourne Relationship Declaration Register will be undertaken in accordance with the *Information Privacy Act 2000*.

The City of Melbourne Relationship Declaration Register will not be made available for inspection by members of the public.

If the applicants consent, the City of Melbourne may use the information provided on an application form to produce anonymous statistics. By providing this information, applicants consent to it being held and used for this purpose.

Specific entries in the Register will only be made available on demand to certain public officials, for example, the police in connection with their legitimate enquiries.

Couples may obtain copies of their own register entry upon presentation of identification. The City of Melbourne may charge a fee to recover the cost of providing copies.

Should couples wish to make their individual entry available to a third party, they must submit a written request to the City of Melbourne.

The Register and all related documents are stored in a secure environment within City of Melbourne premises and access is strictly controlled.

### **Recorded names**

All records relating to applicants for participation in the program will be recorded as shown in the documents provided as identification.

### **Conditions for making a relationship declaration and recording the declaration in the Relationship Declaration Register**

1. The making of a relationship declaration is by appointment only and subject to the City of Melbourne receiving the application form with the required documentation and payment of the application fee.
2. Applicants must complete and sign the application form to confirm that there are no reasons why they should not make a relationship declaration and the declaration recorded in the Register.
3. All documents provided in a foreign language must be translated into English by an authorised translation service.
4. The City of Melbourne reserves the right to refuse an application to make a relationship declaration.
5. The City of Melbourne reserves the right to subsequently note on its records of a relationship declaration any information it receives stating that false or misleading information has been provided.
6. Applicants who are already married or have registered a relationship with another person are not eligible to make a relationship declaration

## Age

- Persons applying to register must be aged 16 or over on the date of application. Any person aged 18 or over applying to register with a person aged under 18 on the date of application must sign a statement that they are not in a position of trust over that person. [see note below]
- Any person under the age of 18 on the date of application must submit written consent to their making a relationship declaration from their parent(s) or legal guardian(s). The consent must be signed by a Justice of the Peace verifying that the document was signed in his/her presence by the parent(s) or guardian(s).
- Partners must provide evidence of their date of birth. Acceptable forms of evidence are:
  - birth certificate (not extract)
  - passport
  - driver licence
  - citizenship certificate.

*Note: For the purpose of the City of Melbourne Relationship Declaration, a person is in a position of trust over another person if:*

- a. they are that person's step-parent, guardian or foster parent;*
- b. they are that person's school teacher and the other person is their pupil;*
- c. they have an established personal relationship with the other person in connection with the provision of religious, sporting, musical or other instruction to that other person;*
- d. they are a custodial officer of an institution of which the other person is an inmate; or*
- e. they are a health professional and the other person is their patient.*

## Related persons

- Relationships will not be registered if the partners are related. [see note below].

*Note: For the purpose of the City of Melbourne Relationship Declaration, a person is related to another person if:*

- a. they are the ancestor or descendant of that person;*
- b. they are the brother, sister, half-brother or half-sister of that person; or they are, or have been at any time, the adopted parent or adopted child of that person under any law of any place, whether in or out of Australia, relating to the adoption of children.*

### **Previous relationship declarations**

- A person who has previously made a relationship declaration shall not be permitted to make a relationship declaration without first having requested in writing that the termination of the previous relationship be recorded in the Register.

### **Fee**

- The fee for making a relationship declaration and having the declaration recorded in the City of Melbourne Relationship Declarations Register is \$50.
- Fifty percent of the fee will be refunded if either person applying to make a relationship declaration gives notice of his or her intent not to proceed within 21 days of applying to make a relationship declaration.
- No refund will be made if either person applying to make a relationship declaration decides not to proceed with making the declaration more than 21 days after applying to make the declaration or fails to make the declaration.
- Following an application, if a couple fails to make a relationship declaration, original application details will be destroyed.

### **Recording the termination of a relationship**

- The City of Melbourne cannot amend the relationship declarations that individuals have made. Either or both parties to a relationship declaration may request the City of Melbourne to record on the Relationship Register that the relationship has terminated. Upon receiving such a request in writing, the City of Melbourne shall record in the register that it has received notification of the termination of the relationship. Where the notification has been received from one party only, the City of Melbourne shall contact and provide a copy of the notice of termination to the other party.

### **Legal consequences of making a relationship declaration**

- Making a relationship declaration does not change the legal status of the persons making the declaration. However, the fact two people have made a relationship declaration may be presented as evidence of the existence of that relationship in legal proceedings.
- People contemplating making a relationship declaration should be aware that legal proceedings involving domestic relationships may be commenced under in Victoria. Victorian legislation allows for the rights of domestic partners to be asserted in areas such as inheritance (*Administration and Probate Act 1958*) and property division on relationship breakdown (*Property Law Act 1958*).
- Importantly, a Court may consider the fact that a relationship declaration was made, and the words used in the relationship declaration, in determining whether a domestic relationship existed and for how long.
- Depending on the dispute, the Court is likely to look at a range of factors. For example, in a property law dispute brought under the *Property Law Act 1958*, section 275(2) provides that all the circumstances of the relationship are to be taken into account, including any one or more of the following matters as may be relevant in a particular case—

- “(a) the duration of the relationship;
  - (b) the nature and extent of common residence;
  - (c) whether or not a sexual relationship exists;
  - (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;
  - (e) the ownership, use and acquisition of property;
  - (f) the degree of mutual commitment to a shared life;
  - (g) the care and support of children;
  - (h) the reputation and public aspects of the relationship.”
- A couple who declare they are mutually committed to sharing their life together may be providing evidence about “the degree of mutual commitment to a shared life” and “duration of [their] relationship”.
  - Individuals who want more information about the legal consequences of making a relationship declaration and having it recorded in the City of Melbourne Relationship Declaration Register should seek independent legal advice.

### **Procedure for making a relationship declaration**

1. Couples wishing to make a relationship declaration can apply to do so by obtaining a copy of the City of Melbourne Relationship Declaration Register application form (attached to these Guidelines).
2. The application form must be completed and signed by both partners making the application and lodged in person at the City of Melbourne Town Hall Customer Service Centre (Administration Building).
3. An officer of the City of Melbourne will be in contact with the parties within 30 days of the application form being lodged to schedule a personal interview.
4. During the personal interview the City of Melbourne officer officiating at the making of a relationship declaration shall:
  - ascertain that both persons who have applied to make the relationship declaration are present;
  - request that they each sign the relationship declaration certificates;
  - witness their signing the relationship declaration certificates; and
  - sign the relationship declaration certificate as the person officiating.
5. The making of the relationship declaration will take less than 10 minutes, after which the couple will receive one signed copy of the certificate.
6. The City of Melbourne does not conduct ceremonies in association with the making of relationship declarations.

### **Further information**

Further information is available by contacting:  
City of Melbourne Hotline on 03 9658 9658 or by accessing Council’s website:  
[www.melbourne.vic.gov.au](http://www.melbourne.vic.gov.au)

**FINANCE ATTACHMENT**

---

**RELATIONSHIP DECLARATIONS REGISTER - ENDORSEMENT**

---

Establishment costs and 2006/07 operating costs for the register will be absorbed within existing budgets. Future operating costs will be included as part of the 2007/08 budget process.

**Kerrie Jordan**  
Acting Manager Financial Services

## LEGAL ATTACHMENT

---

### RELATIONSHIP DECLARATIONS REGISTER - ENDORSEMENT

---

The *Statute Amendment (Relationship) Act 2001* and *Statute Law Further Amendment (Relationship) Act 2001* amended various Victorian Acts in relation to domestic relationships.

De facto relationships and de facto partners are now referred to as 'domestic relationships' and 'domestic partners' in relevant Victorian legislation.

Despite the object of the Act being "to recognise the rights and obligations of partners in domestic relationships where there is mutual commitment to an intimate personal relationship and shared life as a couple, irrespective of the gender of each partner", it does not provide a means by which partners can privately or publicly register their relationship.

The Relationship Declaration policy and guidelines make it clear that a relationship declaration may be used in legal proceedings brought pursuant to the *Property Law Act 1958*, the *Administration and Probate Act 1958* and other legislation involving domestic partnerships. In and of itself however, the fact that a relationship declaration has been made is not determinative in establishing that a "domestic relationship" exists but is one of the factors that a Court may look to.

**Kim Wood**  
Manager Legal Services