

Proposed smoke-free area – Bourke Street between Elizabeth Street and Russell Place

17 September 2019

Presenter: Russell Webster, Manager Health and Wellbeing

Purpose and background

1. This report presents the findings from the consultation on smoke-free areas in Bourke Street between Elizabeth Street and Russell Place and seeks endorsement to prescribe the proposed area as smoke-free under clause 3A.3 of Council's *Activities Local Law 2019* (Local Law).
2. The proposal to make a section of Bourke Street a smoke-free area is a 2019–20 Annual Plan Initiative. The area includes Bourke Street Mall and the segment of Bourke Street between Swanston Street and Russell Place. See map in Attachment 2.
3. Prescribing smoke-free areas directly supports Council's commitment to protect the community from passive smoking. There are currently 10 smoke-free areas prescribed in the City of Melbourne: The Causeway, Howey Place, Block Place, Equitable Place, Goldsbrough Lane, QV Melbourne, The Tan and Princes Park running tracks, Collins Way and Fulham Place.

Key issues

4. The consultation took place in the proposed area from 23 April to 21 May 2019. Key stakeholders, including residents, businesses and visitors, were engaged face-to-face and online via the Participate Melbourne website. All property owners and occupiers were informed of the proposal via mail-out and invited to provide feedback.
5. Focused consultation activities took place with key target groups and stakeholders including international students at RMIT University and Monash College, homelessness representatives, buskers and business precinct organisations.
6. A total of 3113 individual and 169 business responses were received via intercept and online surveys.
7. Of individual respondents, 83 per cent were in support of the area becoming smoke-free, eight per cent were neutral and only nine per cent opposed. Businesses were also highly supportive of the proposed smoke free area with 83 per cent in support, eight per cent neutral and nine per cent opposed.
8. There is relatively low opposition to the smoke free area proposal from smokers, with 67 per cent of smokers either having a positive or neutral attitude to the proposal. Furthermore, 39 per cent of smokers intercepted on Bourke Street believe wider prescription of smoke free areas would make them definitely quit or consider quitting smoking.
9. Further feedback was received via social media, email and formal submissions. Some key messages included concerns about what alternatives would be provided for smokers, the perceived impact on international students and people experiencing homelessness, as well as appreciation and encouragement for Council of Melbourne to consider additional smoke-free areas.
10. Key findings from the consultation will contribute to a comprehensive communications and implementation plan to raise awareness of the new smoke free areas, if endorsed. A range of signage will also be used. The focus will be on education until 30 January 2020 before any enforcement occurs.

Recommendation from management

11. That the Future Melbourne Committee endorses the area in Bourke Street outlined in Attachment 2 to be prescribed as a smoke-free area under clause 3A.3 of the *Activities Local Law 2019*.

Attachments:

1. Supporting Attachment (Page 2 of 62)
2. Map of the proposed smoke-free area for prescription (Page 3 of 62)
3. Proposed smoke-free area community engagement report: Bourke Street (Page 4 of 62)
4. Part B of Schedule 2 to the *Activities Local Law 2019* (Page 62 of 62)

Supporting Attachment

Legal

1. Clause 3A.3 of the *Activities Local Law 2019* (Local Law) allows Council to prescribe any other areas within the municipality to be a smoke-free area.
2. Council must follow the guidelines incorporated in Part B of Schedule 2 to the Local Law (refer to Attachment 4) when deciding whether to prescribe an area as a smoke-free area under clause 3A.3.
3. On 5 June 2012, the Future Melbourne Committee resolved to require a public consultation with the community as a pre-condition to any future proposed extension of the smoke free areas under clause 3A.3 of the predecessor of the Local Law.

Finance

4. An amount of \$50,000 is included in the 2019–20 operational budget for costs associated with prescribing new smoke-free areas. These costs include community engagement, communications, and promotion. In addition, \$93,000 of capital expenditure has been included for the design, production and installation of suitable smoke-free areas signage and maintenance of existing smoke-free areas.

Conflict of interest

5. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect conflict of interest in relation to the matter of the report.

Health and Safety

6. Community Health and Safety is a key driver for the expansion of smoke-free areas across the municipality. Smoke-free areas protect the community from passive smoking, reduce the uptake of smoking by children and young people by modelling non-smoking behaviour and provide a supportive environment for people who are trying to quit smoking or have recently quit.

Stakeholder consultation

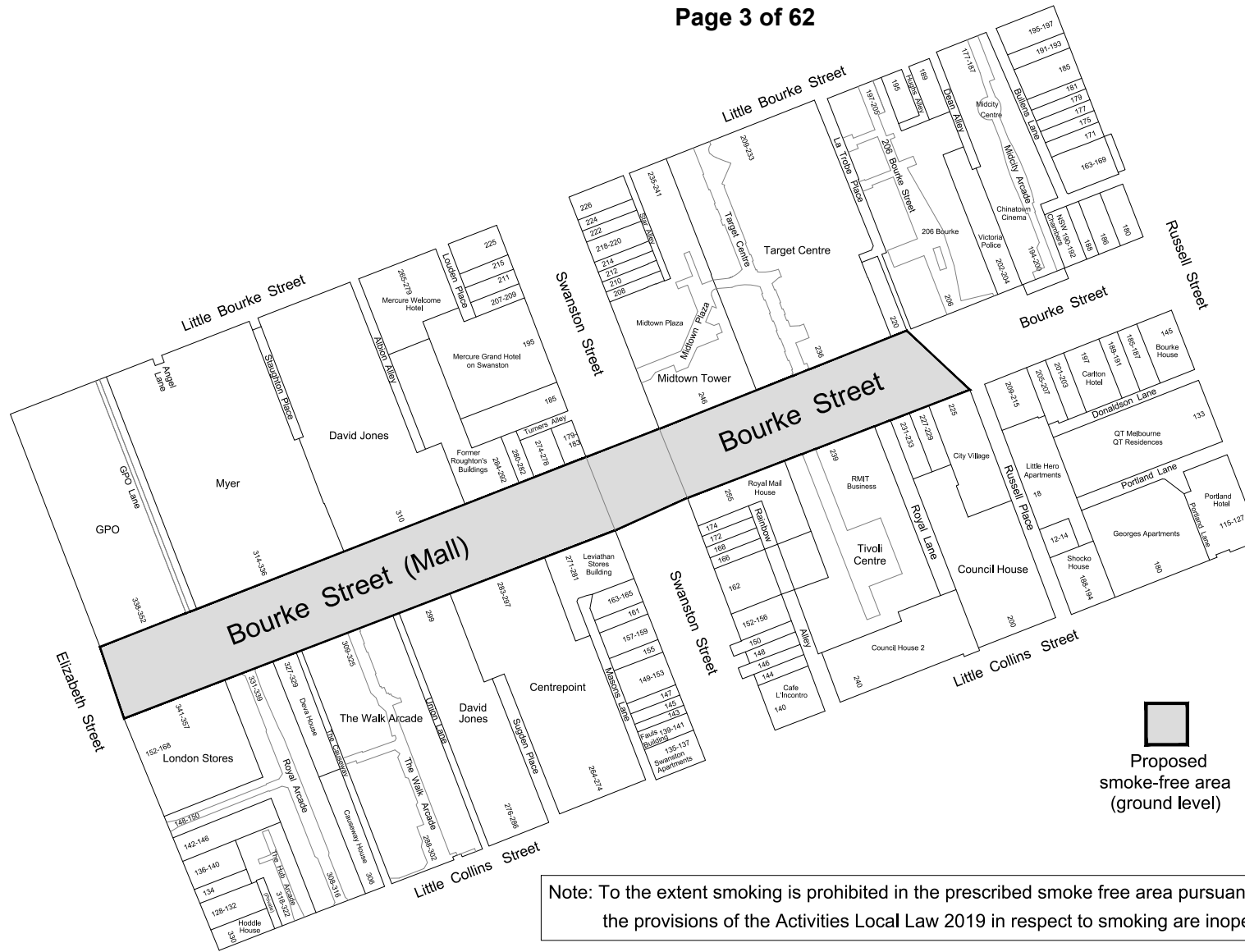
7. City of Melbourne undertook extensive consultation on the proposed smoke-free area in Bourke Street. Colmar Brunton was engaged to deliver consultation activities on site and prepare a report outlining the findings (refer to Attachment 3). Engagement activities consisted of:
 - 7.1 Hard copy mail-out to property owners and occupiers within the precinct.
 - 7.2 Intercept surveys throughout the proposed area of Bourke Street during the day, evening and weekends with individuals and businesses.
 - 7.3 Online surveys via Participate Melbourne.
 - 7.4 Targeted communication and consultation with key internal and external stakeholders including international students at RMIT University, Monash College, buskers, business precinct organisations and homelessness services.
 - 7.5 Organic and targeted social media posts via Facebook and Instagram were used to further engage and direct individuals to the Participate Melbourne website.

Relation to Council policy

8. Prescribing smoke-free areas directly supports Council's commitment to protect the community from passive smoking and aligns with the health and wellbeing priorities in Council Plan 2017–21.

Environmental sustainability

9. Smoke-free areas assist in reducing smoking activity therefore decreasing the demand for tobacco products and reducing cigarette butt waste.



Note: To the extent smoking is prohibited in the prescribed smoke free area pursuant to the Tobacco Act 1987, the provisions of the Activities Local Law 2019 in respect to smoking are inoperative.



Title
**City of Melbourne Proposed
Smoke-Free Area
Bourke Street**

Date 29-07-2019

Scale 1: 2400
Lengths in Metres



City of Melbourne.

Smoke-Free Bourke Street Mall Community and Business Engagement.

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V4

Contents.

1. Executive summary	4
2. Introduction	11
2.1. Background.....	11
2.2. Research objectives	12
3. Methodology overview	12
3.1. Intercept fieldwork.....	12
3.2. Participate Melbourne research.....	12
3.3. Observational research.....	12
3.4. Social media	13
3.5. Other consultation.....	13
4. Interpreting this report	13
4.1. Terms and abbreviations	13
4.2. Percentages and averages	13
4.3. Tests of statistical significance.....	14
4.4. Reliability.....	14
5. Individual findings	15
5.1. Relationship to space.....	16
5.2. Current awareness of smoke-free areas	17
5.3. Perceptions of Bourke Street becoming smoke-free	18
5.4. Intended visitation if Bourke Street becomes smoke-free.....	20
5.5. Fairness of Bourke Street becoming smoke-free.....	22
5.6. Change to smoking habits if Bourke Street becomes smoke-free.....	24
5.7. General comments, intercept survey	25
6. Business findings	26
7. Observational research.....	30
8. Submissions received by City of Melbourne	32
9. Council to Homeless Persons (CHP) consultation.....	33
10. Social media summary	34
10.1. Facebook	34
10.2. Instagram	35
10.3. Twitter.....	36
11. Appendices	37
11.1. Observation guide.....	37
11.2. Intercept and Participate Melbourne questionnaire	39
11.3. Submissions received from City of Melbourne	44

Index of Tables

Table 1:	Visitor Engagement Scorecard – Intercept research	7
Table 3:	Business Engagement Scorecard – Intercept research	8
Table 4:	Visitor Engagement Scorecard – Participate Melbourne	8
Table 5:	Business Engagement Scorecard – Participate Melbourne	9
Table 6:	Terms and abbreviations	13
Table 7:	Profile of survey participants	15
Table 8:	Relationship to space	16
Table 9:	Profile of businesses surveyed	26
Table 10:	Hourly observations at Bourke Street	31
Table 11:	Presence of cigarette butts at Bourke Street	31

Index of Figures

Figure 1:	Proposed smoke-free area on Bourke Street	11
Figure 2:	Awareness of smoke-free areas in the City of Melbourne	17
Figure 3:	Perception of Bourke Street becoming smoke-free by mode	18
Figure 4:	Perception of Bourke Street becoming smoke-free by smoker status	19
Figure 5:	Perception of Bourke Street becoming smoke-free by vaper status	19
Figure 6:	Intended visitation if Bourke Street becomes smoke-free by mode	20
Figure 7:	Intended visitation if Bourke Street becomes smoke-free by smoker status	21
Figure 8:	Intended visitation if Bourke Street becomes smoke-free by vaper status	21
Figure 9:	Fairness of Bourke Street becoming smoke-free by mode	22
Figure 10:	Fairness of Bourke Street becoming smoke-free by smoker status	23
Figure 11:	Fairness of Bourke Street becoming smoke-free by vaper status	23
Figure 12:	Change to smoking habits if Bourke Street becomes smoke-free by mode	24
Figure 13:	Perception of Bourke Street becoming smoke-free by mode – Businesses	27
Figure 14:	Fairness of Bourke Street becoming smoke-free by mode – Businesses	27
Figure 15:	Businesses awareness of smoke-free areas in the City of Melbourne	28
Figure 16:	Observation research areas	30

1. Executive summary

Background

Colmar Brunton was commissioned by the City of Melbourne to conduct research into expanding smoke-free areas to a section of Bourke Street. The proposed area covers the footpaths, tramway and roadway on Bourke Street from Elizabeth Street to Russell Place and La Trobe Place, including Bourke Street Mall. The objectives of this research were to:

- Identify the views and attitudes of key business stakeholders and city users towards the potential prescription of a smoking ban in the proposed area within the City of Melbourne, targeting people who are using, visiting or passing through.
- Identify the potential impact that becoming smoke-free would have on usage of the area.
- Identify current smoking activity in the proposed area and the impact of smoking on amenity such as the cigarette butt litter.

Methodology

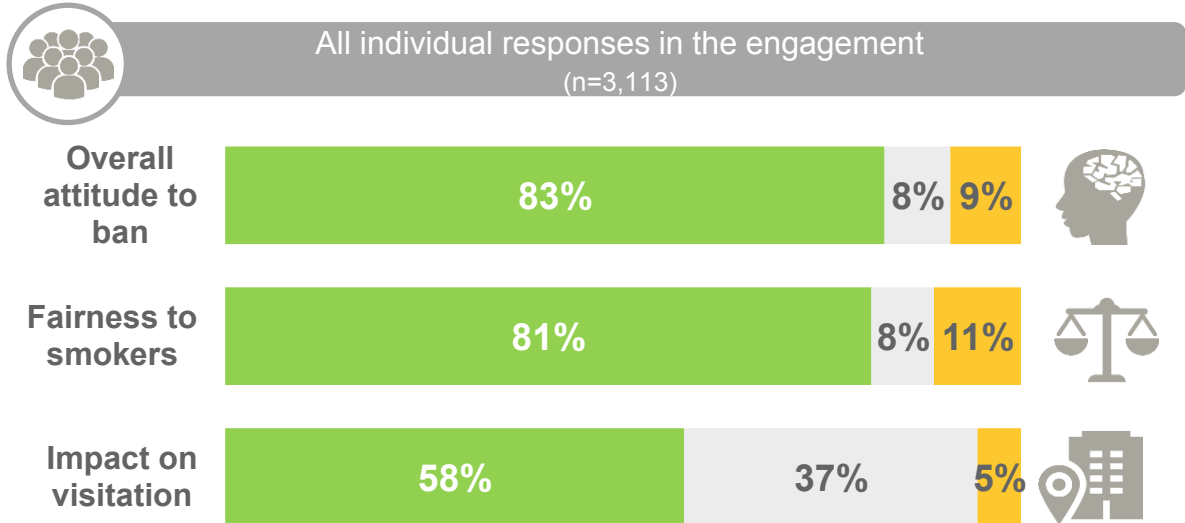
The research administered n=1,223 intercept interviews of people using the proposed area in Bourke Street to gauge perceptions and attitudes towards a section of the street becoming smoke-free. In addition, n=81 representatives of businesses were also surveyed. The intercept approach also ensured a representation of people smoking, particularly those who may use the Bourke Street area to smoke regularly. Observations of cigarette butts and smoking were also undertaken as part of this fieldwork to develop a complete picture of the current presence of smoking in Bourke Street.

The intercept component was supplemented by online surveys collected via the City of Melbourne's Participate Melbourne webpage. Visitors to the page were able to complete surveys online, view maps of the proposed areas, see the pop-up schedule and read frequently asked questions. Two online surveys were offered, one for individuals which received n=1,890 responses and one for businesses that received n=88 responses. The surveys were promoted on City of Melbourne's owned social media channels and feedback gathered here has also been recorded.

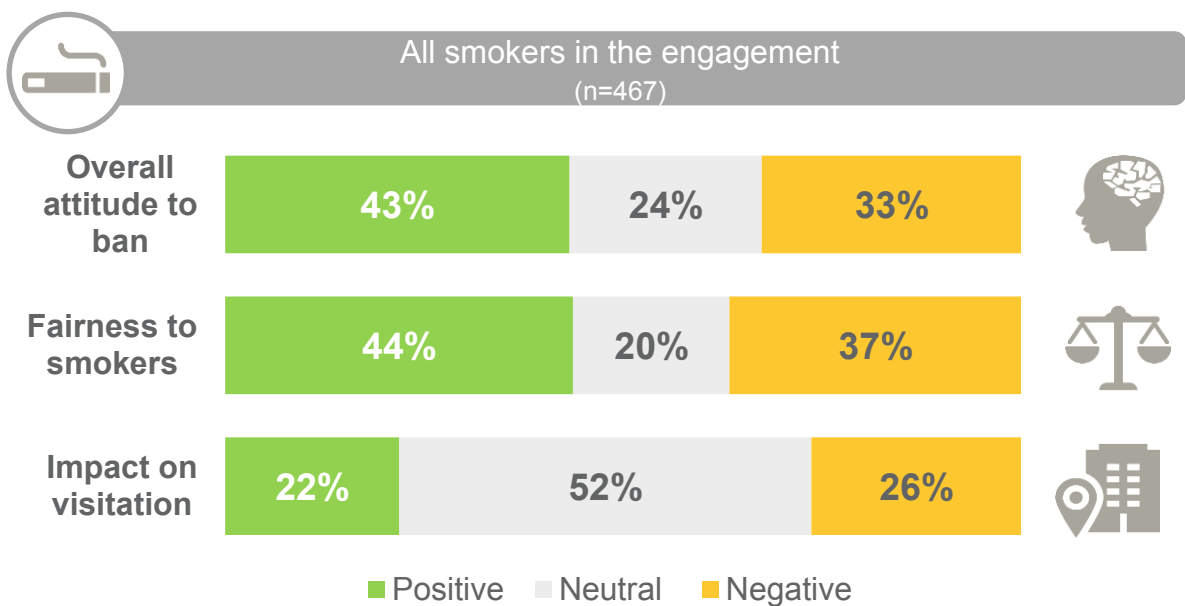
The methodology was designed to ensure the perspectives of other key stakeholders in the area were included, such as buskers, international students, business precinct organisations, and homelessness services who were engaged directly to have their say on the proposal. To do this City of Melbourne and Colmar Brunton also conducted targeted consultations with international students at an RMIT student welcome day as well as attending a meeting of the Council to Homeless Persons (CHP). Businesses in the area were also informed of the proposed change via a mail-out, inviting formal submissions to also be made to Council.

Overall Engagement Findings

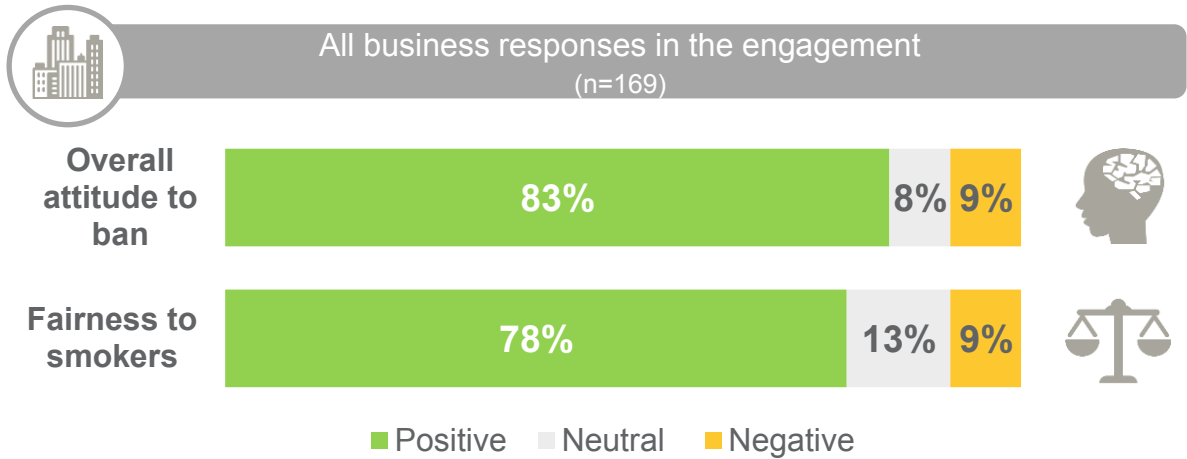
- Support for the introduction of a smoke-free area on Bourke Street is very high, the majority have a positive attitude to the ban and consider it be fair (83% and 81% respectively).
- Only one in ten are opposed to the ban or consider it to be unfair (9% and 11% respectively).



- While support among smokers is lower, the majority have either a positive or neutral attitude towards the ban (43% and 24% respectively). Similar responses are seen for perceived fairness of the smoking ban.
- While one in four smokers believe they are likely to visit elsewhere as a result of the ban (26%), a similar proportion are more likely to visit Bourke Street (22%).



- A majority of businesses also support the introduction of a smoke-free area on Bourke Street (83%), with only one in ten having a negative attitude to the ban (9%).
- Similarly, four in five businesses also believe a smoking ban on Bourke Street is fair to smokers (78%), with only one in ten considering the ban to be unfair (9%).



Findings: Intercept research

Findings from the intercept research found that the majority of visitors support the proposed introduction of a smoke-free area (73%). Approximately one in ten oppose making Bourke Street a smoke-free area (9% each), while a further one in five are neutral to the change (20%).

Similar proportions also agree that the change is fair to users of the Bourke Street (71%), with substantially fewer considering it to be unfair (13%). This level of support is similar to what was seen in previous studies for Collins Way and Fulham Place (61%), City Square (62%) and QV (68%).

Despite strong support for the change, the vast majority of people interviewed on Bourke Street would not change their visitation either way if the smoke-free area was implemented (58%). Only one in twenty respondents would be less likely to visit the area as a result of the change (6%).

Considering the perspectives of smokers, the majority either support it or don't mind either way (75%). However, a proportion are less likely to support the change, particularly when compared to non-smokers (40% vs. 82%).

While one in five smokers also state they are likely to go somewhere else as a result of the ban (19%), most smokers do not believe the smoking ban would impact their visitation to the area (63%).

Table 1: Visitor Engagement Scorecard – Intercept research

	Intercept research (n=1,223)	Smokers (n=288)	Non-Smokers (n=935)
Level of support for smoke-free area			
In support of the area becoming smoke-free	73%	40% ↓	80% ↑
Neutral opinion	18%	26% ↑	11% ↓
Oppose the area becoming smoke-free	9%	32% ↑	7% ↓
Perceptions of fairness			
Feel a smoking ban for people using Bourke Street is fair	71%	40% ↓	82% ↑
Neutral opinion	14%	35% ↑	13% ↓
Feel a smoking ban for people using Bourke Street is unfair	13%	25% ↑	4% ↓
Impact on visitation			
Would visit area more	36%	18% ↓	42% ↑
Would make no impact	58%	63%	57%
Would visit area less or go somewhere else	5%	19% ↑	1% ↓

Please note: columns will not necessarily sum 100% as “don't know” responses are not listed.

↑ / ↓ indicates significant difference between smokers and non-smokers.

Findings: Business interviewing

Three in four businesses in Bourke Street support making the area smoke-free (75%). One in six are neutral toward the area becoming smoke-free (16%) and a further one in ten oppose the ban (9%).

Similarly, three quarters of businesses believe the introduction of smoke-free areas to be fair (75%), while one in seven businesses believe it to be unfair to some users of the laneways (14%).

Table 2: Business Engagement Scorecard – Intercept research

	Businesses (n=81)
Perceptions of fairness	
Feel a smoking ban for people using Bourke Street is fair	65%
Neutral opinion	21%
Feel a smoking ban for people using Bourke Street is unfair	10%
Level of support for smoke-free area	
In support of the area becoming smoke-free	75%
Neutral opinion	16%
Oppose the area becoming smoke-free	9%

Please note: columns will not necessarily sum 100% as “don’t know” responses are not listed.

Findings: Participate Melbourne

Responses to the online research tended to be more in favour of the proposed smoke-free area compared to the intercept research, this is likely to be due to a lower proportion of smokers being recorded as having completed a Participate Melbourne survey. Nine in ten are in support of the smoke-free area (90%) and the same proportion consider the smoking ban to be fair to users of the area. Similar to the intercept study one in ten Participate Melbourne respondents oppose the change (9% each).

The majority who completed a Participate Melbourne survey also stated they would be more likely to visit the area (72%), with just a quarter unlikely to change their behaviour (23%).

Table 3: Visitor Engagement Scorecard – Participate Melbourne

	Participate Melbourne (n=1,890)
Level of support for smoke-free area	
In support of the area becoming smoke-free	90%
Neutral opinion	2%
Oppose the area becoming smoke-free	9%
Perceptions of fairness	
Feel a smoking ban for people using Bourke Street is fair	88%
Neutral opinion	2%

	Participate Melbourne (n=1,890)
Feel a smoking ban for people using Bourke Street is unfair	10%
Impact on visitation	
Would visit area more	72%
Would make no impact	23%
Would visit area less or go somewhere else	6%

Please note: columns will not necessarily sum 100% as “don’t know” responses are not listed.

Similar to visitors, nine in ten businesses who took part in the Participate Melbourne survey support making the area smoke-free (91%), with the remaining one in ten opposed (10%).

The same proportion of businesses also consider the introduction of a smoke-free area to be fair (90%), while less than one in ten consider it unfair to some users of the laneways (8%).

Table 4: Business Engagement Scorecard – Participate Melbourne

	Businesses (n=88)
Perceptions of fairness	
Feel a smoking ban for people using Bourke Street is fair	90%
Neutral opinion	1%
Feel a smoking ban for people using Bourke Street is unfair	8%
Level of support for smoke-free area	
In support of the area becoming smoke-free	91%
Neutral opinion	0%
Oppose the area becoming smoke-free	10%

Please note: columns will not necessarily sum 100% as “don’t know” responses are not listed.

Findings: Observational research

Overall, the observational analysis found evidence of relatively low rates of smoking. Across 86 observations, few smokers were observed (1.06 average per observation). Correspondingly, the presence of cigarette haze and smoke was also low (36% and 22% of observations respectively). However, smoking was seen to be more concentrated at each end of the smoke-free area, with a larger proportion of smoke smell and haze observed at the lower end of Bourke Street Mall and the portion of Bourke Street north of Swanston Street.

Observations were also taken to observe the presence of cigarette butts in the Bourke Street. Three in five observations across the entirety of the area noted five or more butts in their interviewing area (60%), this proportion increases to four in five when focusing on the area north of Swanston Street (80%).






Findings: Submissions received by City of Melbourne

City of Melbourne also received a number of formal submissions during the community engagement period.

- British American Tobacco Australasia emphasised that in the roll out of the smoke-free area the City of Melbourne should provide designated smoking areas to prevent moving smokers.
- East Enders Inc are supportive of the initiative, however, have concerns that the ban will simply relocate and therefore move cigarette litter to places on the fringe of the smoke-free area.
- Justice Connect are supportive of the change, however raise concerns regarding enforcement particularly among those experiencing homelessness who are likely to be disproportionately affected and therefore authorised officers should be able to use discretion.
- Monash College also expressed concerns about facilities that will be provided for smokers outside of the smoke-free zones such as disposal bins and additional security lighting.
- Quit Victoria were supportive of City of Melbourne making a positive contribution to the incidence of smoking and encouraged Council to ensure adequate resources were allocated for the promotion of the smoke-free area.

Other submissions included personal experiences shared with City of Melbourne via email, this included a small number of buskers who operate in the mall. These buskers are also supportive particularly as smoking may adversely impact the environment they are performing in.

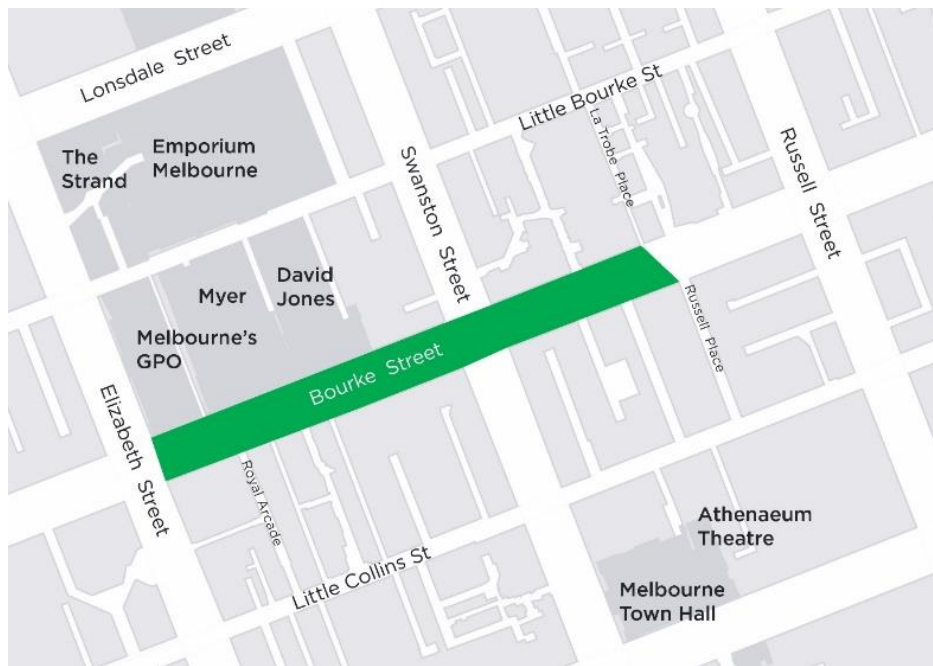
Key findings and implications

-  It is recommended that Council proceeds with the introduction of a smoke-free area to the proposed section of Bourke Street.
-  The research finds relatively low incidence of observed smoking, and most visitors and businesses support the change. Further, support is similar to what has been previously recorded at most other smoke-free locations.
-  There is also relatively low opposition to the ban from smokers, with the majority either being positive or neutral towards the ban. Additionally, up to two in five visitors to Bourke Street who smoke believe that smoke bans have positive impacts on their likelihood to quit.
-  However, it should be noted that concerns were expressed about what alternatives would be provided for smokers. These alternatives could be communicated in the implementation of the smoke-free area. This is particularly relevant for certain groups, such as those experiencing homelessness or international students who may be more likely to be impacted by the ban in this area.
-  Awareness of smoke-free areas is generally low, with a small proportion recalling the locations designated as smoke-free by the City of Melbourne. Therefore, greater promotion of the smoke-free program is recommended.

2. Introduction

Colmar Brunton was commissioned by the City of Melbourne to conduct research into expanding smoke-free areas to Bourke Street from Elizabeth Street to Russell Place and La Trobe Place, including Bourke Street Mall. The area considered is presented on the map in Figure 1.

Figure 1: Proposed smoke-free area on Bourke Street



2.1. Background

Smoking is a major cause of preventable death in Victoria and a leading cause of avoidable chronic illness such as cancer and cardiovascular disease. Therefore, it is a priority of Council to protect the community from passive smoking by expanding smoke-free areas.

There are currently ten smoke-free areas prescribed by the City of Melbourne including the Causeway, Howey Place, Block Place, Equitable Place, Goldsbrough Lane, QV Melbourne, the Tan and Princes Park running tracks, Collins Way and Fulham Place¹. There are a number of other smoke-free areas in the municipality which are the result of State Government legislation (Tobacco Act 1987). These areas include children's playgrounds, childcare centres, outdoor dining areas, public transport stops and certain building entrances.

In order to understand how the proposed smoking ban will impact community and businesses in the area, City of Melbourne have undertaken thorough consultation over a four-week period from 23rd April

¹ City Square was previously a smoke-free area however this prescription has been removed due to the site being excavated for the Metro Rail Tunnel.

to 21st May to fully understand the views and attitudes of affected stakeholders, businesses and individuals as well as the broader community.

2.2. Research objectives

This research focuses on the attitudes of users of the proposed area toward making it smoke-free. The key objectives of the smoke-free areas community consultation were to:

- Identify views and attitudes of users of and visitors to in the proposed area towards this area becoming smoke-free;
- Identify the potential impact that becoming smoke-free would have on use of the area; and
- Identify current smoking activity in the proposed area and the impact of smoking on the surrounding area, including cigarette butt litter.

3. Methodology overview

The City of Melbourne initiated an engagement process on the proposal to make a section of Bourke Street smoke-free in 2019. A mixture of face-to-face and online engagement opportunities were offered to enable maximum feedback. Colmar Brunton was commissioned by the City of Melbourne to undertake on-site engagement in the form of intercept surveys coupled with online data capture using the Participate Melbourne website. Stakeholders were also able to make formal submission to Council about the project.

3.1. Intercept fieldwork

The intercept fieldwork was conducted between the 23rd of April and the 19th of May. Interviews were conducted in the morning, daytime and evening on both weekdays and weekends. Colmar Brunton conducted n=1,223 interviews with visitors to Bourke Street and n=81 interviews with businesses.

3.2. Participate Melbourne research

The online fieldwork via Participate Melbourne was conducted between the 23rd of April and the 21st of May. The research was promoted via City of Melbourne's social media pages and attracted n=1,890 individual responses and n=88 businesses responses.

3.3. Observational research

In addition to conducting intercepts, our experienced interviewers conducted observations in each location to observe current smoking behaviours, including incidence of smoking and the impact of smoking on the surrounding area (i.e. placement of used cigarette butts).

3.4. Social media

Colmar Brunton also reviewed the number of likes, reactions and comments to a series of content on City of Melbourne's owned channels.

3.5. Other consultation

Colmar Brunton and the City of Melbourne also collaborated on other forms of community engagement to ensure a representation of people of diverse ages, backgrounds, abilities and smoking status, this included;

- Mail out to all building owners and occupiers in the surrounding area.
- Targeted engagement with key stakeholders in the area, such as buskers, international students, business precinct organisations, and homelessness services.
- Targeted consultations with international students via a student event.
- Perspectives of people experiencing homelessness.

4. Interpreting this report

4.1. Terms and abbreviations

The following terms and abbreviations have been used throughout this report.

Table 5: Terms and abbreviations

Term or abbreviation	Definition
CoM	City of Melbourne
SR	Single Response
MR	Multiple Response
OE	Open Ended Response
Smoker	Refers to someone who smokes regularly or occasionally

4.2. Percentages and averages

Respondents who completed a survey but did not answer a particular question are excluded from the tabulation of results and calculation of statistics for that question.

Percentages are generally rounded to whole numbers. Some percentages may not add to 100 percent due to rounding.

4.3. Tests of statistical significance

Tests for statistical significance have been conducted on particular subgroups of interest in this survey, namely smokers and non-smokers. An exception reporting approach has been undertaken in that if no statistical significance is mentioned, there are none associated with these groups.

Tests have been undertaken at a 95% confidence level. If there is a statistically significant difference between the result for a particular group and for the wider population, we can be confident that this difference has not occurred by chance, rather that it reflects a genuine difference between that group and the wider population.

4.4. Reliability

The margin of error associated with the sample size of visitors of Bourke Street is $n=3,113$ is $\pm 1.8\%$. This means we can be 95% confident that the true result for a score of 50% in the population of interest lies between 48.2% and 51.8%.

5. Individual findings

This table provides demographic detail of the people interviewed for this research. In summary:

- Half of all respondents are aged under 30 (50% intercept, 47% online);
- Gender is relatively consistent between both the intercept and Participate Melbourne surveys.
- Just over half are regular visitors to Bourke Street – either daily or once or twice per week (61% intercept and 56% online); and
- However, there are considerably more smokers in the intercept research, 14%, compared to only 3% via the online Participate Melbourne survey. Those who completed a Participate Melbourne survey are more aligned with the proportion of smokers in the population.
- Proportions of vapers are similar between survey modes.

Q8. What is your age group?
 Q11. What is your gender?
 Q2. How often would you come here?
 Q9a. Do you smoke?
 Q9b. And do you vape?

Table 6: Profile of survey participants

	Intercept research (n=1,223)	Participate Melbourne (n=1,890)
Age		
12 to 17	1%	3%
18 to 25	28%	23%
26 to 30	21%	21%
31 to 40	21%	31%
41 to 50	12%	11%
51 to 60	9%	6%
61 to 70	6%	4%
71 or older	2%	1%
Gender		
Male	52%	51%
Female	48%	47%
Other identity	0%	1%
Visit frequency		
Daily	28%	22%
Once or twice a week	33%	34%
A few times a month	18%	27%
A few times a year	14%	16%
Less than once a year	6%	1%
Smoking Status		
Smoker	14%	3%
Non-smoker	76%	91%
Smoke occasionally	9%	6%
Vaping Status		
Vaper	2%	1%
Non-vaper	95%	96%
Vape occasionally	3%	3%

5.1. Relationship to space

The most common reason for visiting Bourke Street is to shop or study as a Melbourne resident (35%); a similar proportion also work nearby or elsewhere in the city (32%). Living in the area and working nearby are also the most common reasons given via the Participate Melbourne survey (30% and 41% respectively).

Table 7: Relationship to space

	Intercept research (n=1,223)	Participate Melbourne (n=1,890)
Melbourne resident visiting to shop, study etc.	35%	30%
Work nearby/in the city	32%	41%
Live nearby	12%	22%
Interstate tourist	9%	1%
International tourist	9%	1%
Regional visitor	4%	4%
Other	0%	1%

Q3. Which of the following best describes your relationship to this space? (SR)

5.2. Current awareness of smoke-free areas

Approximately one in six people intercepted (16%) are aware of existing smoke free areas in Melbourne. Awareness of smoke-free areas is significantly higher when considering those who do smoke, increasing to one in four (24%).

Awareness of other smoke-free areas is also significantly higher for those who completed a Participate Melbourne survey (22%).

However, only a very small proportion of those interviewed in the proposed area in Bourke Street could successfully identify a City of Melbourne smoke-free area (2%), with many instead referring to smoking bans in areas related to public transport, restaurants and cafes or on university campuses. A larger proportion of Participate Melbourne respondents can successfully identify a City of Melbourne smoke-free area (10%).

Figure 2: Awareness of smoke-free areas in the City of Melbourne



Intercept research

Q7 Are you aware of existing smoke-free areas in the City of Melbourne? If yes, specify. (OE)

Participate Melbourne

Q7a Prior to visiting this site were you aware of existing smoke-free areas in the City of Melbourne? (SR)

Base: Individual intercept and online respondents

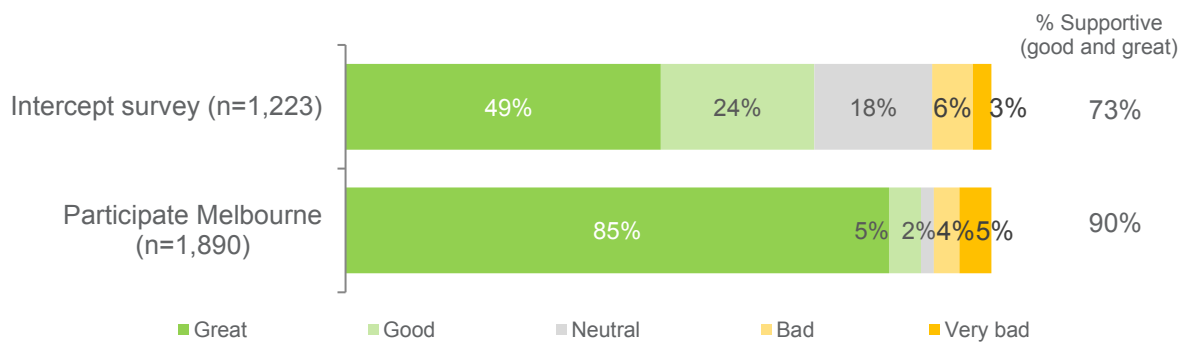
5.3. Perceptions of Bourke Street becoming smoke-free

Three in four visitors to Bourke Street are supportive of the area becoming smoke-free (73%), with half believing it is a 'great idea' (49%), and a further quarter (24%) believing it to be a 'good idea'.

Considering the intercept findings further, the current findings are higher than the consultations for Collins Way and Fulham Place laneways as well as City Square (62%) where three in five were supportive of the change to smoke-free (61% and 62% respectively). Similar results were seen for other proposed smoke-free areas including, QV Village (68%) and Goldsbrough Lane (70%). The Bourke Street results are most similar to the engagement conducted for The Tan and Princes Park in February 2016 where support was again higher (81% and 76% respectively).

Support is significantly higher for visitors who completed a Participate Melbourne survey with over four in five considering it a great idea (85%) and further one in twenty considering it a good idea (5%, equalling 90% overall support).

Figure 3: Perception of Bourke Street becoming smoke-free by mode

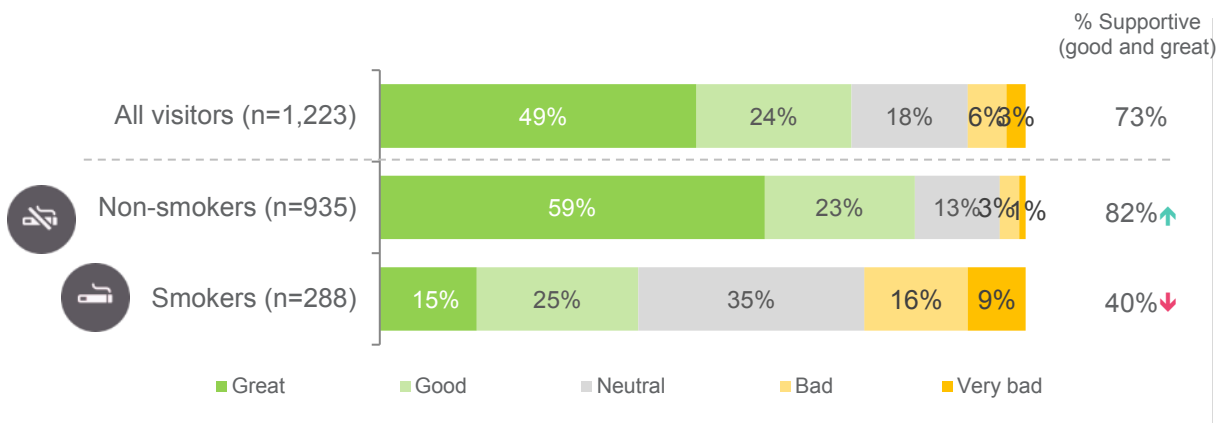


Q5. What is your overall view about making Bourke Street a smoke-free area? (SR)
 Base: Individual intercept and online respondents

Support for Bourke Street becoming smoke-free is significantly lower among smokers when compared with non-smokers (40% vs. 82%). However, just one quarter stand opposed to the change to Bourke Street becoming smoke-free (25%), with the majority either supportive or neutral towards the change (75%).

Further, one quarter of smokers believe that making the area smoke free is not a good idea or a really bad idea (25%). A further third are neutral on the matter (35%).

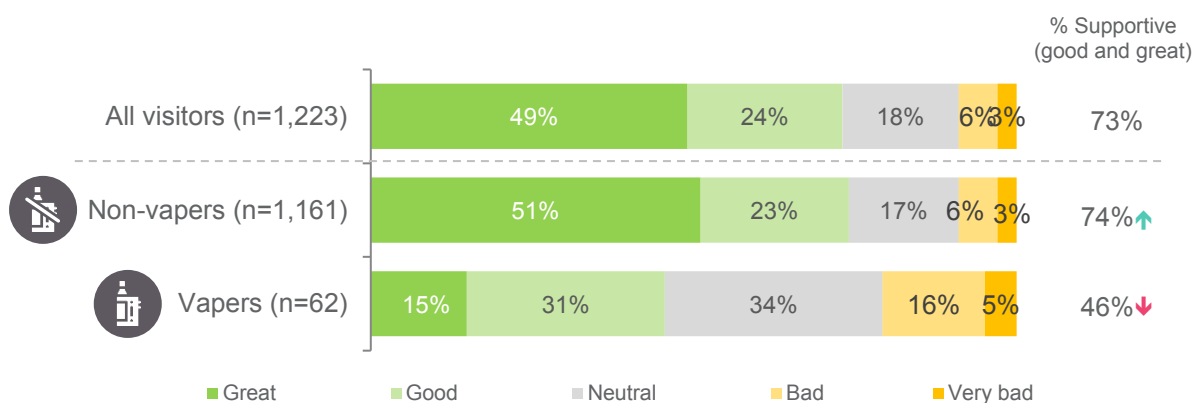
Figure 4: Perception of Bourke Street becoming smoke-free by smoker status



Q5. What is your overall view about making Bourke Street a smoke-free area? (SR)
 ↑ / ↓ indicates significant difference between smokers and non-smokers at 95% confidence.
 Base: Intercept survey respondents (n=1,223)

The views of vapers align similarly to smokers generally with support significantly lower among vapers when compared with non-vapers (46% vs. 74%).

Figure 5: Perception of Bourke Street becoming smoke-free by vaper status



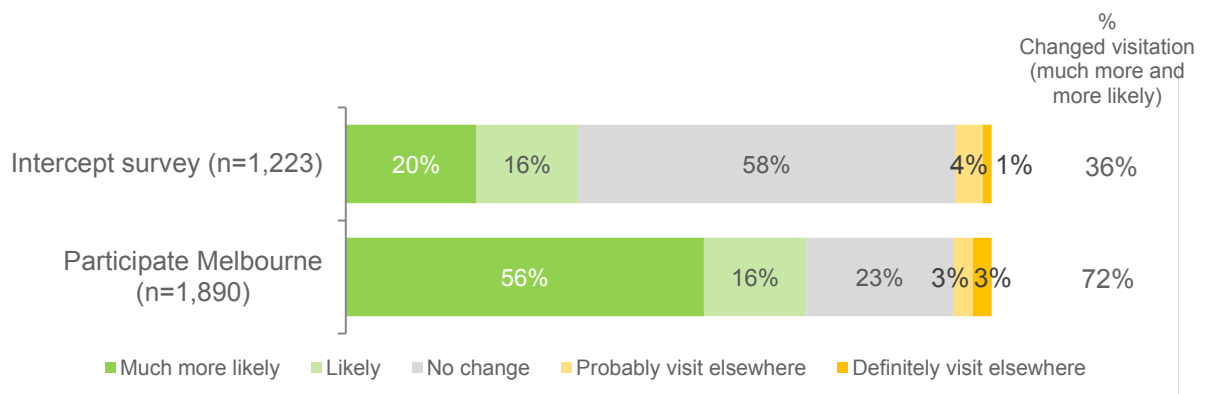
Q5. What is your overall view about making Bourke Street a smoke-free area? (SR)
 ↑ / ↓ indicates significant difference between non-vapers and vapers at 95% confidence.
 Base: Intercept survey respondents (n=1,223)

5.4. Intended visitation if Bourke Street becomes smoke-free

One in three visitors who were interviewed in Bourke Street state they will be more likely to visit as a result of the area becoming smoke-free (36%). However, most visitors are ambivalent about their changes to visitation if either laneway becomes smoke-free (58%).

Those who completed a Participate Melbourne survey are significantly more likely to report their visitation will increase once the area is smoke-free. Seven in ten state they will be more likely to visit (72%), while one quarter believe their visitation will not change (23%).

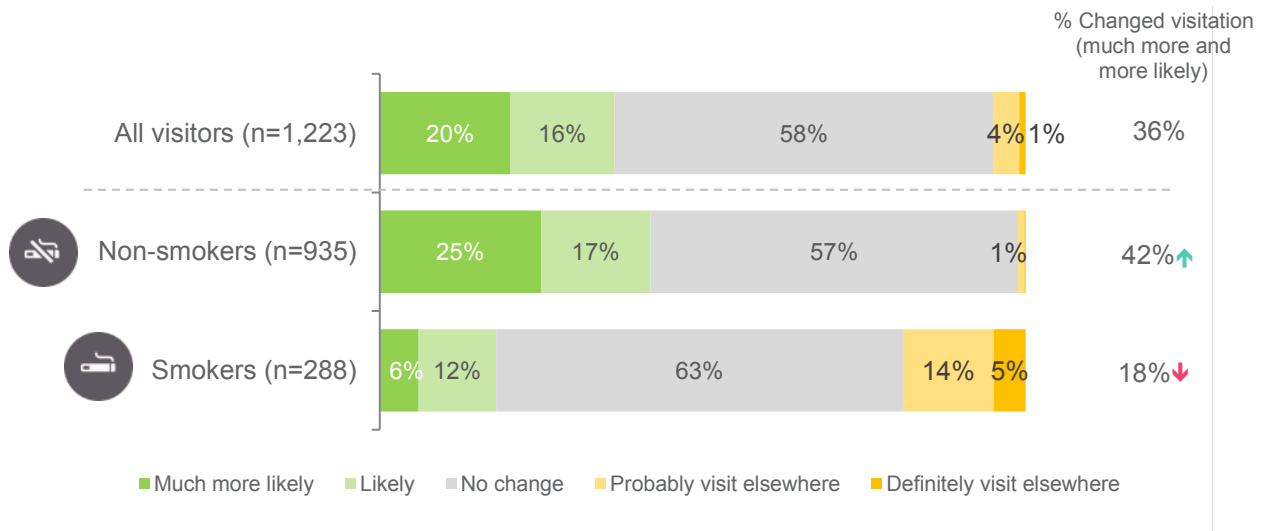
Figure 6: Intended visitation if Bourke Street becomes smoke-free by mode



Q6. How would Bourke Street being smoke-free influence your choice to visit? (SR)
 Base: Individual intercept and online respondents

Non-smokers are significantly more likely to visit the Bourke Street if it was to become smoke-free when compared to those who are smokers (42% vs. 18%). Looking at smokers specifically, while the majority state they are unlikely to change their behaviour as a result of the laneway becoming smoke-free (63%), one in five state they are likely to use somewhere else (20%).

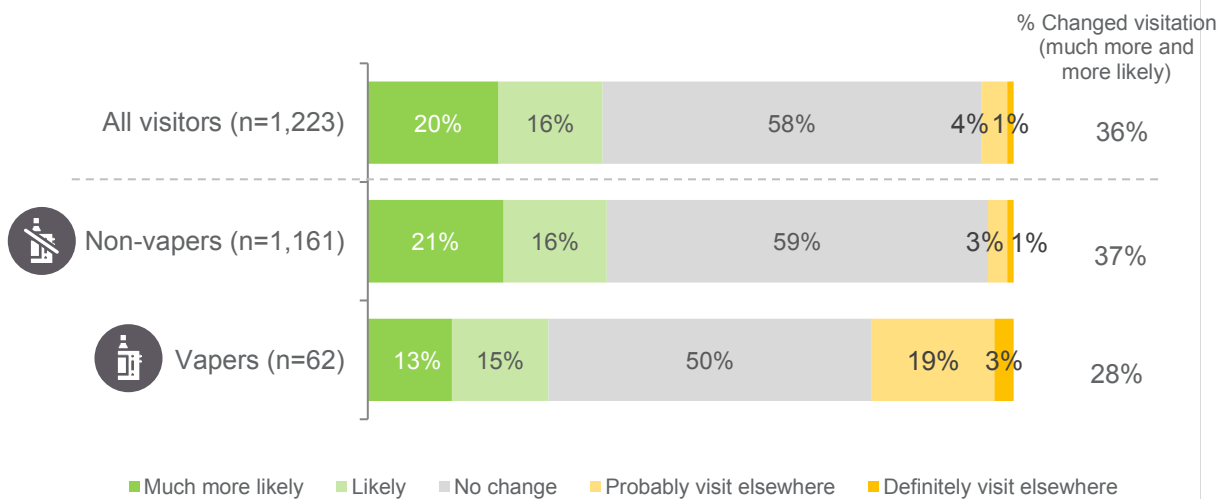
Figure 7: Intended visitation if Bourke Street becomes smoke-free by smoker status



Q6. How would Bourke Street being smoke-free influence your choice to visit? (SR)
 ↑ / ↓ indicates significant difference between non-smokers and smokers at 95% confidence.
 Base: Intercept survey respondents (n=1,223)

There is no significant difference in expected visitation between vapers and non-vapers.

Figure 8: Intended visitation if Bourke Street becomes smoke-free by vaper status

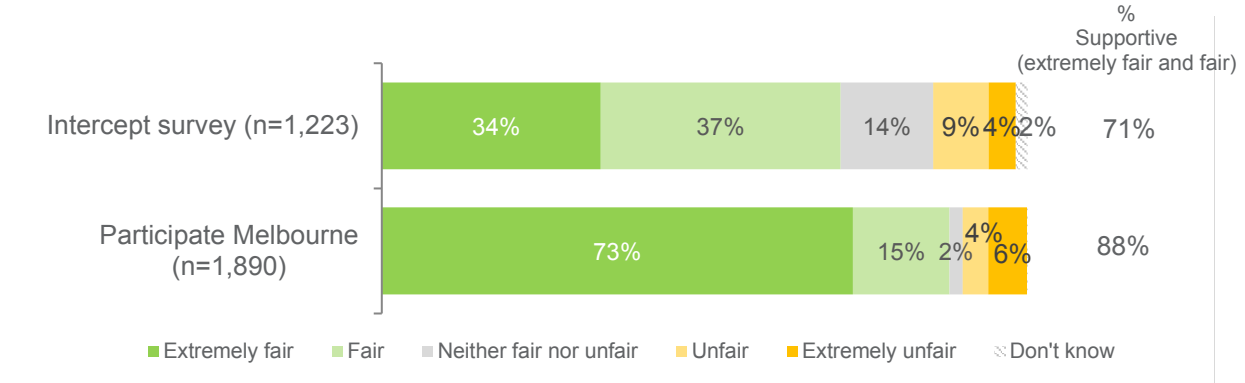


Q6. How would Bourke Street being smoke-free influence your choice to visit? (SR)
 Base: Intercept survey respondents (n=1,223)

5.5. Fairness of Bourke Street becoming smoke-free

The majority of visitors to Bourke Street believe that the proposed smoking ban is fair for people using the area. Overall sentiment is more positive for those who responded via Participate Melbourne (88%) compared with those who were intercepted in the mall (88% vs. 71%), the former of which have very strong perceptions of fairness, with the majority considering the ban extremely fair (73%).

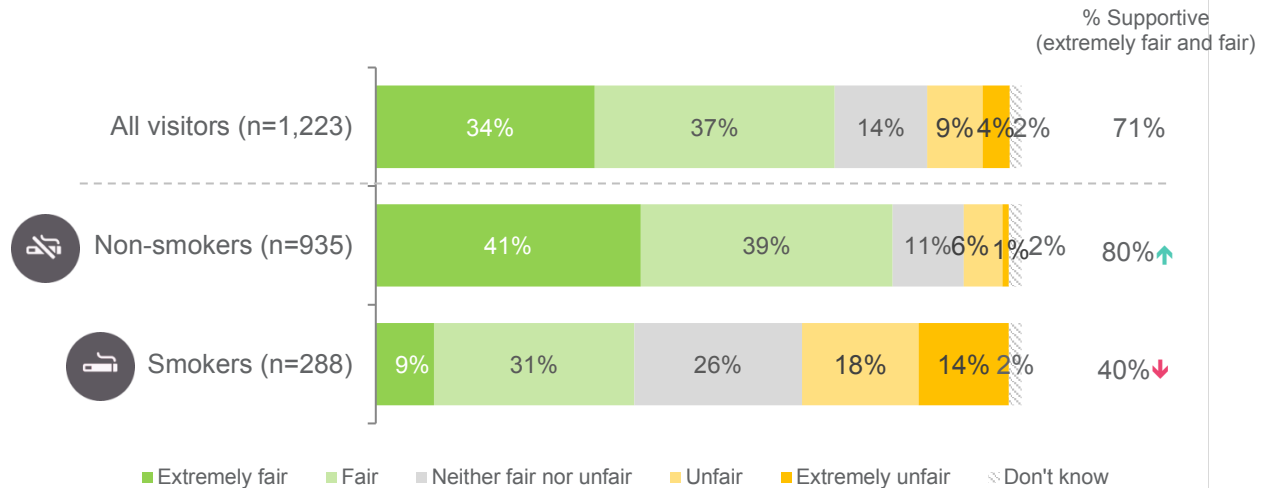
Figure 9: Fairness of Bourke Street becoming smoke-free by mode



Q4. How fair do you feel a smoking ban is for people using Bourke Street? (SR)
 Base: Individual intercept and online respondents

Non-smokers are significantly more likely to believe that smoke-free areas are fair to those using Bourke Street, particularly when compared with smokers (80% vs. 40%). Further, one in three smokers consider the proposed smoke-free area to be unfair (32%).

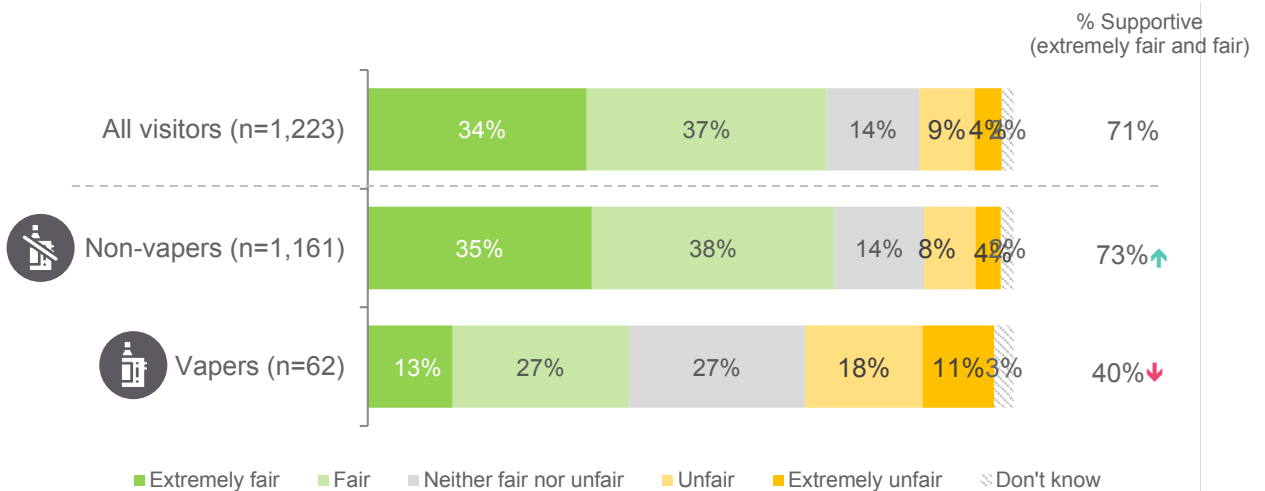
Figure 10: Fairness of Bourke Street becoming smoke-free by smoker status



Q4. How fair do you feel a smoking ban is for people using Bourke Street? (SR)
 ↑ / ↓ indicates significant difference between smokers and non-smokers at 95% confidence.
 Base: Intercept survey respondents (n=1,223)

Perceptions of fairness among vapers are similar to that among smokers. Two in four vapers believe the ban is fair for people using Bourke Street (40%). However, this is significantly higher for non-vapers (73%).

Figure 11: Fairness of Bourke Street becoming smoke-free by vaper status

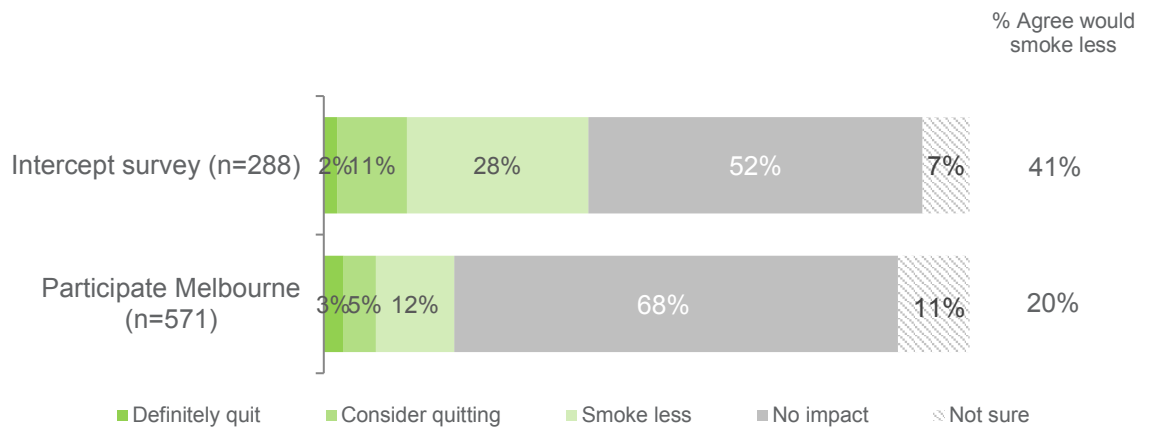


Q4. How fair do you feel a smoking ban is for people using Bourke Street? (SR)
 ↑ / ↓ indicates significant difference between vapers and non-vapers at 95% confidence.
 Base: Intercept survey respondents (n=1,223)

5.6. Change to smoking habits if Bourke Street becomes smoke-free

Nearly two in five smokers who were intercepted on Bourke Street (39%) believe wider smoking bans would make them definitely quit or consider quitting smoking. Fewer smokers who completed a Participate Melbourne survey agree that smoking bans might reduce the amount that they smoke (20%).

Figure 12: Change to smoking habits if Bourke Street becomes smoke-free by mode



Q10. How do you think wider smoking bans might impact your smoking? (SR)
 Base: Individual intercept and online respondents who smoke

5.7. General comments, intercept survey







At the end of the intercept interview, people were given the opportunity to provide further comments about the proposed smoke-free area along Bourke Street.

Many expressed positive sentiment about the prospect and cite benefits such as being able to better enjoy the Bourke Street area, while others highlighted the impact on their personal and others' health. Some even expressed desire for the smoke-free areas to be expanded further.




Those who were less supportive of the smoke-free area are typically smokers and expressed concern over where they would be allowed to smoke. Others mentioned concerns about Victoria being too much of a nanny state.

The quotes below represent the key themes that were expressed in the final feedback provided at the end of the intercept interview.

Supportive

-  *It would be nicer to stop and sit. I find passive smoking greatly affects my asthma.*
-  *More smoke-free areas are better for the health of everybody, no cigarette rubbish and it's clean for everyone.*
-  *As a non-smoker, it would be nice to not have to walk behind a cloud of smoke. I also do not think it's fair that children are exposed to second hand smoke*
-  *We need to keep our city clean for international and interstate visitors.*
-  *Make the whole CBD smoke free like they do in Perth. We don't experience the smoke there like we do here.*
-  *There are too many children around the entrance to shops and businesses. Passive smoking is dangerous.*

Non-supportive

-  *You can't push all workers to go long distances for their break to smoke or push them into alleyways. People want to relax in their breaks.*
-  *Imposing bans will not stop people from smoking. It is a personal choice. We should not be a nanny state.*
-  *Being a smoker, I don't think it's fair. It is outside and not near food. People discriminate against smokers and we pay a lot of their taxes.*

6. Business findings

The proposed area in Bourke Street includes Melbourne's iconic Bourke Street Mall. The Mall is one of the city's busiest shopping precincts with two large department stores, international retail chains and various other food and retail businesses. The area east of the Mall contains two university training colleges and a mix of large and small businesses and mixed tenancies.

This table provides demographic detail of the businesses interviewed for this research.

The intercept survey was primarily composed of retail business (67%), while the majority of Participate Melbourne businesses were professional or corporate businesses such as law or accounting firms (76%). It should also be noted that the Participate Melbourne survey captured perspectives of businesses further afield from Bourke Street, including Little Collins, Queen Street and Swanston Street.

Business size was similar across both surveys with the majority having fewer than 20 employees (78% intercept and 86% online). Very few businesses allowed smoking on their premises.

Table 8: Profile of businesses surveyed

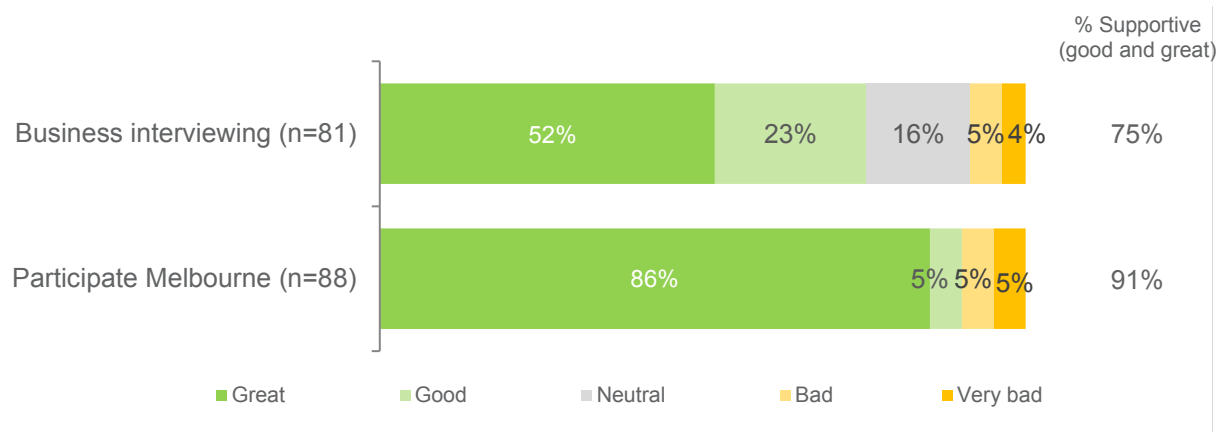
	Business interviewing (n=81)	Participate Melbourne (n=88)
Business type		
Retail	67%	18%
Hospitality	17%	6%
Other	16%	76%
Outdoor dining		
Yes	31%	5%
No	69%	95%
Number of staff		
None	2%	8%
1 to 4	33%	39%
5 to 19	43%	39%
20 to 199	16%	11%
200 or more	5%	3%
Smoking on premises		
Allowed	1%	1%
Not allowed	99%	99%

- Q6. What type of business do you operate? (SR)
 Q7. Does your business have outdoor dining? (SR)
 Q8. How many staff does your business employ? (SR)
 Q9. Can patrons or clients or staff smoke on your premises? (SR)

Three in four businesses interviewed along Bourke Street feel very supportive of making it a smoke-free area (75%). Only one in ten are not supportive of the initiative (9%).

Support is higher among businesses who completed a Participate Melbourne survey with nine in ten supporting the change (91%) and the same proportion being unsupportive of the idea (10%).

Figure 13: Perception of Bourke Street becoming smoke-free by mode – Businesses

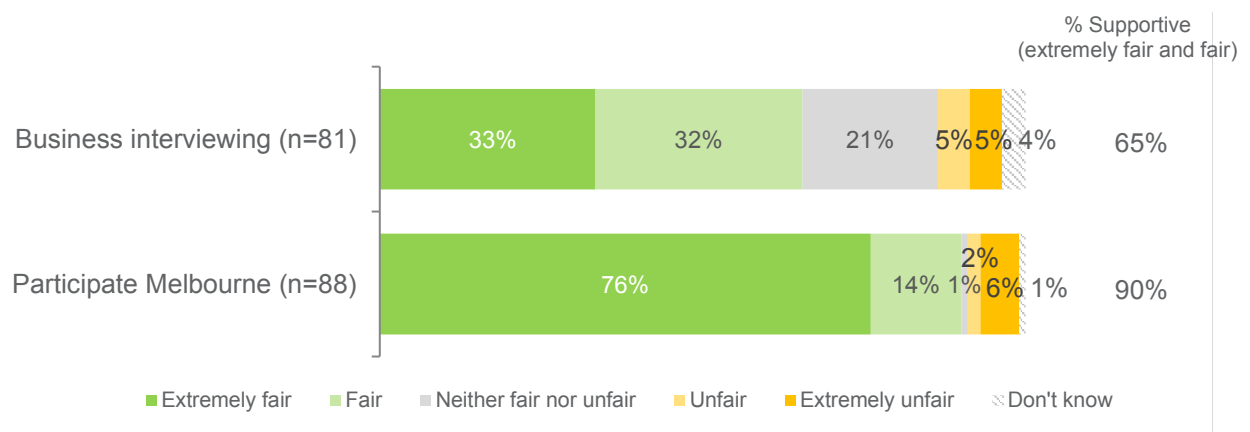


Q5. What is your overall view about making Bourke Street a smoke-free area? (SR)

Perceptions of fairness among businesses are similar to their overall view of making Bourke Street smoke-free. Two-thirds of businesses intercepted in Bourke Street believe that a smoking ban is fair (65%), while one in ten consider it to be unfair (10%).

Again, businesses from the Participate Melbourne survey are more likely to consider the ban to be fair for users of Bourke Street (90%), with few considering it to be unfair (8%).

Figure 14: Fairness of Bourke Street becoming smoke-free by mode – Businesses

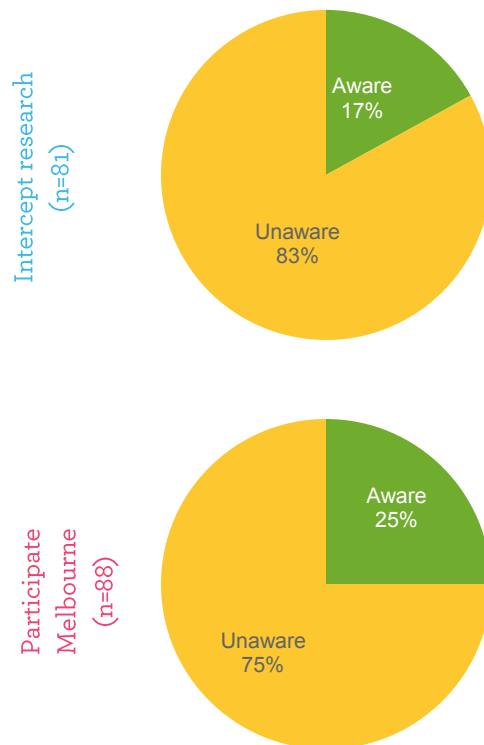


Q4. How fair do you feel a smoking ban is for people using Bourke Street? (SR)

One in six businesses who were interviewed in the proposed area in Bourke Street are aware of other smoke-free areas in the City of Melbourne (17%); however, the proportion of businesses who can successfully identify a City of Melbourne smoke-free area is considerably lower (6%).

Awareness of existing smoke-free areas is higher among businesses who completed a Participate Melbourne survey at one in four (25%). Further analysis of the text responses shows that one in eight businesses were able to identify a City of Melbourne smoke-free area (13%).

Figure 15: Businesses awareness of smoke-free areas in the City of Melbourne



Intercept research

Q7 Are you aware of existing smoke-free areas in the City of Melbourne? If yes, specify. (OE)

Participate Melbourne

Q7a Prior to visiting this site were you aware of existing smoke-free areas in the City of Melbourne? (SR)

Base: Individual intercept and online respondents

General comments, businesses on Bourke Street

Open ended responses from businesses who were positive about the proposed smoke-free area could see benefits to their business, themselves and the community they work in. These included being able to enjoy cleaner surroundings to their business as well as the health benefits to smokers themselves.

Conversely those who were less supportive of the smoke-free areas expressed concern over where they or their employees would be allowed to smoke on breaks.

Supportive

- “ *Please make it happen fast as it is a real disruption to our business.* – Intercept respondent
- “ *As a doctor, it would be excellent to have the Mall smoke free - it is an area where families with children gather, where passers by can take a rest on an outdoor seat, and where people eat their lunch. One should be able to take advantage of the surroundings and facilities without inspiring smoke. Perhaps it may encourage some smokers to quit.*
– Participate Melbourne respondent
- “ *I would love to see the streets free of cigarette butts. It's disgusting that they are everywhere!*
– Intercept respondent
- “ *I think the entire city should be smoke free. Why should non-smokers have their health and amenity compromised / damaged by tobacco addicts. Passive smoking is a serious killer and an OH&S issue in my building. I endure cigarette smoke entering my office from the street.*
– Participate Melbourne respondent

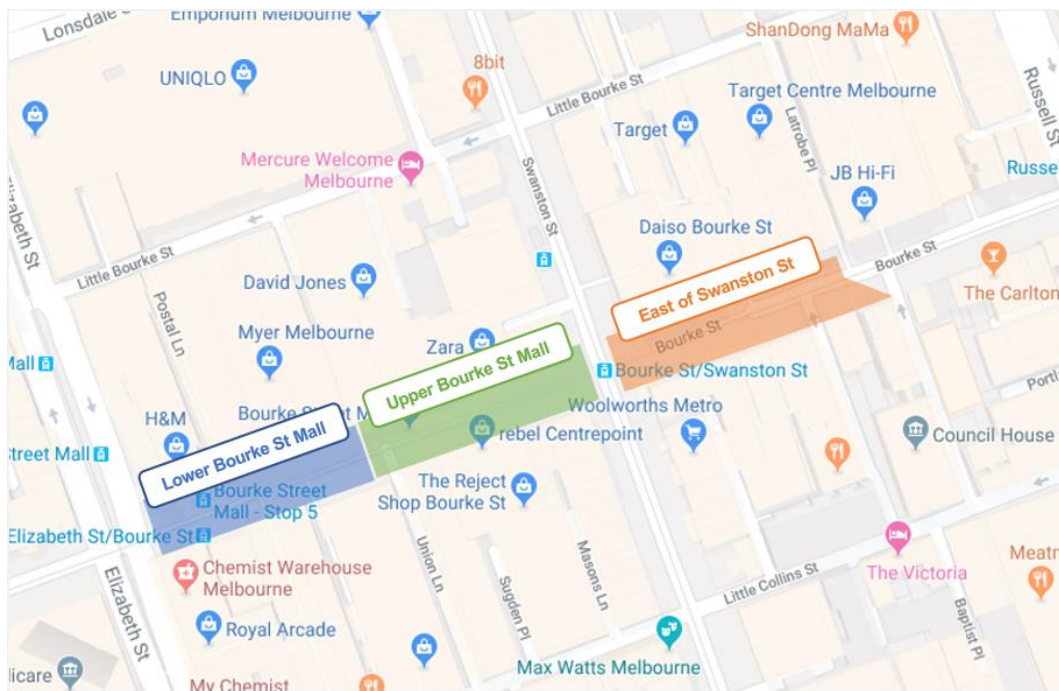
Non-supportive

- “ *While smoking is legal you cannot restrict such a large area as smoke free. Install smoking areas. We need to encourage ALL people to come into to the City of Melbourne and not give people an excuse to avoid the city.* – Participate Melbourne respondent
- “ *Smoking is legal and while it's legal to endorse such a large area to a smoke free zone, it is discriminatory. Suggest you implement smoking zones.* – Intercept respondent
- “ *There must be some place nearby where we can smoke or have a designated smoking area for us as I work 8 hours a day.* – Intercept respondent

7. Observational research

Overall, the observational analysis found evidence of relatively low rates of smoking. Observations were made at the start and end of each interview shift and also on an hourly basis. In total, 86 hourly observations were made across the 34 shifts. All shifts were assigned one of eight locations along Bourke Street, however, for analysis these have been grouped into three areas shown below.

Figure 16: Observation research areas



Across the entirety of the proposed smoke-free area, very few smokers were observed (1.06 on average per observation), while cigarette haze was present on 36% of occasions and could be smelt on 22% of occasions.

Lower incidences of smoking were seen in the upper end of Bourke Street Mall, covering the area from outside David Jones through the Swanston Street, where an average of 0.43 smokers were sighted per observation. There was also lower presence of cigarettes (29% smell, 9% smoke haze).

Smoking was more concentrated at the lower end of the Bourke Street Mall; that is, outside Myer and H&M, as well as the east side of Swanston Street, where the university campuses are located. The presence of smokers was somewhat higher (1.80 and 1.29 respectively) as was the presence of cigarettes smoke and haze.

Table 9: Hourly observations at Bourke Street

Presence of smokers and smoking	All locations (n=86)	Lower Bourke Street Mall (n=20)	Upper Bourke Street Mall (n=35)	East of Swanston St (n=31)
Average number of people smoking in the area	1.06	1.80	0.43	1.29
Proportion of observations where smell of cigarette smoke was present	36%	40%	29%	42%
Proportion of observations where cigarette smoke haze was present	22%	25%	9%	36%

Interviewers also conducted three observations to note the presence of cigarette butts on Bourke Street, this was conducted at both the beginning and end of each shift, therefore totalling 102 observations across the entire fieldwork period.

Across all locations, three in ten observations noted quite a lot of cigarette litter (28%). This proportion was similar for observations made along the Bourke Street Mall (25% lower, 24% upper) and higher on the eastern side of Swanston Street (36%).

Table 10: Presence of cigarette butts at Bourke Street

Number of butts observed	All locations (n=102)	Lower Bourke Street Mall (n=24)	Upper Bourke Street Mall (n=42)	East of Swanston St (n=36)
Yes, quite a lot (more than 10)	28%	25%	24%	36%
Some butts around (5 to 10)	32%	25%	26%	44%
Not many at all (less than 5)	26%	21%	41%	11%
None evident	14%	29%	10%	8%

8. Submissions received by City of Melbourne

The City of Melbourne received a number of submissions from other stakeholders throughout the consultation period. The submissions made are summarised below.

British American Tobacco Australasia (BATA) emphasised that in the roll out of the smoke-free area the City of Melbourne should provide designated smoking areas to prevent moving smokers. In doing so BATA drew parallels with Sydney's ban which was considered by BATA to "simply move to other nearby areas, generating complaints and requests for the creation of additional smoke-free areas."

East Enders Inc are supportive of the initiative, however, have concerns that the ban will simply relocate and therefore move cigarette litter to places on the fringe of the smoke-free area. In order to support the implementation of the smoke-free area an extensive education campaign is suggested. This campaign could involve education staff that could approach smokers for positive. Other collateral could include branded 'on-the-go' ashtrays that would also help combat smoking litter.

Justice Connect are supportive of the change, however raise concerns regarding enforcement particularly among those experiencing homelessness who are likely to be disproportionately affected. In response to this Justice Connect recommends implementing appropriate enforcement guidelines and training for authorised officers so they can exercise discretion when working with people experiencing homelessness. Justice Connect also encourages additional consultation and communication with people experiencing homelessness to help this audience understand the changes and the related risks.

Monash College's submission stated that while supporting the proposal in principle they had concerns including how the smoke-free area will be promoted and how this will be targeted to smokers. Monash College also queries how the area will be enforced and what facilities will be provided for smokers outside of the smoke-free zones such as disposal bins and additional security lighting.

Quit Victoria were supportive of City of Melbourne making a positive contribution to the incidence of smoking, quoting the health benefits that are associated with exposure to smoke before first and second hand. Quit Victoria encouraged Council to ensure adequate resources were allocated for the promotion and enforcement of the smoke-free area.

Other submissions included personal experiences shared with City of Melbourne via email, this included a small number of buskers who operate in the mall. These buskers are also supportive of the smoke-free environment. Specifically, they believe it could impact their audience stating, "it would be a shame if a smoker adversely affected an environment {the busker} was trying to create."

A copy of these submissions is provided as an appendix to this report.

9. Council to Homeless Persons (CHP) consultation

As part of this research, three members of the Council to Homeless Persons were consulted on the potential impact on people experiencing homelessness if Bourke Street were to become smoke-free. This section addresses the main themes and concerns which arose in this meeting.

It was generally agreed that rough sleepers in Bourke Street would respond to the smoke-free zone by choosing to sleep somewhere else, since “they’re not going to get up in the middle of the night when it’s four degrees and go for a walk; they’re going to live where they can smoke.” However, as discussed below, there was concern that smokers who continued to live in the smoke-free zone may experience violence and negative mental health effects as a result.

CHP members expect those experiencing homelessness to be particularly vulnerable to persecution under the proposed smoking ban, with one expressing that they will “get the blunt end of the stick”. Concern was expressed around the behaviour of compliance officers – in the words of one CHP member, “some young enforcer who wants to make his name is going to hit the easy targets for sure”. Another stated, “If compliance wants to move someone on and this is at their disposal as a reason, they may use it. There’s no doubt that that is likely to be an outcome of it”. Another member was not as concerned, citing that people could simply contact Justice Connect to avoid being fined. A related issue raised was that officers may use the smoking ban as an excuse to target homeless people. To avoid potential issues around enforcement, it was suggested that:

- Compliance officers follow a particular process when dealing with people experiencing homelessness.
- Existing Daily Support team, the City of Melbourne’s on-street homelessness team, be involved in the education phase so that the first contact people have with the initiative is not through a compliance officer.
- These teams be available after hours for legal issues arising at night.
- Compliance officers be issued cards from Justice Connect.
- A three-strike rule be applied for greater leniency toward first-time offenders.
- A patrol be undertaken at night (9:00pm or 10:00pm) to inform rough sleepers of the ban.

A ban on smoking was predicted to have potential negative mental health impacts. One CHP staff member pointed out that “the trauma of the experience [of homelessness] leaves a lot of people with mental health issues that are... going to make it hard to comprehend laws, regulations, rules. If you say you can smoke here but not over here, a lot of people won’t be able to comprehend that.” This was particularly concerning if the boundaries to the smoke-free area are unclear. One member predicted more serious risks, believing that “one cigarette might be the tipping point to suicide” because “homeless people don’t have the options that other people have”, and also saw a potential danger posed to rough sleepers by other affected smokers – “you bump into someone homeless at that particular moment and you take it out on them”.

Although all expressed concern, CHP did not put forward any concrete solutions to this issue, indicating a need for further investigation and workshopping. CHP indicated they would be supportive of City of Melbourne consulting with Homeless representatives such as City of Melbourne’s Homelessness Advisory Committee in planning the implementation and communication of the ban. When asked to summarise their comments one member stated, ‘make it fair’.

10. Social media summary

As part of the community engagement for introducing a smoke-free area on Bourke Street Mall, the City of Melbourne invited people to participate in the engagement via their social media channels including Facebook, Twitter and Instagram. A combination of posts, stories and tweets were published between the 15th of May and the 23rd of April, including both organic and paid content. All forms of communication linked followers to the survey hosted on Participate Melbourne. A breakdown of the feedback by channel is provided below.

10.1. Facebook

An organic post was made to Facebook on the 23rd of April. This post received:

- 291 reactions – composed of 260 ‘Likes’, 28 ‘Loves’, 2 ‘Wows’ and 1 ‘Haha’.
- 84 comments.

More than three in five comments left were supportive of the change to make Bourke Street smoke-free (63%). One in four comments were not supportive of the change (25%).

In addition, paid posts were made to Facebook between the 15th and the 20th of May. These posts received:

- 22,791 views.
- 77 shares.
- 479 reactions – composed of 427 ‘Likes’, 33 ‘Loves’, 14 ‘Angries’, 4 ‘Hahas’ and 1 ‘Wow’.
- 149 comments.

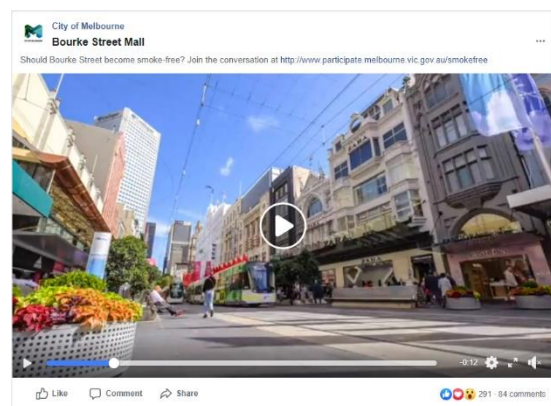
Nearly two thirds of the comments left were positive toward the new smoke-free area (64%), while one quarter were unsupportive of the change (25%).

Supportive comments received on Facebook covered similar topics to those seen on other feedback channels, such as health and enjoyment benefits from being smoke-free. Examples included:

“Other states do it in their malls. I’m a smoker and don’t have a problem with it.”

“Agree! Great initiative to discourage something that is bad for our health and the environment. We could do with this down our street in Southbank David. Hundreds and hundreds of cigarette butts littered across the street all the time. Looks messy and is a hazard for the environment and animals.”

In contrast the below are examples of unsupportive comments left in response to the Facebook posts. These typically had similar themes to comments left as part of the Participate Melbourne and intercept



surveys, including that there are other issues Council could be focusing on and that there may not be areas for smokers left to use.

'Why are we targeting smoking when alcohol cause so much more damage?'

'OMG, now the nanny state has spawned a nanny city!!!! It's outdoors, for goodness' sake! If people want to smoke, they will! How does the Melbourne City Council plan to police a perfectly legal activity? It would be a waste of staff resources that could definitely be put to better use elsewhere!'

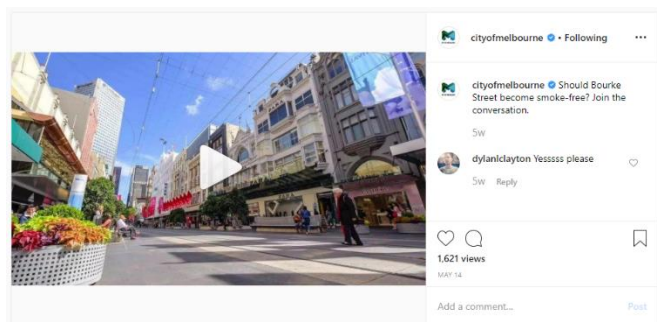
City of Melbourne also utilised sponsored messenger stories to direct followers to the Participate Melbourne survey.

10.2. Instagram

An organic post was made to Instagram on the 15th of May directing followers to complete the Participate Melbourne survey. This post received 4,023 likes and 68 comments.

Of these comments, half were supportive of the introduction of the smoke-free area (47%), while just over a quarter were not supportive (28%). A similar proportion left comments unrelated to the topic (25%).

A sponsored post was also made on Instagram by City of Melbourne which received 1,622 views and one supportive comment.



10.3. Twitter

An organic tweet was made on the 23rd of April by City of Melbourne directing followers to the Participate Melbourne page. Responses to the post included:

- 108 likes.
- 14 retweets.
- 38 comments.
- 4,452 views of the time-lapse video.

The majority of comments left were positive feedback supporting the introduction of the smoke-free area (76%). Positive feedback included a desire to see the smoke-free area extended to other parts of the city and a perception of protecting the beauty of the city. Supportive comments included:

“All of the city should. It’s grotesque. I have inconsiderate randoms blowing smoke all over me every morning while I walk to work.”

“It should! Australia is an environment friendly country; why such a beautiful city like Melbourne is still allowing cigarette smoke to be passing by clean air especially to those people who doesn’t smoke? Especially Australia has a high percentage of asthma sufferers.”

Less than one in ten left a comment that was unsupportive of the change (8%). These few tweets featured similar themes to feedback received via other social media channels, in particular the perception that Council was contributing to Victoria becoming a “nanny state”.



11. Appendices

11.1. Observation guide

QMS FIELD REQUIREMENTS

Project No.: CMELCM0139

Project Name: Smoke Free Areas Research 2019

Main Client Service Contact: Matthew Hutton

Client Service Project Leader: Kirstin Couper

Other Client Service Team Members: David Spicer, Diana Nguyen

Issue Date: 17 April 2018

City of Melbourne – Observation Guide

RECORD LOCATION:

1. Elizabeth St -> Myer (inc. Tram Stop)
2. Myer façade
3. David Jones façade
4. Zara façade
5. Zara -> Swanston St (west side)
6. Bourke/Swanston St Tram Stop (north side)
7. Bourke/Swanston St Tram Stop (south side)
8. Tram stop to boundary (La Trobe and Russel Places)

RECORD DAY: _____

RECORD DATE: _____

RECORD START TIME: _____

AT START OF FIELDWORK SHIFT:

Check litter at the entrances and within the laneway and record in below table:

AT THE LANE ENTRANCE ONE	
	Number of butts
1. Yes, quite a lot of butts around (more than 10)	
2. Some butts around (5 to 10)	
3. Not many at all (less than 5)	
4. None evident	
AT THE LANE ENTRANCE TWO	
	Number of butts
5. Yes, quite a lot of butts around (more than 10)	

6. Some butts around (5 to 10)	
7. Not many at all (less than 5)	
1. None evident	
WITHIN THE LANEWAY	
	Number of butts
8. Yes, quite a lot of butts around (more than 10)	
9. Some butts around (5 to 10)	
10. Not many at all (less than 5)	
1. None evident	

TAKE PHOTOS OF ALL CIGARETTE BUTT LITTER

WALK THE LENGTH OF THE LANEWAY ONCE PER HOUR AND RECORD OBSERVATIONS IN THE TABLE BELOW

	Walk 1	Walk 2	Walk 3	Walk 4	Walk 5
Record number of people smoking in the area					
At the end of each walk through, can/could you smell cigarette smoke at all?	Yes No	Yes No	Yes No	Yes No	Yes No
Any smoke haze evident?	Yes No	Yes No	Yes No	Yes No	Yes No

AT END OF FIELDWORK SHIFT:

Check litter at the entrances and within the laneway and record in below table:

WITHIN AREA	
	Number of butts
1. Yes, quite a lot of butts around (more than 10)	
2. Some butts around (5 to 10)	
3. Not many at all (less than 5)	
4. None evident	

MARK ON MAP WHERE BUTT LITTER IS ACCUMULATING

MARK ON MAP WHERE SMOKERS CONGREGATE

11.2. Intercept and Participate Melbourne questionnaire

QMS FIELD REQUIRMENTS

Project No.: CMELCM0139	Project Name: Smoke Free Bourke Street Engagement
Main Client Service Contact: Matthew Hutton	
Client Service Project Leader: Kirstin Couper	
Other Client Service Team Members: David Spicer, Diana Nguyen	
Issue Date: 16 April 2019	

QMS BRIEFING NOTES

1. *Background Information*

Growing evidence suggests that passive smoking has significant health impacts in young people and adults who do not smoke. Therefore it is a priority of the Council to protect the community from passive smoking by expanding smoke free areas in the Melbourne CBD.

There are currently a number of smoke free areas in the City of Melbourne including children's playgrounds, childcare centres, a range of laneways and the Tan running track. The Bourke Street has now been identified as a possible smoke free area, and City of Melbourne must undertake consultation with residents, occupiers, industry sector associations, users of the area, all businesses directly located in or abutting the proposed areas, and the broader community.

Therefore this study will provide the evidence required by City of Melbourne as it makes its final decision.

2. *Schedule/Timing*

TBC

3. *Sample Size*

N=800 target

4. *Sample/Recruiting Specification*

None

5. Quota Instructions/Codes

None

6. Interview Length

5 minutes

7. Incentive/Thank-You

None

8. Other Specific Fieldwork Instructions

An important component of this study is raising awareness of the Smoke Free areas. You will be provided with flyers to hand out. Please distribute a flyer to people who don't have time to complete the survey on the spot (the flyer contains more information and a website where they can give feedback online).

9. Questionnaire Instructions - Dealing with Overall Project Questions from Respondent

Protocol for answering questions pertaining to **CLIENT IDENTITY**:

"The client commissioning this study is City of Melbourne"

Protocol for answering questions pertaining to **RESEARCH SUBJECT**:

"This survey is about smoke-free areas."

10. General Questionnaire Instructions

PLEASE FAMILIARISE YOURSELF WITH THE QUESTIONNAIRE AND THE CODE FRAME BEFORE YOU COMMENCE INTERVIEWING

City of Melbourne –Questionnaire

RECORD LOCATION:

9. Elizabeth St -> Myer (inc. Tram Stop)
10. Myer façade
11. David Jones façade
12. Zara façade
13. Zara -> Swanston St (west side)
14. Bourke/Swanston St Tram Stop (north side)
15. Bourke/Swanston St Tram Stop (south side)
16. Tram stop to boundary (La Trobe and Russel Places)

RECORD DAY: _____

RECORD DATE: _____

RECORD START TIME: _____

INTRODUCTION:

Good morning/afternoon. City of Melbourne are seeking feedback on a proposal to make Bourke Street between Elizabeth and Russell Place (show map) smoke-free. We are conducting short surveys about the proposed smoke-free area.

QS1. Would you help me out by doing a quick survey for about five minutes?

1. Yes
2. No

IF YES AT QS1, CONTINUE WITH SURVEY

IF NO AT QS1, ASK QS2

IF REASON ALREADY GIVEN WITHOUT PROMPTING, CODE ACCORDINGLY

QS2. Can I just ask why not? **READ OUT**

1. Don't have time
2. Just not interested
3. Don't like doing surveys
4. Not sure how the information will be used
5. Not sure can trust the interviewers/company
97. Other – **SPECIFY**
99. No reason given

ASK ALL

Q1. Have you been to Bourke Street before?

1. No, this is the first time
2. Yes, been to this area before

IF Q1=1, ASK Q2

IF Q1=2, SKIP TO Q3

Q2. How often would you come here?

1. Daily
2. Once or twice a week
3. A few times a month
4. A few times a year
5. Less than once a year

ASK ALL

Q3. Which of these best describes your relationship to this space? **READ OUT**

1. Work nearby/in the city
2. Live nearby
3. Regional visitor
4. Interstate tourist
5. International tourist
6. Melbourne resident visiting to shop, study, etc.
96. Other - **SPECIFY**

ASK ALL

Q4. How fair do you feel a smoking ban is for people using Bourke Street? **READ OUT**

1. Extremely fair
2. Fair
3. Neither fair nor unfair
4. Unfair
5. Extremely unfair
97. Not sure

ASK ALL

Q5. What is your overall view about making Bourke Street a smoke-free area? **READ OUT**

1. It would be great
2. It would be good
3. It doesn't bother me either way
4. It would be bad
5. It would be very bad

ASK ALL

Q6. How would Bourke Street being smoke-free influence your choice to visit? **READ OUT**

1. I'd be much more likely to visit
2. I'd be likely to visit
3. It wouldn't change my choice either way
4. I'd probably visit somewhere else
5. I'd definitely visit somewhere else

ASK ALL

Q7. Are you aware of existing smoke-free areas in the City of Melbourne? **READ OUT**

1. Yes – **SPECIFY**
2. No I am not aware of any

ASK ALL

Q8. Finally some short questions about you. What is your age group? **READ OUT**

1. Under 12
2. 12-17
3. 18-25
4. 26-30
5. 31-40
6. 41-50
7. 51-60
8. 61-70
9. 71 or older

ASK ALL

Q9a. Do you smoke? **READ OUT**

1. Yes – regularly
2. Yes – occasionally
3. No

ASK ALL

Q9b. And do you vape? **READ OUT**

1. Yes – regularly
2. Yes – occasionally
3. No

ASK IF Q9a = 1 OR 2

Q10. How do you think wider smoking bans might impact your smoking?

1. Smoke less
2. Consider quitting
3. Definitely quit
4. No impact
5. Not sure

ASK ALL

Q11. What is your gender?

1. Male
2. Female
3. Other identity

ASK ALL

Q13. Where do you live?

1. Australia – **RECORD POSTCODE**
2. Overseas – **RECORD COUNTRY USUALLY LIVE IN**

ASK ALL

Q14. Any further comments? **RECORD VERABTIM**

Thank you for finishing this survey.

RECORD FINISH TIME: _____

A supervisor may check my work, just to make sure the interviews were completed well. Could I have your first name and a contact number for them to possibly do this? We will not keep these details and they will not be shared with any other party.

FIRST NAME:

PHONE NUMBER:

EMAIL ADDRESS:

INTERVIEWER TO RECORD ANY VISIBLE DISABILITY THE RESPONDENT HAD, I.E. PARTIAL HEARING IMPAIRMENT, MOBILITY IMPAIRMENT (WHEELCHAIR, CANE) ETC. PLEASE RECORD DETAILS.

11.3. Submissions received from City of Melbourne

Following this document submissions by the following organisations are presented:

- British American Tobacco Australasia (BATA)
- East Enders Inc
- Justice Connect
- Monash College
- Quit Victoria



**BRITISH AMERICAN
TOBACCO**
AUSTRALASIA



20 May 2019

City of Melbourne
GPO Box 1603
Melbourne VIC 3001

RECEIVED
Information Management

24 MAY 2019

DM#: _____
SR#: _____

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Australia
Locked Bag 6000
Potts Point 1335
NSW Australia
Tel +61 (0)2 9370 1500
Fax +61 (0)2 9370 1188
www.bata.com.au

To whom it may concern,

British American Tobacco Australia (BATA) welcomes the opportunity to provide a submission in relation to the proposed smoke-free area on Bourke Street.

BATA believes that should the Melbourne City Council (MCC) decide to proceed with introducing a smoking ban on Bourke Street, adult smokers should be provided with a designated smoking area within the precinct.

This would avoid a situation similar to Sydney, where Lord Mayor Clover Moore observed that smoke-free areas have forced adult smokers to, "...*simply move to other nearby areas, generating complaints and requests for the creation of additional smoke-free areas.*"¹

Replicating this issue on Bourke Street would be a drain on MCC resources in enforcing the ban.

The MCC should also consider that smoking bans can have an adverse effect on small businesses which are forced to change their operating model to comply with new restrictions.

Following the introduction of smoking bans in outdoor dining areas in Victoria, business owners have had to alter their business operations. An example of this is a Greek restaurant called Kentro in Oakleigh which no longer serves food outdoors between 9am and midday. The acting manager of Kentro Oakleigh, Giorgio Sfrantzis commented on the social disruption of the bans saying "*They come down each morning...they could stay for five or six hours. It's their life, having a coffee, a cigarette, having some cake, socialising with their friends...that's the way it's always been.*"²

In 2016, Darwin City Council altered its smoking bans due to the adverse effects it was having on businesses in the area. A bar owner in the affected area commented, "*for us, it was just another nail in the coffin,*" after reporting a 20 percent downturn in trading for three weeks after the bans came into effect.³ Lord Mayor Katrina Fong Lim said with relation to the repeal "*What we did last night was, having listened to business and the fact they have to deal with so much red tape, we decided to make it easier for everybody.*"⁴ These examples show just how business can be affected and what possible repercussions of these bans could mean for their trading in the long term.

¹ <https://www.dailytelegraph.com.au/newslocal/central-sydney/cbd-still-smokers-paradise-as-rangers-choose-not-to-fine-people-lighting-up-in-smokefree-zones/news-story/f0b72a231e93627b351d9c65e55719f6>

² <https://www.theage.com.au/national/victoria/smoking-ban-oakleigh-traders-ban-meals-to-allow-patrons-to-light-up-20170801-gxn7s7.html>

³ <https://www.abc.net.au/news/2016-08-17/darwin-council-repeals-smoking-ban-al-fresco-cbd/7751080>

⁴ Ibid.

The MCC needs to be sure of the legality of any move that has the potential to impact individuals and businesses. In 2012, Parramatta council announced a ban which faced a legal challenge from the Parramatta Business Freedom Association Inc ⁵. The result was that the conditions imposed by Parramatta City Council were invalid and as such overturned.

An effective change model can be seen in Singapore where a no smoking zone was implemented along a three kilometre stretch of Orchard Road (one of the city's busiest shopping districts). Instead of completely banning smoking down the entire stretch of road, adult smokers are provided with 40 designated smoking areas spaced 100-200 metres apart.

In closing, BATA respectfully asks that the MCC reviews the proposed ban and provides adult smokers with a designated smoking area within the vicinity of Bourke Street.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Nicholas Booth', written in a cursive style.

Nicholas Booth

Head of Corporate and Government Affairs

British American Tobacco Australia

⁵ *Parramatta Business Freedom Association Inc v Parramatta City Council* [2012] NSWLEC 13

Smoking Ban in Bourke St

Friday, 17th May, 2019

EastEnders Inc applaud the City of Melbourne for any actions to reduce the consequences of smoking, particularly on the environment.

Superficially, and in an ideal world, banning smoking from Bourke St, between Elizabeth St and Russell Place seems a fair and reasonable action....**BUTT** really?

- **Will it stop people from smoking?** No!
- **Will they find an alternative location to smoke?** Most definitely yes!
There will be an increase in smokers congregating in the streets, lanes and alleys in the vicinity of the No Smoking area.
The problem has simply been relocated.

- **Will those smokers litter their butts?** Mostly likely, yes!

The statistics indicate that at best, 52% of smokers in public places will litter their cigarette butts but in "hot spots", this could be as high as 80%.

Littered cigarette butts are harmful to the environment, they are time consuming and costly to clean-up and they certainly do not look good.
They are the most common type of street litter.

According to EPA Victoria, 59% of all litter in Victoria is cigarette butts and their packaging and 83% of all EPA fines are for littering cigarette butts.

Certainly, create a new No Smoking zone but at the same time a proactive approach needs to be adopted to reduce the impact of smokers throughout the City of Melbourne.

Start by setting a good corporate example and provide smokers, at all levels, within the City of Melbourne organisation with branded 'on-the-go' ashtrays and awareness about cigarette littering, ensuring they 'bin their butts'.

In order to do this, an internal education campaign could be undertaken.

This staff education campaign could be flagged as a trial initiative, enabling CoM to fine tune the program before the campaign is implemented on a wider scale.

A well planned education campaign will highlight the problem of cigarette litter and call upon individuals to take responsibility and appropriate action to ensure change.

In order for sustained and improved environmental change, the education campaign should include the tools for change in behaviour (e.g. ashtrays), awareness about why the change is needed (e.g. impact of littered cigarette butts), a call to action (e.g. No Butts, Stub It, Bin It) and possibly a street clean up event.

A team of trained educators, perhaps dressed in matching campaign t-shirts promoting the campaign message, could be a valuable asset.

They could approach smokers in target areas in a positive way, to tell them about reducing cigarette litter and ask them not to litter their cigarette butts.

The education team could also distribute personal ashtrays and reward smokers for observed appropriate disposal behaviour.

The target audience is more likely to remember the message if they are given a positive verbal message by individuals in a recognised team.

Sometimes, the threat of enforcement is the only way that people will change their littering behaviour.

Environmental Local Laws enables both the individual to be fined for littering and requires businesses to clear up the litter and implement measures to prevent the area in and around their businesses from becoming littered, including smoking-related litter.

There needs to be an increase in compliance officers targeting cigarette litter.

Forming partnerships with businesses and retailers to keep the streetscape clean should become a priority.

A revision of the existing No Smoking areas needs to be undertaken, with the following additions.

- Any area within 4 metres of any ventilation intake, windows, entrances or exits of a residential building.
- Areas occupied by a queue of more than 2 or more persons in a public place should be designated as No Smoking.

Smoking needs to be a consideration when new developments come before City of Melbourne Planning. If buildings can incorporate or retrofit 'End of Trip' facilities, they also need to accommodate the reality of their smokers. It is not appropriate to send them, and their litter, onto the streets.

Cigarette butt waste is the last socially acceptable form of littering, in what has become an increasingly health and environmentally conscious world. The challenge is to educate smokers and to find solutions to eliminate this especially toxic form of waste.

On behalf of EastEnders Inc

Jenny Eltham
President
EastEnders Inc

Risks of enforcement-based approaches to homelessness

Submission on the proposed smoke-free section of Bourke Street

May 2019

About Justice Connect Homeless Law

Justice Connect Homeless Law (**Homeless Law**) is a specialist free legal service for people experiencing or at risk of homelessness. Homeless Law staff work closely with pro bono lawyers to provide legal advice and representation to over 400 people experiencing or at risk of homelessness each year. Our services are outreach based and client centred, and our two staff social workers allow us to respond to clients' legal and non-legal needs.

In 2017-2018, Homeless Law:

- Opened 404 new client files to provide ongoing legal representation to people experiencing or at risk of homelessness;
- Provided intensive legal assistance to 124 clients facing fines and charges directly related to homelessness;
- Directly prevented the eviction of 111 clients and their families into homelessness; and
- Delivered direct social work support to 104 clients.

Homeless Law also runs a specialist women's program, the Women's Homelessness Prevention Project (**WHPP**) in partnership with the City of Melbourne. Over a four-year period, the WHPP has provided 214 women with 305 children in their care in their care with a combination of legal representation and social work support. Of these 214 women at risk of homelessness, 84% had experienced family violence and we successfully resolved 82% of their legal matters (e.g. maintaining safe and secure housing or resolving a legal issue that was a barrier to accessing housing).

In addition to our integrated model of service delivery, which focuses on early intervention and preventing legal issues escalating to crisis point, Homeless Law uses the evidence from our direct casework to inform systemic change aimed at stopping homelessness before it starts and reducing the negative impact of the law on people experiencing homelessness.

Acknowledgements

Homeless Law thanks our partner law firms and pro bono lawyers whose casework continues to generate positive outcomes for our clients and to directly inform our recommendations for reform.

We have also included a direct insight from Julia who participated in our project, *In the Public Eye: Personal Stories of Homelessness and Fines*, and shared the story of our former client, Ali. We are grateful to them and many others, whose candid stories continue to remind us of the limitations and impact of enforcement-based approaches to homelessness.

Justice Connect Homeless Law

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Table of Contents

1.	Context to our submission	4
2.	Impact of proposed smoke free area	4
2.1	Homeless Law: our experience with homelessness and the law	4
2.2	People experiencing homelessness are at increased risk of being targeted, fined and entrenched in the justice system.	
2.3	Consideration of consistency with Charter rights and the City of Melbourne’s Municipal Public Health and Wellbeing Plan	6
2.4	Pressure on interactions and resourcing for authorised officers	6
3	Proposal if the smoke-free area is implemented	6
3.2	Guidelines & training for authorised officers to exercise discretion & consider human rights	6
3.3	Consultation and communication with people experiencing homelessness	7
	Annexure 1 – Current infringements processes, timeframes and options	8



1. Context to our submission

Homeless Law welcomes the opportunity to comment on the Council's proposed amendments to make a section of Bourke Street – between Elizabeth Street and Russell Place, including Bourke Street Mall – smoke-free (**proposed smoke free area**).

Homeless Law has been proud to work with the City of Melbourne on a number of the City's innovative, collaborative, effective responses to homelessness, including Project Connect Respect, the Homelessness Service Coordination Project, and the WHPP.

Through this work, we know that the City of Melbourne faces significant challenges in responding to homelessness and the figures are increasingly well-known:

In Victoria on any given night 25,000 people are homeless; and there are over 82,000 people on Victoria's waiting list for public housing. StreetCount 2018 found the City of Melbourne's rough sleeping population was 279, with 392 people sleeping rough in Inner Melbourne.

Homeless Law commends the City of Melbourne's decision in 2017-18 to not proceed with the proposed amendments to the *Activities Local Law 2009* in the *Activities (Public Amenity and Security) Local Law 2017*, which was informed by an extensive consultation and review processes. By taking leadership in not pursuing this amendment, the City of Melbourne demonstrated significant commitment to not pursuing enforcement-based responses to homelessness.

In this context, we reiterate the importance of ensuring the proposed smoke free area does not disproportionately impact on people experiencing homelessness and result in further entrenchment in the justice system.

2. Impact of proposed smoke free area

2.1 Homeless Law: our experience with homelessness and the law

Since Homeless Law was established in 2001, addressing fines and infringements for 'public space offences' has been one of the two most common legal issues homeless Victorians have sought our assistance with. Each year, Homeless Law provides legal assistance to people who have received fines or charges for 'public space offences', including having an open container of liquor in public, begging, being drunk in a public place, littering, and conduct on public transport (for example, not paying to travel, smoking on the platform or having your feet on the seat).

Homelessness makes it:

- More likely that you will receive fines or charges for public space offences because you are carrying out your private life in a public place; and
- Extremely difficult to deal with fines or charges either through payment or navigating the unwieldy legal process. (For an indication of the complex and protracted nature of an infringements matter, as well as the escalating costs if payment isn't made on time, see **Annexure 1**).

Homeless or at risk Victorians can be issued with overwhelming numbers of fines during periods of homelessness and family violence, deteriorating mental health and/or escalating substance use. In addition to doing nothing to aid recovery or engagement with services, the fines system places a burden on legal, community and health services that assist clients to deal with their fines and charges and causes congestion in the courts.¹

In addition to carrying out direct legal casework for approximately 8500 Victorians who are homeless or at risk since 2001, Homeless Law has used the insights from our work, including data and direct consumer perspectives, to

¹ See, eg, Justice Connect Homeless Law, *Fair's Fare: Improving access to public transport for Victorians experiencing homelessness* (March 2016) (available at: <https://justiceconnect.org.au/wp-content/uploads/2018/08/Fares-Fair-Public-transport-position-paper-March-2016.pdf>).



inform and lead conversations about effective, best-practice responses to homelessness and the regulation of public space.²

2.2 People experiencing homelessness are at increased risk of being targeted, fined and entrenched in the justice system.

The area of Bourke Street covered by the proposed smoke-free zone is utilised regularly by Melbournians experiencing homelessness for shelter and a place to sleep. If this smoke-free zone is established, it increases the risk of incurring fines for those that continue to take shelter in this area. It also acts as a push for those experiencing homelessness to seek refuge in other parts of the city, which may not be as safe or visible. Homeless Law knows through our work that when financial penalties or charges are issued to struggling people, it increases the strain they are already under, which is seen through our former client Julia's direct insights below.

The effect of having the fines is very stressful because when you are unemployed or on a pension, it is pretty difficult to survive as it is... You don't have a spare \$200 just to give to a fine and if you're homeless as well it's more stressful because it is already incredibly stressful not having a place of your own – Julia

If people experiencing homelessness end up with fines as a result of the proposed smoke-free area, they are more likely to become needlessly caught up in the fines system and the wider justice system. The fines system expressly recognises that a person should not have to pay a fine where, because of their homelessness or their experience of family violence, they were unable to control the offending conduct.³ Section 3 of the *Infringements Act 2006* (Vic) (**Infringements Act**) also provides that people can apply to have fines withdrawn if, because of mental illness or substance dependence, they were unable to understand or control the offending conduct.

Homeless Law helps clients to have their fines waived based on their homelessness, which is often interconnected with substance dependence, family violence and/or mental illness, as seen through Ali's below case study.

Ali: Man experiencing chronic homelessness & with a history of incarceration has \$20,000 worth of fines waived due to his complex vulnerabilities

Ali* is a 42 year old man who experienced chronic homelessness for around six years, including couch surfing, living in crisis accommodation, rough sleeping in his car, and periods of incarceration. He also has long-standing drug & alcohol dependence issues, which he had tried to address through rehabilitation.

Over the years, Ali had received a number of infringements directly related to his circumstances of homelessness. Ali had been trying to get back on track, having not received an infringement since 2016, but he was concerned about these older fines hanging over his head. When Ali connected with Homeless Law, he had 56 infringements totalling around \$20,000. Ali had previously sought help from Homeless Law with a tenancy issue, and he expressed trust in re-engaging with us.

The Homeless Law lawyers advised Ali about his rights and options, and then helped him to prepare a special circumstances revocation application, which included seeking medical evidence from his treating doctors, counsellors and support workers from his time in drug and alcohol rehabilitation, and medical reports from his time in prison. His infringements were revoked by the then Infringements Court, and the issuing agencies refer the matter to the Special Circumstances List at the Melbourne Magistrates' Court.

Homeless Law's lawyers represented Ali at the Special Circumstances List hearing, where the Court ordered an adjourned undertaking to be of good behaviour for 12 months, with the condition that Ali continue to see his treating GPs and follow their therapeutic recommendations. Homeless Law recently assisted Ali to finalise his good behaviour undertaking, and he expressed genuine relief at no longer having the burden of \$20,000 in fines weighing him down. Ali is now able to prioritise his health, maintaining safe housing and connecting to his local community.

**Client's name has been changed*

Through our work with Ali and other highly marginalised clients, we have consistently seen that once a person enters the fines system, it is difficult to exit and the subsequent process generates significant stress and hardship for

² See, eg, Justice Connect Homeless Law, *Melbourne don't criminalise homelessness* (March 2017) (available at: <https://justiceconnect.org.au/wp-content/uploads/2018/08/Justice-Connect-Submission-to-the-City-of-Melbourne-March-2017.pdf>).

³ For the definition of 'special circumstances' see, *Infringements Act 2006* (Vic) s 3.



individuals, along with burdening the court system, government agencies and support services. We also recognise that for many people experiencing homelessness, they are not in a position to seek help to deal with their fines, which makes them more likely to end up in court.

2.3 Consideration of consistency with Charter rights and the City of Melbourne's Municipal Public Health and Wellbeing Plan

The proposed smoke-free area and any enforcement action taken against those who smoke has the potential to effectively penalise the use of public spaces and circumstances of poverty, which is likely to significantly impact the Victorian community's culture of tolerance, respect and equality. This type of approach also appears inconsistent with the City of Melbourne's health and wellbeing priorities, which are set out in its Council Plan 2017-2021, to facilitate social inclusion, planning for the people and ensure that Melbournians are '*supported to find pathways out of homelessness and feel welcomed and included.*' We also note the significant success of the City of Melbourne's service-based responses to homelessness, which have achieved positive outcomes through close collaboration with frontline support services.

The Victorian *Charter of Human Rights and Responsibilities Act 2006* (Vic) (**Charter**) provides a framework for local councils in ensuring that any proposed laws or action taken are compatible with human rights, and in making sure that any limitations to those rights are reasonable or demonstrably justified. An enforced smoke-free zone in a section of the CBD that is used by many rough sleeping Victorians may have the effect of pushing these vulnerable people out to less safe or accessible parts of the city. In addition to isolating these vulnerable community members, this potentially limits the human right to freedom of movement protected under the Charter⁴ and may also limit the human rights to freedom of peaceful assembly and freedom of association.⁵

2.4 Pressure on interactions and resourcing for authorised officers

The role of authorised officers continues to be challenging, particularly given the increasing number of people experiencing homelessness in the CBD. Enforcing the proposed smoke-free area of Bourke Street mall may exacerbate these difficulties. If authorised officers are put in a position where there is pressure to enforce the smoke-free zone with people experiencing homelessness, this could lead to increased pressure and greater potential for conflict.

3 Proposal if the smoke-free area is implemented

If the City of Melbourne does implement the proposed smoke-free area, Homeless Law strongly advocates for appropriate guidelines and training for authorised officers, as well as clear communication and consultation with people who have lived experience of homelessness. We believe that communication and consultation has significant potential to increase the trust and confidence of the community, which would be key to the implementation of this potential smoking ban.

3.1 Guidelines and training for authorised officers to exercise discretion and consider human rights

As discussed above, the proposed smoke-free area is likely to disproportionately impact on people experiencing homelessness. If implemented, Homeless Law advocates that the Council should pursue a proportionate and balanced approach, which encourages authorised officers and other officials to use their discretion and respond appropriately to homeless people who are in public places.

As a signatory to the original 2006 *Protocol for People who are Homeless in Public Places*, the City of Melbourne understands the value of providing a framework and guidance for authorised officers to understand and respond appropriately to homelessness. A framework such as the Protocol is vital in providing practical, clear guidance to engage appropriately and effectively with people experiencing homelessness.

Ensuring that authorised officers are provided with a framework and guidelines such as the Protocol is vital to support them to exercise their discretion in a way that prevents homeless people entering the infringements system. Such

⁴ *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 12.

⁵ *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 16.



guidance can also help authorised officers to comply with their obligations under the Charter to make sure human rights are given proper consideration when making decisions.⁶

In addition to providing a framework and guidelines for authorised officers, providing training for authorised officers will provide important support and guidance. An example of a constructive approach to training involving Public Transport Victoria's commitment to running sessions for authorised officers on public transport, helping them to better understand and respond effectively to people experiencing homelessness, mental illness, family violence or substance dependence. These sessions featured the perspectives of consumers who had faced one or more of these circumstances and provided direct insights to the authorised officers.

These types of training sessions have the potential to improve authorised officers' job satisfaction and improve their dealings with highly vulnerable people. Homeless Law would be happy to work with the City of Melbourne and be involved developing appropriate guidelines or training for authorised officers.

3.2 Consultation and communication with people experiencing homelessness

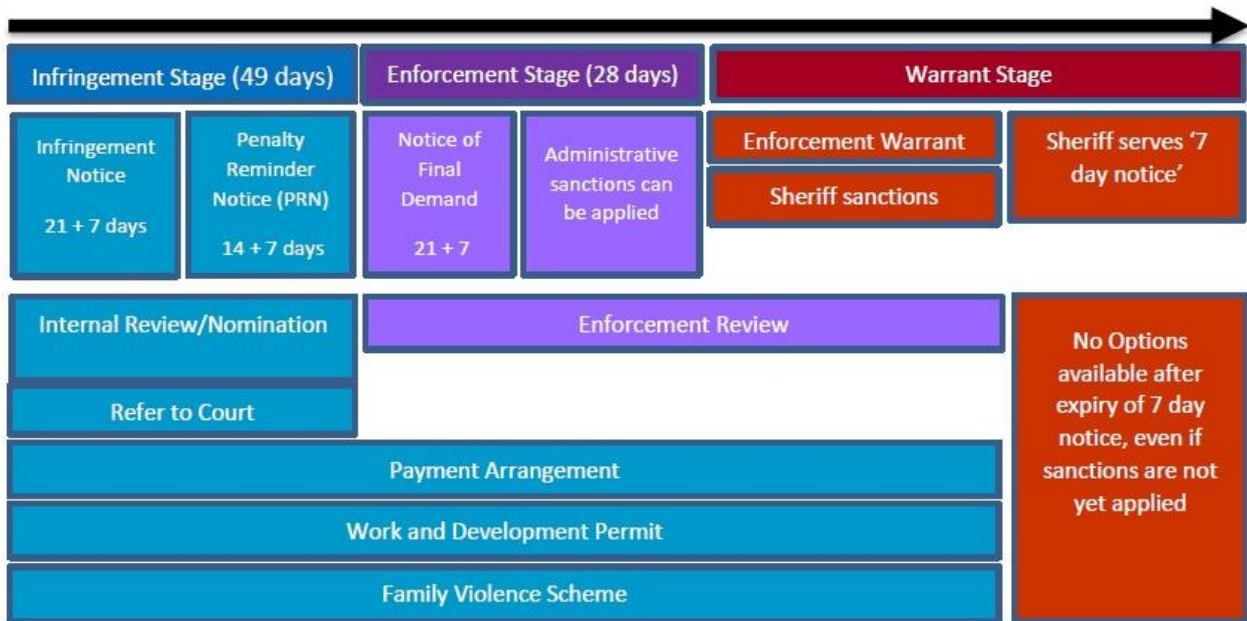
City of Melbourne will need to develop a clear consultation and communication strategy for people experiencing homelessness in relation to the proposed smoke-free area. Consultation with people experiencing homelessness around the implementation of this proposed ban on smoking will be vital to ensuring that it does not disproportionately impact on them. This may include discussions on the changes and related risks, the alternative options where smoking is allowed, and other considerations such as what geographical area the proposed smoke-free area should most appropriately include.

Failure to facilitate this communication will exacerbate the risk of people experiencing homelessness facing fines and penalisation for their disadvantaged circumstances.

⁶ Charter of Human Rights and Responsibilities Act 2006 (Vic) s 38.



Annexure 1 – Current infringements processes, timeframes and options



Mr Andrew Pell
Acting Senior Health Projects Coordinator
Health and Wellbeing
City of Melbourne
Council House 1
200 Little Collins Street, Melbourne, 3000

24 May 2019

Dear Mr Pell,

RE: Bourke St Smoke-Free Proposal & Consultation

Thank you for the opportunity to provide feedback via the online Smoke-free Business Survey on the City of Melbourne Website regarding the Smoke Free Proposal for Bourke Street.
(<https://participate.melbourne.vic.gov.au/smokefree/smoke-free-business-survey>).

Whilst Monash College supports the current smoke-free proposal in principle, we are seeking further information and assurance regarding the following issues:

- Details of additional measures to be provided to locations outside of the proposed smoke-free zone where smokers are likely to congregate such as:
 - installation of additional disposal options / bins to enable smokers to dispose of their cigarette butts appropriately, and
 - installation of additional security lighting, particularly in the various narrow alley ways that run off Bourke St. such as Latrobe Place, Royal Lane and Russell Lane.
- Details of support available to educate smokers on the requirements of the proposed smoke-free zone, including a grace period whilst the smoke-free zone is established?
- Details of signage to be installed to ensure smokers are aware of the existence of the proposed smoke-free zone and if these signs will be provided in multiple languages?
- Details of how the smoke-free zone will be enforced, including infringement fine amounts and the infringement dispute process?

We look forward to your reply in relation to the above items.

Regards



Mike Newnham
OHS Advisor
People & Culture Division
Monash College

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6 May 2019

Mr Justin Hanney
Chief Executive Officer
City of Melbourne
GPO Box 1603
Melbourne 3001 VIC

Via email: health@melbourne.vic.gov.au

Dear Mr Hanney,

Quit Victoria strongly supports the City of Melbourne's proposal to expand Melbourne's existing smoke-free outdoor areas by prohibiting smoking in the area of Bourke Street between Elizabeth Street and Russell Place (including the Bourke Street Mall).

Tobacco smoking remains the leading preventable cause of death and disease in Australia. Research has linked secondhand smoke exposure to a number of health conditions, including heart disease, chronic obstructive pulmonary disease (COPD), stroke and various forms of cancer. Secondhand smoke is particularly harmful to children and has been linked to sudden infant death syndrome (SIDS), lower birth weight and various forms of childhood cancer. Research confirms there is no 'safe' level of exposure to secondhand smoke.

We believe the proposed expansion of Melbourne's smokefree areas will make a positive contribution to improving the health, wellbeing and amenity of residents, workers and visitors to this space. Smokefree laws can also provide motivation for existing smokers to quit, while supporting former smokers to remain smoke-free. We note that smokefree public places are linked to the adoption of smokefree homes, which in turn are associated with an increase in successful quit attempts.

In the event that the proposal is implemented, we encourage the City of Melbourne to ensure that sufficient resources are dedicated to promoting awareness of the new smokefree area and to enforcing the new law.

Once again, we commend the City of Melbourne for demonstrating strong leadership and commitment to the health and wellbeing of Victorians through this proposal. We are pleased to support this initiative as part of the City of Melbourne's wider smokefree areas project.

Should you require any further information about secondhand smoke or the benefits of smokefree outdoor areas, please do not hesitate to contact Claire Grace, Legal Policy Advisor at Quit Victoria on 9514 6436 or email claire.grace@cancervic.org.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Sarah L. White".

Sarah L. White, PhD
Director
Quit Victoria

Part B of Schedule 2 to the *Activities Local Law 2019* (page 40)

PART B – GUIDELINES FOR PRESCRIBING SMOKE FREE AREAS

When determining whether to *prescribe* a *smoke free area* for the purposes of clause 3A.3 of this Local Law, *Council* must have regard to the following factors:

1. The size of the proposed *smoke free area*.
2. The opinions of any *Person* who is the *Owner* or *Occupier* of any part of the proposed *smoke free area* or the area immediately adjoining the proposed *smoke free area*.
3. The proximity of the proposed *smoke free area* to a *public place*, part or all of which is not in a *smoke free area*.
4. The extent and outcome of any public consultation on the proposed *smoke free area*.
5. Any benefits to the community which would be achieved by *Council prescribing* the proposed *smoke free area*.
6. Any detriments to the community which would be caused by *Council prescribing* the proposed *smoke free area*.