

To whom it may concern,

The Australian Democracy Network is pleased to provide feedback on the Draft Council Plan Implementation Program 2026-29 - Healthy, Safe, Clean and Connected Communities. Specifically, our feedback relates to the following proposed deliverable 2026-29:

*Advocate to the State and Federal Governments for a coordinated review across all levels of government to establish a framework that safeguards the right to protest while reducing disruption to the functioning of the city and maintaining a safe environment for the community*

The Australian Democracy Network works with civil society and communities to create a healthy Australian democracy that puts people and the planet first. We bring people and organisations together to campaign for the changes that make our democracy more fair, open, participatory, and accountable. We have worked with 30+ Victorian civil society organisations on protest-related matters, including the Victorian Council of Social Service, the Federation of Community Legal Centres, Victorian Trades Hall Council and the Victorian Council of Churches. The civil society organisations we work with are concerned about increasing measures to restrict protest in Victoria, including through the suggestion that authorisation systems are introduced. In October 2024, nineteen civil society organisations wrote to the Victorian Premier expressing their opposition to a permit system for protest.<sup>1</sup> In March 2025, twelve civil society organisations wrote to the Premier regarding proposed protest restrictions including bans on masks, restricted protest zones around places of worship, and additional police powers in relation to attachment devices, recommending that these changes not be introduced.<sup>2</sup>

This submission considers the impacts of protests in Melbourne City Council area on the functioning of the city and the maintenance of a safe environment for the community, the existing legal framework governing protests, the functioning of authorisation systems for protests in other jurisdictions and the impacts of increased police powers on marginalised communities.

On the basis of this analysis, we conclude that the establishment of a new framework surrounding the right to protest does not appear to be a well-suited measure for ensuring city functioning and community safety, particularly if it takes the form of an authorisation regime or other protest restrictions. We recommend that the Council works with Victoria Police to ensure vilifying or violent conduct in the City is appropriately addressed using the extensive powers already available to Victoria Police to address such conduct and that protests are policed in line with the responsibilities public bodies hold under the Charter of Human Rights and Responsibilities Act 2006.

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<sup>1</sup> <https://australiandemocracy.org.au/victoria-protest-permits-letter>

<sup>2</sup> <https://australiandemocracy.org.au/vic-protest-laws-letter>

## Impact of protests on Melbourne City Council area

Protest is an important tool of community expression and participation, helping to create a more connected, active and politically informed community. Ultimately, protests also help deliver policy outcomes that make our communities and planet better. International legal mechanisms governing civil rights and domestic judgments have recognised that protest by nature involves disruption to ordinary life and that this in itself does not justify protest restrictions.

Several Councillors<sup>3</sup> and the Victorian Chamber of Commerce<sup>4</sup> have raised concerns that protests in the City of Melbourne have led to a decrease in community members coming into the city and that this has resulted in an effect on businesses. However, pedestrian count data analysed by Council staff shows that, in their words, ‘there is no clear evidence that Sunday protests have decreased counts along the protest route’.<sup>5</sup> Analysis by the staff also shows that the pedestrian data shows that Sunday foot traffic has not decreased compared to Saturday, and that Sunday protests along the Swanston Street path do not show decreased foot traffic relative to control group sensors.

There does not appear to be clear evidence that protests are reducing foot traffic in the City of Melbourne. The impacts cited by Councillors<sup>6</sup> have included anecdotal conversations with business owners and one church group, but there does not appear to be any data or systematic analysis showing that the protests reduce visitors to the City of Melbourne or negatively impact on business revenue.

A series of neo-Nazi rallies in the City of Melbourne have raised justifiable concerns in the community due to their calls for racialised violence and the recent assault carried out on Camp Sovereignty. The advocacy of racial hatred and the use of violence has no place in the tradition of protest and are not protected under national and international law. However, Victoria Police have a suite of powers to address vilifying speech and conduct, and to intervene when groups attempt to use public space for the promotion of racial hatred - more on this below. Placing restrictions on protests as a whole is not an appropriate way to address racialised violence and hatred. Increased protest restrictions instead place groups such as First Nations communities and queer communities at greater risk of police violence and interfere with the capacities of communities to respond to racialised violence through coming together in solidarity gatherings.

## Existing legal framework governing protests

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<sup>3</sup><https://www.abc.net.au/news/2025-08-20/city-of-melbourne-councillors-vote-amendment-protest-disruption/105674980>

<sup>4</sup> <https://www.victorianchamber.com.au/news/we-cannot-let-our-great-city-become-the-protest-capital>

<sup>5</sup> Appendix A, Council staff response to query regarding pedestrian foot counts

<sup>6</sup><https://www.abc.net.au/news/2025-08-20/city-of-melbourne-councillors-vote-amendment-protest-disruption/105674980>

Victoria Police have a wide range of powers available to them in relation to protests.

They can:

- Declare a 'designated area', meaning an area within which police can:
  - Stop and search any person and anything in that person's possession, for any reason<sup>7</sup>
  - Direct a person to remove a face covering and/or to leave the area<sup>8</sup>
  - Direct a person to leave the designated area if police reasonably believe the person intends to engage in an 'affray or violent disorder'<sup>9</sup>
- Move on an individual who is engaging in a breach of the peace<sup>10</sup>
- Arrest and charge a person who is engaging in affray or assault
- Arrest and charge any person masking with unlawful intent<sup>11</sup>

Victoria Police also have a wide range of powers to address vilifying conduct.

They can:

- Arrest and charge a person inciting hatred, serious contempt, revulsion or severe ridicule against a protected attribute such as race, sex, gender and sexual orientation<sup>12</sup>
- Arrest and charge a person for threatening physical harm or property damage against a person or group based on their protected attribute<sup>13</sup>
- Arrest and charge a person for conduct that would be reasonably likely to be considered to be hateful or seriously contemptuous of or reviling or severely ridiculing a person or group of persons based on their protected attribute<sup>14</sup>
- Arrest and charge a person for engaging in public conduct that is likely to incite hatred against, serious contempt for, revulsion towards or severe ridicule of a person or group of persons based on their protected attribute<sup>15</sup>

Sections 80.2H and 80.2HA of the federal Criminal Code make it a criminal offence to display prohibited symbols or make the Nazi salute.

The existing legal framework gives police the power to apprehend and prosecute a wide range of vilifying behaviours, move on individuals who are causing a breach of the peace or intending

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<sup>7</sup> Control of Weapons Act 1990, s10G

<sup>8</sup> Control of Weapons Act 1990, s10KA

<sup>9</sup> Control of Weapons Act 1990, s10KA

<sup>10</sup> Summary Offences Act s6

<sup>11</sup> Summary Offences Act s49C

<sup>12</sup> Crimes Act 1958, s195N

<sup>13</sup> Crimes Act 1958, 195O

<sup>14</sup> Equal Opportunity Act 2010, s102D

<sup>15</sup> Equal Opportunity Act, s102E

to engage in affray, direct persons to remove face coverings and stop and search individuals. The existing legal regime therefore allows police a variety of mechanisms to address seriously disruptive, violent or hateful conduct that may occur during or in relation to a public gathering.

### **Authorisation systems for protest**

There have been suggestions that an authorisation system for protests is necessary to regulate protests occurring in the City of Melbourne. Authorisation systems function in some jurisdictions around Australia, with protests able to legally walk on roads if they give police advance notice of the protest. However, Victoria Police have undertaken an analysis of the need for a similar system in Victoria and concluded that “it’s not worth bringing in”.<sup>16</sup> Premier Allan has also stated that a permit system “runs the risk of being a very lengthy, unwieldy, time-consuming process for both the police force and the court system and it does not give a guarantee that each and every event would be undertaken peacefully”.

The authorisation system in NSW has not functioned to reduce the incidence of protests in the Sydney CBD. Pro-Palestine rallies have been occurring in Sydney CBD weekly October 2023-February 2025, and monthly since then. NSW Police have tried to take organisers of protests in Sydney CBD to court to deny them authorisation four times since 2023. None of these cases have resulted in a protest being deemed unauthorised and each protest has proceeded in Sydney CBD.

Evidence also shows that authorisation systems result in discriminatory impacts, creating a higher burden for First Nations and migrant or non-English speaking background groups in particular, as well as posing a barrier to participation for grassroots groups with less funding and infrastructure.

In January 2024, First Nations justice group Uprising of the People were charged with an \$8,000 “traffic control” fee five days out from a planned Invasion Day rally in Darwin city.

A spokesperson for the local council stated that “any event or activity held within the Darwin municipality that is likely to disrupt traffic...requires traffic management in order to apply for a permit.” Uprising of the People wrote on social media that the police were not “voluntarily offering their protection to allow this protest to happen safely”.

The group were forced to crowdfund \$8000 for traffic control in order to obtain a protest permit, representing a significant barrier to their legally-protected right to protest.

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<sup>16</sup><https://www.abc.net.au/news/2025-07-28/victoria-police-chief-commissioner-mike-bush-first-interview/105577152>

The Victorian Aboriginal Legal Service has rejected the need for a permit system, stating that “a permit system would impact many groups in Victoria who have a long history of peaceful protest, including Aboriginal and Torres Strait Islander communities”.<sup>17</sup> Associate Professor Crystal McKinnon said the proposed permit system would be “a return to the mission days,” where police and authorities could control “where Aboriginal people can go and who we can see”.<sup>18</sup>

Given the shared conclusion between Victoria Police and the Premier that they are not appropriate, evidence of their lack of impact on protest frequency and their capacity to function in a discriminatory way, permit systems do not appear to be a well-suited measure for ensuring community safety or city functioning.

### **Impacts of increased police powers**

The introduction of any expanded police powers around protests could increase the likelihood that community members participating in protest would be searched, detained or subject to excessive use of force by police. Increased interactions with police and the justice system are particularly harmful to communities that face systemic inequality, including First Nations people, people with disabilities and multicultural communities.

Victoria Police are currently facing several class actions in relation to excessive use of force during protests.<sup>19</sup> Police have deployed OC (oleoresin capsicum) spray in seventeen incidents at protests over the last five years, with instances of protestors being sprayed while complying with police directions and spray being directed at protestors’ faces point blank, against Victoria Police use of OC spray guidelines.<sup>20</sup> These incidents have impacted children as young as eight<sup>21</sup> and people with disabilities.<sup>22</sup>

A total of 32 incidents of excessive use of force by Victoria Police against protestors have been recorded in the last five years, with injuries caused including soft tissue damage, a perforated ear drum, bruising and scratches.<sup>23</sup> Police have used tear gas, flash bang grenades and kinetic impact projectiles against protestors on seven occasions.<sup>24</sup>

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<sup>17</sup> <https://www.vals.org.au/vals-supports-allan-governments-rejection-of-protest-permits/>

<sup>18</sup> <https://nit.com.au/30-03-2024/10550/yet-another-knee-jerk-reaction-vals-support-victorian-governments-rejection-of-protest-permits>

<sup>19</sup> <https://www.theguardian.com/australia-news/2025/feb/17/victoria-police-pepper-spray-trial-class-action-melbourne-mining-conference-ntwnfb>;

<https://www.abc.net.au/news/2024-10-25/victoria-police-officer-alleged-assault-protest-lawsuit/104477806>

<sup>20</sup> <https://australiandemocracy.org.au/indefenceofdissentreport>, pp.31 -37; Appendix A

<sup>21</sup> <https://www.vice.com/en/article/police-pepper-spray-children-palestine-rally/>

<sup>22</sup> <https://australiandemocracy.org.au/indefenceofdissentreport>, pp.31 -37; Appendix A

<sup>23</sup> <https://australiandemocracy.org.au/indefenceofdissentreport>, pp. 31-37; Appendix A

<sup>24</sup> <https://australiandemocracy.org.au/indefenceofdissentreport>, pp. 31-37; Appendix A

Given the existing high rates of excessive uses of force at protests and the impacts this is having on community members, giving police additional powers to intervene in protests is not an appropriate measure.

### **Conclusion and recommendations**

On the basis of this analysis, we conclude that the establishment of a new framework surrounding the right to protest does not appear to be a well-suited measure for ensuring city functioning and community safety, particularly if it takes the form of an authorisation regime or other protest restrictions

We recommend that the Council works with Victoria Police to ensure vilifying or violent conduct in the City is appropriately addressed using the extensive powers available to Victoria Police to address such conduct and that protests are policed in line with the responsibilities public bodies hold under the Charter of Human Rights and Responsibilities Act 2006.

## Appendix A: Council staff response to query regarding pedestrian Obtained via Cr Dr Olivia Ball, September 4 2025

### Response:

There is no clear evidence that Sunday protests have decreased pedestrian counts along the protest route. We have analysed using two groups i.e. a Control group of non-protest sensors vs Protest groups (~ Swanston Street).

### Summary:

- No clear discontinuity is observed in the trend for Saturdays and Sundays on the protest route, or in the control group, after October 2023.
- Sunday protests along the Swanston Street path do not show decreased foot traffic relative to the control group sensors.
- Along Swanston street, Sunday foot traffic (when protests generally occur) has not relatively decreased compared to Saturday along the same path and time.

### Data Source

- The data comes from the Pedestrian Counting system: [City of Melbourne - Pedestrian Counting System](#)
- Pedestrian volumes between 1<sup>st</sup> of January 2023 and 24<sup>th</sup> of August 2025
- Pedestrian counts taken from following sensors:

| sensor_id | sensor_description                   | latitude | longitude | sensor_group          |
|-----------|--------------------------------------|----------|-----------|-----------------------|
| 30        | Lonsdale St (South)                  | -37.811  | 144.967   | Control               |
| 48        | QVM-Queen St (East)                  | -37.806  | 144.959   | Control               |
| 79        | Flinders St (South)                  | -37.818  | 144.966   | Control               |
| 4         | Town Hall (West)                     | -37.815  | 144.966   | Protest (Swanston St) |
| 19        | Chinatown-Swanston St (North)        | -37.812  | 144.966   | Protest (Swanston St) |
| 45        | Little Collins St-Swanston St (East) | -37.814  | 144.966   | Protest (Swanston St) |

