

### 3 Presentation of officer reports

#### 3.1 Aged Services Reform

##### Executive Summary

###### Purpose

The purpose of this report is to seek a Council resolution to confirm the “in principle” Council resolution made on 11 April 2022 in relation to the future of Council’s aged care services. The 11 April 2022 report is at **Attachment 1**.

To ensure a smooth and well managed transition for all clients, the proposed date for the conclusion of the transition of in-home Commonwealth Home Support Program (CHSP) services (domestic assistance, personal care, respite care, meal preparation, property maintenance and property modifications) to the alternative provider as nominated by the Australian Government is recommended to be changed from 30 June 2022 to 31 July 2022. The Australian Government has advised they would support Council continuing to deliver services for an additional period of one month for client transition purposes, given the original timelines for transition has been reduced due to the Fair Work Commission (FWC) hearing and additional time for consultation.

###### Background

At the Council meeting on 11 April 2022, Council resolved on an “in principle” basis to:

1. Transition the in-home CHSP services of domestic assistance, personal care, respite care, meal preparation, property maintenance and property modifications, by 30 June 2022 to the Australian Government’s nominated provider.
2. Work with the Australian Government and *mecwacare* to ensure the smooth transition of Council’s current in-home CHSP clients by 30 June 2022.
3. Support any client not wishing to transition to *mecwacare* to transition to an alternative provider by 30 June 2022.

The resolution was “in principle” to allow for the resolution of a dispute between Council and the Australian Services Union (ASU) about compliance with the consultation provisions in Council’s enterprise agreement at the FWC.

Following a FWC hearing, the FWC instructed (Decision of 3 May 2022, [2022] FWC 998) Council to provide additional information relating to the proposed change to affected employees and their representatives by 9 May 2022 and then afford the affected employees or their representatives a period until 23 May 2022 to provide a response. By incorporating feedback from employees (within this report) and their representative (**Attachment 2**), Council has now complied with all aspects of the FWC Order.

The 11 April 2022 Council report at **Attachment 1**, provides a comprehensive background to this report.

## Key Issues

### **1. Council's standard of service delivery**

The ASU feedback suggests that a council run aged care service is superior on a number of levels. Councils, who provide CHSP services, are no different to any other provider, receive no special treatment from the funding body, are bound by the same program (quality and safety) and contractual requirements, and are subject to the same audit against the Aged Care Quality Standards. Likewise, councils, like others within the aged care industry and health sector, are not immune to the workforce shortages, challenges and turnover occurring throughout the State and country, and have difficulty in managing the available workforce.

There are currently at least 194 providers delivering in-home aged care services within the municipality. These are made up of a least 24 Australian Government funded CHSP providers and over 170 private providers. Council is not unique in its service offering and quality of service, and there are other providers able to deliver high-quality integrated services to meet the needs of older people. Since the Australia Government assumed responsibility for aged care in 2016 (this was previously a Victorian Government responsibility), Local Government in Victoria is no longer the sole provider of funded services in Boroondara. This has resulted in a 58% decline over five years in clients receiving services from the City of Boroondara. This demonstrates Boroondara residents actively chose to receive in-home aged care services from other providers. This trend has increased over these five years.

### **2. Other councils' business models**

The ASU has referred to the business models of other councils, which have been developed. Whilst Council cannot extensively comment on their models and decisions, it is important to note that each council has a different operating context, have developed their services over a number of years and the profile of agencies delivering CHSP services within their community is not identical. No council aged care service or local government area or context is the same.

There are now 28 councils which have concluded they are unable to operate as a sustainable commercial business under the consumer-led Support at Home Program and the Municipal Association of Victoria has recently commented publicly in the media (Herald Sun article, 'End of an era: regional councils exit in-home aged care', 5 May 2022) that their view is it is surprising that councils in Victoria have been able to keep operating in a rapidly changing environment which will be fully commercialised on 1 July 2023.

### **3. Competitive Neutrality Policy**

The assertion of the ASU that the National Competition Policy (NCP) is irrelevant in these circumstances, is incorrect. The NCP and the Competitive Neutrality Policy would apply to the provision of aged care services by Council under the individualised model of Support at Home as Council's aged care services are a 'significant business activity' to which NCP applies. Hence, were Council to remain a provider beyond 30 June 2023, Council would be required to implement Competitive Neutrality Measures, most likely in the form of a public interest test to address its competitive advantage, created by rate payer subsidies, to be able to offer competitive pricing in a commercial industry.

Given there are some 170 private providers and 25 Australian Government funded providers, there is a sufficiently broad range of service providers and services available for potential users of the Support at Home that will be able to cater for their needs, hence there is no detriment to the community and as such Council cannot establish a policy position that can be tested through a public interest test. Simply, this means Council would have to charge cost reflective pricing which would be cost prohibitive to users, and, in particular, would be inaccessible for vulnerable and financially disadvantaged people.

#### **4. Skills base and service delivery**

Council disagrees with the ASU assertion that ‘under the reforms councils would be able to choose which levels of services it provides’.

The Royal Commission into Aged Care Quality and Safety (the Commission) recommends (Recommendations 31 and 35) providers of the Care at Home category of services (including domestic assistance, personal care, and property maintenance) within the new aged care system would need to provide a coordinated and integrated range of care and supports across the following domains, and where the client has multiple providers, the ‘lead’ provider would be required to provide the Care Management:

- care management - Coordination with multiple providers, connect to assistance outside of aged care, conduct check-ins
- Clinical oversight - monitor care needs, coordinate with the health system and conduct check ins.
- living supports: cleaning, laundry, preparation of meals, shopping for groceries, gardening and home maintenance
- personal, clinical, enabling and therapeutic care: nursing care, allied health care and restorative care interventions
- palliative and end-of-life care.

Council does not have the skills base to provide a coordinated and integrated range of care as recommended by the Royal Commission, nor does it have the expertise to ‘lead’ service delivery across multiple agencies or provide clinical oversight. Council does not require carers to be proficient or trained in areas such as: mental health first aid, health records training and medication management. These and likely other areas of skill would reasonably be expected to be required in circumstances where there are clients with more complex care needs. Additionally, it could be reasonably anticipated that a broader staffing profile would be required including nursing and occupational therapy disciplines.

#### **5. Client engagement**

Council does not agree with the assertion by the ASU that appropriate consultation with clients and family members did not occur.

At a Council meeting on 29 November 2021, Council resolved to consult with clients and affected staff on a proposed staged transition of select CHSP services to an alternative provider as nominated by the Australian Government. A comprehensive three week consultation with all clients was then undertaken between 22 February 2022 and 7 March 2022. Capturing and sharing feedback with Council, prior to a formal decision on the proposal, was essential to ensure councillors could include this in their consideration of the proposal.

All clients in receipt of Council's in-home CHSP services were individually consulted on the proposal to transition their services to *mecwacare*, the entity nominated by the Australian Government should Council resolve to no longer provide these services. The details of the consultation are contained within the body of this report.

## 6. Worker conditions

The ASU refers to the variable employment conditions across the sector. However, all Australian Government-funded CHSP providers are bound by the same *Service Provider Responsibilities* as outlined in the 'Commonwealth Home Support Programme - Program Manual 2020–2022'.

These include quality audits and employee training:

- Quality audits
  - o The Aged Care Quality and Safety Commission undertakes all quality reviews of aged care services provided in the community, including the CHSP service providers (pg. 72).
  - o The Aged Care Quality Standards support service providers to maintain the high quality of service delivery expected by all providers of aged care (pg. 72).
- Service providers are required to meet staffing and training requirements under the Standards (pg. 74).

Whilst many would view councils as providing favourable terms and conditions for those engaged to deliver services in line with the CHSP, this does not negate the challenges presented to Council, and importantly our clients, with respect to the changes associated with the introduction of the Support at Home Program by the Australian Government.

The Aged Care industry is underpinned by the terms and conditions set by Aged Care Award 2010. This industry wide instrument sets the minimum terms and conditions of employment for those engaged within the Aged Care industry.

It is not appropriate for Council to comment on the rates of pay by other organisations, however it is worth noting that many Not-for-Profit organisations offer additional favourable terms that Council cannot, such as salary packaging concessions enabling employees within the sector to access a more competitive take home pay.

## 7. Financial viability

The ASU state "it is disingenuous for Council to say it cannot afford to continue providing aged care services for financial reasons". Council is not considering this proposal for financial reasons and has never stated "affordability" as a reason for proposing to exit from some CHSP services. The reasons are solely associated with the new, competitive marketplace model of in-home aged care being introduced by the Australian Government and the significant obstacles Council would face under the new model.

With less than 9% of older people living in Boroondara accessing the CHSP services Council is proposing to exit, Council is committed to its 'Add life to your years – Healthy ageing in Boroondara plan' for all residents who wish to participate by ensuring this proposal does not impact on the community-based aged care programs and services provided by Council. Council will continue to focus on and provide services unique to local government, and which are available to a far greater number of older people than those receiving CHSP services from Council. It is important to note Council's Active Ageing programs are not offered by other providers whereas CHSP services are offered by many providers in Boroondara.

### **Other key issues arising since 11 April 2022 Council report**

- Delaying the transition until 1 July 2023 will not benefit other local organisations, such as BASS Care and Samarinda, who presented to Council on 11 April 2022, as they are not currently registered to deliver the services. Importantly, Council will not be able to support a transfer of clients at 30 June 2023 to other organisations as the sector will be fully commercialised. There is also no guarantee these organisations would be able to secure registration with the Australian Government for the CHSP services prior to 30 June 2023 and that even if they were, there is also no guarantee the Australian Government, through its own selection processes, would nominate them as an alternative provider to Council's services. It is solely a decision of the Australian Government, and Council has no influence over who the Australian Government nominates as an alternative provider and the Australian Government has nominated *mecwacare* for the provision of CHSP services in 2022-23. It should be noted Council does not have a service agreement for 2022-23 with the Australian Government.
- Officers have identified an opportunity for Council to support residents who may have enquiries about the introduction of the Support at Home program during 2022-23 as part of Council's active ageing services. This support would entail the provision of information about the introduction of the Support at Home program using Council's communication channels and individual support to residents who may be seeking clarity about navigating the changing national system and/or information relevant to their individual needs.
- All feedback from employees and the ASU provided during the extension of time granted by the FWC, has been considered in the development of this report. However, after due consideration there is no change to the officer's recommendation except that due to impact of the FWC process on the original timelines, it is recommended the transition to the alternative provider, as nominated by the Australian Government, is delayed by one month to 31 July 2022. This allows for sufficient time to support our clients to transition successfully while maintaining their continuity of care. The draft 2022/23 Council Budget currently provides for business as usual therefore there is no significant budget impact in extending the transition date for the service until 31 July 2022. Council has consulted with both staff and the ASU concerning the extension of an additional month. Two staff made contact that related to their individual circumstances, which will be accommodated to the extent possible.

## Officers' recommendation

That Council resolve to:

1. Transition the in-home CHSP services of domestic assistance, personal care, respite care, meal preparation, property maintenance and property modifications, by 31 July 2022 to the Australian Government's nominated provider.
2. Work with the Australian Government and *mecwacare* to ensure the smooth transition of Council's current in-home CHSP clients by 31 July 2022.
3. Support any client not wishing to transition to *mecwacare* to transition to an alternative provider by 31 July 2022.
4. Continue to support current clients, throughout the transition year (2022/23), to navigate the Aged Care system to ensure they are able to access the supports and services which best meet their needs.

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**Responsible director:** Carolyn McClean, Director Community Support

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## 1. Purpose

The purpose of this report is to seek a Council resolution to confirm the “in principle” Council resolution made on 11 April 2022 in relation to the future of Council’s aged care services. The 11 April 2022 report is at **Attachment 1**.

However, to ensure a smooth and well managed transition for all clients, the proposed date for the conclusion of the transition of in-home Commonwealth Home Support Program (CHSP) services (domestic assistance, personal care, respite care, meal preparation, property maintenance and property modifications) to the alternative provider as nominated by the Australian Government is recommended to be 31 July 2022. The Australian Government has advised they would support Council continuing to deliver services for a period of one month for client transition purposes, given the original timelines for transition has been reduced due to the Fair Work Commission (FWC) hearing and additional time for consultation.

## 2. Policy implications and relevance to community plan and council plan

### ***Boroondara Community Plan (BCP) 2021-31***

The relevant strategic objectives of the BCP are:

#### Strategic Objective 1

Community services and facilities are high quality, sustainable, inclusive and strengthen resilience.

- Strategy 1.2 has the objective to deliver, facilitate and advocate for services and programs which are accessible and affordable.

#### Strategic Objective 7

- Ensure decisions are financially and socially responsible through transparent and ethical processes.

### ***Add life to your years - Healthy Ageing in Boroondara***

Council’s commitment to an age-friendly future:

- Council is committed to ongoing engagement with our community and will always endeavour to represent the diverse views of our community in our policy and planning process.
- We will strive to be responsive to the changing needs of over 55s in Boroondara to ensure the community has every opportunity to Add Life to their years.

## 3. Background

At the Council meeting on 11 April 2022, Council resolved on an “in principle” basis to:

1. Transition the in-home CHSP services of domestic assistance, personal care, respite care, meal preparation, property maintenance and property modifications, by 30 June 2022 to the Australian Government’s nominated provider.

2. Work with the Australian Government and *mecwacare* to ensure the smooth transition of Council's current in-home CHSP clients by 30 June 2022.
3. Support any client not wishing to transition to *mecwacare* to transition to an alternative provider by 30 June 2022.

The resolution was "in principle" to allow for the resolution of a dispute between Council and the Australian Services Union (ASU) about compliance with the consultation provisions in Council's enterprise agreement at the FWC.

Following a FWC hearing, the FWC ordered (Decision of 3 May 2022, [2022] FWC 998) Council to provide additional information relating to the proposed change to affected employees and their representatives by 9 May 2022 and then afford the affected employees or their representatives a period until 23 May 2022 to provide a response. By incorporating feedback from employees (within this report) and their representative (**Attachment 2**), Council has now complied with all aspects of the FWC Order.

The 11 April 2022 Council report at **Attachment 1**, provides a comprehensive background to this report. This report considers and responds to the feedback received in the additional consultation period required by the FWC up until 23 May 2022.

#### 4. Outline of key issues/options

To support Council in their decision making the following context is provided which informed officers' response to the ASU's feedback (**Attachment 2**). This context is meant to be read in conjunction with the ASU's feedback provided on 23 May 2022 (**Attachment 2**):

##### ***Response to 'Outline'***

The ASU feedback suggests that a council run aged care service is superior on a number of levels and that a small number of councils have different operational models that help them to work within the consumer direct care model. The fact is Council has always prided itself on providing a well-regarded, high-quality service to residents eligible for CHSP services, however, there are now at least 24 other Australian Government funded providers and over 170 private providers also providing these services within Boroondara. As aged care is the responsibility of the Australian Government to fund and administer, it is their responsibility to ensure aged care services are available and affordable for all eligible citizens, no matter where they live or what their socio-economic status is. Councils, who provide CHSP services, are no different to any other provider, receive no special treatment from the Australian Government, are bound by the same program (quality and safety) and contractual requirements, and subject to regular audit.



Council is not unique in its service offering and quality of service, and other providers are already able to provide services at a lower cost than Council, due to Council's higher overheads. The introduction of a consumer-led model on 1 July 2023 will result in Council being unable to compete on cost compared to other providers. Furthermore, since the introduction of providers other than Council, there has been a 58% decline over five years in clients receiving services from Boroondara Council. This demonstrates Boroondara residents actively chose to receive in-home aged care services from other providers than Council and this trend has only increased over these five years.

It is acknowledged aged care clients have a preference to be assigned a regular carer, and that all providers, including Council, endeavour for this ideal outcome. The reality is councils are not immune to the workforce shortages occurring throughout the national economy and are having to manage this challenge in the same way as other providers by flexibly managing the available workforce.

As a result of the significant changes occurring to the delivery model and funding of aged care in Australia, it is incumbent on every council to assess its aged care service offering. While a minority of councils have historically provided in-home services to clients with complex and high needs clients through the provision of packages, this is not the majority. One of the examples cited in the ASU's feedback is the City of Kingston's model. This model involves delivering case management and packages, however this commenced prior to the amalgamation of local government in Victoria by the former City of Moorabbin in the early 1990's. This council now has over 30 years' experience in delivering integrated aged community care, has built systems, an organisational structure which accommodates a range of professionals to be able to ensure appropriate duty of care is provided to clients with complex and high needs and is a very well-established provider offering a broad range of community care services. In addition, the City of Kingston provided residential aged care, both high and low care with specific dementia facilities in the past, further demonstrating the many years this council has in providing specialist, complex aged care. The City of Boroondara is obviously operating in a vastly different context when compared to the expertise, resources and skill base of a council which has over 30 years in the provision of integrated and specialist aged care, which is the model of the **Support at Home** Program. However, this does not exempt any councils from having to navigate the challenges put forward by the National Competition Policy if they wish to remain in the service.

Each council has their own specific circumstances to consider in relation to the model of provision of care which relates to their historical provision as well as the context of the profile of provision of aged care in each local government area. Some local government areas have many providers who provide integrated aged community care for all levels of client needs and complexity, such as Boroondara, whereas other council areas may not, which would need to be considered as each council develops their position regarding the Home Support Program. While similar, no council aged care service or local government area is the same.

The Municipal Association of Victoria has recently commented publicly in the media (Herald Sun article, 'End of an era: regional councils exit in-home aged care', 5 May 2022) that their view is it is surprising that councils in Victoria have been able to keep operating in a rapidly changing environment which will be fully commercial on 1 July 2023. The MAV President, David Clark is quoted as saying:

*"Many councils had done a great job of offering in-home aged care services for decades, but felt they now had to exit the sector because their services were no longer "viable" under the federal government's new funding model."*

*"I would be surprised if there's more than 20 per cent of the (council) sector still in the business (after 2024)"*

Following the Royal Commission into Aged Care Quality and Safety, the Australian Government announced aged care providers would be funded on a fee-for-service model, depending on the number of services they supplied to each of their clients, rather than being paid through block grants or subsidies. Those changes are due to take place by 1 July 2023.

Cr Clark said *"many councils didn't have the "scale" to compete with larger providers. Councils also often paid their workers higher than aged care industry award rates and were no longer allowed to subsidise the cost of their services to residents due to national competition rules, which meant the sums no longer added up."*

There are now 28 councils which have concluded they are unable to operate as a sustainable commercial business under the consumer-led Support at Home Program.

Put simply, Council cannot continue to provide the current suite of in-home services under the new model due to:

1. The subsidy which Council currently pays towards the operational costs of CHSP will be seen as anti-competitive in an open market and in breach of the National Competition Policy (NCP).
2. Officers have assessed the full cost of the provision of services, without the provision of a Council subsidy, which would be charged by to clients by Council and the cost to clients would not be competitive in relation to other providers.
3. The suite of in-home services Council currently provides are the basic entry level aged care services. Council does not have the capacity nor the expertise or skill base to deliver the range of integrated services expected to be available to clients, regardless of level and complexity of care needs under the new Support at Home program.

### ***Response to 'Competitive Neutrality Policy'***

The assertion of the ASU that the National Competition Policy (NCP) is irrelevant in these circumstances, is incorrect. The NCP and the Competitive Neutrality Policy would apply to the provision of aged care services by Council under the individualised model of Support at Home as Council's aged care services are a 'significant business activity' to which NCP applies. Hence, Council must consider implementing Competitive Neutrality Measures (**CN**

**Measures)** to offset its competitive advantage, created by ratepayer subsidies, to be able to offer competitive pricing in a commercial industry.

Competitive Neutrality Measures are measures that government entities can implement to replicate, to varying degrees, private sector business circumstances. CN Measures seek to deal with the resource imbalance between the public and private sectors to achieve a situation where government or private ownership is neutral in its effect on competition.

There are three CN Measures available to Council, being cost-reflective pricing, corporatisation and commercialisation. Corporatisation and commercialisation can be complex and resource-intensive and are rarely used in the local government context.

Accordingly, cost-reflective pricing is the CN Measure most commonly adopted by councils and, given the nature of the aged care services provided by Council, is also the CN Measure that is best suited to addressing Council's competitive advantage in the present circumstances.

The objective of cost-reflective pricing is to determine the competitive neutrality adjusted cost of the relevant activity, by ensuring that the prices charged for goods and services take account of both actual and notional costs. A pricing structure can then be adopted that reflects the full cost apportioned to the business activity. In Council's case, the costs attributed to delivering services, and in this case aged care, will be higher than its competitors due to labour costs. This is true of local government generally, since Enterprise Agreements are more generous than those applied in the private sector. This means that, if Council charged full cost reflective pricing, it would be uncompetitive with other providers as well as being inaccessible for many clients. To be able to lower fees charged to clients to become competitive with the private sector, Council would have to subsidise the cost of providing the services and therefore undercut the prices of its competitors. In this case, if Council wanted to take that approach, it would have to undertake a public interest test to ensure compliance with NCP. This would require Council to determine, in essence, that its public policy objectives would be jeopardised if it applied CN Measures to the services.

In conducting a public interest test, Council's public policy objectives must be objective and clearly stated. Council could not simply refer to vague objectives and general platitudes about the importance of preserving Council-provided aged care services. If Council wishes to continue providing a subsidised service in a competitive market, Council must be able to demonstrate that potential consumers of the Support at Home program would be unable to access this program or lack the ability to be able to receive the same or similar services, which would create a significant social detriment within the community. In those circumstances, NCP recognises the existence of competing public policy objectives and allows for the consideration of a range of matters, one being to determine how best to achieve the interests of a consumer generally or a class of consumers and the impact on the community.

Given there are some 170 private providers and 24 Commonwealth funded providers of the same or similar services operating within the municipality, there is a sufficiently broad range of service providers and services available for users of the Support at Home program that will be able to cater for their needs. There is therefore no clear detriment to the community and Council cannot establish a policy position that can be tested through a public interest test. Simply, this means Council would have to adopt cost reflective pricing, which would be prohibitive to users and, in particular, would be inaccessible for vulnerable and financially disadvantaged people.

### **Response to 'Skills base and service delivery'**

Council disagrees with the ASU assertion that 'under the reforms councils would be able to choose which levels of service it provides'.

The Royal Commission into Aged Care Quality and Safety (the Commission) recommends (Recommendation 35) providers of the **Care at Home** category of services (including domestic assistance, personal care, and property maintenance) within the new aged care system would need to provide a "coordinated and integrated range of care and supports across the following domains:

- care management
- living supports: cleaning, laundry, preparation of meals, shopping for groceries, gardening and home maintenance
- personal, clinical, enabling and therapeutic care: nursing care, allied health care and restorative care interventions
- palliative and end-of-life care".

Additionally, the Commission has recommended (Recommendation 31) providers be responsible for care management and where the client has multiple providers, the 'lead' provider would be required to provide the **Care Management**. The Australian Government, in accepting this recommendation, has quantified care management as:

- Coordination with multiple providers, connect to assistance outside of aged care, conduct check-ins
- Clinical oversight - monitor care needs, coordinate with the health system and conduct check ins.

Council does not have the skills base to provide a coordinated and integrated range of care as recommended by the Royal Commission, nor does it have the expertise to 'lead' service delivery across multiple agencies or provide clinical oversight. Council does not require Carers to be proficient or trained in areas such as: mental health first aid, health records training and medication management. These and likely other areas of skill would reasonably be expected to be required in circumstances where there are clients with more complex care needs. Additionally, it could be reasonably anticipated that a broader staffing profile would be required including nursing and occupational therapy disciplines.

### **Response to 'Worker concerns'**

The ASU refers to the variable employment conditions across the sector. However, all Australian Government-funded CHSP providers are bound by the same *Service Provider Responsibilities* as outlined in the Commonwealth Home Support Programme - Program Manual 2020–2022. These include quality audits and employee training:

- Quality audits
  - o The Aged Care Quality and Safety Commission undertakes all quality reviews of aged care services provided in the community, including the CHSP service providers (pg. 72).
  - o The [Aged Care Quality Standards](#) support service providers to maintain the high quality of service delivery expected by all providers of aged care (pg. 72).
- Service providers are required to meet staffing and training requirements under the Standards (pg. 74).

Whilst many would view that councils provide favourable terms and conditions for those engaged to deliver services in line with the CHSP, this does not negate the challenges presented to Council, and importantly our clients, with respect to the changes associated with the introduction of the Support at Home Program by the Australian Government.

The Aged Care industry is underpinned by the terms and conditions set by Aged Care Award 2010. This industry wide instrument sets the minimum terms and conditions of employment for those engaged within the Aged Care industry.

It is not appropriate for Council to comment on the rates of pay by other organisations, however it is worth noting that many Not-for-Profit organisations offer additional favourable terms that Council cannot, such as salary packaging concessions enabling employees within the sector to access a more competitive take home pay.

To further highlight such benefits, Not-for-Profit employees can package up to \$15,900 every year significantly reducing their taxable income. Additional benefits are also on offer within the not-for-profit sector such as a meal entertainment card allowing employees within the sector to expense food and drink, entertainment, holiday accommodation, and even venue hire while using up to \$2,700 pre-tax dollars.

### **Response to 'Client engagement and well-being'**

Council does not agree with the assertion of clients and family members 'that the "consultation" with them did not occur.'

At a Council meeting on 29 November 2021, Council resolved to consult with clients and affected staff on a proposed staged transition of select CHSP services to an alternative provider as nominated by the Australian Government. Following this, a comprehensive 3-week consultation with all clients was undertaken between 22 February 2022 and 7 March 2022. Capturing and sharing feedback with Council, prior to a formal decision on the proposal, was

essential to ensure councillors could include this in their consideration of the proposal.

All clients in receipt of Council's in-home CHSP services were individually consulted on the proposal to transition their services to *mecwacare*, as nominated by the Australian Government.

The consultation team attempted to contact all 959 regular service users by phone to ensure they understood the proposal, received answers to any questions and recorded their feedback. 937 regular service users (98%) took part in the phone consultations, with all clients also receiving an information pack in the mail.

Of the 937 clients who chose to take part in the consultation, only 2%, or 41 clients, indicated they would prefer to transition to a provider other than *mecwacare* if the proposal were to proceed. Seventeen of these clients (<1% of all clients) were against the proposal and 24 preferred to access services from a provider other than *mecwacare*. The most frequently reported feedback from clients was a desire for a seamless transition to take place between the two providers.

Given 937 clients were individually consulted, there is no requirement to undertake further client consultation.

The phone consultation provided a thorough explanation of the proposal and the reasons for the proposal, and sought to:

- Gather clients' feedback on the proposal
- Understand what is important to them about the service they receive now, and what might be important to them in the future
- How Council could best support clients to transition to a new provider should the proposal be adopted
- Understand the views of clients with respect to breadth of services available from a dedicated end-to-end aged care provider
- what support they would expect of a new provider during any transition period (if applicable)
- Answer any questions they may have.

The 1,144 Clients in receipt of ad hoc property maintenance, with no other services, were invited to contact the consultation team to provide feedback on the proposal. A total of 12 clients opted to provide feedback.

Council understands this is a difficult time for clients. Should the proposal proceed, the feedback from individual clients received throughout the consultation will be used to ensure a tailored and well managed transition for clients to the alternative provider. It again must be highlighted, Council ceasing the delivery of these services does not stop these services. They are Australian Government services provided under contract and the alternative provider will be required to adhere to the same safety and quality requirements currently required of Council.

In relation to the consultation undertaken, as the CHSP is an Australian Government service which is provided to the community through a wide array of providers, Council met its obligations under the *Local Government Act 2020* by undertaking consultation with members of the community who would be impacted by this proposal, in accordance with Council's *Community Engagement Policy 2021-2026*.

### **Response to 'Financial viability'**

The ASU state 'it is disingenuous for Council to say it cannot afford to continue providing aged care services for financial reasons. The fact is Council is not considering this proposal for financial reasons and has not stated "affordability" as a reason for proposing to exit from some CHSP services. The reasons are all solely associated with the new, competitive marketplace model of in-home aged care being introduced by the Australian Government and the significant obstacles Council would face under the new model, including:

1. The subsidy which Council currently pays towards the operational costs of CHSP will be seen as anti-competitive in an open market and in breach of the National Competition Policy (NCP).
2. The full cost of the provision of services, without the provision of a council subsidy, which would be charged by to clients by Council and the cost to clients would not be competitive in relation to other providers.
3. The suite of in-home services Council currently provided are the basic entry level aged care services. Council does not have the capacity nor the expertise or skill base to deliver the range of integrated services expected to be available to clients, regardless of level and complexity of care needs under the new Support at Home program.

With less than 9% of older people living in Boroondara accessing the CHSP services Council is proposing to exit, Council is committed to its *Add life to your years – Healthy ageing in Boroondara* plan by ensuring this proposal does not impact on the community-based aged care programs and services provided by Council. Council will continue to focus on and provide services unique to local government, and which are available to a far greater number of older people, including, but not limited to:

- Community Transport, including the municipal-wide community bus
- Social Support group excursions and activities
- Library and Arts events
- Library at Home service for vulnerable and isolated people
- Funding support for seniors' centres and U3A's
- Recruitment of volunteers to support services for seniors
- Provision of grants to seniors' groups and programs
- Functional exercise and recreational programs
- Add Life to Your Years - Over 55's digital hub which lists all available activities in Boroondara
- Aged Care Sector navigation support for transitioning clients (throughout the 2022/23 transition year) and the broader community to ensure all older residents are able to access information and appropriate supports and services.

As stated earlier in this response, Council has always prided itself on providing a well-regarded, high-quality service to residents eligible for CHSP services, however, there are now at least 24 other Australian Government funded providers and over 170 private providers also providing these services within Boroondara. As aged care is the responsibility of the Australian Government to fund and administer, it is their responsibility to ensure aged care services are available and affordable for all eligible citizens, no matter where they live or what their socio-economic status is. Councils, who provide CHSP services, are no different to any other provider, receive no special treatment, are bound by the same program (quality and safety) and contractual requirements, and subject to regular audit.

While Council recognises there are a very small number of councils who have either publicly committed to remaining in the service beyond 30 June 2023 or are considering this option, those councils will be faced with the same barriers as are being raised by Council and each of the other 28 councils who have already confirmed an exit from CHSP. There will be significant challenges to remaining “viable”, as highlighted publicly by the President of the MAV, Cr David Clark.

In regards to the two councils cited as providing a financially sustainable commercial aged care operation it is important to consider the context of each council’s situation, for example, in relation to the City of Kingston, this council has over 30 years in providing integrated aged care services with a progressive increase in service provision over many years which represents a very different model compared to Council which has experienced a 58% decline in clients since the increasing number of other providers have been delivering CHSP services as specialised aged care providers in Boroondara.

### **Response to ‘Conclusion’**

In response to the summary provided by the ASU, the introduction of the Support at Home program signals a significant shift in the fundamental operating model of in-home aged care across Australia. As stated earlier in the response, officers have considered, in detail, the NCP in developing the proposal before Council and due to the broad range of providers already providing CHSP services within Boroondara, Council would not be able to successfully apply a public interest test. This is because Council is not unique in its service offering as it is providing services under contract with the Australian Government, in the same way all other funded providers operating in Boroondara are contracted. Given the ample number of providers in Boroondara, Council would be unable to establish a policy objective, which is required in carrying out a public interest test, that people would not be able to access aged care community services, unless Council continued to deliver these services. It would only be in the circumstances that there was not ample provision, that a council may wish to seek to establish such a policy objective.

Should Council decide to proceed with the proposal, Council recognises the impact this decision will have on impacted staff. Council will fulfil all of its Enterprise Agreement obligations in relation to impacted staff and support them throughout the process, including through Council’s Employee Assistance Program and Out Placement Services.



## Other key issues arising since 11 April 2022 Council report

Delaying the proposed transition of in-home CHSP services until 1 July 2023 will jeopardise the continuity of care for clients as a transfer of CHSP clients would no longer be possible and Council would be unable to support clients to transition to a new provider as the sector moves to a fully commercialised model. While Council could provide information and navigation assistance, it could not directly support the transition of clients to their chosen provider as Council would no longer have Active Ageing officers to attend case conferences or contribute to care planning. In the consumer choice model, it is unlikely a transfer arrangement would even exist, as it will be the clients themselves who would choose their provider.

Any delay will not benefit other local organisations, such as BASS Care and Samarinda, who are not currently registered to deliver the services Council is proposing to transition, as Council will not be able to support the bulk transfer of clients to other organisations once the sector becomes fully commercialised. There is also no guarantee these organisations would be able to secure registration with the Australian Government for the CHSP services Council is seeking to transfer prior to 30 June 2023 and that even if they were, there is also no guarantee the Australian Government, through its own due diligence processes, would nominate them as an alternative provider to Council's services and the Australian Government has nominated *mecwacare* for the delivery of CHSP services for 2022-23. It should be noted Council does not have a service agreement for 2022-23 with the Australian Government.

Furthermore, Council would be unable to provide a careful and considered handover of CHSP clients to the alternative provider. Any delay would reduce the likelihood of a seamless transition and certainty into the future for CHSP clients, as it is expected there will be a degree of turbulence in the industry due to the introduction of many changes in the service system leading up to 1 July 2023, the same as what has occurred with the NDIS.

## 5. Consultation/communication

### Client Consultation

All clients in receipt of in-home CHSP services were consulted on the proposal to transition their services to *mecwacare*. The client consultation period extended from 22 February until 8 March 2022.

Overall, the proposal to transition in home CHSP services to *mecwacare* was well received by clients, with most concerns raised by clients allayed during the conversation with Council's Active Ageing officers.

The 1,144 clients in receipt of ad hoc property maintenance, with no other services, were invited to contact the consultation team to provide feedback on the proposal. A total of 12 clients opted to provide feedback, all of whom valued the additional services offered by *mecwacare* and none had concerns with the proposal. It was noted that *mecwacare* has more capacity and a greater skill base to provide a broader scope of property maintenance services to clients than Council.

All 959 regular service users received an information pack in the mail. A total of 937 CHSP clients (98%) were able to be individually contacted by the consultation team to ensure they understood the proposal, received answers to any questions and record their feedback.

Clients most wanted to know if *mecwacare*'s fees would be higher (35%) and were reassured *mecwacare*'s fees were lower for 99.4% of clients. Those clients who would be subject to a higher rate with *mecwacare*, were informed during consultation and none expressed concern with the increase in fees.

Clients also wanted to know if *mecwacare* would be able to provide a regular carer (34%) and were reassured *mecwacare* will strive to identify a suitable regular carer for all clients based on their preferences (ie. personality, gender and/or CALD backgrounds), as is the case at Council, and roster these carers on a regular basis.

By far the most important matter raised by clients was the need for a seamless transition of services. Clients are keen to have no gap in service when transitioning from Council to *mecwacare* (61%) and many are keen to have their service on the same day and at the same time (46%) they receive their current service from Council.

Forty-one CHSP clients (2% of all clients) indicated they would prefer to transition to a provider other than *mecwacare* if the proposal were to proceed. Of these clients 17 (<1% of all clients), were firmly against the proposal. Officers would support these clients to move to the provider of their choice before 30 June 2022, via My Aged Care.

A letter updating clients on the proposal was provided on 17 May 2022. The letter explained Council had provided an in-principle decision, rather than a final decision, at the Council meeting on 11 April 2022, in order for the Australian Services Union (ASU) and outlined the timeframes for extended employee consultation and consideration of feedback before returning to Council for a final decision. This generated a few enquiries, but no objections were received. Subject to a Council resolution, further communications will be provided to Council's CHSP clients.

### Employee Consultation

Sixty directly impacted employees and six indirectly impacted employees were consulted (see **Table 1**) regarding the proposal and provided support, as per Council's obligations under the Fair Work Act and Council's Enterprise Agreement and invited to provide feedback.

Date of Consultation	Method of Consultation	Target group
22 February 2022	1:1 meeting	Fully impacted office-based staff
22 February 2022	Small group meeting	Home Support Staff
23 February 2022	1:1 meeting	Partially impacted office-based staff
23 February 2022	Department Briefing	Liveable Communities department
25 February 2022	Drop-in session	Liveable Communities employees
25 February 2022	1:1 meeting	Requested by employee
28 February 2022	Drop-in session	Liveable Communities employees
3 March 2022	Small group meeting	Requested by employees
4 March 2022	Drop-in session	Liveable Communities employees
9 March 2022	1:1 meeting	Requested by employee
9 May 2022	Department Briefing	Liveable Communities department
11 May 2022	Drop-in session	Liveable Communities employees
13 May 2022	Drop-in session	Liveable Communities employees
16 May 2022	Small group meeting	Requested by employees
16 May 2022	Drop-in session	Liveable Communities employees
17 May 2022	Drop-in session	Liveable Communities employees
18 May 2022	Drop-in session	Liveable Communities employees
19 May 2022	Drop-in session	Liveable Communities employees
20 May 2022	Drop-in session	Liveable Communities employees

**Table 1:** Schedule of employee consultation

The initial consultation undertaken with employees resulted in feedback from two directly impacted and three indirectly impacted employees. One directly impacted employee suggested the transition should occur on a single date, not in stages as proposed, to avoid one group being disadvantaged over another and the other suggested Council stay in some *Care at Home* services but not others.

Of the three indirectly impacted employees, two provided feedback on the proposed structure changes for office-based staff. A third suggested 'staying in' until more was known about the new Support at Home program and suggested if the proposal were to go ahead it should be done in more stages and with smaller numbers of clients at each stage.

The extended consultation period resulted in written feedback being received from the ASU (**Attachment 2**) and one directly impacted employee. The affected employee advised their view that if clients had a choice, they would choose local government and a local community service.

A dispute between Council and the ASU about compliance with the consultation provisions in Council's enterprise agreement has now been resolved. The ASU's feedback is provided in **Attachment 2** and a response to the feedback received from the ASU is provided at **Attachment 3**. The context for the response to the ASU is included in this report.

## 6. Financial and resource implications

Transition costs are able to be met in Council's current budget parameters, however, cost considerations are not key drivers for Council's decision making. Ensuring clients' continuity of care is key in the face of Council not being able to be a provider of Support at Home. The draft 2022/23 Council Budget currently provides for business as usual therefore there is no significant budget impact in extending the transition date for the service until 31 July 2022.

## 7. Governance issues

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities, particularly those rights associated with respect, equality, and dignity.

The officers responsible for this report have no general or material interests requiring disclosure. The approach suggested by officers which is designed to minimise disruption to some of the more vulnerable members of our community is considered to best respect their rights under the charter.

## 8. Social and environmental issues

Boroondara is well serviced by private and not-for-profit aged care service providers. In addition to Council, there are now 24 CHSP providers in Boroondara, and more than 170 other in-home care providers delivering services within the municipality.

Council withdrawing from in-home aged care will not reduce the availability of CHSP services in Boroondara or change the process for accessing these services.

## 9. Conclusion

By Council resolving to transition CHSP clients to the Australian Government's nominated provider, and not waiting until the introduction of the **Support at Home** program which will be consumer driven and fully commercialised on 1 July 2023, clients will have the security of being serviced by a well-established local community provider which has the capacity and expertise to provide the full suite of aged care services. This is an important consideration as when the Australian Government changes funding arrangements on 1 July 2023 to a system similar to the NDIS, it is expected there will be a degree of turbulence in the industry due to the introduction of many changes in the service system.

**Manager:** Nick Lund, Manager Liveable Communities

**Report officer:** Michelle Forster, Active Ageing Lead

## 3 Presentation of officer reports

### 3.1 Aged Services Reform

#### Executive Summary

##### Purpose

On behalf of the Australian Government, Council is contracted to provide a range of in-home services including domestic assistance, personal care, respite care, meal preparation, property maintenance and property modifications. The purpose of this report is to present the results of the client consultation undertaken in relation to a proposal to transition clients receiving these services to an alternative provider as nominated by the Australian Government, by 30 June 2022, the end date of the current contract with the Australian Government. As 98 percent of CHSP clients support the proposed transition, this report seeks an in principle Council resolution to transition these specific CHSP program components to the Australian Government's nominated provider.

The proposed transition of these program components to a provider who is registered with the CHSP for all of these program components and who possesses the expertise and capacity to accept all of the current CHSP clients will ensure client continuity of care during an imminent period of substantial and rapid change to the provision of community aged care in Australia resulting from the Australian Government's aged care reforms.

##### Background

The Australian Government's aged care reform agenda is now gathering significant momentum in preparation for the entirely new, open market, consumer driven **Support at Home** program from 1 July 2023.

The **Support at Home** program will place greater emphasis on the unique needs and circumstance of individuals to support them to remain living independently for longer. Providers will need to flexibly deliver a wider range of services based on an individual's needs, rather than the current fixed suite of services which is the basis of the CHSP. **Support at Home** providers will need to be in the position to accept aged care clients who have varying complexity of needs, which will range from clients with low level to high level care needs. Clients with higher care needs will require appropriate clinical support to ensure duty of care is appropriately exercised to meet clients' needs. This will require specialist services such as occupational therapy, physiotherapy, nursing support and the provision of technologies to help with day-to-day activities. Council only provides services to clients with low level needs and does not have expertise or experience to deliver to clients with high care needs. Should Council approve this proposed transition, the provider nominated by the Australian Government has the expertise and personnel to be able to provide services for all levels of aged care clients' needs.

Council cannot continue to provide the current suite of in-home services under the new model due to:

1. The subsidy which Council currently pays towards the operational costs of CHSP will be seen as anti-competitive in an open market and in breach of the National Competition Policy.
2. The suite of in-home services Council currently provides are the basic entry level aged care services. Council does not have the capacity nor the expertise or skill base to deliver the range of personalised services expected to be available to clients under the new **Support at Home** program.

To assist Council's decision-making and enable meaningful consultation with clients on the potential transition of in-home CHSP services to an alternative provider, a request was made of the Australian Government to identify a potential suitable alternative provider. Following a due diligence process undertaken by the Australian Government, the Australian Government identified *mecwacare*, a local not-for-profit aged care provider who has provided care to the Victorian community since 1959, as the potential new provider.

### Key Issues

- Delaying the potential transition of in-home CHSP services until 1 July 2023 will jeopardise the continuity of care for clients as the bulk transfer of clients would no longer be possible and Council would be unable to recommend a provider to clients as the sector moves to a fully commercialised model. Furthermore, Council would be unable to provide a careful and considered handover of clients to the alternative provider. Any delay would reduce the likelihood of a seamless transition and certainty into the future for clients, as it is expected there will be a degree of turbulence in the industry due to the introduction of many changes in the service system leading up to 1 July 2023.
- Consultation with clients on the proposed transition of in-home CHSP services to *mecwacare* has been undertaken and the proposal has been well received by clients. Council staff contacted 98% of regular CHSP service users individually by phone and 1,144 property maintenance clients received an information pack. Only 2%, or 41 clients, indicated they would prefer to transition to a provider other than *mecwacare* if the proposal were to proceed. Seventeen of these clients (<1% of all clients) were against the proposal. The remaining 24 clients had either other arrangements in place or would like to be supported to access services from a different provider. Officers would support these clients to move to the provider of their choice before 30 June 2022, via My Aged Care. The most frequently reported feedback is that clients wish for a seamless transition to take place between the two providers.

It should be noted since 1 January 2022, six councils have resolved to exit CHSP services, bringing the total number of councils in Victoria to have publicly announced their exit from these services to 23. This also highlights another risk that with many more councils likely to exit CHSP over the coming months, Council could miss the opportunity to have a highly controlled transition for clients to a well-regarded not-for-profit provider with the capacity and expertise to take on all current Council CHSP clients should those clients agree.

- This proposal does not impact on the community-based aged care programs and services provided by Council. Council will continue to focus on and provide services unique to local government, and which are available to a far greater number of older people, including, but not limited to:
  - o Community Transport, including the municipal-wide community bus

- o Social Support group excursions and activities
  - o Library and Arts events
  - o Library at Home service for vulnerable and isolated people
  - o Funding support for seniors' centres and U3A's
  - o Recruitment of volunteers to support services for seniors
  - o Provision of grants to seniors' groups and programs
  - o Functional exercise and recreational programs
  - o Add Life to Your Years - Over 55's digital hub which lists all available activities in Boroondara
- By Council deciding to accept the proposed transition to the Australian Government's nominated provider from 1 July 2022, and not waiting until the introduction of the **Support at Home** program which will be fully commercialised and driven by consumer choice on 1 July 2023, clients will have the security of being serviced by a well-established local community provider which has the capacity and expertise to provide the full suite of aged care services. Additionally, if they so choose, CHSP clients will be able to remain with *mecwacare* after the introduction of **Support at Home**. These are important considerations as, when the Australian Government changes funding arrangements on 1 July 2023 to a system similar to the NDIS, it is expected there will be a degree of turbulence in the industry due to the introduction of many changes in the service system.

This report is informed by the staff consultation process, during which 61 directly impacted staff and 6 indirectly impacted staff (and their representatives) were consulted regarding the proposal and the potential impact to their role at Council.

Confidential information is contained in **Attachment 1**, as circulated in the confidential section of the agenda attachments, in accordance with Section 66(2)(a) and the definitions of 'confidential information' in Section 3(1) of the Local Government Act 2020. The information relates to Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

The item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

## Officers' recommendation

The Officer's recommendation is that any Council resolution be made only on an in principle basis because there is a dispute between Council and the Australian Services Union about compliance with the consultation provisions in Council's enterprise agreement (with such dispute currently being before the Fair Work Commission).

That Council resolve (on an in principle basis) to:

1. Transition the in-home CHSP services of domestic assistance, personal care, respite care, meal preparation, property maintenance and property modifications, by 30 June 2022 to the Australian Government's nominated provider.
2. Work with the Australian Government and *mecwacare* to ensure the smooth transition of Council's current in-home CHSP clients by 30 June 2022.
3. Support any client not wishing to transition to *mecwacare* to transition to an alternative provider by 30 June 2022.



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**Responsible director: Carolyn McClean, Director Community Support**

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## 1. Purpose

On behalf of the Australian Government, Council is contracted to provide a range of in-home services including domestic assistance, personal care, respite care, meal preparation, property maintenance and property modifications. The purpose of this report is to present the results of the client consultation undertaken in relation to a proposal to transition clients receiving these services to an alternative provider as nominated by the Australian Government, by 30 June 2022, the end date of the current contract with the Australian Government. As 98 percent of clients support the proposed transition, this report seeks an in principle Council resolution to transition these specific CHSP program components to the Australian Government's nominated provider.

The proposed transition of these program components to a provider who is registered with the CHSP for all of these program components and who possesses the expertise and capacity to accept all of the current CHSP clients will ensure client continuity of care during an imminent period of substantial and rapid change to the provision of community aged care in Australia resulting from the Australian Government's aged care reforms.

## 2. Policy implications and relevance to community plan and council plan

### ***Boroondara Community Plan (BCP) 2021-31***

The relevant strategic objectives of the BCP are:

#### Strategic Objective 1

Community services and facilities are high quality, sustainable, inclusive and strengthen resilience.

- Strategy 1.2 has the objective to deliver, facilitate and advocate for services and programs which are accessible and affordable.

#### Strategic Objective 7

Ensure decisions are financially and socially responsible through transparent and ethical processes.

### ***Add life to your years - Healthy Ageing in Boroondara***

Council's commitment to an age-friendly future:

- Council is committed to ongoing engagement with our community and will always endeavour to represent the diverse views of our community in our policy and planning process.
- We will strive to be responsive to the changing needs of over 55s in Boroondara to ensure the community has every opportunity to Add Life to their years.

## 3. Background

The Commonwealth Home Support Program (CHSP) is an 'entry-level' program designed to provide low levels of support to eligible older people to aid independence and safety within the community and at home. Council is contracted by the Australian Government to provide CHSP services including domestic assistance, personal care, respite care, property maintenance and modifications, social support (community-based group activities and excursions) and community transport (group and individual transport) in

Boroondara. Approximately 959 older people use these services regularly and an additional 1,144 people access ad hoc property maintenance services. Overall, the number of service users represents approximately 9% of older people living in Boroondara. The current contract with the Australian Government expires on 30 June 2022.

As a consequence of ongoing Australian Government aged care reforms, local government is no longer the exclusive provider of community aged care. In July 2016, local government ceased being the entry point for aged care services and all Victorians wanting to access Australian Government funded aged care services are required to register with *My Aged Care*. As a result, in addition to Council, there are now 24 other providers contracted to deliver CHSP services in Boroondara, which has led to a 40% decline in service usage over the past five years.

In response to the Aged Care Royal Commission Final Report released in March 2021, the Australian Government announced in January 2022 it will create a single **Support at Home** program to be introduced 1 July 2023. This will replace the CHSP, and see it combined with the Home Care Packages (HCP) Program, Short-Term Restorative Care (STRC) Program, and residential respite programs.

The **Support at Home** program will place greater emphasis on the unique needs and circumstances of individuals to support them to remain living independently for longer. Providers will need to flexibly deliver a wider range of services based on an individual's needs, rather than the current fixed suite of services which is the basis of the CHSP. **Support at Home** providers will need to be in the position to accept aged care clients who have varying complexity of needs, which will range from clients with low level to high level care needs. Clients with higher care needs will require appropriate clinical support to ensure duty of care is appropriately exercised for clients' needs. This will require specialist services such as occupational therapy, physiotherapy, nursing support and the provision of technologies to help with day-to-day activities. Council only provides services to clients with low level needs and does not have expertise or experience to deliver to clients with high care needs. Should Council approve this proposed transition, the provider nominated by the Australian Government has the expertise and personnel to be able to provide services for all levels of aged care clients' needs.

Under Council's current contract with the Australian Government, all CHSP services are *block-funded*, meaning funds are pre-paid to providers for the delivery of a specific number of hours of service. The recommendation to move CHSP funding for in-home services to an individualised funding model (excluding Transport and Social Support programs), whereby consumers are funded directly and can purchase their supports from any registered provider, would signal the introduction of a commercialised market and Council would be required to compete for market share.

The subsidy which Council pays towards the operational costs of CHSP could be seen as anti-competitive when the fully commercialised **Support at Home** program commences from 1 July 2023 and, as such, Council risks breaching the National Competition Policy (NCP). Competitive Neutrality is an NCP instrument designed to prevent government subsidising services to gain a competitive edge against other providers in the community. The current Council subsidy could be seen to undercut both community and private providers and, in this case, Council may be viewed as acting in bad faith, inviting complaints to

Better Regulation Victoria (BRV). Although BRV cannot impose any statutory obligations on Council, continuing to subsidise CHSP may be deemed a breach of the National Competition Policy (NCP) and any complaint may result in reputational damage to Council.

Transitioning CHSP clients to a specialist aged care provider means residents will enjoy the same service which provides a greater continuum of care with a dedicated aged care service provider, as clients' needs increase with age. Further, a dedicated aged care service provider can provide additional and more specialised services to clients which Council does not have core expertise in delivering, such as allied health services and nursing.

The Australian Government's new **Support at Home** program makes continued delivery of in-home CHSP services untenable for Council as Council does not have the capacity nor the expertise or skill base to deliver the range of personalised services expected to be available to clients under the new **Support at Home** program.

To date, 23 councils have exited, or have announced plans to exit the delivery of some, or all, CHSP services by 30 June 2022.

To assist Council's decision-making and enable meaningful consultation with CHSP clients on the potential transition of in-home CHSP services to an alternative provider, a request was made of the Australian Government to identify a potential suitable alternative provider. Following a due diligence process, the Australian Government identified *mecwacare*, a local not-for-profit aged care provider who has provided care to the Victorian community since 1959, as the potential new provider.

#### 4. Outline of key issues/options

Delaying the proposed transition in-home CHSP services until 1 July 2023 will jeopardise the continuity of care for clients as a bulk transfer of CHSP clients would no longer be possible and Council would be unable to recommend a provider to clients as the sector moves to a fully commercialised model. Furthermore, we would be unable to provide a careful and considered handover of CHSP clients to the alternative provider. Any delay would reduce the likelihood of a seamless transition and certainty into the future for CHSP clients, as it is expected there will be a degree of turbulence in the industry due to the introduction of many changes in the service system leading up to 1 July 2023, the same as what has occurred with the NDIS.

By Council deciding to accept the proposed transition of services from 1 July 2022 to *mecwacare*, and not waiting until the introduction of **Support at Home** which will be fully commercialised and driven by consumer choice on 1 July 2023, CHSP clients will have the security of being serviced by a well-established, local community provider which offers the full suite of aged care services, and, if they so choose, will be able to remain with *mecwacare* after the introduction of **Support at Home**.

In deciding not to proceed with the proposal to transition CHSP clients at this time, and instead waiting until the CHSP is decommissioned on 30 June 2023, Council would lose the opportunity to influence and manage the transition process to ensure a smooth and uninterrupted experience for clients. Instead, CHSP clients would be part of a national transition and Council would not have the funding to support the transition process. Essentially, once Council's

contract ends on 30 June 2023, clients would be left to fend for themselves, having to secure a new provider without the support of Council. Consultation with CHSP clients on the proposed transition of in-home CHSP services to *mecwacare* has been undertaken and the proposal has been well received by clients. 98% of regular CHSP service users were individually contacted by phone and 1,144 property maintenance clients received an information pack outlining the proposal. Only 2%, or 41 CHSP clients, indicated they would prefer to transition to a provider other than *mecwacare* if the proposal were to proceed. Of these clients, 17 (<1% of all clients) were against the proposal. The remaining 24 clients had either other arrangements in place or would like to be supported to a different provider. Officers would support these clients to move to the provider of their choice before 30 June 2022, via My Aged Care.

The most frequently reported feedback is that clients wish for a seamless transition to take place between the two providers. In addressing this feedback, and with client consent, Council could provide *mecwacare* with all relevant care plan details and service schedule information to ensure services meet the needs of each individual, at the time which suits them best. Shadow shifts, where a Council carer works alongside a *mecwacare* carer to demonstrate how to best support the client, would be provided to any client who requests this additional support.

It should also be noted since 1 January 2022, six councils have resolved to exit CHSP services, bringing the total number of councils in Victoria to have publicly announced their exit from these services to 23. This also highlights another risk that with many more councils likely to exit the CHSP over the coming months, Council could miss the opportunity to have a highly controlled transition for clients to a well-regarded not-for-profit provider with the capacity and expertise to take on all current Council CHSP clients.

This proposal does not impact on the community-based aged care programs and services provided by Council. Council will continue to focus on and provide services which are unique to local government, and which are available to a far greater number of older people, including, but not limited to:

- Community Transport, including the municipal-wide community bus
- Social Support group excursions and activities
- Library and Arts events
- Library at Home service for vulnerable and isolated people
- Funding support for seniors' centres and U3A's
- Recruitment of volunteers to support services for seniors
- Provision of grants to seniors' groups and programs
- Functional exercise and recreational programs
- Add Life to Your Years - Over 55's digital hub which lists all available activities in Boroondara.

## 5. Consultation/communication

All clients in receipt of in-home CHSP services were consulted on the proposal to transition their services to *mecwacare*. The client consultation period extended from 22 February until 8 March 2022.

Overall, the proposal to transition in home CHSP services to *mecwacare* was well received by clients, with most concerns raised by clients allayed during the conversation with Council's Active Ageing officers.

The 1,144 Clients in receipt of ad hoc property maintenance, with no other services, were invited to contact the consultation team to provide feedback on the proposal. A total of 12 clients opted to provide feedback, all of whom valued the additional services offered by *mecwacare* and none had concerns with the proposal. It was noted that *mecwacare* has more capacity and a greater skill base to provide a broader scope of property maintenance services to clients than Council.

All 959 regular service users received an information pack in the mail. A total of 937 CHSP clients (98%) were able to be individually contacted by the consultation team to ensure they understood the proposal, received answers to any questions and record their feedback.

Clients most wanted to know if *mecwacare*'s fees would be higher (35%) and were reassured *mecwacare*'s fees were lower for 99.4% of clients. Those clients who would be subject to a higher rate with *mecwacare*, were informed during consultation and none expressed concern with the increase in fees.

Clients also wanted to know if *mecwacare* would be able to provide a regular carer (34%) and were reassured *mecwacare* will strive to identify a suitable regular carer for all clients based on their preferences (ie. personality, gender and/or CALD backgrounds), as is the case at Council, and roster these carers on a regular basis.

By far the most important matter raised by clients was the need for a seamless transition of services. Clients are keen to have no gap in service when transitioning from Council to *mecwacare* (61%) and many are keen to have their service on the same day and at the same time (46%) they receive their current service from Council.

Forty-one CHSP clients (2% of all clients) indicated they would prefer to transition to a provider other than *mecwacare* if the proposal were to proceed. Of these clients 17 (<1% of all clients), were firmly against the proposal. Officers would support these clients to move to the provider of their choice before 30 June 2022, via My Aged Care.

Subject to any further Council resolution, further communications will be provided to Council's CHSP clients. This is further discussed in the confidential attachment (Attachment 1).

## **6. Financial and resource implications**

Potential transition costs are able to be met in Council's budget parameters, however, cost considerations are not key drivers for Council's decision making. Ensuring clients' continuity of care is key in the face of Council not being able to be a provider of Support at Home.

This is further discussed in the confidential attachment (Attachment 1).

## **7. Governance issues**

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities, particularly those rights associated with respect, equality, and dignity. The approach suggested by officers, which is designed to minimise disruption to

some of the more vulnerable members of our community, is considered to best respect their rights under the Charter.

The officers responsible for this report have no general or material interests requiring disclosure.

## 8. Social and environmental issues

Boroondara is well serviced by private and not-for-profit aged care service providers. In addition to Council, there are now 24 CHSP providers in Boroondara, and more than 170 other in-home care providers delivering services within the municipality.

Council withdrawing from in-home aged care will not reduce the availability of CHSP services in Boroondara or change the process for accessing these services.

## 9. Conclusion

By Council accepting the in principle proposal to transition CHSP clients to the Australian Government's nominated provider, and not waiting until the introduction of the **Support at Home** program which will be consumer driven and fully commercialised on 1 July 2023, clients will have the security of being serviced by a well-established local community provider which has the capacity and expertise to provide the full suite of aged care services. This is an important consideration as when the Australian Government changes funding arrangements on 1 July 2023 to a system similar to the NDIS, it is expected there will be a degree of turbulence in the industry due to the introduction of many changes in the service system.

**Manager:** Nick Lund, Manager Liveable Communities

**Report officer:** Michelle Forster, Active Ageing Lead

## Australian Services Union Response to Proposal to exit CHSP



By your side

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### Outline

The Australian Services Union (ASU) urges Boroondara City Council (Council) to reconsider its proposal to exit and continue to provide Aged Care Services.

The proposal to cease council run in home care and other aged care services (aged care services) is one that will ultimately affect and disadvantage the community members who can least afford it. We know that Boroondara can continue to be a leader in providing high quality service with skilled, well-trained, and supported staff to your community. Victoria's focus on wellness, reablement and independent living is acknowledged as the nation's best and has been adopted by the Commonwealth as a basis for home care reform across the country.

Council's operational consistency is superior to other providers for both workers and clients, who like to see a familiar face present to their door and not a new person on a regular basis. It is well-documented that the workforce turnover in aged care services in the not for profit and private sector are much higher than that of local government.

Ultimately in-home care is a growth industry, even more so with the impact of the COVID 19 pandemic. Other councils in your region have built successful enterprises out of delivering such services, and are looking to expand.

Council aged care provides permanent, ongoing jobs to a majority women workforce who look after the most vulnerable in your community. This isn't a one-off project, but an ongoing investment with significant returns in terms of community satisfaction.

Several Victorian councils have successfully moved to provision of Home Care Packages (HCP) which operate in line with the changes being introduced to the sector, with two more currently in the process of doing so. Many of these councils we know are thriving, even when in direct competition with private providers. See case studies below.

We urge you to contact Kingston (AccessCare), Bayside, Colac-Otway, Hume and Whittlesea councils and discuss their business models that help them to work within the consumer direct care model. Moreland and Darebin Councils are also currently exploring the option to become a registered provider of these services.

### The ASU's Background and Experience in Aged Care Services

The ASU is one of Australia's largest unions, with over 135,000 members, and represents an estimated 6,000 community care workers employed by local councils and other agencies across Victoria. This membership is largely composed of direct community care workers, but includes client liaison officers, assessment officers, team leaders and managers.

The ASU provided three submissions on a manner of issues to the Royal Commission. The focus of these submissions was the quality and importance of local council CHSP services. We found:

1. There is an integral connection between the health, safety and well-being of the aged care workforce and the health, safety and well-being of people using aged care services.
2. Local councils in Victoria play an important role in promoting the health, safety and well-being of the home care workforce in aged care.
3. Victorian Local Government has a strong record of being an excellent provider of services to elders. Local Government Authorities (LGAs) provide an excellent model of strong governance and workforce leadership in the area of aged home care services.
4. Reasonable pay, training, guaranteed hours, and uniform standards across the sector are vital to ensure the appropriate provision of services in the aged care sector.

### Competitive Neutrality Policy

Competitive Neutrality Policy (CNP) is a policy aimed at fostering competition between government and non-government providers, using pricing as a mechanism to do so. It is often cited by officials and consultants who wish to exit aged care provision.

CNP does not prevent a council from continuing its role in aged care services provided council satisfies the public interest test, which is broad and not too high a threshold to satisfy. The advice the ASU has received on this issue is that a public interest test, if a service was challenged under



CNP, would be successful in this area. It is on this basis that the ASU understands that Council is justified in subsidising home care services and competitive neutrality is not an issue.

CNP does not require government to tender out services, privatise services or to reduce workers' wages and conditions. Further, CNP does not apply to Council services where applying it jeopardises a Council's ability to deliver on a public policy objective

CNP has been considered in some detail at a range of other councils around the state and has not prevented these councils from continuing to deliver such services until June 2023 at a minimum.

### Skills base and service delivery

Council has made some strong statements about Council not having the capacity, expertise, or skill base to deliver the range of personalised services expected to be available to clients under the Support at Home program (see for example *Attachment 2- Summary of information provided to clients in an information pack posted on Monday 21 February 2022*). Council has said they "will not be able to comply with the requirements" of the program.

These blanket statements assume that Council must provide all the services that form part of the Support at Home program. This is not the case; under the reforms Council would be able to choose which levels of service to provide. Boroondara can deliver integrated services because they maintain and participate in local partnerships, networks, and alliances with other aged care providers, who are able to step-in and offer a service Council cannot.

The ASU is aware that there are organisations within the local community that, should Council continue to deliver the range of aged care services as it currently provides, would be well positioned to provide the other aged care services that, combined with Council's services, form the Support at Home program. In such circumstances, Council would not need to undertake or deliver care to clients with complex and high care needs unless it chose to expand the range of services delivered.

### Worker concerns

The Royal Commission into Aged Care Quality and Safety's final report identified that in order to improve the service delivery there must be improvements to wages, conditions and training for the workers.

Services outsourced from councils provide less training and support for staff, have lower qualification requirements, and poorer wages. Boroondara Council workers are currently paid at Band 3, \$33.88 p/h on a permanent/part time basis with a minimum agreed hours contract. Workers at MECWACARE are paid either \$23.50 p/h for permanent part time work or \$29.50 p/h for casual employment for the same work. These factors can contribute to a poorer quality service for communities, particularly as they impact on continuity of care. Along with lower wages, working conditions with NFP's cut are back to award minimums and solely rely on workers paying weekly for essential work items like fuel, mobile phones usage and cleaning supplies with their only ability to recoup those costs being once a year through their tax return.

The Royal Commission into Aged Care recommended at minimum that a Certificate 3 qualification be required for personal care roles. While this is the current requirement for staff employed by your Council, many outsourced providers only require a Certificate 1. Council aged care workers are well regarded and sought after, for their skill and care provided, and will continue to be so should Council remain a provider, in a competitive market.

Home and aged care services employ predominately female workers. In fact, 96% percent of ASU's aged care membership is female. This highlights the reality that female workers bear the brunt of decisions to outsource these services, and the flow on effects such as wage cuts or inequalities, inferior work conditions and job security have significant impacts on women. Aged care workers usually live in the communities in which they work, and any changes to their employment conditions has a direct impact on that community.

Maintaining the service tangibly delivers on Council's gender equality objectives, enabling Council to put beliefs into real action. The workforce who provides this service is predominantly female, qualified, well paid, stable, motivated, and well supervised. Council staff who manage this service should be congratulated for this.

Exiting the service will mean loss of quality training standards, no minimum qualification requirements, where vulnerable clients will be forced to allow potentially untrained providers into their homes, leaving them significantly vulnerable to abuse.

The ASU has spoken to members who had previously been employed to deliver in-home services by councils and now, due to council outsourcing, work for private or not-for-profit service providers. Their stories highlight the importance of protecting all remaining Council aged care services, for the good of clients, carers, communities and the already low-paid workforce.

The following case studies, all directly attributable to ASU members, illustrate why council run services are preferred and should be protected.

Case studies from ASU members who transferred from council employment to private aged care providers

*I worked for council for over 10 years before our service was transferred to a Not For Profit (NFP). **After the transfer almost everything changed.** My secure hours weren't guaranteed. They have started to roster 'unpaid lunch breaks' in the gaps in our shift now even if we've worked for longer than 5 hours total, they don't always pay us for cancellations, and our sick leave entitlements changed. There is no transparency. They never follow the EBA and it's really difficult to bring up issues with them. Experiences of bullying compound this. They also don't have any experience in Community Care and don't treat the service as a human-to-human interaction. **They are just waiting to transfer the clients into their residential aged care. Council doesn't do anything like that.** At council we had a lot of work. It was really clear who had responsibility for what. There was good communication. Most clients choose the service because they trust the council first and then trust the staff second. **At my NFP provider they never communicate with the clients, only by***

**letters. And only in English as well never multilingual. Clients are always ringing, and no one answers.**

**ASU Member, Aged Care Services**

*"After we came over everything changed. Our average hours went. Our sick leave entitlements changed. Huge gaps on shifts are a regular feature. **OH&S went out the window.** At council they trained us to do OH&S checks. They had fantastic training. Here we can't even get sunscreen and there is no process for formal incident reports either, we just send an email. Council had more accountability. I wore my uniform with pride. It was a community service and I felt like I was part of a community. At the new workplace I don't feel like I'm part of anything anymore. I never see anyone its completely impersonal. **Clients don't get told anything too. It's the biggest problem. They don't know who to call and when they do no one answers. It was a big bloody mistake to sell off the service. Home care should stay in local government. Clients feel safer knowing its local government and the workers are happier. Anyone of us would go back if we were given the opportunity. It's such a special job and should be protected.**"*

**ASU Member, Aged Care Services**

*"I currently work as Direct Care Worker at a Not for Profit. After we transitioned over a few things changed for us. We used to get better communication which made us feel more equal in the organization. We previously received reminders about using our entitlements, such as service recognition day and reminders for foot ware and trousers. I'm worried these hard-won entitlements that have carried over from council will just slip away in the next EA negotiations if we aren't voicing all these small but important conditions... Also, clients will sometimes show us notifications sent to them from the provider and we are not aware of the details and are left looking perplexed as we have not been told. Council previously notified us of all changes so that we could present a more professional explanation and not be left unaware. The billing process is also more confusing for clients as there is no carry over balance. **Public aged care is important because it has more regulation, is more accountable, and it's easier for families to navigate.**"*

**ASU Member, Aged Care Services**

*"I worked at council for over 10 years before transferring over to a Not for Profit. After we transferred over, I realized how good we had it at council. At council I was permanent part*



*time, now I'm a casual. My pay is less, and they don't pay travel time, only if its respite. At council anytime we needed anything, uniforms, PPE, they would just give it. Here we only get one uniform. At council we used to get training all the time – manual handling, infection control you name it. We've had only basic training this year, mostly online, and no team meetings at all. They said this was because of COVID-19... Access to Personal Protective equipment has been difficult too. It requires travelling to a drop off point which can be far, or a trip to the office which we don't get paid for. The transfer over was a real disruption to clients too. Council was a trusted service, everyone went there. It was easy for clients to get information and support. Now they just get an answering machine. Many clients just won't call. I hear from clients that all the client assessments are over the phone now, and this was before COVID-19 as well... If it was up to us workers to make the decision to transfer, we would have stayed with council. You don't realise how good these services are, until they are gone... I hope future councils think hard before withdrawing these services."*

**ASU Member, Aged Care Services**

### Client engagement and well-being

Clients and family members of clients have told the ASU, just last week at Camberwell Shopping Centre, that the "consultation" with them did not occur. Clients have contacted the ASU directly and reported that there was no real consultation; Council simply advised that Council was getting out of the service and mecwacare would be taking the service from 1 July 2022. Clients have advised us that they were told this in February, before the service had been put to the Council for a vote. In correspondence to the Mayor dated 1 April 2022, we outlined our expectation of community consultation requirements of the Local Government Act 2020 and the deficiencies of Council's process. For the ASU to still be receiving this level of feedback requires further in depth and genuine consultation with service users and the community.

Clients have advised us that they were told this in February, right before the service had been put to the Council for a vote.

A recent example is an email to the ASU Branch Secretary from the daughter of one of Council's clients:

*"My 93 year old mother is a current recipient of aged care services within Boroondara and I was very alarmed to read about the apparent 98% agreement by participants to the transfer of this service to MECWA.*

*Having been 'consulted', in hindsight, the questions were very carefully crafted to not cause alarm and provide no ability to actually object. I don't recall any questions that were actually seeking my approval or disapproval (on behalf of my mother). I therefore believe that the collected figures are potentially grossly inaccurate and have misled the councillors into approving this transfer.*

*I find it impossible to believe that 98% of the stated 2100 residents have agreed to potentially losing one of the few familiar people who regularly visit them. Like my response when phoned- which was likely listed as 'agreement',- it was qualified by only agreeing if the same carer and arrangement could be continued. I was told that this would be up to the carer and whether she would decide to move to mecwacare. What they didn't tell me, but I now understand to be the case is that it is actually subject to her deciding to apply (for a new and I understand lower paid position to undertake the same work) and then being given the position and then somehow Mecwacare agreeing to allocate her to my mother. I imagine there are many others of the 2100 care recipients who are like my mother quietly but continually worrying that her carer will be replaced with someone they don't know. This age group do not have a voice but they will be the silent casualties if this change proceeds."*

Understandably, this has led to a high level of anxiety for clients and their families and a lack of trust that the quality care they receive today will no longer be available to them.

The ASU is also concerned about some unqualified statements in the *Response to Fair Work Commission Orders* document. It appears that Council told clients that "Council will be unable to compete" and "Council is unable to continue to use rates income to subsidise these services as this would put [sic] be inconsistent with the principles of the National Competition Policy". Both statements are not necessarily correct yet are unqualified. In such circumstances, clients are not well positioned to beneficially consult on such a proposed change.

ASU believe that there is much work to do regarding community engagement before Council can make any definite decision on the service. There is an integral connection between the employment conditions, health, safety and well-being of the aged care workforce and the health, safety and well-being of people using aged care services. Superior work conditions at local councils help to maintain a long-term workforce, which ensures continuity of care and appropriate supervision and training. Council services follow an 'enabling approach' to service delivery, which is intended to promote both wellbeing and independence.

Private and NFP aged care employers are struggling to attract or retain and develop staff.<sup>1</sup> This is a direct consequence of the reliance by those employers on precarious and unstable work, and poor wages and conditions. In turn, clients will be left not knowing from one day to another who will be walking through their door to provide their care, this will severely jeopardize their quality of care.

Continuity of care or lack thereof was one of the biggest concerns raised in the Royal Commission. Local government sets the highest standard with relation to continuity of care. Our members and their clients tell us that lack of continuity is the first step to service break down for the client.

<sup>1</sup> See: <https://www.australianageingagenda.com.au/royal-commission/pollaers-calls-out-government-over-lack-of-action-on-workforce/>.

## Financial viability

It is disingenuous for Council to say it cannot afford to continue providing aged care services for financial reasons. Council's annual report for the 2020/21 financial year indicates that Council is in a very secure position as, even after Covid19 recovery efforts, Council had a total gross budget of \$192,919,000. [REDACTED]

Council's own Plan, *Add life to your years – Healthy ageing in Boroondara*, illustrates that Council says it is "committed to support the City's ageing population to remain healthy, engaged and connect to their community."<sup>2</sup> Given the very small budget allocation that would be required to subsidise the aged care services maintaining aged care services is a cost friendly way of demonstrating this commitment. Council should be prioritising this service which is critical to delivering on their own policy objectives which alone justifies ongoing subsidies.

In *Attachment 3 – Summary of information provided to Councillors at the meeting on 29 November 2021*, Council has suggested that the change in service usage – clients having the freedom to purchase services – will mean that service usage will become unpredictable. The ASU wholeheartedly rejects this statement. Councils are recognized as superior providers of aged care services, providing quality and caring services for the local community. If this standard is maintained, such a service should be self-sustaining from a budget perspective.

Council's own population forecast indicates that the proportion of people aged 55 years and over in Boroondara will rise by 7,800 people, to around 29 per cent by 2028.<sup>3</sup> Demand for aged care services will only increase with this rise and Council, as a well-regarded provider of such services, will be in a strong position to benefit from such a rise. Therefore, maintaining – and even expanding – aged care services is likely a cheap and effective way for Council to demonstrate their commitment to supporting their ageing community.

### *Example 1: AccessCare – Kingston City Council*

An example of a sustainable service is Kingston City Council (Kingston). Kingston established and continue to run AccessCare. Since the creation of AccessCare the service has grown from 200 to over 560 packages despite competition from other major providers (such as BlueCross and MiCare) operating in the region. AccessCare's purpose is to encourage and support a connected community with enhanced health, wellbeing and independence of individuals, groups, and communities.

AccessCare receives over \$27 million in funding through the Commonwealth Department of Health to deliver aged care services through Home Care Packages (HCP) and CHSP and \$1.2 million in State Government grants from the Department of Families, Fairness and Housing for the under 65's Home

<sup>2</sup> See: <https://www.boroondara.vic.gov.au/media/48591/download?inline=>.

<sup>3</sup> See: <https://www.boroondara.vic.gov.au/media/48591/download?inline=> referring to *id Consulting 2017, City of Boroondara population forecasts*.



and Community Care Program for Younger Persons (HACC PYP). Most of AccessCare's Clients are within the boundaries of Kingston, however with HCP, some clients are also from neighbouring council areas. Council's back of house provides infrastructure such as its headquarters, IT, payroll, and other administrative functions but otherwise it draws on limited ratepayers' funds to pay for service delivery.

*Example 2: Colac Otway Shire Council*

Colac-Otway Shire (Colac) began delivering HCP under the consumer directed care model in 2017. In 2018, they provided only 16 packages, but by 2022 they provide over 140 packages which service 600-700 clients.

Colac is planning for an additional 100 packages by 2024. Colac, like many councils, do not budget for overheads yet their service is entirely self-sustaining, and any revenue raised is invested back into their aged care services. Prior to COVID 19 they had begun conversations about regional collaboration with other councils.

## Conclusion

As a local government provider of aged care services, Council has a strong public interest argument to counter any suggestion that continuing to subsidise their aged care services is anti-competitive. Further, CNP does not apply to Council services where applying it jeopardises a Council's ability to deliver on its public policy objectives.

For the workers, Council's provide stable and quality jobs that directly benefit the local community. Exiting a service that is made up of predominately female workers has a negative overall impact on the local community. Council should be championing this workforce and fighting to maintain a service that delivers on Council's own policy objectives to support the ageing community.

Finally, Council's current employees will be detrimentally impacted by this proposal. Private and NFP providers have inferior employment conditions. Poorer employment conditions for workers translates as a lower standard of care for clients.

The ASU fundamentally believes it is in the interests of Council, the community, and our members for Council to maintain its aged care service provision. Councils are critical and respected providers of aged care services. Maintaining these services is not expensive for Council and would deliver on their own commitments to supporting their ageing community.

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## **City of Boroondara**

### **Response to the Australian Services Union**

The City of Boroondara acknowledges the feedback provided by the Australian Services Union (ASU) regarding Council's proposal to cease the delivery of some Commonwealth Home Support Programme (CHSP) services and transition those services to an alternative provider, as nominated by the funding body responsible for aged care, the Australian Government.

Council has identified 7 key issues raised within the ASU feedback document, and will therefore respond to the following:

1. Council's standard of service delivery;
2. Other Council's Business Models;
3. Competitive Neutrality Policy
4. Skills Base and Service Delivery;
5. Client Engagement;
6. Worker Conditions; and
7. Financial Viability.

It is important to again highlight the following critical elements that has led to Council providing preliminary support to the proposal, subject to feedback. These are:

1. Aged care is the responsibility of the Australian Government to fund and administer and it is their responsibility to ensure aged care services are available and affordable for all eligible citizens, no matter where they live or what their socio-economic status is.
2. As a result of the significant changes occurring to the delivery model and funding of aged care in Australia, it is incumbent on every council to assess its aged care service offering.
3. There are currently at least 194 providers delivering in-home aged care within the municipality. These are made up of a least 24 Australian Government funded providers of CHSP and over 170 private providers. Council is not unique in its service offering and quality of service, and there are other providers able to deliver high-quality integrated services to meet the needs of older people.
4. Since the Australia Government assumed responsibility for aged care in 2016 (this was previously a Victorian Government responsibility), Local Government in Victoria is no longer the sole provider of funded services in Boroondara. This has resulted in a 58% decline over five years in clients receiving services from the City of Boroondara. This demonstrates Boroondara residents actively chose to receive in-home aged care services from other providers. This trend has increased over these five years.
5. The subsidy which Council currently pays towards the operational costs of CHSP will be seen as anti-competitive in an open market and in breach of the National Competition Policy as there are some 170 private providers and 24 Commonwealth funded providers of the same or similar services operating within the municipality.

In response to the ASU:

### **1. Council's Standard of Care and Turnover**

Council has always prided itself on providing a well-regarded, high-quality service to residents eligible for CHSP services. Council believes that there are many providers who provide a similar or higher standard of care, particularly for residents with 'high care' needs. All providers are audited against the Aged Care Quality Standards.

Councils, who provide CHSP services, are no different to any other provider, receive no special treatment, are bound by the same program (quality and safety) and contractual requirements, and subject to regular audit.

It is acknowledged aged care clients may have a preference to be assigned a regular carer, and that all providers, including Council, endeavour for this ideal outcome. However, Councils, like others within the aged care industry and health sector, are not immune to the workforce shortages, challenges and turnover occurring throughout the State and country, and have difficulty in managing the available workforce.

### **2. Other Council's Business Models**

The ASU has referred to the business models of other Councils. Whilst Council cannot comment on their models and decisions, it is important to note that each Council has a different context and requirement to the delivery of CHSP services.

As a result of the significant changes occurring to the delivery model and funding of aged care in Australia, it is incumbent on every council to assess its aged care service offering. While a minority of councils have historically provided in-home services to clients with complex and high needs clients through the provision of packages, this is not the majority. One of the examples cited in the ASU's feedback is the City of Kingston's model. This model involves delivering case management and packages, however this commenced prior to the amalgamation of local government in Victoria by the former City of Moorabbin in the early 1990's. This council now has over 30 years' experience in delivering integrated aged community care, has built systems, an organisational structure which accommodates a range of professionals to be able to ensure appropriate duty of care is provided to clients with complex and high needs and is a very well-established provider offering a broad range of community care services. In addition, the City of Kingston provided residential aged care, both high and low care with specific dementia facilities in the past, further demonstrating the many years this council has in providing specialist, complex aged care. The City of Boroondara is obviously operating in a vastly different context when compared to the expertise, resources and skill base of a council which has over 30 years in the provision of integrated and specialist aged care, which is the model of the **Support at Home** Program. However, this does not exempt any councils from having to navigate the challenges put forward by the National Competition Policy if they wish to remain in the service.

Each council has their own specific circumstances to consider in relation to the model of provision of care which relates to their historical provision as well as the context of the profile of provision of aged care in each local government area. Some local government areas have many providers who provide integrated aged community care for all levels of client needs and complexity, such as Boroondara, whereas other council areas may not, which would need to be considered as each council develops their position regarding the Home Support Program. While similar, no council aged care service or local government area is the same.

The Municipal Association of Victoria has recently commented publicly in the media (Herald Sun article, 'End of an era: regional councils exit in-home aged care', 5 May 2022) that their view is it is surprising that councils in Victoria have been able to keep operating in a rapidly changing environment which will be fully commercial on 1 July 2023. The MAV President, David Clark is quoted as saying:

*"Many councils had done a great job of offering in-home aged care services for decades, but felt they now had to exit the sector because their services were no longer "viable" under the federal government's new funding model."*

*"I would be surprised if there's more than 20 per cent of the (council) sector still in the business (after 2024)"*

Following the Royal Commission into Aged Care Quality and Safety, the Australian Government announced aged care providers would be funded on a fee-for-service model, depending on the number of services they supplied to each of their clients, rather than being paid through block grants or subsidies. Those changes are due to take place by 1 July 2023.

Cr Clark said *"many councils didn't have the "scale" to compete with larger providers. Councils also often paid their workers higher than aged care industry award rates and were no longer allowed to subsidise the cost of their services to residents due to national competition rules, which meant the sums no longer added up."*

There are now 28 councils which have concluded they are unable to operate as a sustainable commercial business under the consumer-led Support at Home Program.

### **3. National Competition Policy (NCP)**

The assertion that the National Competition Policy (NCP) is irrelevant in these circumstances, is incorrect. The NCP and the Competitive Neutrality Policy would apply to the provision of aged care services by Council under the individualised model of Support at Home as Council's aged care services are a 'significant business activity' to which NCP applies. Hence, Council must consider implementing Competitive Neutrality Measures (**CN Measures**) to offset its competitive advantage, created by ratepayer subsidies, to be able to offer competitive pricing in a commercial industry.

Competitive Neutrality Measures are measures that government entities can implement to replicate, to varying degrees, private sector business circumstances. CN Measures seek to deal with the resource imbalance between the public and private sectors to achieve a situation where government or private ownership is neutral in its effect on competition.

There are three CN Measures available to Council, being cost-reflective pricing, corporatisation and commercialisation. Corporatisation and commercialisation can be complex and resource-intensive and are rarely used in the local government context.

Accordingly, cost-reflective pricing is the CN Measure most commonly adopted by councils and, given the nature of the aged care services provided by Council, is also the CN Measure that is best suited to addressing Council's competitive advantage in the present circumstances.

The objective of cost-reflective pricing is to determine the competitive neutrality adjusted cost of the relevant activity, by ensuring that the prices charged for goods and services take account of both actual and notional costs. A pricing structure can then be adopted that reflects the full cost

apportioned to the business activity. In Council's case, the costs attributed to delivering services, and in this case aged care, will be higher than its competitors due to labour costs. This is true of local government generally, since Enterprise Agreements are more generous than those applied in the private sector. This means that, if Council charged full cost reflective pricing, it would be uncompetitive with other providers as well as being inaccessible for many clients. To be able to lower fees charged to clients to become competitive with the private sector, Council would have to subsidise the cost of providing the services and therefore undercut the prices of its competitors. In this case, if Council wanted to take that approach, it would have to undertake a public interest test to ensure compliance with NCP. This would require Council to determine, in essence, that its public policy objectives would be jeopardised if it applied CN Measures to the services.

In conducting a public interest test, Council's public policy objectives must be objective and clearly stated. Council could not simply refer to vague objectives and general platitudes about the importance of preserving Council-provided aged care services. If Council wishes to continue providing a subsidised service in a competitive market, Council must be able to demonstrate that potential consumers of the Support at Home program would be unable to access this program or lack the ability to be able to receive the same or similar services, which would create a significant social detriment within the community. In those circumstances, NCP recognises the existence of competing public policy objectives and allows for the consideration of a range of matters, one being to determine how best to achieve the interests of a consumer generally or a class of consumers and the impact on the community.

Given there are some 170 private providers and 24 Commonwealth funded providers of the same or similar services operating within the municipality, there is a sufficiently broad range of service providers and services available for users of the Support at Home program that will be able to cater for their needs. There is therefore no clear detriment to the community and Council cannot establish a policy position that can be tested through a public interest test. Simply, this means Council would have to adopt cost reflective pricing, which would be prohibitive to users and, in particular, would be inaccessible for vulnerable and financially disadvantaged people.

#### 4. Skills base and service delivery

Council disagrees with the ASU assertion that 'under the reforms Councils would be able to choose which levels of service it provides'.

The Royal Commission into Aged Care Quality and Safety (the Commission) recommends (Recommendation 35) providers of the **Care at Home** category of services (including domestic assistance, personal care, and property maintenance) within the new aged care system would need to provide a "coordinated and integrated range of care and supports across the following domains:

- care management
- living supports: cleaning, laundry, preparation of meals, shopping for groceries, gardening and home maintenance
- personal, clinical, enabling and therapeutic care: nursing care, allied health care and restorative care interventions
- palliative and end-of-life care".

Additionally, the Commission has recommended (Recommendation 31) providers be responsible for care management and where the client has multiple providers, the 'lead' provider would be required to provide the **Care Management**. The Australian Government, in accepting this recommendation, has quantified care management as:

- Coordination with multiple providers, connect to assistance outside of aged care, conduct check-ins
- Clinical oversight - monitor care needs, coordinate with the health system and conduct check ins.

Council does not have the skills base to provide a coordinated and integrated range of care as recommended by the Royal Commission, nor does it have the expertise to 'lead' service delivery across multiple agencies or provide clinical oversight. Council does not require Carers to be proficient or trained in areas such as: mental health first aid, health records training and medication management. These and likely other areas of skill would reasonably be expected to be required in circumstances where there are clients with more complex care needs. Additionally, it could be reasonably anticipated that a broader staffing profile would be required including nursing and occupational therapy disciplines.

## 5. Worker Terms and Conditions

All Australian Government-funded CHSP providers are bound by the same *Service Provider Responsibilities* as outlined in the Commonwealth Home Support Programme - Program Manual 2020–2022. These include quality audits and employee training:

- Quality audits
  - The Aged Care Quality and Safety Commission undertakes all quality reviews of aged care services provided in the community, including the CHSP service providers (pg. 72).
  - The [Aged Care Quality Standards](#) support service providers to maintain the high quality of service delivery expected by all providers of aged care (pg. 72).
- Service providers are required to meet staffing and training requirements under the Standards (pg. 74).

Whilst many would view that Councils provide favourable terms and conditions for those engaged to deliver services in line with the CHSP, this does not negate the challenges presented to Council, and importantly our clients, with respect to the changes associated with the introduction of the Support at Home Program by the Australian Government.

The Aged Care industry is underpinned by the terms and conditions set by Aged Care Award 2010. This industry wide instrument sets the minimum terms and conditions of employment for those engaged within the Aged Care industry.

It is not appropriate for Council to comment on the rates of pay by other organisations, however it is worth noting that many Not-for-Profit organisations offer additional favourable terms that Council cannot, such as salary packaging concessions enabling employees within the sector to access a more competitive take home pay.

To further highlight such benefits, Not-for-Profit employees can package up to \$15,900 every year significantly reducing their taxable income. Additional benefits are also on offer within the not for profit sector such as a meal entertainment card allowing employees within the sector to expense food and drink, entertainment, holiday accommodation, and even venue hire while using up to \$2,700 pre-tax dollars.

## 6. Client engagement and well-being

Council does not agree with the assertion that consultation with clients and family members did not occur.

At a Council meeting on 29 November 2021, Council resolved to consult with clients and affected staff on a proposed staged transition of select CHSP services to an alternative provider as nominated by the Australian Government. Following this, a comprehensive 3-week consultation with all clients was undertaken between 22 February 2022 and 7 March 2022. Capturing and sharing feedback with Council, prior to a formal decision on the proposal, was essential to ensure Councillors could include this in their consideration of the proposal.

All clients in receipt of Council's in-home CHSP services were individually consulted on the proposal to transition their services to *Mecwacare*, as nominated by the Australian Government.

The consultation team attempted to contact all 959 regular service users by phone to ensure they understood the proposal, received responses to any questions and recorded their feedback. 937 regular service users (98%) took part in the phone consultations, with all clients also receiving an information pack in the mail.

Of the 937 clients who chose to take part in the consultation, only 2%, or 41 clients, indicated they would prefer to transition to a provider other than *mecwacare* if the proposal were to proceed. Seventeen of these clients (<1% of all clients) were against the proposal and 24 preferred to access services from a provider other than *mecwacare*. The most frequently reported feedback from clients was a desire for a seamless transition to take place between the two providers.

The phone consultation provided a thorough explanation of the proposal and the reasons for the proposal, and sought to:

- Gather clients' feedback on the proposal
- Understand what is important to them about the service they receive now, and what might be important to them in the future
- How Council could best support clients to transition to a new provider should the proposal be adopted
- Understand the views of clients with respect to breadth of services available from a dedicated end-to-end aged care provider
- what support they would expect of a new provider during any transition period (if applicable)
- Answer any questions they may have.

The 1,144 clients in receipt of ad hoc property maintenance, with no other services, were invited to contact the consultation team to provide feedback on the proposal. A total of 12 clients opted to provide feedback.

Council understands this may be a challenging time for clients. Should the proposal proceed, the feedback from individual clients received throughout the consultation will be used to ensure a tailored and well managed transition for clients to the alternative provider so they can receive continuity of service. The Australian Government services provided under contract with any alternative provider will be required to adhere to the same safety and quality requirements currently required of Council.

In relation to the consultation undertaken, as the CHSP is an Australian Government service which is provided to the community through a wide array of providers, Council met its obligations under the *Local Government Act 2020* by undertaking consultation with members of the community who would be impacted by this proposal, in accordance with Council's *Community Engagement Policy 2021-2026*.

As such, Council does not agree there is a requirement to undertake further client consultation.

## **7. Financial viability**

Council is not considering this proposal for financial reasons and has never stated "affordability" as a reason for proposing to exit from some CHSP services. The reasons are solely associated with the new, competitive marketplace model of in-home aged care being introduced by the Australian Government and the significant obstacles Council would face under the new model, including:

1. The subsidy which Council currently pays towards the operational costs of CHSP will be seen as anti-competitive in an open market and in breach of the National Competition Policy (NCP).
2. Officers have assessed the full cost of the provision of services, without the provision of a council subsidy, which would be charged by to clients by Council and the cost to clients would not be competitive in relation to other providers.
3. The suite of in-home services Council currently provided are the basic entry level aged care services. Council does not have the capacity nor the expertise or skill base to deliver the range of integrated services expected to be available to clients, regardless of level and complexity of care needs under the new Support at Home program.

With less than 9% of older people living in Boroondara accessing the CHSP services Council is proposing to exit, Council is committed to its *Add life to your years – Healthy ageing in Boroondara* plan by ensuring this proposal does not impact on the community-based aged care programs and services provided by Council. Council will continue to focus on and provide services unique to local government, and which are available to a far greater number of older people, including, but not limited to:

- Community Transport, including the municipal-wide community bus
- Social Support group excursions and activities
- Library and Arts events
- Library at Home service for vulnerable and isolated people
- Funding support for seniors' centres and U3A's
- Recruitment of volunteers to support services for seniors
- Provision of grants to seniors' groups and programs
- Functional exercise and recreational programs
- Add Life to Your Years - Over 55's digital hub which lists all available activities in Boroondara
- Aged Care Sector navigation support for transitioning clients (throughout the 2022/23 transition year) and the broader community to ensure all older residents are able to access information and appropriate supports and services.