

## 7.3 State Government Cost Shifting to Local Government

### Executive Summary

#### Purpose

The purpose of this report is to outline the key issues and implications of cost shifting from State and Federal Government to Local Government. The report also identifies the primary cost shifting that is currently occurring which is primarily from the State Government.

#### Background

Cost shifting occurs when the responsibility for, or merely the cost of, providing a certain service, concession, asset or regulatory function is shifted from one sphere of government to another, without corresponding funding or revenue raising ability required to deliver that new responsibility. Cost shifting from the Federal and more significantly from the Victorian State Government has been a major financial issue for many years and poses a serious risk to both the ability to deliver services and local governments' financial sustainability.

Revenue sources for Council are limited, coming primarily from rates and charges and to a lesser extent grants, user fees and charges and statutory fees and fines. Rate capping has prevented Councils from increasing their rates beyond the cap set by the State Government since 2016 with the cap generally based on or close to the CPI. However, costs for local government have been increasing substantially more than CPI given the high focus on staffing delivery costs and also infrastructure renewal.

Whilst Boroondara is in a generally strong and stable financial position, the effects of rate capping will continue to diminish the ability to deliver services and infrastructure renewal needs in to the future. This means that cost shifting is a significant issue which will impact the financial sustainability of the municipality.

Some of the traditional cost shifts have occurred in areas such as libraries and the school crossing supervision program but are expanding into non traditional areas such as social housing, maternal and child health and Building Enforcement.

#### Key Issues

Given the current economic climate with an increased cost of services and infrastructure and reduced grants, cost shifting is becoming a heightened issue once again. The following outlines some of the current cost shifts:

- Libraries
- School Crossing Supervision
- Maternal and Child Health
- Early Years Infrastructure
- Building Reform
- Urban Planning
- Social Housing
- Landfill Levy and Waste Services
- State Infrastructure Projects
- Urban Stormwater
- Electrical Line Clearance
- Environment Protections

- Climate Change Response and Mitigations
- Road Network Projects
- State Road Amenity Maintenance
- Disaster Response and Recovery
- Compliance and other indirect costs

### Next Steps

The impacts of cost shifting will continue to be monitored and reported to Council where significant issues are identified. Specific concerns such as social housing and building reform have already been part of separate advocacy and discussions with the Municipal Association of Victoria. The issue will also be raised with State Government representatives and as part of advocacy leading up to the State election in November.

## **Officers' recommendation**

That Council resolve to:

1. Write to the Premier of Victoria, Daniel Andrews, expressing concern about the extent of cost shifting from the State Government to Local Government, especially in the context of rate capping limiting Council's ability to meet the future operational and infrastructure needs of its community.
2. Request the Municipal Association of Victoria undertake an advocacy campaign drawing attention to the issue of cost shifting from the State Government to Local Government.
3. Seek support from the opposition and Local State Members of Parliament to campaign to address the cost shifting concerns from the State Government to Local Government.
4. Write to the Mayor of all Victorian Councils raising the concerns outlined in the cost shifting report and seeking their support for advocacy to the MAV, State Government and the Opposition on the issue.
5. Continue to monitor cost shifting that is occurring and bring future reports back to Council on specific significant cost shifting that is occurring.
6. Commit to the Campaign being led by Monash Council raising concern with the State Government about the school crossing supervisor program including the funding model.

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**Responsible director: Scott Walker, Director Urban Living**

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## 1. Purpose

The purpose of this report is to outline the key issues and implications of cost shifting from State and Federal Government to Local Government. The report also identifies the primary cost shifting that is currently occurring which is primarily from the State Government.

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

This report has taken in to consideration relevant Council policies and the Victorian Government's rate capping legislation. It is consistent with the Boroondara Community Plan 2021-31 which incorporates the 10-year Community Vision, the Council Plan 2021-25 and the Municipal Public Health and Wellbeing Plan 2021-25. In particular, theme 7 in relation to Leadership and Governance with a focus on the following objectives:

7.2 Resources are responsibly allocated and used through sound financial and asset planning, procurement and risk management practices

7.5 The community's interests are represented by Council through leadership and strong advocacy to external stakeholders.

## 3. Background

Cost shifting from the Federal and more significantly from the Victorian State Government has been a major financial issue for many years and poses a serious risk to both the ability to deliver services and local governments' financial sustainability. In ascertaining the potential impacts of cost shifting it is important to understand some of the key financial pressures on local government.

There are significant cost pressures on Local Government due to the following factors:

- Declining levels of Government grants and service funding agreements as proportionate to increasing costs and demand for service delivery and infrastructure.
- Announcements of new Victorian Government services such as free three-year old kindergarten and the doubling of hours of four-year old kindergarten without any consultation which will require additional rooms, which has the potential to financially impact kindergarten infrastructure owned by Local Government.
- Managing and renewing community assets.
- State Government Rate Capping.

In 2006, The Australian Local Governance Association commissioned PriceWaterhouseCoopers (PWC) to examine the broader issue of the long-term financial sustainability of local government given the challenges faced by many councils in providing a growing range of services including some that extend beyond their traditional role.

PWC found that there was an estimated shortfall of \$14.5 billion in infrastructure renewal work. A key reason for this shortfall is not only community expectations, but also the ongoing impacts of cost-shifting. Despite the report being more than 10 years old, ALGA say the issues raised are still relevant today as councils divert funding from long-term infrastructure projects to vital short-term human services, while at the same time being increasingly squeezed by additional fiscal pressures.

The National State of the Assets report 2018 revealed that \$30 billion is required to renew and replace ageing infrastructure. The amount of infrastructure requiring renewal will continue to increase over the next 20 years as structures built during the post-war rapid growth period of the 1960s and '70s age and their condition, capacity and function declines. This is particularly relevant in middle suburban municipalities such as Boroondara.

Councils have limited sources of revenue to deliver on their needs with funding derived from:

- Rates and charges
- Grants and contributions
- User Fees and charges
- Statutory Fees and fines

Councils are able to raise a small amount of revenue through service fees and charges and have also become more reliant on receiving grants from State and Federal Governments. However, grant revenue has become significantly constrained in a post Covid lockdown environment. This means that the majority of Councils' revenue comes from rates and charges. Rates revenue is generally used by councils to cover funding needs to meet increasing service demands, new government policy, rising costs and community expectations, but the ability to raise rates in Victoria has been constrained by rate capping since 2016.

### ***What is Rate Capping?***

The State Government imposed a rate cap on Victorian councils, commencing in 2016 (at 2.5 per cent) and is based on forecast movements of the Consumer Price Index (CPI).

However, council costs are generally affected by growth in construction, material and wage costs, rather than changes in common household goods and services as measured by CPI. The main council costs are staff to deliver human-based services; and staff and materials to construct, maintain and upgrade roads and other assets. Cost increases in these areas are often between 3-4% or even more since the pandemic and are not reflective of the CPI.

A rate cap linked to CPI rather than councils' actual input costs makes it more difficult to provide the same level and mix of services to communities each year let alone expand services in new areas or take on responsibility for costs traditionally the responsibility of other levels of government.

With the introduction of a rate cap in 2016, many councils implemented efficiency reforms to save costs including organisation restructures, asset sales, collaborative purchasing, reviews of discretionary services and fleet vehicle reductions. However, evidence is also emerging of an under-investment in capital infrastructure by some councils .

Over time, the under-investment in roads, maintenance and infrastructure renewal by councils will have long-term impacts on the quality and safety of local roads, and the availability of community facilities across Victoria. A well resourced and established Council such as Boroondara can manage the impact better than most but will also be negatively impacted.

In NSW, where rate pegging was introduced in 1977, the NSW Treasury Corporation found that councils faced an infrastructure funding shortfall of \$7.2 billion in 2012 with the funding gap having significantly expanded since that time. Many NSW Councils are struggling to deliver on their essential services and infrastructure.

### ***What is cost shifting?***

Cost shifting occurs when the responsibility for, or merely the cost of, providing a certain service, concession, asset or regulatory function is shifted from one sphere of government to another, without corresponding funding or revenue raising ability required to deliver that new responsibility.

Cost shifting can occur in the following ways:

- Provision of grant funding to commence a new service (and then withdrawing those funds at a later stage leaving Council to fully fund the service);
- Inadequate growth or indexation of funding provided to services;
- Legislative transfer of responsibilities to Local Government;
- Removal of services at one level of Government leaving Local Government as the only service provider.
- Increasing the expectations of service delivery without a commensurate increase in grant funding

### ***What are some historic examples of cost shifting to Local Government?***

#### **Libraries**

Libraries are one of the often quoted examples of cost shifting. In 1975, public libraries were funded 50:50 by the Victorian Government and local government. Victorian Government funding to Boroondara has since declined to just 17 per cent of public library operating costs, with council now contributing 83 per cent of the total cost.

#### **School Crossing Supervision**

Similar to libraries, the school crossing supervisor program had a greater funding provision by the State Government when it was first established with an 80:20 split so that the State Government paid 80% of the cost. This has flipped around and despite a lift in contributions following a local government campaign 10 years ago the proportion funded by the State Government has dropped once again and is only approximately 25-30% for most Councils.

### ***Is cost shifting getting worse?***

There is no comprehensive account of cost shifting in Victoria which demonstrates the overall effect on Local Government. From year to year the proportion of subsidy can fluctuate due to one off grants, capital investments and staffing costs. Because some cost shifts are not necessarily overt the effects of the cost shift are not always evident straight away such as when a service is withdrawn at another level of government and a gap left in the market or contributions fail to keep pace with actual increases in cost.

Local Government NSW undertakes a regular survey to monitor, measure and report on the extent of cost shifting onto local government in NSW. In their 2018 report LGNSW's puts cost shifting onto NSW councils in the 2015/16 financial year at \$820 million. This is a \$150 million increase on 2013/14, and takes the accumulated total cost shifting burden on NSW councils to an estimated \$6.2 billion over a 10 year period. LGNSW research also shows that not only does cost shifting continue to grow, it is growing at an accelerated rate. The per annum cost shift has more than doubled in a single decade primarily as a result of state government policies. The federal government is responsible for just 2% of the cost shifting burden.

Some of the key drivers of the cost shift in NSW are the waste levy and library funding. The trends in Victoria have been very similar to those in NSW and for very similar reasons although State wide local government industry data is not currently available.

### ***Boroondara's Current Budget Position***

COVID-19 has had a significant impact upon Council's resources. For the first time in its history, Boroondara had a deficit in the 2020-21 year. While there is a clear and responsible path to recovery in future years, the total estimated net loss of \$41 million (over financial years 2019-20, 2020-21 and 2021-22) creates a challenging circumstance for Council. As the population grows the demand for services increases and the impact of the state government's rate cap makes no allowance for this.

The 2022-23 Budget projects a surplus of \$6.98 million which is an increase of \$380,000 from the 2021-22 Forecast. The Budget, which includes expenditure of \$252.25 million, is largely based on a post COVID-19 recovery of normal activity levels and continues to be closely monitored in line with current COVID-19 developments. Boroondara's strong financial management resulting in a positive year end result is critical in enabling Council to address the ongoing requirement for asset renewal to ensure Council's facilities meet community needs.

The 2022-23 Budget is based on a rate capped average increase in Council rates of 1.75 per cent as prescribed by the State Government.

### ***What are the consequences of cost shifting?***

Local Governments capacity to respond to cost shifting is quite limited and all options available have potential detrimental consequences for the local community. The following options are available:

- Reduce staffing level;

- Reduce services;
- Move away from services not core local government responsibility;
- Seek an exemption to the rate cap to increase rates (which may ultimately not be supported by the State Government).

### ***What is the Municipal Association of Victoria doing?***

The Municipal Association of Victoria regularly raises the concerns associated with cost shifting and rate capping on behalf of local government although there is no specific current campaign addressing the overall issue. The recent MAV State Council Meeting in June this year endorsed a number of motions that are relevant to the sustainability of local government. In particular, on behalf of Councils the MAV is asking the State Government to:

- *Implement a Council Price Index that reflects the cost pressures faced by local government (including infrastructure, materials costs, service contracts and wage costs) to inform the annual rate cap decision by the Minister for Local Government.*
- *Provide councils with the financial funding support required to continue providing the services to the community that the state government has cost-shifted, in part or full, to local government including where local government collects levies for the state government.*
- *Consider the volatility in CPI when setting rates and seek engagement with the sector prior to the next setting of the Victorian Council Rate Cap.*
- *Ensure that funding made available through Windfall Gains Tax is distributed to LGAs where the tax has been generated to assist councils with funding local community infrastructure projects.*
- *Provide greater support for councils in their planning and forward budgeting of critical social infrastructure projects (including libraries and aquatic centres) through an ongoing social infrastructure funding stream and establishment of funding agreements that enable councils to plan and deliver a pipeline of critical social infrastructure projects their community needs, when they need it; and deliver long-term funding certainty and provide flexible funding arrangements for councils.*

And for the Federal Government to:

- *Commit to sustainability of councils through the restoration of the total quantum of Federal Assistance Grants Program at 1% of Commonwealth taxation revenue.*

Where there are specific MAV motions relevant to the cost shifting categories below these have also been identified.

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

Given the current economic climate with increased cost of services and infrastructure and reduced grants, cost shifting is becoming a heightened issue once again. The following outlines some of the current cost shifts:

**LIBRARIES:****Libraries**

Timing	Cost shift type	Cost impact
Ongoing	Inadequate indexation	Significant

The cost of running libraries continues to be a significant issue for Councils. The percentage of operating funding provided by the State Government in Boroondara was approximately 17% of the \$5.8m operating cost ten years ago (2012-2013) but has continued to deteriorate and is down to approximately 13% of the total \$9.1m operating cost in 2021-2022. If the capital investment of Council is factored in over the 10 years then in some years the contribution of the State Government has been as low as 4.5% (2017-2018).

As a high demand and well regarded service the community continues to expect the service level is maintained and increased for libraries. However, there are no indications that the State Government intends to increase its subsidy.

**SCHOOL CROSSING SUPERVISION:****School Crossing Supervision**

Timing	Cost shift type	Cost impact
Ongoing	Inadequate indexation	Significant
Relevant MAV State Council motion:  That the State Government: <ul style="list-style-type: none"> <li>• <i>Fully fund school crossing supervision and not impose costs on ratepayers and residents for a service that is unrelated to core Local Government functions. Failing this, call on State Government to provide fair share funding for the provision of the school crossing supervisor service.</i></li> </ul>		

The School Crossing Supervision program was introduced in 1975 under a joint funding arrangement between the State (Department of Transport formally VicRoads) and Councils. Although at the outset of the program the funding contribution of the State Government was higher, the funding has diminished over a number of years and has dropped to approximately 30% in recent years. A recent injection of funding has brought the funding back to an expected (approximate) 50/50 split for the current financial year although there is no commitment that this funding level will be maintained in future years.

The cost to Boroondara has fluctuated over the years with a subsidy of 36% being provided by the State Government to the direct cost in 2015/2016. With the recent funding boost commitment the Victorian Government is contributing \$739,610 (55%) of the \$1,434,835 direct budget for the service.



However, this does not include many of the indirect service costs such as Senior Management support and heightened recruitment needs.

It is understood that funding will continue to be allocated under the provisions of the School Crossings Subsidy Scheme in to the future although the level of funding is uncertain. The scheme is administered by VicRoads who uses a detailed formula to decide if a supervisor at a crossing is warranted. The formula is based on the number of children (primary and secondary are treated differently) using the crossing and the number of vehicles passing through the crossing. There is also a minimum requirement related to the number of pedestrians crossing and vehicles passing. Subsidies may also be provided for 'other crossings' on account of special needs (e.g. children with disabilities) or other factors affecting safety, such as excessive vehicle speed, road geometry, limited sight distance, volume of heavy vehicles or road width. Where a crossing meets the prescribed 'warrant', VicRoads will generally provide a subsidy for that crossing. Less certain is how 'special needs' crossings are dealt with in that a crossing subsidy may be provided one year but not the next.

There are currently 114 school crossings within Boroondara that are actively supervised by Council requiring 126 supervisors each day. Recruiting and retaining school crossing supervisors has, for many years been a considerable challenge for the Local Government sector and this continues to be the case. What had traditionally been a highly dedicated and reliable workforce with low rates of attrition, has for a number of years been a more dynamic workforce with significant staff turnover and shortages. This has been contributed to by poor general health becoming a factor, along with fears of the current pandemic situation which see the older community hesitating to take up the role or in some cases being vaccinated.

Unfortunately, the issues with recruiting and maintaining school crossing supervisors has meant that there are times when not all crossings can be staffed. Council Parking and Local Laws staff are used from time to time to cover shifts for high priority locations, however, this is not sustainable and impacts on the ability to provide other key Council services.

Council is generally the responsible road authority for municipal roads within its municipal district. Council's functions include road maintenance, traffic management and infrastructure installation. Accordingly, in relation to children's crossings on public roads for which Council is the responsible road authority, Council must inspect, maintain and repair the children's crossings. However, Council's obligation under the *Road Management Act* to maintain school crossing infrastructure does not create an obligation on Council to provide school crossing supervisors. There is nothing in the Road Rules or elsewhere that addresses the presence or otherwise of school crossing supervisors. It is clear that children's crossings may be operational even if there is no one to supervise them, provided that the necessary flags and signs are in place.

A number of Councils are questioning whether they continue to provide the school crossing supervisor service given the increasing cost of delivering the service and insufficient State Government funding. There are strong views that the funding and service delivery model is unsustainable. Monash Council is currently seeking support from other Councils to request the State Government to review the service and relieve local government of the financial burden. Monash are seeking in principle support from Councils including financial support of an advocacy campaign.

The expected cost commitment will vary depending on the number of Councils involved but is estimated to be approximately \$3700 for Boroondara.

It is considered reasonable to support the campaign by Monash Council although a commitment to withdraw from the service as indicated by some Councils is not considered necessary or appropriate at this stage.

### **MATERNAL AND CHILD HEALTH:**

#### **Maternal and child health**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Grant withdrawal	Significant
<p>Relevant MAV State Council motion:</p> <p>That the State Government:</p> <ul style="list-style-type: none"> <li>• <i>Restore the 50-50 funding agreement for Maternal Child Health (MCH) Service between councils and the Victorian Government.</i></li> <li>• <i>Review Key Age and Stage Framework including appointment times (increase appointment time) to cater for the cumulative increases in responsibilities added over the past decade by the end of 2023.</i></li> <li>• <i>Update a MCH workforce strategy to maintain ongoing delivery of the MCH service.</i></li> <li>• <i>Fund a new IT infrastructure system, to replace the outdated not fit for purpose Child Development Information System (CDIS) database by the end of 2024.</i></li> </ul>		

The Victorian Government has gradually increased responsibilities of Maternal and Child Health nurses over the past decade. The funding required to resource these changes has not always been provided to sustain the changes. Appointment times have not been increased to allow the appropriate time for nurses to work through the additional requirements of various Key Age and Stage appointments. Many Local Governments have reached a tipping point where the MCH service is not sustainable. This has been a key advocacy issue for Local Government over the past 6 months and the MAV has highlighted this as a key issue in the lead up to the November State election. The funding for the Maternal and Child Health Service is supposed to be 50:50, however, this is now not the case as the MAV signed a new MOU this year which made no reference to funding at all. The Mayor, Cr Jane Addis, CEO and officers have met with the MAV President and CEO to express concerns and to address the urgent funding and workforce issues. The matter of the MAV signing an MOU with the Victorian Government without the MOU including funding arrangements was raised by the CEO in that meeting.

In the 2021-22 financial year the \$3.66 million service cost was 75% funded by Council (25% through grants) compared to 72% Council funding contribution in 2017-18. The increasing gap is shown in the graph below:

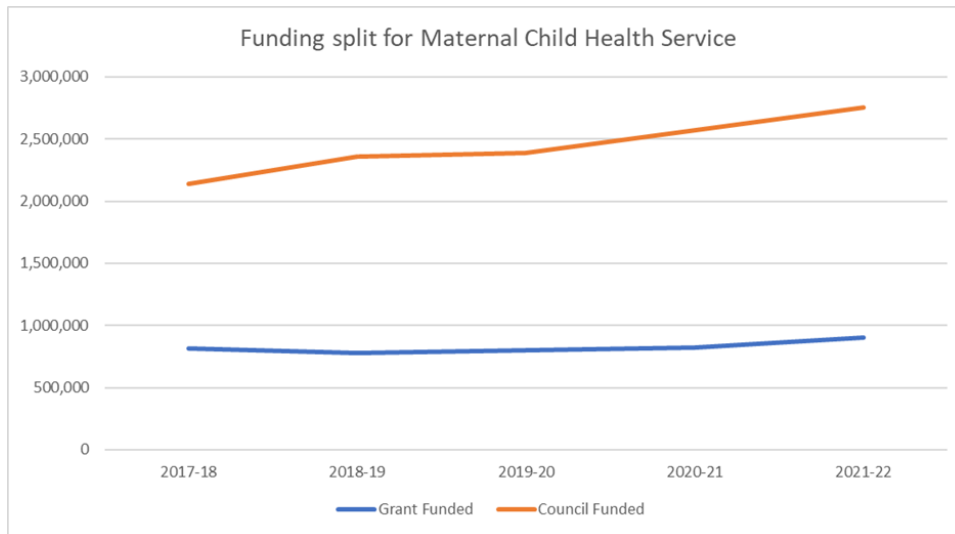


Fig1: Maternal and child health Council funding vs grants gap

**EARLY YEARS INFRASTRUCTURE:**

**Early Years Infrastructure**

Timing	Cost shift type	Cost impact
Future  (Commencing immediate and focus on next 5 years)	Service expectation	Significant  (\$7m over 5 years)

Relevant MAV State Council motion:

That the State Government:

- *Ensure that the 3-year-old kindergarten reform agenda is successfully implemented, including the increased demand for infrastructure provision to meet community needs.*

The Victorian Government’s Kindergarten Reform will have a significant impact on Council owned early childhood education and care facilities.

Council plays a key role in the renewal of existing kindergarten and community not for profit long day care facilities. Over the past eight years Council has invested more than \$14 million in renewal and upgrade of buildings that incorporate kindergarten programs. Council has attracted some Victorian Government funding for these projects, however the majority of funding has been provided by Council.

Over the next five years, Council has forecast over \$7 million for renewal works to eight early childhood education and care facilities across the municipality, including six stand-alone kindergartens and one long day care centre. This is to ensure renewal of buildings are fit for purpose based on current circumstances and do not take into consideration any expansion to accommodate three year old kindergarten.

A conservative estimate identifies an additional \$22million which the Victorian Government will need to fund to expand Council owned facilities to meet the projected demand for three year old kindergarten by 2029.

In addition to the infrastructure challenges associated with three year old kinder described above, the Victorian Government recently announced it would be increasing funding from 15 hours of four year old kindergarten to 30 hours for each child. Single unit kindergarten facilities will be severely impacted in their ability to deliver both 30 hours of four year old kindergarten and 15 hours of three year old kindergarten each week. Council owns twelve single unit kindergartens.

Conservative estimates to build an additional classroom at each site is more than \$37million. In addition, some sites are land locked and may require double story centres. Due to the age of the existing infrastructure, existing facilities may not be able to structurally support expansions, which may further increase costs and require total rebuilds.

Council reviewed and endorsed the Kindergarten Infrastructure and Services Plan (KISP) as an indicator of future unmet demand as predicted by forecast data based on the changes to three year old kindergarten. In the KISP it is made clear that it is not Council's responsibility to fund kindergarten infrastructure expansion for three or four year old kindergarten.

### **BUILDING SERVICES:**

#### **Building Services**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Legislation	Significant
Relevant MAV State Council motion:  That the State Government: <ul style="list-style-type: none"> <li>• <i>Abandon the transfer of responsibility of the combustible cladding audits, oversight of the Essential Safety Measures maintenance regime, and orphaned building permits from the Victorian Building Authority (VBA) to local government and, in relation to orphaned building permits, the VBA use its powers under existing legislation to appoint a Manager for any Private Building Surveyor (PBS) business, if the PBS's registration has been suspended or cancelled.</i></li> </ul>		

Since the initial deregulation of the building industry in the early 1990's there has been an incremental shift in responsibility to Councils as part of the building system. This has come about primarily from legislative change which has resulted in greater inspection and oversight for Municipal Building Surveyors including in relation to Essential Services Inspections, Swimming Pool and Barrier Compliance and combustible cladding reviews.

The net cost of delivering the Building service in Boroondara in the 2021-2022 FY was \$481,707. This is expected to blow out even further should potential changes proposed by the State Government putting greater responsibility on the MBS in relation to inspections of completed developments, combustible cladding and orphaned building permits be implemented.

In late June 2022, Council wrote to the Minister for Planning expressing significant concerns with pending changes to the building system that the Government is pushing ahead with, commencing with those included within *The Building, Planning and Heritage Legislation Amendment (Administration and Other Matters) Bill 2022* which was introduced into Parliament on Thursday 23 June 2022. This Bill comes in the context of the significant attempted cost- and risk-shifting to councils to address combustible cladding and other non-compliant / defective building works. The Bill contains several reforms to building legislation, including new regulations to prescribe certain types of construction where a council Municipal Building Surveyor (MBS) would be required to cause an inspection at the end of construction and issue a report detailing issues of non-compliance.

The Building Reform proposed in the Bill is of utmost concern and will have significant resource, cost and risk impacts on Council. It is considered unreasonable and unworkable to expect an MBS to identify non-compliance once a build is almost complete when previous documentation approval and mandatory inspections have been undertaken by a private building surveyor (PBS). The Building Department at Council would also need to be able to employ sufficient qualified staff and engage relevant practitioners such as fire safety engineers, to enable the work to be undertaken. Council is already experiencing a shortage of appropriately qualified staff, so the proposed additional functions will place further strain on the Building Department and will likely have an impact on other statutory obligations. The additional work as proposed in the Bill will add to Council's increasingly challenging responsibilities and Council is mindful of the resultant implications, as previously communicated.

It is understood that these current changes are the first in a series of proposed reforms and that it is intended to make further changes regarding combustible cladding and orphaned building permits. Since 2017, the State Government has intervened in the assessment and enforcement of some apartment buildings with combustible cladding. However, it is understood that the Minister is currently considering the return of all these buildings to council's MBS, where the Minister had previously declared the Victorian Building Authority (VBA) as the MBS. This relates to high and extreme risk buildings with combustible cladding and also in relation to some orphaned building permits. The critical elements which apply to the City of Boroondara and many other municipalities are the following:

1. The VBA has had responsibility for dealing with these buildings and Council will inherit whatever action or inaction applies to that organisation's response.
2. Council's MBS has not issued any of the approvals for any of these buildings and will be asked to assume liability and resourcing for resolution of non-compliant and/or high risk cladding despite having had no involvement with the original approval.
3. Just as the VBA has not been able to attract the skilled and qualified resources to deal with these matters in a timely and appropriate manner, so too will Council face the same challenge irrespective of service models being contemplated by some local governments.
4. In relation to orphaned permits, Council will be inheriting approvals and also works under way without having played any role in the degree of compliance achieved.

There are hundreds of high and extreme risk buildings that are being managed by the VBA, many of which remain unresolved. This includes 24 buildings in Boroondara alone. The return of the MBS function from the VBA to councils for high and extreme rated buildings with combustible cladding, will result in Council taking on significant risk and cost. Council has considerable concerns also with orphaned building permits where the appointed PBS is no longer the relevant building surveyor (RBS) for unfinished building projects. The above changes are of significant concern to Council as it further shifts the liability and burden of response to Council. Council has concerns with this approach as it exposes Council and the MBS to liability as they do not have the same immunity under the Building Act as the VBA has per Section 127 the Act.

The approximate potential costs to Council are significant and outlined below:

1. **The cost of undertaking mandatory inspections for larger developments (Multi level apartments) is expected to be \$675,500\***
- 2.
3. *\*Cost of additional inspections approximately \$250/hour x 14 hours x based on 160 buildings under construction, which equates to \$560,000*
4. *\*Cost of additional inspections forecast for ongoing projects approximately at \$275/hour 14 hours x 30 buildings/year equates to \$115,500*
- 5.
6. *The cost is based on an estimated 14 hours minimum per project being 6 hours allocated for inspections and 8 hours for report writing including administration. This may vary depending on the size and complexity of each building project.*
- 7.
8. **The total cost of undertaking enforcement of High and Extreme risk rated buildings for further Council cladding obligations is expected to be \$290,000\*\***
- 9.
10. *\*\*Cost of cladding reviews and follow up for extreme and high risk buildings approximately \$250/hour x 20 Hours/building*
- 11.
12. *24 buildings to be handed back to MBS by the VBA (17 x High and 7 x Extreme risk rated buildings being returned from the VBA) equates to \$120,000\*\**
- 13.
14. *34 building currently being dealt with by the MBS (32 x High and 2 x Extreme risk rated buildings) equates to \$170,000\**
- 15.

16. **The cost of Council undertaking Orphaned Building Permits is expected to be \$778,750<sup>^</sup> noting a minimum of 30% of the cost (approximately \$233,625) may be offset by professional fees that can be charged to the owner resulting in a nett cost of \$545,125.**

17.

18. <sup>^</sup> *Cost to Council with orphaned building permits if assigned to Council for finalisation is difficult to estimate. A review of Council's records indicates however that there are **356 orphaned building permits** issued by 18 different Private Building Surveyors. All of these building permits are at different stages of construction and approximately 75% of the permits have lapsed and some may require new building permits to be issued.*

19.

20. *The cost is based on an estimated 20 hours @ \$250/hour x 89 live permits equating to \$445,000 plus 5 hours x 250/hour x 267 lapsed permits being \$333,750 a total of \$778,750 for 356 unfinished projects. This may vary depending on the size and complexity of each building. It is anticipated that many of these permits will involve some degree of enforcement including issuing of building notices, orders, carrying out initial inspections and conducting mandatory inspections, re-checking plans and corresponding with property owners and designers.*

21.

## **URBAN PLANNING:**

### **Urban Planning**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Legislation Inadequate Indexation	Moderate to significant

Relevant MAV State Council motion:

That the State Government:

- *Prioritise the timely planning and consistent delivery of infrastructure and services that are the responsibility of state government and agencies during the early phases of any new development.*
- *Address the lack of investment in state infrastructure to support increased urban development (including renewables, power, water, sewer).*
- *Develop planning controls to manage the cumulative impacts of fast paced development to improve the livability of the public realm and the sustainability of the community.*
- *Reinstate the full \$1.3 million funding to the Office of the Victorian Government Architect (OVGA), continue to fully fund the role of the OVGA to provide independent expert architectural advice and make publicly available the advice of the OVGA where they have reviewed State Government and State Significant projects.*

The fees and charges available to Councils for Planning Applications provides only a small proportion of the cost to deliver the full suite of planning services to the municipality. In the early 2000's the fee subsidy was approximately 55% but despite a fees review 10 years ago the subsidy provided by application fees is now down to approximately 25%.

This does not take account of costs associated with internal service support (such as environmental referral inputs, tree assessments and transport services) or the extensive strategic work needed to support an up to date planning scheme such as the Heritage Gap work undertaken by Council over the last 5 years.

The Victorian Government is also currently implementing significant changes to the planning system through the Planning Reform Program 2020-2024 which will not only reduce the involvement of Council and local communities in many planning matters and erode the integrity and efficiency of the well-established system but continue a progressive cost shift to Council's without adequate fees or funding available.

Some of the specific current issues from a cost shifting perspective include the following:

**The Development Facilitation Program** - this was supposed to be an accelerated assessment and determination process for eligible development projects provided by the State Government. This takes the planning process away from Local Government for many projects but still places considerable obligation on Local Government to implement and support these development proposals. The application process is managed by the State Government and they receive all associated fees, yet applications are referred to Council for assessment, review and comment but without any funding that would normally be received with a planning application.

This program was implemented with no explanation as to why such a program is needed or demonstrating that it is an improvement for any party.

**New Planning Rules** – these recent changes provide a streamlined path for government projects (such as major transport projects, school projects and social housing) but where the ability for the community and Local Government to provide genuine input into the process is significantly reduced or removed.

Recent examples where Council was required to provide significant input included the Markham Estate and Bills Street social housing projects and the current proposal for an apartment development on the former University of Melbourne site in Auburn Road. No State Government Funding has been provided to Council to cover the cost of providing input to these projects despite the usual process of Council assessment including appropriate fees.

**ResCode Discussion Paper** – this outlines a proposal to increase prescription for residential development assessments and restrict the ability of Local Council's to consider existing local characteristics including local Neighbourhood Character Policies.

If many of the changes proposed are implemented then Councils will be faced with the prospect of costly strategic projects and Planning Scheme Amendments to reintroduce adequate provisions to planning schemes.

**Digital Planning Reform** – State Government Funding to digitise the Planning System and online tools has been disconnected from the industry needs and wants. Changes to date have eroded usability and there is no clear and timely pathway to a consistent and comprehensive State based digital planning platform for Local Government or the development industry.



This has led to very expensive stand alone digital transformation projects for each individual Council that could be much more efficiently delivered with a coordinated State Government approach.

**ESD in the Planning Scheme** - A suite of standard State controls have lagged and are not in accordance with the planned roadmap nor achieving the desired environmental outcomes. This has left Councils to develop their own policies and requirements which leads to significant duplication of effort, lack of consistency across Councils and poorer environmental outcomes for the community. The costs of developing such provisions should not be left for Councils.

**Tree and vegetation controls** - Changes are needed to protect vegetation as many Local Government Local Laws that protect the removal of vegetation are ineffective and superseded due to the *Building Regulations 2018*. The metropolitan wide tree and vegetation controls that have been promised by the State Government have not been delivered and require urgent attention. Without it, Councils will be left to fight potentially significant legal battles over their local laws in the Supreme Court.

### **SOCIAL HOUSING:**

#### **Social Housing**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Future	Service Gap	Moderate depending on response
<p>Relevant MAV State Council motion:</p> <p>That the State Government:</p> <ul style="list-style-type: none"> <li>• <i>Provide social, public, and affordable housing for low-income workers such as creative industries and hospitality.</i></li> <li>• <i>Promote the development of social, public, and affordable housing growth along transport corridors.</i></li> <li>• <i>Use State Government owned land for new social, public, and affordable housing projects.</i></li> </ul>		

Council considered a report at the Urban Planning Delegated Committee on 15 August 2022 to provide feedback on a draft Social and Affordable Housing Compact (Compact), which has been developed by Homes Victoria on behalf of the State Government in collaboration with the Municipal Association of Victoria (MAV).

Whilst the need to increase public, social and affordable housing and homelessness services for very low, low and moderate-income earners is well recognised and in response Boroondara Council has strongly advocated to the State and Federal Governments for these increases.

However, in line with the *Boroondara Housing Strategy (2015)*, Council's advocacy has been based on our position that the provision of public, social and affordable housing and homelessness services is a State and Federal Government responsibility, and that Council land and resources will not be divested for such use.

The draft Compact inappropriately positions local government as having a role and responsibility in the physical provision of public, social and affordable housing and homelessness services and as such is nothing more than a cost shift to local government, especially where Councils make their land available for such use. This is especially concerning in the context of Council's experience with the State Government selling land but not reinvesting those funds back into local public, social and affordable housing.

In addition, there are concerns about potential cost shifting in relation to coordinating services, supports and infrastructure for people mentioned in the draft Compact who live in public, social and affordable housing, as Council does not have a role and receives no funding to undertake this work. The lack of acknowledgement that this is the responsibility of the State Government is concerning.

It is considered that the draft Compact should be redrafted with the core premise recognising that the obligation to provide public, social and affordable housing resides with the State Government; it is not a shared responsibility to which ratepayer funds or resources should be committed.

### **LANDFILL LEVY AND WASTE SERVICES:**

#### **Landfill Levy and Waste Services**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Legislation	Significant and increasing
<p>Relevant MAV State Council motion:</p> <p>That the State Government:</p> <ul style="list-style-type: none"> <li>• <i>Increase funding support to local government for the introduction and implementation of kerbside waste collection reforms</i></li> <li>• <i>Increase investment in the circular economy through dedicated funding streams to industry and local government to support local processing solutions, sector innovation and market development in the waste and recycling sectors</i></li> </ul>		

Export bans for recycled glass, tyres, plastics, paper, and cardboard have been introduced over recent years. This has highlighted the lack of local recycling options for these materials. A lack of local markets for recycling and organic (composting) processors to sell their products exists. This limits the number of companies who will build and operate recycling and composting facilities.

Local councils are required to take on the financial burden of increases in the State landfill levy and the increased processing costs of the local market. This has seen local governments paying more for waste disposal, recycling, and organics processing than ever before. Landfill operators are minimising increase or at times holding their disposal costs whilst the landfill levy has increased at a disproportionate rate. Council's disposing of dumped rubbish across the municipality are levied the same charges despite not being the responsible party, as residents and commercial operators seek to avoid the increased cost of landfill.

Increases over the past ten years are shown in the table below.

Year	Landfill Levy \$/tonne
2012/13	48.40
2013/14	53.20
2014/15	58.50
2015/16	60.70
2016/17	62.03
2017/18	63.28
2018/19	64.30
2019/20	65.90
2020/21	65.90
2021/22	105.90
2022/23	125.90

Risks are being placed on councils (e.g. financial and community dissatisfaction) in order to comply with kerbside recycling reform actions under Recycling Victoria - Circular Economy Policy and the associated legislation. Melbourne's landfills are reaching capacity, but alternative recycling, composting and disposal infrastructure is still being planned and built. This increases the threat of unmanageable transport costs and stockpiling of materials.

State legislation introduced through the Circular Economy seek to mandate material separation for recycling, forcing the need for an additional collection cycle and infrastructure. Whilst seed funding has been made available to assist in establishing a service, the ongoing cost is directly attributable to residents.

**STATE INFRASTRUCTURE PROJECTS:****State Infrastructure Projects**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Project based	Service Gap Inadequate grants	Moderate depending on response
<p>Relevant MAV State Council motion:</p> <p>That the State Government:</p> <ul style="list-style-type: none"> <li>• <i>Implement reforms to make the Environmental Effects Statement (EES) process fairer and less costly for local government and the community whilst continuing to maintain the ability to fully participate.</i></li> </ul>		

In establishing new infrastructure associated with road and rail projects such as the North East Link, Chandler Highway bridge replacement, Level Crossing Removal Projects the state has developed specific legislation to empower itself to deliver in a direct and self accountable manner. For the most significant projects such as the North East Link there is a significant cost to participate in the planning process, especially where there is an Environmental Effects Statement process involved.

Local government local laws, planning provisions and responsibilities are also disengaged within a project boundary and decisions are made by delivery agencies. Whilst consultation is undertaken on design at a broad scale, Council feedback is not demonstrably included in outcomes. Further, responsibilities for asset ownership and allocation is made under state legislation without cost recognition or support for ongoing asset maintenance and at times replacement. As such Council is transferred assets it has not planned to receive, budgeted for nor acted as the agent of change in establishing.

Financial support is offered to local governments through project development and management, however it is often sought to be tied to and provided on the basis of agreeing to asset responsibility. No recognition is provided to the impact on the rate payer.

**URBAN STORMWATER:****Urban Stormwater**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Future	Legislation	Moderate

The Department of Environment, Land, Water and Planning along with Melbourne Water have been in discussion with Local Governments for some time now regarding the division of responsibility between Melbourne Water and Councils in regard to managing drainage and stormwater infrastructure. Consideration is being given to asset/responsibility transfer under an 'improved 60 ha model'. However, this arbitrary 60ha division in responsibility is not well explained and justified and will push greater infrastructure and obligations on to Councils with no provision of funding.

In practical effect, a transfer of responsibility for a drainage network built at a time to accommodate needs not foreseen to the reality of today's infrastructure requirements, increased storm activity and water volume/flow rate. Much of this broader stormwater management infrastructure has not had renewal investment, and in an urban municipality like Boroondara is undersized to accommodate current condition requirements.

### **ELECTRICAL LINE CLEARANCE:**

#### **Electrical Line Clearance**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Legislation	Significant and increasing
<p>Relevant MAV State Council motion:</p> <p>That the State Government:</p> <ul style="list-style-type: none"> <li>• <i>Impose a moratorium on the issuing of infringement notices to councils for failing to maintain the minimum clearance distances between vegetation and powerlines as prescribed by the Electricity Safety (Electric Line Clearance) Regulations 2020.</i></li> </ul>		

Tree pruning around powerlines is required by Councils in accordance with the *Electricity Safety (Electric Line Clearance) Regulations 2020* which were introduced by the State Government in response to bushfire concerns. The extent of pruning depends on the voltage and the type of lines regardless of whether they are within HBRA (High Bushfire Risk Areas) or LBRA (Low Bushfire Risk Areas). This approach results in excessive pruning in LBRA around LV (Low Voltage) lines and requires extensive additional resourcing within Boroondara given the extent of mature tree canopy cover.

It is considered that applying this approach around LV in LBRA is overly simplistic and requires a considerable amount of tree pruning, irrespective of the actual risk of electrocution, fire, or power outages. The electrical line clearance regulations should be reviewed to allow the pruning requirements around LV powerlines to be based on a site and scenario specific risk assessments. Boroondara is known for its tree lined streets with broad spreading canopies and is entirely within a LBRA. This attractive character is highly valued by the community and reduces the extent of extreme heat events.

One of the main threats of canopy loss on Council trees is pruning around powerlines. Based on the available evidence the current volume of outages and fires caused by trees close to LV lines does not warrant the volume of pruning currently required. Trees are currently pruned to the required clearances every 2 years near LV. However, around LV lines, trees grow back into the clearance spaces within 3-4 months despite having been pruned well clear of the clearance envelope. It is not reasonable for councils to prune these trees on a more frequent basis, when the actual risk based by these trees is very low.

From June 2022 ESV will have the power to issue infringements for each non-compliance tree (\$4,544 per tree). This approach will force councils to undertake increasingly severe pruning to avoid penalties. As this vegetation already poses a low risk, there will be no benefit to the community or powerline network, despite considerable additional cost to Council and even greater canopy loss.

### **ENVIRONMENT PROTECTIONS:**

#### **Environment Protections**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Legislation	Moderate
Relevant MAV State Council motion:  That the State Government: <ul style="list-style-type: none"> <li>• <i>Fund the appointment of an Officer for the Protection of the Local Environment (OPLE) to each local council in Victoria to ensure a consistent coordinated approach to education and enforcement of state and local government environment protection matters.</i></li> </ul>		

The Environment Protection Authority is the State Government agency primarily responsible for leading the response to environmental, waste and pollution issues to reduce their harm on the community. The EPA was established in 1971 under the *Environment Protection Act 1970*. However, a series of legislative changes to the Act over a number of years has gradually shifted the burden of responsibility for environmental issues towards Councils. The EPA considers Council as partners, joint-regulators and duty holders in the environment protection framework.

Potential contamination of land is a key issue where the EPA historically took full responsibility when it comes to land use planning and development. However, not only changes to the *EPA Act* but also the *Planning and Environment Act 1987* means that Councils need to take responsibility for assessing and understanding environmental impacts, often without the relevant expertise.

The areas where the EPA says that they share responsibility with Council are:

- litter

- illegal dumping
- noise
- on-site wastewater management systems with a capacity of up to 5000 litres on any day.

However, the weight of responsibility on these issues sits with Council as a customer responsive and community focused level of government which is closest to the community.

Councils further regulate several key environmental and human health issues using their powers under the Act. They also act as land managers and provide key services to the community, such as waste collection and landfill management.

### **CLIMATE CHANGE RESPONSE AND MITIGATIONS:**

#### **Climate Change Response and Mitigations**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Service Gap	Significant
Relevant MAV State Council motion:  That the State Government: <ul style="list-style-type: none"> <li>• <i>Establish a funding stream for local governments to improve the climate resilience of ageing infrastructure that will be impacted by future extreme weather events due to climate change</i></li> </ul>		

In September 2020, Council declared a Climate Emergency and adopted a Climate Action Plan. This plan outlines how Council will respond to the challenge of climate change over the next ten years, including how Council will work with the community and other levels of government. The Boroondara community has indicated that Climate Change is an important issue with 89% supporting or strongly supporting the development of the climate action plan. The areas the community identified they wanted action were energy efficiency and renewable energy, sustainable water use and healthy waterways, waste management and recycling, sustainable transport, and protecting and enhancing biodiversity (including tree protection). Council is continuing to lead and support the community to reduce emissions. However, local governments don't have broad legislative or financial control over major community emissions sources. These are mostly controlled by the state and federal governments. For example:

- electricity generation and distribution
- transport policy
- planning controls

Councils also wear a significant cost impact in mitigating and dealing with the effects of climate change, particularly in relation to public infrastructure.

**ROAD NETWORK PROJECTS:****Road Network Projects**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Future	Legislation	Moderate

Where Council undertakes projects on State roads fees and charges are levied for documentation review and service planning. Council is also required to pre-pay maintenance costs. This approach is taken by the Department of Transport (former VicRoads) for developers as part of impacts of projects on the road network. However the contrast for local government, where projects have been Department of Transport nominated project sites (identified in their own strategic planning) and funded by other state project authorities such as North East Link or Level Crossing Removal Project fees and charges are continued to be levied on local government.

In contrast to the earlier impact of state based projects, Council has had legislative powers removed in the project sites and cannot levy the state for the same impacts.

**STATE ROAD AMENITY MAINTENANCE:****State Road Amenity Maintenance**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Funding gap	Moderate to significant

Relevant MAV State Council motion:

That the State Government:

- Increase funding for the Department of Transport and VicTrack to facilitate appropriate ongoing maintenance of their assets (including weed and vegetation management, litter pickup and graffiti removal) along arterial roads and freeways and rail and tram corridors.
- Provide an option for DoT asset maintenance work to be undertaken by councils, should they choose to do so on behalf of DoT, under an indexed full cost recovery model.

A significant disparity exists between the level of service provided by Council in the maintenance of its road network for activities such as street sweeping, roadside vegetation/weed management, graffiti removal, drainage cleaning and surface repair. In many cases across the Boroondara road network, the community cannot distinguish between road authorities which often results in Council being wrongly attributed with a poor standard of maintenance. State agencies appear to be underfunded on these maintenance activities and have limited desire to respond to community expectations leaving Council to manage issues locally.



In respect to items such as graffiti removal and drain clearing, if not addressed further and compounding issues evolve leading to greater community concern and a need for remedial action required immediately and without cost recovery.

### **DISASTER RECOVERY:**

#### **Disaster Recovery**

<b>Timing</b>	<b>Cost shift type</b>	<b>Cost impact</b>
Ongoing	Funding gap	Moderate to significant
<p>Relevant MAV State Council motion:</p> <p>That the State Government:</p> <ul style="list-style-type: none"> <li>• <i>Change the Disaster Recovery Funding Arrangements (DRFA) to allow for faster, tailored funding support for medium and largescale disaster events, that allows for quicker tailored responses to local disaster impacts.</i></li> <li>• <i>Allow for early establishment of disaster event recovery needs for impacted councils and their communities, in order to support a resilient and enhanced recovery effort.</i></li> <li>• <i>Adopt a more streamlined and pragmatic approach to DRFA claims assessment and approval to allow funds to flow more quickly back to councils to reimburse response, relief, and recovery activities.</i></li> </ul>		

The MAV has put together a position paper on the role of local government in emergency management in Victoria that highlights the gaps and desired path moving forward. A notable challenge includes lack of funding from the Victorian Government which would enable councils to deliver on emergency management responsibilities such as supporting their community before, during and after emergencies.

The MAV position paper also recognises the identified local government's role to be primarily focused on building community resilience and relief and recovery coordination as opposed to incident response. Concurrently, over the past five years, there have been an increased awareness of Council's role and responsibility during an emergency with community planning and preparation, communication and service delivery being expected by the community. In light of acute awareness from the community, Boroondara has shifted its focus to community planning and preparation to increase community resilience when responding to emergencies.

### **COMPLIANCE AND OTHER INDIRECT COSTS:**

Cost shifting can often be hidden or embedded in systems, processes and obligations on local government. Many of these have been highlighted in the various examples above but can also permeate the entire workforce and delivery of services and infrastructure.

Meeting Occupational Health and Safety requirements, Disability Discrimination Act requirements and reporting expectations can all have an impact. Even the requirement to meet certain accounting, Ombudsman and auditing responses brought about by State Government expectations has cost implications often not covered within standard budgets and the rate cap.

## **5. Consultation/communication**

Consultation has been undertaken with internal Departments to establish where major cost shifting is currently occurring.

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

Cost shifting that is currently known has been taken in to consideration in the current budget and long term financial plan. It is expected that cost shifting will continue to put pressure on future budgets, especially in a rate capped environment and as costs increase for existing expenditure areas.

## **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.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

## **8. Social and environmental issues**

There are no direct impacts resulting from this report, however it is noted that the effects of cost shifting will have an impact on Council's ability to deliver core services and facilities to the community.

## **9. Conclusion**

The cost shift to Councils has been a significant issue for many years with recent examples such as Maternal and Child Health and building reform along with renewed concerns for libraries and the school crossing supervisor program once again highlighting the issue. In a rate capped environment and with significantly increasing operational and infrastructure renewal costs the impact of cost shifting raises concern for the sustainability of Council and its ability to meet the future needs of its community. This issue should be brought to the attention of the State Government, opposition, MAV and other Councils.

**Manager: Phil Storer, Chief Executive Officer**

**Report officer: Scott Walker, Director Urban Living**