

SC2 Proposed City of Boroondara Motions for MAV State Council on 20 October 2017

Abstract

This report informs Council and seeks endorsement of three (3) proposed motions to be put forward to the Municipal Association of Victoria (MAV) State Council meeting on 20 October 2017.

The report also recommends that Council become a joint sponsor to the graffiti motion proposed by the City of Port Phillip.

Motions that are carried at MAV State Council become Resolutions. These resolutions are then considered by the MAV Board when setting the strategic workplan for the MAV.

Officers' recommendation

That the Services Special Committee resolve to:

1. Adopt the three (3) motions (as annexed to the Minutes) to be put forward to the Municipal Association of Victoria (MAV) State Council meeting on 20 October 2017.
2. Be a joint sponsor of the Graffiti motion proposed by the City of Port Phillip.

**Responsible manager: David Thompson
Governance**

1. Purpose

The purpose of this report is to inform councillors about the proposed three (3) motions to be put forward to the Municipal Association of Victoria (MAV) State Council meeting on 20 October 2017. The report also considers a request from the City of Phillip to be a joint sponsor of a motion concerning graffiti.

2. Policy implications and relevance to council plan

The MAV is the statutory peak body for local governments in Victoria and should take a lead role in advocating to the State Government on a variety of issues of concern to local governments in Victoria. Submitting motions to the MAV State Council is consistent with Council's practice of advocating on behalf of the community.

3. Background

Council has a strong commitment to advocating on behalf of the Boroondara and broader community. The MAV, as the peak representative body for local governments in Victoria, is in a strong position to support this advocacy. The MAV State Council meeting will be held on 20 October 2017. Motions need to be received by the MAV no later than Friday 22 September 2017.

4. Outline of key issues/options

Council has previously presented motions to State Council on a range of matters including: Library funding; Landfill Levies; Aged Care Reforms; Sustainable Street Lighting; Apartment Design Code; Newspaper advertising requirements; Regulation of Strategic Resource Plans; Assistance for people affected by heatwave; Enhanced proactive VicRoads asset maintenance programs; Bicycle safety; the School Focused Youth Service (SFYS) program; Subsidies for HACC and meals-on-wheels services; ESD principles in State Planning Provisions; Vulnerable Persons Register; VCAT (Local policy, Plans in appeal proceedings); Infringements Court (Perin); Building Regulations; Immunisation and U3A. In some cases, resolutions sponsored by this Council have been instrumental in achieving worthwhile results.

Attachment 1 provides the details of the three (3) proposed motions being put forward which are as follows:

- Motion 1 - Local Laws Penalty Provisions (submitted by City Planning);
- Motion 2 - Public Housing Renewal Funding Model (submitted by City Planning); and
- Motion 3 - Public Housing Renewal Planning Process (submitted by City Planning).

Council has received a copy of a motion from the City of Phillip (see **Attachment 2**) concerning graffiti. The Mayor of the City of Port Phillip has requested to know if Council is willing to be a joint sponsor of this motion.

The Director Environment and Infrastructure has considered the request and recommends Council be a joint sponsor of the motion proposed by the City of Phillip.

5. Consultation/communication

These motions have been prepared in consultation with the Executive Leadership Team.

6. Financial and resource implications

There are no direct financial implications to Council in presenting these motions to the MAV State Council.

7. Governance issues

The implications of this report have been assessed and are not considered likely to breach or infringe upon, the human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006.

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

8. Social and environmental issues

The motions being considered at State Council cover a range of matters. The motions sponsored by Council have the potential to achieve worthwhile results for the Boroondara community and the broader Victorian community.

Manager & report officer: David Thompson, Governance



MAV State Council Meeting – 20 October 2017

To submit a motion for consideration by State Council on Friday, 20 October 2017, please complete this form and email to the **State Council** email address S2@mav.asn.au, **no later than 22 September**. Please note, motions received by **14 September** (early motions) will be distributed to all MAV representatives on **15 September**. Submitters may amend their own motions up to 5pm on **29 September**.

Motion 1 -

Local Laws Penalty Provisions

Submitted by: *Boroondara City Council*

MOTION:

That the Municipal Association of Victoria calls on the State Government to:

1. Review the penalty provisions set out in the *Local Government Act, 1989* for local laws.
2. Increase the maximum penalties set out in the Act for contravention of local laws.

MAV Strategic Work Plan (SWP):

Indicate whether or not the subject matter of your motion is included in the MAV SWP 2017-19.

| | |
|---|---|
| Is the subject matter of this motion included in the SWP? | Yes |
| If yes, identify the following: | |
| Objective No. | 2 - Improve the Reputation of Local Government |
| Priority No. | 5 - Influence the LG Act and MAV Act reviews |
| Item No. | 1 - A more contemporary LG Act with increased council autonomy and a contemporary MAV Act that expands and clarifies the objects, functions and powers of the MAV |

RATIONALE:

The *Local Government Act, 1989* (the Act) provides that a local law may prescribe a penalty not exceeding 20 penalty units (a penalty unit is \$100) for a contravention of and for subsequent offences against a local law.

Councils may set penalty levels in relation to individual local laws as they see fit, but only up to this maximum.

It is Boroondara's experience that the maximum fine of \$2,000 is no longer a sufficient deterrent for those persons who intentionally seek to contravene a local law. This is particularly the case when you compare the cost of a fine to that of the cost of some building projects that can often exceed 1 million dollars in value.

For example, a number of councils have introduced local laws that regulate tree removal, in response to loss of mature trees from residential areas as a result of urban development pressures. Loss of trees impact on the ecology, climate and the visual quality of neighbourhoods.

In urban areas with significant numbers of mature trees and substantial building activity, there have been significant impacts on the environmental quality and neighbourhood character of some residential areas, caused by people prepared to incur a fine rather than to retain trees or apply for the necessary approval.

Boroondara's experience in respect to prosecuting local law breaches in court is that Magistrates are extremely reluctant to convict and will generally hand down penalties that do not exceed the penalties set out in the Act.

Note: Motions must be submitted by **one council but may be supported by other councils. The council submitting the motion will need to supply written confirmation from any council(s) listed as supporting the motion. All relevant background information in support of the motion should be included in the space provided for the rationale and not in attachments. **The motion and rationale should be no longer than one page.***



FORM

Council believes it is important that suitable deterrents are available under local laws in terms of the scale of fines. The current scale of fines is not commensurate with the value of certain building works and is no longer acting as a sufficient deterrent. In turn, the community loses confidence in Council's ability to enforce the local law and protect what the community values.

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MAV State Council Meeting – 20 October 2017

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Motion 2 - Public Housing Renewal Funding Model

Submitted by: Boroondara City Council

MOTION:

That the Municipal Association of Victoria calls on the State Government to:

1. Replace its current funding model for the provision of public housing with a model that does not rely on the sale of public housing estates to private developers to fund minimal public housing increases.
2. Make a commitment that all public housing constructed as part of a private/public model remains as public housing in perpetuity for as long as the building exists.

MAV Strategic Work Plan (SWP):

Indicate whether or not the subject matter of your motion is included in the MAV SWP 2017-19.

| | |
|---|--|
| Is the subject matter of this motion included in the SWP? | Yes |
| If yes, identify the following: | |
| Objective No. | 2 - Improve the Reputation of Local Government |
| Priority No. | 4 - Raise the profile and influence of local government |
| Item No. | 1 - Influence is increased with State and Commonwealth Governments |

RATIONALE:

In December 2016, the State Government announced a \$185 million Public Housing Renewal Program to “redevelop public housing properties at sites across metropolitan Melbourne, with an increase of at least 10 per cent in social housing”

Stage 1 includes nine sites in Brunswick, North Melbourne, Heidelberg West, Clifton Hill, Brighton, Prahran, Hawthorn, Northcote and Ascot Vale.

The redevelopment of the sites proposes a mix of public and private housing. Concept plans for the Hawthorn proposal purportedly result in between 300 and 400 apartments of which, around 65 would be public.

The Department of Housing webpage for the Hawthorn Renewal Project, describes the project as follows:

“Hawthorn’s Bills Street estate has older, rundown buildings that cost a lot to maintain. The project will build new, modern buildings and increase the number of social housing properties on the estate by 10 per cent. The estate will include private housing, which will help fund the Project”

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It is understood that the State Government intends to use this model for other sites in Melbourne. Boroondara has a fundamental objection to the sale of public land for private gain, particularly where the net community benefit is the delivery of only a 10 per cent increase of public housing stock. Once the land is sold it is no longer available for further provision of public housing in future. The existing public housing stock should never have been left to deteriorate to the state it has.

All public housing renewal projects by the State Government that seek to utilise public land must propose “public housing”, rather than “social housing” or “community housing”, as social and community housing has a limited tenure. At the completion of the social and community housing tenure (typically 10 years) the property reverts back to the private entity that developed the land in partnership with the State and is available to be sold on the open market for use as private housing.

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MAV State Council Meeting – 20 October 2017

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Motion 3 -

Public Housing Renewal Planning Process

Submitted by: Boroondara City Council

MOTION:

That the Municipal Association of Victoria calls on the State Government to:

1. Abandon along with the Department of Health and Human Services (DHHS) the current planning process being used to implement Stages 1 and 2 of the Public Housing Renewal Program, announced in December 2016, which comprises nine (9) sites in Brunswick, North Melbourne, Heidelberg West, Clifton Hill, Prahran, Hawthorn, Northcote and Ascot Vale.
2. Adopt an alternative planning process for the implementation of Stage 1 and Stage 2 of the Public Housing Renewal Program, and any future public housing renewal project, as follows:
 - a) That the respective local Council be retained as the planning authority and responsible authority under the *Planning and Environment Act 1987* for the processing of any necessary planning scheme amendments and planning permit applications associated with the project;
 - b) That any proposal lodged with Council be comprised of full architectural drawings and supporting documents, as would be required for any other multi-dwelling development, to enable Council and the community to fully understand what is proposed and to undertake a comprehensive assessment;
 - c) That the development plans be prepared using a 'design-led', rather than 'yield-led' approach and that all applicable local planning policies be applied; and
 - d) That all usual third-party notice and review rights be preserved.
3. If the current planning process being followed by the State Government and DHHS continues, that the Minister for Planning amend the "Terms of Reference" for the Social Housing Renewal Standing Advisory Committee, dated 30 May 2017, by deleting sections 39b, 39c and 39d, to enable the making and consideration of submissions in relation to:
 - a) The suitability of joint venture partnerships as a delivery model;
 - b) Leveraging under-utilised public land to deliver an increase in social housing; and
 - c) The dwelling yields needed to achieve an increase of at least 10 per cent in social housing; as these issues are directly relevant to the consideration of matters arising under Section 60(1)(f) of the Planning and Environment Act 1987 ('social and economic effects').

Note: Motions must be submitted by **one council but may be supported by other councils. The council submitting the motion will need to supply written confirmation from any council(s) listed as supporting the motion. All relevant background information in support of the motion should be included in the space provided for the rationale and not in attachments. **The motion and rationale should be no longer than one page.***



MAV Strategic Work Plan (SWP):
Indicate whether or not the subject matter of your motion is included in the MAV SWP 2017-19.

| | |
|---|--|
| Is the subject matter of this motion included in the SWP? | Yes |
| If yes, identify the following: | |
| Objective No. | 2 - Improve the Reputation of Local Government |
| Priority No. | 5 - Raise the profile and influence of local government |
| Item No. | 1 - Influence is increased with State and Commonwealth Governments |

RATIONALE:

In December 2016, the State Government announced a \$185 million Public Housing Renewal Program to “redevelop public housing properties at sites across metropolitan Melbourne, with an increase of at least 10 per cent in social housing.” Stage 1 of the program includes nine sites in Brunswick, North Melbourne, Heidelberg West, Clifton Hill, Brighton, Prahran, Hawthorn, Northcote and Ascot Vale.

The redevelopment of the sites proposes a mix of public and private housing via a planning scheme amendment to apply the Development Plan Overlay. The State Government has indicated that it intends to use this model for all future public housing renewal projects.

Concept plans for the Hawthorn proposal purportedly result in between 300 and 400 apartments, of which around 62 would be public housing (there was formerly up to 56 on the land).

DHHS is seeking to by-pass Council in its usual role as the responsible planning authority for land within the municipality. Instead of seeking Council’s approval for the planning scheme amendment, DHHS has gone directly to the Minister for Planning. There are only limited circumstances in which the Minister is entitled to intervene in local Council planning matters. It has not yet been made public what circumstances or criteria DHHS and the Minister are relying on to remove Council from its usual role, but it is the view of Boroondara City Council that no such circumstance exists in this instance.

To assist him with his decision, the Minister for Planning has appointed a Standing Advisory Committee (SAC) to provide advice on the suitability of planning proposals to facilitate the redevelopment of the nominated estates, including Bills Street.

A “Terms of Reference” document has been created for the SAC. The Terms of Reference set out the following matters that the SAC are not to review or consider:

- “39. It is not the role of the Standing Advisory Committee to review or consider:*
- a. the increasing demand for one and two bedroom social housing dwellings;*
 - b. the suitability of joint venture partnerships as a delivery model;*
 - c. leveraging under-utilised public land to deliver an increase in social housing;*
 - d. the dwelling yields needed to achieve an increase of at least 10 per cent in social housing;*
 - e. the appropriateness of community housing providers to administer the provision of social housing.”*

Note: Motions must be submitted by **one council but may be supported by other councils. The council submitting the motion will need to supply written confirmation from any council(s) listed as supporting the motion. All relevant background information in support of the motion should be included in the space provided for the rationale and not in attachments. **The motion and rationale should be no longer than one page.***



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Across the nine sites, DHHS propose to:

- Remove the local council as the responsible planning authority and replace them with the Minister for Planning;
- Apply a Development Plan Overlay. The Overlay will be exhibited without full architectural drawings that would ordinarily be required for a multi-dwelling development. The subsequent Development Plan would be prepared to the satisfaction of the Minister, with limited consultation with Council and no consultation or review rights for third parties;
- Planning permits that arise under the Development Plan would be prepared to the satisfaction of the Minister, with no consultation or review rights for Council or third parties.

Boroondara City Council holds the view that the most appropriate planning process for these developments is a combined planning permit/planning scheme amendment application, submitted directly to the applicable Council in their usual role as the planning authority and responsible authority. This process is the most transparent and requires a sufficient amount of detail from the applicant to enable Council and the community to form an informed view of the development.

Council officers are sufficiently experienced to process a planning permit application for multi-dwellings of the scale and density proposed in a timely manner. There is no genuine need to remove Councils from their ordinary role as the responsible authority, or to remove the community's third-party review rights.

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Attachment 2

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| | |
|---|-----|
| Motion | |
| [Insert name of motion] | |
| Submitted by: <i>City of Port Phillip</i> | |
| MOTION: The motion and rationale should be no longer than one page. | |
| That the MAV negotiate with all public asset owners to improve graffiti removal service levels (either directly or by contracting individual councils to do on their behalf) to a level consistent with community expectations, and report back to a future MAV State Council on the result. | |
| MAV Strategic Work Plan (SWP): | |
| Indicate whether or not the subject matter of your motion is included in the MAV SWP 2017-19. | |
| Is the subject matter of this motion included in the SWP? | Yes |
| If yes, identify the following: | |
| Objective No. | 4 |
| Priority No. | 12 |
| Item No. | 4g |
| RATIONALE: | |
| Eradication is a key strategy within graffiti management and focuses on reducing the satisfaction an offender experiences by seeing their 'work'. Fast removal reduces this 'benefit'. Conversely, when tagging is not removed quickly or at all, it encourages further tagging of the site. | |
| However, a major issue for many municipalities is that the cleaning of third party assets (such as those owned by VicRoads, VicTrack, utilities, Yarra Trams, Australian Post etc.) is irregular and inadequate, with requests for removal often taking months. Negotiation on ways to improve service levels have been difficult when conducted by a single council due to a lack of leverage. | |
| Each municipality has its own service standards. For example, the City of Port Phillip's Graffiti Management Plan 2013-2018 has a 10 business day turnaround for removal requests on Council, residential and commercial properties. Having an inconsistent response from different asset owners is frustrating and confusing to the community. The community don't differentiate between authorities and just think it is councils not doing their job, which reflects poorly on local government generally. | |
| CoPP wishes for the MAV to negotiate with all public asset owners on behalf of municipal councils to improve graffiti removal service levels, specific to response times. This motion would address the issue of leverage by advocating with public asset owners on behalf of all affected councils. | |

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