



CONFIDENTIAL COUNCIL MEETING

MINUTES

Wednesday 15 February 2023

Commencing at 6:00pm

Nandaly Hall

**Wayne O'Toole
Chief Executive Officer
Buloke Shire Council**

Minutes of the Confidential Session of the Council Meeting held on Wednesday, 15 February 2023 commencing at 6:00pm in the Nandaly Hall

PRESENT

CHAIRPERSON:

Cr Alan Getley

Mallee Ward

COUNCILLORS:

Cr Bernadette Hogan

Mallee Ward

Cr Graeme Milne

Mount Jeffcott Ward

Cr Bronwyn Simpson

Mount Jeffcott Ward

Cr Daryl Warren

Mount Jeffcott Ward

OFFICERS:

Wayne O'Toole

Chief Executive Officer

Travis Fitzgibbon

Director Community Development

Michelle Stedman

Director Corporate and Organisational Performance

AGENDA

7.5. MATTERS THAT MAY EXCLUDE THE PUBLIC

7.5.1 RESPONSE TO COMMONWEALTH AGED CARE REFORMS

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Wayne O'Toole
Chief Executive Officer

7.5. MATTERS THAT MAY EXCLUDE THE PUBLIC

7.5.1 RESPONSE TO COMMONWEALTH AGED CARE REFORMS

Author's Title: Director Community Development

Department: Community Development

File No: CS/16/24

Relevance to Council Plan 2021 - 2025

Strategic Objective: Our Community Wellbeing

PURPOSE

This report is presented to Council to consider the implications of the Aged Care Reforms and its role as a provider of home and community-based support services within the Buloke Shire Council.

The report seeks an in-principle decision by Council to exit service provision and initiate the appropriate consultation, communication and transparency with all appropriate stakeholders.

A further report will be brought to Council in March 2023 with outcomes of consultation processes for Council consideration. It is anticipated that Council will confirm or amend the in-principle decision at that time.

SUMMARY

Introduced some 38 years ago, the Home and Community Care (HACC) program has been delivered to the Buloke community by a dedicated team of Council staff. The program was designed to assist older people to remain independent by providing in-home care and support. Council delivered the program on behalf of the Commonwealth, with oversight for the provision of funding via the State Government.

The separation of services in 2016 introduced the Commonwealth Home Support Program (CHSP) and the Home and community care Program for Younger People (HACCPYP) to Council. Whilst funded by both the Commonwealth (CHSP) and the State Government (HACCPYP), significant financial contributions are required by Council annually to enable the provision of a high standard of care.

In 2018 the Royal Commission into Aged Care Quality and Safety was established, with the final report-Care, Dignity and Respect providing recommendations that outline the significant and continuing reforms to the aged care service system. These changes determine Council's position as a provider unsuitable.

The current Commonwealth Home Support Program (CHSP) transitions to the new Support at Home program after 30 June 2024 and Council has concluded that it is in the best interests of the community that it seeks to transition out of the service delivery function. It will however seek to influence the appointment of a values-aligned local provider to build local service system capacity.

In taking this decision Council understands it has responsibilities to clients and families, long service staff and the broader community to manage the transition effectively and to anticipate and mitigate risk.

This first decision is taken on an in-principle basis to enable direct engagement with clients, families, staff, and unions. It will also allow Council to provide recommendations of service providers to the Commonwealth that are well positioned to effectively manage a process of transition in collaboration with Council staff.

Council will receive a further report in March 2023 at which time it will amend or confirm its decision and make a recommendation to the Commonwealth.

MOTION:

That Council:

1. Notes that since 2011 the Commonwealth has progressed the implementation of a consistent and integrated national aged care service system based on increased consumer choice and control, with competitive providers to drive quality and service efficiencies with a final transition date of 1 July 2024.
2. Accepts that due to inherent service cost, financial constraints, competition policy and other structural challenges, Buloke Shire Council, along with most other Victorian councils, will not be in a position to play a future role in service delivery.
3. Determines on an in-principle basis, to exit service provision for the following funded programs:
 - (a) All funded Commonwealth Home Support Programme services
 - i. Domestic Assistance
 - ii. Personal Care
 - iii. Flexible Respite
 - iv. Social Support – Individual
 - v. Home Maintenance and Modifications
 - vi. Social Support – Group
 - vii. Centre-based Respite Care
 - viii. Food Services
 - ix. Sector Support & Development
 - (b) All HACC-PYP funded services
 - i. Domestic Assistance
 - ii. Personal Care
 - iii. Property Maintenance
 - iv. Delivered Meals
 - v. Assessment
 - vi. Respite Services
 - vii. Maintenance of Senior Citizens Centres
4. Commits to working with the Commonwealth and Victorian Governments to negotiate timing and transition processes that will protect the interests of our valued staff members, clients, their families and the broader community.
5. Notes that under its service agreements all processes and matters related to the transition process (i.e., names of future providers) will remain confidential until the Commonwealth and Victorian governments provide consent for release of information.
6. Affirms that in taking this decision it will continue to play an active role in ensuring its community will receive high-quality aged care services and will advocate for the needs of vulnerable members of the community.
7. Commits to the values and principles outlined in Appendix A of the report to underpin and support decision making through the transition process.
8. Notes that Council will seek to influence the appointment of a values-aligned successor CHSP

provider by providing selection criteria to the Commonwealth.

9. Realigns its policy direction towards future investment in age-friendly or positive-ageing initiatives and ensuring that Council's universal services and facilities are designed to meet the needs of a growing population of older residents. Further policy work and recommended directions will be referred to the 2023/24 budget process for review and approval.
10. Notes that Council's policy objective of ensuring that older adults seeking to live independently in the community will be provided with quality home support services will not be compromised by this decision. Services will continue to be provided and Council will be able to reinvest its current ratepayer subsidy into alternative strategic priorities.
11. Provides delegated authority to the Chief Executive Officer, or their nominee, to undertake or commission all tasks and activities related to the implementation of this council decision.
12. Appoints the Mayor and CEO as spokespersons for all matters related to the Home Support Transition process.
13. Approves that a sensitised, non-confidential version of this report and resolution be included in the minutes of the meeting and be used in the public domain following adoption to ensure transparency to Council's decision process.
14. Approves immediate notification of its in-principle decision to, and appropriate consultation with:
 - (a) Staff and union representatives
 - (b) Clients and families
 - (c) Media and other communications
 - (d) Broader community
15. Receive a further report in March 2023 to confirm or amend this decision and the details of transition including timing of transition, the process for appointment of new provider(s), safety-net provisions, transition arrangements for clients, client information, transition support for staff, implications for Council assets and facilities and communications to the broader community.

MOVED: CR DARYL WARREN

SECONDED: CR BERNADETTE HOGAN

**CARRIED.
(R056/23)**

Attachments: 1 [Aged Care Reforms - Buloke Shire Council - Home Support In-Principle Decision Report in Detail](#)

FOR FULL DETAILS OF THE REPORT – PLEASE SEE ATTACHMENT

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9.1.1 RESPONSE TO COMMONWEALTH AGED CARE REFORMS**Author's Title:** Director Community Development**Department:** Community Development**File No:** CS/16/24**Relevance to Council Plan 2021 - 2025****Strategic Objective:** Our Community Wellbeing**PURPOSE**

This report is presented to Council to consider the implications of the Aged Care Reforms and its role as a provider of home and community-based support services within the Buloke Shire Council.

The report seeks an in-principle decision by Council to exit service provision and initiate the appropriate consultation, communication, and transparency with all appropriate stakeholders.

A further report will be brought to Council in March 2023 with outcomes of consultation processes for Council consideration. It is anticipated that Council will confirm or amend the in-principle decision at that time.

SUMMARY

Introduced some 38 years ago, the Home and Community Care (HACC) program has been delivered to the Buloke community by a dedicated team of Council staff. The program was designed to assist older people to remain independent by providing in-home care and support. Council delivered the program on behalf of the Commonwealth, with oversight for the provision of funding via the State Government.

The separation of services in 2016 introduced the Commonwealth Home Support Program (CHSP) and the Home and community care Program for Younger People (HACCPYP) to Council. Whilst funded by both the Commonwealth (CHSP) and the State Government (HACCPYP), significant financial contributions are required by Council annually to enable the provision of a high standard of care.

In 2018 the Royal Commission into Aged Care Quality and Safety was established, with the final report - Care, Dignity and Respect providing recommendations that outline the significant and continuing reforms to the aged care service system. These changes determine Council's position as a provider unsuitable.

The current Commonwealth Home Support Program (CHSP) transitions to the new Support at Home program after 30 June 2024 and Council has concluded that it is in the best interests of the community that it seeks to transition out of the service delivery function. It will however seek to influence the appointment of a values-aligned local provider to build local service system capacity.

In taking this decision Council understands it has responsibilities to clients and families, long service staff and the broader community to manage the transition effectively and to anticipate and mitigate risk.

This first decision is taken on an in-principle basis to enable direct engagement with clients, families, staff, and unions. It will also allow Council to provide recommendations of service providers to the Commonwealth that are well positioned to effectively manage a process of transition in collaboration with Council staff.

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Council will receive a further report in March 2023 at which time it will amend or confirm its decision and make a recommendation to the Commonwealth.

RECOMMENDATION

That Council:

1. Notes that since 2011 the Commonwealth has progressed the implementation of a consistent and integrated national aged care service system based on increased consumer choice and control, with competitive providers to drive quality and service efficiencies with a final transition date of 1 July 2024.
2. Accepts that due to inherent service cost, financial constraints, competition policy and other structural challenges, Buloke Shire Council, along with most other Victorian councils, will not be in a position to play a future role in service delivery.
3. Determines on an in-principle basis, to exit service provision for the following funded programs:
 - (a) All funded Commonwealth Home Support Programme services
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 - ii. Personal Care
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 - i. Domestic Assistance
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 - vi. Respite Services
 - vii. Maintenance of Senior Citizens Centres
4. Commits to working with the Commonwealth and Victorian Governments to negotiate timing and transition processes that will protect the interests of our valued staff members, clients, their families and the broader community.
5. Notes that under its service agreements all processes and matters related to the transition process (i.e., names of future providers) will remain confidential until the Commonwealth and Victorian governments provide consent for release of information.
6. Affirms that in taking this decision it will continue to play an active role in ensuring its community will receive high-quality aged care services and will advocate for the needs of vulnerable members of the

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- community.
7. Commits to the values and principles outlined in Appendix A of the report to underpin and support decision making through the transition process.
 8. Notes that Council will seek to influence the appointment of a values-aligned successor CHSP provider by providing selection criteria to the Commonwealth.
 9. Realigns its policy direction towards future investment in age-friendly or positive-ageing initiatives and ensuring that Council's universal services and facilities are designed to meet the needs of a growing population of older residents. Further policy work and recommended directions will be referred to the 2023/24 budget process for review and approval.
 10. Notes that Council's policy objective of ensuring that older adults seeking to live independently in the community will be provided with quality home support services will not be compromised by this decision. Services will continue to be provided and Council will be able to reinvest its current ratepayer subsidy into alternative strategic priorities.
 11. Provides delegated authority to the Chief Executive Officer, or their nominee, to undertake or commission all tasks and activities related to the implementation of this council decision.
 12. Appoints the Mayor and CEO as spokespersons for all matters related to the HomeSupport Transition process.
 13. Approves that a sensitised, non-confidential version of this report and resolution be included in the minutes of the meeting and be used in the public domain following adoption to ensure transparency to Council's decision process.
 14. Approves immediate notification of its in-principle decision to, and appropriate consultation with:
 - (a) Staff and union representatives
 - (b) Clients and families
 - (c) Media and other communications
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 15. Receive a further report in March 2023 to confirm or amend this decision and the details of transition including timing of transition, the process for appointment of new provider(s), safety-net provisions, transition arrangements for clients, client information, transition support for staff, implications for Council assets and facilities and communications to the broader community.

Attachments:

Nil

DISCUSSION

Buloke Shire Council (the Council) is an important provider of home and community care services to assist older people and those recovering from acute care to continue to live independently in the community. Through the previous Home and Community Care (HACC) program this was an important part of the core mission for Victorian Local Government for almost 40 years. The HACC program was initiated in the early 1980s and most Victorian Local Governments invested in the development of a highly coordinated and integrated suite of services across assessment, domestic assistance, personal care, respite care, home maintenance, delivered meals, senior citizens centres and social support. This highly integrated system was peculiar to Victoria and was not replicated in other states.

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The investment and organisational commitment to provision of services has over time become emblematic of the supportive relationship between local government and its community. Investment in HACC services was a means of expressing a strong commitment to many vulnerable members of the community: this included older people, people with a disability or mental illness and people at risk of homelessness.

National Aged Care Reforms

Australia's integrated national aged care program has been undergoing significant reforms over the past 10 years following Commonwealth agreement to take full responsibility for aged care in August 2011 and establishment of the National Disability Insurance Scheme at around the same time.

The key drivers for the aged care reforms included:

- the number of people in Australia requiring aged care (in some form) would increase by 350% between 2011 and 2050
- significant system weaknesses (difficult navigation, limited services, variable quality, and no consumer choice) and inefficiencies (duplication of effort, no competition, and high-cost structures) that needed to be eradicated, and
- real concern that the cost of providing adequate care for older people in future would be unaffordable as a nation.

Attributes of the current aged care model include:

- CHSP – 'entry level' basic home support and community-based services – domestic assistance, personal care, shopping etc – this program provides services to 839,400 older Australians nationally
- Home Care – four levels of 'packaged care' funded from basic to high care to maintain independence – services were provided to 175,000 older Australians
- Residential Care – funded residential aged care (respite and permanent) – 310,000 older Australians nationally

In 2020/21 the total Commonwealth aged care budget was \$21.5 billion or \$5,063 per older person; this comprised Residential Care \$13.64 billion and Home Care and Home Support \$6.7 billion.

Design principles for the aged care reforms have remained very consistent since initiation, these include:

- **Consumer Choice and Control** – funding is provided directly to the clients based on assessed need to support choice and control – the client purchases services from a range of providers. This has a strong human rights and philosophical basis but introduces competition and signals the end of 'block funding' certainty for providers in most circumstances.
- **A Simplified Gateway** – My Aged Care is the single point of entry for all Australians to access aged care services – the 2017 Legislated Review of Aged Care has recommended merging of the RAS (Home Support) and Aged Care Assessment Teams (ACAT) (Residential Aged Care) into a streamlined national assessment service.
- **Demand Driven System** – the current 'block funded' and supply driven system will progressively move to a 'demand driven' funding system to ensure consistent services are delivered to where they are needed rather than what areas funding is allocated.
- **Competition Policy** – there is a renewed national focus on competition policy to drive economic growth, productivity, and efficiency in service delivery. It is more likely than not that future program design will be based on market and competition principles meaning that Local Government will face direct market exposure and ratepayer subsidy will be in effect prohibited.
- **Monopoly Market** – the current protected market arrangements are being completely dismantled to facilitate open competition and improved efficiency. Local government is not

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equipped to effectively operate under market conditions. (Block funding may be retained for some niche programs and regional and remote areas, but most of the program will likely be on a 'most efficient' multiple provider basis.)

- **Market Efficiencies** – the Commonwealth is seeking to reduce transaction costs by having fewer contracts with larger organisations who can operate across large geographic areas – it is unclear whether there will be direct contracts between the Commonwealth and individual Local Governments after June 2023.
- **Client Contribution** – the Commonwealth expects that all Australians will make a consistent contribution to care depending on their capacity and capability.

Recent reform decisions

The May 2021 Federal Budget announced a significant response to the Aged Care Royal Commission in its May budget, this included:

- \$6.5 billion for 80,000 additional aged care packages
- \$3.9 billion for improved front line residential care
- \$630 million improved access for vulnerable Australians
- \$365 million for better transition to residential care
- \$230 million to strengthen aged care quality and compliance
- \$49.4 million for aged care training
- \$21 million for improved sector governance
- \$13.4 million to Primary Health Networks to drive better coordination

The budget included an announcement of an extension of the CHSP program to 30 June 2024 to enable the design and roll-out of the new 'Support at Home' program. The original reform timing was for completion by 30 June 2018, and this has been subject of five extensions: one to 2019, then to 2020, again to 2022 and 2023, and now to 2024.

The 'Support at Home' program will be a new integrated program commencing 1 July 2024 that combines CHSP, Home Care Packages, Residential Respite and Short-term Restorative Care. This integrated model will most likely be client-directed, offer a range of providers (i.e., a market-based model) and require that providers offer a suite of services across in-home, personal, nursing, and allied health.

The Regional Assessment Service that undertakes intake and assessment for the CHSP and HACCYP programs was on a pathway to a national streamlined model by 1 July 2020. This initial plan was delayed pending the outcomes of the Aged Care Royal Commission and the Commonwealth announced in May 2021 that it will initiate the establishment of a unified assessment model. It is understood that this new program will have responsibility for all aged care assessments from July 2024.

The Aged Care Royal Commission and broader aged care reforms have a critical focus on quality and compliance frameworks. This is already reflected in the rigorous requirements of the Aged Care Quality Standards which have applied since 1 July 2019 bringing an increased focus on training of staff, compliance, and outcomes for clients. Enhancing quality and safety is a major focus of the final Royal Commission Report and the Commonwealth has confirmed that there will be an increased emphasis on compliance and reporting for all providers

The Commonwealth has indicated that the 2023/24 extension period will include preparation and transition activities and therefore it is appropriate that providers seeking to operate under Support at Home participate in this process.

Buloke Shire Service Profile

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Council is considered a small provider of home and community care services. The largest Victorian Local Government providers deliver over 120,000 hours of in-home services per annum compared with Buloke Shire's 21,210, this is in comparison with some larger not-for-profit providers which deliver many hundreds of thousands of hours of service or even millions of occasions of service across CHSP and Home Care Packages.

Council services are funded under two main programs:

- CHSP is a national program aimed maintaining independent living for people over 65 (or 55 for Aboriginal & Torres Strait Islander people) funded by the Commonwealth, and
- HACPYP is a state-based program that provides services for people under the age of 65 with a disability or chronic illness.

Services are funded from three main sources:

- Unit price - under block funding the government pays Buloke Shire a unit price for services delivered under each program
- Client contribution - the client or carer pays a fee for service depending on their means
- Ratepayer - the cost of delivery is subsidised by income from rates

Program(2022/ 23)	Funded Hours	Annual Grant Income
CHSP Domestic Assistance	6160	319,648.72
CHSP Personal Care	765	39,694.63
CHSP Flexible Respite	812	42,180.94
CHSP Social Support - Individual	2347	121,816.33
CHSP Meals	7891	60,077.76
CHSP Home Maintenance	1117	60,119.36

Table 1: CHSP Services - Hours and Grant Income

Program(2022/ 23)	Funded Hours	Annual Grant Income
HACPYP Personal Care	350	17,262
HACPYP Domestic	802	39,554.64
HACPYP Home Maintenance	189	9,665.46
HACPYP Assessment	146	14,286.10
HACPYP Meals	631	2,240.05
HACPYP Volunteer Coordination	247	11,355.64

Table 2: HACC-PYP - Hours and Grant Income

KEY ISSUESSupport at Home Program

Council has accepted that it will not be able to play a meaningful role as a provider of services under the future 'Support at Home' program and that it is in the broader public interest that it transitions out of direct service delivery to focus on broader policy areas such as positive ageing, health and wellbeing and adaptation of universal services to better meet the needs of older citizens.

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Participation in 'Support at Home' will potentially require Council to extend its suite of programs well beyond current entry level services into allied health, nursing, and more complex personal care. This extension will require higher standards and clinical governance further adding to costs and complexity.

Mandate to operate

Council's current mandate was established around 40 years ago and has been as a 'block-funded' service provider for the majority of CHSP program hours and units for the municipality. Block-funding provided certainty and security for Council in how services could be planned and delivered.

A future mandate under the Support at Home program will most likely be on the following criteria:

- Area – preference will be given to providers operating across one or more Aged Care Planning Regions or even state-wide or national basis.
- Consumer directed funding – most funding will be directed to the consumer, and they will have choice and control over which provider they will select. This automatically places Council under market or competition arrangements and severely reduces certainty.
- Payment in arrears – payment will be based on delivered units and paid following submission of monthly invoices. Council will need new business systems and sufficient cashflow to sustain operations.
- Expanded service suite – there will be an expectation to single providers will span entry-level to complex care requirements, this will invoke increased quality, compliance, and clinical governance requirements.

Workforce

There is a persistent national shortage of qualified personal support, aged care, and disability workers. Local government providers have had trouble in recruitment and experienced competition for qualified direct care workers in recent years.

This chronic shortage of qualified workers has meant that Council has not been able to meet service delivery targets which means that Commonwealth policy objectives have not been met.

The age profile of Council's current workforce is considered a critical risk.

Cost of Services

In the context of what the Commonwealth is seeking to deliver, Victorian councils are a relatively inefficient and expensive provider of services. Unit costing analysis conducted on over 30 councils found that the delivery of all in-home services requires a ratepayer subsidy of between \$15.00 and \$25.00 per hour to deliver.

For the Council this equates to a ratepayer subsidy of between approximately \$40,000 - \$200,000 per annum for CHSP and HACCPYP services (depending on funding allocated this has varied in recent years).

From a public interest perspective, if Council was not the provider, the Commonwealth will be responsible and accountable for the delivery of services and the ratepayer subsidy could be redirected to alternative priority areas.

Other financial implications of this decision include:

- The Commonwealth is facing an incredibly significant increase in demand for services (> 350%) and must find the most efficient means of delivering a universal service platform for all Australians, no matter where they live,
- The Commonwealth believes services can be delivered for a cost equal to the funding provided plus the fee paid by the client with no other subsidy (around \$50.00 per hour),
- All levels of government should be seeking to achieve the most efficient means of delivering outcomes for the community. Market sounding completed by Mach2 Consulting indicates that

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there are regional and national aged care providers who would be able to deliver CHSP and HACC PYP services in Buloke Shire,

- Victorian ratepayers are currently subsidising a service that is the responsibility of another level of government (essentially voluntary cost-shifting) – the Commonwealth has taken full responsibility and does not require Local Government support or subsidy to deliver services, and
- National Competition Policy states that any level of government should not subsidise services where there is a reasonable alternative.

RISK MANAGEMENT

A comprehensive risk and community impact analysis has been completed for Buloke Shire Council; the high-level risks associated with this decision include:

- **Future Cost of Services** – the current estimated 'cost to council' for the main Home Support services is based on 'block funding' and a consistent demand for service. It is highly likely that with increasing demand, the introduction of competition and consumer directed care the future cost of service will increase and that there will be higher volatility and commercial risk.
- **Avoided risks** – by choosing to transition out of service delivery Council is avoiding a significant number of risks, these include commercial risk, business continuity, competition policy and clinical governance.
- **Investment in Innovation** – if Council seeks to remain as a provider of services in the Support at Home program after 2024 it will need significant investment to support the reorientation of its operating model. This will require renegotiation of industrial arrangements, investment in business processes and technology, reduce overheads, working capital (move to payment in arrears) and capability to quickly increase and reduce scale of operations.
- **Unit Cost** – the unit cost of local government providers is relatively high when compared to the level of funding provided and the operating costs of not-for-profit and other non-government organisations. Significant industrial and operating reform would be required to seriously change Local Government cost structures.
- **Commercial Risk** – the introduction of 'consumer directed care' and likely end of 'block-funding' will introduce significant commercial risk for Council. Councils have operated in a highly collaborative, almost monopoly market for 30 years and will have difficulty in adapting operating models to meet these challenges.
- **Scale of Operations** – some councils have examined if growing the scale of operations might be a solution to responding to the reforms. Investigation of this option has indicated that growth in a highly competitive market is unlikely due to inability to expand geographic boundaries, inherent cost structures, limited range of service offerings and lack of experience.
- **Full Cost Attribution** – most local government budgets reflect only direct operating costs and local management overhead. Full cost attribution will reflect direct and indirect operating costs, local and corporate overheads, costs of assets deployed in service delivery and adjustments for tax and other advantages derived from being a level of government.
- **Market Competition** – it is more likely than not that 'limited or full-market competition' will be introduced in the commissioning of aged care services. Council will need to restructure its operating model and cost structures to adapt to this emerging challenge.
- **National Competition Policy** – NCP requires council to completely remove underlying rate-payer subsidies or pass costs on to consumers. Council can undertake a Public Interest Test, but it is not likely to be able to justify continued subsidisation when in competition.
- **Stranded Services** – if active markets for aged and disability services develop in populated areas, it may result in Councils being left with only remote or rural areas with a very high costs

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of delivery. Council will be the provider of last resort with diminishing market share and significantly increasing unit costs.

- **Thin Market** – the lack of viable alternate providers is a real risk in regional areas. The responsibility for ‘market stewardship’ and ensuing viable providers sits with the Commonwealth and Victorian governments who have significant market power and influence.
- **Industrial and Employee Relations** – every scenario or pathway for Council contains industrial and employee relations risks, these include industrial obligations under Enterprise Agreement; renegotiation of employment arrangements and a moral obligation to long-serving staff.
- **Managing Transitions** – Council will need to manage the transition of many individual clients over the coming 6 to 12 months, investment will be required to provide a safety-net to ensure positive outcomes for clients and community.
- **Addressing Vulnerability** – most clients will make a transition with limited support from Council. It is understandable that Council has a high level of concern for vulnerable members (mental illness, social isolation, at risk of homelessness, intellectual disability etc) of the community and therefore it will invest in transition programs and safety-nets to provide appropriate support structures.
- **Advocacy** – There is a clear need for strong advocacy to the Victorian and Commonwealth governments on the risks for local government arising from the reforms. This includes holding the Commonwealth and Victorian governments accountable for service delivery outcomes; ensuring the market stewardship roles are fulfilled; and making representations on the needs of vulnerable communities.

RELEVANT LAWCommonwealth Policy

The Commonwealth took full policy, funding, and commissioning responsibility for an integrated aged care program in August 2011 and has proceeded to implement a range of reforms based on very consistent design principles. The Commonwealth is seeking to design and deliver a nationally consistent consumer centred, integrated, and flexible aged care system that meets the needs of all older Australians.

National Competition Policy

A constraint on Council decision making is the application of National Competition Policy to Local Government in Victoria. The Commonwealth is more than likely to apply market principles to a future Home Support service model and that National Competition Policy and Competitive Neutrality Principles would therefore apply to Local Government operations.

Competitive Neutrality Principles apply to the significant business activities of Councils and not to non-business or non-profit activities. The concept of ‘significance’ is defined on a case-by-case basis looking at the importance of competition in a specific market.

Given the Commonwealth is more than moving to a market-based model for delivery of future services, it is reasonable to assume that there will be a high degree of focus on ensuring the market is not distorted or disrupted by government subsidised activity.

There is a mandated ‘public interest test’ that must be undertaken if Council wishes to continue to provide services that are subsidised in competition with other ‘not-for-profit’ and ‘for-profit’ providers. There is no viable or significant public interest in Council continuing to be a provider in competition with more efficient and more effective non-government providers.

Industrial obligations

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Council has industrial obligations to staff to ensure notification of change and consultation and engagement on significant decisions that impact the workplace.

The changes anticipated by this in-principle decision will trigger these obligations and therefore Council must be clear on its position around engagement of staff and notification of unions.

A final decision to exit the program will trigger redundancy provisions of the Enterprise Agreement, exploration of redeployment opportunities and payment of retrenchment packages for affected staff.

An industrial risk that Council must be aware of is transfer of business, this is where a Council seeks to transfer its funding agreement directly to another local provider through a sub-contracting or partnership arrangement. A transfer of business occurs where work, operations, employees, and assets transfer from one entity to another. The implications include that some, or all the employment conditions (wage rates, enterprise agreement, flexibility arrangements etc) of the original employer can, in some circumstances transfer to the new employer.

For a "transfer of business" to occur it relies on whether a range of requirements are satisfied, these include:

- employees transfer between the two entities within a 3-month period,
- employees are terminated by the old employer,
- the work is the same or substantially the same as with the old employer, and
- there is an association between the old employer and the new employer.

The risk of a transfer of business is considered much higher in a sub-contracting arrangement as compared with an arrangement where a service agreement is terminated, employees paid retrenchment benefits and service agreement terminated with the Commonwealth.

Human Rights

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

RELATED COUNCIL DECISIONS

Council will have resolved to participate in the former Home & Community Care (HACCC) Program in the mid-1980s.

OPTIONS**Option 1 – Plan for service provision beyond 30 June 2024**

This option is not recommended.

Preparation for service provision under the future Support at Home program will require Council to completely redesign its service and business model as well as reduce its cost structures by at least 30% to 35%.

Expansion of the traditional service model into more complex care will significantly increase risk and require commitment to clinical governance.

Market competition will be used as a driver of quality and efficiency under the new program, and this will invite commercial risk and application of National Competition Policy competitive neutrality principles.

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Local government cost structures are inflexible and the biggest barrier for Buloke Shire (and all local government providers) is scale of service provision and inability to amortise required overhead costs associated with management, coordination, and quality standards.

Option 2 – Transition out of direct service delivery and focus on broader policy

This option is recommended as being in the public interest and aligned with Council's broader obligations to the community.

Council accepts that Commonwealth policy is moving towards a consistent national integrated aged care system and that this will require more efficient providers who can deliver services across a broad spectrum of needs.

The decision to transition out of its long-term commitment to service delivery is a significant decision and not taken lightly. Council has an obligation to resource and support an effective transition for clients and staff.

Council will proactively manage an effective transition out of service delivery and ensure that all clients (and especially those clients that are vulnerable or at risk of social isolation) are provided with support.

Council accepts its moral and industrial obligations to all staff affected by this decision.

Option 3 – Transition through partnership or sub-contract

In this scenario Council would retain its service agreements and seek to contract with local or regional partners for delivery.

This option is not recommended as the 18-month time frame left for the CHSP program is not sufficient to prepare, commission, and implement an effective procurement process (for both Council and the potential contractor).

Sub-contracting several other industrial and commercial risks including transfer of business and potential for increased costs due to contract supervision.

SUSTAINABILITY IMPLICATIONS

There are limited environmental sustainability implications associated with this report.

COMMUNITY ENGAGEMENT

Consultation with the Buloke community has identified that supporting our ageing population is an important priority for the community.

Council officers have engaged with Commonwealth and Victorian government agencies to provide notice and advice of the decision-making process.

Council by taking this in-principle decision will trigger a comprehensive communications and consultation exercise; this will include:

- Clients and families have been informed that Council is commencing a decision process and will be provided with a contact number to raise any questions or concerns during the process.
- A proactive media engagement strategy to explain the rationale for Council's decision, the intended process, and long-term benefits for the community.
- The Australian Services Union, acting as the industrial representatives of staff have been advised of the intention of Council to make an in-principle determination on this matter. A staff working group will be established to ensure clear communication throughout the process.

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- Council officers will host an information and 'Q & A' session for the general community following Council determination on this matter.
- A comprehensive 'Frequently Asked Questions' document will be available via Council's website and customer service centres.

INNOVATION AND CONTINUOUS IMPROVEMENT

The ability to adapt to changing circumstances is essential for contemporary government.

The national aged care reforms are being driven by very significant demographic changes and the desire for an affordable and consistent national aged care system.

COLLABORATION

Not applicable.

FINANCIAL VIABILITY

This report has significant financial implications for Council.

The ongoing ratepayer subsidy (estimated at between \$40,000 and \$250,000 in recent years) is not required to deliver Commonwealth policy objectives of an integrated aged care program to support older people to live independently in the Buloke community.

Council will need to commit resources to support an effective transition process, this is estimated to be around \$65,000 over the next 12 to 18 months.

It is recommended that Council's Audit Committee receive a review report at the end of the transition process that summarises all costs and addresses lessons learnt.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

The policy and service reforms in disability and aged care have been driven at the national level for the past decade.

The reforms have been discussed earlier in the report.

COUNCIL PLANS AND POLICIES**COUNCIL PLAN 2021-2025****1. Our community wellbeing**

Council's transition from being a provider of home support services will potentially strengthen its capacity to invest in positive ageing and health and wellbeing initiatives for older citizens.

Council will continue to play a strong advocacy role to ensure older residents have access to quality aged care services and in not being a provider will be able to take a more active planning and coordination role.

Council will have a future focus on adaptation of universal services (recreation, leisure, libraries, open space etc) to meet the needs of older citizens and people with a disability.

Council will take a strengths-based approach to managing transitions and seek to empower clients, families, and staff in their engagement with the implementation of the decision.

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Council will focus on ensuring future infrastructure meets the needs of older people and people with a disability in its community.

2. Our economy

It is in the interests of the Commonwealth and Buloke Shire to have a diverse range of home support and aged care providers servicing regional needs. The aged care system is much larger than home support services and future providers can bring additional benefits and investment.

Future providers will deliver across aged care planning regions (8 to 10 LGAs) and deliver services to meet entry-level to complex care needs.

3. Our built and natural environment

There are no significant environmental implications arising from this report.

4. Our Council and community leadership

Under the former HACC program Council had a strong history in delivery of integrated services to its community.

Government reforms, creation of the NDIS and future Support at Home program have challenged this role and Council must now plan for its future policy objectives and potential role.

The Local Government Act 2020 includes service performance principles that mandate that Council services must be responsive to changing needs and emerging trends. This decision is reflective of the radically changed policy environment, anticipates the future design of the Support at Home, and outlines a course of action that will be in the best interests of the community.

TRANSPARENCY OF COUNCIL DECISIONS

The report is considered confidential because it is dealing with commercial matters related to a long-standing service agreement with the Commonwealth government and this in-principle decision will directly impact program clients and staff members.

The report seeks Council in-principle decision which will trigger immediate commencement of obligations to notify the Commonwealth, industrial obligations to staff and service commitment to notify clients and family.

The report includes a recommendation that a version of the report with confidential information redacted and the resolution of Council be included in the public minutes of the meeting and is authorised for use by the Chief Executive Officer in the public domain.

CONFLICTS OF INTEREST

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

APPENDIX ONE – PRINCIPLES AND VALUES

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Communication

- Council will initiate a six-week intensive consultation period during which it will engage transparently with clients and families, staff and their representatives, other service partners, and the broader community.
- Council will be timely in all communications and will ensure that all people affected by a decision will have information provided including the rationale and drivers for all decisions.
- Council will provide information (i.e., dates and times) on decision processes to all stakeholders to ensure transparency and opportunity to participate.
- Open and transparent communication between all parties will underpin the partnership and build trust and confidence.

For clients

- If Council determines to change its role in relation to aged care services, the needs of clients will be the highest priority for Council through any future transition process.
- The Council and the Council administration understand the profound nature of the decision and will ensure that the highest standards of professional behaviour and ethics are applied to managing the implementation and limiting the negative impact.
- The individual needs of all clients will be understood and considered during the transition process. It is recognised that some clients will need additional support during the transition process and Council will ensure that special attention is paid to protecting the rights of vulnerable clients.
- Council will act as an advocate for the needs of all clients and will ensure that additional resources are provided to hear and respond to individual, or group needs during transition and an appropriate time following the date of transition.
- Council will ensure that clients are provided with high quality information before, during and after transition and individual private consultations if required.

For staff

- Council values the contribution of all staff and recognises the commitment made to deliver high quality home support services to the Buloke community.
- Council understands the unique relationship that develops between carers and clients and will work towards ensuring the continuity of this relationship where possible.
- Council will identify and implement readiness activities and support that will ensure workers are prepared for the transition process.
- Council will establish a transition working group involving affected staff (and their representatives) to ensure the effective two-way flow of information.
- Council will meet all industrial obligations and will ensure investments are made to provide staff with the support and skills they need to make an effective transition to future work or retirement depending on their individual circumstances.

For the successor provider

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- Council will seek to influence the appointment of a high-quality provider of home support services (understanding that the final appointment is a matter for the Commonwealth and Victorian governments).
- Council will work constructively with the appointed provider to ensure that the service transition occurs in a way that protects the interests of clients, families of clients, staff, and the broader community.
- Council will ensure that quality client and service information will be provided to the appointed provider(s) to inform decisions during the transition process.

For community

- Council will make decisions that are in the best interests of the broader community, this will include understanding the financial, economic, social, health and wellbeing implications of any decision.
- Council will act as an advocate for the needs of the community and will hold accountable Commonwealth and Victorian governments and the appointed home support providers for the delivery of quality services to the Buloke community.