

7.2 SUPPORT FOR MARRIAGE EQUALITY

Submitting Councillor: Cr Fergeus

MOTION

That Council:

- 1. Supports residents and employees in advocating for marriage equality, regardless of sexual orientation or gender identity.*
- 2. Supports the right of all Council employees and residents to have equal opportunities in life, supports diversity in the workforce, and recognises the right of all employees and residents to live and work free of prejudice and discrimination.*
- 3. Note, that as part of its commitment to celebrating diversity, Council supports Lesbian, Gay, Bisexual, Transgender, Intersex and Queer/Questioning (LGBTIQ) community events, activities and capacity building opportunities including Pride March and the Midsumma Festival.*

INTRODUCTION

The case for marriage equality is strong and there is growing support for marriage equality in the community. Two in three Australians believe that same-sex couples should be able to marry, and the percentage is growing all the time¹. Same-sex marriage is already legal in 29 countries/regions around the world including the United Kingdom, Canada, the United States of America, and New Zealand.

This notice of motion recommends Council move to support marriage equality for all members of our community.

BACKGROUND

The Australian Marriage Act 1961 applies uniformly throughout Australia. Australian States and Territories are precluded from making any law inconsistent with this Act. Currently, Australian marriage law does not provide universal marriage equality for all Australians.

Advocating for these changes to the Australian Marriage Act 1961 is consistent with Article 2 and Article 16 of the Universal Charter of Human Rights. These proposed changes will

¹ Australian Marriage Equality (2016), *A majority of Australians have supported marriage equality for several years*, Australian Marriage Equality, Sydney, retrieved 12 January 2017, <http://www.australianmarriageequality.org/who-supports-equality/a-majority-of-australians-support-marriage-equality/>

ensure that same sex couples are afforded the same protection and legal rights as heterosexual couples.

Article 2 of the Universal Charter of Human Rights states that ‘Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.

Article 16 aligns the concept of marriage as a universal human right as it states that ‘Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.’ These Articles form the foundation for expansion of the legal rights and protections afforded to same-sex couples through a commitment to marriage equality and reform of the Marriage Act 1961 to realise human rights and equality.

The Local Government Act identifies that councils play a critical role in encouraging and supporting active participation in civic life and ensuring that their delivery of services is both accessible and equitable. Councils are also required to act consistently within the framework of the Victorian Charter of Human Rights and Responsibilities and are bound by statutes relating to equal opportunity.

Local governments should demonstrate diversity and inclusiveness across their culture and practice, both internally with staff and externally with community members who identify as lesbian, gay, bisexual, transgender, intersex or queer/questioning (LGBTIQ).

DISCUSSION

There have been a number of programs and activities undertaken by Council that support and celebrate our Gay, Lesbian, Bisexual, Transgender and Intersex community.

- Monash Youth and Family Services (MYFS) has a long history in supporting young people who identify as same sex attracted and gender diverse. Over the last 12 months, MYFS has re-established the Pride and Diversity Program to support young people 14-18 who identify as same sex attracted and gender diverse. This program was previously run by MYFS from 2003 to 2009.
- MYFS has also been an active member of the SEA network and the recent Q-East network that is made up of local community organisations, health care and local government organisations. The Q-East Alliance provides training to workers, school staff and community, and creates a space where workers across the Eastern Regional can collaborate to improve services, resources and outcomes to the GLBTI community.

- Monash Home and Community Services (HACC) works with a range of community members to support them to live at home. HACC staff complete Gender Equity training to ensure all clients are treated with respect in the own homes regardless of their gender.
- HACC also provides LBGBTI training to internal staff to ensure that the City of Monash is respectful and responds appropriately to the needs of its entire community.

Having taken some significant first steps, it is important that Council continues in its support of the LGBTIQ community, including Council staff, residents and ratepayers of the City of Monash.

Council's support for marriage equality will complement continued support of LGBTIQ initiatives that contribute to our commitment to an 'inclusive Monash' and involvement in initiatives such as the: 'No To Homophobia Campaign', the International Day Against Homophobia and Transphobia, Pride March and the Victorian Local Governance Association's Rainbow Working Group.

The promotion of same-sex attracted and gender diverse programs/services will encourage the community to come together and celebrate diversity. This promotion will also demonstrate Council's genuine commitment to building an inclusive Monash.

In addition, organisational capacity building through training of Council staff will ensure that facilities, programs and services are inclusive of LGBTIQ residents and ratepayers.

SOCIAL ISSUES

Approximately 10% of the population (which equates to over 18,000 Monash residents) identify as LGBTIQ². Diversity in sexuality, gender identity and sex identity is something that should be acknowledged and embraced, but unfortunately those identifying as LGBTIQ too often experience discrimination and exclusion.

Research shows that homophobic discrimination and heterosexism (the favouring of opposite-sex sexuality and relationships) has resulted in:

- A large number of LGBTI people hiding their sexuality or gender identity when accessing services, at social and community events and at work due to frequently experiencing discrimination³;

² Australian Human Rights Commission (2014), *Face the Facts: Lesbian, Gay, Bisexual, Trans and Intersex People 2014*, Australian Human Rights Commission, Sydney, retrieved 13 January 2017, <https://www.humanrights.gov.au/face-facts-lesbian-gay-bisexual-trans-and-intersex-people>

³ Australian Research Centre in Sex, Health & Society, La Trobe University (2012), *Private Lives 2: The second national survey of the health and wellbeing of GLBT Australians*, La Trobe University, Melbourne, retrieved 13 January 2017, <http://www.glhv.org.au/files/PrivateLives2Report.pdf>

- LGBTIQ people experiencing higher rates of alcohol, tobacco and other drug use, homelessness, experience of violence, disengagement from schooling, and poor physical health outcomes⁴;
- Over 60 per cent of LGBTIQ young people experience verbal homophobic abuse and 18 per cent experience physical homophobic abuse⁵;
- The mental health of LGBTIQ people is among the poorest in Australia⁶; and
- LGBTIQ people having the highest rates of suicidality of any population in Australia. Same-sex attracted Australians have up to 14x higher rates of suicide attempts than their heterosexual peers and suicide rates are 6 times higher for same-sex attracted young people.⁷

CURRENT LEGAL RECOGNITION OF SAME-SEX DE-FACTO PARTNERS

Current legal recognition of same-sex de-facto partners is insufficient because:

- It is discriminatory and contrary to Universal Charter of Human Rights;
- Only a marriage certificate gives instant and guaranteed access to relationship entitlements such as partner's assets and superannuation. It is also much more widely recognised and respected than de facto status;
- Civil unions are not as widely understood or respected as marriage and creating a separate name for same-sex relationships entrenches a different, discriminatory, second-class status for these relationships⁸;
- Same-sex couples also experience discrimination in aged care as a result are likely to pay more than opposite-sex couples for care, competing with their partner's family members to make decisions about their partner's healthcare and often aged care facilities do not accept same-sex couples⁹;
- When one partner passes away in a same-sex relationship it can add additional stress to the surviving same-sex partner. Other family members may deny the existence or legitimacy of a same-sex partnership following the death of one of the partners, this adds to the grief for the surviving partner. Even though State and Territory

⁴ National LGBTI Health Alliance (2016), *The Statistics at a Glance: The Mental Health of Lesbian, Gay, Bisexual, Transgender and Intersex People in Australia*, National LGBTI Health Alliance, Sydney, retrieved 12 January 2017, <http://www.lgbtihealth.org.au/statistics>

⁵ Australian Research Centre in Sex, Health and Society, La Trobe University (2010), *Writing Themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people*, La Trobe University, Melbourne, retrieved 13 January 2017, <http://www.latrobe.edu.au/arcschs/downloads/arcschs-research-publications/WTi3.pdf>

⁶ National LGBTI Health Alliance (2014), *Going upstream A framework for promoting the mental health of lesbian, gay, bisexual, transgender and intersex (LGBTI) people*, National LGBTI Health Alliance, Sydney, <https://www.beyondblue.org.au/docs/default-source/default-document-library/bw0257-going-upstream-online-o-lgbti-mental-health-promotion-framework.pdf?sfvrsn=2>.

⁷ Rosenstreich, G. (2013), *LGBTI People Mental Health and Suicide*, National LGBTI Health Alliance, Sydney, retrieved 13 January 2017, <https://www.beyondblue.org.au/docs/default-source/default-document-library/bw0258-lgbti-mental-health-and-suicide-2013-2nd-edition.pdf?sfvrsn=2>

⁸ Australian Marriage Equality (2016), *The Case For Same-Sex Marriage*, Australian Marriage Equality, Sydney, retrieved 16 December 2016, <http://www.Australianmarriageequality.Org/Wp-Content/Uploads/2014/09/The-Case-For-Marriage-Equality.Pdf>

⁹ Human Rights and Equal Opportunity Commission 2007, *Same-Sex: Same Entitlements – National Inquiry into Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits*, Human Rights and Equal Opportunity Commission, Sydney, retrieved 13 January, <https://www.humanrights.gov.au/publications/same-sex-same-entitlements-chapter-14>

legislation includes same-sex partners in its definitions of next of kin, the onus of demonstration of the relationship at a time of stress is substantial.¹⁰

- According to the 2011 Census, 6300 children are living in same-sex couple families. By allowing parents in these families the right to marry we are providing their children with the same rights, respect and recognition as other children.¹¹
- Note: The Australian Psychological Society has found that children raised by same-sex couples are just as well adjusted, psychologically, sexually, intellectually and socially as their peers.¹²

FINANCIAL/ENVIRONMENTAL IMPACTS

Any costs associated with supporting LGBTIQ events or activities will be funded out of existing operational budgets and/or Council's annual community grant program. It is not intended that any additional Council funding will be directed towards these activities as a result of this motion.

RELEVANT LEGISLATION

Relevant legislation that relates to the issue of marriage equality includes:

- Victorian Equal Opportunity Act 2010;
- Fair Work Act 2009;
- Sex Discrimination Act 1984;
- Australian Human Rights Commission Act 1986;
- Fair Work Act 2009; and
- Victorian Charter of Human Rights and Responsibilities 2006.

STRATEGIC CONTEXT

This report and its recommendations are consistent with the following Council plans and strategies:

- Monash Health and Wellbeing Partnership Plan 2013-2017;
- Monash Children, Young People and Family Strategy 2016;
- HACC Diversity Action Plan;
- Access and Equity Framework 2013-2017;
- Community Safety Framework 2015-2020;
- Gender Equity Strategy 2015-2020; and
- Active Reserves Capital Works Policy August 2011.

¹⁰ Birch, B. (2009), *Dementia, Lesbians and Gay Men*, Alzheimer's Australia, Melbourne, retrieved 13 January 2017, https://www.fightdementia.org.au/files/20091000_Nat_NP_15DemLesbGay.pdf

¹¹ Australian Marriage Equality (2016), *The Case For Same-Sex Marriage*, Australian Marriage Equality, Sydney, retrieved 16 December 2016, <http://www.Australianmarriageequality.Org/Wp-Content/Uploads/2014/09/The-Case-For-Marriage-Equality.Pdf>

¹² Australian Marriage Equality (2016), *The Case For Same-Sex Marriage*, Australian Marriage Equality, Sydney, retrieved 16 December 2016, <http://www.Australianmarriageequality.Org/Wp-Content/Uploads/2014/09/The-Case-For-Marriage-Equality.Pdf>

CONCLUSION

Monash's Health and Wellbeing Partnership Plan 2013-2017 commits Council to promoting and supporting the health and wellbeing needs of our community regardless of their sex, socio-economic, income, age, gender identity, sexual orientation, ability, education, cultural, religious or ethnic background. Social justice principles demand Council protect and advocate for the rights of all members of our community.

By supporting marriage equality and rejecting discrimination on the basis of sexual orientation or gender identity, the City of Monash seeks to realise universal human rights and equality for all people. Marriage equality is significant and essential and will address current issues of discrimination against valued members of our community.