

7 December 2015

Also sent by email 9/12/15

Coroner Phillip Byrne
Coroners Court of Victoria
65 Kavanagh St.
SOUTHBANK
VIC 3006



Dear Coroner Byrne

MAV Response to finding into death of Patiya May Schreiber, Court Ref: 2013/6032

The MAV thanks the Coroner for the opportunity to provide its response to the recommendations made by the Coroner in the finding into death with inquest of Patiya May Schreiber.

The MAV has sought feedback from its members as to the recommendations, including from Council arborists. MAV has received responses from a variety of Councils to the recommendations, including Metro councils, larger regional Councils and smaller rural Councils.

From the responses we have received, MAV members have generally expressed their support for the recommendations of the Coroner for councils to take a risk based approach in the inspection and management of their trees and inspection regimes. However, it has been noted that due to the varying nature of municipalities across Victoria that a blanket approach is not considered appropriate. The profile of councils across Victoria, and in particular, their tree stock varies considerably. Some councils may have smaller numbers of trees, whilst others such as Yarra Ranges have approximately 5 million trees. Some key concerns raised are the ability of many of the councils to be able to meet the Coroner's recommendations due to limitations on resources, both financial and qualified personnel. This is of particular concern to MAV members in light of the introduction of rate capping in 2016/2017.

Responses have indicated that councils in both rural and metro municipalities spend considerable funds on tree inspections and management. A metropolitan council has indicated it spends approximately \$1.5 million on tree management per annum and could not afford to implement the recommendations of the Coroner. In particular, it could not afford to create an inventory of all its trees and undertake inspections of all trees. Rather, it takes a risk based approach to direct resources to areas of higher risk. A small rural council has indicated that it spends approximately \$900,000 on tree management per annum. It also does not currently have an inventory of all trees in place and has indicated that it could not afford to do this.

Another key concern raised is that the Coroner's recommendations are made only in relation to Council trees. It is recognised that the Crown is responsible for a number of trees where there may be a risk to the public. Therefore, Councils have expressed the view that any measures flowing from the Coroner's recommendations should be applied consistently to both councils, the Crown and other bodies such as Water authorities that have trees in areas which may impact on public safety.

Another concern raised by councils was the inability to determine the responsibility for some trees between various bodies, such as between Councils, VicRoads, the Crown and Water Authorities. This was considered to make the creation of an inventory of all trees extremely difficult.

The Coroner's recommendations are addressed below:

- 1. All local government agencies should have a computer-based inventory of all trees for which they are responsible, which identifies the species of the tree and its location**

Whilst a small number of Councils currently have an inventory of all trees, or are investigating the possibility of creating one, most councils do not consider that it is a feasible option. This is primarily due to the number of trees in some municipalities. They have indicated they do not have the resources, financial or personnel, to undertake an inventory of all trees for which they are responsible. This response reflects the great variation between municipalities throughout Victoria and the variation in trees they are responsible for.

Most councils have indicated that a preferred approach is to have a tree assessment program or tree management plan in place, which uses a risk based approach to identify higher risk trees that require proactive inspections. This is undertaken by having a risk hierarchy classification system to identify higher risk tree species and higher priority areas such as streets, playgrounds, areas of congregation etc. Most councils have advised that they have prioritised their resources towards these higher risk areas by having an inventory of trees in those areas and undertaking inspections as required in relation to the level of risk.

Councils have expressed that this risk based approach for the management of trees provides the best balance of financial responsibility and managing risk.

In addition to being prohibitive from a resource perspective to create an inventory of all trees, councils have also noted that there would not be the funds available to maintain such a register and update it regularly to take into account new self-seeded trees, particularly in foreshore areas, forested areas and bushland.

- 2. All local government agencies should have a computer maintenance program that is linked to the inventory which provides dates and details (what was done and why) of all maintenance and inspection operations that are undertaken on the trees**

The councils that provided feedback to MAV generally supported a recording system. However, they repeated their concerns at the recommendation for a computer maintenance program that is linked to the inventory of all trees, as being prohibitive from a financial and resource perspective. Councils instead proposed a risk based approach in which councils have a tree management plan or similar in place, and that inspections and any maintenance works undertaken are recorded in some way, not necessarily through a computer recording system.

- 3. All local government agencies should have a computer-based risk assessment system that is applied to all trees contained within the tree inventory. Such a system may incorporate the use of systems such as QTRA or TRAQ, which are widely and readily available or another system which embodies the principles of risk assessment specified in the relevant Australian Standard**

Whilst councils were generally supportive of a risk assessment tool being used, they maintained that a computer based risk assessment applied to all trees was not achievable due to financial and resource limitations.

Several councils confirmed that they currently use systems such as QTRA or TRAQ in relation to trees that they do inspect, which have been identified as being in higher risk areas. Councils recognised the importance of the arborist clearly documenting their assessment when undertaking a visual tree assessment.

One council that responded from a smaller rural municipality noted that the recommendation for all local government agencies to have a computer based risk assessment system assumes that Council has internal arboricultural expertise. However, in that case the Council engages experienced professionals as consultants to undertake inspections and assessments, as it does not possess internal arboricultural expertise. Therefore, they considered that the method or approach to risk assessment in that case would lie in the domain of the experts to determine the system the expert employs to provide their expert service. They considered that the recommendations should be reconsidered to place the technical responsibilities in the professional's hands.

- 4. All local government agencies should have a formalised tree inspection protocol, which specifies the purpose of the inspection and what form the inspection takes (e.g. walk-by Visual Tree inspection, use of technological aids in the inspection process) and whether the inspection is ground based, or from above. The inspection record should also indicate what further arboricultural works, if any, are recommended for the tree and why these works are recommended.**

Generally Councils were supportive of this recommendation and had plans/protocols in place such as street tree policies, urban forest policies and street tree assets Management Plans , which they considered useful documents to clearly state a Council's process in regard to tree inspections.

A smaller coastal/rural municipality noted that they did not have in house expertise in this field and relied on the advice of experts engaged on an 'as needs' basis. They recognised that for Local Government agencies with in house arborists it is logical that the inspection protocols are determined by the Local Government Agency. However, they did not consider it would be appropriate in their situation where it engaged and relied on third party expert advice, to determine the protocols and methodology to be performed by such an expert. Rather, they considered that Local Government agencies without the appropriate level of in house knowledge, skill and training need to be able to allow the relevant professional to guide them in relation to best practice in their particular area of expertise. Therefore, they considered that it should be left in the hands of the expert to determine the tree inspection protocol, which specifies what form an inspection will take. In this case they considered it was more important to develop a protocol to determine when expert advice should be sought.

- 5. All inspections must be undertaken by a qualified (level 4 or above) arborist. We are generally of the view that a level 5 qualification or above is preferred, but this may not be applicable to all council-based situations present.**

Generally councils supported this recommendation and noted that they either employed or engaged qualified arborists with level 4 or above qualifications. However, one council noted that this recommendation did not recognise that qualifications in arboriculture are a relatively recent introduction, and many excellent arborists, with years of experience, do not hold such qualifications. Therefore, they suggested this recommendation be modified to include 'or substantial relevant experience'.

- 6. All and any inspections and assessment protocols should be clearly dated and indicate a clear time line for the next inspection/assessment. The inspection/assessment record should also indicate what further arboricultural works, if any, are recommended for the tree and by what date in the future these should be undertaken.**

The Councils that responded were generally supportive of this recommendation and some noted that this information was required as part of current council processes.

- 7. In any tree inspection, tree assessment or risk assessment, it should be noted that the anatomy of a branch and of an epicormic shoot are quite different. The term 'branch' should only be applied to tree structures that have a proper branch anatomy and epicormic shoots should be clearly identified as such in any assessment or inspection procedures.**

Some Councils have raised concern in relation to this recommendation. Whilst generally it was recognised that the anatomy of a branch and of an epicormic shoot are different, it was considered that this recommendation implies that every report should note the anatomy of epicormic limbs. However, several councils recognised that epicormic shoots will not always be problematic.

It was expressed that reference to a tree's anatomy in this manner would only be necessary if, through the tree inspection, tree assessment and risk assessment; an action is identified and recommended. It was considered that simply referencing a characteristic of a limb without context or recommended action will lead to potential confusion over the need to act.

Councils recognised that there are many potential defects or modes of failure that can present in many diverse species of trees. Choosing a characteristic of the tree to specifically (and arbitrarily) note regardless of its relevance to the overall risk profile of the tree has the potential to dilute what should be clear and concise advice regarding the management of any particular tree. Focussing specifically on limbs of epicormic origin may be irrelevant in many circumstances depending on species of tree. Determination of relevant risk factors identified in an inspection should remain the responsibility of the trained, experienced professional.

- 8. All and any inspection protocols should involve components that assess the trunk and canopy components (above ground) and root system (below ground)**

of the tree. Inspection protocols should involve the use of relevant criteria that allow proper assessments against these criteria to be made at the time of inspection

Councils were supportive in part of this recommendation. They supported the assessment above ground of the trunk and canopy using relevant criteria that allow proper assessments against those criteria to be made at the time of inspection.

Councils were not supportive of 'below ground' inspection of roots. This was considered not practical and costly and often not warranted. Rather, Councils indicated to the MAV that observations from above ground assessments would determine whether a further inspection of below ground root systems was warranted. For example, if there is visible evidence of a root heaving or root rot, these observations may lead to further investigation such as a root stability test or root excavation.

Should you have any queries about this matter, please contact Kristine Purcell on (03) 9667 5539

Yours sincerely



Rob Spence
CEO

