

# Effectiveness of Support for Local Government





VICTORIA

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Victorian  
Auditor-General

# Effectiveness of Support for Local Government

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Victorian Auditor-General's Office

*Auditing in the Public Interest*

The Hon. Bruce Atkinson MLC  
President  
Legislative Council  
Parliament House  
Melbourne

The Hon. Telmo Languiller MP  
Speaker  
Legislative Assembly  
Parliament House  
Melbourne

Dear Presiding Officers

Under the provisions of section 16AB of the *Audit Act 1994*, I transmit my report on the audit *Effectiveness of Support for Local Government*.

This audit assessed the effectiveness, efficiency and economy of support activities undertaken to assist councils to carry out their duties and obligations to the community. I focused on the activities of Local Government Victoria (LGV) and the Municipal Association of Victoria (MAV) as they are key entities providing support to councils.

I found both LGV and MAV have established methods for identifying support needs. However, with some exceptions, neither is able to clearly demonstrate how their support activities contribute to the effective and efficient operation of councils. Both LGV and MAV need to strengthen their focus on outcome reporting and evaluation. While there are examples of LGV and MAV working together to support councils, there is scope to document and formalise how they can work together in the future, including under the new *Victorian State-Local Government Agreement*.

Legislative and broader governance arrangements compromise the effectiveness, efficiency and economy of support to councils. MAV operates in a unique legislative environment and has not been subject to the range of legislation applicable to many other public sector entities and bodies. I have made recommendations to the Department of Environment, Land, Water and Planning to review the *Municipal Association Act 1907* and to improve oversight of MAV. Prompt action is needed by both LGV and MAV to address the governance issues identified in this report.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Doyle', with a stylized flourish at the end.

John Doyle  
*Auditor-General*

26 February 2015



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# Auditor-General's comments



**John Doyle**  
*Auditor-General*

The community relies on Victoria's 79 councils to provide a range of important infrastructure and services. Councils face a range of critical challenges in relation to their financial sustainability, resources, capability and the increasing expectations from their communities. Any support councils receive to address these challenges is therefore crucial to enable them to operate effectively, efficiently and economically.

The Municipal Association of Victoria (MAV) and Local Government Victoria (LGV) are two key bodies that provide support to councils. While the nature of support each provides differs, both have established methods for identifying the support needs of councils. However, with only some exceptions, neither can clearly demonstrate whether their support activities are making a difference to Victoria's councils. In particular, their monitoring, evaluation and reporting on support activities is not sufficient to provide assurance that intended outcomes are being achieved. My audit found that while MAV and LGV have worked together to support councils, they need to clearly identify when and how they should work together in the future. The *Victorian State-Local Government Agreement* potentially provides a mechanism for both LGV and MAV to identify and provide support more effectively to address council support needs.

MAV's conduct during this audit has been disappointing. It has been marked by repeated challenges to my mandate, the scope of the audit, its inability to provide evidence in a timely fashion, and sometimes its refusal to provide certain information.

For over 100 years, MAV has been a legislated public body, with much of its revenue, nearly \$60 million in 2012–13, derived either directly or indirectly from taxpayers, councils or ratepayers. This audit of MAV is clearly within my mandate and it is appropriate for me to audit MAV; just like any other public body in Victoria. MAV does not appear to acknowledge or accept that it is not only accountable to its members but that it also has broader responsibilities and obligations for the efficient, effective and economic use of public funds. It is my hope that this report provides an impetus for change.

MAV claims it is unique and that my office has applied an 'agency of government lens' which is not appropriate given that it is an independent membership organisation. My office has not erred in its assessment of MAV. To the contrary, it is entirely appropriate for me to assess whether MAV's support activities are effective, efficient and economical and we set out and consulted with MAV early in this audit on our approach.

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The fundamental issues about MAV are clear. Its legislation is outdated and has not kept pace with contemporary standards of good governance. This needs to be promptly addressed. In the absence of clear and comprehensive legislative arrangements, MAV has not itself sought to bridge this gap by establishing and maintaining a robust set of governance arrangements, policies and procedures. MAV also undertakes a broad range of support activities, but it is not clear whether all of its existing functions are within its legislated mandate. I note MAV's assertion that its Board is responsible for the conduct of MAV's activities. My assessment in this audit is that the Board has failed to fulfil its obligations to provide appropriate oversight of the operations, governance and performance of MAV, to the detriment of Victoria's 79 councils, Parliament and the community.

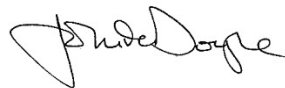
This underscores the need for a comprehensive review of MAV's role and legislation, and a clear set of expectations around MAV's role and governance in providing support to councils needs to be established. Such a review is well overdue and might well consider whether the original intent of the *Municipal Association Act 1907* is still appropriate in the 21st century.

I also found that the independent oversight and scrutiny applied to MAV is well below the level that most statutory public bodies face. There is limited scrutiny of MAV's Rules, limited independent review of its performance beyond its annual reporting, and no clear understanding of whether MAV is delivering value for money. Indeed, my audit provides a rare independent and transparent assessment of MAV's performance. I have recommended that Local Government Victoria takes a much more proactive role in its oversight and monitoring of MAV's activities and performance, and advice to the minister on its performance. MAV seems to have misconstrued the need for appropriate oversight and monitoring to support the Minister's accountability for the *Municipal Association Act 1907* as implying the need for the minister to direct or control MAV. However, my report is clear that overseeing MAV's performance and compliance with the Act does not require the minister to have the power to direct or control.

The tenor of MAV's response is indicative of an organisation that has not been subject to the sort of independent oversight and scrutiny of its performance and operations that the public and Parliament expect and are entitled to, and one that lacks a culture of best practice and accountability for its performance. It is not unreasonable to expect the highest standards of governance, accountability and transparency from MAV. The body charged with promoting the efficient carrying out of municipal government and watching over councils' interests, rights and privileges should be an exemplar in everything it does, and provide value for money to its members, and ultimately the people of Victoria.

I am pleased that the Department of Environment Land Water and Planning and LGV has acknowledged that my recommendations will strengthen support for local government, and has accepted all recommendations and committed to actions to address them. While I am disappointed that MAV has not clearly accepted my recommendations or outlined how it will address them, I will be monitoring developments closely in relation to these and intend to follow up with both the department and MAV to ensure that my recommendations are addressed. My office has also commenced undertaking financial audits of MAV, and will routinely assess and report on MAV's financial performance, along with the rest of the local government sector in Victoria.

I would like to thank the many council chief executive officers and Mayors who took part in my survey and participated in consultations throughout the audit. Lastly, I urge all Victorian councils to consider my report and its findings, conclusions and recommendations, and ensure that they play their part in holding MAV to account for its performance in future.

A handwritten signature in black ink, appearing to read 'John Doyle', with a stylized, cursive script.

John Doyle  
*Auditor-General*  
February 2015



# Audit summary

Victoria's 79 councils are responsible for providing a wide range of services to their communities. These include child and family day care services, waste collection, home and community care, planning and recreational services. Councils also build and maintain community assets and infrastructure—such as roads, footpaths and drains—and enforce various laws.

Local Government Victoria (LGV) supports local councils to ensure they are responsive, accountable and efficient, and that they comply with the *Local Government Act 1989* (LG Act). The Municipal Association of Victoria (MAV) advocates for local government interests, builds the capacity of councils, facilitates effective networks, initiates policy development and advice, supports councillors and promotes the role of local government. This audit assessed the effectiveness, efficiency and economy of the support provided to councils by LGV and MAV.

The local government sector faces significant challenges and the needs of individual councils vary greatly. In this audit we have defined 'support' as any activity undertaken to assist councils to carry out their duties and obligations to the community, and to facilitate more efficient and effective council operations.

## Conclusions

LGV and MAV both have established methods for identifying what support councils need. However, except in a few instances, neither is able to demonstrate whether their support activities are contributing to the effective and efficient operation of councils.

LGV's support programs are generally aligned with identified needs, but are also determined by government policy objectives and linked to the requirements of the LG Act. While LGV internally monitors and reports on projects and initiatives, it could further strengthen the focus on outcomes reporting and program evaluation. Similarly, MAV's support programs are based on an understanding of needs and generally have clear objectives. However, its monitoring, evaluation and reporting is primarily focused on outputs and activity-based information, not outcomes.

While LGV and MAV have worked together to deliver a number of council support initiatives there is scope for them to work more closely to identify council needs, and decide who is best placed to provide support to councils and how. The new *Victorian State-Local Government Agreement* provides an opportunity to document and formalise how they can work together in the future.

The effectiveness, efficiency and economy of support to councils is significantly compromised by a lack of appropriate legislative and broader governance arrangements applying particularly to MAV. The MAV Board of Management is responsible not only for its own governance but for the good governance of the organisation. The MAV Board needs to take prompt action to address all governance gaps and deficiencies identified in this report.

MAV currently performs a broad range of support functions and it is not clear if all of these functions are within its remit or align with its intended purpose. MAV operates in a unique legislative environment and it is not subject to the range of legislation that applies to many other public sector entities and bodies. The MAV Board has not ensured there are appropriate alternative governance arrangements in place.

MAV does not have sufficiently detailed policies, procedures and processes in place to manage fraud and corruption, conflicts of interest or records. It also lacks formal systems for project management and monitoring staff performance. Weaknesses in MAV's procurement practices not only increase the potential of fraud or corruption, but also bring into question whether these support activities provide councils value for money.

While MAV has some external accountability requirements, there has been little or no independent scrutiny of its activities. This has likely contributed to MAV expanding its focus and service provision to a wide range of activities, without appropriate scrutiny and assurance.

Although it was not intended under the *Municipal Association Act 1907* (MA Act) that the minister would have the power to direct MAV, the minister is nevertheless still responsible for the MA Act's administration. LGV does not actively oversee MAV's performance or compliance with the MA Act, nor proactively provide advice to the minister, except when requested to do so. LGV does not monitor whether requirements associated with exemptions granted to councils under the LG Act by the minister have been met.

## Findings

### Municipal Association of Victoria's legislative and governance framework

The MA Act is outdated and contains few explicit powers. It is not clear if all of MAV's current functions are within its remit or align with its intended purpose. MAV currently performs a broad range of functions, including providing procurement and insurance services, governance and legal advice, professional development and advocacy. These are predominantly provided to Victoria's 79 councils, although MAV also currently provides insurance services to Tasmanian councils and water authorities.

The MA Act enables MAV to make Rules that relate to its internal management. The MAV Rules have been used to carry out certain support activities. MAV's recent legal advice, however, suggests that it is arguable that at least one of the Rules may be outside the MA Act. The Rules also contain provisions that are traditionally only found in legislation.

The Rules can be revised at any time with the endorsement of members and the approval of the Governor in Council. Beyond this there is limited external scrutiny or monitoring of the Rules.

MAV is a public statutory authority and in a 2004 case the Supreme Court of Victoria determined that it was a body established for public purposes. There are several Acts that would ordinarily apply to public bodies including the *Public Administration Act 2004* (PAA), *Financial Management Act 1994* (FMA) and the *Public Records Act 1994* (PRA). In the absence of clear and robust statutory oversight, it is the responsibility of the MAV Board to ensure that strong and transparent governance arrangements are in place.

Until recently, MAV had insufficient policies, internal mechanisms or processes for assisting staff to manage conflicts of interest. In the absence of a conflict of interest policy it is not clear how MAV could have effectively managed any conflicts of interest in the past. This audit also found insufficient assurance over probity and potential conflicts of interests, which were neither declared nor managed by MAV.

MAV provided fraud awareness training for all staff for the first time in October 2014, and drafted a fraud and corruption policy at the same time. The absence of any training or guidance previously is concerning given MAV manages large procurements and contracts both for itself and on behalf of councils. Concerns over a potential conflict of interest have been addressed in Part 3.

MAV's *Gifts, Benefits and Hospitality Policy* is marked as having been established in June 2014. MAV advised it had a previous policy, but did not provide a copy to verify this. In any case, a March 2014 internal audit report found that the requirements of the policy were not being followed. It is important to appropriately manage these, particularly where they may relate to support activities delivered for or on behalf of councils.

From 2006 until 2014 MAV relied on an interim document management policy. While a formal records management policy has now been endorsed, MAV had difficulty locating some documents requested by VAGO as part of the audit, and was unable to provide some key documents it relied on to support its claims.

There is no formal performance management system in place for any MAV staff other than the chief executive officer, so it is not clear how staff or managers are held to account for their performance.

MAV also does not have an overarching project management framework. In relation to the delivery of grant funded activities on emergency management, project management was inconsistently applied and—while financial reporting and acquittal to LGV were completed for the projects we reviewed—reporting on project activities was limited.

### MAV governance

There is no process in place for assessing the MAV Board's performance. The MAV Board is ultimately responsible for MAV's governance framework, and inadequacies in MAV's governance found in this audit, and previously, are ultimately the MAV Board's responsibility.

MAV established an audit committee in 2004 to monitor internal and external audit activities and advise the MAV Board on its governance framework. As discussed in Parts 2 and 3, internal audit activity has been limited in addressing the gaps in policy and process identified through this audit.

## Municipal Association of Victoria's support for local government

MAV has well established processes to capture feedback and identify council support needs. Over the past five years, MAV's Strategic Work Plan has identified between nine and 11 priority areas and there has been carryover from year to year of issues—including kindergarten funding, emergency management, climate change, library funding and transport and planning.

In our survey of councils, 58 per cent gave MAV a good rating, and 25 per cent a moderate rating for how they identified the type of support needed, suggesting councils are satisfied with MAV's identification of their support needs.

We assessed a cross-section of support activities.

### *Training and events*

Councillor development, training and events have been a long standing MAV support activity. MAV delivers an extensive array and large number of events and training activities, and collects feedback on these. It cannot, however, clearly demonstrate its performance against its objective of building the capability of elected members to effectively fulfil their roles.



### *Emergency management*

Emergency management has been identified in strategic work plans for MAV for over 10 years. Focus on this increased in response to the 2009 Black Saturday bushfires. A \$2 million program of work funded by LGV was developed and delivered over four years to assist the government response to the findings of the 2009 Victorian Bushfires Royal Commission. No assessment of program impact was undertaken so value for money cannot be determined. Anecdotal feedback provided to MAV at the time of our audit, however, indicated council satisfaction with the work of MAV in relation to their delivery of emergency management projects.

### *Procurement*

MAV Procurement is an administrative unit within MAV managing tenders for the procurement of goods and services for local councils. However, the procurement of insurance services including Liability Mutual, Commercial Crime and Self Insurance for workers compensation, which are examined in this report, are managed through separate internal processes. MAV is not subject to legislative or other and whole-of-government requirements related to procurement, and it does not have a formal procurement policy in place to guide its procurement activities. Consequently there is limited formal guidance for staff in applying probity standards consistent with established better practice.

A 2013 internal audit report found that controls in place in procurement were generally adequate but that policies and procedures governing the tendering process needed updating and revision. It also called for a formal fraud and corruption policy framework, and training for staff in this area. MAV has not completed nearly half of the recommendations detailed within the report. MAV is not undertaking procurements consistent with the standards required of councils under the LG Act, despite acting on their behalf.

### *Monitoring, evaluation and reporting*

While MAV undertakes a wide range of reporting on support activities to members—and almost half of councils were satisfied with this reporting—it does not provide sufficient information to demonstrate the achievement of intended objectives, outcomes and continuous improvement.

MAV primarily relies on membership levels and participation rates in support programs, as well as member endorsement of its strategic work plans, to determine council satisfaction with its support provision. This is not a reliable or appropriate measure of whether objectives or intended outcomes are being achieved. MAV has acknowledged this deficiency in some areas, and is revising its approach.

In addition—with the exceptions of MAV Procurement, MAV Insurance, grants and events—MAV cannot link sources of funding with its work activities. Therefore it is difficult to determine how effectively funding has been applied to its intended purpose.

## Local Government Victoria's support for councils

LGV has a range of consultation methods in place to inform the development of its support programs and initiatives for councils. Its program of sector guidance is detailed in its business plan, and linked to the relevant objective.

As well as specific programs and guidance, LGV also intervenes where council issues arise, for example, where councillors request administrative support, or where ministerial intervention is required, such as financial administrators, or dismissal of councils.

Thirty-one per cent of councils surveyed as part of this audit rated LGV as good, 43 per cent as moderate, and 12 per cent as poor, in terms of the way they identify the type of support their council needs. A question about LGV's assessment of the level of support needed indicated a similar pattern—with 28 per cent of councils providing a good rating, 20 per cent a poor rating, and 37 per cent moderate.

### Main support programs

LGV has funded and delivered programs and initiatives under the Local Government Reform Strategy focused on assisting the local government sector to be more efficient and productive. It also provides additional programs and initiatives aimed at building capacity within the sector.

Our survey found a high level of satisfaction with LGV's:

- knowledge of policy and legislative frameworks—more than 80 per cent
- relevance of guidance material—80 per cent
- technical advice—more than 70 per cent.

Councils were less satisfied with LGV's engagement with councils about the effectiveness of support programs during delivery and after program completion, and the relevance of capacity building programs—all less than 40 per cent.

### Objectives

LGV has objectives, project and task delivery targets in its latest Business Plan 2014–15 and reports under the State Government Budget Papers. However a strengthened focus on outcome measures beyond the limited Budget Paper reporting is required to better understand whether LGV's objectives and outcomes are being achieved.

### Monitoring, evaluation and reporting

LGV does not formally report against or measure achievement of its objectives and does not have established and consistent reporting on all of its support programs and guidance. Without this, LGV cannot be assured that it is on track to achieve its objectives and outcomes.

While LGV has established practices for reviewing the progress of individual initiatives and programs, it does not have a formal outcome evaluation framework that it applies to all initiatives. While evaluations report outcomes in some cases, others consist of mainly output-based reporting. Although monitoring occurs as a component of weekly management processes, LGV should enhance the evaluation of its support programs to ensure robust analysis of outcomes and the effectiveness of support activities is understood.

## Collaboration to support councils

There have been numerous instances where LGV and MAV have worked collaboratively to deliver support programs in areas such as procurement, planning and reporting, and asset management. Despite these collaborations, there are no established mechanisms to identify opportunities for collaboration.

Past VAGO audits have identified overlap in LGV and MAV support for councils. Our survey of councils found a significant number of councils—23 of 70—believed LGV and MAV duplicated each other's work, suggesting there is potential for them to be more effective by adopting a more collaborative and coordinated approach.

In September 2014, the Minister for Local Government signed the *Victorian State-Local Government Agreement*. The agreement commits to the delivery of an agreed annual work plan which provides an opportunity to document and formalise how and on what initiatives LGV and MAV will work together in the future.

## Monitoring of the Municipal Association of Victoria

LGV does not proactively monitor MAV's performance or compliance with the MA Act, or advise its minister on their accountability for the administration of the MA Act. LGV has advised it would only do so at the request of the minister, or in relation to a program delivered by MAV which has been funded by the state. LGV advised it limits its support to briefing the minister in relation to rule changes and the tabling of annual reports, as MAV is considered an independent entity governed by its own MAV Board. The lack of proactive monitoring of MAV means that MAV has essentially had no government scrutiny of its activities.

The Minister for Local Government granted an approval to councils for an exception under section 186(5)(c,) of the LG Act for contracts entered into through MAV Procurement on the basis that economies of scale and a competitive process would be achieved by them on the councils behalf. There was no monitoring of the basis on which this exception was granted, nor whether it would be achieved.

LGV recommended that the minister approve this on the basis that the contract through MAV Procurement will provide councils access to suppliers selected through a competitive process, and that leveraging the combined purchasing power of councils will result in economies of scale and savings. However, LGV does not monitor or seek assurance over MAV's procurement activities on the basis it is the responsibility of councils. Our audit found issues with the competitiveness of its procurement processes, which also bring into question whether value for money is being achieved.

## Recommendations

Number	Recommendation	Page
	That the Department of Environment, Land, Water and Planning:	
1.	as a priority, reviews and determines the Municipal Association of Victoria's functions, roles, responsibilities, powers and obligations through an analysis of its existing legal framework and: <ul style="list-style-type: none"> <li>ensures this is reflected in the <i>Municipal Association Act 1907</i></li> <li>ensures contemporary standards of governance and accountability are met, including the role, function and make-up of the Municipal Association of Victoria's Board</li> <li>consults with relevant departments to consider whether the <i>Public Administration Act 2004</i>, <i>Financial Management Act 1994</i> and <i>Public Records Act 1973</i> should apply to the Municipal Association of Victoria either directly or through its enabling legislation</li> <li>assures itself, following any review, that all activities undertaken by the Municipal Association of Victoria are clearly within its power.</li> </ul>	25
	That the Municipal Association of Victoria:	
2.	reviews its policies and controls relating to conflict of interest, corruption and fraud, and gifts, benefits and hospitality to align with better practice, and trains its staff accordingly and proactively monitors the application of these policies and controls	25
3.	develops and implements a performance management framework for its Board and staff that is aligned with better practice	25
4.	develops and implements a project management framework aligned with better practice covering all project phases from initiation to completion	25
5.	reviews and updates its records management policy to align with better practice	25
6.	reviews its internal audit program and ensures it routinely covers all key procedures and controls associated with all aspects of procurement, conflict of interest and fraud and corruption.	25

## Recommendations – continued

Number	Recommendation	Page
That the Municipal Association of Victoria:		
7.	as a priority, reviews and updates its procurement policies and procedures, so that: <ul style="list-style-type: none"> <li>• they comply with better practice</li> <li>• high probity standards and appropriate controls around conflicts of interest are applied to all phases of procurements</li> <li>• it actively monitors compliance with updated policies and procedures</li> </ul>	45
8.	improves the monitoring, evaluation and reporting of its support activities, including developing relevant and appropriate performance measures, and publicly report its progress and performance	45
9.	improves councillor development, training and events evaluations to clearly measure and demonstrate their impact on participants and on council performance.	45
That Local Government Victoria:		
10.	improves its monitoring, evaluation and reporting on support activities to demonstrate the achievement of intended objectives and outcomes, including in relation to its business plan, and ensures it has relevant and appropriate performance measures, and publicly reports its progress and performance	57
11.	develops processes to seek feedback from councils on the use of its guidance material and website information to identify opportunities for continuous improvement.	57
That Local Government Victoria and the Municipal Association of Victoria:		
12.	review and document how and when they should work together to ensure the efficient, effective and economic delivery of support to councils, including clarifying roles and responsibilities for support activities, and communicate this to councils	65
13.	undertake regular joint strategic planning to: <ul style="list-style-type: none"> <li>• share knowledge and intelligence on council needs</li> <li>• agree on council support priorities and areas of collaboration</li> <li>• agree on a program of work to be reflected in the agreed annual work plan between state and local government, and local government peak bodies.</li> </ul>	65
That Local Government Victoria:		
14.	routinely monitors the performance of the Municipal Association of Victoria including its compliance with the <i>Municipal Association Act 1907</i> , and advises the Minister for Local Government accordingly	65
15.	actively monitors entities that have been granted approvals under section 186 of the <i>Local Government Act 1994</i> , to ensure they comply with any requirements specified in the approval, and advise the Minister for Local Government accordingly.	65

## Submissions and comments received

We have professionally engaged with the Department of Environment, Land, Water and Planning and the Municipal Association of Victoria throughout the course of the audit. In accordance with section 16(3) of the *Audit Act 1994* we provided a copy of this report, or relevant extracts to those agencies and requested their submissions or comments.

We have considered those views in reaching our audit conclusions and have represented them to the extent relevant and warranted. Their full section 16(3) submissions and comments are included in Appendix B.

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# 1 Background

## 1.1 Victoria's councils

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Victoria's 79 local councils are responsible for providing a wide range of services to their communities. These include child and family day care services, waste collection, home and community care, planning and recreational services. Councils also build and maintain community assets and infrastructure—such as roads, footpaths and drains—and enforce various laws. The local government sector faces significant challenges and the support individual councils need varies according to factors such as location, size, demographics, capability and capacity.

In Victoria, there are five types of councils. There are 17 inner metropolitan councils, 14 outer metropolitan councils, 11 regional councils, 16 large shire councils, and 21 small shire councils. As of 1 July 2015, a new municipality—Sunbury City Council—will be in place.

## 1.2 Support for local government

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For the purpose of the audit, 'support' is defined as any activity undertaken to assist councils to carry out their duties and obligations to the community, and to facilitate more efficient and effective council operations. Support may include providing advice, advocacy, guidance, and services such as training.

This audit focused on support provided to Victoria's councils by Local Government Victoria (LGV) and the Municipal Association of Victoria (MAV).

However, councils also receive support from a range of other bodies in Victoria and nationally, including various government departments, local government peak bodies and specialist organisations providing training and support in areas including procurement, planning, financial and asset management, and local government service delivery.

## 1.3 Local Government Victoria

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### 1.3.1 Role and purpose

LGV is now part of the Department of Environment, Land, Water and Planning. It works cooperatively with Victoria's 79 local councils to ensure that Victorians enjoy responsive and accountable local government services, and aims to improve business and governance practices that maximise community value and accountability.

LGV provides policy advice to the Minister for Local Government, who is responsible for administering the following principal Acts:

- *Local Government Act 1989* (LG Act)
- *Local Government (Rural City of Wangaratta) Act 2013*
- *Local Government (Brimbank City Council) Act 2009*
- *City of Melbourne Act 2001*
- *City of Greater Geelong Act 1993*
- *Libraries Act 1988*
- *Victoria Grants Commission Act 1976*
- *Municipalities Assistance Act 1973*
- *Municipal Association Act 1907* (MA Act)
- *Prahran Mechanics' Institute Act 1899*.

The minister also acts as an advocate for local government issues within government and, through LGV, supports and monitors the system of local government. The minister is not directly involved in the detailed management of individual councils.

**Figure 1A**  
**LGV's structure**

<p>LGV is made up of three business areas, with 32.5 full time equivalent staff in 2014–15, and total funding of \$56.34 million.</p> <p><b>Sector Development</b></p> <p>Provides policy advice relating to sector effectiveness and relations between state and local government in order to benefit communities.</p> <p><b>Governance and Legislation</b></p> <p>Supports good governance by providing contract and procurement guidelines, as well as providing policy advice to the minister and overseeing local government elections, and preparing legislative proposals and conducting investigations.</p> <p><b>Funding Programs</b></p> <p>Responsible for policy and funding advice for public libraries, National Competition Policy compliance and the management of the Victoria Grants Commission.</p>
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Source: Victorian Auditor-General's Office based on a review of LGV materials.

1.3.2 Main types of support

LGV supports councils to ensure that the system of local government is responsive, accountable and efficient, and that councils comply with the LG Act. The LG Act sets out the basis for local government in Victoria and the primary objective of councils, which is to endeavour to achieve the best outcomes for the local community while considering the long-term and cumulative effects of decisions.

Support is delivered through government programs, grants, better practice guidelines and templates as well as direct instructional circulars and responses to queries and requests for information. LGV also supports the minister with advice on the administration of the LG Act and other Acts the minister is responsible for. LGV's support activities are discussed further in Part 4.



## 1.4 Municipal Association of Victoria

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### 1.4.1 Origins, role and purpose

MAV was established in 1879 as a membership association and incorporated under the MA Act. MAV's role and purpose is defined in the MA Act as promoting efficient local government throughout Victoria and watching over and protecting the interests, rights and privileges of councils. Under the MA Act, MAV is required to represent all Victorian councils, regardless of whether they are financial members of MAV. However, as MAV has advised, its relationship as a peak organisation with its members is not defined by statute. The MA Act provides for MAV to be constituted by representatives of all Victorian councils who may be appointed by their councils from time to time. Council membership with MAV is discretionary, as is participation in the insurance schemes, financial and procurement arrangements MAV facilitates for the sector and in events and training activities. Incorporation enabled MAV to insure councils through the Municipal Officers Fidelity Guarantee Fund (fidelity fund). This provides insurance to indemnify councils against fraudulent or dishonest acts committed by an employee or third party acting alone or in collusion with others.

The MA Act provided for MAV to make Rules for the management of MAV, regulation of its proceedings, fixing annual subscriptions to MAV and for fixing the contribution rate to the fidelity fund. The second reading speech for passing the legislation through Parliament in 1907 noted that the minister would not have the power to direct MAV.

There have been a number of amendments to the MA Act which amended or expanded MAV's legislated mandate in relation to insurance for water and sewage authorities and local government.

MAV provides public liability and professional indemnity insurance through its Liability Mutual Insurance (LMI) Scheme which was established in 1993. The LMI established and maintained by MAV is approved under section 76A(3) of LG Act which requires that councils take out and maintain insurance cover. The fidelity fund is now known as the Commercial Crime Fund (CCF). Both the LMI and CCF are non-discretionary mutual insurance schemes that are intended to exist solely for the purposes of their members. MAV is currently working to become a self-insurance licence holder and has sought the assistance of a third party with the application process.

### 1.4.2 Current activities

MAV provides a wide range of services across a range of portfolios and interests. These are outlined in Figure 1B.

**Figure 1B**  
**MAV's stated role and services**

<p><b>MAV's stated role</b></p> <ul style="list-style-type: none"> <li>• Advocate local government interests</li> <li>• Build the capacity of councils</li> <li>• Facilitate effective networks</li> <li>• Initiate policy development and advice</li> <li>• Support councillors</li> <li>• Promote the role of local government.</li> </ul> <p><b>MAV's services as listed on its website</b></p> <ul style="list-style-type: none"> <li>• Specialist advice and information</li> <li>• Councillor development opportunities</li> <li>• Legal advice and insurance protection</li> <li>• Chief executive officer (CEO) performance appraisal and recruitment advice</li> <li>• Governance support</li> <li>• Group procurement.</li> </ul>
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Source: Victorian Auditor-General's Office.

### 1.4.3 MAV structure and governance

#### Management

The MAV Rules provide for the creation of a CEO position, to be appointed by the MAV Board of Management. The CEO's role is to manage the association, deliver its strategic work plan, and to be responsible for the day to day management of MAV. The CEO is subject to direction from the MAV Board, and has approximately 30 staff. MAV also engages a range of consultants and contractors. Work is structured into the numerous business areas identified in Figure 1C.

#### MAV Board

The MAV Board is comprised of a president, elected by State Council members, and 12 representatives elected by their respective MAV regional groupings. MAV advised that the MAV Board is elected for a term of two years. The MAV Board is empowered by the MAV Rules to set service standards and publish codes of practice and protocols. The MAV Board is made up entirely of elected councillors.

#### State Council

The State Council is a body consisting of all the representatives of councils that are financial members of MAV. The State Council meets twice annually and its powers include:

- determining the MAV Rules
- electing the president and other members of the MAV Board
- determining MAV's strategic direction
- appointing an auditor.

MAV's legislative and governance framework is discussed further in Part 2.

**Figure 1C**  
**MAV's structure**

<b>Legal Governance and Corporate</b>
Includes the Deputy CEO and General Counsel, Governance and Legislation Adviser, MAV Insurance Counsel and corporate services functions.
<b>Insurance</b>
Manages MAV insurance activities and claims services.
<b>Commercial services</b>
Includes MAV Procurement—which undertakes some procurements for MAV itself and group procurements on behalf of Victorian councils—and Events and Training—which provides training for councils and manages MAV events, such as conferences.
<b>Policy</b>
Includes policy areas which support councils including social policy, emergency management, planning, building and infrastructure, environment and economics. Policy areas vary depending on the priorities of MAV.
<b>Communication</b>
Responsible for MAV communication activities such as council communications and website administration.
<b>Hosted organisations</b>
Provides support to organisations including the Public Libraries Victoria Network, Association of Bayside Municipalities, Local Government Information Communications and Technology, and Rural Councils Victoria.

Source: Victorian Auditor-General's Office based on a review of MAV materials.

#### 1.4.4 Overview of funding and financial position

MAV's financial report comprises the economic entity of MAV and its controlled entities—the LMI, the Commercial Crime Fund and MAV Procurement.

Figure 1D provides details of MAV revenue, expenditure and financial position for the combined entity and MAV General—which excludes insurance operations—for the two financial years ending 30 June 2013 and 30 June 2012.

**Figure 1D**  
**MAV's combined financial details for the 2012–13 financial year**

MAV combined financial details	Combined \$ million		MAV General \$ million	
	2012–13	2011–12	2012–13	2011–12
Revenue	59.199	48.482	18.019	15.461
Expenses	64.521	52.508	17.709	18.206
Net surplus (deficit)	(5.322)	(4.026)	0.309	(2.745)
Current assets	91.341	84.682	10.274	8.822
Non-current assets	48.806	54.473	0.574	0.723
Current liabilities	58.791	49.790	5.545	4.696
Non-current liabilities	76.308	78.996	1.000	0.855
<b>Total equity</b>	<b>5.047</b>	<b>10.369</b>	<b>4.304</b>	<b>3.994</b>

Source: Victorian Auditor-General's Office based on published MAV financial statements.

Figure 1E shows the components of MAV's revenue and expenses.

**Figure 1E**  
**MAV combined financial details for the 2012–13 financial year**

	2012–13 (\$ million)	2011–12 (\$ million)
<b>MAV revenue</b>	59.199	48.482
MAV general activities	16.892	14.356
Commonwealth and state grants	8.293	4.951
Council subscriptions	2.540	2.411
<b>MAV Insurance revenue</b>		
Premiums from scheme members for policy cover	24.187	21.924
Reinsurance and other recoveries related to insurance claims	15.941	8.834
<b>MAV General Fund expenses</b>	17.709	18.206
Grants payments and expenditure on various projects	7.711	7.160
Salary costs	5.746	6.022
<b>MAV Insurance expenditure items</b>		
Payments for insurance claims	26.749	14.406
Reinsurance expenses	13.509	13.327
<b>MAV General</b>		
Surplus (deficit) on its operations	0.309	(2.745)
<b>Combined entities overall position</b>		
Operating loss	(5.322)	(4.026)

Source: Victorian Auditor-General's Office based on published MAV financial statements.

In 2012–13, MAV General achieved a surplus on its operations of \$0.309 million, while the combined entities incurred an operating loss of \$5.3 million. The difference between the results is mostly from the LMI component. The revenue from LMI was enough to cover its expenses with a surplus of \$0.2 million, however, this was not enough to cover the administration and general expenses of \$7.7 million. For the three years from 2009–10 to 2011–12 the MAV combined entities had operating losses of around \$4.6 million, \$0.6 million and \$4.0 million respectively. Similar to 2012–13, this is a result of the insurance activities and other income not covering the administration and general expenses. In addition, for 2011–12 MAV General incurred a \$2.7 million deficit, largely due to the decreased grant income in comparison to preceding and subsequent years.

### 1.4.5 Main types of support

Support from MAV to local government is delivered through policy and governance advice, advocacy, training, insurance and procurement across a range of portfolios and interests. MAV's support activities and projects vary from year to year and priority areas are informed by consultation with MAV member councils. Two areas have dedicated business units within MAV—procurement and insurance.

A selection of MAV support activities are discussed further in Part 3.

## 1.5 Other support organisations

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In addition to LGV and MAV, a range of other organisations provide support to local councils in Victoria. These organisations have been consulted in the early stages of this audit but are not subject the subject of this audit.

### 1.5.1 Local Government Professionals

Local Government Professionals (LGPro) is the peak body for local government professionals in Victoria. LGPro provides advocacy and influences policy direction to the local government sector. LGPro is governed by a Board comprising of 10 officers who are elected by the members for a three-year term. LGPro has collaborated on procurement support with LGV, and produced the Good Governance Guide in conjunction with LGV, MAV, and the Victorian Local Governance Association.

### 1.5.2 Local Government Finance Professionals

Local Government Finance Professionals (FinPro) is the peak body for finance professionals within the local government sector in Victoria. It has over 400 members from various local government councils, regional library corporations and other organisations. FinPro is affiliated with Certified Practising Accountants (CPA) Australia and represented on its Public Sector Committee.

FinPro aims to improve standards of accounting and financial management in local government by providing education and training. FinPro also represents its members in policy making fora and advocates on their behalf.

### 1.5.3 Victorian Local Governance Association

The Victorian Local Governance Association (VLGA) is a peak body linking local government, councillors and community leaders to build and strengthen local governance and democracy through increased collaboration. VLGA's members include local governments, community organisations and individuals. Created in 1994 and incorporated in 1995, the VLGA advocates for democracy and governance at the local government level. It also provides training and advice to the sector through various programs and projects. The VLGA Board manages the overall affairs of the association.

### 1.5.4 Australian Centre for Excellence for Local Government

The Australian Centre for Excellence for Local Government (ACELG) is a national local government research and policy institution funded by the Commonwealth Government. ACELG's mandate is to enhance professionalism and skills in local government, showcase innovation and facilitate policy debate. It provides support in a broad range of areas including research and policy foresight, innovation and best practice, governance and strategic leadership, organisation capacity building, rural-remote and Indigenous local government, and workforce development.

### 1.5.5 Institute of Public Works Engineers Australasia

The Institute of Public Works Engineers Australasia (IPWEA) is an association of council engineering professionals and provides guidance and training in asset management, sustainability, road safety, land development, and fleet and plant management.

## 1.6 Previous VAGO audits

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VAGO has undertaken 10 audits over the past five years that have focused specifically on issues in the local government sector. These have highlighted weaknesses in current local government arrangements, and opportunities for councils to receive additional support to assist them in achieving their objectives.

### *Shared Services in Local Government, May 2014*

This audit found that LGV had delivered shared services grant programs, and provided a range of support and guidance to the sector to facilitate shared services initiatives, mainly in relation to procurement. Procurement activities had generally been positive and promoted collaboration among councils. The audit also found that LGV could build on its existing work to assist the sector to realise the benefits of shared services. The audit recommended that LGV should continue to improve the evaluation of its programs and the collection and sharing of information.

### *Asset Management and Maintenance by Councils, February 2014*

This audit found that LGV provides a range of guidance to assist councils in asset management practices. LGV guidance on asset management was found to be out of date, and did not address common challenges. The audit recommended that LGV should review and update its guidance and supplement it with other initiatives and types of support. It found that LGV and MAV could improve their joint work in asset management.

### *Organisational Sustainability of Small Councils, June 2013*

This audit found that LGV provided a range of general guidance and support to councils, and it had implemented actions to assist small councils at high risk of sustainability issues. It found that LGV monitors and reports on the sustainability of councils and has implemented actions to address specific issues at small councils that are in critical situations, and although it provides a range of guidance and support related to sustainability, it could more proactively target small councils with appropriate support and advice before their situation becomes critical.

### *Rating Practices in Local Government, February 2013*

This audit found that LGV did not proactively support councils on their rating practices, or monitor and report on their performance in this area, including their compliance with the LG Act. While LGV provided a range of guidance on rating practices, it required updating. The audit found that there was not a good understanding of the role of LGV on the behalf of councils, and clearer communication was needed. Since this audit LGV has revised its guidance material and in 2014 published revised guidance in the form of the *Local Government Better Practice Guide – Revenue and Rating Strategy*.

## 1.7 Audit objective and scope

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The objective of this audit was to assess the effectiveness, efficiency and economy of support provided to councils. Specifically whether LGV and MAV:

- have governance arrangements that clearly identify roles, responsibilities and accountabilities for providing support to councils, and that these are consistent with their organisational purpose
- effectively identify and assess the needs of councils, and this informs the planning and delivery of support programs and activities
- effectively coordinate the development and delivery of support programs and activities, where appropriate
- effectively monitor, evaluate and report on the performance of support programs and activities to demonstrate the achievement of intended objectives and outcomes.

## 1.8 Audit method and cost

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The audit included interviews with LGV and MAV staff, and a review of business planning, project planning and implementation documents, the relevant legislation and Budget Papers. A survey of all of Victoria's 79 councils focusing on the effectiveness of support provided by LGV and MAV was also undertaken. The survey had an 89 per cent response rate. Appendix A provides an overview of the survey results.

The audit was conducted in accordance with section 15 of the *Audit Act 1994* and Australian Auditing and Assurance Standards. Pursuant to section 20(3) of the *Audit Act 1994*, unless otherwise indicated, any persons named in this report are not the subject of adverse comment or opinion.

The cost of this audit was \$540 000.

## 1.9 Structure of the report

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The report is structured as follows:

- Part 2 examines MAV's legislative and governance framework
  - Part 3 examines MAV's support for local government
  - Part 4 examines LGV's support for local government
  - Part 5 examines collaboration and oversight
  - Appendix A provides an overview of the statewide survey results.
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# 2 Municipal Association of Victoria's legislative and governance framework

## At a glance

### Background

Governance relates to how organisations are directed, controlled and held to account. The *Municipal Association Act 1907* (MA Act) is the statute governing the Municipal Association of Victoria (MAV). To effectively, efficiently and economically support councils, MAV needs a governance framework that is aligned with its legislative requirements and contemporary better practice principles and standards. It is the MAV Board's responsibility to ensure that there are appropriate governance arrangements.

### Conclusion

MAV currently performs a broad range of support activities but it is not clear if all of these are within its remit or align with its intended purpose. The MA Act is outdated and does not provide sufficient detail and clarity about governance arrangements. The effectiveness, efficiency and economy of the support provided to councils is significantly compromised by a lack of appropriate legislative and broader governance arrangements applying to MAV. MAV does not have adequate systems and processes for good governance consistent with contemporary standards of public administration.

### Findings

- The MA Act has not been comprehensively reviewed since it was introduced.
- It is not clear whether all of MAV's existing functions are within its legislated powers.
- It is arguable that at least one MAV Rule is not within the power set out in the MA Act.
- MAV has poor controls for fraud, corruption and conflicts.

### Recommendations

- That the Department of Environment, Land, Water and Planning reviews MAV's functions, roles and responsibilities and routinely monitors MAV's compliance with the MA Act.
- That MAV reviews and updates policies and controls for fraud, corruption and conflicts of interests.

## 2.1 Introduction

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Good governance assists public sector organisations to perform their roles effectively and efficiently and to respond to a changing environment. The Victorian Public Sector Commission (VPSC) defines governance as:

'processes by which organisations are directed, controlled and held to account. That is, the processes whereby decisions important to the future of an organisation are taken, communicated, monitored and assessed. It refers to the authority, accountability, stewardship, leadership, direction and control exercised in the organisation.'

To be effective, efficient and economical in its provision of support to councils, Municipal Association of Victoria (MAV) needs a governance framework based on contemporary better practice principles and standards.

The *Municipal Association Act 1907* (MA Act) is the statute governing the responsibilities and powers of MAV. The MA Act also gives MAV the power to make Rules covering a range of governance issues, such as regulating its proceedings and fixing its subscription rates.

MAV has had a role in promoting good governance in the local government sector, and in 2012 it produced a Good Governance Guide to assist councils to govern better, with Local Government Victoria (LGV) and the Victorian Local Governance Association and the Local Government Professionals. The guide outlines the characteristics of good governance:

- accountable
- transparent
- following the rule of law—decisions are consistent with relevant legislation and common law
- responsive to needs
- equitable and inclusive.

## 2.2 Conclusion

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The MA Act has not been comprehensively reviewed since its inception in 1907. MAV currently performs a broad range of functions and it is not clear if all of these functions are within its remit or align with its intended purpose. While the intent for MAV to support councils is clear in the MA Act, the scope is open to interpretation. MAV operates in a unique legislative environment and its governance model is unusual in that it is not subject to the range of legislation that applies to many other public sector entities and bodies. While MAV has some external accountability requirements, there has been little or no scrutiny of its activities. This has likely contributed to MAV expanding its focus and service provision to a wide range of activities which may be outside its remit and intended purpose, as discussed in Part 5.

MAV does not have adequate systems and processes for good governance consistent with contemporary standards of public administration. The absence or underdevelopment of these systems and processes undermines MAV's ability to efficiently and effectively support councils. Until recently, MAV did not have formal policies, procedures and processes in place to manage fraud and corruption or conflicts of interest, increasing the risk of fraud or corruption associated with MAV activities, including procurement.

The MAV Board of Management is responsible for MAV's governance and conduct. A lack of good governance is ultimately the responsibility of the MAV Board.

## 2.3 *Municipal Association Act 1907*

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### 2.3.1 Requirements under the Act

MAV currently performs a broad range of functions, however, is not clear if all its functions are within its remit or align with its intended purpose. Under the MA Act, MAV's functions can be derived from three sources:

- **Explicit powers**—for example, section 2(3) in the MA Act which allows MAV to lease property, section 4 enabling MAV to establish a Fidelity Guarantee Fund and section 14 to establish and keep a local government investment service fund.
- **Implicit powers**—for example, powers arising from the context of the passage of the MA Act such as the preamble in the MA Act, and the 1907 second reading speech to the Municipal Association Bill. This would include the power to act as a representative of the municipal councils to protect their rights and interests.
- **Other implicit powers**—for example, powers that are implied as necessary to enable the MAV to carry out its explicit functions under the MA Act.

The MA Act contains few explicit powers, except for requiring MAV to establish and manage public liability and professional indemnity insurance, a Fidelity Guarantee Fund and to establish and keep the Local Government Investment Service Fund. There is no explicit power under the MA Act for it to undertake a range of its existing activities. It therefore becomes necessary to consider whether individual activities fall within the statutory objects of the MA Act, which can be a difficult question of characterisation. For example, in order to be valid, any professional development activity undertaken by MAV must have the purpose of building local government capacity or improving efficiency.

The MA Act sets out the objectives of MAV in the preamble which itself forms part of the Act rather than in a separate 'objects' clause of the Act as is now standard drafting practice. Section 3(1) of the MA Act allows MAV to establish Rules that relate to its internal management, and these Rules include a statement of the MAV's objectives. The objectives of MAV as described in Rule 1 include such activities as to 'promote local government and improve community awareness of the capacity of local government throughout Victoria to act effectively and responsibly' (Rule 1.1.1). MAV also aims to provide 'targeted advocacy to governments and relevant organisations' (Rule 1.1.4.1). It is not clear how many of these objectives in the Rules fall within the power in the MA Act which is discussed in Part 2.3.2 of this report.

The MA Act requires the separation of accounts for MAV's insurance scheme and fidelity fund, the certification of all accounts by the treasurer of MAV—a position abolished in 1996 by a change to the Rules—and the independent audit of those accounts. MAV's only external reporting requirement is tabling these accounts in Parliament, although MAV has chosen to table an annual report covering all of its activities in Parliament each year. From our evaluation of MAV support activities, the current reporting provided does not provide a measure of performance against its stated objectives.

MAV also currently provides insurance services to Tasmanian councils and water authorities, and this role is not explicitly defined in the MA Act. MAV has advised that it believes the provisions in the MA Act are broad enough to cover this function.

In response to this audit, MAV sought written legal advice in November 2014 about whether its existing support activities and 2013 Rules are within the powers set out in the MA Act. It has not sought general advice on the MA Act, its role, purpose and activities since 1998, despite taking on a range of new functions, including group procurement. For example, MAV recently established a \$240 million Local Government Funding Vehicle to establish a municipal bond market in Australia which provides councils access to fixed rate, interest only loans.

MAV received written legal advice in December 2014, which raised doubts about whether some of MAV's specific activities are authorised under the MA Act. The advice suggests that this may be an error in amending the Act. Prior to 1971, there was a general power in the Act. This power was removed by amendments that year. The advice further recommends that MAV take steps to seek amendment to ensure all of its current activities are expressly provided for within the MA Act.

In April 2013, LGV provided advice to the government that noted that MAV had taken on additional and wider functions that are not included in the current MA Act, including:

- providing group commercial services, including for procurement
- providing the sector with policy positions supporting council priorities and needs
- providing capacity building for councillors
- facilitating communication and networking between councils, and between councils and other tiers of government.

This advice also noted that the MA Act has never been comprehensively reviewed since its enactment and that it was therefore outdated in both its drafting and key content around MAV's role and functions. This advice was not provided to or discussed with MAV.

### 2.3.2 Rules

Section 3 of the MA Act enables MAV to establish Rules that can cover:

- the management of MAV (section 3(2)(a))
- the regulation of its proceedings (section 3(2)(b))
- fixing the amount to be paid for subscription annually to MAV by each municipality (section 3(2)(c))
- the regulation and management of, and fixing the rate of contributions to, the Municipal Officers Fidelity Guarantee Fund and the terms and conditions upon which the benefit of such fund shall be available (section 3(2)(d))
- generally all matters whatsoever affecting the management of MAV so long as it is not inconsistent with the laws of Victoria (section 3(2)(e)).

These Rules have been used to amend MAV's governance structure in the past and the current version is endorsed through the State Council. The most recent amendments to the Rules were in 2013, 2008 and 2006. Through the Rules the role of State Council, positions of MAV Board representatives and chief executive officer (CEO) have been established.

The Rules can be revised at any time with the approval of a 60 per cent majority of council members at State Council and become Rules of the Association following Governor in Council approval. There is otherwise limited external scrutiny or oversight of the Rules as they are neither 'statutory Rules' nor 'legislative instruments' and therefore not of a legislative character. For example, changes to MAV's Rules are not required to be reviewed by the Parliament's Scrutiny of Acts and Regulations Committee which is responsible for scrutinising bills introduced into Parliament, as well as regulations and other legislative instruments to ensure that they meet certain minimum standards. These instruments must be within power and not adversely impact certain rights. Subordinate legislation is ordinarily reviewed by this committee. MAV's written legal advice from December 2014 states that the Rules do not fall within the meaning of 'statutory Rules' or 'legislative instruments' and that the requirements, as detailed above, of the *Subordinate Legislation Act 1994* do not apply to the MAV Rules.

MAV's legal advice also suggests the MAV Rules are unique, and are not of a legislative character as they relate to the internal management of MAV. This advice also suggests that Rule 1.2, which allows MAV to 'exercise functions and powers which are necessary or convenient for it to carry out its objectives', may go beyond the management of MAV and may arguably be outside the MA Act.

Rule 1.2 is a type of power usually found in legislation, rather than in an instrument such as the MAV Rules.

Some of MAV's existing support activities are found in the objectives set out in the Rules, such as its role to 'act as the representative body of local government for the purpose of promoting effective inter-government cooperation'. MAV's legal advice states that whether a particular activity is within the MA Act depends on its character. The advice also confirms that the Rules cannot confer additional powers where they are otherwise absent from the MA Act.

Given MAV's limited external accountability and reporting requirements, it is important that LGV provide effective support and advice to the Minister for Local Government regarding responsibility for the MA Act. LGV's role in monitoring compliance with the MA Act is discussed in Part 5.

## 2.4 Applicability of other relevant Acts

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MAV is a public statutory authority and a 2004 case in the Supreme Court of Victoria determined that it was a body established for public purposes. There are several Acts that would ordinarily apply to public bodies but most of these do not appear to apply to MAV. MAV has not sought written formal legal advice on this matter. Regardless, MAV should be subject to similar best practice governance arrangements, either in its legislation or its own established governance arrangements.

### *Public Administration Act 2004*

A key purpose of the *Public Administration Act 2004* (PAA) is to provide a framework for good governance in the Victorian public sector and in public administration generally in Victoria. The PAA does not apply to MAV as it does not fall within its definition of a 'public entity'. As such, MAV Board members are nominated from among the elected representatives of member councils. Alternatively, under the PAA at least half of these positions, equivalent to a Board of Directors, would be nominated by either the Governor in Council or the minister.

### *Financial Management Act 1994*

The purposes of the *Financial Management Act 1994* (FMA) are to:

- improve financial administration of the public sector
- make better provision for the accountability of the public sector
- provide for annual reporting to Parliament by departments and public sector bodies.

Of particular note, the FMA requires particular entities to prepare, and have audited general-purpose financial statements in accordance with applicable Australian Accounting Standards. These financial statements provide an acquittal of an entity's stewardship of its finances. Although not required, MAV annual reports have been prepared in accordance with Australian Accounting Standards. MAV also reports compliance with Australian financial services licence requirements as a business providing financial services. MAV Insurance is not subject to the *Insurance Act 1993* or the Australian Prudential Regulation Authority (APRA). Consequently it is not subject to the oversight which ordinarily applies to insurance companies.

MAV has not sought written formal legal advice as to whether it is subject to the FMA. LGV should liaise with the Department of Treasury and Finance to consider whether MAV should be subject to the FMA.

### *Public Records Act 1973*

In August 2005, MAV sought advice from the Public Record Office of Victoria (PROV) as to whether it was required to comply with the *Public Records Act 1973* (PRA). PROV advised that MAV is not considered to be a public office in accordance with the PRA and therefore falls outside the jurisdiction of PROV.

In 2014 MAV established a records management policy. Prior to this, a documentation policy and procedures manual was in place from 2006. Throughout this audit MAV has been unable to locate and provide information on a timely basis.

## 2.4.1 MAV governance

### MAV Board

The MAV Board's key responsibilities include:

- defining the detail of policies, objectives and strategies determined by State Council
- setting and evaluating directions, priorities and performance standards
- appointing the CEO and monitoring his or her performance
- liaising with MAV representatives from their regions.

The Rules also state that the MAV Board is responsible for conducting the affairs of MAV in accordance with the Rules.

While the PAA does not apply to the MAV Board it is an indicator of best practice. It requires relevant public sector Boards to have adequate procedures in place for:

- assessing the performance of individual directors
- dealing with poor performance by directors
- resolving disputes between directors.

MAV has no policy or procedures to assess the MAV Board's performance. The MAV Board is not subject to any external oversight of its performance more broadly.

MAV established a code of conduct for the MAV Board, last reviewed in November 2014, which commits members to behaviours that will 'enhance the leadership and governance of the organisation'. We assessed the MAV Management Board Code of Conduct against the Victorian Public Sector Commission's *Directors Code of Conduct and Guidance Notes*, and found it addresses most elements of better practice.



## Common law

As a public body with a governing Board, MAV Board members are subject to a range of common law duties—to act honestly and in the best interests of MAV—and they can incur liability for decisions as a Board. In addition, Board members are ultimately responsible for major decisions around employment, finance, and audit and risk management which may expose MAV to liability. As one of MAV's income sources is public funds, good governance and accountability for the MAV Board's actions is paramount.

## MAV audit committee

MAV established an audit committee in 2004 responsible for monitoring financial and risk controls, internal and external audit activities and organisational performance, and for advising the MAV Board on its governance framework. The MAV Board is ultimately responsible for MAV's governance framework.

The MA Act requires MAV to appoint a registered company auditor to undertake an audit of the financial report on its fidelity (crime) insurance scheme. This obligation was extended in 1961 to require all MAV accounts to be certified by the treasurer of MAV and the auditor. MAV's external audit activities have addressed these provisions in the MA Act. The MAV 2012–13 Annual Report states that in addition to the requirements of the MA Act and Rules, MAV must comply with relevant regulations and obligations applicable to statutory and public bodies. This includes provisions of its Australian Financial Services Licence, and compliance is audited annually by the MAV's independent, external auditor with findings reported to both the MAV Insurance Committee and the MAV Board. MAV's internal audit function has focused on the internal control environment and targeted risks associated with MAV's business performance.

**Figure 2A**  
**Internal audit coverage**

Audit topics	2009–10	2010–11	2011–12	2012–13	2013–14
MAV procurement	✓			✓	
Risk assessment—MAV Insurance Committee	✓			✓	
Grants	✓				
Events and training		✓			
Event credit card payments security			✓		
Local government health plan				✓	
Records management				✓	
Procurement					✓
Business continuity planning					✓
Conflict of interest management					✓

Source: Victorian Auditor-General's Office based on information from MAV.



The resources, coverage and scope of the internal audit activity have been limited in addressing the gaps in policy and process identified through this audit. There is scope for MAV to improve its coverage of risks and controls relating to the governance and management issues highlighted in this report, which as a public statutory entity are fundamental to MAV. This would also provide assurance that MAV is effectively and economically supporting councils.

### Conflict of interest

Conflict of interest, whether actual, potential or perceived, can undermine good governance and the effective and economical provision of support to councils, through perceptions of unfair treatment and a lack of process transparency. In extreme cases it may constitute corruption or other criminal behaviour. Although the PAA does not apply to MAV, section 81(1)(f) provides useful guidance, which includes some basic requirements for managing conflicts of interest. Similar requirements are included in *Managing Conflicts of Interest*, a guide developed in consultation with the Victorian Ombudsman, VAGO and the Independent Broad-based Anti-Corruption Commission (IBAC).

In March 2014 MAV's internal audit recommended a review of the employee Code of Conduct policy, which they referenced as a draft copy dated September 2011. An *MAV Staff Code of Conduct* policy, marked as established in June 2014 refers to procedures for conflicts in relation to personal interests. There has been a single conflict of interest declaration by MAV staff since the code was developed. The code of conduct does not address potential conflicts of interest. MAV's internal audit of conflict of interest earlier in 2014 relied on the 2011 code of conduct and noted the absence of formal conflict of interest training for staff.

In the absence of a policy or procedure prior to the 2011 references in the code of conduct, it is not evident how MAV could have effectively managed any potential conflicts of interest in the past, including any related to activities designed to benefit councils. MAV advised it has a range of practices and controls in place to manage the risks of conflicts, fraud and corruption including:

- covering these issues in staff induction
- segregating duties such as accounting and payroll functions
- having internal controls for managers regarding financial approval limits
- controls around sponsorship for organisations tendering for services to MAV
- internal and external audit.

Given MAV staff, consultants and contractors are not required to declare any conflicts of interest for procurements they are involved in, except instances where they are panel members, further controls around procurement processes are required.

### Staff Code of Conduct

We assessed MAV's code of conduct against the VPSC's *Code of Conduct for VPS Employees*. MAV's policy does not adequately address several of the characteristics of the VPS code of conduct. MAV should review and update its policy to more comprehensively reflect better practice as reflected in Figure 2B, which shows several gaps in MAV's code of conduct.

**Figure 2B**  
**MAV Staff Code of Conduct compared to VPS Code of Conduct**

VPS Code of Conduct	Elements addressed
Defined purpose	✓
Links to relevant legislation	✗
Consequences of breach	✗
Conflict of interest	Partial
Pecuniary interest	✓
Intellectual property	✓
Gifts and bribery	✓
Integrity	✗
Demonstrating impartiality	✗
Demonstrating accountability	✗
Demonstrating respect	✗
Demonstrating leadership	✗
Demonstrating commitment to human rights	✗

Source: Victorian Auditor-General's Office.

### Corruption and fraud policies

Corruption and fraud damage an organisation's governance and its capacity to operate transparently and economically. The PAA states that a Board of a public entity must ensure that there are adequate fraud controls in place.

A July 2013 internal audit of MAV Procurement's key fraud and corruption controls found that there was 'limited reference specifically to fraud and corruption' and that MAV's practices are not consistent with the formal fraud and corruption framework often found in local government. It also found there was no structured training program aimed at ensuring all MAV Procurement staff have a clear and consistent understanding of the risks of fraud and corruption.

The documented response from MAV to the internal audit recommendations to develop a structured fraud and corruption control framework and train all staff was that 'the existence of a framework does not specifically mitigate the risk of corruption. However am happy to work on the development of a corruption control framework and reference this in the declaration of confidentiality and interest if this is agreed with our Corporate Counsel.' MAV provided fraud awareness training for all staff for the first time in October 2014.

MAV developed a draft *Fraud and Corruption Policy* in October 2014, which details roles and responsibilities for staff, and protocols and practices for making a disclosure. We assessed MAV's draft policy against IBAC's *Controlling fraud and corruption: a prevention checklist* as shown in Figure 2C.

The draft policy does not include all the necessary provisions of a robust fraud and corruption policy framework. In particular, it does not include fraud risk strategies, fraud control governance arrangements, detection and prevention strategies, or the application of a recognised standard. MAV's draft policy should be amended to better reflect the requirements needed to decrease the risk of fraud and corruption incidents. MAV advised it had developed a draft Fraud and Corruptions Framework in November 2014 for approval by the MAV Audit Committee in December 2014. MAV further advised that it plans for the framework to be approved by the MAV Board in February 2015 and that the framework is based on Australian Standards.

The absence of any training or controls for both fraud and corruption and conflicts of interest until recently is concerning given MAV manages large, high-value procurement contracts both for itself and on behalf of councils. Our assessment of a selection of MAV procurements, discussed in Part 3, indicates there are probity concerns and perceived or potential conflicts of interests, which were neither declared nor managed. MAV's revised fraud and corruption policy should be supported by a regular program of training for staff.

**Figure 2C**  
**MAV draft Fraud and Corruption Policy compared to IBAC guidelines**

IBAC Guidelines for public sector agencies and local councils	Elements addressed
Based on Standards Australia AS 8001-2008	x
Includes the use of internal controls (internal auditor)	✓
Avenues and processes for reporting suspected incidents	✓
Protections for disclosers	✓
Line management accountability and responsibility	✓
Strategies to prevent or detect fraud or corruption	x
Assessing fraud risk strategies	x
Implementing and maintaining an integrity framework	x
Fraud control governance arrangements	x
Management commitment to controlling the risks of fraud	x
Employee awareness, client and community awareness (fraud prevention activities)	Partial
Pre-employment screening	x
Supplier and client vetting	x
Overarching fraud prevention checklist	x

Source: Victorian Auditor-General's Office.

## Gifts, benefits and hospitality

The provision of gifts or benefits to an agency's staff or board members can give rise to perceptions of favouritism, conflict of interest and in extreme cases, could be a component of corrupt conduct, all of which severely damage agency governance and transparency.

MAV developed its *Gifts, Benefits and Hospitality Policy* in June 2014, and updated it in August 2014. Prior to this, gifts and bribery were briefly mentioned in MAV's *Staff Code of Conduct* policy (2011). The policy applies to any instances where gifts, benefits or hospitality are offered to or received by MAV Board members and employees, and immediate family where applicable, if it raises an actual, potential or perceived conflict of interest. MAV's *Register of Gifts, Benefits and Hospitality* records eight items since June 2014—no items have been registered prior to this. Records include individual's attendance at conferences or dinners, and gift vouchers associated with points earned on catering, which are listed to be for MAV use.

Given the inherent risks faced by MAV in relation to the support activities it provides—particularly with its procurement activities on behalf of councils—it is critical for MAV to have policies and levels of assurance at least as rigorous as those councils it supports. While the development of further detail in the *Gifts, Benefits and Hospitality Policy* is a positive step, MAV's policy should be amended to include the elements of better practice included in Figure 2D.

**Figure 2D**  
**MAV Gifts, Benefits and Hospitality Policy compared to better practice**

VPSC Gifts, benefits and hospitality policy framework	Elements addressed
Provides guidelines on accepting or declining gifts, benefits or hospitality	✓
Links to relevant legislation	✓ *
Includes basis for policy	x
Sets nominal value threshold for reporting gifts	✓
Policy for small gifts of appreciation	✓
Examples of potential scenarios	x
Procedures for declining gifts	x
Policy for staff and external catering	x
Policy for providing gifts to external organisations/individuals	x
Providing gifts to staff	x
Providing alcohol at events	x
Policy on repeated gifts and attempted bribery	x

Note: \* Although MAV refers to *Crimes Act 1954* not PAA or FMA.

Source: Victorian Auditor-General's Office.

## Performance management practices

MAV does not have an established process for assessing the performance of the MAV Board. Other than for the CEO, a well-documented staff performance system has not been demonstrated. MAV provided a performance and professional development review template from 2012 and although MAV advised staff are subject to annual performance reviews, evidence that reviews occur was not provided.

It is not clear from the evidence supplied how staff and managers are held to account for their performance in relation to the in the delivery of intended objectives and outcomes of the organisation.

## Project management framework

MAV does not have a project management framework. This is despite MAV managing multiple projects—including projects for which it has received state government grant funding—and providing project support to other organisations. Project management is inconsistent. For example, emergency management project plans were incomplete and inconsistent, limiting the ability to effectively attribute project design and delivery activities to the associated support provided to councils. In addition, the financial reporting and acquittals associated with these projects could not reliably be traced to individual project activities. Similarly staff expenses which were fully reimbursed by LGV could not reliably be attributed to projects.

## Procurement and payments

An internal audit report undertaken in May 2014 focused on MAV's procurement and payments for goods and services for internal use, excluding MAV Procurement. The report highlighted the lack of documented policies and procedures regarding procurement and payments and the absence of requirements for obtaining quotations when making large purchases. The report recommended that MAV develop a policy and procedure manual regarding purchases and payments including, among other things:

- roles and responsibilities
- declarations of pecuniary interests
- approval requirements
- quotation and tendering procedures
- delegations
- review and authorisation requirements.

MAV has not adequately addressed all of these recommendations, although it has recently developed a fraud and corruption framework—discussed in Part 2.4. A policy and procedure manual is yet to be developed despite the indicated completion date of 31 October 2014 reported by management in their response to its recommended development.

## Records management

Better practice records management, as detailed in VAGO's 2008 *Records Management Checklist*, includes consideration of:

- objectives
- management and oversight
- strategic planning and resource allocation
- operational procedures
- practices and systems
- allocation of responsibilities
- communications
- monitoring and reporting.

MAV established a *Record Management Policy* in April 2014 and last updated it in November 2014. Prior to this, a *Document Management Policy and Procedure Manual* served as an interim measure until the development and release of a records management policy. While the 2014 policy lacks sufficient detail to provide assurance that the organisation is effectively managing records it does contain elements of better practice, including allocation of responsibilities, a purpose, policy and procedure for archiving, and relevant systems for electronic document management. The policy also requires staff to undergo records management training, and is to be reviewed biannually.

Despite the existence of a *Record Management Policy*, MAV had difficulty supplying some documents which underpin MAV's business decisions and which it had relied on to support its claims—for example Australian Tax Office exemptions, business cases for National Procurement Network activities and endorsed project plans for emergency management project work.

## Recommendations

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That the Department of Environment, Land, Water and Planning:

1. as a priority, reviews and determines the Municipal Association of Victoria's functions, roles, responsibilities, powers and obligations through an analysis of its existing legal framework and:
  - ensures this is reflected in the *Municipal Association Act 1907*
  - ensures contemporary standards of governance and accountability are met, including the the role, function and make-up of the the Municipal Association of Victoria's Board
  - consults with relevant departments to consider whether the *Public Administration Act 2004*, *Financial Management Act 1994* and *Public Records Act 1973* should apply to the Municipal Association of Victoria either directly or through its enabling legislation
  - assures itself, following any review, that all activities undertaken by the Municipal Association of Victoria are clearly within its power.

That the Municipal Association of Victoria:

2. reviews its policies and controls relating to conflict of interest, corruption and fraud, and gifts, benefits and hospitality to align with better practice, and trains its staff accordingly and proactively monitors the application of these policies and controls
  3. develops and implement a performance management framework for its Board and staff that is aligned with better practice
  4. develops and implements a project management framework aligned with better practice covering all project phases from initiation to completion
  5. reviews and updates its records management policy to align with better practice
  6. reviews its internal audit program and ensures it routinely covers all key procedures and controls associated with all aspects of procurement, conflict of interest and fraud and corruption.
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# 3 Municipal Association of Victoria's support for local government

## At a glance

### Background

The support the Municipal Association of Victoria (MAV) provides to Victorian councils should be based on a sound understanding of council needs. Support programs and activities should be underpinned by reliable monitoring, evaluation and reporting to demonstrate the achievement of the intended objectives and outcomes.

### Conclusion

MAV has established methods to identify council support needs and develop its Annual Strategic Work Plan. While its programs generally have clear objectives, MAV's monitoring, evaluation and reporting is primarily focused on outputs and activities rather than measurable outcomes. Weaknesses with procurement practices—a key support activity provided by MAV—increase the potential of fraud or corruption and bring into question whether value for money is being achieved through MAV's support to councils.

### Findings

- MAV is unable to demonstrate the impact or cost effectiveness of its support activities.
- MAV's performance measures focus on membership numbers, participation and member endorsement of its strategic work plan.
- MAV's procurement practices lack appropriate levels of probity and controls to manage conflicts of interest.

### Recommendations

That the Municipal Association of Victoria:

- as a priority, reviews and updates its procurement policies and procedures
- improves the monitoring, evaluation and reporting of its support activities.

## 3.1 Introduction

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The Municipal Association of Victoria (MAV) currently provides a range of support to Victorian councils. Support programs and activities should be based on a sound understanding of council needs and underpinned by reliable monitoring, evaluation and reporting to demonstrate the achievement of intended objectives and outcomes.

## 3.2 Conclusion

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MAV has established methods to identify council support needs and develop its Annual Strategic Work Plan. While its support programs generally have clear objectives, MAV's monitoring, evaluation and reporting is primarily focused on outputs and activity-based information. This means it cannot demonstrate that its support activities for councils are effective, efficient and economical. There are also weaknesses in MAV's procurement practices in key areas of probity and controls for managing conflicts of interest. This increases the potential for fraud or corruption and also brings into question whether value for money is being achieved from MAV's support for councils.

## 3.3 Identifying council support needs

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### 3.3.1 Background

MAV uses various methods to identify councils' support needs. These include:

- through MAV representatives—who are responsible for identifying issues in particular geographical areas
- MAV events and forums
- working groups and committees
- a number of specific project advisory groups and reference groups.

The two main processes that provide a structured approach to capturing feedback and identifying council support needs are the MAV State Council and the annual development of MAV's Strategic Work Plan.

Our survey revealed that most councils contact MAV for support either at least once a month (34 of 69) or once a quarter (24 of 69). The majority of councils indicated their needs varied and support was sought as needed. Support needs identified by councils included 'when there is a skill or information gap', or 'to access sector-wide knowledge or experience'. Councils recognised the facilitation of shared insights across the sector, and learning from the experiences of peer authorities as a key support activity. Feedback MAV has obtained from participants of its training and forums also commented on the value of these events in facilitating networks among peers.

### 3.3.2 MAV State Council

The State Council is a body consisting of all council representatives that are financial members of MAV. It meets twice yearly to consider MAV's annual report, activities and financial affairs. These meetings are also used to deal with the general business of MAV and consider motions presented by councils. Supported motions are put to the MAV Board of Management to discuss MAV's proposed action. The Strategic Work Plan which identifies issues, objectives and strategic direction of MAV is endorsed through this meeting forum.

The MAV Rules provide guidance on process, detail and time frames required for the submission of motions for resolution at State Council. The number of motions can vary but there have been more than 50 over the last three meetings. Motions which are carried from a meeting of the State Council become MAV endorsed policy and proposed actions are reported back to councils. Most motions relate to MAV advocating on behalf of councils on particular issues—including MAV meetings with government, writing position papers and letters, or other related activities. This is not necessarily reflected in MAV's Strategic Work Plan, however, it constitutes a large portion of its advocacy activities.

### 3.3.3 MAV Strategic Work Plan

MAV runs a series of Strategic Work Plan sessions with councils each year. Council participation has ranged from 47 to 54 councils over the past three years—including attendance by elected council representatives and some chief executive officers (CEO).

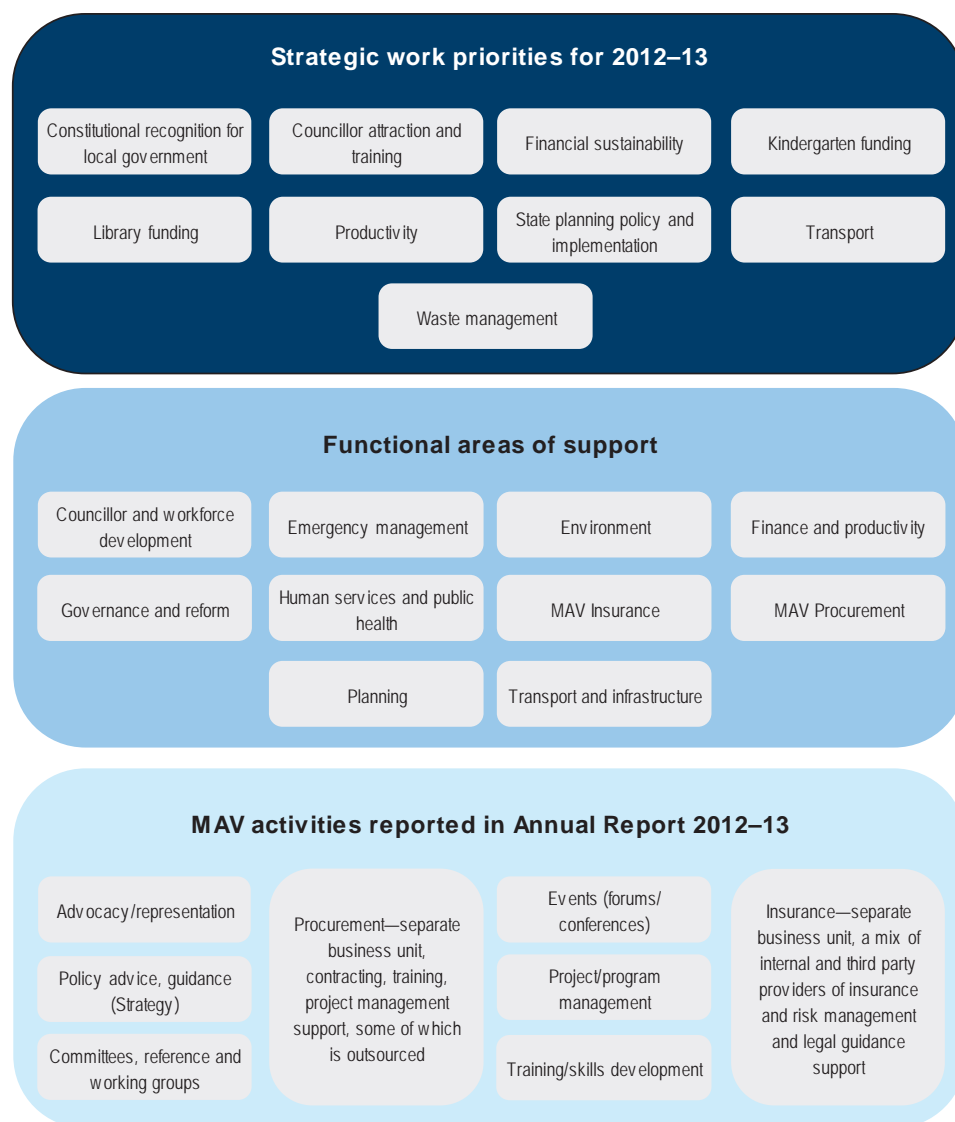
MAV uses these sessions to inform the development of its Strategic Work Plan. It has received council feedback on the draft plan from a minimum of five to a maximum of 11 of the 79 councils over the past three years. The feedback provided includes:

- support for specific priority areas identified with suggested refinement
- performance measures need to be stipulated
- resources are not allocated against specific actions
- statements appearing too broadly based and generalised
- priorities are too diverse in scope and long term, rather than being annual actions.

MAV does not undertake any independent assessment of council needs or of whether the support requests raised by councils are representative and address key issues or risks facing Victorian councils. Over the past five years, MAV's Strategic Work Plan has identified between nine and 11 priority areas and there has been carryover of issues including kindergarten funding, emergency management, climate change, library funding and transport and planning. However, not all of the priorities are identified through consultation with councils. For example, the last five of the 2014–15 Strategic Work Priorities listed in Figure 3A were identified from other sources including various MAV managers, the CEO and the MAV Board.

Our survey asked councils to rate how effectively MAV identified their council support needs. Forty of 69 councils gave MAV a good rating, while nine councils provided ratings of poor, and 17 moderate. This indicates a high level of council satisfaction. Figure 3A lists the functional areas of support delivered under MAV's Strategic Work Plan for the past three years.

**Figure 3A**  
**MAV strategic priorities and reported activities**



Source: Victorian Auditor-General's Office based on information in MAV publications.

In addition to the specific work priorities identified in the Strategic Work Plan, MAV also responds to ad hoc support requests from council members, and has established networks and MAV representatives to identify council needs. While MAV does not systematically collect evidence to evaluate the effectiveness of communications between representatives, members and the MAV Board on support activities, council responses to our survey indicate high levels of satisfaction with this process.

MAV reports various highlights in relation to its priorities and activities as part of its annual report. The latest published annual report is for the 2012–13 year, which includes commentary on a mix of support activities referenced in Figure 3A but not measurable outcomes.

### 3.4 MAV support programs and activities

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Our survey asked councils to rate MAV's performance in relation to its various stated functions. Councils rated MAV's promotion of local government and targeted advocacy most highly. Identifying the administrative requirements relating to various matters and improving systems for effective member liaison, communication and participation received lower ratings.

When asked about MAV's assessment of the level of support needed, 34 of 69 councils rated this as good, 24 rated it as moderate and seven rated it as poor. Councils were also asked to consider various aspects of MAV support, and to indicate their level of satisfaction with each. Satisfaction was highest for the following measures, around 80 per cent:

- knowledge of the policy and legislative framework
- engaging via representatives
- the relevance of training programs and guidance material
- quality and timeliness of technical advice
- getting issues onto the MAV agenda—around 70 per cent.

Councils were less satisfied with, or less clear about whether they received value for money for their membership costs (around 50 per cent) and for engaging with councils about the effectiveness of support programs during delivery (around 40 per cent) and after completion (just below 40 per cent).

We assessed a range of support activities, including:

- councillor development, training and events activities
- a priority policy area—emergency management
- procurement—including a dedicated business unit—MAV procurement—and the procurement of insurance services by MAV.

These represent a cross-section of MAV's support activities.

### 3.4.1 Training and events

Councillor development, training and events have been long standing MAV support activities. While MAV undertakes a wide range of feedback and reporting on these activities this information does not provide a measure of the impact on relevant council performance improvement, application of learning or behavioural change.

MAV manages councillor development separately to training and events. The objective of the councillor development program is 'to support and encourage high quality governance processes, protocols, conduct and relationships across the local government sector and build the capability of elected members to effectively fulfil their roles'.

It consists of training programs that are informed by a volunteer-based reference group on professional development. More recently, training content has drawn upon the structure of a councillor competency framework.

In our survey councils identified the councillor development program as a highly sought after area of support. However, while MAV collects feedback on this program, it cannot clearly demonstrate its performance against its objective of building the capability of elected members to effectively fulfil their roles. In July 2014, a position paper presented to the MAV Board identified the need to improve monitoring of the longer-term impacts of councillor professional development. This work is yet to be significantly advanced beyond a survey of councillors in September 2014.

MAV delivers an extensive array of events and training activities including:

- annual conferences
- professional development training, seminars or workshops
- workshops or forums
- State Council meetings, metropolitan forums, rural, regional and CEO forums.

In 2012–13, it delivered over 125 forums, workshops and training events with more than 6 000 registrations. This high volume of activity has continued in subsequent years with 156 and 135 identified events delivered in the 2013 and 2014 years respectively.

MAV assesses its overall performance related to training and events through participation rates. It uses feedback forms to obtain information from participants on program content and operational aspects, such as venue and catering—but it does not conduct evaluations on all training and events.

Despite the volume and range of events offered, improving participation from rural and regional members has been a challenge for MAV.

MAV was not able to provide reliable evidence on what measures it has used over a period of time to engage a broader and more diverse range of council participants.

### 3.4.2 Emergency management

Emergency management has been identified in strategic work plans for MAV for over 10 years. The last three MAV annual reports have reported the role of the *MAV Steering Committee on Improving Emergency Management in Local Government* to oversee projects to define the role of local government in emergency management, improve capability and capacity of performance and develop robust performance measures. This has been complemented by MAV Strategic Plans for the past two years which included the specific objective of MAV's emergency management support to be 'to define the role for local government in emergency management, deliver capability improvement programs and ensure councils are properly resourced to meet their obligations'.

MAV's focus on emergency management increased in response to the 2009 Black Saturday bushfires. MAV received almost \$2 million funding from Local Government Victoria (LGV) to support councils at highest risk of bush fires and other emergencies. The funding and its associated work represent a subset of emergency management activity by MAV. The agreement with LGV over four years was to employ up to five staff at MAV and assist with the employment of 25 others in high-risk councils to assist councils to respond to the findings of the 2009 Victorian Bushfires Royal Commission. MAV did this through a range of programs and activities, and in acquitting the funding to LGV, reported their outputs from the Improving Emergency Management in Local Government program. This program was made up of six streams—Policy and Role, Legislative Change, Financial Sustainability, Capability Building, Shared Services and Performance Measurement. MAV's final report on the program in October 2014 highlights the project outputs and achievements, however, their impact cannot be determined.

While these projects were progressively finalised over the past four years, at the conclusion of the funding period there had been no assessment of the program's impact. In connection to the MAV strategic objective, this funding has enabled MAV to define a role for local government in emergency management. However, MAV cannot readily demonstrate the achievement of the remaining components of its objective for emergency management. Anecdotal feedback provided to MAV at the time of our audit indicated council satisfaction with its work in relation to their delivery of emergency management projects.

The established program and project briefs which included budgets and outputs were not finalised nor could MAV provide any endorsed versions. The performance and monitoring of the achievement of the project objectives set out in the draft project briefs could not be reliably traced to their completion. Administrative oversight by LGV was limited to the approval of salary expenditure and did not capture any detail on project progress despite project reporting forms specifying such detail. As the project briefs for all six projects were incomplete, the uncommitted funding and their associated funding estimates, could also not be determined.

### 3.4.3 Procurement

#### Background

Procurement is a key service provided by MAV to support councils. The objective of the MAV Procurement business unit is 'to achieve better procurement outcomes for local government by leveraging the combined purchasing power of councils, and delivering training programs to improve councils' procurement capacity and practices'. MAV Procurement was established in 2009 with the acquisition of the Co-operative Purchasing Scheme, an existing council procurement business, and around 30 existing contracts. Since 2009, MAV Procurement has undertaken around 40 tenders on behalf of Victorian councils. It advised that all 79 councils have participated in at least five tenders, and more than 60 councils have participated in eight tenders.

Group procurement activity for the supply of goods and services to councils is the primary focus for the MAV Procurement business unit. However, procurement support has been provided to other MAV business units such as insurance. MAV has advised that MAV Procurement is not responsible for the procurement of insurance services which is managed through separate internal arrangements.

Council responses to our survey recognised the in-principle benefits of economies of scale sought from collaborative procurement. Procurement ranked second in the needs of councils and was also the second highest area in which councils were looking to become self-sufficient. However, they would continue to seek support for the purpose of getting a second opinion from competent external sources.

#### Policies and processes

The *Victorian Local Government Best Practice Procurement Guidelines 2013* (LG Guidelines) outline that better practice in procurement requires a comprehensive, formally endorsed procurement policy that provides:

- **value for money**—the optimum combination of quality, quantity, risk, timeliness and cost on whole-of-contract and whole-of-asset life basis
- **open and fair competition**—all prospective tenderers must be treated, and be seen to be treated, fairly in an open and transparent manner
- **accountability**—clearly defined roles and responsibilities and established lines of accountability and delegation
- **risk management**—identification of associated risks and effective strategies to mitigate them
- **probity and transparency**—in all commercial dealings, the highest standards of honesty must be observed demonstrating the highest levels of integrity consistent with the public interest.



As noted in Part 2, MAV is not subject to legislative or other whole-of-government procurement requirements. MAV's procurement policies are not consistent in a number of respects with the LGV Guidelines. The MAV is not subject to the LGV guidelines but has advised it will consider them in reviewing its procurement policies and procedures. Despite having a specific business unit and undertaking a significant number and value of procurements for councils, MAV does not have a formal procurement policy in place to guide its procurement activities. Instead it has a Procurement Process Overview, which details process steps for identifying need and preparing business cases, developing the procurement approach, appointing the tender evaluation panel and evaluating tenders. While this document does provide guidance for MAV Procurement staff about processes such as undertaking tenders, there are no clear policies and processes covering accountability, risk management, probity and transparency, and other aspects such as social and environmental procurement.

MAV internal audit reports in recent years have highlighted deficiencies in MAV Procurement's operations. A July 2013 audit report stated that 'the absence of formal policies and procedures increases the risk of oversights or noncompliance with key tendering controls'. The internal audit report included key recommendations for MAV to develop:

- a formal tendering policy and procedure framework to reflect, and where appropriate, enhance the integrity of MAV's Procurement tendering process
- a comprehensive formal fraud and corruption control policy framework that should be referenced in declarations to be signed by all parties—including council or other external representatives—involved in MAV Procurement processes
- a single efficient data base to facilitate all reporting needs.

### Probity in tendering

For large and complex tenders, better practice in procurement requires high level probity standards to be applied at all stages of the process. In accordance with the LG Guidelines, sound probity should be based on the following:

- compliance with the legal and policy framework applying to procurement decisions
- use of an appropriate competitive process
- fairness and impartiality
- consistency and transparency of process
- identification and management of conflicts of interest.

MAV's website includes a link to these guidelines and a range of other procurement-related information, and states that 'through our partnership with LGV we play an important role in research, policy development and establishing best practice'.

MAV has not documented its probity processes, except for its Procurement Process Overview, which states that each tender evaluation report should contain any probity issues arising during the evaluation process, as should Tender Evaluation Plans which include probity guidelines. Consequently probity guidance applies only to the tender evaluation process.

MAV advised that the probity process is captured in the tender evaluation plan for each tender and is determined on a case-by-case basis by MAV and the relevant tender evaluation panel. Tender evaluation plans in a sample of major procurements examined by VAGO acknowledged the importance of applying probity principles, but did not explain the nature or scope of the probity process. MAV does not prepare probity plans for its major procurements and the appointment of a probity advisor to oversee the tender process on major procurements is not mandatory. While the LG Guidelines do not require these for all procurements, they outline when they would apply, which should be reflected in a relevant procurement policy.

We assessed a sample of MAV procurements to examine its procurement practices—including compliance with its own framework—and to determine if value for money had been achieved by these contracts. These are discussed below.

### Council insurance services

Under its legislative mandate, MAV may arrange insurance for its members and receive commissions for arranging insurance contracts. Since 1993 MAV has been required to establish and manage a mutual liability insurance scheme for the purpose of providing public liability and professional indemnity insurance for the benefit of local government. MAV established the Civic Mutual Plus Scheme in 1993 following an amendment to the *Municipal Association Act 1907* and contracted an insurance service provider to provide public liability and professional indemnity insurance, claims and risk management services to local government—this is now known as Liability Mutual Insurance. The service provider has administered the scheme continuously since 1993 under various contractual arrangements. Under the current agreement, the value of this procurement is around \$2.03 million annually.

MAV Procurement has assisted with some support services in relation to the procurement of insurance services. However, MAV has advised that, in the case of Liability Mutual, Commercial Crime and Self Insurance for Worker's Compensation, procurement is managed through separate internal arrangements.

### *Lack of competitive tendering for the provision of insurance services*

The service provider—and its predecessor organisation—have provided insurance services to MAV dating back to 1987. Since the original management agreement was established in July 1993 no subsequent management agreements have been subject to a competitive tender process. This is despite an independent review in 2010 of risk management services raising concerns about the performance of the provider, and a recommendation for competitive tendering—this is discussed below. In July 2012, MAV entered into a new 10-year agreement with the same service provider, with a possible five-year extension. This agreement includes the ability for MAV to terminate any or all components by giving one-year's notice in writing. For a contract of this value councils are required to undertake a public tender or expression of interest process, unless an exemption is granted by the minister. Similar standards apply to all state government departments and agencies under Victorian Government Purchasing Board requirements.

With no market testing for the past 10 years, MAV cannot reliably demonstrate value for money from its insurance business activities or that the arrangements with its service provider are appropriate for the needs of member councils. Figure 3B highlights deficiencies in MAV's oversight of contracts leading up to 2012.

**Figure 3B**  
**Case study—deficiencies in contract management and oversight**

Since 1993, there have been four management agreements for the provision of public liability and professional indemnity insurance with the same service provider. In 2010 an independent review noted that the risk management services were developed over time and had been principally driven by the service provider's view of what they considered appropriate to the scheme. The Civic Mutual Plus (CMP) Management Agreement between the MAV and its service provider was executed in 2001, after the agreement had commenced on 1 July 2000. The agreements lacked clarity and detail about the risk management services to be provided, and until the current 2012 agreement, had no reliable or appropriate performance measures to assess contract performance. Further to this, councils were exposed to a lapsed contractual arrangement for the period 2010 to 2012 with the expired contract defaulting to a month-by-month basis.

Source: Victorian Auditor-General's Office.

### *Independent review of risk management services*

In late 2010, MAV commissioned an independent assessment of the service provider's performance in providing risk management services. While the review found that services compared favourably to similar schemes set up by local government associations in other Australian states, it highlighted significant issues concerning the performance of the service provider and its relationship with MAV.

The review report stated that in the early 1990s the service provider approached MAV with the idea of setting up a mutual liability insurance scheme. The service provider was providing similar services to local government in other jurisdictions around the same time. The report noted that:

'MAVIC/MAV were initially 'naive' about the service provider and the scheme and were content to let them have their run of the Scheme without much oversight. The service provider drove the strategy and built up relationships with the councils. It became a very profitable business for the service provider.'

'Over time MAVIC became much more knowledgeable about the Scheme and the strategic benefits of taking a more active role in its administration.'

This review pointed out concerns that MAVIC and MAV management had with the performance of the service provider and its relationship with MAV at this time. It included recommendations for working together—Scheme Members, MAVIC and MAV in strategy and planning sessions—MAV and its service provider jointly developing a strategic plan for risk management that encompasses broader MAV risk issues. In reference to verifying costs of service delivery, the report made a specific recommendation that the services provided be subject to competitive tendering as a whole or individually—i.e. risk management services only:

‘Concerns about value for money and quality of service are difficult to resolve in the current long-term arrangement. The presence of the service provider in every applicable local government mutual liability scheme (or equivalent) means that their respective services are likely to be similar making it difficult to assess best practice from a benchmarking approach. Subjecting the services to a competitive tender is the best way to assess the services against good practice and value for money.’

Despite the issues raised in the independent review, in July 2012, MAV entered into the new agreement for potentially 15 years without undertaking a competitive tender process.

### 3.4.4 MAV self-insurance scheme proposal

Since 1992, MAV and its existing insurance service provider have made submissions to the government proposing to establish a local government self-insurance scheme. In 1993 the state government amended the *Accident Compensation Act 1985* which allowed MAV to establish a self-insurance scheme for councils, subject to the approval of the Victorian WorkCover Authority (VWA). In 1996–97, MAV submitted an application to the VWA to establish a self-insurance licence with the assistance of its existing insurance service provider—the application was not approved.

In 2002, with the assistance of its existing insurance service provider, MAV commenced preparatory work for an application, but did not proceed as VWA was in the process of reviewing self-insurance and advised that it would not consider an application at this time. Between 2006 and 2007, MAV again commenced preparatory work for an application with the assistance a different organisation. No application was made due to the capital requirements of the scheme.

Again, at its own initiative, MAV is applying to the VWA for a licence to operate a WorkCover self-insurance scheme for local government councils and authorities under the *Workplace Injury Rehabilitation and Compensation Act 2013*. MAV engaged with councils on the initiative and commissioned independent actuaries and financial analysts to inform the decision to commence the application process, prior to finalising a business case. MAV has advised that a business case will be drafted once all analysis has been completed about the costs and benefits of proceeding with the self-insurance application.

MAV has now provisionally procured claims/injury management, health and safety, return to work, training and education services through a competitive tender process which resulted in the contract being awarded to MAV's existing insurance services provider in October 2014.

## Procurement process

Procurement is a key support activity provided by MAV to councils. The provision of self-insurance services represents a major procurement. Deficiencies in the procurement process highlight the need for a comprehensive review and updating of MAV's procurement policies and procedures.

### *Tender evaluation process*

The decision to opt for a selective tender process for this procurement or the inclusion of the suppliers in the tender was not subjected to probity examination. Better practice requires that tender evaluation panel (TEP) members possess the necessary technical skills and experience to ensure a robust and transparent evaluation process, and that they declare any conflict of interests. Consistent with better practice, MAV's process for procurements requires the appointment of representatives from the participating councils and specialists in the field of product or service being procured. TEP members are required to complete a declaration of confidentiality and interest prior to the commencement of tender evaluations.

Examination of the tender files disclosed no evidence of the process undertaken by MAV to appoint members to the TEP or to ensure that they were appointed on the basis of the skills and knowledge required for this complex procurement. A subsequent file note was supplied by MAV with details of the CEO's views and project team discussion on the composition of members to be considered for the TEP.

## Conflicts of interest

*The Department of Treasury and Finance Good Practice Guidelines—Conduct of Commercial Engagements* provides guidance on managing conflicts of interest. This includes the need to ensure all participants in the procurement process—including advisers—declare their interests before the tendering process begins and at critical stages. The guidance describes three types of conflict: actual, potential and perceived.

The Tender Evaluation Plan for this self-insurance procurement requires any person with a declared evaluation role to complete a declaration of confidentiality and interest form and provide details of any circumstances that may give rise to an actual or potential conflict of interest. There is no requirement to declare perceived conflicts. All TEP members except MAV staff signed a declaration of confidentiality and interest form, each stating no conflicts. MAV advised that the staff did not complete the declarations as they were not part of the TEP, but that amendments have been made to MAV's internal processes to ensure compliance in the future.

The request for tender (RFT) for this procurement required tenderers to make full and complete disclosure of the nature and extent of any conflicts of interest or any fact or circumstance likely to result in a conflict of interest. In its tender submission, the successful tenderer did not disclose any conflict of interest. However, it has had an existing relationship with MAV for over two decades and had previously partnered with MAV to establish a self-insurance scheme for local government in Victoria. This situation could give rise to a perceived, potential or actual conflict of interest which MAV should have recognised, acknowledged, documented and managed accordingly.

### *Probity process*

The *Department of Treasury and Finance Good Practice Guidelines—Conduct of Commercial Engagements* defines probity as uprightness, honesty, proper and ethical conduct and propriety in dealings and in the context of government, good process.

These guidelines and the LG Guidelines, require the development of a probity plan and the appointment of an independent probity adviser for large procurements. Better practice also requires that probity must be an integral part of the entire process. The probity adviser should be appointed before the tender specification is completed and should review all procedures and documentation throughout the tender process.

MAV did not prepare a probity plan for this procurement, which was in excess of the benchmark for developing a plan outlined in LG Guidelines, but did engage a probity adviser. The probity adviser concluded that 'no matter was noted that would indicate that the procurement process, to date, has not been conducted with an appropriate level of probity'. However, the scope of the probity review was limited in its focus as it did not consider the entire process. Key issues associated with this include:

- The probity adviser was appointed on 10 July 2014 after the decision had already been made to proceed with a selective tender process to the preferred providers. The probity adviser's report considered and assessed probity principles during the period from 28 August 2014 until 22 September 2014.
- The probity review appeared limited to a review of the RFT document and the evaluation assessments of the tender evaluation panel.
- There was no probity review of the rationale for the decision to proceed with a selective tender, rather than an open tender procurement.
- There was no probity review of the rationale to select the entities invited to submit a tender.
- No concerns were raised about the possible conflicts of interest or the lack of documentation supporting key decisions throughout the process.

The Tender Evaluation Plan required the probity adviser to sign a declaration and confidentiality and interest form but this did not occur.

Better practice would have involved the appointment of a probity adviser before the decision to proceed with a selective tender was made and the disclosure of potential, perceived or actual conflicts of interest by all tenderers. In this instance, there was no probity of the decision to undertake a selective tender and non-disclosure of possible perceived conflicts of interest associated with the selected contractor. Given that procurement is a key support activity provided by MAV it is important that the effectiveness of this support is not undermined by poor procurement practices and inadequate probity throughout all stages of the procurement process.

### 3.4.5 National Procurement Network contracts

MAV is part of the National Procurement Network (NPN) which is an initiative of various local government associations across jurisdictions. The concept is based on the premise of achieving better rates and services by combining the purchasing power of more states and territories. In all such contracts the lead is taken up by one or two local government associations based on the demand in their own jurisdiction. The remaining jurisdictions are invited to become part of the tender process to increase economies of scale.

As part of this audit, we evaluated two such contracts for compliance with MAV Procurement and/or better practice—one for the supply of fuel and lubricants and the other the procurement of passenger and light commercial vehicles.

MAV had limited information for either of these contracts as the procurement processes were run by interstate entities. There were no business cases—which are developed by initiating jurisdictions—in the files provided. Therefore we could not ascertain how a needs assessment was done for these contracts. MAV advised that the majority of these documents are held by the agency that takes a lead on the contract. There was no evidence to demonstrate if a needs analysis was done, or business case developed, by MAV to assess if the Victorian councils would benefit from participating in NPN contracts which were driven by demand from other jurisdictions. MAV did undertake a survey of councils willing to participate in the contract. However, no further benefits analysis was available to ascertain the rationale for entering the arrangement. MAV has advised it engaged widely within each industry through supplier meetings to understand their willingness to participate. However, it did not provide any evidence of this process or its effectiveness. Further, similar to other NPN contracts, it did not undertake any needs analysis, and evidence was not available to demonstrate how the councils were better off with this new arrangement as compared to the previous one.



Both contracts involved setting up a panel of suppliers with available products and respective prices. A tender evaluation report was available that demonstrated how the panel was finalised. There was a qualitative ranking available on file for the fuel and lubricant tender evaluation based on pre-decided criteria, however, there was no consolidated ranking available based on both qualitative and quantitative criteria. The finalised panel with their listed products and prices was available for the participating local governments to use. MAV's involvement in these contracts varied—it was represented on the TEP of one contract but had no role in the other. The tender evaluation report in the case of the passenger and light commercial vehicles procurement was not sufficiently detailed to demonstrate that the evaluation was done in accordance with the tender evaluation plan.

The assumption that value for money would be achieved through these contracts was made based on achieving 'great pricing' due to 'the bargaining power of six states and territories' as was noted in the contract file for fuels and lubricants. There was no evidence, in the form of any subsequent monitoring and evaluation, to demonstrate that value for money has been achieved or how councils have benefited by participating in this contract. MAV has advised that it only receives 'quarterly sales reporting' while performance monitoring reports are with the lead agent. MAV also advised that it manages supplier compliance through the vendor panel system which provides some key statistics—including number of requests, requests responded to, time lines met etc.

Similarly, over the past 12 months, no cars have been purchased by any council through the passenger and light commercial vehicles contract. MAV has advised this was because key players did not participate or pulled out of the contract before finalisation. The reason for entering into a contract without key suppliers raises questions over the consideration of risks and contract viability. Two key suppliers did not participate in the tender and another one withdrew during proceedings, which may be a cause for this outcome. Lack of key suppliers within the available procurement panel reduces the effectiveness of the tender process.

There was no evidence on file of any probity process, or detail provided about how any conflicts of interest issues were managed. One of the contracts mentioned the probity process in the RFT by an appointed officer but there were no subsequent details available in the tender evaluation report of any probity process being undertaken.

### Management of procurement contracts

MAV Procurement undertakes bulk procurement contract purchasing on behalf of councils who choose to participate under the blanket ministerial exemption from Section 186 (5)(c) of the *Local Government Act 1989* (LG Act). In 2013, an internal audit found a need to update and further develop policies and procedures governing the tendering process, a lack of consistency in data management, the need for a formal fraud and corruption policy framework, and training for staff in this area.



MAV Procurement has not acted on almost half of the recommendations in the audit report, and still does not have an overarching procurement policy. MAV has advised its 'Tender Evaluation Template' is used to provide guidance to staff on probity and ethics. However, there is limited detail and consistency on how to implement a rigorous probity process. MAV was not able to demonstrate that its procurement activities align with better practice principles as outlined in the LG Guidelines, which means it is not undertaking procurements consistent with the standards required of councils under the LG Act, despite acting on their behalf. While MAV is not strictly bound by the requirements of the LG Act or LG Guidelines, councils are required to determine if a proposed contract demonstrates value for money before they decide to participate. MAV has indicated it will consider them in reviewing its procurement policies and procedures.

### Demonstrating performance

MAV Procurement's objective is to achieve better procurement outcomes for local government by leveraging the combined purchasing power of councils, and delivering training programs to improve councils' procurement capacity and practices. There was no evidence that MAV routinely monitors and reports on the achievement of its intended objectives for achieving savings for Victorian councils.

## 3.5 Monitoring, evaluation and reporting

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MAV undertakes a wide range of reporting on support activities to members throughout the year at various forums, in member updates and in the annual report. This reporting does not, however, provide sufficient information to demonstrate the achievement of intended objectives, outcomes and continuous improvement. Our examination of selected support activities discussed in Part 3.4 was consistent with this view. While almost half of councils (33 of 69) responding to our survey were satisfied with the way MAV monitors and reports the effectiveness of its support programs and activities, MAV was unable to demonstrate the impact of support activities and achievement of measurable outcomes. Given our assessment, the survey results indicate there may be a relatively high degree of trust by councils in MAV's monitoring and reporting.

MAV's reporting generally has a focus on financial status, updates on activity and limited monitoring and reporting to demonstrate how support activities are meeting council needs or the achievement of outcomes. MAV's annual report provides information on updates and activities undertaken against the stated objectives of work plan priorities. Information reported to the MAV Board provides a breakdown by priority area with anecdotal information, but is not presented in a manner that clearly demonstrates the progress against specified and measurable performance criteria.

MAV has multiple forms of internal and external reporting on its support programs and activities. Board and committee level reports, alongside the monthly or bi-monthly meetings of all MAV managers with the CEO and deputy CEO, are the main internal performance reporting processes. Externally, MAV provides activity reports and updates to councils in a variety of ways, including:

- MAV President monthly updates
- MAV Bulletin news items and e-policy bulletin items
- email circulars to members
- State Council meetings—written progress report on motions and a verbal report from the President at each State Council
- CEO forums
- metropolitan and rural/regional meetings of councils
- advisory committee updates
- MAV annual reports.

MAV advised it primarily relies on membership levels and participation rates in support programs, as well as member endorsement of its strategic work plan, to determine council satisfaction with its support provision. This is not a reliable or appropriate measure of whether objectives or intended outcomes are being achieved. A relevant performance measure is one that has a logical and consistent relationship to the entity's objectives, and that the entity is responsible for achieving. An appropriate measure is one that is underpinned by sufficient information to assess its achievements against objectives, outcomes and outputs and activities to demonstrate the achievement of intended support objectives and outcomes.

In relation to procurement activities, MAV relies on the forecast or estimated cost benefit savings rather than actual savings achieved by councils, therefore, the value for money measures do not provide appropriate assurance to councils. While membership levels could be considered a proxy indicator, they provide neither a relevant or appropriate measure of performance. MAV has acknowledged this deficiency in some areas, such as training, where it is revising its approach for assessing and reporting performance, including having a focus on enhancing the measurement of behavioural change.

Monitoring and reporting on support activities generally does not incorporate reliable measures of performance against identified priorities and objectives and is not consistent across the organisation. The information captured for recording progress and performance of support programs and activities depends on the type of support offered and the decision of the responsible MAV manager. For example, where a priority area such as emergency management has an established committee for overseeing delivery, reporting will be developed to meet the needs of the committee and may provide updates to the MAV Board on key issues. Other areas, including procurement which has a separate business unit, provide a standing report on the financial status of contract usage rates to the MAV Board. The information is a mix of statistics and anecdotal content.

In addition—with the exceptions of MAV Procurement, MAV Insurance, grants and events—MAV cannot link sources of funding with its work activities. Therefore it is difficult to determine whether funding is allocated to its intended purpose.

## **Recommendations**

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That the Municipal Association of Victoria:

7. as a priority, reviews and updates its procurement policies and procedures, so that:
    - they comply with better practice
    - high probity standards and appropriate controls around conflicts of interest are applied to all phases of procurements
    - it actively monitors compliance with updated policies and procedures
  8. improves the monitoring, evaluation and reporting of its support activities, including developing relevant and appropriate performance measures, and publicly report their progress and performance
  9. improves councillor development, training and events evaluations to clearly measure and demonstrate their impact on participants and council performance.
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# 4 Local Government Victoria's support for councils

## At a glance

### Background

Local Government Victoria (LGV) is responsible for supporting councils to comply with the *Local Government Act 1989* (LG Act), and assisting the minister in administering the LG Act and the *Municipal Association Act 1907* (MA Act). LGV provides a variety of support and guidance to councils, including funded programs, online guidance, and assistance in code of conduct or financial issues.

### Conclusion

LGV uses a range of established methods to identify the support needs of councils. Its support programs are generally aligned with identified needs, but are also determined by government policy objectives and to assist compliance with the LG Act. Monitoring and reporting on outcomes and program evaluation could be further strengthened. It is unclear the extent to which support programs and initiatives achieve intended outcomes.

### Findings

- LGV provides a range of support and guidance to councils and has a sound understanding of support needs.
- LGV monitoring and reporting on projects and initiatives does not provide adequate focus on measuring outcomes and program evaluation.
- LGV's Business Plan does not clearly identify how planned initiatives contribute to objectives, and how performance will be measured.

### Recommendations

That Local Government Victoria:

- improves its monitoring, evaluation and reporting to demonstrate the achievement of intended objectives
- seeks more feedback and guidance from councils on its guidance.

## 4.1 Introduction

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Local Government Victoria's (LGV) role includes supporting and advising the Minister for Local Government in administering legislation, including the *Local Government Act 1989* (LG Act) and the *Municipal Association Act 1907* (MA Act). It is also responsible for overseeing, supporting, and encouraging local government, and assisting councils by providing advice and support in relation to their roles and responsibilities under the LG Act.

Support provided to councils should meet their needs, assist them to comply with the LG Act, and enable more efficient and effective operations. This may include targeted support or intervention when required. Robust monitoring, evaluation and reporting are required for LGV to understand whether its support is effective and to demonstrate the achievement of its intended objectives and outcomes.

## 4.2 Conclusion

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LGV uses a range of established methods to identify the support needs of councils. Its support programs are generally aligned with identified needs, but are also determined by government policy objectives and linked to the requirements of the LG Act. While LGV has a system of formalised internal monitoring and reporting on projects and initiatives, the focus on outcomes reporting and program evaluation could be further strengthened.

## 4.3 LGV's role and responsibilities in supporting councils

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LGV has clear organisational roles, responsibilities and deliverables, outlined in its business plans for 2012–13 and 2013–14, and in its 2014–15 Business Plan.

LGV's 2014–15 business plan states that its primary function is to provide support to councils, and also lists initiatives by business area, providing a brief description of each initiative. The business plan is based on government priorities, guided by the previous government's Local Government Reform Strategy (LGRS). LGV's recent initiatives include the Local Government Performance Reporting Framework, collaborative procurement, cost containment and capacity building initiatives, and guidance around rating strategies and asset management and maintenance. These initiatives are aligned with government objectives in the Budget Papers, including the Strategic Asset Management Program, and Local Government Performance Reporting. Budget Paper Three: Service Delivery contains measures LGV is required to report on.

LGV's business plan also details relevant objectives from the draft former Department of Transport, Planning and Local Infrastructure (DTPLI) 2014–18 Corporate Plan—to deliver effective reform and governance of local government, and develop and maintain systems that support a strong, transparent and accountable system of local government. LGV's 2014–15 Business Plan identifies that its objectives are to:

- be the trusted source of knowledge
- be an innovative, proactive and responsive thought leader
- be the broker of quality partnerships
- drive accountability and good governance.

LGV's three business areas are responsible for the programs and initiatives to achieve these objectives. Business areas are responsible for a range of programs in both the 2014–15 Business Plan and previous business plans. Examples of 2014–15 programs and initiatives are shown in Figure 4A.

**Figure 4A**  
**LGV business areas and 2014–15 programs and initiatives**

Business area	2014–15 program or initiative
Sector performance and development	The Local Government Performance Reporting Framework, Strategic Asset Management Program, and the Community Satisfaction Survey
Governance and legislation	Oversight and advice relating to the LG Act, supporting the Local Government Inspectorate and Councillor Conduct Panels, monitoring council governance, and the management of the new Sunbury municipality (from July 2015)
Funding programs	Public Libraries Funding Program, Victoria Grants Commission methodology review and Emergency Management Programs.

Source: Victorian Auditor-General's Office.

The business plan links the objectives and initiatives, but it is unclear how they contribute to the achievement of objectives and outcomes. While the 2012–13 business plan included performance measures, the 2013–14 and 2014–15 business plans do not contain sufficient detail to measure the effectiveness of their activities. As a result, it will be difficult to measure progress toward the achievement of objectives and outcomes.

In addition to examples in Figure 4A, business areas manage and deliver a range of work both for supporting councils and in delivering the government's policy objectives for local government. Many smaller programs are undertaken, including multiple collaborative procurement projects between groups of councils and one-off workshop assistance with financial reporting requirements.

## 4.4 Sector engagement

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LGV has a good understanding of council needs, both sector wide and taking into consideration size, location, and capacity.

LGV has a range of consultation methods in place to inform the development of its support programs and initiatives for councils. It uses reference groups to discuss its programs and initiatives and to understand the impact of the government's programs and policies on councils, including:

- **The Local Government Inter-Departmental Network**—provides a point of coordination with other departments. This group has enabled LGV to liaise with other relevant departments in reducing the reporting burden as part of the introduction of Local Government Performance Reporting
- **The Ministerial-Mayors Advisory Panel**—provides advice to the minister from a mayoral perspective, which does not represent the views of individual councils. While a useful mechanism to gain feedback, it presents individual mayoral views, rather than being representative of a council or group of councils
- **The Local Government Reform Strategy Reference Group**—made up of relevant sector representatives including members from peak bodies and council chief executive officers (CEO). This group provides consultation on policy objectives, other initiatives and programs and captures feedback on the implementation of initiatives and programs.

In addition to reference groups, LGV regularly sends out CEO circulars. These communicate proposed changes to legislation, requests for council feedback, and advice on interpreting legislation and newly published support materials. CEO circulars are released on an as-needs basis and are the main means of official communications with councils. Through these channels LGV maintains regular contact with council officers at various levels.

LGV also conducts consultation on individual projects using various methods. For example, in developing the Local Government Performance Reporting Framework and the Councillor Conduct and Governance Bill, LGV used the following:

- project governance and advisory structures including working groups with relevant organisations including Municipal Association of Victoria (MAV) and VAGO
- releasing directions papers and other documents and requesting submissions
- workshops in locations across Victoria
- technical working groups.

Survey results indicated that of the total 65 councils that had contact with LGV, 15 had contact monthly, 35 quarterly and 13 annually. In terms of the way LGV identifies the type of support needed, 20 of the 65 councils rated them as good, 28 moderate and eight poor. A question about LGV's assessment of the level of support needed indicated a similar pattern with 18 of 65 councils rating them as good, 24 moderate and 13 poor.



Responses showed a high level of satisfaction for knowledge of policy and legislative frameworks (more than 80 per cent), the relevance of guidance material (80 per cent), and technical advice (more than 70 per cent). Councils were less satisfied with LGV's engagement with them about the effectiveness of support programs during delivery and after program completion, and the relevance of capacity building programs (all less than 40 per cent).

## 4.5 Planning processes and the identification of council needs

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LGV uses a range of methods to identify the needs of councils. These include sector consultation and engagement, correspondence to the minister and LGV from members of the public, media monitoring, intelligence from the Local Government Inspectorate, panels, peak bodies and reference groups, and findings from VAGO and other reports.

LGV uses the information it derives from these methods to assist it in developing support programs, guidance and materials. Its program of sector guidance is detailed in its business plan, and linked to the relevant objective. LGV used these consultation methods to assist with development of the LGRS, which forms the basis of LGV's programs and initiatives, and was the former government's policy since 2011, previously the Local Government Reform Agenda.

LGV has identified key areas where councils require support, which it uses to underpin its work program. These are:

- financial sustainability
- local government service levels
- community responsiveness and accountability
- community engagement
- decision-making and planning
- councillor conduct and governance
- capacity and capability.

LGV's programs and guidance materials generally align with these areas. In addition, LGV provides support in the form of intervention for councils where issues may arise, for example, providing administrative support when requested by councillors, or facilitating ministerial intervention, such as financial administrators, or dismissal of councils.

As part of our survey, councils were asked to rate, from their experience, the way that LGV identifies the type of support their council needs. Most council's assess LGV's identification of the type of support needed as moderate (28), with slightly less rating it good (20) and only eight rating it poor. A similar question about LGV's assessment of the level of support needed indicated a similar pattern with 18 councils providing a good rating, 13 a poor rating, and 24 moderate.

## 4.6 Support programs

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### 4.6.1 Overview of key programs

LGV provides a large number of programs aimed at improving capacity of local councils. Programs may be aimed at all Victorian councils, or councils may be invited to participate in pilots—for example, Local Government Performance Reporting and smaller projects such as regional collaborative procurement. In addition to these programs, LGV has a range of guidance material available on its website.

### 4.6.2 Local Government Reform Strategy

LGV has delivered programs and initiatives under the LGRS, which is focused on assisting the local government sector to be more efficient and productive, including:

- **Local Government Performance Reporting**—this is a mandatory framework introduced in July 2014. LGV conducted a pilot inviting all councils to participate prior to its introduction to assist with a smooth transition and to reflect council capabilities in the development of mandatory indicators.
- **Councillor Conduct and Governance**—a program of consultation that included the development of a draft *Local Government Amendment Bill (Councillor Conduct and Review)* which was not progressed.
- **Reducing the reporting burden**—a collaborative project between relevant government departments aimed at abolishing or reducing reporting requirements for councils.
- **Cost containment and capacity building**—using the Local Government Reform Strategy Reference Group, this project examined ways for councils to reduce their costs. A dedicated working group was established and involved collaboration with Local Government Professionals, MAV and a cross section of council CEOs.
- **Collaborative procurement**—31 councils were involved in six projects that aimed to reduce costs through collaborative procurement and asset management and maintenance.
- **Simplified funding**—a project aimed at simplifying funding flows from state to local government including the introduction of productivity incentives for new funding.

LGV has also conducted reviews to assist with council capacity:

- **Local Government Electoral Review**—a commissioned review of electoral arrangements for local government which aimed to ensure electoral systems are fair, transparent and effective.
- **Review of Victorian Public Libraries**—which resulted in the development of a business case for a statewide library management system.

### 4.6.3 Further support and guidance

In addition to programs delivered under the LGRS, LGV provides additional programs and initiatives aimed at building capacity within the sector. These include initiatives funded under the Local Government Reform Fund, and better practice guidance and templates—including the recent Local Government Planning and Reporting Better Practice Guide—rates and charges, financial reports, audit committees and asset management. These are available on LGV's website and circulated to councils.

Several recent VAGO audits have also examined LGV's support to councils in the context of specific areas of activity or issues, including collaborative procurement, asset management, organisational sustainability and rating practices. A brief outline of these reports is included in Part 1.

## 4.7 Monitoring, evaluation and reporting

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Effective monitoring, evaluation and reporting are critical to demonstrate the achievement of intended objectives and outcomes, and for continuous improvement. While LGV has developed output measures, it does not systematically measure outcomes.

### Monitoring and reporting

LGV has objectives detailed in its business plan, which are linked to its programs and initiatives, although how programs and initiatives will assist in achieving objectives is unclear. Business area initiatives are allocated to specific teams with designated team leaders, and these are outlined in individual work plans, with accountability for each project clearly defined and used as performance measures at individual work plan level.

LGV has task and delivery targets in its Business Plan 2014–15, although public reporting through the Budget Papers is not sufficient to understand whether its objectives and outcomes are being achieved. LGV has indicators that are reported against as part of the Budget process in Budget Paper 3: Service Delivery. These indicators are not sufficiently constructed to determine whether LGV is achieving its intended outcomes. Output measures include quantity, quality, and timeliness, but do not always allow an assessment of performance. In the case of quality, the following measures are outlined:

- LGV's legislative and regulatory change considers stakeholder feedback and consultation with local government
- LGV's policy and program development considers stakeholder feedback and consultation with local government.

These measures consider whether a specific activity has been undertaken, rather than how well the output has been undertaken, in this case, whether feedback and consultation with local government has occurred. They do not provide any information about the quality of LGV's work and whether it is achieving intended outcomes.

LGV does not formally report against or measure achievement of its objectives, and does not have established and consistent reporting on all of its support programs and guidance. Without this, LGV cannot be assured that it is on track to achieve its objectives and outcomes, or whether it is contributing to the achievement of these under the draft DTPLI 2014–18 Corporate Plan.

Councils rated LGV as relatively good for expert advice and interpretation of the LG Act, and in monitoring compliance with applicable legislation. However, they rated LGV less positively on a number of other measures, including:

- partnering in the delivery of council services
- acting as a spokesperson for councils at the state table/Cabinet
- facilitating collaborative opportunities and ways for councils to work together
- providing support and programs that help develop council capabilities.

### LGV's business reporting practices

LGV does not systematically monitor, evaluate and report on all of its support activities, although evaluations have been undertaken for some of its larger programs. While external objectives and reporting requirements exist at a departmental level, LGV's business plan does not contain qualitative performance measures linked to outcomes to meet LGV's four objectives as outlined in Part 4.3.

LGV captures information on the progress and performance of a number of discrete projects, including the Procurement Excellence Program and the Asset Management Performance Information Project. It also conducts reviews of larger initiatives such as the Local Government Reform Fund. Monitoring of projects and initiatives occurs as a component of weekly management processes with all LGV team members, and relevant senior departmental management, however, this is not documented. LGV should improve its monitoring and reporting including more rigorous documentation of project monitoring and reporting to assist in understanding the quality and effectiveness of its suite of support programs and initiatives.

### Use of LGV's guidance material

Our survey found, that most councils are satisfied with the quality and timeliness of LGV's guidance material and advice. LGV relies on feedback from the sector about improvements that can be made to its guidance material and the input of the technical experts involved in developing guidance. It has sought feedback on draft guidelines through its system of CEO Circulars—including for asset management—and through its consultative mechanisms. Further analysis of data relating to how councils use support and guidance material would assist LGV to ensure its support remains relevant and useful.

LGV undertook a content audit of its website to determine where improvements were needed for its webpages on the mandatory Local Government Performance Reporting Framework. However, it does not monitor which and how many councils use its other website guidance materials. LGV could improve its methods for seeking feedback and monitoring use of support materials on its website, as well as consulting councils to ensure it provides a broad range of support in the specific areas and issues where councils may require support.

## Evaluations

LGV does not have an established practice for reviewing or evaluating all of its work, although it has produced evaluations of some of its larger programs. While these evaluations report outcomes in some cases, others consist of mainly output-based reporting. LGV provided reviews of council internal audit practices and Victoria's public libraries, which, while useful, do not constitute outcomes-based evaluation, but provide recommendations for service and process improvements. LGV could improve its evaluations to ensure rigorous analysis of outcomes and the effectiveness of its support programs.

During the audit, VAGO observed part of a post-implementation review of the Local Government Performance Reporting Framework Project which discussed positive aspects of project management and ways that the management of the project could have been improved. The DTPLI Project Management Framework section on *Outcomes Management and Evaluation* includes the clear recommendation that a post-implementation review be conducted in conjunction with an outcomes evaluation review. This is a useful exercise that should assist LGV to continuously improve its project management skills and methodology. However, it is not clear whether post-implementation reviews are applied on all or just a subset of LGV's projects.

LGV has provided a number of evaluations and reviews of some of its major programs as outlined in Figure 4B.

**Figure 4B**  
**Summary of LGV evaluations**

Programs	Evaluations
Councils Reforming Business (CRB) – final evaluation of the Procurement Excellence Program and Better Practice Local Laws (October 2012)	Considered whether its objectives had been achieved, and measured reductions in regulatory costs as a result of the program. Overall, it enabled councils to achieve cost savings. However, the evaluation only considered two of the initiatives under CRB rather than all of its programs, and in some cases relied on feedback from councils, without rigorous measurement of whether all outcomes had been achieved.
Local Government Sustainability (June 2012, delivered by MAV)	The Local Government Sustainability and Regional Asset Management Services program evaluations found positive outcomes against project objectives, including improved efficiency and effectiveness in strategic planning processes, improvements in collaboration in local government, improvements in data collection and analysis, and councils had progressed toward better asset management practices, although these were not fully developed.
Review of Victoria's Public Libraries (November 2013)	This was a review of existing library operations with the purpose of developing a strategic plan for Victorian Public Libraries, rather than an evaluation. However, the recommendations should assist LGV to understand what support councils need to effectively provide library services in the future. The review recommended an increase in collaboration and the adoption of a joint strategic approach to adapting to a changing environment, including an integrated statewide library service and integrated and streamlined back office operations.
Value Adding through Internal Audit (June 2012)	This was a project report that reviewed the audit capacities of south west Victorian councils. While not specifically an evaluation, it provided some recommendations to assist councils with building internal audit capacity. The report recommended collaboration between councils in internal audit, and collaborative procurement of a single internal audit provider, as well as reporting findings in relation to council practices in internal audit and the importance of support from senior management in collaborative procurement practices.
Procurement in Practice Program (July 2012)	LGV provided a project report for its projects under the Local Government Reform Fund, which included a review of the Procurement in Practice Program, which aimed to assist councils to undertake collaborative procurement. The Procurement in Practice Program reported cost savings for councils involved in collaborative procurement for road resealing. Building Best Value Capacity reported improvements to capacity in undertaking Best Value Service Reviews, but a lack of proficiency in conducting rigorous service reviews overall.

Source: Victorian Auditor-General's Office.

LGV delivers a range of programs of varying sizes, some of which may be too small to merit a full evaluation. However, LGV should consider applying evaluation concepts to its full suite of support programs and initiatives in order to understand if they are assisting it to meet its objectives as detailed in its business plan, and effectively supporting councils to comply with the LG Act.

## 4.8 Supporting the Minister for Local Government

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LGV has provided briefings to its minister on a wide range of issues relating to the LG Act. This advice has related to council activities and performance—such as the appointment of monitors, capital works funding, code of conduct matters and legislative proposals. In addition, LGV briefs the minister on requests for exemption from section 186 in the LG Act, which allow councils to enter into a contract for goods, services or works in specific circumstances without first undertaking a public tender. Exemptions have been granted on five occasions since October 2012, including the granting of a blanket section 186 exemption on any contracts with MAV Procurement for every council from May 2014. This is discussed further in Part 5.

LGV's support for the minister in relation to oversight and MAV, and both the MA Act and LG Act, is discussed in Part 5.

### Recommendations

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That Local Government Victoria:

10. improves its monitoring, evaluation and reporting on support activities to demonstrate the achievement of intended objectives and outcomes, including in relation to its business plan, and ensures it has relevant and appropriate performance measures, and publicly reports its progress and performance
  11. develops processes to seek feedback from councils on the use of its guidance material and website information to identify opportunities for continuous improvement.
-





# 5 Coordination and collaboration to support local government

## At a glance

### Background

The Municipal Association of Victoria (MAV) and Local Government Victoria (LGV) share a common interest in supporting councils to carry out their duties and obligations to the community, despite having different roles and functions. LGV responsibilities also include providing advice to the Minister for Local Government about both the *Municipal Association Act 1907* (MA Act) and the *Local Government Act 1989* (LG Act).

### Conclusion

LGV and MAV have worked together on numerous support initiatives, although collaboration is not always appropriate. There is scope for them to work more closely together to identify council needs, and decide who is best placed to provide support, and how. There has been a lack of accountability and monitoring of the activities of MAV for many years, including with regard to compliance with the MA Act.

### Findings

- LGV and MAV have worked collaboratively in the delivery of support programs in areas including procurement, planning and reporting, and asset management.
- There are no established mechanisms or protocols for coordinating planning and identifying opportunities for collaboration
- LGV does not actively monitor MAV's compliance with the MA Act, or with approvals granted under the LG Act.

### Recommendations

That LGV and the MAV:

- review and document how and when they should work together
- undertake regular joint strategic planning relating to council support activities.

That LGV routinely monitors the performance of MAV, including its compliance with the MA Act, and advises the Minister for Local Government accordingly.

## 5.1 Introduction

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The Municipal Association of Victoria (MAV) and Local Government Victoria (LGV) spend large amounts of public funds in support of local government in Victoria. While both organisations have different roles and functions they share a common interest in supporting councils to carry out their duties and obligations to the community, and to facilitate more efficient and effective council operations.

Both the *Municipal Association Act 1907* (MA Act) and the *Local Government Act 1989* (LG Act) include objectives relating to efficient and effective local government. Where appropriate, MAV and LGV should effectively coordinate the development and delivery of support programs and activities to prevent duplication and optimise the effectiveness of their support activities and to ensure the economical use of public funds. In some situations collaboration may not be appropriate—for example, where MAV's advocacy role means it has a different position to the government.

LGV is responsible for providing advice to the Minister for Local Government, who is responsible for administering the MA Act and other legislation, including the LG Act. This advice should include monitoring compliance with relevant Acts.

## 5.2 Conclusion

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LGV and MAV's different roles and functions mean collaboration is not always appropriate, although they have worked together on the delivery of multiple council support initiatives. While some interactions are evident, the effectiveness of this relationship and the extent to which it informs coordination and the efficiency of support activities is not clear.

There is scope for LGV and MAV to work more closely together to identify council needs, and decide who and how they are best placed to provide support to councils. The new *State-Local Government Agreement* between state and local government, and local government peak bodies, provides an opportunity to document and formalise, through its forthcoming work plan, how LGV and MAV will work together in the future.

There has been a lack of monitoring of the activities of MAV for many years. LGV does not actively monitor MAV's compliance with the MA Act. There is limited evidence of LGV briefing the minister on issues related to the MA Act, except when requested to do so. LGV has also not monitored MAV's compliance with requirements associated with ministerial exemptions granted under the LG Act with regard to its group procurement activities.

## 5.3 Existing collaboration

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There have been numerous instances where LGV and MAV have worked collaboratively in the delivery of support programs, including across areas such as procurement, planning and reporting, and asset management. Examples of collaborations include the:

- joint development of guidance material—including relating to asset management, procurement, governance and rates
- Councils Reforming Business initiative
- Asset Management Performance Measures Project and MAV STEP Asset Management Program
- Local Government Sustainability Project
- Regional Asset Management Services Program
- MAV participation on LGV reference groups and consultation mechanisms.

However, there are no established mechanisms or protocols for identifying where collaboration would be mutually beneficial or suitable for efficiently and effectively delivering council support.

MAV and LGV meet regularly, but the content of these discussions is not documented, although, according to both entities the meetings provide the opportunity to consider joint issues and initiatives that are being undertaken separately. While some interactions are evident, the effectiveness of this relationship and the extent to which it informs coordination and efficiency is difficult to assess. The only evidence of where formal consultation on communications occurs is through formal quarterly briefings with the minister. For these briefings, MAV leads the agenda and LGV provides the minister with discussion points about what MAV wants to discuss.

LGV's guidance also recommends and provides reference to MAV material—for example, *Local Government Planning and Reporting Guide* and *Procurement Best Practice Guidelines*. This indicates that this work was not duplicated and existing resources were used efficiently. In a broader context, LGV produced the Good Governance Guide website in partnership with MAV, the Victorian Local Governance Association (VLGA) and Local Government Professionals (LGPro) to assist councillors, mayors and council officers with governance and conduct issues. Both LGV and MAV collaborate with organisations including LGPro, VLGA and the Australian Centre for Excellence in Local Government on a range of initiatives.

Past VAGO audits have had some coverage of overlap in LGV and MAV support for councils. For example, our February 2014 report *Asset Management and Maintenance by Councils* found that MAV's STEP program had been useful in helping councils to improve their asset management frameworks and practices. However, the report noted there are limits to the program and more could be done to support councils to improve their asset management and maintenance capabilities. It found that LGV and MAV could improve their joint work in asset management—for example, by collaboratively reviewing the need for a central asset management website and issues councils raised around the duplication in asset data reporting requirements for LGV and MAV. The report also recommended that LGV review the use and application of the National Asset Management Assessment Framework in conjunction with MAV and councils.

Our survey of councils found a significant number of them (23 of 70) believed LGV and MAV duplicated each other's work to support councils. Only eight councils agreed that the two organisations effectively coordinated their delivery of support. These results suggest there is potential for more effective delivery of support from a more collaborative or coordinated approach.

**Figure 5A**  
**Survey results**

Relevant quotes from the survey point to opportunities for greater collaboration, jointly ensuring needs are met across both organisations, and perceptions on the differing roles of LGV and MAV:

'The new MAV and LGV agreement may assist in further refining the communication gaps to ensure a more collaborative approach is achieved in legislative reform, advocacy, shared procurement, innovation and direction setting for the sector.'

'MAV support appears to have a greater metropolitan council focus and the needs of rural councils appear to be less important. An increased level of LGV support would be appreciated.'

'We view the role of LGV as a regulator of the sector. We believe MAV represents and advocates on the sectors behalf. These are different roles and require different delivery mechanisms.'

Source: Victorian Auditor-General's Office.

MAV also advised it has partnership agreements with a number of state government departments, statutory authorities and other organisations associated with local government—for example, with the Department of Education and Training, in relation to council provision of the Victorian Maternal and Child Health Service. As well as direct collaboration, MAV provides extensive referral through its Bulletins to other state and federal government initiatives and has participated on steering committees and reference groups for LGV initiatives, including the Local Government Reform Strategy Reference Group.

## 5.4 Opportunities for collaboration

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In September 2014, the minister signed the *Victorian State-Local Government Agreement*, MAV signed on behalf of councils, and other signatories were the VLGA and LGPro. The agreement commits 'state and local government, and local government peak bodies [plural] to continue to work in partnership to deliver an agreed annual work plan'. LGV has advised that it is unclear what form this will take, however, it provides an opportunity to document and formalise how and on what initiatives LGV and MAV will work together in the future.

Part 2 of this report includes a recommendation that the Department of Environment, Land, Water and Planning reviews and determines MAV's functions, roles, responsibilities, powers and obligations through an analysis of its existing legal framework and applies this to the management of MAV. This review would be an opportunity to consider which support activities should be within MAV's remit, and which LGV should be responsible for, as well as those areas where both organisations may have some involvement. Following this review, it would be appropriate for MAV and LGV to undertake regular joint strategic planning activities to not only consider where they might collaborate to support councils, but to share knowledge and intelligence on council needs, the effectiveness of approaches to support and so forth.

## 5.5 Monitoring of the Municipal Association of Victoria

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The Minister for Local Government is responsible for the administration of the MA Act. Where an Act or part of an Act falls within a minister's portfolio, that minister is responsible for the purposes of both administration of the Act in question, such as the exercise of ministerial powers, and for the administration of the Act to Parliament. The department, through LGV, has a role in supporting the minister with administrative oversight for the MA Act, as it does for other Acts in the minister's portfolio including the LG Act. This includes overseeing the performance and compliance with the MA Act but does not include directing or controlling MAV.

### 5.5.1 *Municipal Association Act 1907*

LGV has briefed the minister in relation to changes to the MAV Rules. Its advice indicated that the minister should support Rule changes because MAV has the power to make Rules under the MA Act and the changes would improve the operation and governance of the association. The most recent changes to MAV's Rules occurred in 2013, 2008 and 2006. LGV has also provided advice to the minister about the MA Act when requested, and briefed the minister in relation to meetings with MAV.

Except for these activities, LGV does not proactively monitor MAV's compliance with the MA Act, or advise its minister in relation to their accountability for the administration of the MA Act to Parliament. LGV has advised it would only do so at the request of the minister, or in relation to a program delivered by MAV which has been funded by the state.

LGV has not effectively performed its function in supporting the minister with regard to the administration and accountability of the MA Act. The lack of proactive monitoring of MAV and the MA Act means that MAV has had little or no government scrutiny of its activities. This is likely to have at least partly contributed to MAV taking on functions which are not explicit in its Act and which may be outside its mandate and intended purpose, as discussed in Part 2.

### 5.5.2 *Local Government Act 1989*

Section 186 of the LG Act provides that 'before a council enters into a contract for the purchase of goods or services, or for the carrying out of works, to the value of \$100 000 (or such higher amount as may be fixed by Order in Council) or more, it must give public notice of the purpose of the contract and invite tenders from any person wishing to undertake the contract; or give public notice of the purpose of the contract or the project to which the contract relates and invite expressions of interest from any person interested in undertaking the contract or all, or any part of, the project', among other things.

This section of the LG Act also allows the minister to grant an exemption to permit councils to enter into a contract for goods, services or works in specific circumstances without first undertaking a public tender. Five exemptions have been granted since October 2012, including the granting of an approval under section 186(5)(c.) exempting councils from undertaking a tender or expression of interest process for the procurement of goods, services or works where the contract is entered into through MAV Procurement. MAV Procurement aims to leverage the combined purchasing power of councils through undertaking tenders on behalf of Victorian councils for a range of goods and services—discussed further in Part 3. This exempts councils from having to comply with the public tender requirements if they participate in any group procurement activities undertaken by MAV. However, councils are required to consider whether the tenders or a panel of tenderers would obtain value for money and must exercise discretion not merely rely on the work undertaken by an agent.

LGV recommended approval to the minister on the basis that contracts entered into through MAV Procurement will provide councils access to suppliers selected through a competitive process, and leveraging the combined purchasing power of councils will result in economies of scale and savings to them.

LGV has advised that it does not monitor MAV's procurement activities. It cannot, therefore, be assured that MAV is selecting suppliers through a competitive process or achieving cost savings for Victorian councils. Issues observed during this audit, including around probity and conflict of interest, also underscore the importance of effective monitoring.

## Recommendations

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That Local Government Victoria and the Municipal Association of Victoria:

12. review and document how and when they should work together to ensure the efficient, effective and economic delivery of support to councils, including clarifying roles and responsibilities for support activities, and communicate this to councils
13. undertake regular joint strategic planning to:
  - share knowledge and intelligence on council needs
  - agree on council support priorities and areas of collaboration
  - agree on a program of work to be reflected in the agreed annual work plan between state and local government, and local government peak bodies.

That Local Government Victoria:

14. routinely monitors the performance of Municipal Association of Victoria including its compliance with the *Municipal Association Act 1907*, and advises the Minister of Local Government accordingly
  15. actively monitors entities that have been granted approvals under section 186 of the *Local Government Act 1994*, to ensure they comply with any requirements specified in the approval, and advises the Minister of Local Government accordingly.
-





## Appendix A.

# Results of the statewide survey

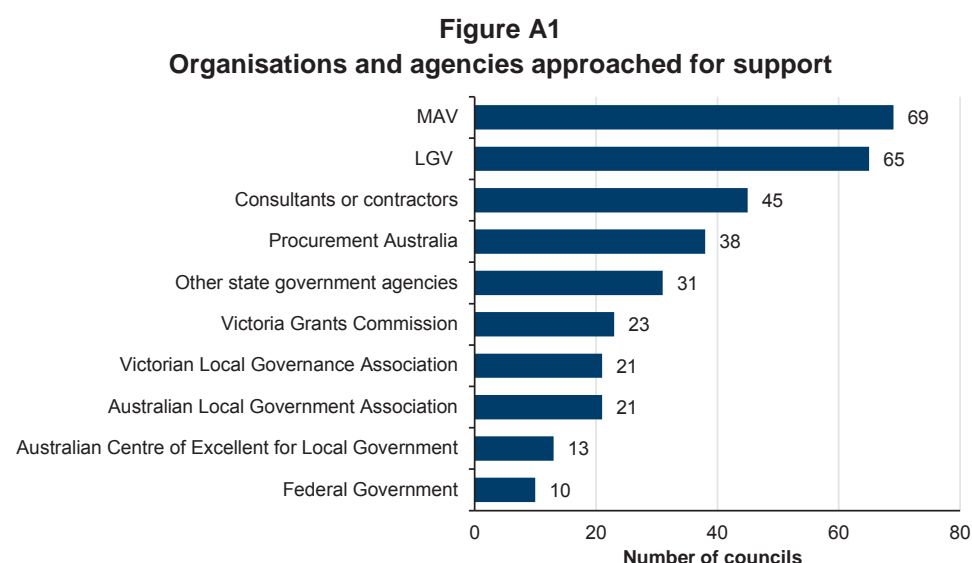
## Background

As part of this audit we conducted a survey of all of Victoria's 79 councils that focused on the effectiveness of support provided by Local Government Victoria (LGV) and the Municipal Association of Victoria (MAV). Instructions for completion were for an individual response from each council, to be coordinated by a designated representative and ultimately endorsed by the chief executive officer.

Seventy, or 89 per cent, of Victoria's councils completed the survey. There was representation across the different council types—15 of 17 inner metropolitan councils, 10 of 14 outer metropolitan councils, all 11 regional councils, all 16 large shire councils and 18 of Victoria's 21 small shire councils.

## Who councils approach for support

Most councils look either to MAV (69 of 70) or LGV (65) for support, but other organisations and agencies are approached as shown in Figure A1.



Source: Victorian Auditor-General's Office.

## Frequency of support

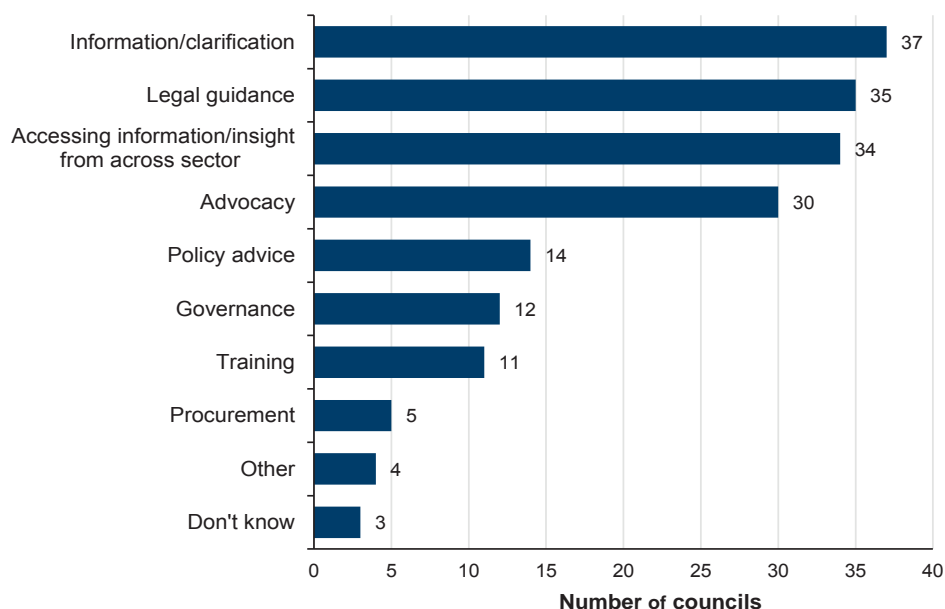
When councils needed support, over half (36 of 70) approached either LGV or MAV most of the time (21) or about half the time (15). Around one-quarter (18) approached either LGV or MAV less than half the time, and (13) only occasionally. One council approached LGV or MAV every time it identified a need for support, and conversely one council indicated it never approached either organisation for support.

While some councils approached MAV and LGV through meetings, conferences, workshops or forums (15), bulletins, networks or interest groups (5), the majority approached them by phone (53), online or by email (46) or through written communication (24).

## Type of support

Councils indicated that support was a way of sharing insights across the sector and learning from their peers. As Figure A2 indicates, councils were most likely to seek support from LGV or MAV for information or clarification, legal guidance, to access information, or for insight from across the sector, or for advocacy.

**Figure A2**  
**Types of support sought by councils**



Source: Victorian Auditor-General's Office.

Although councils reported that they are most likely to consider themselves self-sufficient in the areas of finance (53 of 70), governance (37), insurance and policy advice (35 each) and procurement (34), this does not mean that they would not consider seeking support in these areas. Some councils indicated they would seek support because they would want confirmation or a second opinion.

## Support activities received by councils

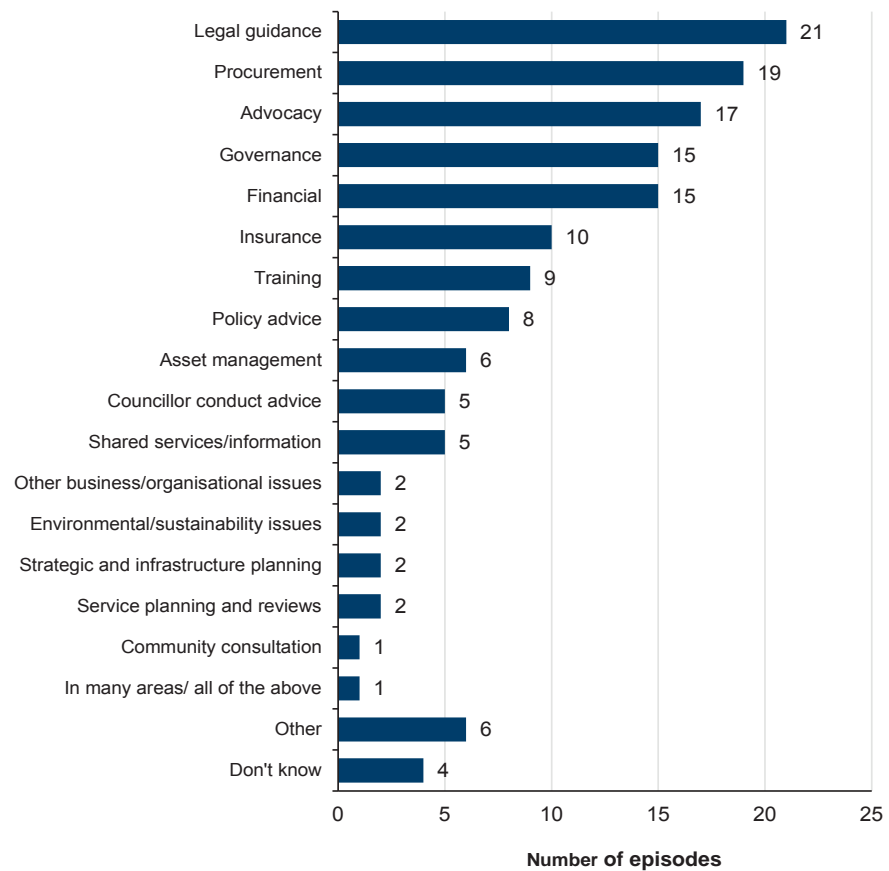
Councils were asked to provide information about each of the areas of support they had received in the past 12 months. We refer to each of these examples of support as an episode. However, a number of councils questioned this approach because they:

- suggested that support was sometimes ongoing, rather than time-limited
- questioned the assumption of discrete, defined support
- queried to what extent advice, such as online resources, counted as support, or performed the same role
- queried what was meant by support.

Nevertheless, most councils were able to report on episodes of support and 150 episodes were described.

As shown in Figure A3, there were no leading areas of support in any one thematic area, rather support themes were broadly distributed.

**Figure A3**  
**Areas of support received by councils in the past 12 months**



Source: Victorian Auditor-General's Office.

The most likely provider of support was MAV (123 of 150 episodes), followed by LGV (48). Other key providers of support were the Victorian Local Governance Association (19), Procurement Australia (17) and consultants or contractors (24).

## Satisfaction and impact of support

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Councils were asked to provide a specific rating on a five point satisfaction scale of how well the support suited their needs. Overall, more than three-quarters of support episodes (116 of 150) were rated either satisfied (88) or very satisfied (28). In contrast, only seven episodes were rated dissatisfied and 27 episodes were rated neither satisfied nor dissatisfied.

Councils were also asked to rate the impact of each episode of support on their council's performance. Most episodes (127 of 150) were described as having a degree of impact, however, this tended to be relatively modest. Impact tended to have some impact (90) rather than significant impact (31) or major impact (6). Four of the six episodes rated as having a major impact occurred at small shire councils.

The impact of support was most likely to be in knowledge or understanding (44 of 142 episodes), finance (25) or in legal guidance (20). Small shires were significantly more likely to report an episode of support impacting on financial matters (10 of 25).

## Summary of council views

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With responses from 70 of the 79 councils across Victoria, the survey represents a reliable and representative view of all councils, and reflects the full diversity of their opinion. However, the representation fell slightly among outer metropolitan councils where the response rate was 70 per cent.

The survey results provide useful and perceptive insight into the functioning of support for local government in Victoria, and are helpful in identifying some of the key issues.

In terms of the value of support services provided by MAV and LGV, results suggest there is some tension between smaller shire councils at one end of the spectrum, and larger metropolitan councils at the other. Many smaller shire councils and other non-metropolitan councils indicated they understand the difficulties of providing support to many small councils over large distances. Nevertheless, some questioned the value they are getting from the current support activities, and the extent to which entities providing support genuinely understand their particular issues and concerns.

Without considering the effectiveness of support provided, there is some apparent frustration about how well the needs of smaller councils are even understood. However, this response was not uniform, as many smaller councils reported valuable support that has helped them with major issues. On a number of occasions, councils emphasised the importance of support services being flexible and tailored. There is much to be gained from this in improving perceptions of some smaller councils about support provision.

There is much evidence to suggest that councils see LGV and MAV as very different, but complementary in their collective support delivery. Councils also identified difficulties due to an overlap of activity, a lack of collaboration and the perception that there are limitations on the resources of both organisations. LGV is viewed more often as the expert on legal guidance and governance, while the remit of MAV is seen to be in areas of insurance, advocacy and training—which aligns with each organisation's current activities. Issues of policy advice and finance are seen as issues broadly shared across both organisations.

Evidently, support from MAV and LGV is used almost universally by local government—there are only a few councils who reported they do not engage with one or both on a regular basis. Moreover, councils engage with MAV and LGV for support on a wide range of issues, so we can conclude that both play a key role in the sector.

Engagement with MAV is more frequent overall, and on most measures councils are more willing to indicate satisfaction with or approval for, the work of MAV than they are for LGV. Many councils acknowledged, however, that the scope of LGV's work is narrower, and that its resources are less than those of MAV.

Some councils viewed LGV's position within the portfolio of the state government as influencing its ability to robustly pursue the interests of the local government sector. In this regard, MAV's greater independence is seen by many councils as an advantage in advocating for the sector. However, at least one council also saw MAV as compromised through its delivery of government programs.

The area that councils were least satisfied with both LGV and MAV was in their engagement about the effectiveness of the support provided both during and after its delivery. There appears to be scope for both organisations to improve their engagement processes. In particular, in measuring the effectiveness, or communicating more clearly to councils how they are measuring it. Additionally, they could use what they learn to shape future support activity. There is also a lot of evidence that councils would like LGV and MAV to improve the way they work together to support local government.

The breadth of current support activity is considerable in thematic terms, and in particular, councils raised the importance of issues such as shared services—where the roles of LGV and/or MAV are significant in identifying opportunities and bringing parties together—and in asset management and councillor conduct advice. The responses from several councils—both from officers and mayors—stressed the value of support in the areas of councillor training and conduct. This is an area where many councils seek additional advice and input and the authority of an external third party in providing guidance. It appears that both MAV and LGV are involved in providing advice around councillor conduct, but the balance of comment appears to indicate a desire for a greater LGV lead and guidance to build councillor capacity.

Where costs can be applied, and apart from some notable outliers, values attributed are modest. Despite this, there were a number of comments questioning the value of MAV membership, particularly from smaller, rural shire councils. There appears to be a genuine difference of opinion about the role that MAV should take in industrial relations. Comment was not solicited in this specific area, but comment was made by councils both in support of greater MAV involvement, and also in suggesting that MAV's role should be reduced or removed entirely.

Key themes raised by councils included requests for greater support for non-metropolitan councils, more specialised or tailored services, and more information or support relating to shared services.

## Mayoral comments

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Mayoral comments varied in response to a question on the effectiveness of LGV and MAV. Sixty mayors provided comments and they displayed a wide range of views about the effectiveness of both organisations. This clearly indicates there is not a consistent view among Victoria's mayors.

A number of mayors expressed views relating to issues of rural representation, access to support services for non-metropolitan councils, and the value received by those councils, particularly in relation to their MAV membership subscription. However, there was also recognition of the difficulties faced in meeting very diverse needs.

There was a great deal of positive comment offered by mayors. Some of it was specific to either MAV or LGV, but in many cases it was equally positive about both—identifying their different strengths and values and the ways in which they can work together for the good of the sector.

There were many other comments that were broadly positive about LGV and MAV, though there were also others that were positive about MAV, but either more critical of LGV, or indicated a more distant relationship with LGV than with MAV. Despite this, even when mayors were critical of or had less engagement with LGV, there was often recognition of the value of LGV's role, or of the limitations placed upon it by funding. Moreover, there were examples of councils that are positive about LGV, and less so about MAV. This was often related to concerns about how well MAV represents the interests of small shire councils.

Several mayors raised the issue of MAV's advocacy role and there was a mixture of positive and critical comments.

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## Appendix B.

# *Audit Act 1994* section 16— submissions and comments

### Introduction

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In accordance with section 16A and 16(3) of the *Audit Act 1994*, a copy of this report, or relevant extracts from the report, was provided to the Department of Environment, Land, Water and Planning and the Municipal Association of Victoria with a request for submissions or comments.

The submission and comments provided are not subject to audit nor the evidentiary standards required to reach an audit conclusion. Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Responses were received as follows:

Department of Environment, Land, Water and Planning.....	74
Municipal Association of Victoria.....	78

Further audit comment:

Auditor-General's response to the Chief Executive Officer of the Municipal Association of Victoria.....	85
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**RESPONSE provided by the Secretary, Department of Environment, Land, Water and Planning**



**Department of Environment,  
Land, Water and Planning**

Ref: SEC010984



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17 FEB 2015

Dear Dr Frost

*Peter,*

**PROPOSED PERFORMANCE AUDIT REPORT EFFECTIVENESS OF SUPPORT FOR LOCAL GOVERNMENT**

Thank you for the opportunity to respond to the proposed report on the Effectiveness of Support for Local Government.

The report identifies a range of issues and challenges facing the Department of Environment, Land, Water and Planning in providing effective support for local government.

I am pleased to confirm that the department welcomes the report's findings and accepts all the recommendations.

The action plan to implement your recommendations is enclosed. I am confident that the action plan will drive improvements in the support for local government.

I would like to take this opportunity to recognise the collaborative nature of the engagement between the audit team and Local Government Victoria. This positive engagement has allowed for effective discussions of the issues and the opportunity for different perspectives to be better understood.

Yours sincerely

**Adam Fennessy**  
Secretary

Encl.

**Privacy Statement**

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.





**RESPONSE provided by the Secretary, Department of Environment, Land, Water and Planning – continued**

**DELWP ACTION PLAN**

**Effectiveness of Support for Local Government**

	DELWP Action	Completion Date
<b>Recommendation 1</b>		
<p>That the Department of Environment, Land, Water and Planning (DELWP) as a priority, reviews and determines the Municipal Association of Victoria's (MAV's) functions, roles, responsibilities, powers and obligations through an analysis of its existing legal framework and:</p> <ul style="list-style-type: none"> <li>ensures this is reflected in the <i>Municipal Association Act 1907</i></li> <li>ensures contemporary standards of governance and accountability, are met including the role, function and make-up of the MAV's Board</li> <li>consults with relevant departments to consider whether the <i>Public Administration Act 2004</i>, <i>Financial Management Act 1994</i> and <i>Public Records Act 1973</i> should apply to the MAV either directly or through its enabling legislation</li> <li>assures itself, following any review, that all activities undertaken by the MAV are clearly within its power.</li> </ul>	<p>The Department supports the need to align the MAV's functions and activities with the intended purpose of the <i>Municipal Association Act 1907</i>.</p>	August 2016
	<p>Each of the matters highlighted in Recommendation 1 will be considered in the context of the forthcoming review of the <i>Local Government Act 1989</i> and its related legislation.</p>	
	<p>Relevant departments will be consulted as part of the forthcoming review.</p>	August 2016
<b>Recommendation 10</b>		
<p>That Local Government Victoria (LGV) improves its monitoring, evaluation and reporting on support activities to demonstrate the achievement of intended objectives and outcomes, including in relation to its business plan, and ensures it has relevant and appropriate performance measures, and publicly reports their progress and performance.</p>	<p>Following the Machinery of Government Changes in December 2014, LGV is now a part of the Department and has adopted the DELWP Project Management Policy in its monitoring, evaluation and reporting. These activities are being undertaken in accordance with the guidance contained in the DELWP Project Evaluation Guide. LGV will use DELWP's project management policy and tools to review its performance measures.</p>	December 2015

**RESPONSE provided by the Secretary, Department of Environment, Land, Water and Planning – continued**

<b>Recommendation 11</b>		
That LGV develop processes to seek feedback from councils on the use of its guidance material and website information to identify opportunities for continuous improvement.	<p>Since the audit, LGV has undertaken an evaluation of its Performance Reporting Framework implementation guidance. More than 80 per cent of councils surveyed indicated a high level of satisfaction with the guidance.</p> <p>LGV will implement an annual survey of councils on improvements to its guidance and information provision in addition to seeking feedback on guidance material as part of periodic reviews of individual guides.</p>	September 2015
<b>Recommendation 12</b>		
That LGV and MAV review and document how and when they should work together to ensure the efficient, effective and economic delivery of support to councils, including clarifying roles and responsibilities for support activities and communicate this to councils.	LGV will negotiate with the MAV to specify and document the roles and responsibilities for collaborative activities that ensure the efficient, effective and economic delivery of support to councils, and communicate the outcomes of such negotiations to councils.	July 2015
<b>Recommendation 13</b>		
That LGV and MAV undertake regular joint strategic planning to: share knowledge and intelligence on council needs agree on council support priorities and areas of collaboration agree on an agreed annual work plan between state and local government, and local government peak bodies.	<p>LGV will approach the MAV to undertake a joint strategic planning session to address the needs of councils.</p> <p>LGV supported by the Local Government Interdepartmental Network will continue to work with the MAV to develop the Victorian State-Local Government Agreement workplan. Collaboration opportunities will be pursued through this process. Roles and responsibilities will be clearly specified.</p>	<p>July 2015</p> <p>July 2015</p>

**RESPONSE provided by the Secretary, Department of Environment, Land, Water and Planning – continued**

Recommendation 14		
That LGV routinely monitors the performance of MAV including its compliance with the <i>Municipal Association Act 1907</i> , and advises the Minister for Local Government accordingly.	LGV will more routinely monitor and advise the Minister on the performance of the MAV in accordance with the head of power prescribed in the <i>Municipal Association Act 1907</i> .	Ongoing
	The recommended level of monitoring is higher than currently prescribed in the <i>Municipal Association Act 1907</i> .	August 2016
	As outlined in the response to Recommendation 1, monitoring of the MAV that exceeds the head of power prescribed in the <i>Municipal Association Act 1907</i> will be considered in the context of the forthcoming review of the <i>Local Government Act 1989</i> and its related legislation.	
Recommendation 15		
That LGV actively monitors entities that have been granted approvals under section 186 of the <i>Local Government Act 1989</i> , to ensure they comply with any requirements specified in the approval, and advise the Minister for Local Government accordingly.	The <i>Local Government Act 1989</i> specifies a self-reporting regime for breaches of section 186. The need for more active monitoring will be explored through the forthcoming review of the <i>Local Government Act 1989</i> .	August 2016
	LGV will request councils granted section 186 exemptions to verify that they have accrued the benefits which formed the basis on which the exemption was granted. This will apply to exemptions granted from FY2014-15 onwards.	July 2015



**RESPONSE provided by the Chief Executive Officer, Municipal Association of Victoria**

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20 February 2015

Mr John Doyle  
Auditor-General  
Victorian Auditor General's Office  
Level 24, 35 Collins Street  
Melbourne VIC 3000



Dear Mr Doyle

**Performance Audit Report: Effectiveness of Support for Local Government**

I refer to your letter of 20 February 2015 and the attached draft report on *Effectiveness of Support for Local Government*. The MAV Board wishes to record its view that parts of the report, including parts of the Executive Summary and a number of report conclusions and findings, on which Audit based its recommendations, are not soundly or fairly based.

**Unique**

We recognise that the Audit has also been challenging for VAGO. It has not previously audited either the MAV or any other independent membership organisation. In response to a question at an MAV Board meeting regarding any similar VAGO audit of like organisations, VAGO advised that it had recently audited the Caulfield Racecourse Reserve Trust. We note that the Trust comprises 15 trustees who are appointed by the State to manage a significant public asset on which commercial activities and public needs must be balanced. There is no relevant similarity between the Caulfield Racecourse Reserve Trust and an independent membership organisation comprising all Victorian councils.

It is also apparent that VAGO concentrated on the specific powers expressed in the MAV Act and not the objects that the MAV was established to pursue, which in 1907 language, are 'to promote the efficient carrying out of municipal government throughout the State of Victoria and to watch over and protect the interests, rights and privileges of municipal corporations.' All the services provided and the advocacy undertaken by the MAV clearly and unequivocally fall within these objects.

**Independence of the MAV**

The primary impact of the Audit has been to strengthen the resolve of the MAV to remain an independent membership association, advocating for and providing services to Victorian local government. The *Municipal Association Act 1907*, while out of date in terms of its language and format, clearly provides that the MAV is constituted by representatives of local councils as appointed by those councils. The MAV Management Board, elected by members in accordance with the MAV Rules, is responsible for the conduct of the MAV's activities.



**RESPONSE provided by the Chief Executive Officer, Municipal Association of Victoria – continued**

Audit's recommendation 1 effectively dismisses any role for the Association in the review and determination of its own "functions, roles, responsibilities, powers and obligations". The recommendation does not respect the independence of the MAV or the status of local government as a distinct and separate tier of local government, and is inconsistent with the respectful relationship that has long existed between the MAV and the State Government of Victoria.

Local government is recognised in the *Constitution Act 1975* as:

"a distinct and essential tier of government consisting of democratically elected Councils having the functions and powers that the Parliament considers are necessary to ensure the peace, order and good government of each municipal district".

The advice of Queen's Counsel, provided by MAV to VAGO, is that:

- the Minister does not have power to control the MAV or the MAV Board
- the MAV Act, together with the Rules, make clear that the MAV is controlled by its constituent fee-paying members
- the MAV Act does not provide for any form of control or oversight by the Minister
- it would be an incongruous result if a body established to represent the interests of one tier of government was subject to the control or direction of another tier of government.

The MAV therefore does not accept this recommendation as framed by Audit. In doing so, the MAV stands ready to join with Government in reviewing the MAV Act to ensure that it expressly provides for the MAV to pursue its support and advocacy responsibilities in a contemporary form, while continuing to ensure the independence of the MAV as the peak body for local government in Victoria.

**Effectiveness –Membership Association Governance**

The thrust of much of the Audit has been to assess the effectiveness of MAV processes against a range of legislation and processes that apply to State departments and agencies of government. The independent nature of the MAV is not recognised and, in fact, the first recommendation proposes that the Department of Environment, Land, Water and Planning determine the role and powers of the MAV, including composition of the MAV Board.

In applying an 'agency of government lens' to the operation and activities of the MAV and how it is governed, the Audit inadequately acknowledges the MAV's adherence to key compliance requirements (voluntary Australian Accounting Standards financial reporting, compliance with MAV's Australian Financial Services Licence and annual reporting to the Australian Securities and Investment Commission), and the existence of a broad suite of internal governance practices.

The MAV acknowledges that its focus has been on servicing members and that there are improvements that may be made to a number of governance policies and processes, almost all of which were progressing prior to the Audit as a consequence of MAV's own internal audit recommendations. As a consequence of the VAGO Audit, this internal work has been expedited and the vast majority of improvement opportunities identified by MAV's internal audits and VAGO have either been addressed in their entirety or are being progressed.

**MAV Policies, Procedures & Processes**

With respect to recommendation 2, the MAV has already updated its staff Code of Conduct and its governance policies including Conflict of Interest and Gifts, Benefits and Hospitality to accord with better practice.

**RESPONSE provided by the Chief Executive Officer, Municipal Association of Victoria – continued**

Recommendations 3 and 4 to develop and implement better practice performance management and project management frameworks may infer that MAV does not have either in place. This is not the case. The MAV does have a performance management process for staff and a project management process in place which, although needing better documentation, has served the needs of MAV as a small organisation with a limited budget and a focus on supporting Victoria's councils. However MAV will take action to strengthen both frameworks, including their supporting documentation. The MAV will give consideration to any practical arrangements for board performance reviews, which may be appropriate for a board comprising members elected to represent regions for a two year term.

Recommendation 5 to review the MAV records management policy to align with better practice has been implemented by the Board.

The Board agrees with recommendations 6 and 7 for a review of its internal audit program to ensure it routinely covers all key procedures and controls associated with all aspects of procurement, conflict of interest and fraud and corruption, and improved procurement policies and monitoring. Procurement and conflicts of interest have previously been reviewed by Internal Audit and all but one internal audit recommendation has been completed. The Fraud and Corruption Policy and Fraud and Corruption Control Framework recently approved by the Board provides for the Audit Committee to review fraud and corruption controls, and for all staff to participate in training to prevent fraud and corruption. Neither internal nor external audit of the MAV has ever identified any instance of fraud or corruption and significant internal controls exist to mitigate the risk of this occurring.

The MAV will also implement recommendations 8 and 9 of the Report to improve the monitoring, evaluation and reporting of its support activities and the evaluation of councillor development, training and events. However, the improvements the MAV will put in place will need to be balanced with the performance of its service and support obligations to its member councils.

Recommendations 12 and 13 relates to the manner in which MAV and LGV work together. The MAV supports development of a Memorandum of Understanding to clarify each organisation's roles and responsibilities, and guide any collaborative endeavours. The MOU should also address arrangements to share, where appropriate, knowledge of council needs and areas of potential collaboration. However we do not support the sharing of 'intelligence' about member councils or reaching agreement regarding support activities given that MAV's priorities are driven by member needs incorporated into the MAV's strategic plan or the subject of a State Council resolution. The MAV notes that the Victorian State Local Government Agreement already provides for an annual work plan to be agreed between State and local government.

Recommendation 14, which proposes that LGV routinely monitors the performance of MAV is *ultra vires* – in line with our Queen's Counsel advice, the MAV Act clearly articulates that the performance of the MAV is monitored by its constituent member councils, and the legislation does not provide for oversight by either the Minister or LGV.

Recommendation 15, which suggests that LGV monitor *Local Government Act 1989* section 186 Ministerial approvals to ensure compliance with the conditions of the approval, is supported subject to the process both being applied to all entities which received the exemption, and being an appropriate form of monitoring.

The MAV Board also wishes to record its formal response to specific Audit conclusions and findings in the attached table to address matters raised with VAGO that have not been adequately addressed.



**RESPONSE provided by the Chief Executive Officer, Municipal Association of Victoria – continued**

In closing, we note the Audit finding that councils are overall satisfied with the MAV's identification of their support needs, as well as their engagement with and approval of the MAV's work. In particular, the Audit survey results highlight the high importance members' placed on the MAV operating separately to government, with councils rating the MAV's independence as fundamental in advocating for local government and promoting the sector's interests. In addition, the survey found that the MAV provides more than 80 per cent of support identified by councils and members are satisfied or very satisfied with MAV support.

Yours sincerely



ROB SRENCE  
Chief Executive Officer

**RESPONSE provided by the Chief Executive Officer, Municipal Association of Victoria – continued**

**MAV RESPONSE TO AUDIT CONCLUSIONS AND FINDINGS**

Issue	VAGO Audit	MAV response
<b>MAV functions and oversight</b>		
Role of MAV and role of LGV	Different roles and responsibilities not well defined in Audit	Local Government Victoria (LGV) and the MAV have distinct roles. LGV, as the regulator of local government, provides an oversight role on behalf of the Minister to ensure that councils comply with the <i>Local Government Act 1989</i> . The principal driver of LGV support services is regulation of local government. The MAV provides services and advocacy on behalf of local government and is accountable to its constituent members through an elected Board. MAV members determine MAV priorities including advocacy, training, events, procurement, insurance, grants and policy support activities. Membership of the MAV is discretionary (all 79 Victorian councils are current financial members), and participation in our insurance schemes, financial and procurement, events and other activities are voluntary.
Government oversight	Although it was not intended under the MA Act that the Minister would have the power to direct MAV, the Minister is nevertheless still responsible for the Act's administration. LGV does not actively oversee MAV's performance or compliance with the MA Act, nor proactively provide advice to the Minister.	While the Minister has responsibility for the <i>Municipal Association Act 1907</i> , the Minister does not direct the MAV nor does the MAV Act provide for this role. It is not LGV's role, implied or otherwise, nor does the MAV Act empower LGV to oversight the Association. The MAV, in accordance with the legislation and its Rules, has an elected Board, and a State Council representing all member councils. This governance structure reflects the legislation that MAV is a membership association controlled by its constituent members.
MAV functions and relationship to MAV Act	MAV currently performs a broad range of support functions and it is not clear if all of these functions are within its remit or align with its intended purpose.	The MAV Act, empowers the MAV, through its Rules, to exercise all functions and powers necessary or convenient for it to carry out its objectives, including to promote, advocate and represent the interests of local government. The broad range of support services undertaken by the MAV are formally endorsed by constituent members who govern the Association, and the implementation of activities is overseen by the

Issue	VAGO Audit	MAV response
		MAV Board. The MAV's support services fit within the defined objectives of the MAV.
Statutory body	MAV is a public statutory authority and in a 2004 case the Supreme Court of Victoria determined that it was a body established for public purposes. There is an absence of statutory oversight of the MAV, including several Acts that would ordinarily apply to public bodies.	The MAV is a statutory corporation, however it is one that is concurrently and primarily a membership association governed by its constituent members as empowered under the MAV Act and Rules. The governing legislation provides MAV with the authority to offer insurance services in a competitive market. As a body corporate, the MAV is not identified as a public entity under the Public Administration Act; no direction has been issued by the Minister requiring MAV compliance with the Finance Management Act; and the Keeper of Public Records has formally confirmed that the MAV is not subject to the Public Records Act. In accordance with the governing Act, MAV is accountable to its constituent members, not the Minister or LGV. However, MAV insurance activities and financial accounts are reported annually to the Victorian Parliament.
<b>MAV Governance</b>		
Board oversight and governance	There is no process in place for assessing the MAV Board's performance. It is the responsibility of the MAV Board to ensure there are appropriate alternative governance arrangements in place (...in the absence of the MAV being required to comply with administrative and records management legislation applying to many other public bodies/entities)	The MAV Board is elected by members every two years. The MAV is audited annually by global accounting firm EY (external auditor), while an MAV Internal Audit Committee delivers an audit program on areas of major risk, and its meeting minutes are reviewed quarterly by the MAV Board.
Performance management system for staff	There is no formal performance management system in place for any MAV staff other than the CEO, so it is not clear how staff or	There is a performance management regime in place for the CEO, with the Board assessing the CEO's performance. The performance management model adopted by MAV for all other staff is based on an Enterprise Management Model, incorporating regular performance



**RESPONSE provided by the Chief Executive Officer, Municipal Association of Victoria – continued**

Issue	VAGO Audit	MAV response
	managers are held to account for their performance	assessment and feedback, plus an annual performance review. All staff are held accountable for their performance at an individual and team level, and their work performance is also reported back to members through the annual report documenting how the MAV delivered on its approved strategic work plan.
Project management framework	The MAV does not have an overarching project management framework.	For the projects examined by the Audit, financial reporting and acquittals were completed to funding bodies, and reporting on project activities was greater than was formally required by the funding organisation. The MAV will improve its project management framework to reflect better practice, including documentation of the process.
Corruption and fraud policies	MAV provided fraud awareness training for all staff for the first time in October 2014, and drafted a fraud and corruption policy at the same time. The absence of any training or guidance previously is concerning given MAV manages large procurement and contracts both for itself and on behalf of councils.	The Audit did not identify any instance of fraud or corruption in the course of the Audit, and no internal or external MAV audit has ever identified any such instances either. The MAV staff Code of Conduct, including corruption and fraud, predates the Audit and was previously reviewed in 2011, and more recently in 2014. A new Fraud and Corruption policy was approved by the MAV Board in February 2015, together with a Fraud and Corruption Control Framework based on Australian standards and approved by the MAV's Audit Committee in December 2014.
Gifts, benefits and hospitality	The MAV's Gifts, Benefits and Hospitality Policy is marked as having been established in June 2014. It is unclear how the MAV managed gifts, benefits and hospitality prior to the introduction of this policy	The MAV policy pre-dates the Audit and was reviewed in 2011, as noted in an MAV Internal Audit report, and reviewed again more recently in 2014. The Gifts, Benefits and Hospitality Policy was listed as relevant policy together with the Records Management Policy, Equal Opportunity Policy, Travel and Allowances Policy and OH&S Policy at the end of the 2011 version of the Staff Code of Conduct. The Gifts, Benefits and Hospitality Policy applies to any instance where items are offered to or received by the MAV Board or employees, and immediate family where applicable, if a conflict of interest is raised. A lack of entries in the MAV records by staff reporting a potential, perceived or actual conflict of interest does not offer evidence that the Staff Code of Conduct is not working. The more valid conclusion is that the Code and its processes for declaration are working and that this has minimised the need for

Issue	VAGO Audit	MAV response
		declarations.
Monitoring, Evaluation and Reporting: sources of MAV funding	With the exceptions of MAV Procurement, MAV Insurance, grants and events, MAV cannot link sources of funding with its work activities.	Funding for procurement, events and training; insurance; and project grants are directly linked with project activities. The allocation of core funds derived from other sources (including membership fees) are applied by MAV in accordance with priorities determined and agreed by members and the MAV Board through adoption of an annual Budget which enables implementation of the Strategic Work Plan, State Council resolutions and emerging issues. The capacity to direct resources as new priorities arise is a key requirement of a member association, and robust monthly financial reporting ensures strict oversight of MAV financials by the MAV Board.
<b>MAV Support Services</b>		
Procurement standards	MAV is not subject to legislation or other whole of government requirements related to procurement. MAV is not undertaking procurements consistent with the standards required of councils under the LG Act, despite acting on their behalf	While MAV is not bound by the LGV Best Practice Procurement Guidelines, its procurement procedures are, for the most part, consistent with the guidelines.  Existing MAV procurement controls have not been adequately acknowledged in the Audit report. An Internal MAV Audit Report concluded in 2013 that current controls in place over MAV Procurement are generally adequate. The internal audit report also identified no high risks, nine medium risks and one low risk; and all but one recommendation (relating to data collection) has been acted upon.
Procurement probity	MAV does not have a formal procurement policy in place to guide its procurement activities. Consequently there is limited formal guidance for staff in applying probity standards consistent with better practice.	MAV has comprehensive processes to ensure probity and good practice in its procurement practices. MAV's Procurement Process Overview provides detailed guidance to staff from business case to tender evaluation, appointment of suppliers and contract management. The overview also requires the development of a Tender Evaluation Plan, which includes considerable detail on the requirements for probity and ethics in conducting a procurement tender, the requirements for declaration of conflict of interest, confidentiality and the appointment of a probity adviser.

**RESPONSE provided by the Chief Executive Officer, Municipal Association of Victoria – continued**

Issue	VAGO Audit	MAV response
Procurement conflicts of Interest	<p>Until recently, MAV had insufficient policies, internal mechanisms or processes for assisting staff to manage conflicts of interest.</p> <p>This audit also found insufficient assurance over probity and potential conflicts of interest, which were neither declared nor managed by MAV.</p>	<p>MAV's Procurement Tender Evaluation Plan required all members of the evaluation panel to sign conflict and confidentiality declarations. MAV staff, not being members of the evaluation panel, did not make declarations. The MAV has recently amended the requirement to provide that staff who provide any support to an evaluation panel must also complete conflict and confidentiality declarations.</p> <p>The MAV does not accept it has not managed actual, perceived or potential conflicts of interest by the successful self insurance workcover tenderer. This view is supported by legal advice.</p>
Procurement competitiveness	Audit found issues with the competitiveness of MAV procurement processes, which led it to question whether these support activities provide councils with value for money.	<p>In the case of internal MAV tenders conducted to appoint insurance service providers, the Audit findings lack consideration of all relevant issues, context and history. For Liability Mutual Insurance, Audit relied on the support of a single recommendation in the review of risk management services to inform its findings. More detailed and considered reports commissioned and implemented by MAV to ensure member value were provided to Audit.</p> <p>The tender for a proposed self-insurance workers' compensation scheme occurred in a competitive environment, with an independent Tender Evaluation Panel appointed to choose the preferred supplier. All tenderers were current service providers to local government – the entire basis for their selection for tender. MAV does not believe a perceived or actual conflict of interest existed and has received legal advice that supports this view.</p> <p>All MAV tenders conducted on behalf of councils under the Ministerial exemption have been open tenders. Councils are not obliged to participate, and must individually assess the value of any contract, not</p>

Issue	VAGO Audit	MAV response
		<p>rely on the work of an agent. This is a required obligation in accordance with the 2013 Local Government Best Practice Procurement Guidelines developed by LGV to ensure each council complies with legislation. Assessments undertaken by each council will vary according to whether alternative sources of local supply offer a better value contract option.</p> <p>MAV would support a review of the section 186 Ministerial exemption by LGV. This was only provided to the MAV in July 2014, while similar exemptions have been available to other procurement service providers for the past five years.</p>

## Auditor-General's response to the Chief Executive Officer of the Municipal Association of Victoria

MAV makes a number of comments in its response which I strongly refute. I do not intend to respond to all of the issues raised by MAV as many are covered in detail in my report, which clearly sets out the basis for VAGO's findings, conclusions and recommendations.

Below are comments on a number of specific issues raised by MAV.

### **Audit findings are not soundly or fairly based**

MAV has indicated that it believes the findings and conclusions of the audit are not soundly or fairly based. I strongly disagree.

VAGO performance audits are required to meet the highest standards as set out in the Australian Auditing Standards. These standards require, among other things, that sufficient and appropriate evidence be used to form findings and conclusions. This audit is based on all evidence obtained during the audit and provided by MAV.

Consistent with our standard practice, MAV was provided with numerous opportunities over an eight-month period to both provide comments and evidence in relation to its arrangements and practices, and to respond to the emerging findings and conclusions. Despite these opportunities, MAV was not always able to provide sufficient or appropriate evidence to support its assertions. It did not always answer questions directly or provide information or advice beyond what was strictly requested by VAGO.

MAV was treated fairly by VAGO and provided many opportunities to engage with the audit team and comment on emerging findings and conclusions. Its voluminous responses at each stage were acquitted in detail and discussed with MAV staff. Additional opportunities were provided to MAV to enable it to identify what it claimed were further factual errors. These opportunities were well in excess of VAGO's legal obligations and standard practices and beyond what VAGO has afforded to most other public sector bodies—including LGV in this audit. We provided these further opportunities primarily on the basis that MAV believed there were factual inaccuracies in the report, but also because this was the first time it has been audited by VAGO or indeed ever been subject to an independent public review. VAGO is satisfied that the report is factually correct as it stands, and that it fairly and accurately reflects all evidence provided by MAV during the audit.

### **Policies and practices**

MAV's response states that it has already updated its staff code of conduct and its governance policies including Conflict of Interest and Gifts, Benefits and Hospitality to accord with better practice. It also states that the MAV records management policy has been updated to align with better practice. No evidence has been provided to support these claims.

While MAV has indicated that almost all of the improvements to its policies were progressing prior to the audit, it appears the extent of activity in establishing and finalising these policies was significant and coincided with the period of audit, and was much later than any internal audit recommendations. Irrespective of the driver, it was pleasing to see the concentrated focus over the period of my audit in developing various policies, some of which were established as recently as this month.

### **Fraud and corruption**

VAGO's role is not to identify or investigate instances of fraud and corruption. This is the role of the Independent Broad-Based Anti-Corruption Commission. We have examined the extent to which appropriate controls are in place to deal with systemic issues of fraud and corruption. Where such controls are absent or ineffectively applied, a heightened risk of fraud and corruption in the workplace exists. We have reported our findings accordingly.

### **Procurement practices and Conflicts of interest**

MAV's response states that it does not accept that it has not managed actual, perceived or potential conflict of interest by the successful self-insurance workcover tenderer, and this view is supported by legal advice. The response also states that MAV does not believe a perceived or actual conflict of interest existed and it has received legal advice that supports this view. MAV has not provided any evidence to support these claims.

With regard to probity, MAV's response states that it has comprehensive processes to ensure probity and good practice in its procurement practices. The response also states MAV's existing practices require the development of a Tender Evaluation Plan which includes considerable detail on the requirements for probity and ethics. My report acknowledges that probity is considered in Tender Evaluation Plans and Tender Evaluation Reports, but is clear that this does not cover all stages of the procurement process. My report is also clear on the weaknesses in key areas of probity and conflict of interest in MAV procurement policies and procedures which should be addressed promptly.

### **Acceptance of recommendations**

Unlike other public sector bodies, MAV's response to this audit's recommendations provide neither clear nor consistent responses as to whether it accepts the recommendations and the timing of any specific actions that it will take to address the issues identified. On numerous occasions MAV was advised that its response should set out how it will address the audit recommendations. This reinforces the lack of transparency and accountability for its operations and performance.

Irrespective of MAV's lack of clear acceptance and commitment to timely improvement, I will closely monitor the implementation of these recommendations as part of my follow up program.

# Auditor-General's reports

## Reports tabled during 2014–15

Report title	Date tabled
Technical and Further Education Institutes: Results of the 2013 Audits (2014–15:1)	August 2014
Coordinating Public Transport (2014–15:2)	August 2014
Managing the Environmental Impacts of Transport (2014–15:3)	August 2014
Access to Legal Aid (2014–15:4)	August 2014
Managing Landfills (2014–15:5)	September 2014
Management and Oversight of the Caulfield Racecourse Reserve (2014–15:6)	September 2014
Effectiveness of Catchment Management Authorities (2014–15:7)	September 2014
Heatwave Management: Reducing the Risk to Public Health (2014–15:8)	October 2014
Emergency Response ICT Systems (2014–15:9)	October 2014
Public Sector Performance Measurement and Reporting (2014–15:10)	October 2014
Mental Health Strategies for the Justice System (2014–15:11)	October 2014
Information and Communications Technology Controls Report 2013–14 (2014–15:12)	October 2014
Auditor-General's Report on the Annual Financial Report of the State of Victoria, 2013–14 (2014–15:13)	October 2014
Additional School Costs for Families (2014–15:14)	February 2015
Responses to 2012–13 Performance Audit Recommendations (2014–15:15)	February 2015
Water Entities: Results of the 2013–14 Audits (2014–15:16)	February 2015
Portfolio Departments and Associated Entities: Results of the 2013–14 Audits (2014–15:17)	February 2015
Public Hospitals: Results of the 2013–14 Audits (2014–15:18)	February 2015
Efficiency and Effectiveness of Hospital Services: High-value Equipment (2014–15:19)	February 2015

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