

**Municipal Association Act Review – June 2017
Nillumbik Shire Council submission**

Role and powers		
Proposed reform	Support for proposed reform?	Other comments
<p>1: Replace the preamble with a provision that clearly sets out that the role of MAV is to represent members' interests and be accountable to member councils including:</p> <ul style="list-style-type: none"> • advocating and promoting local government interests • building the capacity of councils • facilitating collaboration and shared services between councils • providing support and advice to local government • providing insurance protection for local government. 	<p><i>Do you support the proposed reforms to the role of the MAV?</i></p> <p>Support</p>	<p>As per the MAV submission, it is also considered that the role should also encompass:</p> <ul style="list-style-type: none"> • Providing services that strengthen the role and functions of the sector • Being the representative body for councils on a state-wide basis • MAV being able to act as a self-insurer under S374 of the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> • The establishment of the Local Government Funding Vehicle • MAV's participation as an employer body in relation to the Local Authorities Superannuation Fund • Grant funded projects with other levels of government
<p>2: Retain MAV's status as a body corporate under the MA Act.</p>	<p><i>Do you support the proposed reforms to MAV's powers as a body corporate?</i></p> <p>Support</p>	
<p>3: Amend MAV's powers to provide that MAV has the power to:</p> <ul style="list-style-type: none"> • do all other things necessary or 	<p>Support</p>	

<p>convenient to be done for or in connection with, or as incidental to, the achievement of its role or the performance of its functions</p> <ul style="list-style-type: none"> • undertake and carry on in Victoria or elsewhere insurance business for the purpose of providing insurance or insurance services under and for the purposes of the MA Act. 		
<p>4: Provide that each council has a right to appoint a councillor from that council as their representative and that these representatives constitute MAV.</p>	<p><i>Do you support making it clear that Council has a right to appoint one of their councillors as an MAV representative?</i></p> <p>Support</p>	<p>The new Act should make it clear that Councils, as entities, and not their appointed representatives are the MAV and what constitutes the MAV – it is simply through their appointed representatives that Councils participate in the MAV</p>
Responsibilities		
<p>5: Insert a provision that provides that the appointed representatives are responsible for:</p> <ul style="list-style-type: none"> • determining the rules of the association • appointing the president and board of management • determining the strategic direction of MAV. 	<p><i>Do you support the inclusion of responsibilities for the appointed representatives?</i></p> <p>Support</p>	<p>There is currently no reference to State Council in the Act. It is considered that State Council should have a legislative foundation.</p>
<p>6: Provide MAV the power to make rules for</p>	<p><i>Do you support the proposal that State Council have the power to make or</i></p>	

the management of MAV.	<i>amend the MAV rules?</i>	
	Support	
7: Provide that a rule that is inconsistent with the Municipal Association Act or contrary to law is of no effect.	Support	
8: Provide that the following matters must be provided for in the rules: annual fees rights, obligations and liabilities of members <ul style="list-style-type: none"> • the election of the President and board of management • procedures for assessing the performance of the board of management and dealing with governance failures. 	Support	Should include 'Regulation of proceedings of the State Council and the management board' as per the MAV's submission.
9: Provide that the rules may be amended, removed or remade if 60 per cent of the representatives vote in favour of the change	Support	Suggest this be altered to clarify a 60% threshold of votes of those representatives in attendance and voting on the motion rather than merely requiring 60% of all representatives.
10: Provide for MAV to have in place a board of management with functions to include: <ul style="list-style-type: none"> • the sound and prudent management of the affairs of MAV • excising the powers of MAV (including the power of delegation) • providing general directions as to the performance of MAV's 	<i>Do you support setting out the functions and responsibilities of the board of management in the MA Act?</i> Support	Functions of the Board should also include: <ul style="list-style-type: none"> • Determine and classify regional groupings of councils • Determine the annual budget and set the subscriptions to be paid by participating member councils • Determine the levels of cover, guarantees and associated matters

<p>functions and the achievement of its objectives</p> <ul style="list-style-type: none"> • reporting on MAV's performance and financial transactions • monitoring the performance of its Chief Executive Officer. 		<p>for all insurance coverage</p> <ul style="list-style-type: none"> • Determine the allowances to be paid to members of the board • The appointment of a CEO for the day-to-day management and administration of the MAV • Develop a strategic plan
<p>11: Provide that the board of management must have mechanisms in place for monitoring the exercise of delegated authority.</p>	Support	
<p>12: Provide that the board of management must have processes in place for dealing with conflicts of interest, misuse of position and the prevention of fraudulent behaviour.</p>	<p><i>Do you support the addition of conduct provisions for the board of management?</i></p> <p>Support</p>	
<p>13: Provide that board members must at all times in the exercise of the functions of their office act:</p> <ul style="list-style-type: none"> • honestly • in good faith in the best interests of MAV • with integrity • in a financially responsible manner • with a reasonable degree of care, diligence and skill • in compliance with the MA Act and MAV • Rules. 	Support	

<p>14: Provide that the board of management may appoint a CEO for the day to day management and administration of MAV.</p>	<p><i>Do you support the requirement for a remuneration policy?</i></p> <p>Support</p>	<p>The Act should provide for the appointment of a Chief Executive Officer</p>
<p>15: Provide that MAV must have in place a CEO remuneration policy that broadly aligns with the Victorian Public Sector Commission's Policy on Executive Remuneration for Public Entities in the Broader Public Sector</p>	<p>Support</p>	
Reporting and Accountability		
<p>16: Insert a provision that provides that MAV must comply with the following principles of sound financial management:</p> <ul style="list-style-type: none"> • manage financial risks prudently, having • regard to economic circumstances • undertake responsible spending and investment for the benefit of member Councils • provide services which are accessible and responsive to local government needs • ensure full, accurate and timely disclosure of • financial information. 	<p><i>Do you support the principles of sound financial management</i></p> <p>Support</p>	<p>Add 'consistently act in an accountable and transparent manner.'</p>
<p>17: Provide that MAV must keep proper accounts and records of MAV's</p>	<p>Support</p>	

transactions and affairs in order to sufficiently explain the financial operations and financial position of MAV		
18: Provide that, within four months after the end of each financial year, MAV must prepare and have independently audited financial statements in accordance with the Australian Accounting Standards. The financial statements must be included in the annual report for the relevant financial year and contain such information as is necessary to give a true and fair view of the financial transactions and state of affairs of the insurance scheme.	Support	
19: Insert a provision that provides that the board of management must develop a strategic plan for the implementation of the strategic direction set by the State Council.	<i>Do you support the increased accountability to the member councils and the minister as set out in the proposed reforms?</i> Support	The Strategic Plan should be developed in consultation with Councils, not just appointed representatives, consistent with earlier comments that the new Act should treat councils as members of the MAV.
20: Provide that MAV must develop an annual report setting out MAV's performance against the objectives set out in the strategic plan.	Support	
21: Provide that, within four months after the end of each financial year, MAV must submit the annual report to the annual general meeting of MAV and lodge with	Support	

<p>the Minister a copy of the annual report to be tabled in both houses of Parliament.</p>		
<p>22: Insert a provision to require MAV to adopt a procurement policy detailing the principles, processes and procedures that will apply to all purchases of goods and services by MAV.</p>	<p><i>Do you support the requirement for the MAV to adopt a procurement policy?</i></p> <p>Support</p>	
<p>23: This procurement policy would need to specify:</p> <ul style="list-style-type: none"> • the circumstances in which MAV will invite tenders or expressions of interest from any person interested in undertaking the contract • the form and manner in which MAV will undertake tenders or expressions of interest • a process to regularly review contractual arrangements to ensure they are achieving value for money • a process to manage conflicts of interest 	<p>Support</p>	
<p>24: Insert a provision to provide that when MAV is carrying out procurement activities on behalf of councils, MAV must provide information to councils on the specifications of the tender and how the tender process was undertaken, and seek to facilitate share service arrangements.</p>	<p>Support</p>	<p>Suggest this be expanded to include a need for transparent and full disclosure of the MAV's costs in running each tender and its income/commission forecast/generated for each contract.</p>

<p>25: Provide that MAV establish an independently chaired internal audit and risk committee to review the effectiveness of MAV's financial reporting and risk management frameworks</p>	<p><i>Do you support the requirement to establish and audit and risk committee as detailed in the proposed reform?</i></p> <p>Support</p>	<p>This reform would place similar requirements on MAV as proposed for councils in the Local Government Review Directions Paper.</p>
<p>26: Retain the requirement for MAV to provide mutual liability insurance for the benefit of Victorian councils and any other sector if expansion of the fund is in the interest of the participating Victorian member councils</p>	<p><i>Do you support the inclusion of a regular review mechanism to assess whether the provisions relating to MAV's insurance functions remain appropriate?</i></p> <p>Support</p>	<p>MAV insurance fund currently provides public liability and professional indemnity insurance to the majority of Councils in Victoria and Tasmania.</p> <p>Retaining this service would benefit Council.</p> <p>The requirement for Council to insure with the fund is optional and Council always has the option to seek open market quotations.</p>
<p>27: Provide that the Minister must ensure a review of the insurance provisions in the MA Act is completed every five years to determine whether the provisions remain appropriate.</p>	<p>Support</p>	<p>The market cycle of liability insurance is longer than five years and the review should consider this.</p>
<p>28: Remove the provisions relating to the fidelity guarantee fund and accident insurance</p>	<p><i>Do you support the inclusion of a prudential supervision framework for MAV's insurance activities?</i></p> <p>Support</p>	<p>Council currently insures for fidelity (Fraud) under an MAV fund.</p>
<p>29: Provide that, in addition to the mandatory</p>	<p>Opposed</p>	<p>If this reform proceeds it is considered that this be the Minister for Finance not</p>

<p>provision of mutual liability insurance, MAV may, subject to Ministerial approval, arrange insurance and receive commissions.</p>		<p>the Minister for Local Government who has no other prudential obligations or responsibilities in relation to insurance or other financial matters.</p> <p>MAV should continue to be able to provide broking services without the approval of the Minister as is provided for in the current Act</p>
<p>30: Provide that in the performance of all of MAV's insurance functions (including mutual liability insurance), MAV be subject to the general direction of the Minister.</p>	<p>Support</p>	<p>The MAV would be concerned if a direction by the Minister disadvantaged the insurance activities of the MAV relative to commercial insurers. If the State proceeds with this reform, then the MAV would support reform 31 on the basis of good governance.</p>
<p>31: Provide that MAV must include in its annual report any directions issued by the Minister and MAV's compliance with each direction.</p>	<p>Support</p>	<p>See above</p>
<p>32: Provide a requirement for MAV to appoint an independent actuary to evaluate the risk and uncertainty associated with MAV's insurance liabilities and provide advice on premium rates, scheme changes and the financial sustainability of each scheme</p>	<p>Support</p>	<p>MAV currently utilises the services of an actuary and this would formalise the arrangement.</p>

<p>33: Provide that, should an insurance scheme be discontinued, the funds after payment of all liabilities and expenses are to be distributed to the contributing members, pro rata based on the sums contributed.</p>	<p>Support</p>	<p>As per the MAV's submission, this reform as currently structured would have unintended consequences and would not provide any additional financial benefits to participating members.</p>
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