

**Victorian State-Local Government Agreement**

Position Paper

March 2014

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This position paper has been prepared by the Municipal Association of Victoria (MAV) after discussion with member councils.

# Introduction

Prior to the last election, the Victorian Government made a commitment to review the Victorian State-Local Government Agreement (VSLGA) to `ensure it fulfils its purpose, has practical significance and provides an overall framework for managing the future relationship between the State and local governments.’

In late November 2013, following consultation with the sector and peak bodies, the Minister for Local Government released a draft VSLGA for consultation.

This position paper sets out the MAV’s response to the draft VSLGA. The MAV has discussed the VSLGA with councils at our regional meetings where, despite diverse views being expressed, there was general consensus that the agreement needs to be reworked to enable practical application and meaning. Following MAV Board endorsement of a draft position paper at its February meeting, the paper was sent to councils for further feedback. This position paper incorporates that feedback.

As the MAV has previously advised, following consultation with councils and further negotiations with the Minister, the MAV will put the government’s proposed final VSLGA to our May 2014 State Council meeting for sector endorsement.

# Background

In November 2003, the House of Representatives Standing Committee on Economics, Finance and Public Administration released its *Rates and Taxes: A Fair Share for Local Government* report. The report found that `local government has, over a number of years, been on the wrong end of cost shifting largely by state governments.’ The report made 18 recommendations, including that an inter-governmental agreement be developed to address cost shifting onto local government. As a result, the *Inter-Governmental Agreement Establishing Principles Guiding Inter-Governmental Relations on Local Government Matters* (IGA) was created.

The IGA sought to address cost shifting onto local government by obtaining in-principle agreement from governments that when a responsibility is devolved to local government, local government is consulted and the financial and other impacts on local government are taken into account. It also intended to improve the relationship and consultation between governments on local government matters. The Commonwealth, each State and Territory and the Australian Local Government Association, on behalf of all councils, were made parties to the agreement.

# The purpose of the VSLGA

When first drafted, the VSLGA was designed to give effect in Victoria to the IGA.

As the embodiment of the IGA in Victoria, the VSLGA should then, at least in part, be assessed against its record of, and ability to, address cost shifting on to local government and facilitate improved relations between state and local government. Feedback from the sector indicates that the success of the VSLGA against these measures has, at best, being patchy.

## Cost shifting

In relation to the VSLGA’s impact on addressing cost shifting, the feedback from councils is unanimous - the current government, like the previous state government, regularly fails to consult with local government on changes that will have a major impact on local government.

Neighbourhood Safer Places, roadside weeds, rural drainage, restricted breed dogs, the fire services levy - these are but a few recent examples where the State has unilaterally decided to place additional responsibilities on councils without providing sufficient funding and support. Too often the State fails to take into account the resource constraints of councils and the impacts its decisions have on the financial sustainability of councils and on local communities.

While there have been instances of strong consultation and engagement, the best examples can usually be credited to established relationships between the sector (including the MAV) and the key state players for specific portfolios, including individual Ministers and senior departmental officers. That is, the VSLGA has not, to date, resulted in a genuine whole-of government commitment to consultation, communication and negotiation with local government prior to making a decision to allocate councils with any new, revised or expanded roles and responsibilities.

### Implementation of the VSLGA (Part 4)

In light of the ongoing failure of the State to properly consult and communicate with local government, the MAV largely supports the proposed revision of Part 4 of the VSLGA, as set out in the draft for consultation.

In particular, we welcome the State making clear its support for the introduction and application of Local Government Impact Statements at Cabinet (paragraph 9(ii)), and for clearly articulating its commitment to consult with local government on any change to the legislative framework that impacts on local government (paragraph 13). We view both undertakings as critically important and therefore ask that paragraph 13 be moved, along with paragraph 12, to the top of Part 4, so that there can be no mistaking that these are high priority implementation actions. We also ask that the commitment to consult with local government (paragraph 13) be extended to include any change to funding arrangements (in addition to any change to a legislative framework).

It’s also important that any reference to a specific program that is to be delivered by the sector, such as the Local Government Reform Agenda and the Single Funding Agreement, is amended to make clear that that program must be first agreed to by local government. This can be addressed by simply adding the words “an agreed” before each program, for example “… to deliver *an agreed* Local Government Reform Agenda…”

We note the reference to Appendix A at paragraph 10 and ask that both that paragraph and the appendix itself be removed from the VSLGA. It is the MAV’s position that the mechanisms currently listed in Appendix A are not necessarily best practice examples relevant to the VSLGA, in that they are variously:

* not truly representative of the sector;
* not focused on local government issues per se; or
* provide limited, or no, opportunity to genuinely influence Government policy.

The sector receives little, if any, formal feedback from these groups in terms of their priorities, actions and achievements.

We are also concerned that inclusion of a list of existing mechanisms within the VSLGA may act as a disincentive to reform those mechanisms or to introduce new, better, mechanisms.

Councils have also requested that an additional paragraph be included that commits the State to improving its whole-of-government approach to planning and strategy in order to achieve integrated outcomes at the local level. Too frequently councils witness state departments and agencies acting independently, without regard to or coordination with the plans and actions of other departments.

Finally, we suggest that the title of Part 4 be simplified so that it reads: “Implementation of the VSLGA.”

## Improved state and local government relations

### Objective of the VSLGA (Part 1)

While we agree that achieving positive outcomes for the community is, and should be, the primary focus of both state and local government, we believe that the stated objective of the VSLGA (Part 1) needs to be reworked to make clearer the agreement’s practical significance.

In the MAV’s view, the real value of the VSLGA is that it sets, or should set, the minimum standards for engagement by the state with local government and also provide the framework for relations between the two tiers of government.

It is our belief that the stated objective of the agreement should be simplified to something along the lines of:

`The objective of the VSLGA is to encourage the conduct of positive and productive relations between state and local government by committing to improved and sustained levels of communication, consultation and cooperation.’

Subparagraphs (ii) to (v) could then be listed as measures to progress social, economic and environmental outcomes for Victoria’s communities. Subparagraph (v) needs to be reworked to ensure that the State also commits to fostering a culture of continuous improvement.

For example:

*The objective of the VSLGA is to encourage the conduct of positive and productive relations between state and local government by committing to improved and sustained levels of communication, consultation and cooperation*

*State and local government are committed to progressing social, economic and environmental outcomes for Victoria’s communities by:*

* *improving coordination and strategic planning of government services and functions at the local level;*
* *strengthening the capacity of local government to provide services and functions;*
* *promoting greater transparency and accountability between state and local government; and*
* *fostering a culture of continuous improvement to enhance the performance of both levels of government.*

### Application of the VSLGA (Part 3)

In order to improve clarity about who the VSLGA applies to, we ask that Part 3 “Application of the VSLGA” appears immediately after the Preamble (i.e. become Part 1). From a local government perspective, it’s critical that it’s made clear early in the agreement that the agreement applies equally to state and local government, and that is applies to all of state government. If the State continues to not abide by the agreement, its intent and application is meaningless.

We believe paragraph 7 could be improved by reworking as follows:

“The VSLGA applies to arrangements where the State:

* intends for local government to administer or enforce new or revised primary legislation or regulation, or act as an agent and deliver services on its behalf
* is, or intends to, partner with local government to deliver programs
* is, or intends to, fund local government to deliver a program
* may be affected by the relationship between the Commonwealth Government and local government.

Paragraph 8 should be strengthened by amending it to read: `The VSLGA is not a legally binding agreement, however it is an agreement negotiated and entered into in good faith by the parties and shall be respected accordingly.’

### Evaluation and review (Part 5)

In order to ensure the VSLGA retains currency and value, it is critical that compliance with the agreement is properly monitored and evaluated on a regular and transparent basis. There needs to be accountability. Paragraph 14, as currently drafted, will not achieve this.

Noting our earlier comment in relation to the appendix (namely, that we believe it should be deleted), we urge the State to redraft Part 5 to:

* remove subparagraph (i)
* rework subparagraph (ii) to formalise reporting on the VSLGA, by having the State (through LGV) seek six-monthly written feedback from the MAV regarding successes and failures of parties to work in accordance with the VSLGA
* rework subparagraph (iii) to provide that the Minister for Local Government writes to Cabinet colleagues each year reminding them of their obligation to adhere to the VSLGA

# Conclusion

The MAV welcomes the Government’s review of the VSLGA and supports the Minister’s resolve to ensure the agreement `fulfils its purpose, has practical significance and provides an overall framework for managing the future relationship between the State and local governments.’

While the draft for consultation is, we believe, an improvement on the previous version, further work is needed in order to make the agreement a document of meaning and value.

Despite being in existence since 2008, the VSLGA continues to have, in our view, little or no status across much of the State Government. There are likely several reasons for this, including:

* lack of awareness (and lack of promotion) of the agreement outside of Local Government Victoria (LGV)
* the perception that the agreement is full of motherhood statements and irrelevant to operational and strategic decision making; and
* the lack of consequences if and when the agreement is ignored.

We urge the State to modify the agreement further as outlined above and to have the Premier be the State’s signatory to make clear it has the highest level of support within the State Government.