

#14

COMPLETE

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Page 2: Submitter Details

Q1

If wish to upload a file as part of your submission, please upload it here.

East Gippsland MAV Directions Paper Submission.pdf [REDACTED]

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Q2

Submitter details

Full name of submitter (officer or councillor) [REDACTED]

Email Address [REDACTED]

Phone Number [REDACTED]

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Q3

East Gippsland Shire Council

Council (if applicable)

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Q4

Yes

Is this submission being made as a council submission?

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Page 3: Privacy Collection notice

Q5

Publish my submission with only my organisation's name included

How would you like your submission to be managed?

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Q6

I agree with the privacy collection notice

Refer to the collection notice on this page

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Page 4: Rules affecting the Office of the President

**Q7** **I do not support this option.**

Nominating for PresidentThe preferred option is to retain current arrangements and require councillors nominating for the office of MAV President to be the nominated MAV representative of their Council. Please indicate:

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**Q8**  
Please include any comments about this option.

East Gippsland Shire Council resolved that any Councillor from a member Council should be able to nominate for the MAV Board and the position of President. Council is of the view that there should be a distinction between the MAV representative and MAV Board Members. The two functions require different skill sets.

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**Q9** **I do not support this option.**

The President's term in officeThe preferred option is to continue two year presidential terms in office but to change the MAV Rules to require member Councils to commit to two year memberships, payable in two annual installments. Please indicate:

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**Q10**  
Please include any comments about this option.

East Gippsland Shire Council resolved that the term of MAV President should be a yearly appointment for a maximum of four consecutive years. An annual appointment for MAV President ensures that if the person is not connecting with members or is unable to build relationships with State and Commonwealth Government they can be replaced.

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**Q11** **I do not support this option.**

The President's tenureThe preferred option is to change MAV Rules to cap the tenure of a MAV President at four consecutive two year terms. Please indicate:

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**Q12**  
Please include any comments about this option.

East Gippsland Shire Council resolved to support the capping of the tenure of the MAV President; however the tenure of MAV President should be a for a maximum of four consecutive years.

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**Q13**

**I only support option 1.**

Electing a Board  
Option 1. Maintain an equal number of regional groupings of rural and metropolitan Councils for the purpose of electing MAV representatives to the MAV Board.  
Option 2. Maintain an equal number of Board members from rural and metropolitan members, and conduct "at large" elections, using a proportional representation electoral model in the metropolitan area and maintain regional groupings for regional and rural Victoria.  
Please indicate:

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**Q14**

Please include any comments about this option.

East Gippsland Shire Council are of the view that it is important to ensure a mix of council types on the MAV Board (Metro, Rural and Regional) as well as a diversity of Board members.

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**Q15**

**I support this option.**

Size of the Board  
The preferred option is to reduce the number of elected Board members from 12 to 10 (not including the President). Please indicate:

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**Q16**

Please include any comments about this option.

East Gippsland Shire Council supports this option on the basis that regional and rural Council's representation is not diminished.

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**Q17**

**I am unsure about this option.**

Term and tenure of Board members  
The preferred option is Two year Board terms, capped at four (4) consecutive terms. Board members who are no longer their Council's MAV representative may complete their term of office. Councils be encouraged to reappoint their MAV representative when that representative has been elected to the Board. Please indicate:

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**Q18**

Please include any comments about this option.

East Gippsland Shire Council does not support the 2 year x 4 terms, but is supportive of there being capped terms.

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**Q19**

**I support this option.**

Interim Board arrangements. The preferred option is: The concept of an Interim Board be abolished. The concept of a "significant decision", as defined in the current MAV Rules be abolished and such matters be resolved by a simple majority vote. In the event that the Immediate Past President is no longer a Councillor, the MAV President, for the period between local government General Elections being declared and the MAV Presidential elections should be the Immediate Past Deputy President from the same general grouping of the Immediate Past President (Metropolitan or Rural) and if that Immediate Past Deputy President was no longer a Councillor, the other Immediate Past Deputy President would be appointed as President. If both Immediate Past Deputy Presidents were no longer a Councillor, the Board would elect a President from the remaining members of the Board. MAV Rules be amended to make suitable provisions for securing a Board quorum in the event that fewer than a quorum of members of the Board, who were in office immediately prior to the Council General Elections, have been re-elected as Councillors or have not resigned their positions as MAV President or Board members.

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**Q20**

Please include any comments about this option.

East Gippsland Shire Council broadly supports the idea of continuing with current MAV Board members until new elections are held.

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Page 6: Rules affecting State Council

**Q21**

**I support this option.**

State Council making Policy The preferred option is to make changes to MAV Rules which: Empower the MAV Board to ensure that member proposals for State Council: Are of state-wide significance to local government. Respond to important emerging issues which require the MAV to have clearly adopted positions. Have a significant and clear connection with the adopted MAV Strategy. Are reviewed by the MAV Board and consolidated, amended or modified when broadly dealing with similar subject matter to other member proposals. Require member Councils to provide notice of member proposals not less than 60 days before the meeting. Require the MAV to provide member Councils with the agenda for State Council meetings not less than 30 days before the meeting.

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**Q22**

**Respondent skipped this question**

Please include any comments about this option.

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**Q23**

**I support this option.**

Empower the MAV Board to place Board motions on the agenda of State Council meetings.

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**Q24**

**Respondent skipped this question**

Please include any comments about this option.

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**Q25**

**I support this option.**

Plural or weighted voting. The preferred option is to abolish plural voting.

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**Q26**

**Respondent skipped this question**

Please include any comments about this option.

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**Q27**

**I support this option.**

High standards of ethical behaviour. The preferred option is for MAV Rules changes to prescribe how members of State Council will declare and manage conflicts of interest and to require the establishment and operation of a MAV Audit and Risk Committee.

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**Q28**

**Respondent skipped this question**

Please include any comments about this option.

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**Q29**

**I support this option.**

Councils discontinuing their MAV financial membership. The preferred option in relation to Councils who wish to discontinue their financial membership of the MAV is: To require six months' notice of that decision to be provided, and To retain MAV Rules that exclude a non-participating Council member from the services or functions of the MAV except where the MAV CEO has agreed to provide selected services under special fee-for-service arrangements.

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**Q30**

Please include any comments about this option.

East Gippsland Shire Council also wants to ensure that the MAV make every effort to maintain 100% membership.

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## 5.1.1 Municipal Association of Victoria Rules Review 2021-22: Directions Paper

Authorised by Chief Executive Officer

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### Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

### Executive Summary

This report is presented for Council to consider the recently released '*Municipal Association of Victoria (MAV) Rules Review 2021-22: Directions Paper*' (the Paper), provided at **Attachment 1** and determine whether Council wish to make a submission on the Paper.

The Directions Paper has been developed following feedback from the Discussion Paper released in December 2021. The Directions Paper presents the proposed changes to the MAV Rules that will be tabled for debate at the forthcoming MAV State Council Meeting.

Council provided a submission on the Discussion Paper. The Directions Paper identifies 14 items or proposed rule changes/updates. Eight aligned with Council's submission on the Discussion Paper, four partially aligned and 2 did not align. The matters that did not align related to the who could nominate for MAV President and the term of the MAV President.

### Officer Recommendation

#### ***That Council:***

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. provides a further submission to the MAV based on the proposed options outlined in the Paper, which provides a platform to debate the review at the MAV State Council Meeting.***

### Background

An extensive consultative process on the Municipal Association of Victoria (MAV) Rules took place between November 2021 and February 2022. Working with the President, the Board and MAV Management Executive, the consulting team engaged with MAV representatives, Mayors, Councillors, CEOs, and Governance officers. The purpose of the engagement was to generate conversations about possible MAV Rule changes.

The consultative process included:

- 170 people representing 55 Councils taking part in online briefings and small round table conversations;
- 5 council briefings attended by the consulting team; and
- 34, or 43% of MAV's member Councils provided a submission.

Based on this consultation, a Directions Paper was developed outlining options for updating the MAV Rules.

A comparative summary table between the proposed rules changes/amendments and Council's submission on the Discussion Paper is provided at **Attachment 2**.

The following areas need Council consideration:

**1. Nominating for President** – The MAV’s preferred option is to retain current arrangements and require Councillors nominating for the office of MAV President to be the nominated MAV representative of their council.

The preferred option **does not support Council’s position** in that it has maintained the requirement to be the MAV representative to stand for President. Council was seeking to separate MAV representation from MAV Board Membership, two potentially vastly different skill sets.

**2. President’s Term of Office** – The MAV’s preferred option is to continue two-year presidential terms in office but to change the MAV Rules to require member councils to commit to two (2) year memberships payable in two annual instalments.

The preferred option **does not support Council’s position** in that Council was seeking an annual appointment process of the President.

**3. President’s Tenure** – The MAV’s preferred option is to cap the tenure of a MAV President at four (4) consecutive two (2) year terms.

The preferred option **partially supports Council’s view** of a capped term; however, the number of terms (four) may be greater than what had envisaged.

**4. Term and Tenure of Board Members** – The MAV’s preferred option is two (2) year Board terms, capped at four (4) consecutive terms.

The preferred option **partially supports Council’s position** of a capped term; however, the number of terms (four) may be greater than what had envisaged.

**5. Interim Board Arrangements** – The MAV’s preferred options are to abolish the concept of an Interim Board, to abolish the notion of significant decisions and to provide new Rules for that period after the local government General Elections and before the MAV elections.

The preferred option **partially aligns to Council’s position** of maintaining caretaker provisions in some form, although there is concern about the abolishment of the notion of significant issues that is long held convention for many Boards including Council’s.

**6. State Council Making Policy** – The MAV’s preferred options Empower the MAV Board to ensure that member proposals for State Council and Empower the MAV Board to place Board motions on the agenda of State Council meetings.

The preferred option **partially aligns with Council’s position** in that it recognises the need for an overhaul of the MAV State motion process to ensure the MAV can focus on the key issues for local government. This change would give power to the MAV Board to determine what motions ultimately are to be tabled at the MAV State Council Meeting. Current practice allows for consolidation, but not removal unless a motion is not aligned to the MAV Strategic Plan.

## Legislation

As of 1 July 2021, all provisions of the *Local Government Act 2020* (the Act) commenced. Some provisions of the *Local Government Act 1989*, that have not been repealed, will remain applicable until such time as they are revoked.

This report has been prepared in accordance with *Local Government Act 2020*.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

In preparing this report the Victorian *Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the *Gender Equality Act 2020*. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the *Gender Equality Act 2020*.

### **Collaborative procurement**

Not applicable.

### **Council Plan**

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 5: 5.2 Strong relationships with government, partners and stakeholders are maintained and strengthened to advocate for the community.

### **Council Policy**

Not applicable.

### **Options**

Council has the following options:

1. Provide a submission on the MAV rule changes proposed in the Directions Paper that do not align to Council's resolved position (**Preferred**); or
2. Provide a submission on the MAV rule changes proposed in the Directions Paper as directed by Council; or
3. Do not provide a submission, but provide input into the proposed MAV rule changes at the forthcoming MAV State Council Meeting; or
4. Do not provide any further input into the MAV rules review.

### **Resourcing**

#### *Financial*

Council is a financial member of the MAV. The membership is based on a formula taking into account population and is currently \$47,000 for the 2021/22 financial year.

#### *Human Resources*



Not applicable.

### *Risk*

The risks of this proposal have been considered. Not having a peak body operating to its maximum effectiveness is a risk that can be averted by actively engaging in the review process as proposed in this report.

### **Economic**

Not applicable.

### **Social**

Not applicable.

### *Gender Impact Statement*

Not applicable.

### **Environmental**

Not applicable.

### *Climate change*

This report has been prepared and aligned with the following Climate Change function/category:

This report is assessed as having no direct impact on climate change.

### **Engagement**

Councillors have been engaged in the development of the response to the paper.

### **Attachments**

1. MAV Rules Review 2021-22 Directions Paper [5.1.1.1 - 24 pages]
2. Comparative Summary Table [5.1.1.2 - 6 pages]

## 5.1.1 Municipal Association of Victoria Rules Review 2021-22: Directions Paper

Authorised by Chief Executive Officer

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### **Conflict of Interest**

Officers preparing this report have no conflict of interest to declare.

### **Executive Summary**

This report is presented for Council to consider the recently released '*Municipal Association of Victoria (MAV) Rules Review 2021-22: Directions Paper*' (the Paper), provided at **Attachment 1** and determine whether Council wish to make a submission on the Paper.

The Directions Paper has been developed following feedback from the Discussion Paper released in December 2021. The Directions Paper presents the proposed changes to the MAV Rules that will be tabled for debate at the forthcoming MAV State Council Meeting.

Council provided a submission on the Discussion Paper. The Directions Paper identifies 14 items or proposed rule changes/updates. Eight aligned with Council's submission on the Discussion Paper, four partially aligned and 2 did not align. The matters that did not align related to the who could nominate for MAV President and the term of the MAV President.

### **Motion**

***Cr Arthur Allen / Cr Tom Crook***

#### ***That Council:***

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. provides a further submission to the MAV based on the proposed options outlined in the Paper, which provides a platform to debate the review at the MAV State Council Meeting.***

**CARRIED**

The Directions Paper outlines the proposed rule changes to be taken to the MAV State Council Meeting. A summary of directions is included in the Directions Paper and copied below for ease of reference, with additional columns added to compare against Council's submission on the Discussion Paper.

The table is coloured coded:

- **Green** – Supports Council's position
- **Orange** – Partially supports Council's position
- **Grey** – Does not support Council's position

Area of Rules	Preferred Options and Directions	Council's Submission	Comments
Nominating for President	The preferred option is to retain current arrangements and require councillors nominating for the office of MAV President to be the nominated MAV representative of their council.	No. If as outlined in the discussion paper the MAV Board is seeking to develop into a skills-based Board, then separating MAV representation from being a MAV Board member is an important distinction. Any councillor from a member council should be able to nominate to be on the MAV Board.	The preferred option does not support Council's position in that it has maintained the requirement to be the MAV representative to stand for President.
President's term in office	The preferred option is to continue two-year presidential terms in office but to change the MAV Rules to require member councils to commit to two (2) year memberships payable in two annual instalments.	No. The term of President should be a yearly appointment for a maximum of four consecutive years. An annual appointment for President ensures that if the person is not connecting with members or is unable to build relationships with State and Commonwealth Government they can be replaced.	The preferred option does not support Council's position.
President's tenure	The preferred option is to change MAV Rules and to cap the tenure of a MAV President at four (4) consecutive two (2) year terms.	Yes. Capping the number of sequential terms ensures new ideas, approaches and connections are maximised through the President's position.	The preferred option supports Council's position. However, the number of consecutive terms (four) may not be what Councillors envisaged.
Electing a Board	Option 1 is to maintain an equal number of regional groupings of rural and metropolitan councils for the purpose of electing MAV representatives to the MAV Board.	Potentially. However, this would depend on who puts up their hand to be on the Board and the skill mix that this brings to the Board. There needs to be a distinction and separation between MAV	Option 1 supports Council's position.

Area of Rules	Preferred Options and Directions	Council's Submission	Comments
	<p>Option 2 is to maintain an equal number of Board members from rural and metropolitan members, but to conduct "at large" elections, using a proportional representation electoral model in the metropolitan area whilst maintaining regional groupings amongst regional and rural councils.</p>	<p>Representatives from member councils and MAV Board members who would have specific duties and functions for operating a large, complex organisation.</p> <p>What is important is to ensure a mix of council types on the Board (Metro, Rural and Regional) as well as diversity of Board members.</p> <p>The issue of strategic plan priorities vs State Council motions needs to be resolved. This would help focus the Board's attention on the agreed priorities.</p> <p>No. It is important that the MAV Board is representative of different Councils in Victoria.</p>	
<p>Skills-based Board members</p>	<p>The preferred option is to maintain current arrangements whereby members of the MAV Board are all elected members.</p>	<p>Maybe, but contingent on it not being at the cost of a council, financial member position. There would need to be careful criteria set up to ensure that disaffected council election candidates or 'want to be councillors' were not inadvertently appointed to the Board. It may be better to co-opt people with relevant skills as and when required.</p> <p>The Board also needs to assess carefully what commercial activities it gets involved in. The recent MAV Workcover Insurance Program has demonstrated a need to carefully consider activities and the potential financial impact to members if the MAV moves into areas without due skill or</p>	<p>The preferred option supports Council's view of ensuring no Council positions are lost to skills-based members.</p> <p>The preferred option indicates that skills-based positions could be utilised in the subsidiary committees.</p>

Area of Rules	Preferred Options and Directions	Council's Submission	Comments
		consideration. Skill based members may assist in this assessment.	
Size of Board	The preferred option is to reduce the number of elected Board members from twelve to ten (not including the President).	Yes. There needs to be a separation as outlined previously between MAV Board membership and council MAV Representatives.	The preferred option broadly supports Council's position.
Term and tenure of Board Members	<p>The preferred option is:</p> <ul style="list-style-type: none"> <li>Two (2) year Board terms, capped at four (4) consecutive terms.</li> <li>Board members who are no longer their council's MAV Representative may complete their term of office.</li> <li>Councils be encouraged to reappoint their MAV representative when that representative has been elected to the Board.</li> </ul>	<p>Yes. A four-year term and maximum of two consecutive terms should be applied to all Board positions.</p> <p>It will depend on Board composition. Separation between representation and Board membership is a key structural change that needs to be explored and determined as previously outlined.</p>	The preferred option supports Council's view of a capped term. However, the number of terms (four) may be greater than what Councillors had envisaged.
Interim Board arrangements	<p>The preferred options are:</p> <ul style="list-style-type: none"> <li>To abolish the concept of an Interim Board,</li> <li>To abolish the notion of significant decisions and allow the Board to make all decisions on a simple majority vote, and</li> <li>To provide new Rules for that period after the local government General Elections and before the MAV elections for President and Board which will clarify who would be the President during this period and what would occur in the event that a Board quorum didn't result from the council elections process.</li> </ul>	<p>It will depend on how the Board is ultimately structured. If the MAV Board aligns with council elections, then caretaker provisions should be in place to allow the organisation to function accordingly. Not dissimilar to how Councils operate now although the timings may be longer.</p> <p>If vacancies occur due to election results, assuming a quorum can be maintained, then the Board could continue to operate. Whatever occurs it needs to be simple and not create work for the organisation, taking people away from the key tasks and priorities at hand.</p>	The preferred options broadly support the view of Council, given that the suggested approach is to continue with the Board membership until new MAV elections occur.
Board performance and accountability	The preferred option is that MAV Rules be	Yes. Any organisation should review its	The preferred option supports Council's view;

Area of Rules	Preferred Options and Directions	Council's Submission	Comments
	<p>changed to require the Board to annually undertake a review of Board performance and to include the results of such reviews in the MAV's Annual Report.</p>	<p>performance on a regular basis. This needs to be done at arms-length and be more than a self-assessment. It should also be timed so there is an opportunity to action any identified weaknesses or issues during the term of the Board. Key performance indicators and key success factors must be agreed and established at the outset to enhance transparency and accountability. In addition, performance also needs to be linked back to State Council Motions and Strategic Plan priorities, and their successful achievement or otherwise.</p>	<p>however, is still separated from State Council Motion implementation performance.</p>
<p>State Council making Policy</p>	<p>The preferred option is to make changes to MAV Rules which:</p> <ol style="list-style-type: none"> <li>1. Empower the MAV Board to ensure that member proposals for State Council: <ul style="list-style-type: none"> <li>• Are of state-wide significance to local government.</li> <li>• Respond to important emerging issues which require the MAV to have clearly adopted positions.</li> <li>• Have a significant and clear connection with the adopted MAV Strategy.</li> <li>• Are reviewed by the MAV Board and consolidated, amended or modified when broadly dealing with similar subject matter to other member proposals.</li> <li>• Require member councils to provide notice of member proposals not less</li> </ul> </li> </ol>	<p>Policy development (including position papers) and better standards for State Council motions are two different issues. The Board should oversee agreed policy work. However, member councils need to be able to raise matters at State Council of importance without significant interference of the Board.</p>	<p>The preferred option generally supports Council's position for the State Council process to be streamlined and more effective.</p>

Area of Rules	Preferred Options and Directions	Council's Submission	Comments
	<p>than sixty days before the meeting.</p> <ul style="list-style-type: none"> <li>Require the MAV to provide member Councils with the agenda for State Council meetings not less than thirty days before the meeting</li> </ul> <p>2. Empower the MAV Board to place Board motions on the agenda of State Council meetings.</p>		
Plural or weighted voting	The preferred option is to abolish plural voting.	No. Equal membership, equal voting, regardless of the formula used to determine annual fee.	The preferred option supports Council's position.
Matters for consideration at State Council	The preferred option is to require member councils to submit matters for consideration at meetings of State Council and to do so by council resolution.	Yes. Any motion to State Council should be a motion from the council not the individual councillor regardless of their representative status. There may also need to be a mechanism for urgent or other business to be dealt with through clear eligibility criteria.	The preferred option supports Council's position.
High standards of ethical behaviour	The preferred option is for MAV Rules change to prescribe how members of State Council will declare and manage conflicts of interest and to require the establishment and operation of an MAV Audit and Risk Committee.	Yes. The <i>Local Government Act 2020</i> would require this regardless, as they would be acting in their role as a Councillor.	The preferred option supports Council's position.
Discontinuing MAV financial membership	<p>The preferred option in relation to councils who wish to discontinue their financial membership of the MAV is:</p> <ul style="list-style-type: none"> <li>To require six months' notice of that decision to be provided, and</li> <li>To retain MAV Rules that exclude a non-participating council member from the services or functions of the</li> </ul>	<p>In our view, every effort should be made to maintain 100% membership.</p> <p>In the event a council wishes to leave the MAV, a notice period could be considered to allow a 'cooling off' period that also allows the MAV to better understand why the council wants to relinquish its</p>	The preferred option broadly supports the Council's position.

Area of Rules	Preferred Options and Directions	Council's Submission	Comments
	<p>MAV except where the MAV CEO has agreed to provide selected services under special fee-for-service arrangements.</p>	<p>membership, any financial implications and possible intervention to prevent departure. This could be linked to the due date of membership fees.</p> <p>Use of services by non-member councils could come at a full cost recovery arrangement.</p>	