

Whole of Victorian Government  
Response to the Final Report of  
the Economic Development and  
Infrastructure Committee's  
Inquiry into Improving Access to  
Victorian Public Sector  
Information and Data

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## Abbreviations

ABS	Australian Bureau of Statistics
ACC	Australian Copyright Council
AGIMO	Australian Government Information Management Office
AGLS	Australian Government Locator Service
ANDS	Australian National Data Service
BiOS	Biological Open Source
CC	Creative Commons
CRC SI	Cooperative Research Centre for Spatial Information
DC	District of Columbia
DIIRD	Department of Innovation, Industry and Regional Development
DSE	Department of Sustainability and Environment
GILF	Government Information Licensing Framework
ICT	Information and Communication Technology
IDC	Inter-Departmental Committee
IMF	Information Management Framework
IP	Intellectual Property
ISO	International Organisation for Standardisation
LSID	Life Science Identifiers
MAV	Municipal Association of Victoria
NEALS	National Education Access Licence for Schools
OSS	Open Source Software
PROV	Public Records Office Victoria
PSI	Public Sector Information
QSIC	Queensland Spatial Information Council
QUT	Queensland University of Technology
R & D	Research and Development
RDF	Resource Description Framework
SC&MC	State Coordination and Management Council
SME	Small and Medium-sized Enterprises
STI	Science and Technology Initiative
VERS	Victorian Electronic Records Strategy
VPS	Victorian Public Service
WoVG	Whole of Victorian Government

## Introduction

The Victorian Government welcomes the final report of the Economic Development and Infrastructure Committee's *Inquiry into Improving Access to Victorian Public Sector Information and Data* as a valuable contribution to its understanding of the potential use of public sector information (PSI). The committee's detailed investigation into the challenges and opportunities involved in providing greater access to public sector data and information is to be commended. The Victorian Government welcomes the opportunity to respond to the committee's recommendations and to contribute to this important discussion.

Information and data are critical to the creation of new ideas and processes and in the development of solutions to key problems. With the development and adoption of new technologies that enable people to access and use information in new ways, the value of information is increasing. Governments are not immune from these changes, and as creators and holders of significant information resources, increased pressure is being placed on governments to make their data and information more open and accessible. In this environment, governments have an important role to play in ensuring that the information they hold is available to businesses, citizens, researchers and other policy-makers.

Open access to PSI fosters creative, innovative and entrepreneurial activities that governments may not anticipate and enhances engagement between citizens and government on critical policy issues and matters of public interest leading to broad economic and social benefits and outcomes. However, in order to enable this innovation governments need to ensure that they provide sufficient information about the PSI held and that it is provided in a form and under conditions that promote innovative re-use in the broadest sense.

The Victorian Government is committed to open government, accountability and greater public participation as articulated in its *Growing Victoria Together* policy. As part of this commitment, the government has made departments more accountable for performance standards set out in each year's Budget Papers. Since 2005, the government has reported to Victorians on how the government has performed via the *Growing Victoria Together* progress report in the Budget Papers. The crucial role that the free flow of information can play in driving innovation across government is also recognised in the Victorian Government's new action plan for innovation in the Victorian Public Service (VPS)<sup>1</sup>.

Reflecting technological developments, the Government has also undertaken significant actions to engage more actively with citizens on particular issues through the use of blogs and other social media and to improve access to PSI. It has already released a broad range of data online including:

- [Maps of local hospitals](#)<sup>2</sup>;
- [Crime statistics](#)<sup>3</sup>;
- [Victorian Water Resources Data Warehouse](#)<sup>4</sup>;

<sup>1</sup> Victorian Government (2009) *VPS Innovation Action Plan*. [http://www.dpc.vic.gov.au/CA256D800027B102/Lookup/VPSInnovationActionPlanPDF/\\$file/VPS%20innovation%20action%20plan%205%20Oct%202009.PDF](http://www.dpc.vic.gov.au/CA256D800027B102/Lookup/VPSInnovationActionPlanPDF/$file/VPS%20innovation%20action%20plan%205%20Oct%202009.PDF)

<sup>2</sup> Victorian Government Department of Health website, <http://www.health.vic.gov.au/maps/index.htm> accessed 8 November 2009.

<sup>3</sup> Victoria Police News website, <http://www.vicpolicenews.com.au/myplace.html>, viewed 8 November 2009.

<sup>4</sup> Victorian Water Resources Data Warehouse, <http://www.vicwaterdata.net>, viewed 8 November 2009.

- [Local Hospital statistics](#)<sup>5</sup>; and
- [Population and household projections](#)<sup>6</sup>.

However, in Victoria a whole-of-government framework has not yet been developed to provide guidance on the release and management of PSI. Instead, the release of PSI has been based on an ad hoc, uncoordinated approach under existing legal or information frameworks. In responding to the committee's report, the Victorian Government has made every effort to put in place, or commit to, processes and activities calculated to create the most amenable environment for the broad and innovative use of PSI.

### ***Initiatives in other jurisdictions***

Managing and enhancing access to PSI is a critical issue being considered by governments around the world and there have been moves internationally to promote the re-use of PSI. A review by the Cooperative Research Centre for Spatial Information at the Queensland University of Technology of the literature on the legal aspects of open access policy, practices and licensing in Australia and other selected jurisdictions identifies the United States and the European Union as jurisdictions that have taken the lead in the development of policies and practices for access to public sector information and data<sup>7</sup>.

As one of the first governments to open up large amounts of data to the public in May 2007 through its [Data Catalogue](#)<sup>8</sup>, the District of Columbia (DC) has seen the development of new applications by its citizens utilising the data it has provided. The DC Government estimates that through its 2008 'Apps for Democracy' competition, 47 iPhone, Facebook and web applications generated an estimated value in excess of US\$2,600,000 to the city.<sup>9</sup>

The Commonwealth Government and other states in Australia are also embracing the shift towards open access to PSI. In December 2008, the Australian Bureau of Statistics announced that it had introduced Creative Commons licensing for most of its website content. Through its *Gov 2.0 Taskforce*, the Commonwealth Government is also exploring these issues and has recently held the MashupAustralia contest to demonstrate the benefits of open access to public sector information.<sup>10</sup>

The committee's recommendations are also consistent with the *Final Report of the Review of Australia's National Innovation System* that recommends Australian governments should adopt international standards of open publishing as far as possible and that material released for public information by Australian governments should be released under a Creative Commons licence.<sup>11</sup>

<sup>5</sup> Victorian Government Department of Health website, <http://www.health.vic.gov.au/yourhospitals/index.htm>, viewed 8 November 2009.

<sup>6</sup> Victorian Government Department of Planning and Community Development website <http://www.dse.vic.gov.au/DSE/dsenres.nsf/LinkView/BD4EF8A400A9E6DECA256D8D00151A4F775206E3E0281595CA256F0E0013C1FB>, viewed 8 November 2009.

<sup>7</sup> Fitzgerald, Anne M. and Hooper, Neale (2009) *A review of the literature on the legal aspects of open access policy, practices and licensing in Australia and selected jurisdictions*.

<sup>8</sup> District of Columbia Data Catalogue website [http://data.octo.dc.gov/Main\\_DataCatalog.aspx?id=316](http://data.octo.dc.gov/Main_DataCatalog.aspx?id=316), viewed 8 November 2009.

<sup>9</sup> District of Columbia, *Apps for Democracy*, <http://www.appsfordemocracy.org/about/>, Viewed 21 October 2009.

<sup>10</sup> Mashup Australia contest, <http://mashupaustralia.org/>, viewed 18 November 2009

<sup>11</sup> Cutler and Company Pty Ltd (2008) *Venturous Australia: Building Strength in Innovation*, Recommendation 7.8 p. 95.

The Queensland Government has been particularly proactive in the area of Creative Commons licensing through the development of the Government Information Licensing Framework (GILF) and earlier work by the Queensland Spatial Information Council (QSIC)<sup>12</sup>. Since the committee published its final report the New Zealand Government has released a draft open access and licensing (NZGOAL) framework on which it is currently inviting feedback<sup>13</sup>.

## ***A commitment to develop an Information Management Framework***

The Victorian Government endorses the committee's overarching recommendation that the default position for the management of PSI should be open access. The Victorian Government further commits to the development of a whole-of-government Information Management Framework (IMF) whereby PSI is made available under Creative Commons licensing by default with a tailored suite of licences for restricted materials.

While the Victorian Government fully supports most of the recommendations in the committee's report, 14 of the 46 recommendations have been given in-principle support reflecting the complexity of the identified issues. These issues will require further consideration in the development and implementation of an IMF.

In particular, the Victorian Government supports making PSI available at no cost or marginal cost but notes that this pricing structure may not be appropriate in all instances. The development of an IMF will include a thorough examination of the nature and costs of servicing current and foreseeable information demands.

Similarly, the committee interpreted PSI broadly as the information and data generated by the Victorian public sector.<sup>14</sup> The IMF will need to clearly define the scope of PSI to be covered including consideration of cultural materials held by the Victorian Government and information *preserved or held by* government (such as in archives and public collections where the government may not be the copyright owner).

The first stage of the development of an IMF will include:

- specifying the scope of PSI to which the IMF applies;
- obtaining further legal advice about the release of PSI and use of appropriate licensing arrangements including use of Creative Commons licensing, where appropriate, as the default licence;
- identifying and categorising datasets created and maintained by the Victorian Government;
- developing a hybrid licensing system that uses Creative Commons as the default licence;
- developing pricing models with no cost/marginal cost as the default;

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<sup>12</sup> Government Information Licensing Framework website *Origins Of GILF*, <http://www.gilf.gov.au/origins-of-gilf>, viewed 8 November 2009

<sup>13</sup> New Zealand Government (2009) Draft New Zealand Government Open Access and Licensing framework (NZGOAL). <http://blog.e.govt.nz/index.php/nzgoal/>

<sup>14</sup> Economic Development and Infrastructure Committee, *Inquiry into Improving Access to Victorian Public Sector Information and Data*, Final Report, June 2009, page 1. For the purposes of this response, PSI does not include software.

- defining and describing criteria under which access to PSI may be restricted, or released under licence; and
- developing governance and funding arrangements for the implementation of the IMF.

A Public Sector Information Inter-departmental Committee will oversee development of the IMF. A decision regarding the nominated agency to lead the first stage will be determined in early 2010.

Reflecting the significant work currently underway in other jurisdictions, the Victorian Government will consult with other jurisdictions that are implementing similar reforms in the development of an IMF for Victoria.

The implementation of an IMF that improves access to PSI will provide the Victorian Government with the opportunity to lead the development of policies and practices for access to public sector information and data in Australia and will help Victoria realise significant economic and social benefits.

### ***Structure of this response***

Reflecting the various issues raised by the committee, the Victorian Government's response has been divided into the following themes:

- Overarching principles (Recommendations 1 - 2 and 20)
- Implementation (Recommendations 3 – 5, 26 – 28, 37 – 38 and 40 – 41)
- Information identification, assessment and management (Recommendations 6, 21 – 25, 29 – 36 and 39)
- Legal Issues (Recommendations 7 – 15)
- Pricing (Recommendations 16 – 19)
- Procurement (Recommendations 42 – 46).

## Overarching principles

The Victorian Government endorses the principle that the default position for the management of PSI should be open access (Recommendation 1). The Victorian Government agrees with the committee's finding that this should be the overarching principle given:

- PSI is a resource created on behalf of all citizens in the day-to-day activities of government and therefore should be accessible to all; and
- The economic and social benefits arising from the release of PSI will generally outweigh the need to restrict access.

The committee interpreted PSI broadly as the information and data generated by the Victorian public sector.<sup>15</sup> The IMF will need to recognise the different characteristics of information and data in determining protocols for its management and release. In particular, it is recognised that governments around the world are beginning to provide access to raw data that are in machine-readable forms. This provides users with maximum flexibility in how it can be used, combined and manipulated and can be an important driver of service and product innovation. By contrast, government-held "information" is generally the result of a process that has already been undertaken to serve a particular purpose. As such the scope for re-use is usually more limited.

As such, the IMF will need to take account of the different forms of PSI and the different requirements that should be applied in order to make it more accessible within and outside government.

The Victorian Government agrees that implementing an open access policy would enhance its role as an information provider to improve social benefits and facilitate commercial activity in the private sector (Recommendation 20). For example, in the US, a large amount of PSI provided for general use by the public is now a key input into high-profile services available world-wide such as [Google Maps](http://www.google.com/maps)<sup>16</sup>, meteorological services and satellite mapping. The benefits to citizens and businesses in the US and world-wide have been significant.

However, as the committee notes, while open access is a desirable principle, there are a number of valid reasons why access to PSI should sometimes be restricted or PSI should be released in a limited form.<sup>17</sup> Examples highlighted by the committee include restricting access on grounds of privacy and confidentiality, often required under legislation; other statutory requirements such as national or state security; third party/contractual arrangements or in order to preserve commercial confidentiality.

Given the range of categories of PSI to which open access might apply and factors to be considered in relation to the default position of open access including copyright and licensing arrangements, information management, use of technologies and associated costs, the Victorian Government agrees with the need to develop a whole-of-government IMF (Recommendation 2).

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<sup>15</sup> Economic Development and Infrastructure Committee, *Inquiry into Improving Access to Victorian Public Sector Information and Data*, Final Report, June 2009, page 1. For the purposes of this response, PSI does not include software.

<sup>16</sup> Google Maps website, <http://maps.google.com/>, viewed 8 November 2009.

<sup>17</sup> Economic Development and Infrastructure Committee, *Inquiry into Improving Access to Victorian Public Sector Information and Data*, Final Report, June 2009, page 36.

The committee's recommendation for the development of an IMF reflects the need for a comprehensive, thoughtful approach to how PSI should be made available and when it must be withheld. In developing and implementing the IMF, the Victorian Government needs to take into account legislative requirements such as those identified by the committee in relation to personal information, privacy and confidentiality – the Information Privacy Act, 2000, the Freedom of Information Act 1982 and the Charter of Human Rights and Responsibilities Act 2006. The IMF will enable an open access policy under which PSI is withheld only subject to criteria to be specified in the IMF. Such criteria might include intellectual property rights, contractual obligations, legislation such as that dealing with privacy, confidentiality or security, and where an overriding public interest requires.

Third party rights existing under contract, including but not limited to commercial confidentiality, and third party intellectual property rights may preclude lawful disclosure of some forms of PSI and will also need to be addressed under the IMF.

Development of an IMF in Victoria would also enable departments to consider longer-term efficiencies and potential economic gains from the release of PSI. However, pricing, legal, copyright and licensing considerations associated with release of PSI will require time, research and consultation between departments and every effort will be made to ensure that the principles articulated by the committee are observed as far as possible. In particular, in relation to the pricing of PSI, detailed consideration will need to be given to the current access costs and established markets for the information. More detail on particular issues and challenges in designing an IMF are discussed in the response below.

## ***Summary of Overarching Recommendation Responses***

**Recommendation 1:** That the Victorian Government release a public statement indicating that it endorses open access as the default position for the management of its public sector information.

**Supported:** The Victorian Government endorses the committee's recommendation in the tabling of this response. Open access to PSI represents an important opportunity for the Victorian Government to increase its engagement with the community and to realise a range of social and economic benefits. The government is committed to improving access to PSI and will seek to bring current activities into a more consistent and comprehensive framework for the release of PSI to ensure it is addressing the varied needs and interests across the community.

**Recommendation 2:** That the Victorian Government develop a whole-of-Government Information Management Framework (IMF) with the following key features:

- that the object of the IMF is to promote and facilitate increased access to and re-use of Victorian public sector information (PSI) by government, citizens, and businesses;
- that the default position of the IMF be that all PSI is made available;
- that the IMF define and describe criteria under which access to PSI may be restricted, or released under licence;

- that PSI made available under the IMF be priced at no cost or marginal cost; and
- that the IMF establish a systematic and consistent whole-of-government methodology for categorisation, storage and management of PSI.

**Supported in-principle:** The Victorian Government gives in-principle support to the recommendation to develop a whole-of-government IMF.

The Victorian Government agrees to adopt the default position that all PSI be made available, noting that there may be instances where legislation (especially legislation dealing with privacy or confidentiality), licensing or other contractual arrangements or an overriding public interest (including security concerns) prevent information from being publicly released. In developing criteria under which access to PSI may be restricted, or released under licence, the Victorian Government will consider the issues raised by the committee and the work already undertaken in other jurisdictions to define necessary exceptions.

The Victorian Government gives in-principle support to a no cost/marginal cost approach to PSI. There are some instances where revenue generated covers the cost of collecting or producing the information and data. It is likely that in developing the IMF and establishing a systematic and consistent whole-of-government methodology for categorisation, storage and management of PSI that a range of pricing models will need to be adopted.

**Recommendation 20:** That the Victorian Government enhance its role as an information provider as a means to improve social benefits and facilitate commercial activity in the private sector.

**Supported:** Open access to PSI has the potential to provide a range of benefits for government and citizens on policy issues, social benefits to citizens through availability to increased information on matters as diverse as health or recreation, and economic gains for the State through creative or enterprising use of PSI by the public and private sectors.

## Implementation

The Victorian Government supports the committee's recommendations relating to development and implementation of an IMF. The committee acknowledges the complexity involved in facilitating greater access to and re-use of PSI and provides logical and practical recommendations for implementing a staged and decentralised approach based on principles of custodianship.

Implementation of an IMF across the Victorian Public Service will be a significant coordination exercise requiring commitment and cooperation of all Victorian Government departments. Implementing the framework will require a significant investment across government from dedicated project funding.

### ***Development of an Information Management Framework***

To address the many complex issues relating to implementation, the IMF will need to:

- specify the scope of PSI to which the IMF applies;
- obtain further legal advice about the release of PSI and use of appropriate licensing arrangements including use of Creative Commons licensing, where appropriate, as the default licence;
- identify and categorising datasets created and maintained by the Victorian Government;
- develop a hybrid licensing system that uses Creative Commons as the default licence;
- develop pricing models with no cost/marginal cost as the default;
- define and describing criteria under which access to PSI may be restricted, or released under licence; and
- develop governance and funding arrangements for the implementation of the IMF.

In undertaking this work, the nominated agency will collaborate with the Department of Innovation, Industry and Regional Development and consult with other Victorian Government departments and agencies. Local government, through the Municipal Association of Victoria (MAV), will also be consulted because the government is interested to extend the application of the IMF under the staged approach recommended by EDIC.

A Public Sector Information Inter-departmental Committee will oversee development of the IMF. An Interim Report on the IMF will be provided to the IDC by September 2010.

The most appropriate arrangements for implementation of the proposed IMF will be considered as part of the IMF development process. Development of the IMF and its subsequent implementation will complement existing initiatives being undertaken by the Victorian Government that promote more open access to information such as the Victorian Electronic Records Strategy (VERS).

The report refers to the UK system including the *Re-use of public sector information regulations 2005*. The Victorian Government acknowledges this as an example that could inform the development of an IMF. The Victorian Government will also consult with agencies from other jurisdictions in the development of an IMF for Victoria.

## ***Summary of Implementation Recommendation Responses***

**Recommendation 3:** That the Victorian Government prospectively apply the Information Management Framework to its public sector information.

**Supported**

**Recommendation 4:** That the Victorian Government adopt a narrow definition for the public sector for the purpose of establishing the government Information Management Framework. Initially this definition should comprise only Victorian Government departments.

**Supported**

**Recommendation 5:** That implementation of the Information Management Framework be conducted via a staged approach, with the executive branch of the Victorian Government leading development of the framework, and encouraging other agencies and entities to adopt similar frameworks, in the following order:

- Victorian Government;
- Parliament of Victoria, the judicial system and statutory authorities; and
- other public sector agencies, including public hospitals and local councils.

**Supported**

**Recommendation 26:** That the Victorian Government develop and implement a custodianship policy as a mechanism to manage its information and data.

**Supported**

**Recommendation 27:** That the custodianship policy be based on the decentralised model where the management of information and data is retained in individual departments.

**Supported**

**Recommendation 28:** That the Victorian Government develop custodianship guidelines to assist departments implement and maintain the custodianship policy.

**Supported**

**Recommendation 37:** That the Victorian Government establish a public sector information steering committee for the purpose of overseeing, guiding and implementing the Victorian Government Information Management Framework.

**Supported**

**Recommendation 38:** That the steering committee be comprised of senior departmental staff; and that it be required to regularly report to the Minister responsible for the Information Management Framework on the framework's implementation.

**Supported**

**Recommendation 40:** That following implementation of the Victorian Government Information Management Framework, the potential benefits to the public, commerce and Victorian public service efficiency be widely promoted.

**Supported**

**Recommendation 41:** That the Victorian Government, through the steering committee, establish a reporting mechanism for the Information Management Framework.

**Supported**

## **Information identification, assessment and management**

The recommendations listed below deal with the format and the processes around managing the discovery and the storage of PSI. The Victorian Government supports the adoption of this set of recommendations.

The release of PSI will require a fundamental shift in how the Victorian Government manages its information and will constitute a significant reform of the Victorian Public Service. The Victorian Government acknowledges that this reform process will have ramifications for resources, departmental processes, structure and budgets.

Implementing the recommendations will require an understanding of their interdependencies. Successful adoption of certain recommendations will require others to be implemented too. For example, in order for the ideal situation of decentralised management of metadata for PSI it is vital that there are sufficient dedicated data managers, that custodians understand and can apply metadata in a meaningful way and that any online systems for storage of data assist in the creation of quality metadata.

Where possible and appropriate, work being done in other jurisdictions will be studied and adopted.

### ***Open standards***

The Victorian Government supports the committee's objectives to ensure that public information and records are accessible in the longer-term. Open standard formats have the potential to increase efficiency of data management and use by supporting greater interoperability and flexibility of information sharing within government, across jurisdictions and by end users. If applied in conjunction with appropriate information standards, they will also enhance archival and conservation activities.

Through the Public Record Office Victoria (PROV), the government has already undertaken extensive work to develop a comprehensive standards and specifications regime that allows government agencies to identify the key requirements for good recordkeeping and access to digital records. This approach is the VERS.

VERS is the prescribed way of capturing, managing and preserving electronic records across the government. VERS is a suite of tools developed to achieve the goals of reliably and authentically archiving electronic records. VERS tools include standards and specifications (built around standard formats and metadata), a set of system requirements, compliance testing for vendor products, training and consultancy. VERS compliance testing is vendor neutral and the VERS requirements may be met by both OSS and proprietary systems. Currently there are eight products available on the market that comply with VERS.

The Victorian Government supports the principle that information is created and managed using metadata and open standard formats. However, the implementation of these standards is not a reason to delay the release of the information to the public. Victorian Government agencies will be encouraged to release PSI even without these standards being in place, with the expectation that these standards be adopted over time.

It is likely that the need to provide access to a greater range of PSI will drive agencies to implement metadata and open standard formats.

## ***Summary of Information Management Recommendation Responses***

**Recommendation 6:** That the Victorian Government, through individual departments, employ a systematic approach to identify materials for release and publish those materials on department websites.

**Supported:** A systematic approach will allow departments to plan and account for release of different types, and different formats, of departmental PSI.

However, work will be required to identify formats and content prior to determining the most appropriate means of making information available. Such work will need to include information audits for each department. However, the Victorian Government recognises that departments can continue to release PSI in advance of formal reviews being undertaken.

The IMF will provide the overarching policy position and provide the criteria and guidelines for departments to assess PSI for release.

The Victorian Government will consider the establishment of a centralised data capture and storage system that would allow easy access to the PSI via a single entry point web page. This could also support publication of data to departmental websites.

**Recommendation 21:** That the Victorian Government require wherever possible that its information and data be stored in open standard formats.

**Supported:** Open standard formats will increase efficiency of data management and use by supporting greater interoperability and flexibility of information within government, across jurisdictions and by end users. They will also enhance archiving and conserving activities.

The Victorian Government also acknowledges the complexity of such a change. Work will need to be done to decide the open formats for different types of data – this can be undertaken during the development of the IMF implementation plan.

The resource and budget ramifications and practicability of converting legacy information into open formats should be addressed in the IMF implementation plan. See also recommendation 42.

**Recommendation 22:** That the Victorian Government develop a policy position and guidelines on the use of open standards for presentation, storage and delivery of public sector information by public sector agencies.

**Supported**

**Recommendation 23:** That the Victorian Government engage with the Australian National Data Service project regarding its potential application to public sector research.

## Supported

**Recommendation 24:** That where appropriate, the Victorian Government release its public sector information in both primary and secondary formats.

**Supported in-principle:** Departmental consultation will be required to define the types of formats that PSI is in. The degree to which this recommendation is implemented and the resource implications of releasing its public sector information in both primary and secondary formats will need to be considered during the development of the IMF implementation plan.

There are likely to be circumstances where this will not always be possible such as where primary data comes from a source outside the VPS.

**Recommendation 25:** That in future, and where possible, the Victorian Government develop and design databases in such a way as to facilitate the removal of identifying information if required.

**Supported in-principle:** If required, and subject to legal requirements under the *Public Records Act 1973*, the Victorian Government will consider designing databases so that information can be viewed in a de-identified way without altering the original record.

**Recommendation 29:** That the Victorian Government prospectively establish metadata records for most public sector information.

## Supported

**Recommendation 30:** That all Victorian Government departments implement the Australian Government Locater Service metadata standard.

**Supported in principle:** The Victorian Government provides in-principle support to adopting the Australian Government Locater Service (AGLS) where appropriate.

The Victorian Government also notes that a range of metadata standards are in use throughout the public service and for some types of information and data another metadata standard will be required. For example metadata records for spatial information are created under the ISO 19115 standard, which has compatibility with AGLS.

It is likely that the AGLS standard will need to be supplemented by other specialised and more detailed metadata standards that go beyond the 19 specified categories of the AGLS.

**Recommendation 31:** That the authoring of metadata be based on the decentralised model where data custodians retain responsibility for the establishment and ongoing management of metadata records.

**Supported:** The Victorian Government notes the potential benefits of a decentralised custodianship model for metadata. This recommendation will need to be considered in conjunction with a range of issues including differing capabilities and uses of metadata throughout government departments as well as the associated costs.

Where feasible, some centralised processes could facilitate the maintenance of the quality of the data.

**Recommendation 32:** That the Victorian Government establish a data management position within each of its departments, which holds responsibility for management and quality assurance of departments' metadata records.

**Supported in-principle:** The Victorian Government supports the development of a data management capability within each of the departments.

The responsibility for management and quality assurance of department's metadata records is likely to be a shared responsibility within departments rather than that of a specified position.

The establishment of such a capability will need to be considered as part of the development of the IMF.

**Recommendation 33:** That the Victorian Government amend the AGLS Victoria: Metadata implementation manual to accommodate requirements of the IMF.

**Supported**

**Recommendation 34:** That the Victorian Government ensure that data custodians and data management officers are provided with adequate training to support the implementation of the Australian Government Locator Service metadata standard.

**Supported**

**Recommendation 35:** That the Victorian Government develop a whole-of-government public sector information (PSI) directory, and that metadata for all new PSI created within the Victorian Government be prospectively added to the directory.

**Supported:** Work done by the Commonwealth to establish a PSI directory will be taken into account in developing a WoVG directory.

**Recommendation 36:** That following development of the whole-of-government public sector information directory, and as resources allow, existing and historical documents and data held by the Victorian Government be added to the directory.

**Supported**

**Recommendation 39:** That the Victorian Government work with other jurisdictions towards national harmonisation in enhancing access to and re-use of PSI.

**Supported:** Consultation with other jurisdictions during the development of the IMF will be undertaken to facilitate national harmonisation in accessing PSI, using existing structures as far as possible

## Legal Issues

The committee raises some important rights management issues associated with broadening access to PSI.

The Victorian Government supports the recommendations in this section. The Victorian Government also acknowledges that there are a range of complex legal issues relating to licensing and that these will need to be fully identified and resolved during the development of an IMF.

These reforms will entail significant modification to current policy and practice across the whole of the Victorian Public Service and for these recommendations to be implemented there will have to be considerable shift in the way the public service creates information and data. It is likely that departments will face substantial challenges that they will need to overcome in order to reform their information management practices.

Recognising the importance of having a coordinated approach to management of Victorian Government intellectual property (IP), the Victorian Government has recently established a centralised capability with responsibility for developing and maintaining IP policy across government. These responsibilities will include the creation of government intellectual property policy and its subsequent management.

The Attorney-General and Department of Justice currently have responsibility for issues of Crown Copyright, as set out in the *Guidelines relating to Victorian Crown Copyright 1991*. These arrangements may need to be reviewed during the development of the IMF.

For these reasons and recognising the necessity for a considered, consistent approach for the management of and access to government owned intellectual property, including material the subject of copyright, the Victorian Government supports Recommendation 7, to obtain legal advice about possible liability or other legal implications that may arise from the release of PSI.

### ***Summary of Information Legal Recommendation Responses***

**Recommendation 7:** That the Victorian Government seek legal advice to ensure it is fully covered for all areas of possible legal action that may arise from the release of public sector information.

**Supported:** The Victorian Government will seek legal advice on areas of possible legal action that may arise from the release of PSI. The Victorian Government also acknowledges that in developing the IMF it will require specialised and detailed legal advice on a wide range of issues in addition to possible legal action.

**Recommendation 8:** That the Victorian government encourage as part of its funding agreements with research agencies and higher education institutions that research results be deposited in open access journals or repositories. The government should consider providing additional funds to these agencies to allow them to publish in open access journals that charge a fee for publication.

**Supported in-principle:** It is important to maximise the benefit to the public from research funded or supported by the government.

The Victorian Government provides funding for a range of research, including commercially-focused research. In many cases, the government does not own the intellectual property arising from this research, if any, but may be in a position to encourage its publication for use by others.

**Recommendation 9:** That the Victorian government encourage divisions operating in the fields of biological innovation and research, including biotechnology development, to consider participating in the BiOS licensing system.

**Supported in-principle:** While the Victorian Government recognises the advantages of the BiOS licensing systems and ease of access to and proliferation of existing patents, further research may be required to clearly establish that this outweighs the commercial incentives behind innovation.

Other biological licensing systems that are currently in use such as Life Science Identifiers (LSID) will need to be considered.

**Recommendation 10:** That the Victorian government encourage departments to identify and publish materials under NEALS to allow these materials to be used freely for educational purposes by Australian schools.

**Supported in-principle:** The existing NEALS framework seems likely to be easier and more cost-efficient to implement than creating a new system. However, due consideration of the broader framework developed under recommendations 11-15 is required to ensure that any licensing under NEALS is consistent with any broader licensing framework that may be developed.

The Victorian Government recognises the importance of the use of PSI in Australian schools. Regardless of whether the NEALS framework is applied the IMF will have the intent of making appropriate information available to schools at no cost.

**Recommendation 11:** That the Victorian government develop a consistent copyright licensing system for use across all government departments.

**Supported:** A consistent approach for copyright licensing should be employed across each department. A consistent approach will not necessarily mean the same approach by each department, but a set of principles that can be consistently applied and would support flexible decision-making about the allocation of IP copyright ownership and the conditions of its licence.

The current 1991 guidelines relating to Victorian Crown copyright will need to be reviewed to determine whether they unduly restrict access to PSI and to substitute more appropriate directions. This review will be undertaken in the light of current best practice and experience, for example in relation to the application of the Creative Commons licensing framework.

**Recommendation 12:** That the Victorian government establish a central office to develop a copyright licensing system, and provide advice to government on government copyright.

**Supported in-principle:** The Victorian Government gives in-principle support to the development of a copyright licensing system and to develop a WOVG capability to provide advice to government on government copyright.

**Recommendation 13:** That exclusive arrangements not be entered into for licensing Victorian government public sector information, excepting exclusive rights necessary to protect the public interest.

**Supported in-principle:** The government agrees in principle with the committee's recommendation to use non-exclusive licensing for publicly-owned data. Non-exclusive arrangements allow greater flexibility, reserve greater control for the government, and are likely to be the preferred starting position for most Victorian government licensing.

However, the government currently has an extensive variety of arrangements for licensing of PSI and decisions about whether and how these can be converted to non-exclusive licences will need to be made on a case-by-case basis.

While the government accepts that it is desirable to have a default licensing position that is non-exclusive, there must also be provision for exemptions in the face of some competing public interest to be made.

For example, it may be in the public interest to grant exclusive licenses in particular circumstances, such as to allow the effective commercialisation of particular PSI.

**Recommendation 14:** That the Victorian government adopt the Creative Commons licensing model as the default licensing system for the Information Management Framework.

**Supported**

**Recommendation 15:** That the Victorian government adopt a hybrid public sector information licensing model comprising Creative Commons and a tailored suite of licences for restricted materials.

**Supported**

## Pricing

The Victorian Government supports the principles of the recommendations pertaining to pricing PSI. There are sound arguments for treating much PSI as merit goods, and there are situations where full cost recovery might undermine innovation and product development, and other government policy objectives.

For these reasons, the IMF should specify a mechanism to periodically define a whole of Victorian Government basic information product set and develop pricing guidelines for the provision of these products.

### ***Summary of Pricing Recommendation Responses***

**Recommendation 16:** That the Victorian Government develop specific guidelines for the pricing of public sector information (PSI), emphasising the provision of PSI at no cost or marginal cost.

**Supported:** A Victorian Government IMF would include pricing guidelines for the provision of Victorian Government information products.

However, there may be instances when a no cost or marginal cost approach is inappropriate.

**Recommendation 17:** That all information and data determined to form part of the Victorian Government's basic information product set, as defined by the Productivity Commission, be priced at no cost or marginal costs.

**Supported in-principle:** The Victorian Government supports in-principle providing a basic information product set priced at no or marginal cost, subject to interdepartmental agreement of the composition of the product set and the application of the IMF pricing guidelines canvassed in recommendation 16. Part of the development of an IMF and its pricing guidelines would be informed by an audit of the nature and expense of servicing current and foreseeable information demands which will help inform approaches to pricing.

**Recommendation 18:** That the Victorian Government reconsider with a view to minimising, if not stopping, the practice of departments charging each other to access and re-use government-owned information and data.

**Supported:** The practice of departments charging each other to access and re-use government-owned information and data will be considered in the development of an IMF.

**Recommendation 19:** That the Victorian Government classify additional information products into three broad categories and price them as follows:

- dissemination of existing products at no cost or marginal cost;
- incremental products (which may involve additional data collection or compilation) at incremental (avoidable) cost; and
- commercial (contestable) products according to competitive neutrality principles.

**Supported in-principle:** The Victorian Government gives in-principle support to classifying additional broad categories with pricing structures that may include those described in Recommendation 19. The adoption of categories of information and a matching price structure will require confirmation that they will cater for the variety of requests for information that may arise.

## Procurement (software)

In addition to considering the application of open content licensing to government information and data, the committee has examined issues surrounding increased use of open source software (OSS) by the Victorian Government.<sup>18</sup> While not strictly related to open access to PSI, the committee has provided a detailed discussion about OSS and its current use across government and in doing so, has covered a range of important issues<sup>19</sup> including:

- the role of open standard formats in the general records management and archiving (Recommendation 42);
- issues relating to the procurement of software by the Victorian Government (Recommendations 43 - 44 and 46); and
- the role of procurement policies in industry development (Recommendation 45).

### **Open standard formats**

While the government provides in-principle support for the committee's recommendation that purchased software is capable of saving files in open standard formats (Recommendation 42), this needs to be considered in the context of VERS, the existing operating systems across government, specific organisational requirements and capacity to support the use of open source formats and industry practice. VERS already mandates a set of standard formats and metadata which enable long term preservation of data with out the need to preserve the software and hardware used to create the data originally. The VERS standard also facilitates interoperability and ensures that the data created by government retains in the control of government and not inextricably linked to the system originally used to create it. Purchased software should support the VERS Standard and it will thereby also meet the recommendations of the committee.

### **Software procurement**

The committee identified: understanding of what OSS is; its possible uses; and the business models that may support, it could potentially be greater across the Government.<sup>20</sup>

The Victorian Government therefore supports the committee's recommendation to improve the understanding of the respective strengths and weaknesses of OSS and proprietary software across the government (Recommendation 43).

The Commonwealth Government has addressed similar issues in its 2005 publication *A Guide to Open Source Software*<sup>21</sup>. The guide provides comprehensive information about OSS including an explanation of what OSS is, outlines concerns associated with OSS and OSS licensing arrangements and includes guidance for the preparation of procurement documentation to assess the value of OSS solutions. The

<sup>18</sup> Economic Development and Infrastructure Committee, *Inquiry Into Improving Access to Victorian Public Sector Information and Data*, Final Report, June 2009, p. 2.

<sup>19</sup> Economic Development and Infrastructure Committee, *Inquiry Into Improving Access to Victorian Public Sector Information and Data*, Final Report, June 2009, Chapter Ten: Open Source Software, pp. 147 – 172.

<sup>20</sup> Economic Development and Infrastructure Committee, *Inquiry Into Improving Access to Victorian Public Sector Information and Data*, Final Report, June 2009, p. 167.

<sup>21</sup> Department of Finance and Administration, *A Guide to Open Source Software (2005)* (<http://www.finance.gov.au/publications/guide-to-open-source-software/index.html>)

Victorian Government will consider the Commonwealth Government's documentation in determining how to improve understanding of OSS in the Victorian context.

The government agrees with the committee that neither OSS nor proprietary software developers should be disadvantaged in government procurement processes (Recommendation 46). Tender documentation should enable both OSS and proprietary software to be accommodated in its terms and conditions. The Government's approach to date has been consistent with this.

While tender documentation may be 'licence neutral', informal practice in the management of tender process may tend to preference proprietary software. Improved awareness of OSS in general will help ensure that tenders are neither OSS or proprietary-software specific, while still remaining consistent with the existing principles of procurement with a particular focus on functionality, ongoing maintenance costs, software security and value for money.

### ***Industry development***

The Victorian Government has a significant history of using ICT procurement as a tool to foster the local ICT industry. As one of the largest purchasers of ICT products and services in Victoria, the government is able to encourage competition and innovation while pursuing value for money and remains committed to do so.

Since 2003, the government has managed an eServices Panel covering specific areas of ICT expertise designed to help Victorian SME ICT companies do business with government by reducing the costs of winning ICT work. Since February 2006, the panel has been the channel for more than \$72 million worth of business in more than 1,000 ICT projects. Around 77 per cent of contract value was paid to Victorian companies.

In 2005, as part of its *Victorian Government ICT Industry Plan 2005-2010*, the government amended its whole-of-government ICT policies to:

- establish a default position by which ownership of intellectual property in ICT developed under contract vests in the contractor rather than in the government;
- ensure that apportionment of liability in ICT contracting reflects actual project risk and minimises the need for ICT contractors to bear unlimited liability;
- ensure that types and levels of insurance required in ICT contracts are appropriate having regard to actual project risks; and
- ensure that tender documentation specifies the expected contract provisions for dealing with these issues (following appropriate risk analysis), or flags that these will be negotiated with short-listed suppliers.

This was the first ICT policy in Australia to allow contractors the right to keep intellectual property for their ICT product as a default position and the Victorian Government is still the only government in Australia to do so.

In 2008, the government reviewed the implementation of the IP policy and is currently making some improvements to the implementation process to ensure that industry development opportunities arising from the policy are maximised.

As a significant user of ICT, there are many areas of government in which new and innovative applications and services are needed and these can be valuable opportunities for local companies developing tailored solutions. Through the government's \$28 million Smart SMEs Market Validation Program (MVP), Victorian

public sector entities identify technology needs and engage with SMEs to explore possible technology solutions to intrinsic problems facing government. The Smart SMEs MVP aims to promote innovation in government and support the growth of innovation in the Victorian economy by funding R&D and reducing commercialisation risk for SMEs. ICT SMEs are likely to benefit from this program.

A new whole-of-government purchasing structure is currently being developed for implementation from 1 July 2010 and the government will examine these changes to ensure its ICT procurement policies continue to assist the Victorian ICT industry (Recommendation 45). The government will also consider this issue as part of a more general review of government support for the ICT industry in 2010.

## ***Summary of Procurement Recommendation Responses***

**Recommendation 42:** That the Victorian Government requires, as part of its whole-of-government ICT Procurement Policy, that software procured by the government be capable of saving files in open standard formats, and that wherever possible, the software be configured to save in open standard formats by default.

**Supported in-principle:** The Victorian Government gives in-principle for the committee's recommendation and will consider these issues in the context of VERS, existing operating systems across government, specific organisational requirements and capacity to support the use of open source formats and industry practice.

**Recommendation 43:** That the Victorian Government ensure when preparing guidance for procurement, ICT personnel should be equally aware of the strengths and weaknesses of both OSS and proprietary software.

**Supported**

**Recommendation 44:** That the Victorian Government fully evaluate the Victorian Department of Justice open source software (OSS) workstation trial to assess the potential for wider use of OSS in Victorian public service workstations.

**Supported in-principle:** The Victorian Government will evaluate any relevant trials of the use of OSS across the public service.

**Recommendation 45:** That the Victorian Government examine its policy for ICT Procurement to ensure that it continues to assist the Victorian ICT industry.

**Supported**

**Recommendation 46:** That the Victorian Government ensure where appropriate that tenders are neither licence specific nor have proprietary software-specific requirements; and meet the given objectives of government.

**Supported**

## Conclusion

The Economic Development and Infrastructure Committee's *Inquiry into Improving Access to Victorian Public Sector Information and Data* highlights many of the critical issues for government relating to the use and distribution of PSI. The report also discusses the challenges that the Victorian Government is likely to face in opening up access to PSI.

Open access to PSI represents an important opportunity for the Victorian Government to increase its engagement with the community and to realise a range of social and economic benefits.

In responding to the report the Victorian Government has committed to improving access to PSI and to continue its current activities to ensure it is addressing the varied needs and interests across the community as articulated in this response.

The Victorian Government supports the release of PSI for re-use with the expectation it will lead to increased commercial activity, provide primary data to researchers in a wide range of disciplines, and increase transparency of government in Victoria.

The committee's finding that that it is likely that Creative Commons licences could be appropriately applied to around 85 per cent of government PSI underscores the scale and significance of the task the Victorian Public Service has ahead of it.

The reforms to the VPS that will need to take place to facilitate improved access to the data and information are likely to pose many challenges to government agencies. The committee acknowledges that Australia does not have a developed tradition of government disclosure of fundamental data, and that making PSI more freely available to the public will require efforts to change the way Victorian public servants regard PSI.

These reforms will require much more than a change to process and procedures to be successful. It will require a fundamental shift in the attitude and thinking of Victoria's public servants.

In responding to recommendations of the inquiry the Victorian Government has committed to open access as the default position for the management of PSI and will commence development of an IMF in 2010.

Opening up access to PSI will be a challenge but will have rewarding outcomes for government, industry, academia and the community more broadly. Other jurisdictions will also benefit, just as Victoria can benefit from access to PSI generated by other governments.