



## GENERAL MEETING

26 July 2017

# MINUTES



**PROCEDURAL MATTERS.  
RULES REGARDING CONDUCT OF MEETINGS**

**13. WHO MAY ATTEND A MEETING OF THE ASSOCIATION**

- (a) Each Member shall be entitled to send a voting delegate to any Meeting of the Association, such voting delegate exercising the number of votes determined according to Rule 16(a).
- (b) After each ordinary Council election, the Chief Executive Officer shall request each Member to advise the name of its voting delegate and the proxy for the voting delegate for Meetings of the Association until the next ordinary Council elections.
- (c) Members may change their voting delegate or proxy at any time by advising the Chief Executive Officer in writing over the hand of the voting delegate or the General Manager prior to that delegate taking his or her position at a Meeting.
- (d) A list of voting delegates will be made available at the commencement of any Meeting of the Association.
- (e) Members may send other elected members or Council officers as observers to any Meeting of the Association.

**14. PROXIES AT MEETINGS**

- (a) Up to 1 hour prior to any Meeting of the Association, a Member may appoint another Member as its proxy.
- (b) The form of the proxy is to be provided by the Chief Executive Officer and is to be signed by either the Mayor or General Manager of the Council appointing the proxy.
- (c) The Chair of the meeting is not entitled to inquire as to whether the proxy has cast any vote in accordance with the wishes of the Member appointing the proxy.
- (d) Proxies count for the purposes of voting and quorum at any meeting.

**15. QUORUM AT MEETINGS**

At any Meeting of the Association, a majority of the Member Councils shall constitute a quorum.

**16. VOTING AT MEETINGS**

- (a) Voting at any Meeting of the Association shall be upon the basis of each voting delegate being provided with, immediately prior to the meeting, a placard which is to be used for the purpose of voting at the meeting. The placard will be coloured according to the number of votes to which the Member is entitled:

<b>Population of the Council Area</b>	<b>Number of votes entitled to be exercised by the voting delegate</b>	<b>Colour placard to be raised by the voting delegate when voting</b>
Under 10,000	1	Red
10,000 – 19,999	2	White
20,000 – 39,999	3	Blue
40,000 and above	4	Green

- (b) The Chairman of the meeting shall be entitled to rely upon the raising of a coloured placard as the recording of the vote for the Member and as evidence of the number of votes being cast.
- (c) Except as provided in sub-rule (d), each question, matter or resolution shall be decided by a majority of the votes capable of being cast by Members present at the Meeting. If there is an equal number of votes upon any question, it shall be declared not carried.
- (d)
  - (i) When a vote is being taken to amend a Policy of the Association, the resolution must be carried by a majority of the votes capable of being cast by Members, whether present at the Meeting or not.
  - (ii) When a vote is being taken for the Association to sign a protocol, memorandum of understanding or partnership agreement, the resolution must be carried by a majority of votes capable of being cast by Members and by a majority of Members, whether present at the Meeting or not.
  - (iii) When a vote is being taken to amend the Rules of the Association, the resolution must be carried by at least two-thirds of the votes capable of being cast by Members, whether present at the Meeting or not.

## Schedule

10.30	Coffee on arrival
11.00	General Meeting
	The AGM will commence immediately following the conclusion of the General Meeting .
11.30	Rosalie Woodruff MP Tasmanian Greens Member for Franklin Local Government Portfolio Holder
12.00	Madeleine Ogilvie MP Tasmanian Labor Party Member for Denison Shadow Minister Local Government & Public Planning
12.30	The Hon Peter Gutwein MP Tasmanian Liberal Party Treasurer Minister for Planning and Local Government
1.00	Lunch

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**\* DENOTES ATTACHMENT**

The President, Mayor Doug Chipman, welcomed Members and declared the Meeting open at 11.00m.

Apologies were received from

Mrs Sandra Ayton	Central Coast Council
Mayor Duncan McFie	King Island Council
Mayor David Downie	Northern Midlands Council
Mayor Michael Kent	Glamorgan Spring Bay
Mayor Greg Howard	Dorset Council
Mr Greg Winton	Derwent Valley Council
Mayor Albert van Zetten	Launceston City Council
Mr Robert Dobrzynski	Launceston City Council

## **1 MINUTES \***

### **Clarence City Council/Central Coast Council**

**That the Minutes of the special General Meeting held on 11 May 2017, as circulated, be confirmed.**

**Carried**

The Minutes of the Meeting held on 11 May, 2017 as circulated, are submitted for confirmation and are at **Attachment to Item 1**.

Noting – Copies of speeches that have been provided by speakers are available on the LGAT extranet.

## **2 CONFIRMATION OF AGENDA & ORDER OF BUSINESS**

### **Southern Midlands Council/West Tamar Council**

**That the agenda and order of business be confirmed.**

**Carried**

Delegates are invited to confirm the agenda and order of business as presented.

## **3 PRESIDENTS REPORT**

### **Devonport City Council/Circular Head Council**

**That Members note the report on activity since the last General Meeting, 24 March to 23 June 2017 inclusive.**

**Carried**

## Meetings

- Commissioner Glenorchy City Council
- LGAT General Meeting (April)
- TasWater – meetings, teleconferences
- General Management Committee – May Meeting, Teleconferences
- TasWater Campaign Steering Committee
- ALGA Board Meeting
- ALGA Regional Cooperation and Development Forum
- ALGA National General Assembly
- Mayors Professional Development Day
- LGAT Strategic Planning
- Property Council – Policy Committee

## Media/Communication

- Radio, print and television on:
  - TasWater - Legality
  - Financial Assistance Grants
- The Pulse
- Media releases: State Budget; TasWater Legal Advice; George-Town/West Tamar; State of the Regions Report
- Op Ed: TasWater

## Other

- Local Government Professionals National Conference – Panel

## 4 CEOs REPORT

### Flinders Council/Northern Midlands Council

**That Members note the report on activity since the last General Meeting, 24 March to 23 June 2017 inclusive.**

**Carried**

## Key meetings and events

- ALGA Board Meeting
- ALGA CEO Meeting
- ALGA National General Assembly
- ALGWA National Conference Dinner - Launceston
- Audit Office re LGAT Audit process
- Brighton Council – Digital RoundTable
- Chief Officer’s Forum - Hobart
- Chief Owner Rep- regular discussions
- Commissioner Glenorchy City Council

- Cradle Coast Authority – input into strategic planning
- Deputy Secretary State Growth – Road Issues
- Director of Local Government regarding iPlan
- Director of Local Government regarding review of councillor allowances
- DPIPWE on cat management
- General Management Committee Meeting (May)
- Glamorgan Spring Bay Council
- Government House – LGAT received an award as an Army Reserves Employer
- Jeremy Rockliff (Minister) regarding cat management
- LGAT 2IC Workshop
- LGAT Assist Board Meetings
- LGAT General Meeting (April)
- LGAT Special General Meeting – TasWater (May)
- Local Government Division re Code of Conduct Review
- Local Government Division, regular monthly meetings
- Local Government Professionals National Conference (Hobart)
- Local Government Professionals Tasmania Board Meetings
- MAV Insurance Board
- Mayors Workshop - Launceston
- National Disability Service
- OzHelp re Mayor's Workshop
- Peter Carr Advisory
- Planning Reform Taskforce
- Premier's Local Government Council Officials Meeting
- President – regular discussions
- Property Council – Policy Committee
- RDA Tasmania Committee Meeting
- Rosalie Woodruff MP regarding land use planning
- Secretary DPIPWE, general catch up
- Sharing Accommodation Working Group
- TasWater

### **Strategic Policy Activity**

- Code of Conduct review – discussion paper
- Grant application preventative health
- Input into future work agenda for the Planning Taskforce
- LG Amendment Bill - Submission
- Rating crown lands – legislation successfully passed.
- Sharing accommodation
- TasWater - extensive

### **Media and Messaging**

- The Pulse Newsletter
- Print and radio regarding:
  - Planning
  - TasWater
  - Non payment of rates
  - Cats
  - Climate Change

- Air BnB
- ALGA #Endthefreeze thunderclap
- Media releases TasWater, State of the Regions, State Budget, Georgetown/West Tamar
- Op Ed – Rate Capping

### **Organisational**

- Annual Plan development
- Budget preparation
- Design Annual Report
- Early stage implementation of SharePoint
- Finalising conference program
- GMC Elections
- LGAT staff structure review
- LGAT Strategic Planning – EOI for consultant, staff session, GMC session, prep and review.
- Planning for 2IC Forum, General Manager’s workshop and Mayors’ Professional Development Day
- Policy Director Performance Review
- Preparation for General Meetings and GMC
- Subscription modelling
- Women and Leadership Australia – Final Course Component

## **5 BUSINESS ARISING \***

### **Clarence City Council/Burnie City Council**

**That Members note the following information.**

**Carried**

At **Attachment to Item 5** is a schedule of business considered at the meetings held on 7 April and 11 May 2017 and the status thereof.

## **6 FOLLOW UP OF MOTIONS \***

**Contact Officer: Dion Lester**

### **Circular Head Council/ Break O’Day Council**

**That the meeting note the report detailing progress of motions passed at previous meetings and not covered in Business Arising.**

**Carried**

### **Follow up on outstanding motions**

A matrix indicating progress to date on motions passed at General Meetings, which remained outstanding at the last General Meeting, is at **Attachment to Item 6**.



## 7 MONTHLY REPORTS TO COUNCILS \*

### Kingborough Council/West Tamar Council

That Members note the reports for March, April and May 2017.

Carried

#### Background comment:

Monthly reports to Councils that briefly outline the Associations activities and outcomes for the previous months are at **Attachment to Item 7**.

## 8 ITEMS FOR NOTING

### 8.1 Ownership of Taswater Contact Officer: Katrena Stephenson

### West Tamar Council/Devonport City Council

That Members note that a verbal update will be provided on the day.

Carried

#### Background Comment:

Subsequent to the 11 May 2017 Special General Meeting, the General Management Committee formed a special Steering Committee to strategically guide LGAT's advocacy efforts in this space.

A verbal report will be provided on the outcomes of the Steering Committee discussions to date as well as any further information that the Government may provide at the PLGC scheduled for 28 June.

The CEO noted that the Infrastructure Tasmanian report and the legislation were currently being analysed in detail but provided some preliminary comments.

With respect to the Infrastructure Tasmania Plan

- The plan is very limited in detail.
- The plan has very broad assumptions including no financial constraints.
- The plan does not provide any financial modelling of the effects on the State Budget, the debt burden to the new corporation, the long-term impacts on prices and distributions to Councils.
- Delivery of the plan relies on mainland contractors and outsourcing with a likely escalation in costs and pricing that have not been factored in.
- The peer review by Pitt & Sherry picks up on the many assumptions and provisos states that the plan is 'reasonable given the information provided' and warns that the plan 'is not without risk'.
- One of the significant risks identified is the Government's own agency – the EPA.

- Despite the significant injection of funds (even before regard of debt and pricing) the plan shifts the timeframes from TasWater's fully funded 10 year plan to at best, 7 years.
- The boil water alerts will be all but removed before Government ownership commences.
- The State Government's report claims that a new water and sewerage GBE would need to identify and design a new program delivery model, new governance arrangements and a new procurement strategy, all within the first 12 months while at the same time putting in place a new GBE, recruiting replacement expertise and trying to maintain the current program of accelerated expenditure.
- The Infrastructure Tasmania Plan still does not provide the detail requested by LGAT on behalf of our Members in March this year.

With respect to the Legislation

- Early concerns include:
  - the legality of the takeover had not been transparently addressed by the State Government
  - the legislation gives extraordinary powers to potentially a single individual (if the Treasurer and portfolio Minister are one and the same) - with the ability to direct the new GBE operationally - at odds with the Corporate Plan. Other GBEs really only need to respond to the Ministerial Charter
  - unlike other GBEs there is no requirement to deliver a commercial return or it would appear to even run a viable organization
  - the Government will no longer require this organization to meet competitive neutrality principles, that is no requirement for tax equivalents and loan guarantee fee payments.
  - there is a significant draw on consolidated funds until 2024
  - there is a clearly indicated likelihood of \$0 to councils after 2024.

### **Budget Impact**

This currently forms a significant workload in a time when a number of significant reform agendas are in play. LGAT has secured additional support as required through use of a consultant to support media activity.

### **Current Policy**

Strategic Plan:

- Priority Area 1: Strategic Relationships
- Priority Area 2: Sector Profile & Reform

## **8.2 Review of the Local Government Act \* Contact Officer: Katrena Stephenson**

**West Tamar Council/Devonport City Council**

**That Members note the following report.**

**Carried**

### **Background Comment:**

At **Attachment to Item 8.2** is a copy of the LGAT Submission to the *Local Government (Targeted Review) Amendment Bill 2017*.

Matters raised by the Local Government sector are due to be discussed at the Premier's Local Government Council on 28 June 2017.

LGAT has sought informal feedback from Mayors and General Managers on three specific issues, namely the use of Ministerial Orders, the Mayoral function "to oversee the councillors" and eligibility to stand for Local Government following a dismissal.

Feedback will be provided on these issues, and the progress of the Bill at the Meeting.

### **Budget Implications**

Does not apply.

### **Current Policy**

Strategic Plan:

Priority 1: Strategic Relationships

Priority Area 2: Sector Profile & Reform

### **8.3 Code of Conduct Update Contact Officer: Dion Lester**

#### **West Tamar Council/Devonport City Council**

**That Members note the progress of the Code of Conduct review.**

**Carried**

#### **Background Comment:**

At the February 2017 General Meeting, Members were provided background on the Code of Conduct legislation, received a report from the Director of Local Government on the Code of Conduct and noted that the Minister, through the Premier's Local Government Council, had committed to a twelve month review of the Code of Conduct legislation.

On 1 May, the Minister wrote to all Mayors advising that he has requested LGAT take carriage of the Review and report. In subsequent discussion with the Local Government Division it was agreed that the Division will be seeking feedback from Code of Conduct Chairs, Panel Members and the Executive Officer; while LGAT would seek feedback from Local Government. The advice from LGAT Members, Panels and the Division will be jointly considered in developing recommendations for the Minister.

At the time of writing, final work was occurring on the discussion paper to go out to councils seeking initial feedback. It is intended that once draft recommendations are formed (from the initial round of feedback), these would be provided to councils for review and further feedback (likely September) in order for the final recommendations to be endorsed at the November General meeting.

LGAT is aware, at a high level, of some concerns. These include:

- The legality of the Model Code;
- The extent (or lack of) to which Chairs are applying frivolous and vexatious powers;

- The weight given to unsubstantiated claims;
- The lack of interaction with Council or LGAT with regard to training requirements;
- The application of training sanctions to a whole council when the complaint is against individuals;
- The lack of interaction/advice from General Managers in relation to complaints being determined;
- The experience/consistency (or lack of) of the panellists and/or Executive Officer;
- The application of procedural fairness and natural justice processes;
- The appropriateness of Code of Conduct panels for matters which have other avenues for appeal (eg planning decisions);
- The cost of determining a complaint; and
- The role of the Local Government Division.

At this stage, the Association does not have a lot of detail on these matters, and more information will be sought as part of this process.

### **Budget Impact**

Being undertaken within current resources.

### **Current Policy**

Strategic Plan:

- Priority Area 1: Strategic relationships;
- Priority Area 2: Sector profile and reform; and
- Priority Area 4: Sector capacity.

## **8.4 Land Use Planning**

**Contact Officer: Dion Lester**

### **West Tamar Council/Devonport City Council**

**That members note the progress of the planning reform and the key issues for the Local Government sector.**

**That members also note the progress of the Planning and Building Portal.**

**Carried**

### **Background Comment:**

Now that the State Planning Provisions (SPPs) have been declared it is Local Government's responsibility to develop the Local Provision Schedule (LPS) for their respective municipal areas.

Broadly speaking this will involve a number of key steps for councils. They are:

- Development of individual and regional workplans;
- Review of the Regional Land Use Strategies and minor updates to correct inconsistencies with SPPs and to capture any recent strategic planning processes that have been through a community and council endorsement process;
- Preparation of the LPS zone maps;
- Development of any local area objectives, Special Area Plans, Particular Purpose Zones and Site Specific Qualifications;

- Preparation of Code mapping or lists as required; and
- Development of the required supporting documentation.

It has been estimated that this work will take the quickest councils at least five months. However, very little work has commenced yet as critical State Government supplied documentation is still being prepared.

Since the release of the SPPs (in late February) the State Government, via the Planning Policy Unit (PPU) and Tasmanian Planning Commission (TPC), has or is proposing to undertake a number of activities designed to support Local Government in the preparation of the LPSs, this has included:

- Regional workshops with council staff to outline the proposed approach;
- Establishment of a LPS Steering Committee, which LGAT sits on;
- Development of support material such as guidelines and other advisory documentation; and
- A statewide workshop on the Agricultural mapping and Natural Assets Code.

At the time of writing not all of the required support material had been provided by the State Government, although the expectation is that this should all be released by mid July.

Each of the three regional groupings of councils have prepared work plans for the development of their Local Provision Schedules. These plans have been submitted to the State Government for endorsement. Once endorsed councils can then commence the preparation of their individual LPSs in earnest. The endorsed work plans will also release the financial assistance for each region promised in the recent State Budget.

#### **Key Issues:**

- The development of Local Provision Schedules is likely to require significant resources;
- To date the State Government has not been efficient or well organised in the development of the necessary processes and support material to enable councils to commence the development of their LPSs;
- There are still a significant number of unresolved questions from Local Governments perspective;
- The approach taken by each of the regions is not consistent; and
- Local Government will bear the brunt of implementation and community angst in relation to the new provisions.

#### **Planning and Building Portal (IPlan Stage 2)**

LGAT sits on the project steering committee for the Planning and Building Portal Project, which is the extension to the successful IPlan Project. The funding of this second stage was LGAT's number one priority for the 2016-17 Budget.

The project is being delivered by the Department of Justice and has begun with a review of the business case, meeting with relevant stakeholders, undertaking jurisdictional analysis and market research.

To date there has been Local Government consultation to establish an initial understanding of the technical and business processes within each council. The purpose was to identify where each council is at in terms of systems, IT support, online options, and planning, building and plumbing processes (at a high level). The Project Team has another round of visits scheduled for July - early August and will be contacting those councils that they haven't already met with shortly. The primary focus for the next round of

visits is to better understand processes in the planning area of councils.

In parallel, the Project Team is working with a consultant to document the building, plumbing and demolition requirements in a way that can be used by a software system (i.e. as a schema). The objective of this is to capture the rules in a way that either the general public, or a permit authority, can work through a checklist/decision tree style enquiry which would assist to identify the category that the work falls within and the associated requirements e.g. is it notifiable or permit required, who must be engaged, what additional documents are required etc. The project team will soon be commencing work with building surveyors, permit authorities and Consumer Building and Occupational Services staff to inform the content of the enquiry process.

In addition, the project team has released a request for information (RFI) from potential software providers. The RFI will close on 10 July, 2017. Once responses are received, there will be a period of time where these will be reviewed and it is hoped they will assist to inform the requirements specification. The aim is to have the specification out for tender by the last quarter of this year.

### **Budget Impact**

Being undertaken within current resources, noting this currently forms a significant workload.

### **Current Policy**

Strategic Plan:

- Priority Area 1: Strategic Relationships
- Priority Area 2: Sector Profile & Reform
- Priority Area 5: Land Use Planning & Environmental Sustainability

## **8.5 Visitor Accommodation Changes**

**Contact Officer: Dr Katrena Stephenson**

### **West Tamar Council/Devonport City Council**

**That the Meeting note the concerns raised by LGAT in relation to change to Visitor Accommodation approvals.**

**Carried**

### **Background**

Currently ANY property that is to be used for visitor accommodation requires a planning permit.

The State Government initially mooted, through the draft State Planning Provisions, a 'no permit required' approach for anything less than 42 days per year but Local Government did not support that as compliance would have been very difficult to manage.

LGAT suggested the divide should centre primarily around whether a property was the principle place of residence or not (up to a certain scale). That is, no permit required for those principally interested in sharing their primary residence and meeting new people while supplementing their existing incomes in a small way, versus others interested in listing properties on sites such as Airbnb primarily for commercial gain. This position was articulated in a position paper provided to Members through our General Meeting process last year. LGAT did not support a blanket exemption as from a land use and infrastructure planning perspective it is important to know where this accommodation is.

The two categories proposed by the Government (own home up to four bedrooms, and own home with more than four bedrooms/investment property less than 300m<sup>2</sup>) represent not only a relaxing in relation to planning permit processes but also building owner requirements.

It is estimated that over 600 existing properties will benefit from this relaxation. That being said, there are some building requirements, accounted for through a self declaration process which is similar to that now required of commercial building owners in relation to maintenance under the changed Building Act. The compliance triggers also primarily sit with the Building Act but may also rest with the Land Use Planning and Approvals Act.

The accommodation industry had hoped that through the State Planning Provisions of the Tasmanian Planning Scheme a trigger for requiring a permit would be that the applicant had an ABN. We did not support that on the basis that an ABN is not an appropriate planning trigger.

The Minister then engaged with us regarding this new intermediate category. The concerns raised with him were:

- What would the new combined process look like and how would that be managed by councils?;
- What would the self-certification/declaration entail and what liability for councils?; and
- We would not support a flat fee approach as the cost of planning application assessment varies across councils based on volume (note: this has been partially resolved through setting an upper limit on fees rather than a flat fee).

The Government convened a Reference Group to support implementation but it would be fair to say that LGAT has been frustrated and disappointed by the slow pace of work. Councils have only been marginally engaged and a commitment to establish a Local Government implementation working group was not honoured. With a 1 July start date, councils only received the information sheets and the application form on Monday 26 June. This does not give them long to consider the process or fee structure.

That being said, LGAT has been advised that these will be distributed promptly, that all information will be on a central portal (Justice Website), that there will be a public information campaign from 1 July and that there will be a dedicated officer for an extended period from 1 July to deal with operator and council questions and concerns. This process has worked well in relation to the Building Regulatory Reform which also had a short lead in time for councils in terms of implementation.

There has been feedback from commercial accommodation operators expressing concern at what they feel is unfairness in easing of the regulations in that it poses an opportunity for people to compete in the accommodation market without paying commercial accommodation rates.

While the impact on rates paid will vary across councils depending on rating policies, some properties will change classification from commercial to residential. Currently the Valuer General relies on notification from councils (typically change of use permit issued) to update the classification (from residential to commercial). If properties are in the no permit required category they will have to advise the Valuer General in order to affect the data provided to councils which is used to set rates. It is not anticipated many properties fall into this category. There will be advice on this matter in the information sheets that are being finalised.

The Association notes the potential risks to housing affordability and welcomes the commitment to a review of impacts within two years.

### **Budget Implications**

Does not apply.

### **Current Policy**

Strategic Plan:-

Priority Area 5: Land Use Planning & Environmental Sustainability

## **8.6 Preventative Health**

**Contact Officer: Penny Finlay**

**West Tamar Council/Devonport City Council**

**That Members note the following report.**

**Carried**

### **Background Comment:**

To follow on from previous work to support Local Government in action on preventative health, LGAT held a workshop for all Tasmanian councils on 30 May 2017. There were representatives from 20 different councils, with 4 councils, Clarence City, Burnie, Glenorchy and Central Coast Councils, presenting their current work. Presentations were provided by LGAT and the Department of Human and Health Services.

Some key issues raised in the presentations included:

- Significant activity is occurring within Local Government in Tasmania in the preventative health arena.
- The *Local Government Act 1993*, at S.20, notes a council has the function to 'provide for the health, safety and welfare of the community'. The current legislative framework provides for flexibility and innovation but many of those who work in Local Government would like greater recognition of the key role played by Local Government and greater clarity about our sphere of influence.
- At a national and international level, the focus is on what can be done to address chronic diseases given that they make up 61% of the burden of disease in Australia with 31% due to preventable factors. It is recognised that local action to address risk factors is an effective approach.

At the workshop, it was suggested the next steps should be:

- Gaining recognition and legitimacy for Local Government undertaking preventative health work, both inside and outside of councils;
- Resourcing actions that will promote the health of local communities;
- Promotion and branding of preventative health programs and initiatives in a way which will reach target populations; and
- Sharing knowledge about what is effective & what works.

### **Budget Impact**

Being undertaken within current resources.

### **Current Policy**





Strategic Plan:

- Priority Area 1: Strategic Relationships
- Priority Area 2: Sector Profile & Reform
- Priority Area 4: Sector capacity

**8.7 Strategic Plan & Annual Plan \***  
**Contact Officer: Dion Lester**

**West Tamar Council/Devonport City Council**

**That Members note the new LGAT Strategic Plan 2017-2020 and the 2017/18 Annual Work Plan.**

**Carried**

**Background Comment:**

In 2012 LGAT developed a five year strategic plan which, while significantly reviewed in 2015, was due to be fully revisited. This is particularly imperative in the context of ongoing and significant reforms impacting upon the sector (e.g. Local Government Act, Feasibility Studies, Building and Planning, TasWater) and with State Government and Local Government elections both likely to occur in 2018.

In December 2016, LGAT released a Member survey to aid us in assessing whether we are meeting member expectations and also in flagging concerns and priorities for the sector. At the February 2017, General Meeting a workshop was held with those that attended to further describe the challenges and opportunities facing the sector over the next few years and what LGAT could do to assist.

Since that time, LGAT's General Management Committee and staff have been pulling this background information together and developing a clear and compelling Strategic Plan for 2017-2020 and an Annual Work Plan for the 2017/18 financial year.

A full copy of the Strategic Plan will be provided at the Meeting but the Vision Statement and Annual Work Plan are included at **Attachment to Item 8.7** for reference.

Collectively, they will provide the basis for resourcing decisions and work planning by the LGAT CEO and staff, however these plans are not intended to comprehensively describe all the work that LGAT undertakes or reflect all the activity within councils and we expect that both will be reviewed regularly in order to appropriately reflect the social, economic and political environments within which councils are working.

**LGAT Strategic Plan 2017 - 2020**

The Strategic Plan contains:

1. A long-term Vision of success for LGAT – *“Vibrant Tasmanian communities”*;
2. LGAT's Central Purpose – *“Help Tasmanian Councils to be the best they can be for their communities”*;
3. Our Core Functions (from the Local Government Act);
4. Five proposed Key Focus Areas, which are
  - a. *Facilitating change across Local Government*;
  - b. *Building Local Government's reputation*;
  - c. *Fostering collaboration*;
  - d. *Promoting financial sustainability*; and
  - e. *Underpinning Local Government capacity and capability to deliver*.

5. Key performance indicators for each focus area;
6. A short-list of critical Priorities for the next twelve months that fulfil our core Purpose and address our Key Focus Areas; and
7. The values LGAT will strive to be known by.

### **Annual Work Plan 2017 - 18**

The Annual Work Plan provides the more detailed actions LGAT will undertake to fulfil its Strategic Plan and in particular the critical priorities as indicated. In addition to the critical priorities, the Annual Work Plan acknowledges the ongoing role LGAT has in representing Local Government interests in key policy priority areas of State and Federal Governments.

### **Annual Plan 2016 – 17**

A report on the progress against the 2016 – 17 Annual Plan can also be found at **Attachment to Item 8.7.**

### **Budget Impact**

An external consultant was used to support the Strategic Plan preparation, with a total cost of \$5,825.00 (ex GST). The staff resourcing required in preparation and follow up was substantial, but this is a critical task.

### **Current Policy**

The current Strategic plan has five priority areas, listed below:

- Strategic relationships;
- Sector profile and reform;
- Financial sustainability;
- Sector capacity; and
- Land use planning and environmental sustainability.

## **8.8 National General Assembly of Local Government Contact Officer: Katrena Stephenson**

### **West Tamar Council/Devonport City Council**

**That Members note the report on the National General Assembly and the State of the Regions Report.**

**Carried**

### **Background Comment:**

The ALGA Regional Cooperation and Development Forum and National General Assembly were held in Canberra from 18-21 June. The theme this year was “Building Tomorrow’s Communities” in recognition of the role of Local Government in investing in people and places with a goal of more productive and liveable communities.

In addition to presentations from key Federal politicians such as Fiona Nash (Minister for Local Government and Regional Development); Stephen Jones (Shadow Minister for Regional Services, Territories and Local Government), Bill Shorten (Leader of the Opposition) and Angus Taylor (Assistant Minister for Cities and Digital Transformation), there were speakers on building liveable communities; technology and building tomorrow’s communities; engagement through social media and governance in a digital age (see [www.alga.asn.au](http://www.alga.asn.au) for more information).

One hundred motions were considered, including several Tasmanian motions. Hobart City Council's Australia Day motion garnered significant debate.

The annual State of the Regions Report was also released, this is the 20<sup>th</sup> edition of this report commissioned by ALGA and prepared by National Economics. The *State of the Regions: Pillars of Growth Report*, has found that infrastructure deficiencies have played a part in making it harder for struggling regions in Australia to increase their productivity, create jobs and improve outcomes.

This year's report builds upon the accumulated knowledge from previous reports, providing a coherent framework for analysing regional development and notes there is a growing expectation that councils will take an increasingly significant role in regional economic development, from planning through to implementation.

The authors of the *State of the Regions Report* note that economic growth is founded on productivity increases and identify the pillars of regional growth as skills formation, capital investment, knowledge creation and the formation of supply chains. They also note that resources and opportunities vary markedly from region to region.

Based on 19 years of reports, the authors have developed some key insights (stylized facts) and while noting they don't apply equally to all regions, many will be of particular interest to Tasmanian policy-makers.

These include:

- High income economies now depend on innovation as the core driver of long-term economic growth;
- The capacity to innovate depends on knowledge and networks at the regional level;
- Infrastructure deficiencies and a lack of investment in telecommunications and transport make it difficult for low productivity or high unemployment regions to increase productivity;
- Low productivity regions are rapidly ageing;
- Tourism exports are an important driver of economic activity and employment in many regions but the net benefit from tourism for the majority of regions is relatively low;
- Market mechanisms will not reduce inequality of economic performance between regions. Therefore, public policy has a key role in maximising overall economic growth of the nation.

The data in the State of the Regions report reflects what is largely understood about Tasmania. That is:

- We have a greater than average proportion of people on income support and this is significantly greater when it comes to the disability pension. Relative to the rest of Australia, we have the lowest household disposable incomes and household wealth and we have a high proportion of single person households;
- Tasmania has had negligible population growth in the last few years and the unemployment rate across all regions sits between 11 and 12 per cent for 2017;
- Local Government rate collections in Tasmania are no more than the Australian average;
- We have seen some growth in construction rates between 2012-2014 and 2015-2017 (around 11-12% in the North and South and 5% in the North West) and

particularly high rates in the new residential constructions in the Southern region; and

- The authors note that liveability and jobs go hand in hand and if patent applications are a sign of innovation and creativity, then Tasmanian regions rate poorly compared to others across Australia.

The report confirms that metropolitan core regions, their residents and workers, have been gaining increasing shares of national income, but regions which are distanced from metropolitan centres have suffered decline and the gap is growing. There is a need to supercharge local area productivity through mobilising State and Local Government resources and through the private sector leveraging off this Government's investment.

Members should also note that Mayor David O'Laughlin, President of ALGA will be speaking at the LGAT Conference.

### **Budget Implications**

ALGA Membership fees are funded through LGAT Subscriptions.

### **Current Policy**

Strategic Plan:

- Priority Area 1: Strategic Relationships
- Priority Area 2: Sector Profile & Reform
- Priority Area 4: Sector capacity

## **8.9 Policy Update Contact Officer:**

**West Tamar Council/Devonport City Council**

**That Members note the following report on current policy activity.**

**Carried**

### **Street Lighting LED replacement projects**

The Northern Lights project is rolling out as planned. The installation began in February 2017, and at 5 June the project was 44% complete with 3,391 lights replaced. Meander Valley is the first council to have their installation completed and works are continuing in Launceston where around 60% of lights have been changed over. Work will commence in George Town in July.

Launceston and Meander Valley Council are also working with TasNetworks to trial some major road LEDs with the hope that they may be available in the coming years as a replacement option.

The Southern and North-West councils have had business cases completed for the roll out of LEDs and are considering their options. Many of the councils have workshopped the business case with senior managers and elected members. A number of the councils in the north west have committed to progressing to a detailed feasibility study with Central Coast Council committing to implement the role out. A critical mass of at least 2000 lights is needed to support the role out in a region.

The southern councils are exploring the opportunity of accessing funding for the project through the State Governments Accelerated Infrastructure fund.

### **Renewal Local Government Public Lighting Contract**

In July 2014, non-metred public lighting became contestable. As a result, LGAT facilitated a competitive procurement process for the sector, which achieved significant savings across the sector (approximately \$500K per annum). LGAT is again facilitating a similar process with the current contract coming to an end on 30 June 2017. Goanna Energy has been engaged to run the Request for Price process with the retailers.

There has been some delay in the re-contracting due to the Government's decision in May to intervene in the energy market. As a result, there was a delay in Hydro releasing the wholesale price of energy to retailers.

At the time of writing it is likely that Councils will be in a position to make a decision regarding re-contracting or going back to tariff around the 30 June 2017.

### **Emergency Management**

Significant reform is continuing to occur in the emergency management space. Much of this has been driven by recommendations to come out of the Justice review into Tasmania's Emergency Management Arrangements and additional reform is likely to emerge as a result of the Flood review. At the time of writing the State Government had not responded to the review.

Key recommendations to come out of the Flood Review which may impact on Councils include:

- Municipal committees develop and or review flood related sub plans of the municipal emergency management plan every two years;
- Councils include a weblink for the public to their municipal emergency management plan and community safety information;
- Councils and SES educate the community regarding BOM flood warnings;
- The flood warning consultative committee (that many council officers sit on) consider the merits of delineating the Ouse river as a separate catchment from the Derwent River basin;
- Subject to funding, that the flood warning consultative committee investigates the hydrological matters and advice received during this review;
- The flood warning consultative committee review flood classification levels in the service level specifications with BOM specifically relating to flood level triggers on gauges;
- The BOM and the flood warning consultative committee in consultation with gauge owners review flood gauges and develop a program to update data used to support hydrological modelling. This should include reviewing gauge maintenance before and after floods;
- In the event of a major emergency, a government department be appointed to coordinate infrastructure repair to the extent that funding allows, for the whole state;
- The organisation responsible for the construction, maintenance and ownership of bridges review their design guidelines and, if necessary, update them to specifically include consideration of debris and flood impact on bridge design; and
- The Riverine flood hazard code is finalised and approved as soon as practicable as part of the Tasmanian Planning Scheme.

LGAT will continue to lobby the government to fund the implementation of these recommendations and to better fund the State's capability in planning for, and responding

to, floods.

### **Guide to Minute Taking Handbook**

As part of LGAT's commitment to councils to develop best practice tools and resources, we have prepared a *Guide to Minuting Taking Handbook* to provide guidance in best practice minute taking.

This handbook is based on the requirements from current legislation and has had input from those within the sector and the Local Government Division. It is currently available on the LGAT website for council's use.

To support this, currently in development is an example set of fictitious minutes that provide visual guidance on how to best record council meetings in accordance with the handbook and legislation.

For councils wishing to be refreshed on minute taking and agenda preparation, the Tasmanian Training Consortium are running an Agenda and Minute taking course in Hobart on Friday 10 November. To register please follow the link [here](#).

Any feedback post release of this handbook should be made to the LGAT Contact Officer in the first instance.

### **Rating Amendment Bill**

On 23 June the *Local Government Amendment (Rates) Bill 2017* received Royal Assent.

This Bill, initiated at the request of the sector, amends the Local Government Act to:

- Clarify that exemptions from non-service rates under section 87(1)(b) of the *Local Government Act 1993* do not apply to Crown land that is subject to leases, and licences that confer a right to exclusive occupation and are used for commercial or private use;
- Provide an exemption from non-service rates for unallocated seabed Crown land and seabed Crown land within municipal areas that supports a marine farming lease made under Part 4 of the *Marine Farming Planning Act 1995*;
- Extend the definition of municipal area to include land that adjoins municipal areas in certain circumstances;
- Validate current and previous rates notices that were issued in relation to land previously subject to an exemption under section 87(1)(b) of the Local Government Act, other than those rates notices issued to the Crown; and
- Amend section 120 of the Local Government Act in relation to the liability of rates, specifically in relation to Crown land leases and licences.

Parliament amended Clause 9 of the Amendment Bill to exclude from validation any rates notices that are the subject of current court proceedings. The court proceedings must have been initiated before 14 March 2017, which was the day the Amendment Bill was introduced to the House of Assembly.

The progression of this Bill highlights the effectiveness of the PLGC process and collaboration between LGAT and the Local Government Division. It has taken some considerable advocacy effort to progress with the need to allay a number of concerns along the way. LGAT wishes to acknowledge the hard work of the Division staff in this regard.

By way of background, most councils have traditionally levied general rates on marine facilities in the municipal area which are on or adjacent to crown land based on valuation and property identification data from the Office of the Valuer-General. These properties exist on valuation rolls. The application of rates has been undertaken on the belief that

the rating exemptions provided for under the *Local Government Act* supported the intentions of the 2003 financial reform agreement between State and Local Government, which was not to provide rating exemptions for private or commercial benefit from the use of such land.

Further, there has been support to date for amendments to clarify that land that is partially or wholly outside of the municipal boundary but a logical extension of the parcel of land can continue to be rated. The amendments will address the concerns around marine leases without creating any rating problems. This is an important issue as it removes doubt regarding a council's power to rate certain land. The amendment to the *Local Government Act* will ensure that structures and development beyond the municipal area are included within the municipal area, meaning that it is clear rates can continued to be charged.

### **Building Act**

In March LGAT wrote to the Minister for Building and Construction, the Hon. Guy Barnett, to raise the significant concerns voiced by members in relation to the recent commencement of the Building Act 2016 ('the Act') and related instruments. Essentially the new arrangements have caused significant confusion both within the sector and more broadly across the building industry and the general public since the new legislation commenced in January 2017.

Since April, 26 of the State's 29 councils have met with Consumer and Building Occupational Services (CBOS) within the Department of Justice to discuss specific concerns in relation to the implementation of the Act. In addition, Building Surveyors' and Permit Authorities' Forums held in Launceston in April were well attended and the feedback from the sector has been more positive.

CBOS has re-established technical reference groups (e.g. Local Government, building surveyors, plumbers) to assist them with identifying areas of the Director's Determination and prescribed forms that require additions and amendment. LGAT is involved with the Local Government reference group, along with several councils. This group met in early May and will reconvene in the second half of the year.

CBOS has made some significant changes to the suite of prescribed forms that relate to building and plumbing work and have worked closely with councils and practitioners to streamline processes.

From observation at meetings and forums there appears to be a positive and constructive relationship between council officers and the CBOS staff and the earlier teething issues appear to be settling.

LGAT's Policy Director continues to meet with the Director of Building Control on a fortnightly basis to work through the issues raised by the sector. LGAT will liaise with councils over the coming months to ensure that any residual concerns are addressed. LGAT, via the Premier's Local Government Council, has indicated that we believe a review of the Act later this year is still warranted.

### **Cat Management**

The Tasmanian Government announced in its May budget ongoing funding of \$360,000 per annum to support the implementation of the Cat Management Plan in partnership with Local Government.

LGAT has met separately with both Minister Rockliff and DPIPWE officers to discuss how

this partnership would be managed.

DPIPWE proposes that three regional officers will implement action plans to be developed in consultation with LGAT, DPIPWE and key stakeholders including the hosting councils. These roles are likely to be located within a council in each of the North, North-West and South, and the officers will work across the region to deliver education and support to change attitudes and behaviours in cat ownership.

In meeting with Minister Rockliff he stated that he did not support containment of cats but that changes to the legislation would include compulsory microchipping and desexing. The role of the regional officers will be to work with councils about how to manage complaints on nuisance cats but with a major focus on education rather than compliance.

### **Weeds**

Extra funding for weeds management was announced by the Tasmanian government in the May budget. The package includes \$2 million to improve weed, pests and invasive species management.

DPIPWE is developing an action plan that includes three new Invasive Species Officers (weeds and vertebrate pests). The positions will be located in each region (Devonport, Launceston and Hobart).

The roles will be on the ground, working in collaboration with councils as well as the various industry groups and landowners. The officers will be involved in the broad range of tools from awareness/engagement through to compliance.

LGAT will provide input into action plans and ongoing collaboration with Local Government.

### **Waste Management**

At the May Premier's Local Government Council meeting, the State Government advised that they would not be introducing a waste levy but that the Environment Protection Authority (EPA) would be updating the Tasmanian Waste and Resource Management Strategy (TWRMS). The draft Strategy was expected to be released by mid 2017 with a three to five year time horizon. It was likely to be project and action based in the first instance.

It was anticipated that the updated TWRMS would address issues such as a Container Deposit Scheme, waste tyres, the C-Cell and organics. With other issues under consideration including (but not limited to) asbestos, E-waste, plastics, litter, household hazardous waste, construction and demolition waste, industrial and commercial waste and waste tracking.

At the July 2016 LGAT General Meeting, members moved that LGAT re-establish the Waste Reference Group (WRG) to develop recommendations for Members, with respect to the TWRMS and/or a waste levy. The WRG consists of representatives from each of the three regional waste authorities and the LGAT Policy Director.

At the November 2016 General meeting, members moved that LGAT reconfirm its commitment to the introduction of a statutory waste levy of \$10 per tonne to be collected by public and private landfills, as endorsed at the Local Government General Meeting in July 2012.

In late 2016 the WRG determined that it was strategically important that a "statewide waste strategy" from a Local Government perspective be prepared. This document will be



used as our main tool to engage with the EPA. The completed strategy was presented at the April 2017 General Meeting and provided to the EPA shortly after to inform the update of the TWRMS.

LGAT has met with the EPA to discuss the initiatives we put forward and we now await the release of the State Government's draft TWRMS later this year. The next meeting of the LGAT Waste Management Reference Group will be on release of the draft TWRMS for comment.

At the time of writing LGAT was also consulting with councils regarding proposed changes to Schedule 2 of the *Environmental Management and Pollution Control Act 1993* to make the storage of more than 100 tonnes of waste tyres an activity subject to assessment and approval by the Board of the EPA.

#### Key Issues:

- There are a number of practical waste management projects that require funding;
- The State Government has advised that they would not be introducing a waste levy;
- The Tasmanian Waste and Resource Management Strategy is now seven years old and a new State-wide strategy is needed to deal with issues that are beyond the capacity of regional waste authorities; and
- There remains a need to collaboratively consider key waste issues strategically, from a whole of sector basis.

#### Climate Change

At the beginning of June 2017, the State Government released *Climate Action 21*, Tasmania's Climate Change Action Plan for 2017 – 2021. The Plan follows the earlier draft plan, *Embracing the Climate Challenge*, released for public comment in January 2016. Climate Action 21 sets out an "aspirational emissions reduction target of zero net emissions by 2050" and actions in six priority areas:

1. Understanding Tasmania's future climate.
2. Advancing our renewable energy capability.
3. Reducing our transport emissions.
4. Growing a climate-ready economy.
5. Building climate resilience.
6. Supporting community action.

The government has committed \$3M over the next four years to implement the Plan.

The Plan recognises that Local Government is the sphere of government closest to communities and notes the sector can assist with informing and educating local communities about climate change, and considering climate change in their decision making.

Some of the specific actions within the Plan related to Local Government include:

- Working in partnership with TasNetworks, Local Government and the private sector to support the rollout of electric vehicle charging infrastructure;
- Supporting Local Government to manage risks to new and existing settlements from coastal hazards; and
- Working with Local Government and regional bodies to embed climate change adaptation into strategic and financial decision making, through actions such as preparing tailored climate change projection summaries for each Local

Government area.

### **LGAT Climate Change Forum**

LGAT and Climate Tasmania teamed up in May to facilitate a Local Government climate change, energy efficiency and sustainability forum, hosted by the City of Hobart. The forum was open to Local Government practitioners and interested members of the public, and was well attended by elected members, Federal, State and Local Government professionals, along with scientists and consultants from inside and outside Tasmania.

This forum was designed to bring local, state and national expertise together to look at climate change risks and discuss practical responses. It provided an opportunity for attendees to hear about current climate change, energy efficiency and mitigation activities of interest and relevance to the Local Government sector.

Given the success of the day and the enthusiastic response to the forum's content and networking value, LGAT and Climate Tasmania will consider opportunities to deliver another forum, focussing on adaptation, early 2018.

### **Procurement**

The National Procurement network (NPN) is the name given to the collective of all Australian State and Territory Local Government Association procurement arms, with access provided as a service to all LGAT members. There is no charge for councils to use the LGAT/NPN contracts.

The purpose of such a procurement service is to harness the collective purchasing power of the Local Government sector, delivering savings in time and cost to its member councils.

In Tasmania councils' benefitting from the NPN are increasing each year. For example, in the twelve month period to the end of March 2016 there was a **\$3.9m spend** and approximately **\$700,000 worth of savings for councils**. Compared with a **\$6.8m spend** and **\$1.04m savings** for the same period this financial year.

Of the 29 councils, 28 purchased items through the LGAT/NPN in the twelve month period to the end March 2017, with the key area of expenditure being the Truck category (\$3.3m) followed by the Plant Machinery and Equipment category (\$1.9m) and the Specialised Trucks and bodies Category (\$1.2m).

**There is significant scope for councils to make further savings in time and money through making greater use of the LGAT/NPN.**

### **Procurement Documents**

Queensland, and subsequently South Australia and Victoria have created a comprehensive series of templates to guide councils when selecting providers through quote and tender processes and when developing contracts. The resources are designed to be used in a modular way, with parts substituted to suit circumstances. The resources were designed to help achieve good purchasing policy and procedures and in some instances to meet specific state legal requirements for good practice.

LGAT has obtained permission to use these resources to help prepare new resources for the Tasmanian context. LGAT have identified a range of template documents likely to be most relevant and developed the following draft documents:

- A request for quotation;
- General conditions of contract, for goods/services by a request for quotation;
- Conditions of tender for goods/services; and

- Conditions of tender for minor works

These resources are expected to be available in August 2017.

### **Budget Impact**

Being undertaken within current resources

### **Current Policy**

Strategic Plan:

- Priority Area 1: Strategic relationships
- Priority Area 2: Sector profile & reform
- Priority Area 3: Financial sustainability
- Priority Area 4: Sector capacity
- Priority Area 5: Land use planning & environmental sustainability

# Motions For Which Notice Has Been Received

## 9 ROADS AND INFRASTRUCTURE

### 9.1 Motion – Public Transport Services

#### City of Hobart/Central Coast Council

**That the State Government be urged to increase its per capita spending on the provision of public transport services within metropolitan and regional Tasmania.**

**Carried**

For	51
Against	5
Abstained	2

#### Background Comment

*“The travel needs of many city centre workers can only be met by mass public transport. As Australia’s urban economies have transitioned and more jobs are located in city centres, patronage on public transport has grown significantly. In the past decade, the rate of average annual growth of public transport patronage (2.4 per cent) surpassed the rate of population growth in capital cities (1.8 per cent). Additionally, the presence of public transport infrastructure attracts higher-density development, with corridors of higher density housing and commercial premises locating along transit routes. This is an increasingly common urban form change in Australian cities.”*

*State of Australian Cities 2015*

*Public transport usage experienced a decline over two decades but began increasing again in 1996. Between 2006 and 2011, Australia experienced the biggest increase in public transport mode share since 1976 (Mees & Groenhart 2012). The revival in public transport usage did not include Adelaide, Canberra or Hobart. Delivering sustainable urban mobility;*

*Australian Council of Learned Academies (ACOLA) 2015*

Tasmania has a very low public transport mode share. There is poor service coverage, low service frequency and insufficient infrastructure to lift patronage. Additional funding is required in the public transport space to improve Tasmanian’s access to services, education and jobs. We cannot have growth in Tasmania without additional spending on public transport services.

#### LGAT Comment

LGAT notes that currently there are several State Government publications and plans that relate to the provision of public transport infrastructure and services. These include:

- Tasmanian Infrastructure Strategy;
- Transit Corridor Planning Project;
- Greater Launceston Metropolitan Passenger Transport Plan;
- Regional Integrated Transport Plans;

- Regional Land Use Strategies; and
- Tasmanian Urban Passenger Transport Framework

The Government's Tasmanian Infrastructure Strategy's long-term vision for transport infrastructure includes the objectives of delivering a public transport system which is:

- A first choice option providing a cost-effective alternative to more road infrastructure, and
- An integrated passenger transport system with appropriate services and concessions to alleviate social disadvantage.

### **Tasmanian Government Agency Comment**

The Tasmanian Government invests significantly in public transport networks and currently provides over \$90 million annually to support public passenger bus services across the State. The Government recognises that increased use of public transport is an important means of reducing congestion in urban centres and for providing equity of access to those living in rural areas. The Government is working to more efficiently and effectively target the allocation of its resources and is implementing a number of activities to improve public passenger transport services across the State and increase patronage.

The Department of State Growth (State Growth) is currently undertaking an extensive review of all current public passenger bus network services and providers. The review, referred to as 'Project 2018', will focus on ensuring development of the right network and the right number of buses and services to, from and between communities. Work has also commenced on investigating the potential for unifying ticketing services across individual bus operators. This 'common ticketing' would give patrons the convenience of being able to use one smartcard to pay for bus fares across multiple operators.

State Growth is continuing to work closely with councils to make existing passenger services more efficient and attractive to patrons. State Growth has already progressed work with the Glenorchy and Hobart City Councils on opportunities to optimise bus services along the main road corridor through consideration of bus priority measures and a review of bus stop locations. Providing priority for buses is a key lever available to councils to influence the take up of passenger transport.

During the back-to-school period between 30 January and 24 February 2017, a free pre-7:00am business day bus service was trialled as a specific measure to address congestion in the Hobart urban area. This initiative aimed to encourage commuters to try something different and, at no personal cost, sample a different transport mode and avoid the back-to-school traffic. During the trial, there was a 14% increase in patronage of the pre-7:00am service.

In conjunction with these initiatives, the Government is currently finalising its Transport Access Strategy to provide better integrated and coordinated transport services for Tasmanians disadvantaged through economic circumstances, disability, frailty or age. When released, the Strategy, which focuses on transport disadvantage, will be a first critical building block for a wider, more holistic approach to passenger transport in the future.

## 10 SECTOR REFORM

### 10.1 Motion – Local Government Rates, Fees & Charges Regulator

#### Burnie City Council/Derwent Valley Council

**That LGAT write to the Minister for Local Government seeking an investigation into the merits of introducing an independent body (similar to the prices regulator for power, water and sewerage) to be the regulator of Local Government rates, fees and charges and to oversee estimates of Capital works budgets.**

**Lost**

For	4
Against	51
Abstained	3

#### Background Comment

In preparing budgets and developing asset and financial plans elected members rely heavily on the advice of their General Managers as they do not have the broad experience or necessarily time to be involved in the fine detail of determining the equitable setting of fees, charges and rates.

This should not be seen as a criticism of elected members but a statement of fact, as all are there to represent the community in the resolution of their daily issues predominantly. Elected members are presented with Budgets from the General Manager with the assistance of senior managers and the involvement of Aldermen/Councillors is generally to ensure a balanced operational budget and to adopt a capital works program in line with the available funds.

The level of challenge and justification of specific items in budgets is generally superficial, as the elected members do not have the detailed knowledge of the operation, hence relying on the General Manager. In recent years local government entities have established Audit Panels, however this can only scrutinise a single entity and not more broadly across the local government sector. An independent body to advise elected members as to the accuracy or justification of the rates, fees and charges would be beneficial for the community. An independent body could also examine the expenditure to ascertain whether the services provided are fair and reasonable.

An independent body could also consider the asset base of each Council examining the depreciation rates that are being used and the appropriateness of the capital works program.

Such an independent body of overarching supervision would allow for Statewide consistency in the setting of rates, fees and charges with an ability for Councils to argue factors as to whether the body should take into account disability factors of individual municipalities.

It would also highlight long term issues such as where Councils are not maintaining infrastructure or replacing it with a long term interest is maintaining the quality of assets.

There are models around Australia where State Government impose rate capping/pegging and this motion provides local government with an opportunity to be involved in an investigation with the Minister of Local Government before it is imposed on the sector.

## **LGAT Comment**

A number of jurisdictions have imposed or wish to impose rate capping on Local Government. As articulated to Members in a paper to the November 2016 Meeting, evidence suggests that rate capping is not an appropriate mechanism for yielding efficiency dividends and leads to negative and long-lasting consequences such as: loss of autonomy and flexibility in relation to determining local infrastructure and service requirements; a propensity to develop a back log of infrastructure maintenance and renewal requirements; and the potential for inter-generational transfer or burden.

While LGAT has no position on the suggestion of an independent regulator, we note that over the last few years, through LGAT, there has been significant investment in improving the sector's approach to Long Term Financial and Asset Management planning, including officer and elected member training, practice notes, maturity assessments, new legislated requirements and a focus by the Auditor General.

It should be noted that at this stage while the Property Council is calling for the introduction of rate capping, the Government has stated this is not their intent. However, in light of the highly charged reform environment this is not a guaranteed position.

The risk of an imposed rate capping model must be weighed against the risks related to a regulated model such as outlined in this motion. For example, LGAT notes the advice of the NSW Independent Review Panel on the high cost of preparing, reviewing and determining applications around rate capping relative to the benefits delivered. This may be a risk in a new regulatory environment in Tasmania and would have to be carefully contemplated in any model going forward, along with consideration of how consideration is given to local variations in service needs and preferences (based on demographic factors, geography, council's financial circumstances, the offerings of other levels of government, and conversely any service gaps, and the community's ability and willingness to pay).

## **Tasmanian Government Agency Comment**

The *Local Government Act 1993* (the Act) allows councils to determine appropriate rating structures that support individual service delivery and asset management objectives. The community elects councillors to make decisions on its behalf including in relation to rates, charges and asset management. In turn, councils appoint general managers who have the capacity to provide qualified advice regarding rates, charges and asset management that aligns with councils' strategic plans.

A number of mechanisms are in place to support councils to deliver sound decision making with regard to the setting of rates and charges, and with regard to financial and asset management.

The Act requires councils to implement rates and charges policies to provide transparency in decision-making, and to educate their communities about how councils raise revenue. Rating policies are required to be consistent with councils' long-term financial and asset management plans, which are also a requirement under the Act.

Each year the Auditor-General prepares a report on the financial statements and financial sustainability of councils. In recent years, this report has included data related to efficiency including rates per head of population. There may be scope to build on the Auditor-General's analysis and reporting to further enhance transparency.

The motion proposes an independent regulatory body could have powers ranging from advisory (in particular providing benchmarking information to a council as to how its budget position and plans compare with other councils) through to regulation of rates, charges and capital expenditure. The State Government does not object to this proposal in principle, if the motion is agreed by the sector. Should the sector agree to the motion,

the State Government is willing to work with Local Government to develop options as to how the regulatory body is established (or whether an existing regulator is given new powers), how it would be resourced and funded, and what new powers are to be provided.

## 11 SECTOR CAPACITY

### 11.1 Motion – Flood Mitigation Funding

#### Kentish Council/Derwent Valley Council

That LGAT lobby the State Government to boost Tasmania's disaster resilience by providing a significant increase in funding and work with the Commonwealth Government to change the disaster resilience mitigation funding under the National Partnership Agreement back to  $\frac{1}{3}$  Commonwealth,  $\frac{1}{3}$  State and  $\frac{1}{3}$  Council contributions.

#### Amendment Motion

#### West Tamar Council/Flinders Council

That LGAT lobby the State and Federal Government to boost Tasmania's disaster resilience by forming a tri-partisan arrangement containing representatives from Local, State and Federal government to consider and approve disaster relief funding requirements on a needs basis.

Lost

For	14
Against	41
Abstained	3

#### Kentish Council/Derwent Valley Council

That LGAT lobby the State Government to boost Tasmania's disaster resilience by providing a significant increase in funding and work with the Commonwealth Government to change the disaster resilience mitigation funding under the National Partnership Agreement back to  $\frac{1}{3}$  Commonwealth,  $\frac{1}{3}$  State and  $\frac{1}{3}$  Council contributions.

The Original Motion was Put and Carried

For	51
Against	4
Abstained	3



## **Background Comment**

Kentish has a long history of major floods causing disruption to business and on-going economic and social costs to the urban and surrounding rural community.

The 2011 floods were particularly severe resulting in significant economic, psycho-social, infrastructure and environmental impacts on the community, in particular Railton where 60 houses and 14 businesses were flooded. The June 2016 flooding had a lesser impact in Railton but still resulted in a number of properties being flooded and uninhabitable houses, one of which still remains vacant, along with destruction of major infrastructure including three bridges across the Mersey River.

Following the extensive flooding of Railton in January 2011, Council was grateful to secure funding from the Natural Disaster Resilience Program (NDRP) to develop a Railton Flood Mitigation Strategy.

Engineering Consultants SEMF were engaged to review flood mitigation options for Railton and model flows and water levels. The resultant SEMF report identified flood protection measures that would, if implemented, protect Railton from major flood events in the future.

The cost of this mitigation project is \$2,465,826. Kentish Council made an application to the Natural Disaster Resilience Grants Program to minimise flooding in the township of Railton and subsequently found out that only \$400,000 was available in the current Tasmanian allocation for flood studies and mitigation works. The application was unsuccessful.

In addition approximately 7 to 10 years ago the Regional Flood Mitigation programs ( $\frac{1}{3}$  Federal:  $\frac{1}{3}$  State:  $\frac{1}{3}$  Local Government funding) was replaced with the National Partnership Agreement and the National Disaster Resilience program (50:50 funding).

The Tasmanian Longford flood levy was constructed under the previous program approximately 13 years ago and the cost of just over \$5 million was more than repaid when the township was protected from the June 2016 floods. The estimated cost of damage if the township had been flooded was approximated at \$12 million in 2004.

The Launceston City Council received significant funds for their flood levy project on a  $\frac{1}{3}$  (Commonwealth)  $\frac{1}{3}$  (State)  $\frac{1}{3}$  (Local Government) basis and Council understands that the funding for this project was a one-off special pledge from the Federal Government as a result of significant lobbying over a long period of time.

The issue of availability of funding for flood mitigation work/studies is significant and the limited money available through the current National Partnership Agreement will only scratch the surface.

Council believes the mitigation funding should be substantially increased and the previous model of  $\frac{1}{3}$  Commonwealth,  $\frac{1}{3}$  State and  $\frac{1}{3}$  Local Government is the best way to fund mitigation works.

## **LGAT Comment**

LGAT agrees that both the pool of funding for mitigation works and the current requirement under the partnership agreement for 50:50 split in contributions between the federal government and the funded organisation is inequitable, especially for smaller councils with significant risk. If funding is made available to Tasmania through future national partnership agreement or other mechanisms a more appropriate funding split should be considered as part of any grant program.

It is understood that other states provide similar mitigation programs (as agreed through

their state specific partnership agreements with the Federal Government) and that some provide a more appropriate split in contributions to make it more accessible to poorly resourced stakeholders such as small councils. Some states also provide “top up” funding to the federal government funding to increase the pool of funding available to applicants.

LGAT has raised concerns in a number of forums in relation to these issues. These include the Premiers Local Government Council Officials meeting, though our budget submission to the Tasmanian Government for the 2017/18 budget, the Flood review submission and discussions with the Productivity Commission in relation to relief and recovery funding. The lack of funding for mitigation is also an area that ALGA has a strong policy position on.

The issue of the State Government using the National Partnership Funding for what, in some circumstances could arguably be considered as a core function is of concern and impacts on the availability of funding for other stakeholders. As with other jurisdictions, grant programs and funding for mitigation in Tasmania for stakeholders other than state government should be provided under different terms with a more appropriate split. LGAT has identified this as a significant issue in the emergency management policy area.

### **Tasmanian Government Agency Comment**

The State Government (through DPAC - Office of Security and Emergency Management) is engaged in ongoing negotiations with the Commonwealth (AGD) on national reforms to the Natural Disaster Relief and Recovery Arrangements (NDRRA) that are expected to be implemented from 1 July 2018. These reforms are likely to include new national funding arrangements that should allow access to additional Commonwealth funding for mitigation projects.

There is one more round of the 2015-17 of the National Partnership Agreement on Natural Disaster Resilience (NPA), which will be launched around September 2017 and, pending any agreed changes to the Tasmanian Implementation Plan, will provide \$400,000 towards the Natural Disaster Resilience Grants Program, \$200,000 for the Emergency Volunteer Fund, and \$565,000 for the State Emergency Management Program.

The Commonwealth has committed to an extension of the NPA, which will fund support programs at the same levels for 2017-18. However, no funding commitments have been made beyond 2017-18 as this is due to the need to await the outcome of the above NDRRA review.

The NPA requires Tasmania to match the Commonwealth funding contribution, but this may be cash or in-kind. The NPA requires a Tasmanian Implementation Plan, which specifies how project revenues/expenses are split. Since the start of the NPA, this has been on a 50% cash contribution through the NPA and a 50% cash or in-kind contribution from the applicant. Unlike the previous Regional Flood Mitigation Program, funding eligibility is now much broader and also includes Non-Government Organisations. To include a 1/3 State contribution under these circumstances would provide inequities in the proportion of the NPA/Commonwealth funding received, particularly for State Agency applicants who would have to pay 2/3 contribution.

Councils (or any other applicants) who have difficulty in meeting the 50% matching contribution (cash or in-kind) may seek an exceptional circumstances waiver on their grant application. Applicants also have the option of seeking/negotiating additional funding from additional sponsor agencies/organisations to further supplement grant applications.

## **11.2 Motion – Immunisation Programs**

## Devonport City Council/Burnie City Council

**That the Local Government Association of Tasmania lobby the State Government to investigate the coordination of school immunisation programs being undertaken on a State wide basis, rather than being an individual council responsibility to coordinate.**

Carried

For	40
Against	16
Abstained	2

### Background Comment

Councils are required by the provisions of the *Public Health Act 1997* to administer an “immunisation program” and therefore under this provision, the Director of Health has determined that Council must deliver a school immunisation program.

To deliver a school immunisation program, Council must obtain the services of two registered nurse immunisers.

At present, there are a limited number of nurses who are registered as “immunisers” and the result is that planned school programs are often delayed or cancelled.

This can be critical when certain vaccine booster shots are required to be delivered within a specified period. Devonport City Council is of the view that the way the program is administered should be reviewed and coordinated at the State level.

### LGAT Comment

While the Department’s Public Health Services may provide significant support to councils in the delivery of school immunisation programs, there may be opportunity to better harness this effort.

LGAT can support the issues raised in this motion by negotiating with the PHS for an approach that will assist councils with the difficulty they experience in delivering this service.

### Tasmanian State Government Agency Comment

This motion asks the LGAT to lobby the State Government to investigate how coordination of the school immunisation programs may be done on a State wide basis rather than by councils. The motion is not supported by the Department of Health and Human Services.

The Department’s Public Health Services (PHS) already provides extensive state-wide coordination of school immunisation programs.

PHS coordinates state-wide school immunisation programs through substantial and frequent consultation with Local Government and stakeholders such as education. This activity occurs individually day-to-day and in forums held several times each year. PHS provides immunisation program guidance documents – developed in consultation with Local Government - to assist all providers to deliver efficient and consistent programs.

PHS has developed and refined state-wide supporting material such as information and consent packages for children and their parents. PHS maintains a state-wide register of

authorised immunisers to support immunisation providers including Local Government. PHS coordinates access to and transport of vaccines for Local Government, and manages information about immunisation generated by the school-based programs.

Active involvement of Local Government in coordinating local delivery of school-based vaccines is an essential and appropriately local function.

The *Public Health Act 1997* includes succinct and clear requirements of Local Government:

**57. Council immunisation programs**

- (1) A council must develop and implement an approved program for immunisation in its municipal area.
- (2) *The Director may require a council to provide any information the Director determines relating to its immunisation program.*

These provisions reflect the understanding of the critical role of immunisation in ensuring the health of communities, and of the irreplaceable role of Local Government in providing locally-informed population-based immunisation services in settings such as schools.

PHS is currently participating in a program of applied research, in partnership with several other jurisdictions, to identify and implement improvements in how Human Papillomavirus vaccine is provided through school-based programs. PHS looks forward to involving Tasmanian local governments in this process, which is hoped to increase coverage of HPV vaccine from around 65% to well over 80%.

## 12 LAND USE PLANNING & ENVIRONMENT

### 12.1 Motion – Container Deposit Legislation

**City of Hobart/Clarence City Council**

**That the Local Government Association of Tasmania lobby the State Government to introduce container deposit legislation for the state.**

**Carried**

For	53
Against	2
Abstained	3

#### **Hobart City Council**

The introduction of a state-wide Container Deposit Scheme (CDS) would provide an effective measure to reduce container related litter as well as increase its recovery. Local Government plays a significant role in the collection of recycling and is also responsible for cleaning up public litter and are therefore burdened with the costs associated with providing these services.

By placing a significant value on recyclable containers, a CDS will provide increased recycling and reduced littering. It will also deliver benefits to local community groups, who

will become engaged in collecting containers discarded to the environment to generate revenue.

Tasmanian Local Governments are currently paying significant costs for household containers to be recycled and programs that can reduce the amount of recycling requiring collection will deliver direct financial benefits. The City supports the implementation of a state-wide CDS on the grounds of economic, environmental, and social benefits

### **West Coast Council**

A Motion supporting Container Deposit Legislation gained Council Support. It is thought that such legislation would:

- Substantially reduce road side waste
- Reduce waste to landfill
- Provide a funding stream for the likes of Scouts/Cubs

The West Coast Council wrote to the Premier on this subject and he indicated DPIPW were undertaking a study on the NSW Legislation and looking at whether the potential exists for Tasmania.

### **Clarence City Council**

It is noted that:

- Tasmania and Victoria are the only Australian states that have not committed to introducing a Container Deposit Scheme;
- That the West Coast Council passed a motion providing in principle support to the establishment of a container deposit scheme in Tasmania and to lobby State Government to legislate for its introduction on 17 January 2017;
- The Liberal Western Australia and Labor Queensland Governments recently committed to introducing a 10c container refund scheme and the Liberal New South Wales Government has already tabled legislation;
- Clarence's beaches and waterways are being polluted with cans and plastic bottles, which make up more than half the plastic found (by volume) on Australian beaches;
- This was highlighted in the current "Bellerive Bluff Land and Coast Care" Newsletter#84, stating that under the "I CAN-WE CAN Project" over the past 3 years they have recycled 298.5kg of cans equating to approximately 18,000 cans; with about 60 cans to the kilo, raising \$136.75; and
- This community group has conveyed this information to the Government hoping it will help advance the move for "Container Legislation".

A Container Deposit scheme could:

- Create new jobs in Tasmania, including for people living with a disability;
- Save kerbside recycling costs for Tasmanian Councils each year; and
- Benefit young Clarence residents looking for pocket money as well as schools, community groups, sporting clubs and small business enterprises.

In passing this motion the Council acknowledges that:

- A CDS is a state issue that has significant impacts on Tasmania Councils and their ratepayers;
- The State Government present draft legislation to the 2017 Local Government State Conference; and
- Clarence City Council is well placed to add its voice in lobbying for CDS as an on-going Leader in Waste and Recycling Management in Tasmania.

### **LGAT Comment**

Historically there had been concern from the Tasmanian Local Government sector that the introduction of a CDS in Tasmania would undermine the viability of council recycling and it was not supported. However in 2013, LGAT, with funding from the regional waste bodies, commissioned a report which demonstrated the sector could be cautiously optimistic that a CDS would work in tandem with recycling programs in Tasmania.

That advice and the report was provided to the then State Government who commenced their own study in 2014. There was preference at State level to see what might transpire nationally and so we have been in a holding pattern for some time.

While some of the data and assumptions will need rechecking in relation to viability and impact, given time passed, LGAT welcomes the commitment of funds from State Government to further progress this work. We have been advised this is intended to be progressed in collaboration with Local Government, to ensure the right model to deliver the best overall waste outcomes for Tasmania. We fully support this partnership approach.

The LGAT Waste Reference Group has completed a Statewide Waste and Resource Management Strategy and provided this to the EPA to inform the update of the Tasmanian Waste and Resource Management Strategy. LGAT has met with the EPA to discuss the initiatives we put forward. Relevantly, the Strategy notes the lack of state government advocacy and support for implementation of national product schemes (such as CDS) has resulted in additional costs to Local Government and poor outcomes for the state. It goes on to suggest the need for statewide implementation and support of national product schemes where there is cost benefit to Tasmania.

### **Tasmanian Government Agency Comment**

Under the 2017-18 State Budget, the Government is meeting its commitment to consider the feasibility of establishing a Container Deposit Scheme (CDS) for Tasmania. Funds of \$100,000 have been provided to EPA Tasmania to develop a model framework for a CDS that complements mainland schemes already in place or currently being developed.

Consultation with Local Government and industry will be integral to the development of the model CDS framework for Tasmania to make sure it provides the best levels of coverage and community access as cost effectively as possible.

EPA Tasmanian will coordinate with LGAT regarding the details of the CDS modelling initiative.

## 12.2 Motion – Smoking at School Crossings

### George Town Council/Circular Head Council

That LGAT lobby the State Government to amend the Public Health Act 1997 to declare all school road crossings and surrounds, a smoke free area under section 67B.

Carried

For	55
Against	1
Abstained	2

### Background Comment

Council officers have been working on a project to make all School crossings within the George Town municipal area smoke free areas. The project stemmed from a motion that was passed through the George Town Safety Committee (GTSC) after receiving a presentation from a member of the Student Representative Committee at Port Dalrymple High School.

The student leaders had observed that some parents were smoking while congregating at the school crossings while dropping off and waiting to pick up their children. This resulted in all children who needed to use the crossing being exposed to environmental tobacco smoke (ETS) or more commonly known as secondhand smoke.

In response to the informative presentation, the GTSC agreed that the health matter was important enough to investigate declaring the school crossings as smoke-free areas.

### LGAT Comment

The Local Government Association of Tasmania (LGAT) commends the work of George Town Council in collaboration with Public Health Services in creating awareness about the health impacts of smoking awareness at school crossings.

This motion has not previously been put to a General Meeting. LGAT notes the Government Agency comment and will be in a position to reflect the views of the membership in relation to this proposal through its regular communication with Public Health Services.

If an amendment to the Act is not supported then LGAT can support the motion via its meetings with Public Health Services and through sharing the positive collaborative results of Georgetown Council through its publications and website Better Communities Better Councils.

### Tasmanian State Government Agency Comment

This motion asks the LGAT to lobby the State Government to amend the *Public Health Act 1997* to declare all school road crossings smoke free.

Tobacco Control Officers from Public Health Services (PHS) are supporting George Town Council in their initiative to establish smoke free crossings near their primary and secondary state schools.

Smoke-free laws aim to protect the health of non-smokers, including staff and patrons of businesses, from exposure to environmental tobacco smoke; reduce uptake in young

people by denormalising smoking and making it less appealing; and support smokers by making it easier to quit and remain a non-smoker.

Section 67B(1)(c) of the *Public Health Act 1997* enables 'any area, including, but not limited to, a public street, that is not within private premises' to be designated smoke-free by the occupier. In the case of school crossings of public roads, it is understood the Council is the occupier. The *Tasmanian Tobacco Control Plan 2017-20* encourages the creation of new smoke-free areas by local councils.

PHS has developed a resource entitled *Declaring Smoke Free Areas A Guide for Local Councils*. This guide describes how to declare a new smoke-free area, consult with the public, provide smoke-free signs and undertake the responsibility to enforce it.

Declaring school crossings smoke-free requires Councils to engage with schools, children and parents, and the nearby community. It also provides an opportunity to link such initiatives to *Smoke-Free Generation – be a part* messages and resources (<https://www.smokefree.den.org.au>).

A blanket declaration (for example by amendment of the *Public Health Act 1997*) would first require Cabinet approval. If approved, it would still require substantial local work, including community consultation and education, preparation of maps, signage and planning and resourcing of ongoing enforcement. It is reasonable to consider such an amendment, noting that both a change to the Act, and the work to implement such an amendment, will take some time. In the meantime, PHS will continue to support Councils who wish to establish smoke-free areas around their school-crossings.

### 12.3 Motion – Fluoridation Act 1968

#### **Kentish Council/Meander Valley Council**

**That LGAT requests the State Government repeal section 13 of the Fluoridation Act 1968 (amended) which states that 'a Council must not hold an elector poll under Part 6 of the Local Government Act 1993 in relation to the addition of fluoride to a public water supply'.**

**Repealing section 13 will enable the people of Tasmania to participate in information-sharing and debate and to state their informed position regarding the routine addition of fluoride to their drinking water, through a referendum.**

#### **Amendment Motion**

#### **Northern Midlands Council/**

**That LGAT requests the State Government, in regard to the fluoridation of water, that more research be undertaken and be made available.**

**There Being no Secunder, the Amendment Motion was Lost**



## Kentish Council/Meander Valley Council

**That LGAT requests the State Government repeal section 13 of the Fluoridation Act 1968 (amended) which states that 'a Council must not hold an elector poll under Part 6 of the Local Government Act 1993 in relation to the addition of fluoride to a public water supply'.**

**Repealing section 13 will enable the people of Tasmania to participate in information-sharing and debate and to state their informed position regarding the routine addition of fluoride to their drinking water, through a referendum.**

**The Original Motion was Put and Lost**

For	11
Against	44
Abstained	3

### Background Comment

The fluoridation of drinking water supplies in Tasmania is regulated by the Fluoridation Act 1968. Under the Act, the need to add fluoride to a water supply is assessed by a fluoridation committee, which then provides a recommendation to the Health Minister. The Health Minister may then choose to direct the water authority to add fluoride to the water.

Tasmania was the first state in Australia to add fluoride to a public water supply, in Beaconsfield, in 1953.

Supporters of fluoride believe that topical fluoride applications promote healthy teeth and gums.

Opponents believe that fluoride, when regularly consumed over an extended period of time, is bio-accumulative and can cause adverse effects including dental fluorosis, skeletal fluorosis, arthritic symptoms, bone fracture, and can affect many other tissues besides bone and teeth, including the brain and thyroid gland.

Lancet Neurology, vol 13, issue No 3, March 2014 (a publication of the British Medical Association) officially classified fluoride as a neuro-toxin.

In 2012, the Queensland Parliament reversed the previous mandate requiring certain public potable water supplies to add fluoride to the water. To date, as a consequence of these changes, 29 councils in Queensland have either ceased the addition of, or not introduced, fluoride to town water supplies.

Local Government Association of Queensland (LGAQ) and the Queensland State Government share the same position statement on water fluoridation, that **“it is a principle of ethical public health policy that mass, involuntary medication must never proceed without the express consent of the community”**.

If people want to include fluoride as part of their dental care, it is readily and economically available in toothpastes on the supermarket shelves, as mouth rinses, or it can be professionally-applied in gels or foams. Fluoride is also available, medicinally, in the form of tablets, lozenges and liquids.

Informed consent is standard practice for all medication, and a key reason why most of Western Europe has ruled against fluoridation. If the community has no control over accepting or rejecting water fluoridation, we are allowing the State Government to do to the whole community (obliging people to take a medicine irrespective of their consent) what doctors cannot do to individual patients.

This motion is not intended as an argument for or against the addition of fluoride in drinking water. It is seeking the opportunity for the community to have a voice.

### **LGAT Comment**

The National Health and Medical Research Council (referred to below in the State Government comment) is evaluating evidence on the health effects of water fluoridation with the final Information Paper, which summarises and assesses how these research findings are relevant to Australia and Australians, likely to be released later in 2017. The Evidence Evaluation included the following activities:

1. A comprehensive evaluation of the dental effects of water fluoridation, which consisted of:
  - a. An overview of systematic reviews on the effects of water fluoridation on dental caries;
  - b. A systematic review of recent primary studies on the effects of water fluoridation on dental caries not identified in the reviews included in the overview; and
  - c. A critical appraisal of the evidence on tooth decay and dental fluorosis reviewed by the Cochrane Collaboration (Iheozor-Ejiofor et al published on 18 June 2015);
2. A systematic review of other possible health effects of water fluoridation.

Councils are encouraged to review this paper when it is published and share it with their communities in order to determine their view on the fluoridation of drinking water supplies.

### **Tasmanian Government Agency Comment**

This Motion seeks the repeal of s13 of the *Fluoridation Act 1968*. This section provides that a council must not hold an elector poll under Part 6 of the *Local Government Act 1993* in relation to the addition of fluoride to a public water supply. The motion is not supported by the Department of Health and Human Services.

The 'background comment' of the Motion provides just over one line about what supporters of fluoride are said to 'believe', and six lines in two paragraphs about what opponents of fluoride are said to 'believe'.

Australia's peak medical scientific body, the National Health and Medical Research Council (NHMRC), strongly recommends drinking water fluoridation as an effective and safe way to prevent dental caries across the community. The current recommended fluoridation of water is in the range of 0.6-1.1mg/L. Evidence shows that fluoridation of drinking water is especially beneficial to the dental health of children, and those experiencing socioeconomic disadvantage who have reduced access to dental care. Fluoridation of community drinking water decreases the number of children with dental caries and the number of children requiring hospitalisation from complications such as dental abscesses. Children who experience significant dental caries and do not receive treatment, risk poorer educational and employment outcomes, lower self-esteem and social exclusion as adults.

There is evidence that dental fluorosis, a problem with the appearance of teeth, is caused by a high intake of fluoride from multiple sources when teeth are developing. Most dental fluorosis in Australia is mild and does not significantly affect the appearance or function of teeth. More significant dental fluorosis is associated with much higher levels of water

fluoridation than that recommended by the NHMRC. There is reliable evidence that drinking water fluoridation in the range recommended by the NHMRC is not the cause of other health problems such as cancer, cardiovascular problems, neurological problems, skeletal problems, kidney problems or thyroid problems.

Therefore, aside from fluorosis, scientific evidence has effectively refuted the other putative adverse outcomes that the opponents of fluoride are said to believe, according to the 'background content'.

An extensive and current review of the health effects of water fluoridation is available on the NHMRC website (<https://www.nhmrc.gov.au/health-topics/health-effects-water-fluoridation>). An Information Paper on this was provided for public consultation in 2016 and will soon be published, followed by an NHMRC Public Statement that updates the Public Statement of 2007.

In Tasmania, under s10 of *Fluoridation Act 1968*, the decision to require the water authority (i.e. TasWater) to fluoridate a public water supply is made by the Minister, following the Minister's consideration of the recommendation of the Fluoridation Committee (which is appointed by the Minister under the Act). Tasmania is one of only three Australian jurisdictions in which all communities of 1000 or more persons that receive a public water supply all receive a fluoridated supply. Based on the current evidence for the safety and efficacy of fluoridation, it is therefore expected that the Fluoridation Committee will continue to recommend to Ministers that they require ongoing fluoridation of drinking water supplies by the water authority.

The objective of the motion is stated to 'enable the people of Tasmania to participate in debate through a referendum.' However, an 'elector poll' is not a referendum and does not bind the council, let alone the water supply authority which must comply with the Minister's decision. There are already many avenues for members of the public to debate this issue, including existing Local Government mechanisms such as petitions and public meetings.

## 13 PUBLIC POLICY GENERAL

### 13.1 Motion – Recognition Of Australia Day

#### City of Hobart/Brighton Council

**That LGAT, the 29 Councils and any individual Elected Members be requested to lobby the Federal Government to commence a conversation with the Australian public regarding the date of recognition of Australia Day.**

**Lost**

For	26
Against	27
Abstained	5

**Mayor Loueen Triffitt supported the Motion**

### **Background Comment**

Every year there are ever increasing public rallies by both indigenous and non-indigenous people protesting against the current legislated date for Australia Day because Aboriginal people view it as Invasion Day.

Rallies held this year in capital cities drew large numbers of supporters including up to 50,000 people in Melbourne, several thousand in both Sydney and Brisbane and over 1000 in Hobart. There is a growing acknowledgement that 26 January is not a day of celebration for all Australians. The current date has only been in practice since 1994 and before that time it was celebrated on a long weekend in January.

If consideration is given to changing the date that we recognise as Australia Day it provides an opportunity to find a more inclusive date for all Australians to celebrate.

### **LGAT Comment**

At the Australian Local Government Association National General Assembly (June 2017) a resolution was passed calling on the Assembly to encourage Australian councils to consider efforts they could take to lobby the Federal Government to change the date of recognition of Australia Day.

The Board of ALGA will be meeting in July to consider this and other Assembly resolutions and determine what action the Board will take. The ALGA Board noted the level of debate and the closeness of the result of the debate and will take these matters into consideration when determining a course of action.

### **Tasmanian Government Agency Comment**

The Tasmanian Government is a member of the National Australia Day Network. The Network has representation from all jurisdictions and is led by the National Australia Day Council (NADC). An Australia Day Program of events and activities for Tasmania, including support for the Australian of the Year Awards, is delivered from within the Department of Premier and Cabinet.

NADC has said publicly that the Australia Day Network is committed to playing a part in the journey of reconciliation by helping all Australians to move forward with a better understanding of our shared past, and importantly how this affects the lives of Aboriginal and Torres Strait Islander peoples today and how we might build a better future together. It has stated that:

“Our national day should be authentic and mature where we can celebrate and mourn at the same time. We can honour all that is great about Australia and being Australian, remember the sufferings and our shortcomings and commit to build a more cohesive and inclusive nation.”

## **14            CLOSE**

There being no further business the President declared the Meeting closed at 3.05pm.

Item No			Action
8			
8.1	Ownership of Taswater		Refer to Item 3.2
8.2	Review of the Local Government Act		Refer to Item 3.4
8.3	Code of Conduct Update		
8.4	Land Use Planning		Refer to Item 3.9
8.5	Visitor Accommodation Changes		No further action
8.6	Preventative Health		Refer to Item 3.3
8.7	Strategic Plan and Annual Plan		Refer to Item 3.11
8.8	National General Assembly of Local Government		No further action
8.9	Policy Update		Refer to Item 3.9
9.1	Public Transport Services	That the State Government be urged to increase its per capita spending on the provision of public transport services within metropolitan and regional Tasmania	Refer to Follow up of Motions report
10.1	Local Government Rates, Fees & Charges Regulator	That LGAT write to the Minister for Local Government seeking an investigation into the merits of introducing an independent body (similar to the prices regulator for power, water and sewerage) to be the regulator of Local Government rates, fees and charges and to oversee estimates of Capital works budgets	Motion Was Lost, No Further Action
11.1	Flood Mitigation Funding	That LGAT lobby the State Government to boost Tasmania's disaster resilience by providing a significant increase in funding and work with the Commonwealth Government to change the disaster resilience mitigation funding under the National Partnership Agreement back to ⅓ Commonwealth, ⅓ State and ⅓ Council contributions	Refer to Follow up of Motions report
11.2	Immunisation Programs	That the Local Government Association of Tasmania lobby the State Government to investigate the coordination of school immunisation programs being undertaken on a State wide basis, rather than being an individual council responsibility to coordinate.	Refer to Follow up of Motions report
12.1	Container Deposit Legislation	That the Local Government Association of Tasmania lobby the State Government to introduce container deposit legislation for the state	Refer to Follow up of Motions report
12.2	Smoking at School Crossings	That LGAT lobby the State Government to amend the Public Health Act 1997 to declare all school road crossings and surrounds, a smoke free area under section 67B.	Refer to Follow up of Motions report

12.3	Fluoridation Act 1968	<p>That LGAT requests the State Government repeal section 13 of the Fluoridation Act 1968 (amended) which states that '<i>a Council must not hold an elector poll under Part 6 of the Local Government Act 1993 in relation to the addition of fluoride to a public water supply</i>'</p> <p><i>Repealing section 13 will enable the people of Tasmania to participate in information-sharing and debate and to state their informed position regarding the routine addition of fluoride to their drinking water, through a referendum.</i></p>	Motion Was Lost, No Further Action
13.1	Recognition of Australia Day	<p>That LGAT, the 29 Councils and any individual Elected Members be requested to lobby the Federal Government to commence a conversation with the Australian public regarding the date of recognition of Australia Day.</p>	Motion Was Lost, No Further Action

## Follow Up of Motions Report

### Report to the General Meeting

LGAT has streamlined its reporting on Motions which have been passed at General Meetings.

This report details motions where LGAT is still pursuing an outcome.

<b>Local Government Legislation</b>	
That the LGAT request a change to the Local Government Act to ensure a Mayoral vacancy does not trigger a by-election if the vacancy occurs within 12 months of an election.	<p><b>Passed:</b> July 2014</p> <p><b>Notes:</b> LGAT has raised this with the division via the targeted review, however it was not picked up in the subsequent amendments to the Local Government Act. There are still opportunities to review it through other avenues.</p>
That LGAT request the Local Government Division alter section 339F (4) Local Government Act 1993 from requiring a council to review its customer service charter at least once every 2 years to within 12 months after a council election.	<p><b>Passed:</b> July 2015</p> <p><b>Notes:</b> LGAT has raised this with the division via the targeted review, however it was not picked up in the subsequent amendments to the Local Government Act. There are still opportunities to review it through other avenues.</p>
That the Local Government Association of Tasmania urge the State Government to support the transfer of the administration of the General Manager's Roll to the Tasmanian Electoral Commission.	<p><b>Passed:</b> July 2015</p> <p><b>Notes:</b> LGAT has raised this with the division via the targeted review, however it was not picked up in the subsequent amendments to the Local Government Act. There are still opportunities to review it through other avenues.</p>
The Local Government Association of Tasmania urge the State Government to review the eligibility for inclusion on the General Manager's Roll by reviewing the definition of occupier to better capture all citizens, inclusive of refugees and permanent residents living in a Local Government area.	<p><b>Passed:</b> July 2015</p> <p><b>Notes:</b> LGAT has raised this with the division via the targeted review, however it was not picked up in the subsequent amendments to the Local Government Act. There are still opportunities to review it through other avenues.</p>
The Local Government Association of Tasmania urge the State Government to support the expansion of the Local Government Act and Regulations to require candidates to disclose political donations.	<p><b>Passed:</b> July 2015</p> <p><b>Notes:</b> This was raised by LGAT in our submission on the targeted review of the Local Government Act and has been picked up in the amendments – refer to Part 5A Gifts and Donations.</p> <p><b>This motion will be removed following the November General Meeting.</b></p>

<p>That LGAT request the State Government to amend the Local Government Act and Regulations, consistent with legislation associated with the Legislative Council (Sect 162 of the Electoral Act 2004) to prevent donations to or expenditure by Local Government election candidates involving political parties which endorse and/or support that candidate.</p>	<p><b>Passed:</b> October 2015  <b>Notes:</b> This was raised by LGAT in our submission on the targeted review of the Local Government Act. While not supported exactly as sought, the Government does now requires councillors to notify the General Manager of gifts and donations (the precise details to be determined by regulations).</p> <p><b>This motion will be removed following the November General Meeting.</b></p>
<b>Environment</b>	
<p>That the Local Government Association of Tasmania be requested to consult with the regional waste management bodies (and other relevant bodies) for the purpose of:</p> <p>a. Identifying the extent of problems associated with the disposal of car wrecks/car bodies. This recognises the lack of disposal options given the current steel recycling market (or lack thereof); and</p> <p>b. In conjunction with the regional bodies, determine what cost effective options can be considered to address and manage the issues identified.</p> <p>Note: Consideration should be given to an option for car enthusiasts to access these car wrecks/car bodies for sourcing parts and/or bodies for restoration purposes.</p>	<p><b>Passed:</b> July 2016  <b>Notes:</b> The LGAT Waste Reference Group has completed a Statewide Waste and Resource Management Strategy and provided this to the EPA to inform the update of the Tasmanian Waste and Resource Management Strategy. In that Strategy, it is noted that there is an absence of baseline data which inhibits a detailed analysis of the quantity and source of materials being landfilled versus illegally dumped across the state. In the absence of empirical data it is difficult to determine the extent of the problem, however each regional waste authority has been contacted to determine what anecdotal information is available. This information will be collated in late 2017.</p>
<p>That the Local Government Association of Tasmania and member councils;</p> <p>i. Work with the State and Federal Governments and key stakeholders to ensure a coordinated approach to reduce the instances of Tasmanian Devil and native wildlife fatalities on Tasmanian roads through informed projects such as installation of emergent virtual fencing technology and community programs to inspire a change in driver behaviour.</p> <p>ii. Support coordination initiatives such as installation of virtual fencing in Devil roadkill hotspot areas, to assess effectiveness and make informed decisions about the installation pattern. (LGAT support for this could be through promotion of projects/case studies, encouraging councils to engage in projects etc.)</p>	<p><b>Passed:</b> July 2016  <b>Notes:</b> LGAT met with the Director and staff from the Save the Tasmanian Devil Program (STDP) during March. From this meeting, it is evident that the Program is already heavily engaged with a number of councils. However, it has been recognised there is opportunity to expand this engagement. LGAT has prepared a plan for greater collaboration between local government and the Save the Tasmanian Devil Program. Once signed off by the STDP, this plan will be implemented by LGAT, with the support of interested councils.</p>



<p>iii. Work together to access grant funding to support on the ground projects to reduce native wildlife fatalities on Tasmanian roads.</p>	
<p>That the Local Government Association of Tasmania reconfirm its commitment to the introduction of a statutory waste levy of \$10 per tonne to be collected by public and private landfills as endorsed at the Local Government General Meeting in July 2012.</p>	<p><b>Passed:</b> November 2016  <b>Notes:</b> The Statewide Waste and Resource Management Strategy prepared by the LGAT Waste Reference Group indicates that the establishment of a statewide waste levy should be an immediate high priority action for the updated Tasmanian Waste and Resource Management Strategy. LGAT is now waiting for the draft Tasmanian Waste and Resource Management Strategy to be released for comment prior to determining next steps.</p>
<p>That LGAT lobby the State Government for a more coordinated approach to weed management so that DPIPWE does not need to duplicate work done by Councils; and that all relevant agencies collaborate to map weeds across Tasmania and develop an action plan that can be implemented whenever weed infestations are reported by the community.</p>	<p><b>Passed:</b> April 2017  <b>Notes:</b> In the May 2017 budget the state government announced \$2million extra funding over 4 years to reduce the risks and impact of pests and diseases in the environment.</p> <p>DPIPWE will be employing 3 Invasive Species Officers (weeds and vertebrate pests)– one position in each region (Devonport, Launceston, Hobart). These officers will be working with councils, various industry groups and landowners. LGAT will provide input to DPIPWE regarding collaboration with councils and action plans.</p> <p><b>This motion will be removed following the November General Meeting.</b></p>
<p>That the Local Government Association of Tasmania lobby the State Government to introduce container deposit legislation for the state.</p>	<p><b>Passed:</b> July 2017  <b>Notes:</b> Under the 2017-18 State Budget, the EPA received \$100,000 to develop a model framework for the implementation of a Container Deposit Scheme in Tasmania. Recognising the importance of Local Government, LGAT was invited to sit on the Steering Committee for this project. The initial Steering Committee has occurred, with consultants expected to be engaged soon to undertake the work.</p>
<p><b>Planning and Building</b></p>	
<p>No Current Motions</p>	

<b>Roads and Infrastructure</b>	
That LGAT and member Councils continue to lobby the Minister for Infrastructure for improved roadside vegetation management on State Government controlled roads	<b>Passed:</b> April 2017 <b>Notes:</b> Not yet commenced.
That the State Government be urged to increase its per capita spending on the provision of public transport services within metropolitan and regional Tasmania.	<b>Passed:</b> July 2017 <b>Notes:</b> Not yet commenced.
<b>Emergency Management</b>	
That LGAT lobby the State Government to boost Tasmania's disaster resilience by providing a significant increase in funding and work with the Commonwealth Government to change the disaster resilience mitigation funding under the National Partnership Agreement back to 1/3 Commonwealth, 1/3 State and 1/3 Council contributions.	<b>Passed:</b> July 2017 <b>Notes:</b> Not yet commenced.
<b>Local Government Business and Finance</b>	
No Current Motions	
<b>Other matters</b>	
<p>That LGAT Supports the entitlement of all councillors in Tasmania to be provided with a hard copy or electronic copy of the electoral roll for their Local Government Area, including the General Manager's Roll for that area, with regular updates; and</p> <p>That LGAT calls on the Tasmanian Government to put forward the legislative changes necessary to give effect to this entitlement, noting that details such as the regularity of updates, permitted uses of the roll and how the costs of providing the roll will be funded; and what safeguards will be put in place to ensure copies of the roll are transmitted securely are matters to be determined by the Tasmanian Government in consultation with Local Government.</p>	<p><b>Passed:</b> February 2017 <b>Notes:</b> A legislative change will be required to enable the electoral roll to be made available to all Councils.</p> <p>Representation has not yet been made to the Electoral Commissioner to commence this change of legislation. However initial representation to the Electoral Commission suggests that this will not be a simple process.</p>
That the Local Government Association of Tasmania lobby the State Government to investigate the coordination of school immunisation programs being undertaken on a	<b>Passed:</b> July 2017 <b>Notes:</b> LGAT raised the challenges of staffing of immunisation programs with Public Health Services, DHHS. They have committed to assisting councils with this issue. DHHS

<p>State wide basis, rather than being an individual council responsibility to coordinate.</p>	<p>provided data about the importance of the involvement of councils in the statewide immunisation program. Tasmania's immunisation rates are around 94% of children aged 5 years compared to a national figure of 93.5%.</p> <p>The Chief Medical Officer, Dr Mark Veitch, in a recent meeting with LGAT emphasised the importance that council immunisation programs play in achieving Tasmania's immunisation rate. He recognises that collaboration to maintain the number of accessible services for child immunisation is of critical importance and as such DHHS will be looking at ways to further support councils.</p>
<p>That LGAT lobby the State Government to amend the Public Health Act 1997 to declare all school road crossings and surrounds, a smoke free area under section 67B.</p>	<p><b>Passed:</b> July 2017  <b>Notes:</b> Not yet commenced.</p>



## Key LGAT Activity – June 2017

### Issue in Focus

The State Government released its Cat Management Plan on the 29<sup>th</sup> June 2017. LGAT and a number of council officers have been heavily involved in a working group on the Management Plan over the past 12 months, resulting in some significant wins for the sector. The Government is providing \$1.44 million over the next four years to assist in the implementation of the Plan.

An important element of the plan is the establishment of three regional officers, to be hosted by councils in the North-west, North and South, to work across the regions in supporting implementation of the plan. Over the next six months, DPIPWEE will also prepare the necessary legislative. Local Government is recognised as a key partner and will have input into this process.

LGAT will keep you fully informed of how things are progressing – watch the LG News on the LGAT website.

### Policy/Project Activity

- Advice to Bushfire Mitigation Program coordinator regarding project variation of approved projects
- Compiled a whole of sector submission on the proposed Air (Smoke) Regulation and Regulatory Impact Statement
- Consultation on the Biosecurity Bill
- Consultation on the use of expiry dates on planning permits
- Development of a discussion paper on the Code of Conduct Review
- Development of a Guide to Taking Minutes for Local Government – available now on the LGAT website under Reports and submissions
- Development of a new LGAT events registration form
- Development of a whole of sector job ad advertising package with SEEK.com – details to be released soon
- Development of new Strategic and Annual Plans for LGAT
- Development of research and information papers on Lean, value capture and participatory budgeting – all shortly available on the LGAT website under Reports and submissions
- Discussion with SES regarding Municipal Emergency Management Risk Project
- Discussion with Tasmania Fire Service and Kingborough Council regarding prescribed burning training for council officers
- Federal funding application for preventative health project
- Input into the Consolidated Data Collection worksheet
- Input into the format of The State of Tasmania's Public Health Report
- Input into the Sharing Economy Accommodation documentation
- Liaison with councils regarding GIS app for emergency management

- Liaison with Goanna Energy and councils re shared procurement for energy for public lighting
- Liaison with TasNetworks regarding LED replacement program
- Liaison with Treasury regarding guidelines for Accelerated Local Government Infrastructure Program
- Participated in the UTAS, TasTAFE and Department of Education 'Creating My Career' events. Attendance exceeded 800 high school students from the north-west region (May) and 1100 from the northern region this month.
- Preparation of a partnership plan with the Save the Tasmanian Devil Program
- Research paper on the use of drones - shortly available on the LGAT website under Reports and submissions
- Review and input to State Government Planning and Building Portal RFI
- Review and input into the *Land Use Planning and Approvals Act* amendments to the Transitional Arrangements (for the Tasmanian Planning Scheme)
- Support of ALGA's State of the Assets Report
- Survey regarding use of Employee Assistance Programs in councils
- Update of the LGAT Delegations Register
- Working with DHHS and Glenorchy City Council on the Prevention Tracker, a national support project to identify barriers and opportunities to address preventative health issues in Glenorchy.

### **Media and Communications**

- Better Councils Better Communities - web articles
- Letter to The Mercury – Amalgamations (30 June)
- Media release – Treasurer Challenged to Release Legal Advice (6 June)
- Media Release – National State of the Regions Report Launched (19 June)
- Media release – LGAT Annual Conference (20 June)
- Media Release – Cat Management Plan (29 June)
- Opinion piece – Rate Capping - The Advocate / The Examiner / The Mercury (19 June)

### **Training and Development**

- Advancing preparations for LGAT Annual Conference
- Judging the Awards for Excellence and Meritorious Service Award

### **Meetings**

- Air bnb / sharing economy forum
- ALGA National General Assembly

- Australian Smart Communities Association- Embracing the internet of things, Future Ready Series
- Australian Smart Communities Association - Community Engagement and citizen centric design
- Building Reform Reference Group Teleconferences – Feedback on the implementation of the Building Act
- Cities Leadership Institute - Discussion around smart lighting
- City of Hobart - Review of Public Lighting Contracts
- Coast to Coast Conference Steering Committee – 2018 conference planning
- Department of Premier and Cabinet – Recovery reform update
- DPIPWE - Biosecurity Legislation briefing
- DPIPWE - Partnership to implement the Cat Management Plan
- DPIPWE - Primary Industry Activities Protection Act Information
- Eat Well Tasmania – Agritourism Discussion Paper
- Environment Protection Authority – Roles and responsibilities & State Waste Strategy
- Future Housing Taskforce – Housing Affordability
- Inter Agency Working Group on Drugs – Inter sectoral Taskforce meeting about drugs and alcohol
- Integrity Commission – Audit Panel Code of Conduct
- Ironbark Sustainability, Meander Valley Council and City of Launceston- Tasmanian Smart Lighting Audit and opportunities
- LGAT General Management Committee
- Local Provision Schedule Steering Committee Meetings
- MAV Insurance
- Macquarie Point Development Corporation – Project update
- National Communication Managers Meeting
- Other Association’s Waste Officers Teleconference
- Page Seager – HR Behaviour Toolkit stage 3
- Premiers Local Government Council
- Premiers Local Government Council Officials Meeting
- Property Council – Tasmanian Planning Scheme, water and sewerage and council amalgamations
- Royal Flying Doctors – Projects update
- Shared Accommodation Working Group
- State Emergency Management Committee

- State Emergency Management Service – Discussion with Dr Paul Barnes, Head: Risk & Resilience Program, Australian Strategic Policy Institute
- State Emergency Management Service - Emergency Management Reforms Project Output Steering Committee
- Tasmanian Archives Office – Updating the Archive Office Guidelines
- TasNetworks- pricing reform and public lighting
- TasPlan – Partnership discussions
- TasWater – Trade waste agreements
- Waste Management Association, Tasmania – State Waste Strategy
- Water and Sewerage Steering Committee – Preparation of information for councils

### Key LGAT Activity – July 2017

Preparation for 105<sup>th</sup> LGAT Conference was central to activity during July. The event, held from 26-28 July at Wrest Point, Hobart, was attended by over 200 delegates.

Highlights included:

- A Welcome Reception with Members of Parliament in attendance.
- Highly thought-provoking plenary presentations by Dr Greg Moore about the value of street trees and Victoria's youngest serving elected member, Cllr Emilia Sterjova who spoke on the topic of youth engagement.
- The Conference Dinner featuring the presentation of the Meritorious Award, and Life Member Award, and entertainment by the Royal Australian Navy Band.

The winners of the Local Government Awards for Excellence were announced on 28<sup>th</sup> July. Awards were presented for Dorset Council's – *Aged Care in the North East* (Delivering Excellence - Smaller Councils), and Devonport City Council's *Read Devonport* project (Delivering Excellence - Larger Councils).

Conference papers and presentations are now available on the LGAT extranet.

#### Issue in Focus

LGAT is currently seeking feedback for the Code of Conduct Review, feedback is required by **11 August**. The attached paper articulates some questions to assist in your considerations. As well as formal council positions, individual elected members and officers are encouraged to make submissions. We are keen to hear from both those that have experience of the application of these provisions, but also from others in the sector who may have a view on the effectiveness of the Code of Conduct.

Please direct all feedback to Dion ([dion.lester@lgat.ta.gov.au](mailto:dion.lester@lgat.ta.gov.au)).

#### Policy/Project Activity

- Commenced recruitment processes for Senior Policy Officer
- Consultation on changes to National Telecommunications Carriers powers and immunities
- Deeds for LGAT/National Procurement Network - Industrial, Hardware, Construction, Electrical and General Hardware and Materials (NPN 1.16) signed by LGAT.
- Development of draft project scope for Natural Disaster Grant Funding application for consultation
- Development of information for council use on the TasWater debate
- Development of sectoral position on EMPCA proposed amendments to deal with waste tyres
- Development of targeted sponsorship package for TasPlan
- Finalisation of Partnership Prospectus for potential sponsors
- Investigation of feasibility of a statewide policy on Sharps Disposal
- Law Society Correspondence regarding the regulation of Asbestos
- Negotiation with DPIPW regarding Cat Management Plan implementation (Regional Coordinators)
- New LGAT/NPN Bulk Fuel, Fuel Card Services and Oils and Lubricants and Vehicle Care Products Tender (NPN 1.17) advertised in the Australian on 29 August 2017.



- Preparation of AGM/General Meeting Agenda
- Review and input into Planning and Building Portal project consultation document
- Review and input into UTAS and National Trust project proposal
- Sector Briefing Paper on the Cat Management Plan
- Sectoral briefing paper on the use of drones
- Shared procurement contract for energy for public lighting executed
- Strategic planning for TasWater advocacy
- Submission on Air (Smoke) Regulations

### **Media and Communications**

- ABC Radio, Leon Compton - Interviews with Conference Panellists
- Better Councils Better Communities articles:
  - Councils supporting Save the Devil Project
  - Derby Mountain bike park
  - Resource sharing at West Tamar and Flinders Councils
  - Northern Lights Project
- Letter to Editor - Melbourne Amalgamations
- Media - Conference/AGM
- Media Enquiry - Planning Reform
- Media Enquiry - Container Deposit Levy
- Media Enquiry - Sale of property for non-payment of rates
- Media Enquiry - Sharing Accommodation
- Media Release – Conference Overview
- Media Release - GMC Elections Results
- Media Release – Healthy *Tamar*
- Media Release – Life Member Award Winner
- Media Release – Local Government Awards for Excellence Winners
- Media Release – Meritorious Service Award Winner
- Media Release - State of the Regions Report release
- Media Release - Tamar Taskforce
- Media Release – TasWater Takeover
- Media Release – Water and Sewerage
- Opinion Pieces to The Mercury, The Examiner and The Advocate re TasWater
- Promotion of Reconciliation Council launch
- Sunday Tasmanian feature – Emilia Sterjova (Speaker at Annual Conference)

### **Training and Development**

- 2017 LGAT Annual Conference
- Co-creating Smart Communities Workshop
- Discussion of training for elected members with Local Government Division

### **Meetings**

- 2017 Annual General Meeting
- 2017 LGAT Annual Conference
- ALGA Board Meeting & Post National General Assembly Board Meeting (teleconference)
- ALGA National General Assembly
- Code of Conduct Panel workshop – review of the Code
- Consumer Building and Occupational Services – Building Reforms fortnightly meeting
- Container Deposit Scheme Project Steering Committee meeting – review consultancy scope and RFT
- COTA Ageing Workforce Project - Reference group meeting
- Department of State Growth – Agritourism Strategy
- DHHS - Modelling for strategies to reduce alcohol impacts on health and safety
- DPIPWE - Cat Management Plan
- DPIPWE – Dairy stock underpass program
- Eat Well Tasmania - Collaboration on health eating strategies
- Family, Domestic and Sexual Violence National Project Reference Group
- General Management Committee LGAT
- General Meeting
- Heart Foundation – Healthy Active by Design Project
- Hobart City Council - National Carpool project
- LED street lighting role out project - Southern council teleconference
- LED street lighting role out project - North west council teleconference
- LED street lighting project - Discussion with Stephen Yarwood regarding smart lighting
- LED street lighting project - Teleconference with David Metcalf and Tony Pollard
- LED street lighting project - Teleconference with Central Coast regarding next steps
- LGAT Assist Board meeting – 7 Loans approved
- Local Government Division Regular monthly meeting
- Local Government Professionals Tasmania Southern Branch meeting
- Local Provision Schedules Steering Committee meeting
- Local Provision Schedules Statewide Technical Reference Group (LGAT) meeting
- MAV Insurance Board
- National Workforce Development Group Teleconference – Project scoping
- PLGC Officials and PLGC Meetings
- Sharing Accommodation Working Group

- Regional Development and Cooperation forum
- Southern Planners Technical Reference Group meeting
- TasWater Campaign Steering Committee
- Tourism Tasmania – Visitor Economy roundtable
- Waste Management Association of Australia – Statewide waste strategy

## Key LGAT Activity – August 2017

### Issue in Focus

Opposing the State Government's proposed takeover of TasWater has continued to be a significant task for the Association this month. This has involved a number of press releases and other media, ongoing support of councils in the work they are doing to inform the community and perhaps most significantly, preparing the LGAT submission to the Legislative Councils Select Committee.

The Terms of Reference for the Select Committee are:

1. The benefits, disadvantages and challenges associated with the Tasmanian Government's proposal to take control of TasWater; and
2. Any other matters incidental thereto.

While extensive, the LGAT submission covered the following key points:

- There is no crisis in water and sewerage upgrades in Tasmania;
- TasWater has a 10 year fully funded plan in place;
- Would the Government do a better job of running TasWater than the independent skills based board;
- The Government has no plan and no financial modelling;
- Under council ownership TasWater directly benefits local communities with dividends funding local infrastructure and services; and
- Under the Government's plan, after 2024-25, there will be no further return on the water and sewerage assets to the communities who invested in them.

The initial hearings are scheduled for Wednesday 13<sup>th</sup> and Thursday 14<sup>th</sup> September. LGAT will be presenting on Friday 22<sup>nd</sup> September.

### Policy/Project Activity

- Advice provided to SES in relation the Blake Flood Review for inclusion in a briefing for the Ministerial committee
- Advice to the Office of Security and Emergency Management on council flood modelling capability
- Attended session on the draft National Waste and Hazardous Materials Reports
- Consolidation of Code of Conduct Discussion Paper Feedback
- Developed draft contract templates for council use. Targeted consultation has commenced to inform finalisation
- Expression of Interest to councils regarding prescriptive burning training and fire abatement training

- Further subscription modelling to be discussed at General Manager's Workshop
- Input in to the National HR Conference in Sydney 15 – 17 November
- Judging for Tasmania Resilience Australia Awards
- Liaison with Aurora in relation to street lighting data
- Negotiated further stages of Goanna energy consultancy related to street lighting contracts
- Ongoing advice to council officers regarding LED streetlighting project
- Preparation of papers for General Management Committee
- Provided nominations for the State Fire Commission and State Fire Management Committee to Minister
- Recruitment of Strategic Communications Director and Policy Officer
- Researched the use of Employee Assistance Programs in councils, with an emphasis on understanding any potential synergies for elected members
- Review of Container Deposit Scheme RFQ for consultants to undertake a review and design of a scheme for Tasmania
- Scoped web videos to support the Workplace Behaviour Toolkit. When completed, 19 animations will illustrate about 40 scenarios
- Submission to Legislative Council Select Committee Inquiring into TasWater

### **Media and Communications**

- Preparation of Articles for LG Tas
- Radio on the TasWater Select Committee, Derwent Valley and TradeWaste
- Represented LGAT at Reconciliation Launch
- Media Releases – TasWater (7, 16 & 19 August)
- Opinion piece for the Mercury - Planning (18 August)
- Letter to The Editor of The Mercury – TasWater (23 August)
- Published four new council stories on the Better Councils Better Communities webpage <https://www.lgat.tas.gov.au/page.aspx?u=783>.
- Published the Pulse <https://www.lgat.tas.gov.au/page.aspx?u=635>.

### **Training and Development**

- Finalised agenda for General Managers workshop
- Participated in the UTAS, TasTAFE and Department of Education 'Creating My Career' events for southern Tasmania high school students

## Meetings

- ACIL Consultants - Fourth Impact Assessment on Gambling in Tasmania
- CEDA Digital Inclusion Breakfast
- CEO Engineering Australia (Tas) - water and sewerage
- Cancer Council - presentation of cheque from conference fundraising
- Circular Head and Clarence City Councils - Community Health and Wellbeing Project
- Climate Resilient Councils Steering Committee
- Consumer Building and Occupational Services – regular Building Act key stakeholder meeting
- DHHS Alcohol Modelling Project Focus Group
- DHHS Public Health Services - Community Health and Wellbeing Project
- DHHS Public Health Services - developing policy on sharps disposal
- DPAC collaboration on Sport and Recreation
- DPIPWE – Cat Management Plan
- EPA – review of Memorandum of Understanding
- General Management Committee
- Glenorchy Council Domestic Violence consultation
- Heart Foundation CEO - Health and Wellbeing Matters.
- Hobart City Council - Community Health and Wellbeing Project
- Huon Valley Council - Community Health and Wellbeing Project
- Inaugural Meeting of the Premier’s Health and Wellbeing Advisory Council
- Launch of the Glenorchy City Council Community Engagement Framework
- Launch of the Reconciliation Council of Tasmania (President speaker)
- Local Government Association Diversity and Inclusion Officers Group (Teleconference)
- Local Government Division monthly meeting
- Local Government Professionals Tasmania Board Meeting
- Office of Security and Emergency Management - relief and recovery policy discussion
- Planning Institute of Australia (Tasmania) Conference Panel
- Planning Taskforce
- Road Safety Advisory Council
- SES - Blake Report Working Group meeting
- Tas Community Fund briefing - funding for Health and Wellbeing Project
- TasLeaders Annual Conference Panel
- TasPlan CEO - partnership opportunities
- Tasmanian Health Service, Health Promotion - Community Health and Wellbeing Project
- Telstra - Digital Inclusion
- TasNetworks - Consultation with councils on pricing reset 2019-24 for public lighting
- Tasmania Fire Service and Kingborough Council - prescribed burning training discussion
- Water and Sewerage Steering Committee Regular Meetings

## Key LGAT Activity – September 2017

### Issue in Focus

The TasWater takeover continues to be the main game in town, with LGAT's Acting CEO and President presenting to the Legislative Council Select Committee on 22 September. Our submission focused on the positive aspects of the current ownership and governance arrangements and the risks associated with the State Government's proposed model.

The LGAT submission and presentation was well received by the Select Committee with a number of relevant and important questions resulting. At this stage it is unclear when the Select Committee will report back but in any event LGAT will now be focussing our efforts on highlighting the issues associated with the proposed takeover and also the Water and Sewerage Tasmania Bill 2017 to the full Legislative Council. The timing of when the Legislative Council will consider this is uncertain, as the Government has deferred the TasWater takeover vote, originally scheduled for the next sitting of the Legislative Council in mid-October, until after the Pembroke by-election.

### Policy/Project Activity

- Developed a sectoral submission to the Legislative Select Committee investigating the ownership of TasWater.
- Provided a submission to the Legislative Council on the targeted review of the Local Government Act and subsequent amendments.
- Letter of support for the Reconciliation Council of Tasmania.
- Attended and presented at the Legislative Council Select Committee on the ownership of TasWater.
- Provided a case study report to ALGA on the work Tasmanian councils are doing in transport planning
- Consulted a selection of council staff on draft LGAT template documents to assist councils with formal purchasing processes and contract management.
- Sought and received legal advice on any risk to councils associated with extending current Employee Assistance Programs from staff to elected members.
- Facilitated discussion on the safe disposal of needles and syringes with DHHS, Hobart Council, Worksafe, Diabetes Australia and Pharmacy Guild.
- Facilitated discussion with Hobart and Glenorchy Councils, Sustainability Tasmania and DPAC on Carpool project feasibility.
- Provided a sectoral submission on the scope of an Occupational Licence Review, undertaken by Consumer, Building and Occupational Services.

### Media and Communications

- Media release – TasWater 14 September
- Mercury opinion piece – TasWater 29 September
- Published LG Tas in hard copy and online at <https://www.lgat.tas.gov.au/page.aspx?u=634>
- Published the Pulse online at <https://www.lgat.tas.gov.au/page.aspx?u=635>

### **Training and Development**

- Developed the upcoming Mayors Workshop.
- Delivered the General Managers Workshop.
- Recorded dialogue and edited sound for a series of educational web videos, on workforce behaviours, illustrating some of the tricky situations some councils may have experienced.
- Environmental Impact Assessment conducted by EPA.
- Attended and presented at Environmental Health Australia Annual State conference.
- Waste Management Association of Tasmania, State Conference.
- Progressed Local Government representatives on the Local Government Board, State Grants Commission, Tasmanian Heritage Council, State Fire Management Council and State Fire Commission.
- Commenced recruitment of a Marketing and Events Officer and Project Officer

### **Meetings**

- Aboriginal Dual Naming Policy Steering Committee – project inception meeting.
- ALGA Board meeting.
- Coast to Coast Conference organisers, including Hobart, Kingborough & Clarence Councils - conference planning.
- Consumer, Building and Occupational Services – building approvals framework issues.
- COTA – Liveability grants.
- Department of State Growth – graduated licence evaluation workshop.
- Department of State Growth – National Heavy Vehicle licencing.
- DHHS – Quarterly meeting to formalise communication between LGAT and Public Health Services.
- DHHS/PHT – presentation of Tasmanian Health data from PHT.
- DPIPW, Ten Lives, RSPCA - Employment and hosting arrangements for Cat Management Coordinators.
- EPA – Sharps disposal.
- Federal Department of Treasury – Local Government roles and responsibilities in housing infrastructure.
- Hobart City Council – Early Learning Development and role of local government.
- LG Pro – Online learning modules.
- Local Government Division – Code of Conduct review.
- Local Government Division – regular monthly meeting.
- Local Government Workforce Development Group – utilisation of GSA surplus funds.
- Local Provision Schedule Steering Committee - progress update.
- MAV – Procurement MOU scoping.
- Menzies Institute for Medical Research – transport and health project.
- National Cultural Development Network – project update.
- Planning and Building Portal Project Steering Committee – project progress update.
- State Emergency Management Committee.
- State Growth – Tasmanian Planning Policies.
- Tasmanian Street Lighting Project – inception meeting.
- TasWater Steering Committee.



## MOTION TEMPLATE

**Background**

The Local Government Association of Tasmania (LGAT) is established in accordance with the *Local Government Act 1993*, as the peak body for Local Government in Tasmania. The LGAT also has affiliation with the Australian Local Government Association (ALGA) which is the peak body for Local Government in Australia.

All 29 Councils in Tasmania are currently members of LGAT.

LGAT is managed by a General Management Committee (GMC) which is comprised of Councillors from member Councils – these representatives are elected for specific terms.

The Association has General Meetings throughout the year. A council delegate (usually the Mayor) attends to the meeting along with the General Manager

**Council Policy**

Council considers each motion on its merits or in accordance with any previously adopted policy.

**Legislative Requirements**

The (**insert name of council**) Council is a member of LGAT and has voting rights in respect to the Motions.

**Risk Implications**

It is appropriate for Council to vote according to any established policy position considering the Council and community's interest.

**Discussion**

LGAT is to hold its General Meeting on( **Insert Date**) in the (**Insert location**)

The Mayor is the Council's official delegate for the meeting.

The agenda containing the Motions is included in the Attachments, which includes relevant material for discussion and information provided by the relevant Councils in relation to their Motions.

Direction is now required to enable the Mayor to cast the vote on Council's behalf. The Motions are set out below with some comment where applicable further to the LGAT agenda papers with a recommended Council position.

MOTIONS	Suggested Position
<b>9 BROAD AREA OF FOCUS EG SECTOR REFORM</b>	
<b>9.1 Council who submitted motion</b>	
<ul style="list-style-type: none"> <li>• <b>Provide comment on Motion Background including state and LGAT comment or refer to the comment in LGAT agenda.</b></li> <li>• <b>reference impact on your council</b></li> <li>• <b>reference existing council policies in this area.</b></li> </ul>	

**Insert motion**

***Insert recommended position  
Eg support, do not support***

*If supported include reference to council's position if the motion is amended. Eg motion to lobby for centralisation of immunisation services. If amended council would support any motion which advocates for improvement in the provision of immunisation services*



Local Government Association Tasmania

# Review

## Code of Conduct provisions and processes

June 2017

## **1. Introduction**

At the February 2017 General Meeting, Members were provided background on the Code of Conduct legislation, received a report from the Director of Local Government on the Code of Conduct and noted that the Minister, through the Premier's Local Government Council, had committed to a 12-month review of the Code of Conduct legislation.

On the 1 May, the Minister wrote to all Mayors advising that he has requested LGAT take carriage of the review process for Local Government.

The timeframes agreed are as follows:

- end June: Release of discussion paper
- Parallel consultation by the Local Government Division with Code of Conduct Panel Members and State Government stakeholders.
- 11 August: Feedback from councils closes.
- 30 August: Draft Report and Recommendations developed in collaboration with the LGD.
- 15 September: Provision of draft report to councils for review and feedback
- October: Workshop dependent on sector interest
- 1 November: Endorsement of final recommendations at General Meeting.
- 10 November: Provision of final report to Government.

The Local Government Division will be seeking feedback from Code of Conduct Chairs and Panel Members and the Executive Officer. The advice from LGAT Members, Panels and the Division will be jointly considered in developing recommendations for the Minister.

Given that LGAT is being asked to form recommendations for the Minister, it is important that councils have sufficient time to develop positions and that recommendations are endorsed through a General Meeting process. As such, a longer timeframe has been agreed.

## **2. Background**

As presented at the General Meeting in February 2017, concerns have been raised about the code of conduct provisions in the *Local Government Act 1993* (the Act) which commenced in April 2016. With the significant change of elected members at the October 2014 elections, some of the history on sector led advocacy has been lost. Many of the current provisions relate directly to requests from our sector.

The new code of conduct framework and the subsequent model code of conduct order, is the outcome of significant consideration and consultation with Local Government. This included discussion papers issued by LGAT in June and November 2010, a Working Group Paper issued by LGAT in September 2013, an outline of recommendations to the State Government to the December 2013 General Meeting, a discussion paper on the Amendment Bill issued by the State Government in October 2014, and a draft Bill for consultation in early 2015.

A joint State Government and Local Government working group developed the new framework. The model code of conduct was developed in close consultation with Local Government and the Integrity Commission.

At the July 2015 General Meeting, the following motions were carried in relation to LGAT's advocacy on the Code of Conduct Bill.

- That the Meeting agree that Mayors will write to MLCs in support of the Local Government (Code of Conduct) Bill, noting the significant consultation that has occurred with councils since 2010.
- That the single Code of Conduct Panel be able to investigate, hear and determine code of conduct complaints.
- Provide for some flexibility for councils to expand upon core elements in the Regulated (Model) Code of Conduct.
- That there continue to be a requirement to pay a fee to lodge a complaint, noting that the fee is reimbursed if the complaint is upheld.
- That there remains an ability to withdraw a complaint.
- That given the need to contain costs and to deal with complaints expeditiously, legal representation not be allowed in Standard Panel Hearings.
- That the legislation allows for a Code of Conduct complaint to be submitted locally to the General Manager to check that proper procedure has been adopted before forwarding to the Standards Panel.
- That the one month suspension sanction be changed to allow for up to three months' suspension in order to offer an effective deterrent for bad behaviour.

The Bill was passed in September 2015 and commenced on 13 April 2016.

A key change was that the independent Panel (previously known as the Standards Panel) which was administered by LGAT is now administered by an appointed Executive Officer. During the first year of implementation of the new framework, as a result of an agreement made during the debate in the Legislative Council, the Local Government Division appointed a new staff member to carry out the functions of the Executive Officer for the Code of Conduct Panel. At the conclusion of the first year, and once processes had been established, the position was moved out of the Local Government Division (and is now within another part of the Department of Premier and Cabinet). There are no specific limitations regarding the employment of the Executive Officer. This position could sit in State Government or be outside of State Government (such as in a legal firm). The function of the Executive Officer is to administer the Code of Conduct complaint, hearing and determination process.

At the time of the legislation it was the sector's view that placement of the Executive Officer in the Local Government Division was sensible as it allowed for appropriate alignment with the overarching authority for the Local Government Act and could directly provide feedback to the Division in relation to tools and training for both Panel Members and those elected to Local Government. However, the Director of Local Government has since expressed concern regarding the potential for real or perceived conflict between his statutory responsibilities and that of the statutorily separate Code of Conduct Panel. The Director has no influence over Panel decisions.

At the time of transition, LGAT provided significant support to hand over tools, templates letters and reports and training notes which had been updated to reflect changes to the Act, but there will always be a difference in approach and gaps in experience in the early period of transition. The Association continues to provide support and feedback on process as appropriate.

Other improvements which the sector advocated for include:

- Stricter sanctions including suspension of office for up to three months;
- A penalty for failure to comply with a sanction;
- More flexible investigation and hearing provisions which mean that a panel is not obliged to conduct a hearing automatically, thus saving time and expense in appropriate circumstances; and
- A review provision on the grounds of failure to provide natural justice.

Regardless of the origin of the changes, as with any significant change process, evaluation is critical and supported.

Consequently, LGAT is now seeking both general and specific feedback on all aspects of the Code of Conduct legislation and process.

An extract of the Code of Conduct Provisions is provided as a separate document.

### **3. Data**

Twenty-three code of conduct complaints have been received by the Local Government Division between 13 April 2016 and 1 June 2017. It is worth noting however that few complaints were lodged prior to councils adopting the Model Code. Some of the initial complaint activity would likely reflect public interest generated by media coverage of the changes as well as renewed faith in the process because of improvements to process, sanctions and enforcement.

<b>Complaints</b>	<b>23</b>
Dismissed without a hearing	9
Sanctions applied	9
<i>Caution</i>	5
<i>Caution and training</i>	3
<i>Training</i>	1
Complaints lodged -	
<i>Internal to council</i>	12
<i>External to council</i>	11
Average cost of determination	\$2449.22 (based on closed cases)

## **4. Specific Areas of Concern**

LGAT is aware, at a high level, of some concerns expressed within the Local Government sector. These include:

- The legality of the Model Code;
- The extent (or lack of) to which Chairs are determining at an early stage not to proceed based on a complaint being frivolous and vexatious;
- The weight given to unsubstantiated claims;
- The application and nature of training sanctions, the lack of interaction with Council or LGAT with regard to training requirements, the application of training sanctions to a whole council when the complaint is against individuals;
- The lack of interaction/advice from General Managers in relation to complaints being determined;
- The experience/consistency (or lack of) of the panellists and/or executive officer;
- The application of procedural fairness and natural justice processes;
- The appropriateness of code of conducts panels for matters which have other avenues for appeal (e.g. planning decisions);
- The cost of determining a complaint;
- The role of the Local Government Division;
- Communication with councillors by the general manager following the referral of a complaint to the EO; and

Additionally, the Local Government Division has raised concern that the funding model is insufficient to ensure the code of conduct framework supports efficient panel processes.

At this stage, the Association does not have a lot of detail on these matters, and more is sought as part of this process.

### **4.1 Model Code**

There were a significant number of amendments made by the Legislative Council during the passage of the legislation. A key change of concern was a much more regulated Code with little flexibility for councils to vary the settings. The sector had sought some key inclusions to be regulated rather than the code in its entirety. It was felt that there should be some flexibility and that developing a new Code after each election would ensure the appropriate level of awareness and buy in in relation to appropriate and ethical behaviours.

It should be noted however, that the eight standards of conduct set out in the model code of conduct are the same standards as those provided for under the previous framework (e.g., conflict of interest, use of office, and gifts and benefits).

The standard of 'decision making' is technically new however this standard was included in the former Local Government Association of Tasmania (LGAT) model code (developed with inputs from councils, the Local Government Division and the Integrity Commission) and was included in a number of Councils' codes prior to the legislative changes.

An extract from the 2012 LGAT Model Code of Conduct is at **Attachment 1**

Local Government representatives have raised concerns at meetings of the Premier's Local Government Council regarding concerns that the model Code of Conduct is fettering debate. There is a view that the wording of part 7(1) means that councillors cannot speak frankly for fear of causing offence.

Part 7 (1) relates to relationships with community, councillors and Council employees. It states that 'a councillor must treat all persons with courtesy, fairness, dignity and respect and that a councillor must not cause any reasonable person offence or embarrassment.

"Reasonable person" is a common-law term and is not defined within the Model Code or the Act. The intention of this clause is not to fetter debate, rather to promote respectful debate. A frivolous or vexatious complaint under this section can be dismissed by the chairperson at the initial assessment stage.

## **4.2 Experience of Panellists**

In establishing the new Code of Conduct Panel, the Local Government Division, with assistance from LGAT, conducted an Expression of Interest process for panellists.

Seven of the twelve appointed panel members had previously been members of a council's Code of Conduct Panel or a member of the Standards Panel. Standards Panel members were not automatically appointed to the Code of Conduct Panel.

While there was no EOI specifically for panel Chairs, for all but one of the 23 complaints received under the new framework, a previous Code of Conduct or Standards Panel member has been appointed as the Chair of the Panel.

During May and June 2017, a subsequent recruitment process was undertaken to appoint further panel members. The recruitment process was undertaken by local government members. This process is expected to be finalised in the coming months.

The future selection of panel members is proposed to follow a similar process whereby the selection panel that recommends new appointments comprises representatives from the local government sector and an existing panellist. The local government representatives will be elected members nominated by LGAT. This ensures that the sector owns the decisions regarding panel membership.

An Executive Officer was appointed to fulfil the administrative role previously undertaken by LGAT. As indicated earlier, LGAT provided extensive handover tools, including materials updated to reflect the changed legislation, and the LGAT Registrar worked with the Executive Officer to outline previously used and successful processes.

The Local Government Division has continued to refine the documentation in the context of the new framework and provided training to Panellists, through face-to-face sessions and the provision of written advice on issues raised by the panel members.



In addition, the Deputy Solicitor-General provided specific procedural fairness training to the Panel members and has offered the services of the Solicitor-General Office on an ongoing basis to the Panel members if they require clarification on any legislative issues.

If new Panel members are appointed, the Local Government Division will undertake to provide these members with training on both the legislative framework, and procedural fairness.

Training of panel members that is provided by LGD is focussed on the legislation and framework. The training does not tell panellists, who are all qualified and experienced, how to perform the role of panellist. Panels operate completely separately to LGD and LGD provides no advice specific to cases.

Training on the new framework has also been offered to all councils to assist councillors, and council staff, to understand the changes. To date, seven councils have undertaken the training.

### **4.3 Sanctions**

Two key issues have been raised in this regard.

1) The appropriateness and legality of applying sanctions, such as training, to a whole council, rather than targeted individuals has been questioned. While the legislation provides for a requirement to undertake training to be applied as a sanction, there is no detail on the nature of the training and no requirement to consider or consult on the availability of such training.

2) LGAT has raised concerns about sanctions which reference the LGAT or another entity regarding training, without any prior dialogue as to the suitability or availability of that training.

#### Costs

There has been a perceived increase in the cost of determining complaints. The costs are outlined above (data) but early examination by LGAT suggests that the costs being experienced by councils where complaints have been lodged are not dissimilar to LGAT's full cost attribution (applied to Hobart City Council while they were not a member) but may reflect a higher direct cost than previously experienced by councils because the administration costs were not separately accounted for but rather captured through LGAT's general subscriptions.

The Director of Local Government has raised concerns that the legislation does not outline a process by which costs of the Executive Officer that are not related to specific cases can be re-couped. Cited as examples are matters such as responding to general phone calls from panellists and general emails from members of the sector, and providing data and information on request such as the data that is included in this discussion paper. It is felt that this issue was masked during the first year of implementation of the framework while the Executive Officer was employed by the LGD. However, with the Executive Officer now being external to

LGD (to promote independence), the organisation that accommodates the Executive Officer is now paying for this time and the commentary from the LGD is that this is unsustainable. There has been a suggestion that there be a fixed cost for the Executive Officer shared among councils on a population share basis with the argument that it was previously borne by councils through their LGAT membership fee, as LGAT absorbed these costs.

The suggested fixed cost has been approximated at \$100,000. This far exceeds the resource cost LGAT dedicated to the task. It could also be argued that the Local Government Division carries responsibility for ensuring compliance with the Local Government Act, and therefore the administrative roles of the of the executive officer should be funded by the State Government as is the case with the Integrity Commission and RMPAT. Furthermore, it should be recognised that LGAT provides a supportive role in building councils' capacity and compliance in relation to a range of legislation which arguably should be delivered by responsible agencies.

#### **4.4 Processes**

Anecdotal advice suggests there has been inconsistent practice across Panels in relation to evidence and hearing processes with concern raised that too much weight is given initially to unsubstantiated claims (which therefore triggers a full investigation process). It has been raised that the general manager should be able to provide some context along with the complaint when it is first provided to the Chair for initial assessment.

The initial assessment stage is an important improvement to the new framework, which allows for vexatious or frivolous complaints to be dismissed at an early stage. The chair assesses the complaint and determines, on the face of the complaint, whether there is grounds to accept the complaint for investigation or dismissal. If accepted, it is then for the whole Panel to investigate and to determine whether the breach of the council's code of conduct occurred or not.

Under the previous framework, all matters referred to the Standards Panel had to be the subject of a hearing.

Currently, the legislation does not provide the Chair with the power to take into consideration other matters, such as a report from the general manager, when undertaking the initial assessment. The general manager can provide information during the investigation process along with the relevant parties to the complaint. There is also no capacity for a Chair to require a council to make efforts to resolve the complaint before the Chair considers a complaint further. This could be appropriate for alleged behaviour breaches under Part 7(1). The onus on a council to try to resolve a complaint might mean that it has some control to avoid the costs of a code of conduct panel.

#### **4.5 Communication with councillors by the general manager following the referral of a complaint to the Executive Officer**

Section 28Z of the Act requires general managers to refer a complaint either to the Executive Officer or to the Director of Local Government once he/she has verified that the complaint meets the requirements of section 28V. Under section 28ZK, the general manager is then required to ensure that a copy of the

determination report is tabled at the first meeting of the relevant council at which it is practicable to do so and which is open to the public. Tabled the report in an open meeting can put a general manager in an invidious position if it is the first time that other councillors become aware of the complaint. While the process must respect natural justice and at the outset a complaint is just an allegation, it could be argued that it is reasonable for councillor colleagues to be aware of investigations that are occurring that are relevant to their council.

## **5. Summary**

Following concerns raised by the sector, and a commitment to review the Code of Conduct provisions in the *Local Government Act* by the Minister for Local Government, LGAT has been requested to seek sector inputs and form recommendations for Government.

To that end, LGAT is seeking feedback from Councils no later than **11 August 2017**.

Specifically, the following advice is sought:

### For All Councils

- Are the concerns that have been noted above justified? If so, how could they be addressed?
- What general concerns do you have in relation to the Code of Conduct processes outlined in the Local Government Act?
- What changes would you recommend? Please focus in particular on the Model Code, Sanctions, and Determination Processes.
- Are there any specific elements of the new framework that are working well and should remain unchanged?

### For Councils/Councillors who have been subject to a complaint under the new provisions:

- Were you satisfied with the process of determining the complaint? What could have been improved?
- Was the outcome, including sanctions, appropriate? If not, why?
- If applicable, how did the current process compare to that undertaken under the previous legislation (LGAT Standards Panel)? What was improved, what was less effective?
- Can you provide a case study outlining the complaint and experience?

Please direct your feedback to:

**Dion Lester**  
**Policy Director, LGAT**  
**Dion.lester@lgat.tas.gov.au**

## Attachment 1: LGAT Model Code of Conduct 2014 – Extract

### Standard of Conduct 1 – Objective decision-making

#### Expectations of Councillors

Councillors must ensure that:

- a) In all of their dealings related to their Council duties, including in making decisions, they strive to do so free of any bias or pre-judgement;
- b) They make decisions solely on merit and in accordance with their statutory obligations when carrying out public business, including the awarding of contracts or recommending individuals for rewards or benefits; and
- c) In making decisions they must:
  - inform themselves as much as possible;
  - take all relevant facts known to them, or that they should be reasonably aware of, into consideration; and
  - have regard to the particular merits of each case independent of any personalities involved.

#### Supporting Examples

- 1) If a councillor makes a public pronouncement about support of, or opposition to, an application prior to a decision of Council or suggests prior to a forthcoming Council or Council Committee meeting that they have already come to a decision, it is likely to give members of the public the view that the Councillor has already pre-judged the matter before a decision is made (whether that view is right or wrong does not matter).
- 2) Councillors ought not sign a public petition to Council or be party to a legal claim against Council which demonstrates that in their capacity to influence a decision of Council, they will be likely to bring a partial and/ or prejudiced view.

### Standard of Conduct 7 – Relationships with the community, councillors and council staff.

#### Expectations of Councillors

Councillors must ensure that:

- a) Where appropriate, make sure stakeholders have an opportunity to be heard about decisions that affect them;
- b) They do not make allegations to or about other Councillors or members of the public which are defamatory, slanderous, derogatory or discriminatory;
- c) They behave in a manner that is free from discrimination, bullying or harassment;
- d) They listen to and respect each other's views in Council and committee meetings and any other proceedings of the Council, and make certain that issues, not personalities, are the focus of debate;
- e) They refrain from directing council staff, other than giving appropriate direction to the General Manager in the performance of the Council's functions by way of Council or committee resolution, or by the Mayor exercising his or her functions under Section 27(1(ba)) of the *Local Government Act*;
- f) They refrain from, in any public or private forum, directing or influencing, or attempting to direct or influence, any other member of the staff of the Council or a delegate of the Council, in the exercise of the functions of the member or delegate; and

- g) They refrain from contacting an employee of the Council unless in accordance with procedures governing the interaction of Councillors and Council employees that have been authorised by the General Manager.

**Supporting examples**

- 1) Councillors should show respect to all other Councillors, even if they hold different views and not try to change a view through intimidation or bullying.
- 2) Councillors should respect the impartiality and integrity of Council staff and behave towards them in a way that engenders mutual respect.
- 3) Councillors should treat all employees with courtesy and respect and observe any guidelines that the General Manager puts in place regarding contact with employees.
- 4) Councillors must not victimise another councillor for having made a complaint.
- 5) Councillors must not verbally attack another Councillor personally, only their views should be challenged in a rational and dignified manner.
- 6) When referring to other Councillors in a public forum, including electronic forms of communication, Councillors should be conscious of how their comments will be perceived. Councillors should ask themselves what a reasonable observer would think.



Local Government Association Tasmania

# Summary of Feedback and Draft Recommendations on the Code of Conduct

October 2017

## Introduction

At the February 2017 General Meeting, Members were provided background on the Code of Conduct legislation, received a report from the Director of Local Government on the Code of Conduct and noted that the Minister, through the Premier's Local Government Council, had committed to a 12-month review of the Code of Conduct legislation.

The Local Government Division has sought feedback from Code of Conduct Chairs and Panel Members and the Executive Officer. LGAT has sought advice from Members.

The advice from LGAT Members, Panels and the Division will be jointly considered in developing recommendations for the Minister.

This report provides a summary of feedback received from the sector and a resultant suite of recommendations for Members consideration and endorsement at the November General Meeting.

## Feedback Received

The following section outlines a summary of the feedback received from Members, with the resultant draft recommendation noted. The full list of draft recommendations are contained in Appendix 1.

### 1. Model Code of Conduct

**Part 1: Decision Making** requires councillors to “bring an open and unprejudiced mind to all matters being decided”, to “make decisions free from personal bias or prejudgement” and “to give genuine and impartial consideration to all relevant information”.

**Part 7: Relationships with community, councillors and Council employees** requires that a councillor must not “cause any reasonable person offence or embarrassment”.

Feedback on the model code centred on part 7(1), with many believing that there was scope to improve this part because the standard is unrealistic and it causes confusion. Some respondents also noted that it was reasonable to expect different standards when elected members were dealing with other elected members as opposed to community members.

In feedback it was noted that it is very difficult to assess if a person has an impartial and unprejudiced mind on all matters if an accusation has been made and that ratepayers have a reasonable expectation that councillors will express an opinion on a matter being discussed. There was a view that this requirement, combined with the requirement not to cause offence or embarrassment can stifle debate.

Some Councillors have questioned how consistency could be achieved during Code of Conduct Panel hearings, particularly as relates to the 'reasonable person' issue, given different membership of the Panels (i.e. will there be some guidance/explanation of reasonableness between individual Panel members).

### Recommendations 1 & 2

The difficulty of varying the code was noted, with council who had a proposed variation refused. This was in relation to Councillor/Employee contact being prohibited unless consented by the General Manager. The council argued that this is an outdated concept that unduly hinders communication and wanted to vary point 5 of part 7 such that "A councillor may directly contact managers and supervisors of the Council in relation to Council matters unless this contact has been explicitly forbidden by the General Manager."

The process for determining variations and the rationale for denying a variation needs a greater level of transparency.

LGAT notes that this has historically been a point of tension between General Managers and Councillors and this topic was also raised during the Review of the *Local Government Act*.

### Recommendation 3

In general, it was strongly expressed that councillors should be able to represent community views, including those of ratepayers which they have been asked to put forward, without potential fear of exposure to a Code of Conduct complaint.

It was argued that espousing the views of ratepayers did not mean they would compromise their impartial decision making, but would ensure the Councils is fully informed. It was suggested that that the word community be removed from Part 7 of the Code because it was preventing robust discussion, particularly at public meetings.

### Recommendations 1 & 4

**Part 2 Conflict of Interest:** in relation to 'perceived conflict of interest, some councillors considered that this introduces a level of unresolved ambiguity, finding it difficult to comprehend how they can reasonably be expected to consider all other perspectives and then deduce whether this could result in a perceived conflict of interest.



While not a broadly raised issue, some councillors also argued there should be no discretion for materiality; that if an interest is declared then the individual must remove themselves from the discussion. This aligns with the ‘if in doubt, step out’ advice LGAT provides.

#### **Recommendation 5**

**Part 3 Use of Office.** One Councillor raised concern that the stipulation that “the actions of a councillor must not bring the Council or the office of councillor into disrepute” could inhibit a councillor from public criticism of council decisions or actions. This was not raised more broadly and so might be an issue addressed through the Good Governance Guide or similar guidance material. Further there may be a need to strengthen the Code to make it clear that exposing fraud or other illegal activity within a council would not trigger these Code provisions.

#### **Recommendation 6**

**Part 6 Gifts and Benefits.** In relation to the Gift Register, there was a view of some councillors that the requirement for a register should be mandatory through the Local Government Act.

#### **Recent amendments to the *Local Government Act* establish a requirement for a gifts and donations register.**

Finally, noted in particular by one council, was the issue of being required to adopt the Model Code of Conduct. In general councillors viewed this as inconsistent with the principle of democratic determination of matters by a Council. Councillors are of the view that each Council should rightly be able to deliberate, exercise judgement and determine a position on any matter.

This does not mean the Council is not supportive of the principles espoused in the Code but rather than being forced to adopt the model Code of Conduct by resolution, requiring each Council to observe the Model Code of Conduct would be a preferred scenario.

## 2. Code of Conduct Provisions are Inappropriate for Planning Matters

A number of submissions raised concerns that planning decisions could trigger Code of Conduct processes despite there already being an appeal mechanism through the Resource Management and Planning Appeals Tribunal (RMPAT). LGAT strongly supports this concern and suggests that issues related to decisions made when Council is acting as a planning authority should be considered to fall outside of the Code of Conduct process.

### Recommendation 7

## 3. Sanctions

The following issues were raised:

- Code of Conduct sanctions should only be imposed on those against whom the complaint is made. A sanction applying to other Councillors or to all Councillors (and this has happened on a number of occasions) is *ultra viries*. This could be made clear through both legislation and training of Panel members.
- Councils raised, as LGAT has previously, that Code of Conduct Panels can direct that training be undertaken, and that training is to include certain matters BUT, it is not considered that the Panel can bind a third party to provide that training. Such a sanction could be unenforceable if the third party declines to participate.
- Section 28ZL of the Act (as amended) prescribes that if a Councillor is suspended by the Code of Conduct Panel for a third time, the Minister may remove a Councillor from Office. A small number of Councillors are of the view that it is not appropriate for the prescribed period to extend beyond the current term of office and that any election process would allow Code of Conduct sanctions to be taken into account.

### Recommendations 8 & 9

## 4. Role of the General Manager

There needs to be clarification on relation to the General Manager's obligations to notify a respondent councillor upon receipt of a complaint against that councillor. Currently the legislation does not provide the General Manager the ability to notify the subject of the complaint.

Similarly, it was raised that the General Manager at some point needs to be able to notify Council of a complaint so that the first time they hear about it is not when the determination is being tabled.

The matter ought to be brought to the attention of other Councillors but it is considered appropriate that the General Manager reports the fact only of the complaint being made to the Council in closed session. In that way the Council remains informed, but the matter is not prejudiced in any way.

There has been strong suggestion that the Chair should be able to seek preliminary advice from the General Manager to consider other matters before dismissing or proceeding with a complaint. Such a proposal is reasonable and provides the Chair with more information in making such a decision.

It will be important though to ensure that any further matters considered are to be done so generally in exercise of a discretion and not conclusive in any manner simply on the view of the General Manager. This ensures the decision-making responsibilities still rests with the Chair.

#### **Recommendations 10, 11 & 12**

### **5. Timeframes**

It is suggested that timeframes be included for:

- Formation of the Code of Conduct Panel - within four weeks of the complaint being referred; and
- Hearings by the Code of Conduct Panel to be held within 30 business days of the formation of the Panel.

Some concern was expressed about how long it took to resolve complaints.

One council, with experience of Code of Conduct complaints, felt that the 6-month timeframe from event to determining the complaint was too long, and should be shortened.

#### **Recommendation 13**

## 6. Hearings/Procedural Fairness

Suggestions made include:

- Councillors whose conduct is being reviewed by a Panel should have the option of appearing before the Panel. Accused councillors will then feel that they have been heard by those making a decision about their conduct.
- There needs to be a rigorous process to ensure that the panel members are appropriately qualified and experienced to guarantee that this is kept top of mind.
- Providing a Statutory Declaration as the complainant or respondent should be required.
- It was suggested there should be the use of a skilled mediator prior to a complaint going to a full Code of Conduct hearing.
- There was a suggestion that when a Councillor is found to have lodged a complaint that is not upheld there should be a requirement for them to correct the public record.

**Recommendation 14, 15 & 16**

## 7. Panel Experience

It was suggested that Panel Members must be appropriately experienced, trained and supported and must demonstrate they have the ability to perform the role before being appointed and that the Panel should be able to reflect on the pre-conditions that may have led to a councillor's behaviour.

The important role of the Chair was acknowledged with the suggestion that they must have the experience to both control and lead the interview process and not allow too much leeway for comments outside the scope of the complaint.

**Recommendation 17, 18 & 19**

## 8. Frivolous and Vexatious

Generally, there was a call for greater use of the frivolous and vexatious powers to dismiss complaints given the reputation of elected members is on the line the minute a complaint is lodged. A threshold to quickly filter complaints is required.

Further it is argued that complaints should reflect a measurable impact if in breach. For example, saying "a councillor offended me" should not be enough to satisfy a complaint.

A councillor's conduct needs to be reflected against legislated requirements. The Good Governance Guide provides is a good document which describes a level of expectation. Although it should be clearly noted that not meeting the expectations in the guide in itself doesn't automatically put a councillor in breach of the code of conduct.

Interpretation of some parts of the Guide can be quite broad, and a disgruntled member of the community could selectively quote to try and establish a false argument.

## Recommendation 20

### 9. Cost

The issue of costs is a particular concern raised by the sector. One council noted that the Executive Officer for dealing with Code of Conduct complaints was initially within the Local Government Division but has since been relocated to another division within DPAC.

Where costs were absorbed within the Local Government Division they are now a separate cost to the Government to be funded. As a matter of principle, the Council being responsible for costs of hearing has been accepted, however, the ongoing employment and administrative costs of the Executive Officer is a different proposition.

"The comments in the Discussion Paper are valid in that the State carries responsibilities for compliance with the Act and ought fund general administrative functions appropriately. Further, the creation of extra costs has been done so artificially due to the desire of the Director to have some separation although this is not necessarily justified in the circumstances. It is considered that this is a matter for the government to address and not a matter of simply cost shifting to Councils when the councils otherwise have no say or control in roles, responsibilities and employment terms of that Officer".

Feedback firmly indicated that the "fixed costs incurred by the State Government for the Executive Officer role should not be "cost recovered" from councils. The suggestion that councils pay on a population share basis is definitely not supported". Further "the Director of Local Government is responsible for ensuring compliance with the *Local Government Act* and therefore any costs to "administer" the Code of Conduct should rightly be met by the State Government".

## Recommendation 21

## 10. Communication and Support

A number of councillors who had been through a Code of Conduct process, said they had trouble getting advice from the Executive Officer or Panel with acknowledgement of queries but no follow up on the inquiry. It was also noted that sometimes information provided was inaccurate.

The level of information, particularly for someone who has never been involved in a Code of Conduct before, was insufficient. It should be noted that LGAT is now only able to provide generic advice as we are not exposed (rightly) to the detail of complaints.

Advice provided did not always lay out entitlements – such as the right to request a support person and not all parties were provided with copies of all written evidence. Sometimes where there were multiple complaints at a council there was not due consideration of the appropriate order to hear matters or consistency of approach.

It was suggested that the Executive Officer quickly establish a private contact address for councillors involved in a complaint instead of material being mailed to the General Council address. There was at least one instance of material not being stamped “private and confidential” and being opened by the general admin support.

In general, more consistent, high quality support and advice was sought.

### Recommendation 22

## 11. Other Issues

In relation to the Model Code it was also noted that there were cases of inconsistencies in terminology and intent between the Code and the Local Government Act.

The following examples were offered as needing some legal consideration:

- The ability for a complaint to be lodged and considered by the Code of Conduct Panel under the framework concerning a pecuniary interest, with the same complaint being lodged concurrently with the Director of local Government pursuant to Section 339E of the Act;
- The potential conflict with section 28 of the Local Government Act 1993 (Function of councillors); and
- The requirement for all candidates to publish candidate statements prior to an election.

Also raised were:

- The lack of clarity in the model code in relation to concepts such as ‘public interest’, the principles of transparency and the applicability of non-pecuniary conflicts;
- A call for complaints only being allowed to be made by a person (individual) not an organisation and that the complainant should reflect their name as included on the electoral roll.
- A feeling that councillors are being discriminated against with a highly detailed/descriptive Code compared to that used for State Government.
- The need for an internally focussed step to be used such as mediation or council grievance procedures first, prior to being able to lodge a Code of Conduct. That is the Code of Conduct complaint becomes an escalation step not the first step when there is a grievance.

Having said that, LGAT notes that the Local Panels under the old provisions provided this step, as did the requirement for mediation, but these were not supported or widely used by the sector and so were dropped under the previous review.

<b>Recommendations 23 &amp; 24</b>
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## Appendix One – Recommendations

Recommendations:

The draft recommendations for Members to consider are as follows:

Recommendation Number	Recommendation
1	Limit 7(1)(a) to fairness
2	Include an explanatory note regarding a 'reasonable person'
3	The process for determining variations to the Model Code (Clause 28T of the Local Government Act) and the rationale for denying a variation needs a greater level of transparency.
4	Delete 8(6), which says "A councillor must show respect when expressing personal views publicly."
5	Remove the 'materiality' test from Part 2 of the Model Code
6	Include recognition of a councillor exposing fraud or other illegal activity as not offending Part 3 (1) of the Model Code.
7	Exclude when council are acting as a planning authority from the Code of Conduct Process
8	Code of Conduct sanctions should only be imposed on those against whom the complaint is made.



9	Code of Conduct Panels should only be able to direct that training be undertaken, and that training is to include certain matters. The Panel should not be able to bind a third party to provide that training.
10	The Legislation should require a General Manager to notify a subject of a complaint once the General Manager has determined the complaint meets the requirements of Section 28V.
11	Once the Panel is notified of a complaint the General Manager should be required to table the complaint in a Closed Session of Council.
12	The Chair should be able to seek preliminary advice form the General Manager to consider other mattes before dismissing or proceeding with a complaint.
13	Timeframes should be included for the formation of the Panel (within 4 weeks of the complaint being referred) and for a hearing to be held (within 30 days of the formation of the Panel).
14	: Improve the complaint forms to ensure there is clarity regarding the complaint. For example, complainants should be able to select the descriptor that best applies.
15	A Statutory Declaration from the complainant and respondent should be required.

16	Councillors whose conduct is being reviewed by a Panel should have the option of appearing before the Panel.
17	The Panel must be appropriately experienced, trained and supported and must demonstrate they have the ability to perform the role before being appointed.
18	The Chair must have the experience to both control and lead the interview process and not allow too much leeway for comments outside the scope of the complaint.
19	Panels should have the ability to dismiss a complaint at any stage in the process.
20	Allow the Chairs to be able to dismiss trivial complaints.

21	Fixed costs incurred by the State Government for the Executive Officer role and associated Panel support should not be “cost recovered” from councils.
22	Clarification is required on who holds the responsibility for overseeing the effective implementation of the framework and the governance model and a greater commitment to providing guidance and support for councils and Panel members is required.
23	Clarify that panel chairs are obliged to refer matters that are the jurisdiction of the Director of Local Government, prior to a full Code of Conduct process.
24	A mechanism for mediation should be created.

## Employee Assistance Programs for Elected Members

### Request

- a) Whether Councils are required to extend their EAP to Councillors?
- b) If Councils extend their EAP to Councillors are there any specific risks?
- c) If Councils do not extend their EAP to Councillors are there any specific risks?

### Summary

- a) There is no express legislative requirement for Councils to extend their EAP to any Worker(s) (which will include Councillors) but most organisations consider EAP is an appropriate risk mitigation tool to deal with areas outside of their specific expertise;
- b) There is no risk to Councils by extending their EAP to Councillors as part of their management of their Workplace(s) as Councillors may bring a whole range of risks (increasingly psychosocial ones) to the Workplace (ie Council) when they conduct their work (ie Councillor duties);
- c) By not extending their EAP to Councillors, Council does increase its own risk profile because without having an appropriate justification (i.e. other than the person is excluded are Councillors) Council our expressly excluding a particular group of Workers from what is otherwise a reasonable risk management practice.

### Explanation

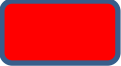
- a) Council's as a PCBU have the primary duty so far as is reasonably practicable to ensure the health and safety of workers whilst at work;
- b) Council's are obliged to eliminate risks or if they can't minimise those risks so far as is reasonably practicable;
- c) EAP are not a necessity to minimise risks. It is of course quite possible and practicable for any PCBU to directly engage a specialist (e.g. psychologist, social worker, GP or other medical practitioner or health professional) to deal with the risk factors that are ordinarily dealt with by an EAP. (Having said that most organisations have made an assessment to 'spread their risk' and avoid direct engagement costs by engaging an EAP over a defined period (e.g. year or 24 months) to deal with specific issues as well as to be available for a preventative and more holistic approach to the health and safety of their workforce;
- d) Councillors are often erroneously considered to be not bound WHS laws. Nothing could be further from the truth. They are Workers under the WHS Act who are entitled to the benefit of the 'protection' of the PCBU (i.e. Council). The only confusion is that where they are exercising Officer type duties they can only be prosecuted as a Worker. This of itself is nothing out of the ordinary because for example a volunteer surf lifesaver can still be prosecuted as a worker under the WHS Act.
- e) There appears to be no 'reasonable' reason to exclude a certain membership (i.e. Councillors) of a workforce from an obvious WHS benefit provided to almost all other Workers in the same workplace. If there were to be a particular reason for such an exclusion it would need to be weighed heavily against the benefits of providing such an approach including what I consider would be minimal additional costs to providing such services.


If you require any further additional information please contact me

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**PAGE SEAGER**  
LAWYERS

### LGAT Work Plan 2017 – 18 Progress Report

 Not yet commenced

 Unable to progress due to others

 Ongoing

 Completed

No.	Priorities	Outcome/Output Measures	Progress	Comment
1.	<b>Influence the State Government agenda for TasWater</b>	1. Councils retain ownership or gain significant concessions if State Government ownership model is implemented.		Significant effort has been undertaken for this priority. This has included numerous media (print, radio and TV), a submission and presentation to a Legislative Council Select Committee & the full Legislative Council. Depending on the outcome of the legislative process, work will continue as is required.
2.	<b>Shape the Code of Conduct Review</b>	1. LGAT's recommendations accepted by the State Government		See agenda item in the November General Meeting.
3.	<b>Drive the planning reform agenda</b>	1. Specific member survey indicated councils feel well represented by LGAT.  2. LGAT's recommendations accepted by the State Government.		LGAT continues its strong advocacy via the Planning Reform Taskforce, Local Provision Schedule Steering Committee and direct advocacy to the Planning Policy Unit of the Department of Justice. LGAT's election manifesto will outline the next phase of planning reforms sought by the sector.

No.	Priorities	Outcome/Output Measures	Progress	Comment
4.	<p><b>Build upon the resources available for Elected Members and staff</b></p>	<p>1. Increased utilisation of LGAT prepared resources (web and extranet hits)</p>		<p>LGAT continues to prepare resources for elected members and council staff. Recent additions to the LGAT offering include a guide for <i>Best Practice Minute Taking for Local Government</i> and discussion papers on Drones and Participatory Budgeting.</p> <p>Work is currently occurring on a discussion paper on Lean and a suite of material to support councils' procurement.</p>
5.	<p><b>Prepare communities and Councils for Local Government Elections in 2018</b></p>	<p>1. Continual improvement in community satisfaction survey findings</p> <p>2. Improvement in satisfaction rating in member survey results</p>		<p>Work is expected to commence in early 2018.</p>



No.	Priorities	Outcome/Output Measures	Progress	Comment
6.	<b>Position the Local Government agenda in the State Government election</b>	1. Number of Local Government initiated policies adopted by political parties.		See agenda item in the November General Meeting.
7.	<b>Promote the good work of Local Government to the broader community</b>	1. Increased exposure to LGAT and council produced stories via LGATs communication channels.		<p>Work is on-going on the Better Councils, Better Communities web page, with fresh content (council stories) uploaded on a monthly basis. Web traffic on this page and LGAT website continues to climb, with almost 7000 unique page views currently per month.</p> <p>The LG Tas second edition was released in September, with the Local Government 'Year in Review' due for release in late November.</p>
8.	<b>Ensure LGAT systems and IT are fit for purpose</b>			LGAT has recently moved across to Share point, has sought quotes on transitioning to the NBN and is upgrading other IT infrastructure as needed.

No.	Priorities	Outcome/Output Measures	Progress	Comment
9.	<b>Host an excellent Annual Conference, AGM and General Meetings</b>	<ol style="list-style-type: none"> <li>1. Delivery of the Conference on budget</li> <li>2. Conference feedback providing an overall rating of good or excellent from &gt;70% of survey responses.</li> <li>3. Increased General Meeting agenda items for decision or discussion.</li> </ol>		<p>Two hundred and seventeen delegates attended the 105th LGAT Annual Conference. Unfortunately, very few feedback forms were received, and the LGAT team are considering how to improve this for next year. However, those who did provide feedback were very positive and this is supported anecdotally by conversations at Conference.</p> <p>The Conference delivered a healthy surplus.</p>
10.	<b>Continue to expand the Procurement Program</b>	<ol style="list-style-type: none"> <li>1. Growth in sectoral procurement savings</li> </ol>		<p>LGAT and the National Procurement Network have continued to expand, recent activities include:</p> <ul style="list-style-type: none"> <li>• A new contract for bulk fuel, fuel card services, and vehicle care products was tendered; and</li> <li>• A new contract for industrial, hardware, construction, electrical and general hardware was established.</li> </ul> <p>In addition, LGAT are currently consulting a selection of council staff on draft LGAT template documents to assist councils with formal purchasing processes and contract management.</p>