



Local Government Association Tasmania

Special General Meeting

Agenda

11 May 2017

1.30pm

**(Lunch on arrival
from 1.00)**

**Windsor Park Community Precinct
Community Hall**

326 Macquarie Street, GPO Box 1521, Hobart, Tas 7000

Phone: (03) 6233 5966

Fax: (03) 6233 5986

Email: admin@lgat.tas.gov.au

Home Page: <http://www.lgat.tas.gov.au>

**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:

Population of the Council Area	Number of votes entitled to be exercised by the voting delegate	Colour placard to be raised by the voting delegate when voting
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.

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** Denotes Attachment*



GENERAL MEETING SCHEDULE

- 1.00 Lunch on arrival**

- 1.30 Meeting Commences**

- 1.45 Miles Hampton, Chair TasWater**

- 3.30 (Anticipated) Close**

1. GOVERNANCE

1.1 CONFIRMATION OF MINUTES *

Decision Sought

That the Minutes of the meeting held on 7 April 2017, as circulated, be confirmed.

Background:

The Minutes of the General Meeting held on 7 April 2017, as circulated, are submitted for confirmation and are at **Attachment to Item 1.1.**

1.2 BUSINESS ARISING *

Decision Sought

That Members note that Business Arising will be held over until the July 2017 General Meeting.

Background:

This Special General Meeting is confined to TasWater matters.

1.3 CONFIRMATION OF AGENDA

Decision Sought

That consideration be given to the Agenda items and the order of business.

Background:

Delegates will be invited to confirm the agenda for the meeting and the order of business.

2. ITEMS FOR DECISION

2.1 OWNERSHIP OF TASWATER

Contact Officer – Katrena Stephenson

Decision Sought

That Members note the report from TasWater Chair Miles Hampton.

Decision Sought

That Members determine a majority position on the proposed takeover of TasWater.

Namely, through moving one option in the first instance, Members should determine whether A or B apply.

A: The majority of Tasmanian councils agree there is a water and sewerage crisis and support State Government ownership of TasWater.

OR

B: The majority of Tasmanian councils do not agree there is a water and sewerage crisis and oppose State Government ownership of TasWater.

Background

At **Attachment to Item 2.1A** are -

- A broad timeline
- A copy of the Ministers presentation
- The notes of the Treasurer's Presentation taken at the April meeting.

Key Facts in Dispute

State Government	Councils/TasWater
Local councils have sacrificed investment in our water and sewerage infrastructure for a long time in order to pay themselves dividends.	Councils have a range of infrastructure which must be provided and maintained for communities and have been trying to balance the competing needs as well as increasing demands for services for many years. Nationally it is well recognised that there is simply not enough funding for Local Government to fully maintain all their assets and this is why we have lobbied strongly, collectively for a fair share of taxation revenue starting with the resumption of indexation on the Financial Assistance Grants. That said, councils have actually sacrificed dividends to ensure TasWater removes all boil water alerts and do not consume alerts by August 2018; and addresses all key outstanding sewerage matters within 10 years.

State Government	Councils/TasWater
<p>Council will receive \$400M between 2009-10 and the end of the 10-year plan.</p> <p>The Government will fund their plan (service debt) by paying the distributions to 2025-26 from consolidated revenue and foregoing their tax equivalent and loan guarantee payments.</p>	<p>Note the word distribution. Council dividends will fall to \$3.2m by 2025-26 based on 10 year financial plan projections and agreement last year with the owners. The distribution is made up of the dividends, loan guarantee fees and tax equivalent payments. Government owned entities do not pay corporations/company tax.</p> <p>Equivalent funding from consolidated revenue could be injected into TasWater at any time. This does not require a change of ownership.</p>
<p>There is a crisis</p>	<p>The Chair of TasWater advises that <i>“At no time has the DHHS or the EPA verbally or in writing advised us that a crisis exists, nor have the EPA issued any fines for environmental damage over the last 12 months. We have been working with the Regulators to ensure that our Plan meets their expectations and at no time have they advised that our approach is at odds with the outcomes they are seeking”.</i></p> <p><i>“Tasmania has water and sewerage challenges. This is why TasWater has developed a fully funded 10-year plan to address infrastructure upgrades which commenced in 2016”.</i></p> <p>Last year TasWater invested more per property than any similar sized utility in Australia.</p>
<p>Government will fix the boil water alerts faster.</p>	<p>Under council ownership, TasWater has reduced the number of customers who don't receive drinkable water from nearly 8000, down to about 1600.</p> <p>It is projected that the remaining customers will receive drinking water by August 2018, well before the Treasurer's plan could take effect.</p>
<p>Sewer overflows to the environment are seven times the national average.</p> <p>Only 1 of 78 sewerage treatment plants achieved full compliance with regulatory discharge limits.</p>	<p>The State Government's supporting data does not compare like for like. For example, compared to other states the regulatory triggers for reporting sewage discharge are much lower in Tasmania than other States and so reports of non-compliance are far more likely.</p> <p>Furthermore, in the reporting period, major floods, bushfire and drought contributed to the extraordinary discharges.</p>

State Government	Councils/TasWater
<p>Unplanned interruptions to water supply have increased.</p>	<p>TasWater has a significant capital program underway with hundreds of projects – spikes from rain, drought then issues with pipes breaking – periods of drought and floods can materially affect the number of unplanned interruptions.</p> <p>Spike in 2014-15 reflected a very dry period which typically drives and increase in the number of breaks.</p> <p>Key quotes section 5th dot point notes “TasWater lags well behind its mainland counterparts in relation to regulated discharge limits.” Note P25 of EPA report also notes “...of a similar size”, and then has a general note on Page 26 that the comparison is to utilities that are primarily serving metropolitan areas where as we are serving a mix of metro and regional areas. This point is equally applicable from the water comparisons made.</p>
<p>Councils can leverage from cash reserves.</p>	<p>Councils must (under legislation) fully fund the depreciation of their assets, this is not something required of State Government. They cannot be used as a consolidated fund.</p> <p>Councils reserves are aligned to their 10 year asset management and financial plans. Generally, there are clear rationales for the holding of funds linked to the long term considerations of depreciation, maintenance, renewal and replacement of assets.</p> <p>The Government is well aware of the impact of the statutory requirements on cash reserves. When Bryan Green suggested use of council reserves in 2012 Rene Hidding commented “isn’t this your greedy money-grubbing letter an attack on council’s very existence”.</p> <p>The cash reserves figure remains fairly constant year on year.</p>
<p>The capital plan can be delivered in half the time (5 years)</p>	<p>The Government have recently clarified that the plan would be delivered in seven years, ie three years earlier rather than the 5 years originally announced. TasWater analysis suggests that even a three-year acceleration would significantly increase the debt levels and render TasWater unsustainable. In all likelihood it puts the quality of planning and delivery at risk too.</p> <p>This has been modelled using the latest available information from the Government and still shows that debt levels would be increased to \$1.48B and that a further \$160M would need to be funded from other sources. If funded from consolidated revenue this means a likely impact on other Government services such as health and education.</p>

State Government	Councils/TasWater
The Government can borrow at a lower rate.	<p>TasWater already borrow through TasCorp at the same rate as the Government.</p> <p>There is nothing to stop the State Government sourcing more money for water and sewerage under a Local Government ownership model if it chooses to do so.</p>
1000 new jobs will be created	There is no data to back this assertion and it is unlikely there is enough specialist skill in Tasmania to support an accelerated program.
Councils will receive 50% of distributions after 2026.	<p>The Treasurer intimated (at the 11 April Meeting) there would be no dividends with profit to be directed back into TasWater.</p> <p>Further he indicated the Government would likely continue to forgo their share of tax equivalent payments and would expect Local Government to do similar.</p>
The Government will prevent privatisation through the legislation.	The current ownership model effectively prevents privatisation.
The Government will cap price increases at 2.5%	<p>Pricing is currently set by the independent regulator and cannot be capped by owners.</p> <p>Such a move is at odds with the national water initiative and further escalates the risk to TasWater's viability. The latest national report states that when compared to like utilities TasWater charges per customer are the lowest despite having the highest level of capital investment.</p>
TasWater will become a GBE which can be directed by the Minister.	<p>This gives the Minister of the day considerable power without direct controls or scrutiny and is unlike other GBE's in this regard. The likelihood of 'pork barrelling' and/or bad policy from the 'Government of the day' is increased.</p> <p>The constraints on scrutiny and public provision of information are well illustrated by the recent committee hearings around Hydro.</p> <p>The new directorial powers would likely require amendment of the GBE Act and may have repercussions for all GBEs.</p>
The detailed data needed for modelling has been embargoed by TasWater and is not available to the Treasurer.	On the 25 January 2017 Treasury was advised in writing by TasWater that they would be happy to provide details of the capital plan to all relevant parties including the Treasurer and sought contacts to arrange provision of the plan and an appropriate time for discussion of the detail.

Key questions for councils

1. Does the State Government's proposal:
 - a. Offer a genuine improvement on the current TasWater plan?
 - b. Ensure that Tasmanians will not be loaded with significant future debt?
 - c. Provide manageable price increases for consumers over both the short and the long term?
 - d. Ensure the long-term viability of TasWater?
 - e. Provide an opportunity to build local employment and capability?
 - f. Provide guaranteed returns to those communities who have invested in the infrastructure?
 - g. Guarantee the same rural/regional service provision?
 - h. Ensure an appropriate level of community influence and scrutiny?

2. Can the suggested outcomes under the State Ownership model (namely, faster delivery, cap in price increases, returns to councils, no privatisation) be achieved under Local Government ownership?

3. What are the key advantages of State Ownership compared to Local Government ownership of TasWater?

4. What are the key risks of State Ownership compared to Local Government ownership of TasWater?

LGAT Perspective

Implications for owners :

- Reduction (likely loss) of future revenue/no return on investment in assets
- Likely increased pressure for forced council amalgamations
- Reduced influence and scrutiny, transparency and accountability at the mercy of the Government of the day

Implications for communities:

- Reduced access to owners
- Reduced advocacy by owners for local service provision
- Likely increased long-term costs
- Risks to rural/service provision in the longer-term
- + Prices capped in the short term
- + Capital program timeframe reduced by three years

Political implications

- Minister of the day has significant direct influence and reduced accountability
- Consolidated funds being diverted from other key areas
- + Accountability shifts from Local to State Government, councils may stop getting blamed.
- + End of recurring political attacks

LGAT has been analysing all data received, as it is received. Initially, at face value, ignoring the poor process and intense posturing by the State Government, it seemed there might be some value in the change of ownership proposition, with many of Local Government's key concerns seeming to be addressed; with the added bonus of an end to the election cycle TasWater politics and no further ability to blame Local Government for any perceived failure.

However, the Treasurer's presentation at the last General Meeting, outlined mechanisms for achieving their 7-year delivery that would appear to be able to be delivered without changing ownership of TasWater. This would allow Local Government to receive a return on their investment beyond 2026. That is, further debt could be leveraged and serviced through the provision of direct funding to TasWater (or to councils) from consolidated revenue; regulatory changes which allow greater pricing influence from owners and more appropriate compliance requirements. This assumes that the Government are correct in their judgement regarding debt levels and the impact on sustainability, which is a key area of dispute raised by TasWater.

There is also the matter of the missing detail. While councils understand the current funded TasWater capital plan, the same level of detail has not yet been provided by the State Government.

LGAT concurs with the Chair of TasWater when, in his letter of 21 April 2017 (**at Attachment to Item 2.1B for reference**), he urges Members to decide, one way or the other, at the 11 May Meeting. Waiting for more information, including a Bill, will place the sector at a disadvantage if Members decide at that point they wish to challenge the ownership proposal. Given the intensity of the Government's campaigning on this issue, the public and the Members of Parliament (particularly the Legislative Council) are likely to have already come to a decision, limiting the effectiveness of any late advocacy by LGAT.

In the absence of a majority of councils being clearly for or against the proposal, LGAT has had to take a narrow advocacy approach, supporting the Chief Owner Representative and focussing on the disappointing process, the plan in place, the lack of detail from the State Government and the use of distributions for key council infrastructure and services. This approach is time limited and has a high risk of becoming dissatisfactory to all Members in the near future.

Budget Impact

Largely being undertaken within current resources, noting 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.

Depending on the preferred direction of the Members, LGAT will address any resourcing issues through the budget process.

Current Policy

Strategic Plan:

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

2.2 OWNERSHIP OF TASWATER Council Brighton

Decision Sought

That the Local Government Association of Tasmania formally rejects the proposed takeover of TasWater by the Tasmanian State Government and urges the State Government to work cooperatively with LGAT, Councils and TasWater on the optimal water and sewerage infrastructure upgrade program as determined by TasWater to achieve the best outcome for Councils and consumers.

Background

Brighton Council is firmly of the view that the State Government's move to takeover TasWater is more based on politics rather than serving the best interests of ratepayers and the Tasmanian community.

Councils must base decisions on facts and on this issue, the known facts are being provided by TasWater based on its actual management and operation of Tasmania's water and sewerage business. On the other hand, we have the questionable forecasts and short-term promises made by the Treasurer. Councils should not be misled by the, at times, flimsy forecasts and doubtful political promises. The real issue for Councils, in the event of a State Government takeover, is the loss of revenue required to fund essential community services. Brighton Council's firm belief is that Tasmania's water and sewerage services are not in crisis. This has been stated authoritatively and repeatedly by TasWater. Some 99.2% of Tasmanians currently have access to potable water and this will rise to 100% by August 2018 – the proposed time of the State Government takeover. Turning to sewerage, despite the Treasurer's claims, no concern or complaint has been received from the environmental or health authorities.

TasWater is successfully implementing a fully and responsibly funded infrastructure upgrading program over 10 years that will ensure all Tasmanians enjoy the highest standards of water and sewerage services. This will also provide the optimum return to Tasmania in terms of employment and economic activity, as well as restraining TasWater and council rate increases.

In contrast, to date, the State Government has provided no substance to back up its plan, nor explained how the infrastructure upgrading work can be completed in a reduced timeframe or outlined how costs will be reduced. The brief detail provided by the Government shows that under its plan, TasWater will be saddled with debt to the point where it will be unsustainable and Tasmanian ratepayers, or taxpayers, will pay substantially more.

The Treasurer has said that the water and sewerage infrastructure is owned by all Tasmanians and not councils. However, councils have invested a great deal of ratepayers' money over many years and are entitled to receive a return on this investment.

In the short-term, Mr Gutwein has promised that the \$20 million annual payments to councils (already reduced by the decision of TasWater) will be directly funded from the State Budget. This is hardly a promise cast in stone and unlikely to be legislated. Presumably it will be reviewed at every budget and be at the whim of the Treasurer/Government of the day, with no surety of its continuation.

In the medium term, the Treasurer has said that councils will receive 50% of the total value of returns after 2024/25, but he went on to say that we have “eight years to get ready for life without dividends.”

He also said the Government would be investing its share of dividends into new infrastructure and said that councils should do so as well. Assuming his takeover bid is successful, we could imagine Mr Gutwein saying “the situation is far worse than we expected so we need to put this money back into the GBE.”

So, we should be under no misunderstanding. The future will see revenue to councils from our TasWater investment cut significantly, if not removed altogether and rates will need to rise to provide the current level of services such as parks, sporting grounds, roads, footpaths, waste collection etc. Equally certain is the fact that councils, not the State Government, will suffer the wrath of ratepayers for any rate increases.

Compounding the financial loss, in the longer term, Councils will miss out on revenue from TasWater’s increased profit levels as the corporation matures and grows.

Under this threat and based on this information, councils cannot consider Government funding with any certainty in our long-term financial plans.

For Brighton, the loss of TasWater dividends is equal to almost 10% of rate revenue and the position could be similar for most Councils (**refer Table of Figures below**). LGAT members would be aware that Brighton Council made the unanimous decision to oppose the takeover largely based on this loss of revenue and its effect on Brighton ratepayers and its community.

Brighton urges LGAT members to consider the full implications of this situation on each council, its ratepayers and its community and not mildly accept the Treasurer’s dictate, and give up a revenue stream that could materially assist funding future operations and services. Brighton commends this motion to you and looks forward to LGAT members’ support.

Data Provided:

Annual payments from State Budget for 2018/19 - 2024/25 if TasWater becomes a GBE

Council	% Distribution	Estimated loss
Launceston City	13.62%	\$ 2,724,000
Clarence	11.06%	\$ 2,212,000
Glenorchy	10.86%	\$ 2,172,000
Hobart	10.86%	\$ 2,171,000
Kingborough	6.16%	\$ 1,232,000
Devonport	5.46%	\$ 1,092,000
Central Coast	4.77%	\$ 954,000
Burnie	4.14%	\$ 828,000
West Tamar	3.28%	\$ 656,000
Brighton	3.08%	\$ 616,000
Waratah Wynyard	2.81%	\$ 562,000
Meander Valley	2.78%	\$ 556,000
Northern Midlands	2.34%	\$ 468,000
Huon Valley	2.12%	\$ 424,000
Glamorgan Spring Bay	2.07%	\$ 414,000
Break O'Day	1.94%	\$ 388,000
Latrobe	1.91%	\$ 382,000

West Coast	1.81%	\$ 362,000
Sorell	1.62%	\$ 324,000
Circular Head	1.58%	\$ 316,000
Derwent Valley	1.36%	\$ 272,000
George Town	1.13%	\$ 226,000
Dorset	0.97%	\$ 194,000
Southern Midlands	0.76%	\$ 152,000
Central Highlands	0.51%	\$ 102,000
Kentish	0.44%	\$ 88,000
King Island	0.33%	\$ 66,000
Flinders	0.18%	\$ 36,000
Tasman	0.05%	\$ 1,000
Total		\$ 20,000,000

As these distributions will not be legislated it is probable that they will not be honoured due to "budget pressure". After 2014/15 it is probable that there will be no distributions to councils.

LGAT Comment

See Item 2.1.

It is suggested that related motions be consolidated/incorporated together.

3. OTHER BUSINESS & CLOSE
