General Meeting

Agenda

21 November 2012
10.30am

Devonport Waterfront
Function Centre
17 Devonport Rd, Devonport
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:

<table>
<thead>
<tr>
<th>Population of the Council Area</th>
<th>Number of votes entitled to be exercised by the voting delegate</th>
<th>Colour placard to be raised by the voting delegate when voting</th>
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<tbody>
<tr>
<td>Under 10,000</td>
<td>1</td>
<td>Red</td>
</tr>
<tr>
<td>10,000 – 19,999</td>
<td>2</td>
<td>White</td>
</tr>
<tr>
<td>20,000 – 39,999</td>
<td>3</td>
<td>Blue</td>
</tr>
<tr>
<td>40,000 and above</td>
<td>4</td>
<td>Green</td>
</tr>
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   (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 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.
GENERAL MEETING AGENDA

10.00  Coffee on arrival
10.30  Meeting commences

12.00  Speaker - John Harkin
       Project Manager
       Tasmanian Climate Change Adaptation Unit
       Department of Premier and Cabinet

12.30  Speaker - Norm McIlfatrick
       Secretary
       Department of Infrastructure, Energy and Resources

1pm    Approximately, lunch will be provided
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* Denotes Attachments
1 ITEM: MINUTES OF GENERAL MEETING HELD ON 26 SEPTEMBER 2012*

Decision Sought

That the Minutes of the meeting held on 26 September 2012, as circulated, be confirmed.

Background:
The Minutes of the General Meeting held on 26 September 2012, as circulated, are submitted for confirmation and are at Attachment to Item 1.

2 ITEM: BUSINESS ARISING*

Decision Sought

That the Meeting note the information.

Background:
At Attachment to Item 2 is a schedule of business considered at the previous meeting and its status.

3 ITEM: 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.

4 ITEM: FOLLOW UP OF MOTIONS *

Contact Officer – Katrena Stephenson

Decision Sought

That Members note the following report.

Background:
A table detailing action taken to date in relation to motions passed at previous meetings is at Attachment to Item 4.
5 ITEM: MONTHLY REPORTS TO COUNCILS*
Contact Officer – Katrena Stephenson

Decision Sought
That Members note the reports for August and September 2012.

Background comment:
Monthly reports to Councils that briefly outline Association activities and outcomes for the previous months are at Attachment to Item 5.

6 ITEM: COUNCIL ROUND UPS

Decision Sought
That Members determine who will present briefings at the next meeting.

Background:
Circular Head Council has offered to conduct a brief presentation on a matter that is of interest in their municipal area.

The session also allows time for questions and provides an opportunity to briefly share and highlight problems or opportunities facing councils.

7 ITEM: CONSTITUTIONAL RECOGNITION*
Contact Officer – Katrena Stephenson

Decision Sought
1. That Members note that should the ALGA Board decide to move ahead with the Constitutional Recognition campaign there will be a significant onus on Councillors and particularly Mayors to promulgate the ‘YES’ campaign.

2. That Members identify a possible State spokesperson and local heroes.

Background comment:
On Thursday 11 October 2012 Minister Simon Crean issued a notice in the House of Representatives to move that “a Joint Select Committee on Constitutional Recognition of Local Government be appointed to inquire into and report on the majority finding (financial recognition) of the Expert Panel on Constitutional Recognition of Local Government including amending section 96 of the Constitution, and in conducting its inquiry, the Committee will assess the likelihood of success of a referendum on financial recognition”.

This was a key objective of the ALGA Board and represents a significant step forward (ALGA has produced a media release and a copy is at Attachment to item 7). It is anticipated that the Parliamentary Committee will make its report in February 2013. If a referendum is recommended, particularly one in conjunction with a Federal Election and the ALGA Board agrees that the chances for a successful outcome are optimal, then there will be a relatively short and intense period of campaigning.
The campaign will involve national messaging, materials, ambassadors and advertising supported by state, regional and local activities.

At the state/Association level this will include:

- Lobbying Tasmanian parliamentarians;
- Identifying a spokesperson;
- Coordinating local activities;
- Participating on the National Coordinating Committee;
- Providing regular updates, talking points and media support to Mayors; and
- Providing an interface between the national activities and the local activities.

At a local level, requirements may include things like engaging with local press and community groups, door knocking and poll booth support, use of local heroes, placement of promotional material, local third party endorsements and so on.

The bulk of activity will occur in the six months leading up to a referendum intensifying in the last six weeks.

Councils should give consideration over the next few months as to who, in addition to the Mayor, is interested and able to play an active role (e.g. coordinating local volunteers).

The LGAT will be seeking that information immediately should it become clear that a referendum will take place.

**Budget Impact**

ALGA are seeking a national budget of $10 million. The Tasmanian contribution required is $381,000.

In 2011 Members unanimously agreed the following motion:

*To seek part funds annually (eg $75,000 per annum) through the subscription process, to be quarantined for a campaign, or refunded if a referendum does not eventuate, to be topped up using LGAT reserves.*

$225,000 is to be collected from councils, meaning $156,000 plus any additional staffing requirements will need to be funded from LGAT reserves.

**Current Policy**

Constitutional Recognition for Local Government has been formally supported by the Membership.
Decision Sought

That Members vote separately on each of the following propositions with the votes to be recorded by Council.

1. That the Meeting support a move to prevent people, in future, from serving on Council and in State Parliament at the same time.

2. That the Meeting support a move to all-in, all-out elections with four-year terms for Councillors, Mayors and Deputy Mayors.

3. That the Meeting support a move to around-the-table election of Deputy Mayors.

4a. That the Meeting support the introduction of council-opt-in compulsory voting, whereby those councils that wish to do so may opt-in to make voting in council elections compulsory for all electors in their municipal area.

4b. That the Meeting support the introduction of compulsory voting across ALL Councils (i.e., compulsory voting is introduced on a sectoral rather than opt-in basis).

Background comment:
At the Local Government Association of Tasmania (LGAT) annual conference in July 2012, the Minister for Local Government, Bryan Green MP, announced his intention to consult on a number of proposed changes to Local Government electoral arrangements.

The matter was discussed at the Premier's Local Government Council on 15 August 2012 and members agreed to the formation of a working group of representatives from the Division of Local Government, Security and Emergency Management, LGAT and Local Government to consider the proposals, with technical advice provided by the Tasmanian Electoral Commission.

The working group developed a discussion paper and sought comments from councils and interested members of the public by Wednesday 31 October 2012. At the time of writing, the Association is collecting feedback from Councils with the aim of providing a sectoral overview.

At the last General Meeting there was discussion indicating a desire to formally ratify a LGAT position through the General Meeting process.

Budget Impact
Not applicable to the LGAT budget.

There would be an increased cost (estimated at 20 per cent) of Local Government elections where there is compulsory voting which may be partially off-set should there also be a move to all-in, all-out elections.
Current Policy
Motions to support compulsory voting have been lost on a number of occasions. The other matters have not been formally and independently considered previously.

9 ITEM: HISTORIC CULTURAL HERITAGE
Contact Officer - Katrena Stephenson

Decision Sought
That the members note the report.

Background comment:
The Historic Cultural Heritage Bill 2012 and the consequential Land Use Planning (Historic Cultural Heritage) Amendment Bill 2012 were debated in the Upper House on the 17 October 2012.

Heritage Tasmania and the LGAT have worked closely to ensure consultation with Local Government on the Bill. Shortly before the Bill was due to be tabled in the Lower House, an officer of the Tasmanian Planning Commission raised concerns that the timeframes may prove unworkable for councils, especially in the event of any delays at Heritage Tasmania. This matter was discussed with Heritage Tasmania and it was resolved that LGAT would take it to the General Manager's workshop in late September with a view to seeking an amendment if necessary.

During the consultation phase, the matter of aligning the new heritage processes with the 42 day LUPAA timeframe was discussed in some detail. Currently the Bill has the Heritage Council making its decision by day 35, leaving the planning authority seven days to make a determination by day 42. Planning officers thought this could be achieved and they, like LGAT were cognisant of the scrutiny on Local Government planning processes. The Association, considering the advice of planning officers, decided we would not push for an extended timeframe (60 days had been originally floated by Heritage Tasmania). We did however, in our submission, note the tight timeframes and the likelihood that there will be times that the statutory timeframe will be exceeded.

However, in discussing further with General Managers, it became clear that there were real concerns that the timeframes would prove unworkable, particularly in councils using a Committee structure, and it was agreed that LGAT would seek an amendment to ensure that there would be a mandatory 14 days from the date of receipt of the Heritage Council's notification to finalise the permit process. This would mean that in all circumstances, local council's will have up to 49 days to deal with a development application for which the Tasmanian Heritage Council had provided comment and, in the case where the Heritage Council has sought an extra 14 days to consider complex cases, up to 63 days. Heritage Tasmania was receptive to the concerns and raised the issue with the Minister. This matter was discussed in the Lower House but unfortunately got lost in the final debates and was not progressed.

Consequently LGAT sought support for an amendment to the Land Use Planning and Approvals Amendment (Historic Cultural Heritage) Bill 2012 from Members of the Legislative Council.
The amendment proposed was as follows:

5. Section 57 amended (Applications for discretionary permits)
Section 57 of the Principal Act is amended as follows:

(a) by omitting paragraph (b) from subsection (6) and substituting the following paragraph:

(b) not later than –

(i) in a case where the Heritage Council has not, under section 39(3) of the Historic Cultural Heritage Act 1995, required extra time to consider the application, on the expiration of the period of 42 (Change 42 to 49) days from the day on which the planning authority received the application or such further period as is agreed, in writing, by the planning authority and the applicant before the expiration of that 42-day (Change 42 to 49) period; or

(ii) in a case where the Heritage Council has, under section 39(3) of the Historic Cultural Heritage Act 1995, required extra time to consider the application, on the expiration of the period of 56 (Change 56 to 63) days from the day on which the planning authority received the application or such further period as is agreed, in writing, by the planning authority and the applicant before the expiration of that 56-day (Change 56 to 63) period.

On 17 October 2012 the Bill was adjourned for around 2 weeks in order to consider a number of amendments proposed by the Property Council, the Housing Industry Association and Master Builders Association along with concerns of the Tasmanian Aboriginal Community.

The Association has been provided a copy of the proposed Amendments and at time of writing was consulting with planning and heritage officers in relation to them.

Budget Impact
Does not apply.

Current Policy
Does not apply.

10 ITEM: SOCIAL MEDIA POLICY*

Contact Officer – Katrena Stephenson

Decision Sought

That Members provide feedback on the draft policy, particularly any gaps.

Background comment:
The Local Government Managers Association (LGMA) and LGAT are working in partnership to produce a model social media policy.

The Association undertook a literature and policy review and prepared a draft policy and this has been circulated to the LGMA Communications Special Interest Group for comment.

Comments were not available at the time of preparing this Agenda so their feedback will be provided separately to this Agenda with an updated version of the Policy. A draft version is at Attachment to Item 10.
It is not intended that this Policy be mandatory. It is designed to be a tool for councils, particularly those which do not yet have a policy in place. Councils may choose to use components, rather than the entire policy and must still give consideration to a range of issues, particularly around roles and responsibilities.

Key points:
- The policy is aimed at both staff and elected members.
- It considers positive and negative uses of social media.
- It provides some indicative principles related to the use of social media.
- It provides guidance in relation to personal and corporate use of media.
- It outlines some key requirements and risks.
- It is based on the premise that under the law, online content is essentially permanent and should NEVER be considered private.

It is the intent of LGAT/LGMA to make this policy available to all Members by the end of 2012. It will be freely available on both websites.

**Budget Impact**
Does not apply.

**Current Policy**
Does not apply.

**11 ITEM: FINANCIAL AND ASSET MANAGEMENT SUSTAINABILITY PROJECT**
Contact Officer – Katrena Stephenson

**Decision Sought**
That Members note the report.

**Background comment:**
On 27 September 2012 the first meeting of the State Government Financial and Asset Management Sustainability Project Steering Committee was held. The Steering Committee is chaired by the Director of Local Government with membership also comprising the Deputy Director of the Local Government Division, the LGAT Policy Director, the General Manager of Glenorchy City Council and the General Manager of Brighton Council.

The Terms of Reference for the Steering Committee are provided at **Attachment to Item 11**. A key output is the development of a State Framework for promoting financial and asset sustainability at the Local Government level.

Consultation on the proposals developed by the Steering Committee will be in the first half of 2013. A working group is also to be established to provide advice on depreciation and revaluation practices.

Further this work will be informed by the Local Government Financial and Asset Reform Project being managed by LGAT.
Budget Impact
Does not apply.

Current Policy
The Association has been driving improvements to Local Government's strategic asset management and long term financial planning for some years.

12 ITEM: HOUSEHOLD HAZARDOUS WASTE PROJECT
Contact Officer – Ben Mooney

Decision Sought
That the Members note the report.

Background comment:
The Tasmanian Household Hazardous Waste Pilot Collection Program is a joint project between the Tasmanian Department of Environment, Parks, Heritage and the Arts (DEPHA), the Local Government Association of Tasmania (LGAT), and the three regional bodies (Southern Waste Strategy Authority, Cradle Coast Authority and the Northern General Managers’ Group), and is jointly funded by a DEPHA Living Environment Program (LEP) and the 29 councils in Tasmania.

The project involves protecting the environment through the efficient and effective operation of waste management strategies with particular regard to household hazardous waste (HHW) that may otherwise enter the waterways or cause other environmental harm.

Highlights from the program are:
- Conduct of 34 drop-off days across 24 council jurisdictions.
- Used by 2,658 people.
- Collected 78,000 kg of household hazardous waste.
- Primarily consisted of high-volume low-toxicity material, such as water and solvent-based paint (55.8%), lead acid batteries (10.8%), flammable liquids (e.g. fuels) (5.9%), gas bottles (5.3%)
- Collected substantial quantities of low-volume high-toxicity material, such as toxic pesticides (3,260 kg), toxic organics (1,392.5 kg), cyanides (42 kg), arsenic based compounds (33.5 kg)

The program, Chemsafe Homes Tasmania, has completed its pilot term as indicated in the Grand Deed and is currently conducting a Strategic Review under the guidance of a Local Government Working Group, consisting of members from Northern Region Waste Management Group, Cradle Coast Waste Management Group, Southern Waste Strategy Authority and the Chemsafe Homes Coordinator.

The program, which began in March 2009, will finish in December 2012 and the Strategic Review will provide recommendations on governance, funding sources and future drop-off models for collections, transport and treatment of household hazardous wastes in Tasmania.

Budget Impact
Does not apply.

Current Policy
Does not apply.
13 ITEM: VOLUNTEERING TASMANIA SYMPOSIUM*
Contact Officer – Kate Hiscock

Decision Sought
That Members consider the potential issues, opportunities and impacts relating to volunteering for their own council and consider developing management strategies.

Background comment:
The Association recently participated in the Volunteering Tasmania Volunteering Symposium 2012. The focus of the Symposium was “what does Tasmania’s ageing population mean for volunteerism”. The Association was asked to submit a thought piece for the Symposium and drafted a piece entitled “Two Sides of the coin: Local Government and Volunteers”. A copy is at Attachment to Item 13

This piece indentified the significant volunteering activities that Elected Members undertake as part of their role as Councillor. Further, the piece examined how councils are a key provider of social inclusion opportunities often incorporating volunteering, but that this is also leading to increased community expectations regarding service provision and a council’s capacity for volunteer management. It was identified that there are mutual dependencies and benefits for councils supporting volunteering. However, councils need to be aware of the resourcing impacts of potentially managing volunteer services within their community.

The Symposium was attended by a broad cross section of community and not for profit organisations, the University, Government and service providers. A point worth noting was that there was a general view that Local Government was ideally placed to take on more of a role in not only identifying community needs and opportunities for volunteering but also in the engagement and management of volunteers as well as service delivery.

The Association made it very clear that while Local Government is well placed to understand the needs of their communities and potential opportunities, the aspirations around volunteering would also come with resource implications and councils were incredibly limited in their ability to generate funding to take on further activities. Therefore, it was advised that activities or roles suggested for Local Government would need a source of funding to be identified.

An ageing population and volunteering.
It is well known that Tasmania’s population is ageing at a faster rate than other Australian states. The age profile of volunteers is similar. The largest group of volunteers is traditionally retirees. As the proportion of people leaving the workforce increases, there will be an increasing demand for younger workers to replace them as well as a competing demand to recruit younger people as volunteers. This issue will become particularly salient in regional communities where demands for services are growing but the number of younger people is decreasing as they seek employment in urban centres.

At the same time, the way in which people want or are able to volunteer is changing. Financial pressures may reduce the capacity for people to balance working and making time available to volunteer in traditional ways.

For younger people there is growth in “interest based” volunteering, where they will volunteer on an issue that they are passionate about as well as an increase in knowledge based or decision making volunteering such as participation on boards.
The message is that organisations relying on volunteers may need to re-think how they attract, engage and manage volunteers and how they deliver volunteer based services into the future. Organisations which may include councils need to be able to embrace different skills sets, time availability and generational differences and be flexible in how people are enabled to volunteer. The growth in social media and web based technologies also offers opportunities for people to volunteer in new ways.

In 2011, it was estimated that volunteering contributed $63.3 million to Local Government in Western Australia with nearly five times greater hours volunteered than worked by paid staff. Increased support and reliance on volunteer work in the Local Government sector brings with it, however, increased responsibility for councils to manage volunteer activities within their communities. Additionally, increasing insurance premiums and demands in health and safety regulations means councils must adopt a risk management approach to managing volunteers and the specific roles they undertake.

Local Government and volunteering fit well together. By harnessing the capacity of volunteers and supporting the development of volunteering networks in communities, mutual benefits can be achieved. Volunteers benefit through the support of their councils as well as access to networks. Councils benefit through increased resources to assist in the delivery of the diverse range of services expected of them by other Governments and their community.

Continuing to ensure positive relationships between councils, volunteers and volunteering organisations will best allow the identified challenges to be successfully addressed.

Budget Impact
Does not apply.

Current Policy
Taking on the attraction, engagement and management of volunteers is likely to require resource allocation by councils.

14 ITEM: WATER AND SEWERAGE
Contact Officer – Allan Garcia

Decision Sought

That the meeting:

1. Note the status of the legislation.
2. Give consideration to formally signing off on the constitution of the corporation to allow the document to be forwarded to December meetings of councils for formal agreement of the terms of the document.
3. Provide in-principle support for the draft Shareholders’ Letter of Expectation.

Legislation
Inputs from councils on the consultation draft for the legislation were aggregated and submitted to the State Government for consideration. In the main, the issues sought to be addressed were resolved although the matter of a referendum regarding privatisation has not been included within the legislation.

A matter raised by a number of councils regarding the legislation was that it did not foreshadow how issues relating to any council amalgamation process would be addressed via the Water and Sewerage Corporation legislation.
At present there is a requirement for councils to hold 29 “equal” shares, that can have various rights regarding voting and distributions attributed to them. The endless possibilities available under an amalgamation scenario means that it is impossible to prescribe how an amalgamation outcome would specifically be treated in terms of its impact on voting and distributions under the water and sewerage corporation framework.

In the event that an amalgamation did occur, it would require an amendment to the principal legislation establishing a particular council and the water and sewerage corporation legislation would be consequentially amended. The form of that amendment would be dependent upon whether two or more councils were joined together, or some were split and joined with others. The present Bill seeks to address what exists now rather than speculating on what might be.

The voting and distribution rights presently prescribed within the draft legislation would be the starting point of any deliberation for reallocation and would likely be subject to significant analysis and independent “actuarial” type advice to allow all members to make a considered determination.

One aspect of the legislation which has been amended relates to borrowings by the corporation. The requirement for the corporation to borrow solely from Tascorp has been maintained but there has been an amendment that provides for the Treasurer to provide guidelines from time to time on borrowings. This is not a prescriptive action but one which foreshadows an event such as requiring an alternative financing structure for particular capital works. This provision provides the necessary head of power for the corporation to have discussions with the Treasurer about alternative financing structures.

The Treasurer would have no operational involvement in the corporation but is included within the process as the borrowings of the corporation form part of the state’s overall borrowing limits.

At the time of writing the legislation was being introduced into Parliament.

**Constitution**

An updated version of the constitution has now been developed and circulated to councils. The new version takes account of the feedback from councils regarding voting arrangements and representation. There are a few minor technical adjustments as well but without major effect on the broad intent of the document. At the time of writing regional briefings were being organised for the week ending 2 November 2012.

It is hoped that once councils have had the opportunity to review the new document that a formal indication can be given at the General Meeting of overall acceptance. Councils will be then asked to list the matter on their December council meeting agendas to formally agree to the terms of the constitution and consent to be members of the new corporation.

**Shareholders’ Letter of Expectation (SLE)**

Councils have now had the draft SLE for some months to enable them to consider the context and fit with the legislation and the constitution. The SLE has not been amended since the initial draft and will be discussed in more detail with councils at the regional meetings detailed above. Two key elements of the SLE relate to the treatment of Not for Profits and the role of the corporation as an economic development facilitator. A working group of General Managers has been established to consider the first matter following agreement from the Owners’ Representatives Group.
The second matter is outlined in the SLE presently but will be subject to further discussion in the regional briefing process. At this time, it is important that the broad parameters of what councils, as owners of the corporation, are expecting of their board and that the basic elements are addressed in the SLE.

In terms of the timetable for the SLE, it is hoped to have a near to complete draft by December to enable it to be used as part of the Board recruitment process. The final document will be subject to discussion/negotiations between the Owners’ representatives and the new board of the corporation, once appointed, and is likely to be finalised in April/May 2013.

**Board Selection**
The inaugural meeting of the Selection Committee has been conducted and the process to secure a consulting firm to assist with the recruitment is in hand. The Selection Committee has a very clear understanding of its role and the timetable involved and will work to ensure that the arrangements it puts into place are open, transparent and accountable. Members resolved to appoint Mayor Tony Foster OAM as the Chair of the Selection Committee.

**Budget Impact**
There are no budgetary implications for the Association.

**Current Policy**
The recommendations are in accord with the present policy position of moving to a single water and sewerage corporation.

15 **ITEM:** TASMANIAN FREIGHT EQUALISATION SCHEME

*Contact Officer – Allan Garcia*

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<td>1. That the meeting note the background document relating to the Tasmanian Freight Equalisation Scheme and that Norm McIlfatrick (Secretary, Department of Infrastructure, Energy and Resources) has been invited to address the meeting on the issue, and</td>
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<tr>
<td>2. That the meeting assess what action it wishes to take in light of the information provided and briefing presented.</td>
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**Background comment:**
At the last General Meeting of the Association, Waratah-Wynyard council moved a motion to have the Association lobby the Federal Government regarding the long term security of the Tasmanian Freight Equalisation Scheme (TFES). Significant debate ensued with references to the cost of Bass Strait, the impost on exporters, what was covered by the TFES and what was not. It was finally concluded that the matter be deferred and that the Association bring back to the meeting an information paper that provided members with an understanding of the TFES, its coverage and recent developments.

Following discussions with Waratah-Wynyard Council, it was also considered worthwhile to invite the Secretary of the Department of Infrastructure, Energy and Resources, Norm McIlfatrick, to address the meeting on recent developments and the work presently being undertaken in relation to both the TFES and assistance for exporters, noting that the two, while linked, are not the same. Norm will be addressing the meeting at 12.30 pm and will remain on for lunch.
Purpose of the Scheme
The Australian Government has provided financial assistance to shippers of freight between Tasmania and mainland Australia under the Tasmanian Freight Equalisation Scheme (TFES) since July 1976. The scheme was extended in 2008 to cover eligible shipments moved between the main island of Tasmania and either King Island or the islands of the Furneaux Group.

The scheme assists in alleviating the sea freight cost disadvantage incurred by shippers of eligible non-bulk goods moved by sea. Its objective is to provide Tasmanian industries with equal opportunities to compete in mainland markets, recognising that, unlike their mainland counterparts, Tasmanian shippers do not have the option of transporting goods interstate by road or rail.

The scheme is demand driven and uncapped, with no upper limit to the total annual payment. In 2011–12, the Australian Government provided over $90.9 million in assistance under the scheme.

Eligibility for Assistance
A claim can only be made by an eligible person (individual or company) and only for assistance with shipping eligible goods. The scheme has different eligibility rules, depending on whether the goods are being shipped:

- north from Tasmania to mainland Australia;
- south from mainland Australia to Tasmania; or
- intrastate between the main island of Tasmania and either King Island or any island in the Furneaux Group (KIFG).

Additional assistance is available for northbound shipments to mainland Australia from the islands of the Furneaux Group that must be sent via the main island of Tasmania and require more than one type of transport mode to complete the interstate journey (e.g. trucked from one port to another for loading onto a different vessel). The additional assistance is available under the Furneaux Group Additional Assistance (FGAA) initiative of the scheme.

Claimant Eligibility
Only the person who actually incurs the costs of shipping eligible, non-bulk goods is eligible to claim assistance under the scheme. This is sufficient to be eligible for assistance shipping northbound goods and some intrastate goods.

However, to be eligible for assistance shipping southbound goods and some intrastate goods, the person also must either be:

- engaged in the manufacturing, mining, agriculture, forestry or fishing industry
- a sportsperson competing in a sporting event where prize money is paid; or
- a professional entertainer performing in a show or event for payment.

Companies engaged in supplying goods to agriculture forestry or fishing industries may also apply to be appointed to act as agents to apply for assistance on behalf of their customers. Additional eligibility conditions may apply, as set out in the Ministerial Directions.
Eligibility of Goods:
Certain cargoes are ineligible for assistance, including price equalised goods, bulk cargoes, cargoes intended for export, and goods imported into Australia from overseas which have not undergone a manufacturing process before being shipped to or from Tasmania.

- Assistance is available for **northbound and intrastate** shipments of goods listed on Schedule 1 of the Ministerial Directions.

- Assistance is available for **southbound and intrastate** shipments of raw materials and equipment for use as inputs to the mining, manufacturing, agricultural, fishing and forestry industries in Tasmania.

- In some circumstances, assistance may be available for shipping brood mares and their progeny and for the equipment of sportspersons and professional entertainers.

- Goods must have been shipped by sea to be eligible for assistance, except in the case of special circumstances approved by the Minister or Secretary of the Department.

The cost of shipping must have already been paid before a claim for assistance is made. Additional eligibility conditions apply, as set out in the Ministerial Directions.

The King Island and Furneaux Group intrastate component applies to intrastate sea freight shipped between King Island and the main island of Tasmania, and between Flinders Island and the main island of Tasmania.

Recent Developments
Recent developments in relation to the TFES have included the Commonwealth Government commissioning a report by Infrastructure Australia into the continuation of the Scheme. The report delivered a scathing assessment of road, rail and port operations in Tasmania to the Commonwealth and suggested that Federal police and the nation’s competition watchdog should investigate freight operations in Tasmania.

The report recommended:

- Australian Federal Police investigate fraud allegations made about the Tasmanian Freight Equalisation Scheme;

- Australian Competition and Consumer Commission review shipping costs and competition issues for sea freight and passenger services across the Bass Strait;

- Canberra stop directly funding the scheme and, instead, ask the Commonwealth Grants Commission to consider freight disadvantage when it doles out GST; and

- Include all non-bulk goods between Tasmania and mainland Australia in a future equalisation scheme.

The report concluded that over the past 40 years more than $2.6 billion had been poured into the TFES with little improvement in the state’s freight situation.

Assistance Package
A proposal by the State Government to extend TFES to include international freight was rejected by the Federal Government. However, it did announce a $20 million assistance package to help Tasmanian exporters access international markets.

The Federal Infrastructure Minister has indicated that he is anxious to find a long term solution to the problem and an allocation from the $20 million has been set aside to address such matters. Norm McIlfatrick will speak on this matter at the meeting, Anthony Albanese says he knocked back the proposal to extend the TFES in favour of a longer-term solution.
**Budget Impact**
There are no budgetary implications for the Association.

**Current Policy**
Does not apply.

**16 ITEM: INTER-COUNCIL EMERGENCY MANAGEMENT RESOURCE SHARING***
Contact Officer – Georgia Palmer

**Decision Sought**
That members endorse in-principal the protocol for inter-council emergency management resource sharing.

**Background comment:**
At the July 2012 General Meeting members endorsed the development of a Resources Sharing Protocol for Emergency Management (the Protocol). The need for the Protocol was identified by Municipal Emergency Management Coordinators at a forum in February.

The Protocol has now been drafted. The purpose of the Protocol is to develop an agreed position between councils regarding the provision of council resources (human, equipment and or facilities) to assist other councils with response and recovery tasks during emergencies.

The Protocol provides clarity regarding the operational, insurance, OH&S and reimbursement issues that may arise through municipal resource sharing arrangements. Adoption of the Protocol by individual councils is voluntary.

The Protocol is based on the Municipal Association of Victoria (MAV) protocol which has been in operation since 2006.

In developing the Protocol LGAT has consulted a number of agencies to ensure that the Protocol is consistent with State legislation, policy and best practice. Consultation has included the Department of Premier and Cabinet, Office of Local Government, Security and Emergency Management; the State Emergency Services, MAV insurance, and Workplace Standards, Department of Justice. At the time of writing the brief, LGAT is still awaiting a final response from one Agency. It is expected that this response will be received in the week of 28 October 2012. Once this response has been received the final Protocol will be circulated to councils.

MAV insurance has provided a letter in relation to indemnity under the Protocol. The letter outlines how MAV Insurance will provide a ‘Principal’s Indemnity ‘extension to the Principal/Assisting Council. A copy of this letter is at **Attachment to Item 16**.

Under the Protocol participating councils may withdraw from the protocol at anytime by providing written notice to LGAT. A list of participating councils will be maintained by the LGAT and will be available on the LGAT website. The LGAT will notify all councils of any changes to the protocol membership. Membership will be reviewed and confirmed on a three yearly basis by the LGAT.

**Budget Impact**
Does not apply.

**Current Policy**
Does not apply.
Decision Sought

The Meeting note that the next phase of the project is building on momentum in strategic asset and financial management with the following decisions/actions required:

1. Seven councils need to complete project surveys that were due in August.
2. Support is sought for the extension of a regional approach to include financial staff.

Background comment:
According to the original funding agreement with the Commonwealth, The Financial and Asset Reform Project had a completion date of 30th September 2012. A recent Independent Evaluation of the project and informal communications from the Institute of Public Works Engineering Australia (IPWEA) suggest that Tasmania is the leading jurisdiction in the financial sustainability field. This was largely attributed to the early work of the Tasmanian Audit Office, this project and the training it provided, and the extent of collaboration between councils.

Whilst the project can demonstrate to the Commonwealth that all councils were given the opportunity to develop strategic plans by the project's deadline, not all councils completed long-term financial and asset management plans. It's important that the momentum established during the first phase of the project continues, especially given the State Government's commitment to legislate mandatory minimum requirements. For the purpose of reporting to the Commonwealth and more importantly to identify areas in which councils may require further assistance, a survey was distributed to all councils in August 2012 and these will continue to inform the development of the second phase of the project.

In the last week of September as part of the second phase of the project, IPWEA's John Comrie conducted Long Term Financial Planning workshops in both the North and South of the state, funded by this project. The workshops were well attended, extremely well received and included a second day session which produced a first cut plan using a simple excel based model.

At its recent meeting, the project's Steering Committee acknowledged the effectiveness of existing and newly established regional committees in progressing asset management planning and encouraging collaboration between councils. This was a feature of the project differentiating it from other states and contributing to its success. It was suggested that this approach be broadened to establish regionally based financial committees to address long term financial planning and related issues. This concept has received initial support from financial staff and will require commitment from these staff to attend regional meetings and provide mentoring and support.
Other aspects of the project plan include:

- follow-up maturity assessment in 2013 to monitor progress and improvement;
- continuation of support for smaller councils such as one-on-one technical assistance from IPWEA; and
- a subsidised financial sustainability forum for both asset management and financial staff in early 2013.

**Budget Impact**
The second phase of the Local Government Financial and Asset Reform Project will continue to June 2013 using surplus funds from the original project.

**Current Policy**
This is a priority project for the Association.

### 18 ITEM: NEW ABORIGINAL HERITAGE LEGISLATION
Contact Officer – Katrena Stephenson

#### Decision Sought
That Members note the update and upcoming consultation process.

**Background comment:**
Newly drafted Aboriginal Heritage Legislation aims to provide more effective protection of Aboriginal heritage and broaden the involvement of the Aboriginal community in decision-making. It also aims to link the protection of Aboriginal heritage directly with planning and land development processes, to provide greater certainty from the outset for those who own, manage and use land in Tasmania.

Preliminary, targeted consultation with the Aboriginal community and other key stakeholders, including Local Government occurred between July and September 2011, informing the development of a draft exposure Bill. Recently in 2012, LGAT and Local Government planning officers were involved in further consultation on detailed proposals.

The Minister for Environment, Parks and Heritage, Brian Wightman, will launch a public consultation process on the new Aboriginal heritage legislation in early November 2012. The process will centre on a complete draft exposure Bill, supported by explanatory materials (fact sheets, website, FAQs etc).

The process will also include a series of public information and feedback sessions around the State in later November 2012, as well as briefings and consultations with Aboriginal community organisations and stakeholders.

The draft exposure Bill has been developed over the past two years under the supervision of a high-level, cross-Agency Steering Committee chaired by the Secretary of the Department of Primary Industries, Parks, Water and Environment (DPIPWE), Kim Evans. The project’s sponsor is the Aboriginal Affairs Committee of Cabinet, chaired by the Premier. It has received specific funding in both the last two State Budgets.

DPIPWE intends to complete the public consultation process before Christmas 2012, consider the feedback and introduce the Aboriginal Heritage Protection Bill 2013 to Parliament in the Autumn session (March – May 2013). Subject to Parliamentary approval, it would then be implemented in July 2013.
One intention of the new legislation is to integrate assessment and approval of Aboriginal heritage with the Resource Management Planning System. For matters dealt with under Land Use Planning and Approval Act (1993) (LUPAA), there will be a substantial set of statutory exemptions to exclude consideration of minor works (unless there is registered heritage on the site).

For non-exempt cases, the Bill will require Aboriginal Heritage Management Plans for large-scale and high-impact activities, and introduce a referral system for the rest. The referral mechanisms will be very similar to those in the amendments to the Historic Cultural Heritage Act 1995 that are currently before the Legislative Council. A core aim is that Local Government would not be required to make decisions on Aboriginal heritage, but rather to refer cases to the Government and to incorporate relevant decisions into LUPAA permits. Processes are designed to fit current timeframes, and will include appeals to the Resource Management and Planning Appeal Tribunal.

The draft exposure Bill is large but aims to increase certainty by laying out clear roles and processes. These include an Aboriginal Heritage Council, an Aboriginal Heritage Register, ministerial guidelines, enforcement mechanisms and revised penalties. Some matters will be in the Regulations, including provisions for mapping or zoning. A summary of the Regulations will be released with the draft exposure Bill.

LGAT will be seeking Council feedback for a submission in response to the draft exposure Bill when the consultation process is announced in November 2012.

Budget Impact
Does not apply.

Current Policy
Does not apply.

19 MOTION:  NEGATIVE IMPACT OF ANTI-DEVELOPMENT GROUPS
Council – Central Coast

Decision Sought

That the Local Government Association of Tasmania lobby the State Government to work more closely with Local Government to maintain the future of key industries in the state and to work together to counter the negative impacts on jobs and opportunities arising from anti-development groups in the state.

Background comment:
The recent downturn in the forest industry and the potential impacts from the Intergovernmental Agreement (IGA) process on the future structure of the industry has the capacity to decimate many communities around the state. While there are some compelling market factors associated with this situation, it is the actions and mobilisation of conservation and anti-development groups that has particularly raised the ire of councils and communities. A similar lobby group has now turned its attention to the Tarkine with a view to halting any mining activity of any sort in the area.

There is a group lobbying strongly against the management of controlled waste at Copping, notwithstanding that the site was built for such activity. There is also a strong and increasing concern that the growth and success of the aquaculture industry may result in it becoming a target of conservation groups.
Already the state is suffering from a significant economic downturn and it cannot be further hampered by people working in their own interests and those of other minority groups. The state requires a strong, robust and diverse economic base and cannot afford industries being picked off and targeted by groups simply because they differ in their ideology. The state needs jobs and it must be able to rely on existing industries as well as any future opportunities that may arise.

It is imperative that Local Government makes it clear that it supports industry and jobs in this state and will work with anybody and everybody to preserve viable and sustainable industries into the future.

20 MOTION: AMENDMENTS TO DOG CONTROL ACT 2000
Council – Kingborough

Decision Sought
That the Local Government Association of Tasmania support appropriate amendments to the Dog Control Act 2000 to ensure that Councils have the legislative head of power to determine whether dogs should be prohibited and/or restricted from land under which a Council has control.

Background comment:
Council has been undertaking a review of its Dog Management Policy, initially due to a request by Councillors that sports grounds (in particular the recently developed Twin Ovals Complex at Kingston) be declared as prohibited areas under the Policy.

Legal advice was sought in relation to the best way to achieve prohibition as the Dog Control Act 2000 did not appear to provide the ability for Council to do so. Section 22 of the Act provides:

(1) A council may declare an area containing sensitive habitat for native wildlife to be an area where dogs are prohibited from entering.

(2) A person must not take a dog that is not a guide dog or a hearing dog into a prohibited area.

It was therefore clear that the sports grounds could not be declared a prohibited area in line with the Section 22. The other alternative was for Council to declare the ovals to be Restricted Areas under Section 23:

(1) A council may declare an area to be an area where dogs, other than guide dogs or hearing dogs, are restricted from entering –
(a) during specified hours, days or sessions; or
(b) during specified hours, days or seasons unless they are on a lead.

(2) A person must not take a dog that is not a guide dog or a hearing dog into a restricted area otherwise than in accordance with the declaration.
Section 28 of the Act provides:

(1) A person must not take a dog into –
   (a) any ground of a school, preschool, kindergarten, crèche or other place for the
       reception of children without the permission of a person in charge of the place; or
   (b) any shopping centre or any shop; or
   (c) the grounds of a public swimming pool; or
   (d) any playing area of a sportsground on which sport is being played; or
   (e) any area within 10 metres of a children’s playground.

Section 7 of the Act requires that Council is to develop and implement a policy relating to dog management in its municipal area which is to include the following:

(a) a code relating to responsible ownership of dogs;
(b) the provision of declared areas;
(c) a fee structure;
(d) any other relevant matter.

The legal advice provided to Council indicates that its current Dog Management Policy may be deficient in that it provides prohibitions / restrictions that would appear not to be covered by the Act. A summary of that advice is as follows:

• The Council does not have the power to declare an area to be an area where dogs, other than guide dogs or hearing dogs, are restricted from entering at all times.
• Any restrictions imposed by the Council will be “reasonable” so long as the decision to impose the restrictions is not one that no reasonable Council could have made. This depends both on the extent of the restriction and the reason for imposing the restriction.
• One of the purposes of the Act is to regulate the interaction between dogs and public spaces. Sections 22 and 23 of the Act fulfil this purpose by giving Council the power to declare an area within its municipality to be an area where dogs cannot enter, regardless of whether they are under the effective control of a person.
• Section 22 concerns those areas that contain sensitive habitat for wildlife, and a Council has the power under that section to declare an area where dogs are prohibited from entering at all times. Section 23 concerns other areas within a Council’s municipality that, although not containing sensitive habitat for wildlife, may nevertheless be an area that Council wishes to prevent dogs from entering for various reasons.
• In the second reading speech of the Dog Control Bill 2000 it was noted that Section 23 would “allow time sharing of places like parks, reserves or beaches.” In our opinion, this indicates that Parliament did not intend Section 23 to give Council the power to restrict dogs from entering such areas at all times, for to do so would be contrary to the notion of time sharing.
• The context in which Section 23 operates also indicates, in our opinion, that the section does not give Council the power to declare an area to be an area where dogs are restricted from entering at all times.
• The fact that there is a clear distinction maintained between prohibition and restriction in the Act and for this reason Section 23 cannot be interpreted as giving a Council the power to restrict access at all times.
• In determining the hours, days or seasons during which dogs are restricted from entering an area, either with or without a lead, the Council should ensure that such restrictions can be justified, having regard both to the extent of the restriction and the reasons for it.
The Dog Management Policies of some other councils has been reviewed and it has been identified that they provide for the types of restrictions/prohibitions that some people would like to see maintained at Kingborough i.e. sportsgrounds and beaches.

On the basis of Council’s legal advice its current Dog Management Policy (and that of some of the other policies which were viewed) provides a number/range of prohibitions/restrictions which may not be able to be sustained in any legal challenge that is mounted should an infringement be issued.

Council has recently determined to defer its further consideration of amendments to its Dog Management Policy and continues to maintain its current prohibition / restrictions of access.

A request has also been provided to the Minister for Local Government seeking his comments on the intent of the prohibition/restricted areas provisions of the Dog Control Act 2000 on the basis that the Council believes that as it is responsible under the Local Government Act 1993 “to provide for the health, safety and welfare of the community” it should have the power to determine whether dogs should be prohibited and/or restricted from land under which the Council has control.

21 Closure