General Meeting

Minutes

Wednesday 16 August 2006

Launceston Country Club

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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>
</tr>
</thead>
<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>
</tbody>
</table>

(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 SCHEDULE

9.30am  Coffee on arrival
10.00  Meeting commences
10.30  Richard Dax and Neil Morrow
       The Recreational Fishing Development Plan and opportunities for councils to join in partnerships to progress the plan.
12.00  Steven and Shelley Coombes
       Blu-C Bags
       Presenting an innovative alternative to plastic shopping bags with ideas for distribution within your municipalities.
12.30pm  Approximately, lunch will be provided
Immediately following lunch  Lee Marlin
       Promoting Local Government Jobs and Careers in Schools
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* Denotes Attachments
The President, Mayor Mike Gaffney declared the meeting open at 10.05am.

The Traditional Owners of the Land, the Leterremairrener People, were acknowledged and Members welcomed.

Apologies were received from –

Mayor Tony Bisdee          Southern Midlands Council
Mr Tim Kirkwood           Southern Midlands Council
Mayor Tony Foster          Brighton Council
Mayor Darryl Gerrity       West Coast Council
Mr David Metcalf           West Coast Council
Mayor Robert Armstrong     Huon Valley Council
Mr Geoff Cockerill         Huon Valley Council
Mayor Carmel Torenius      Sorell Council
Mr Graeme Sundstrom       Sorell Council
Mayor Terence Klug         Flinders Council
Mr John Vucic              Flinders Council
Mayor Lynn Laycock         Devonport City Council
Mr Paul West               Waratah/Wynyard Council
Mayor Kim Polley           Northern Midlands Council
Mr Greg Allomes            Kingborough Council
Mayor Jock Campbell        Clarence City Council
Mayor Barry Easther        West Tamar Council

The President congratulated and welcomed Mr Frank Dixon, General Manager Launceston City Council, Mr Steve Gray, General Manager Tasman Council, Mr David Jones, Acting General Manager Devonport City Council. Mr David Sales was also acknowledged for his work in Local Government and wished well in his new position.

Mayor Robert Legge was congratulated on the recent election result and Deputy Mayor Margaret Osbourne thanked for her contribution as Acting Mayor over the election period.

The meeting was advised that Mayor Barry Easther, West Tamar Council, has been invited to speak at the Australia Local Government Association General Assembly and Mayor Charles Arnold, King Island Council, was congratulated on the recent win for Council in the Banksia Awards.
1. ITEM: MINUTES OF GENERAL MEETING HELD ON 21 JUNE 2006 *

Central Highlands Council/Burnie City Council

That the Minutes of the meeting held on 21 June 2006, as circulated, be confirmed.

Carried

Background:
To confirm the Minutes of the General Meeting held on 21 June 2006.

See Attachment to Item 1.

2. ITEM: BUSINESS ARISING *

Burnie City Council/Glenorchy City Council

That the Meeting note the information.

Carried

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

3. ITEM: CONFIRMATION OF AGENDA

Southern Midlands Council/Central Coast Council

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

Carried

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

4. ITEM: RATIFICATION OF POLICY

Contact Officer: Allan Garcia

Central Coast Council/Central Highlands Council

That the General Meeting note that there are no items brought forward from the previous meeting that require ratification as policy of the Association.

Carried

Background comment:
Delegates are invited to endorse policy items brought forward from the previous meeting.

5. ITEM: FOLLOW UP OF MOTIONS *

Contact Officer – Christine Standish
That the meeting notes the report detailing progress of motions passed at previous meetings and not covered in Business Arising.

Carried

Follow up on outstanding 2005 Motions
A matrix indicating progress to date on motions passed at 2005 General Meetings, which remain outstanding, is at Attachment to Item 5.

Follow up on 2006 Motions
Details of proposed action in relation to motions passed at the 2006 General Meeting are contained in Attachment to Item 2, Business Arising.

6. ITEM: LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS
Contact Officer – Liz Gillam

That the Association advise Councils of the outcomes of the discussions at this meeting to provide a final opportunity for input.

Carried

Background comment:
In early July, Councils were invited to submit issues relating to the operation of the Local Government (Meeting Procedures) Regulations.

At the time of preparing the agenda, three Councils had responded and they had no matters to raise.

However, it is possible that responses may be received prior to the General Meeting. A paper identifying any issues raised will be emailed to Councils prior to the meeting and time will be made available at the Meeting for discussion of these issues.

Budget Impact
Does not apply.

Current Policy
Just prior to commencement of the Local Government (Meeting Procedures) Regulations, it was agreed with the State Government that the Association would conduct a review of the operation of these Regulations after twelve months.
7. **ITEM: LOCAL GOVERNMENT BOARD REVIEW**
   Contact Officer – Allan Garcia

**Central Highlands Council/Kingborough Council**

That the Meeting note the following report.

Carried

**Background comment:**
On becoming aware of the proposal by the State Government to review the Local Government Board, the Association established a Working Group to consider a Local Government position. Chaired by the former President of the Association, the Working Group comprised the Mayors of Glenorchy and George Town Councils, the General Managers of Clarence and Meander Valley Councils and the CEO of the Association.

The Discussion Paper prepared by the Working Group was circulated to councils for consideration as an input to the review process. The key features of the discussion paper included:

- an extension of the present annual return for KPI’s and statistical purposes;
- an expansion of the coverage of the current annual financial audit process;
- the development of best practice templates and guidelines; and
- consideration of a long term community plan that linked financial, asset management and service levels to the strategic planning process

The responses from councils were largely supportive of the approach with few adjustments necessary to the document.

The paper has been forwarded to the Local Government Board Review Steering Committee as an input to the review process. The Steering Committee also sought inputs from individual councils for scoping and inclusion of matters within a soon to be released Issues Paper from that process.

While the State Government process is due to proceed for some months and will raise a number of issues, the Association considers that the position it has put to the review process is one that it would prefer to largely remain intact.

**Budget Impact**
Does not apply.

**Current Policy**
As contained in the 2005 Policy Document:
The Local Government Board should be an independent body whose membership comprises representatives with a range of skills and disciplines that are representative of and relative to the operational environment of Councils.

LGAT representatives on the Local Government Board should not be current council members or officers.
8. Item: Local Government Sustainability
Contact Officer – Allan Garcia

Dorset Council/Circular Head Council

That the Meeting note the progress on this matter.

Amendment Motion

Waratah/Wynyard Council/King Island Council

That the Association write to all Councils seeking their agreement to the proposal that a study be funded 50% by the Association and 50% by Councils, with an equal contribution from each Council.

Carried

Dorset Council/Circular Head Council

That the Meeting noted the progress on this matter and that the Association write to all Councils seeking their agreement to the proposal that a study be funded 50% by the Association and 50% by Councils, each Council to contribute an equal share.

Carried

Background comment:
At the last General Meeting it was agreed that the matter of a study into the financial sustainability of Local Government in Tasmania be investigated in terms of the scope, methodology and approximate cost of conducting such an exercise.

NSW, South Australia and Western Australia have undertaken similar activities over the past twelve months with the Western Australian study considered to be more likely to be adaptable to the Tasmanian situation.

At the time of writing, discussions were about to commence with the independent panel overseeing the WA process and the consultants that undertook the analysis. It was proposed to attend a workshop with the Western Australian Association personnel driving the process and to access consultancy briefs and scoping documents.

Key matters for consideration prior to embarking on such a project is the quality of data, access to relevant information and the focus of the analysis.

A small working group comprising General Managers from each region has been formed to assist with deliberations on the study and to develop a proposal for consideration by councils.

Budget Impact
Does not apply.

Current Policy
At the 2006 Annual Conference a resolution was passed to the effect that LGAT proceed to investigate –
- An independent review - identifying deficiencies and problems within the sector – plant and equipment resources, asset management and financial capacity.
- Develop a register of leading practice and successes in councils and measurable results.
9. ITEM: NATIONAL LOCAL GOVERNMENT ROADS & TRANSPORT STRATEGY
Contact Officer – Allan Garcia

Glenorchy City Council/Central Coast Council

That the meeting note the adoption of the above strategy at the Local Government Roads Congress.

Carried

Background comment:
A National Roads and Transport Strategy was adopted by ALGA at the recent National Roads Congress held in Alice Springs.

The strategy was initially mooted at the 2005 Roads Congress held in Launceston and state associations have been working with ALGA over the past twelve months to formulate the document.

The strategy combines Local Government’s roads and transport agenda into a single document and has been designed around five core components.

- Local road network funding and management – seek to establish permanent funding arrangements for Local Government to ensure a well managed, sustainable local road system that provides the appropriate access and levels of service for all communities
- Urban transport solutions – achieve balanced and sustainable transport systems in urban areas, improve urban amenity and provide viable alternatives to private motor vehicles
- Mobility and access for regional Australians – achieve, as far as possible, equity in access for all regional communities, particularly to essential services, through the provision of transport services
- Freight management – improve efficient movement of freight vehicles through local communities to safeguard community concern for safe, clean and noise free environments.
- The long term financial sustainability of Local Government

The strategy provides the framework and focus for ongoing representation to the Australian Government for reform and assistance to Local Government. Programs such as Roads to Recovery and Black Spot will continue to be pursued but it was considered that a broader transport agenda was necessary in light of emerging problems faced by councils and new challenges for communities.

The Local Government Association of Tasmania will continue to work with ALGA on the development and implementation of this strategy through the Roads and Transport Advisory Committee and through its participation at ALGA Executive meetings.

Budget Impact
Does not apply.

Current Policy
Funding issues for transport infrastructure should be addressed by all spheres of government during the development of integrated transport plans.
10. ITEM: FIRE SERVICE LEVY *

Launceston City Council/Hobart City Council

That the LGAT take up the matter of the increased fire levy contribution from Local Government with the State Government, with a view to persuading the State Government to –

1. Acknowledge Local Government’s disappointment in the increased contributions at a time when most councils have entered into Partnership Agreements with the state, with no indications given during these (Partnership) discussions of the pending increase; and

2. Explore other avenues for collecting future increases in the Levy, which do not involve Local Government.

Amended Motion

Central Coast Council/Burnie City Council

Item two to read -

That Local Government indicates that it no longer wishes to be a collection agency for the State Government and requests the State Government to collect the levy via its own means.

Carried

Launceston City Council/Hobart City Council

That the LGAT take up the matter of the increased fire levy contribution from Local Government with the State Government, with a view to persuading the State Government to –

1. Acknowledge Local Government’s disappointment in the increased contributions at a time when most councils have entered into Partnership Agreements with the state, with no indications given during these (Partnership) discussions of the pending increase; and

2. That Local Government indicates that it no longer wishes to be a collection agency for the State Government and requests the State Government to collect the levy via its own means.

Carried

Background comment:
On Wednesday 31 May, the Mercury Newspaper quoted the Minister for Emergency Management as having announced that the State Government had approved a 12.5% increase in the fire service contribution to be paid by Local Government in 2006-2007.

The levy is applied to the assessed annual value of land applicable in each Municipal Area, but due to the differing valuation cycles and compensating index values applied, the resultant
increase in the fire service contribution for each council is not uniform. It is understood that the projected increase for the largest five councils is as follows:

- Kingborough  20.9%
- Clarence     18.8%
- Hobart       15.7%
- Launceston   08.1%
- Glenorchy    05.8%

Launceston City Council believes the increase is a substantial impost over what councils are already contributing to the Government run State Fire Commission. Again, Local Government will be put in a position of trying to explain to its ratepayers an increase in its overall rates for an element (fire services) over which it has no control.

In June a letter was sent from Mayor Dean to the Mayor of each of the other 28 Tasmanian councils seeking support for this motion.

**Attachments to Item 10**

1. Letter to President of the LGAT
2. Pro-forma letter to each of the councils

**Budget Impact**

Does not apply.

**LGAT Comment**

This matter was raised with the Premier at the last Premiers’ Local Government Council meeting where it was advised that the matter would be investigated by the responsible Minister and a report provided to the Association.

### 11. **ITEM: STANDARDS PANEL UPDATE**

Contact Officer – Liz Gillam

Kingborough Council/Glenorchy City Council

That the following report be noted.  

Carried

**Background comment:**

In May this year, the Association advertised in the three daily Tasmanian newspapers seeking expressions of interest from persons to be appointed to the Standards Panel to hear Code of Conduct complaints referred to it under the *Local Government Act 1993*.

The intention is to have a number of suitably qualified persons:

- who have experience in Local Government; or
- who are legal practitioners,

from whom to establish a Standards Panel as, when and where required.

GMC determined to take this approach, as apposed to establishing a permanent panel, to ensure that there was flexibility to avoid any perceptions of conflict of interest and to enable the Panel to set up in any part of the State to keep travel of all parties to a minimum.
There was a good response to the advertisement and GMC has agreed to approximately 20 persons across the State from who a Standards Panel can be appointed.

The Association is holding briefing sessions with these persons in the near future to work through issues relating to the administration and operation of the Standards Panel.

**Budget Impact**

It is not clear at this time what the budget impact of the operation of the Standards Panel will be, as this will to some extent depend on the number of complaints referred, either initially or by way of appeal.

The Association has made provision in its budget for administrative support to the Panel.

It is intended that Councils be invoiced for the direct costs associated with the hearing of a complaint or appeal by the Standards Panel, being the sitting fees and any expenses incurred by Panel members.

**Current Policy**

The Association is required by the *Local Government Act 1993* to establish the Standards Panel.

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**12. ITEM: AIR QUALITY REGULATIONS UPDATE**

Contact Officer – Christine Standish

Kentish Council/George Town Council

That the Meeting note the following report.

*Carried*

**Background comment:**

In June 2006 the State Government launched draft Air Quality Regulations and a Regulatory Impact Statement for public comment, with an initial closing date for submissions of 21 July 2006.

The regulations relate principally to the import, sale, installation and modification of domestic solid fuel burning appliances, wood smoke emissions from such appliances and backyard burning - matters which were removed from the Environment Protection Policy on Air Quality that was made in December 2004. It is considered the regulations are required to supplement existing legislation to provide an appropriate instrument to address domestic wood smoke nuisance.
The regulations include provisions on the following matters:

**Solid fuel burning appliances:**
- Manufacture and importation of heaters – requirement that heaters comply with the current Australian standard;
- Sale and installation of new and second-hand heaters – requirement for models/types of heater to comply with the current Australian standard;
- Modification of heaters - prohibition on both modification of heaters and use of modified heaters; and
- Smoke emissions from heaters and fireplaces – prohibition on visible smoke plumes from a chimney or appliance of a certain length and duration.

**Backyard burning:**
- Prohibition of burning on allotments of less than 2,000 square meters; and
- Opt-out provision for local councils via by-laws.

The regulations do not cover other significant sources of air pollution. Provisions on industrial emissions and planned open burning remain in the EPP, and other sources such as motor vehicles are addressed by other means. The regulations are seen as only one instrument to address the air quality impacts of domestic woodheaters and other approaches such as public education and incentives will continue to be used subject to availability of resources.

To assist in the consultation process the Association facilitated a forum between State and Local Government representatives, which allowed Councils to provide feedback on the draft. Some important comments on the draft regulations were made by Councils, which the Environment Division has agreed to address wherever possible. Councils also requested some guidelines to assist with the enforcement of regulation 11 (assessing excessive smoke emissions).

A detailed feedback report on issues raised at the forum has now been provided by the Division and circulated to all Councils along with guidelines for assessing excessive smoke, which have been adapted from relevant sections of Smoke Abatement Notices guidelines published by the New South Wales Government.

Councils have a further opportunity to provide comments on the draft regulations and the closing date for receipt of submissions has been extended until 18 August to allow Councils to digest the additional information provided.

**Budget Impact**
Does not apply.

**Current Policy**
The Policy Document endorsed by General Meeting in 2005 contains the following statements:
- The LGAT supports the development of a consistent and balanced policy and regulatory response to the control of air quality in Tasmania.
- The Association acknowledges that Councils have responsibilities in relation to air quality.
13. Item: Constitutional Recognition

West Tamar Council/Central Coast Council

1. Continue to lobby for the inclusion of appropriate recognition of Local Government in the Commonwealth Constitution.

2. Urges the Local Government Association of Tasmania to renew its efforts to gain appropriate recognition of Local Government in the Commonwealth Constitution, including the formation of a special committee to work with other States to finalise the wording of proposals, and undertake appropriate lobbying activities to achieve Constitutional recognition.

3. Urges the Local Government Association of Tasmania to use all efforts to press the Australian Local Government Association to be more active in pursuing the Australian Parliament to undertake measures to have Local Government recognised in the Commonwealth Constitution.

Carried

Background comment:

1. Local Government does not have sovereignty 'as of right' and therefore does not have the authority to raise taxes or pass laws.

2. The authority to function as a Government must be delegated from a Parliament that does have sovereign rights.

3. Delegation is achieved through a Local Government Act, but the Act also ensures Local Government remains beholden to State Parliament.

4. Sovereign delegation could also be achieved through a Federal Local Government Act, thus ensuring all Councils in Australia operated under the same charter.

5. The Federal Government is the major collector of taxes, and the most powerful policy maker, in the country.

6. It therefore makes sense to link the local level of Government with the holder of the purse strings, and the major policy maker.

7. In seeking recognition under the Commonwealth Constitution something more than a 'motherhood' statement is required.

8. It is extremely important to include Local Government under Section 96 of the Constitution, because that section allows the Federal Government to provide untied financial assistance.

9. For a referendum to be successful it is important to:
   a. Seek the concurrence of both major political parties.

10. The issue must be driven from the Local Government sector, and therefore more concerted action is required from the Australian Local Government Association and all State organisations.

The issue of constitutional recognition of Local Government is one I have pursued with considerable vigour during my period in Local Government. This paper is designed to more fully outline my views in the hope it will assist future debate on the subject.

Governmental Powers
Under our system of Government the powers to raise taxes and pass laws that will be upheld by the Courts are exercised by the Crown. The Crown delegates those sovereign powers to State and Federal Parliaments by way of a constitution at both State and Federal level. The fact that State and Federal Parliaments have powers delegated to them by the Crown, via their respective constitutions, allows them to impose taxes on the community and pass enforceable laws.

However, Local Government does not have powers delegated from the Crown, and therefore cannot, as of right, perform the functions of a Government. The authority of Government must be exercised by a Parliament having sovereign power, but that authority is delegated to Local Government by way of a Local Government Act.

Given that the only authority and functions that can be exercised by Local Government are those detailed in the State Local Government Act, all Councils remain constantly beholden to State Parliament, and must perform those functions, and in such a manner as required by the State Parliament.

Clearly in such circumstances there is no autonomy for Local Government, and little room for flexibility. Each Council is, in reality, an agent of State Parliament.

The pertinent questions are, how does such a constitutional arrangement fit within the democratic process, and, does such a role for Local Government meet with contemporary community expectations?

The fact that Local Government has been operating in all Australian States since the 19th century through such constitutional arrangements does not mean it must always be so. Other procedures are possible, and if Local Government is to proceed into the 21st century with the level of autonomy and authority expected of it by the community, more contemporary arrangements must be put in place.

Changes that have taken place over the past 70 years to the powers, functions and responsibilities exercised by State and Federal Parliaments now mean that the Federal Government is the dominant policy making body in the country. The transfer of income tax collections from State to Federal Government in 1942 gave the Commonwealth domination over public taxes, and the domination of the Commonwealth has been enhanced by decisions of the High Court and the passing of the Australia Act in 1988.

Financial Limitations
Whether we like it or not, the Commonwealth now holds the purse strings, and all the powers that go along with it.

However Local Government remains beholden to State Parliaments.

There is a constant and growing scream from Local Government that insufficient funds are flowing to the sector to allow even the most efficient Councils to undertake the functions required by the community. Aging infrastructure is in urgent need of replacement and there are insufficient funds to extend essential infrastructure and services.

Several inquiries have been held showing the extent of the shortfall in Local Government funding, but by far the most significant is the Hawker Report, tabled in 2003.

Local Government has used these reports to highlight the seriousness of the situation, but it seems to be assumed in many quarters that if more funding is made available the problem would be solved. However this assumption is not agreed to by everybody. Money is only part of the problem.
Local Government is acknowledged as an integral part of the three-tiered system of government operating in Australia. The fact that it does not have the same autonomy as the other two tiers is largely ignored. But gaining a level of autonomy is of vital importance if Local Government is to fulfil the role expected of it by the community.

However it makes sense that, if the Federal Government is the repository of the major share of total taxation revenue, and is the most powerful policy maker in the country, direct links are established between the federal and local levels of government.

**Constitutional Requirements**

Direct links can be achieved by having appropriate clauses included in the Commonwealth Constitution. State constitutional authority is an option, but by far the best option is to gain appropriate recognition in the Commonwealth Constitution. However, in seeking constitutional recognition it is not good enough to simply seek the inclusion of a motherhood statement. A general statement of the role of Local Government would be helpful, but there must also be meaningful words conferring powers and resources that allows Local Government to fulfil the role expected of it in the future governance of Australia.

It is most important to have Local Government included under section 96 of the Constitution, which states: ‘The Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit’. It is the section allowing the Commonwealth to make untied grants to the States, and is widely used to transfer funds, raised by Canberra, back to the States.

However there is no provision under Section 96 allowing untied funds to be transferred to Local Government. Therefore federal funds transferred to Local Government must be done either through the States, by way of State Grants Commissions, or through specific purpose legislation which ties the funds to a particular program.

Recognising Local Government under section 96 would allow the Commonwealth to make direct untied grants to the local level, thus by-passing State Governments. Needless to say, State Governments are bitterly opposed to such a proposition, but that does not mean it is not in the best long term interests of good future governance of the country.

The other matter that needs to be addressed is the method of conferring sovereignty on Local Government. Without the delegation of sovereign powers Councils would not be able to raise rates or pass by-laws. As stated earlier, the present method is for each State to legislate a Local Government Act which spells out the powers, roles and authority of Councils. However, each State has its own Act with different provisions in each State.

There is no reason why the Commonwealth Parliament could not pass a Local Government Act and thus delegate sovereign powers directly from the Commonwealth to the local level. By so doing all Councils across the country would be operating under the same provisions. Such a process would lead to a major review of the method of implementing a great many programs at the local level, but given the present structure was born out of the administrative and governmental requirements of the 19th century, it is perhaps an appropriate time for such a review.

The combination of including Local Government in the Commonwealth Constitution and delegating sovereignty under a Federal Local Government Act would place all councils across the country on the same basis, open the door to a freer flow of funds from Canberra to the local level, provide a mechanism for greater local input into the development of policies, and ensure that programs delivered the best possible outcome for local communities.
Current Constitutional Provisions
Each State has its own Constitution, and each of those constitutions have reference to Local Government. The reference to Local Government is different in each State, but by far the most extensive provisions are contained in the Queensland Constitution.

In Tasmania the constitution is provided by way of the Constitution Act 1934, and clauses 45A, 45B and 45C provide reference to Local Government. The problem is, however, that the Constitution Act is an ordinary Act of Parliament, and can be amended by a simple majority in both Houses of Parliament, without reference or input from the people. Therefore the Tasmanian Constitution provides no better security for Local Government than the Local Government Act.

However, it is a Constitution and does have appropriate status in most quarters. In 2000 a General Meeting of the Local Government Association of Tasmania sought to strengthen the provisions in the Constitution Act and appointed a committee to undertake investigations and make recommendations. At the General Meeting in May 2001 five motions were passed unanimously seeking to have the State Parliament implement provisions to strengthen the constitutional position of Local Government. It was left to the General Management Committee to negotiate with the State Government and in due course the matter was referred to the Premier’s Local Government Council. The matter is still with PLGC, but nothing obvious has happened.

Future Action
Appropriate recognition in the Commonwealth Constitution must be a prime objective of all Councils in Australia. The Hawker Report opens the door, but the initiative must be taken by Local Government.

Budget Impact
Does not apply.

LGAT Comment
The three major platforms of the present ALGA policy agenda are:
- Fair Federal Funding
- Fair Treatment, and
- Formal Recognition

Price Waterhouse Coopeer has been commissioned to undertake an extensive study into Local Government finances to underpin the arguments for a more equitable share of national funding. The recently signed Intergovernmental Agreement is the first step in the fair treatment process and seeks to eliminate practices such as cost shifting.

The Fair Share report on cost shifting and Local Government financing proposed that the Minister for Local Government propose a resolution that the House of Representatives recognise Local Government "as an integral level of governance of Australia". In his response to the report the Minister committed the Government to such action but with the resolution to be made in both chambers of the Parliament.

That resolution has been constructed in consultation with ALGA and while not granting Local Government outright constitutional recognition, represents the extent to which the Australian Government is willing to pursue the matter of recognition at this time. ALGA is of the view that constitutional recognition needs to be pursued at a later time but does not consider that it warrants the dedication of additional resources over the other current priorities at this time. This is a view shared by State Associations around the nation.
14. **ITEM: ANIMAL WELFARE** *

**Glenorchy City Council/Kingborough Council**

That the Local Government Association of Tasmania support RSPCA Tasmania’s *Policy Statement on the use of Animals in Entertainment* by lobbying the State Government to develop a state wide policy to ban circuses involving exotic animals and, in the absence of a complete ban, to prescribe the conditions and environments in which circus animals must be maintained.

Lost

**Background comment:**

At its meeting on 24 July 2006 Glenorchy City Council considered a report in relation to the use of performing animals on or in Council owned or operated facilities. This followed media attention and some public complaints in relation to the inclusion of exotic animals in performances at a circus hiring the Derwent Entertainment Centre.

RSPCA Tasmania has provided a *Policy Statement on the use of Animals in Entertainment* and also has a *Code of Practice For Exhibiting Circus Animals in Southern Tasmania*, copies at **Attachment to Item 14**.

It is clear from these attachments that RSPCA Tasmania opposes the use of animals for any form of entertainment where suffering is likely to be caused, including exhibitions or presentations of animals in circuses.

As stated in RSPCA Tasmania’s Policy Statement:

- The RSPCA is continually lobbying the State and Federal Government to ban circuses involving exotic animals; in the absence of complete bans we ask Governments to amend existing laws to prescribe the conditions and environments in which circus animals must be maintained; this level of detail is not contained in any legislation in any State.
- The RSPCA recognizes that it is local Councils that must permit circuses to exhibit on their property and so aims to make sensible representations to Councils to encourage that these events feature in their animal welfare policies and that due regard for the welfare of circus animals is considered before permits are awarded.

Arguably the regulation of animal welfare should be considered on a statewide basis rather than individual councils attempting to regulate activities on their own properties. Statewide regulation would also impact on all property owners, not just on property or facilities owned or operated by councils.

Discussions with Dr Rick Butler, Chief Executive Officer of RSPCA Tasmania have confirmed that while RSPCA Tasmania would be happy for individual councils to consider banning exhibitions or presentations of animals in circuses, ideally it would prefer to see the State Government address animal welfare issues on a statewide basis. In the absence of State Government guidance, RSPCA Tasmania would be comfortable if councils use RSPCA Tasmania policies and codes of practice as guides when assessing whether to allow the use of performing animals on or in council owned or operated facilities.

**Budget Impact**

Does not apply.

**LGAT Comment**
Prior to raising this issue with State Government, Councils would need to be very clear what role they wish to take on.

The *Animal Welfare Act 1993* is intended to prevent neglect of, and cruelty to, animals, to ensure the welfare of animals. The Act has recently been reviewed and a number of recommendations intended to improve the operation of the Act are to be considered by Cabinet in the near future.

There is clearly the power under this legislation to deal with suffering caused to circus animals and it is understood that the RSPCA actively monitors circuses.

It is possible that the State Government may be prepared to consider the more specific issue of treatment of circus animals under the auspices of this legislation. Enforcement of any regulations or codes of practice under this legislation would not be the role of Local Government.

By adopting a policy requiring conformity with relevant RSPCA policies and codes of practice, Councils may well be creating expectations with some sections of the community that it will be very difficult for them to meet. Where an operator has declared that their operation conforms to the policy and code, what action might a Council be expected to take if this is later to be found not to be the case?

15. **ITEM:**  WORKCHOICES LEGISLATION  
**Contact Officer – Allan Garcia**

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<thead>
<tr>
<th>Central Coast Council/Circular Head Council</th>
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<tr>
<td>That the meeting note the action taken by the Association to increase the awareness and preparedness of councils to manage the impacts of the recently introduced industrial relations legislation.</td>
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**Carried**

**Background comment:**
Seminars for councils were conducted at the end of July to assist their understanding of the new industrial relations legislation - WorkChoices. The Tasmanian Chamber of Commerce and Industry was engaged to provide an overview of the legislation and the issues that councils needed to consider and address. The Australian Services Union was also invited to provide a brief overview of some of the challenges.

WorkChoices applies to constitutional corporations, including foreign, financial and trading corporations. The fundamental issue for each council is whether it is a trading corporation. Most recent case law supports the view that most councils would be trading corporations. The area of doubt relates to whether trading activities are substantial or significant, an area in which the case law varies. As this is a question of fact in each case, it is strongly suggested that Councils seek their own advice on this matter.

WorkChoices will provide councils that are constitutional corporations with the opportunity to enter into a range of agreements, including Australian Workplace Agreements and union or non-union collective agreements.

Councils who are not constitutional corporations, will, after the expiration of the transitional period, transfer to the State industrial system.
In the meantime, and until such time as agreements are entered into, existing Federal Awards continue.

**Budget Impact**
The sessions were run on a cost recovery basis.

**Current Policy**
Does not apply.

16. **ITEM:** SKILLS SHORTAGES UPDATE  
Contact Officer – Christine Standish

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<tr>
<th>Central Coast Council/Dorset Council</th>
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<tr>
<td>That the Meeting note the following progress report.</td>
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**Carried**

**Background comment:**
The Association continues to pursue a range of initiatives and strategies, in collaboration with the professional associations, state and federal government agencies and other stakeholders, to address the broad problem of skills shortages in Local Government.

Major activities that have occurred since the last report include:

**National Careers and Employment Expo**
LGAT, in association with the Planning Institute of Australia, Local Government Managers Australia, Australian Institute of Building Surveyors, Institute of Public Works Engineers Australia and the Australian Institute of Environmental Health, participated in the National Careers and Employment Expo held at the Derwent Entertainment Centre on 14 and 15 July.

This was the first time Local Government had been represented at this event and it was pleasing to witness so much interest on the part of students and members of the general public in the range of jobs and careers that are offered throughout the sector.

Over 2,500 senior school students attended the event on the Friday and there was a steady stream of parents, families and other visitors on the Saturday.

The Local Government stand was coordinated by LGAT and over the two days a number of representatives from Councils and the industry bodies volunteered to assist in disseminating information and answering enquiries. It was critical to the success of the stand that we had so many willing and enthusiastic people helping out who were keen to promote Local Government and its career and job opportunities and who were able to provide expert and relevant advice when needed.
Other Careers Events
Following on from the wide dissemination of the Council Careers Information Kit and website (www.councilcareers.tas.gov.au), the Association has been invited to participate in a number of other school careers events around the State. While it is willing to help in facilitating these events, it is vital that Councils become involved in these sorts of promotional activities to help raise the profile of Local Government and raise awareness of the career and job opportunities that it offers, within their own local communities. Councils in the North West and North East will be coordinating such careers events over the next month.

Careers Advisor Industry Placement
The Association has been fortunate to have Lee Marlin, a high school teacher, working with us over the last few months as a careers advisor industry placement, funded through a federal government careers educator’s scholarship. Lee has been working with Councils to develop materials that will enhance the Careers Information Kit and can be used within schools to raise awareness of Local Government and its job opportunities. Amongst these are a power point presentation that Councils can use for school and community presentations and a DVD, produced by students from Claremont College, that highlights council jobs and workers.

Mature Age Workforce
The results of a transitional employment survey, conducted with Tasmanian council employees eligible for retirement over the next 6 years and aimed at gathering information on their views and aspirations on post-retirement work, have been disseminated to all Councils. The findings have also been discussed with the Department of Economic Development, which has expressed an interest in assisting in the provision of material that illustrates good practice approaches to phased-in-retirement or transitional employment. The Association will continue to work with the Department on this.

Other Activities
These include:

- Facilitating University intern and student work placements
- Continuing work with the Office of Post Compulsory Education and Training on matters arising from the Local Government Industry Forum.
- Working with key stakeholders to address paraprofessional training, particularly in relation to the environmental health workforce and delivery of the Local Government Training Package.
- Working with ALGA and LGMA to progress the issue at the national level.

Budget Impact
Costs associated with careers events have been met from the Association’s budget (from an allocation dedicated to these activities), with contributions from the key industry bodies.

DVD production costs have been met through the scholarship program although there is likely to be a small reproduction cost which will be absorbed through the Association’s budget.

Current Policy
One of the Association’s governance policy objectives is to maximise awareness within the community of Local Government’s role. It was also specifically requested, through a 2004 General Meeting motion, to address skills shortages in specific Local Government professions.
17. ITEM: ASSET RENEWAL GAP
Contact Officer – Allan Garcia

Hobart City Council/Launceston City Council

That the meeting note the following summary in relation to the recent study conducted into the asset renewal gap of Tasmanian councils and proposed future actions.

Carried

Background comment:
The Asset Renewal Gap Assessment Project has been completed in relation to site visits and collation of data and information but the final report requires more detail and better explanation to allow a meaningful dialogue with participating councils and other stakeholders. It is anticipated that this will be resolved following a meeting with consultants in the near future.

Individual councils have received some feedback although many will be interested in the aggregated data. The predicted total asset management renewal gap for the 7 key assets of roads, drainage, buildings, parks, water and waste water is almost $70 million across all councils.

Roads and buildings appear to be the areas where most effort is required in terms of “catch-up” although the majority of asset classes require significant funding injection or management strategies to reduce the current burden.

During council visits consultants discussed with councils a range of basic management steps requiring consideration, including:
- reviewing and validating the asset data;
- reducing the level of service to the community;
- increasing funding to meet the required level of service
- reviewing the ongoing need for assets.

In considering the evidence presented councils acknowledged the need to establish some basic asset management tools such as:
- reviewing the importance of all assets;
- reviewing existing or developing asset condition assessments;
- reviewing or implementing service levels particularly for roads, bridges and buildings;
- reviewing funding options, including special charge schemes and increasing rates specifically for renewal

The consultants were extremely pleased with the thought and efforts of council in terms of the data input although it was acknowledged that most councils required more work in order to better understand a corporate approach to asset management and some of the key asset management elements such as:
- understanding the distinction between asset “day to day” maintenance, condition maintenance, renewal/refurbishment and upgrade/improvements;
- renewal/refurbishment, upgrade/improvements and new expenditure are generally not separated;
- lack of understanding between maintenance inspections and condition assessments;
- incomplete and/or lack of good quality data registers that capture asset lists, condition, age, replacement value and expected life;
- Some councils have multiple asset registers;
- Reliance on grant funds for renewal; and
- Lack of reliable renewal/rehabilitation and replacement cost data.
Some important and significant benefits that have resulted from the evaluation process include;

- A capacity for councils to utilise existing condition values to establish an asset management renewal gap as a financial tool that allows comparison with their asset depreciation calculations to interpret their financial liability;
- The process provided a unique opportunity for all councils to clearly assess their existing asset management practices and their data management programs;
- The provision to councils of basic financial information to assess the functionality of their assets and the relative impact on service levels; and
- In many cases, the process provided key information for the development of first cut asset management plans.

As indicated, it is the intention of the Association to spend more time with the consultants to ensure that the final report is robust and easily understood. It is also important to understand the type of strategies that need to be considered at a sector level and what forms of assistance can be provided to councils in terms of improving information, data sets and overall planning and assessments.

It is expected that a forum will be conducted with the consultants and all councils to detail the overall findings of the study and to outline potential solutions/actions to address the gap.

**Budget Impact**

Does not apply.

**Current Policy**

The Association is committed to the continuous improvement of council understanding and practice of asset management processes, tools and decision making.

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**18. ITEM: ELECTED MEMBER COMPUTER SKILLS & INTERNET AWARENESS**

Contact Officer – Iris Goetzki

Central Coast Council/Southern Midlands Council

That the Meeting note the following report.

Carried

**Background comment:**

The Internet and online environment have been with us, in a day-to-day sense, for over a decade.

Of particular relevance to Local Government is the availability of information - legislation, policy, data, advice, resources – through the Internet, as well as efficiencies gained through increased online transactions. The Internet offers access to national, international and local information and services to assist local government and provide a context in which it operates, particularly so as local government prepares for significant challenges ahead.

In saying that, LGAT recognises the difficulties in gaining access to the Internet for some individuals where infrastructure is not capable of downloads within a reasonable timeframe.
Councils have a need to consider the fundamental requirements of users of the Internet, specifically, councillors and their ability to use the Internet as a resource and to encourage efficiencies through use of the online environment.

The intent of the survey, circulated by LGAT to every council earlier in July, was for the Association to obtain a snapshot of IT use across the sector. Without having access to every council policy or detailed comment on the processes used by councils, a snapshot is all that has been achieved.

It is clear that there have been advancements in local government in the take up of IT for communication between council and councillor. And, future progress in this area is the domain of each individual council. However, the Internet and online environment have an essential role in the business of government and LGAT has an interest in advancing the capacity of councillors to use this medium to its best advantage.

Survey Findings
21 councils responded to the survey.

The majority of councils that responded to the survey provide some level of IT for use of their councillors. A number of councils provide a notebook/laptop or PC outright, whereas a few have developed policies that enable access to a computer, either via a lease arrangement or via allowance. Two councils provide a single dedicated facility (room) at the council for councillors to access a computer.

What the survey has revealed is that, in the main, councils recognise the need for their councillors to be able to access a computer and Internet.

However, the survey also revealed that there are still many councillors who are uncomfortable with the computer and online environment. Some councils still use the fax as a key communications tool and some council policies allow for a choice between computer and fax.

A number of councils rely on a weekly mail out to circulate documents to their councillors.

A couple of councils have offered computers to their councillors who have rejected the offer.

Some council’s have adopted a reactive approach whereby if a councillor asks for either a computer or computer training, they would receive either. It appears that the council would certainly support the councillor, but that an emphasis on limiting costs takes precedence over a proactive position on IT use by councillors. One council identified that its staff training courses are also open to councillors.

Internally generated and externally generated correspondence is the most common type of information circulated to councillors by email. Only 3 of the 21 councils circulate the council agenda or minutes via email, however, six provide these for download from the web.

The George Town Council has developed a secure area on its website for its councillors who are also provided with a laptop and printer. George Town councillors are able to download agenda, minutes, internal and external correspondence.

17 of the 21 respondent councils are in support of LGAT offering up training for councillors on how to maximise the Internet as a resource. A number of councils already provide computer familiarisation training but a number also identified the need to demystify the computer more generally, as well as the Internet.
Conclusion
LGAT has an interest to enhance the capacity of councillors to perform in their role and to this end, and as a result of feedback provided by councils, the Association is prepared to invest resources in not only providing a dedicated training program, but also to alert councils to current best practice within Tasmanian councils for IT access and usage by councillors.

19. ITEM: COUNCIL ROUND-UPS

That the General Meeting note the briefing from the council presenting.

Noted

Background comment:
Clarence City Council has been asked to conduct a brief presentation on a matters that is currently important in their municipality.

The session will also allow time for questions and provide an opportunity to briefly share and highlight problems or opportunities facing councils.

20. CLOSURE

There being no further business, the President declared the meeting closed at 2.35pm.