GENERAL MEETING

MINUTES

To Be Held At
Wrest Point Casino
Hobart

Wednesday 20 July 2011

Commencing
Immediately following the
Conclusion of the AGM
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, whether present at the Meeting or not.
(ii) When a vote is being taken for the Association to sign a protocol, memorandum of understanding or partnership agreement, the resolution must be carried by a majority of votes capable of being cast by Members and by a majority of Members, whether present at the Meeting or not.
(iii) When a vote is being taken to amend the Rules of the Association, the resolution must be carried by at least two-thirds of the votes capable of being cast by Members, whether present at the Meeting or not.
**Schedule**

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.30 approx</td>
<td>Meeting commences immediately following the conclusion of the AGM</td>
</tr>
</tbody>
</table>
| 12.30pm     | **Brian Correy**  
              | Myriad Research  
              | Statewide Community Survey |
| 1.00pm approx | Lunch                                                               |
Index

1 MINUTES * ........................................................................................................................ 6
2 CONFIRMATION OF AGENDA & ORDER OF BUSINESS .................................................. 6
3 BUSINESS ARISING * ....................................................................................................... 6
4 FOLLOW UP OF MOTIONS * ............................................................................................ 7
5 MONTHLY REPORTS TO COUNCILS * ............................................................................... 7
6 FOREST INDUSTRY RATIONALISATION ........................................................................ 7
7 PRE ELECTION WORKSHOPS ............................................................................................. 8
8 CLIMATE CHANGE UPDATE ............................................................................................ 8
9 LOCAL GOVERNMENT REFORM FUND PROJECT .......................................................... 10
10 WATER AND SEWERAGE ............................................................................................... 11
11 CARAVAN PARK COMPETITIVE NEUTRALITY ............................................................... 11
12 GOVERNANCE .................................................................................................................. 13
  12.1 MOTION – COMPULSORY LOCAL GOVERNMENT ELECTIONS ................................... 13
  12.2 MOTION – AMENDMENT TO LOCAL GOVERNMENT ACT – DEFINITION OF FIRE RISK * ............................................. 15
  12.3 MOTION – TASMANIAN CONSTITUTION ..................................................................... 16
  12.4 MOTION – CHARITABLE LAND CONFIRMATION ........................................................ 17
13 PUBLIC POLICY - GENERAL ............................................................................................ 21
  No MOTIONS RECEIVED .................................................................................................. 21
14 ADMINISTRATION ............................................................................................................ 21
  14.1 MOTION – LGAT GENERAL MEETINGS ...................................................................... 21
15 FINANCE ........................................................................................................................... 23
  15.1 MOTION – NATIONAL EMERGENCY FUNDS .............................................................. 23
  15.2 MOTION – AMENDMENT TO PAYROLL TAX ACT 2008 * ........................................ 24
  15.3 MOTION – FINANCIAL REFORM REVIEW .................................................................. 26
16 INFRASTRUCTURE AND SERVICES .............................................................................. 28
  16.1 MOTION – NATIONAL BROADBAND NETWORK ...................................................... 28
  16.2 MOTION – ROLL OUT OF NATURAL GAS .................................................................. 29
  16.3 MOTION – WATER & SEWERAGE ............................................................................. 31
  16.4 MOTION – WATER CORPORATIONS ACT .................................................................. 33
  16.5 MOTION – WATER & SEWERAGE CORPORATIONS OPERATIONS ......................... 37
17 PLANNING AND DEVELOPMENT .................................................................................. 39
  17.1 MOTION – OIL PRICES ................................................................................................. 39
<table>
<thead>
<tr>
<th>Motion Number</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.2</td>
<td>Motion – Forestry Industry</td>
<td>41</td>
</tr>
<tr>
<td>17.3</td>
<td>Motion – Protection Of Agricultural Land *</td>
<td>42</td>
</tr>
<tr>
<td>17.4</td>
<td>Motion – Land Use Planning and Approvals Act 1993</td>
<td>44</td>
</tr>
<tr>
<td>17.5</td>
<td>Motion – Derelict &amp; Dilapidated Buildings *</td>
<td>45</td>
</tr>
<tr>
<td>17.6</td>
<td>Motion – Uninhabitable Structures</td>
<td>46</td>
</tr>
<tr>
<td>18.1</td>
<td>Motion - Weed Management</td>
<td>48</td>
</tr>
<tr>
<td>19.1</td>
<td>Motion – Banning Smoking In Alfresco Dining Areas</td>
<td>51</td>
</tr>
<tr>
<td>19.2</td>
<td>Motion – Health And Wellness Targets For Communities</td>
<td>52</td>
</tr>
<tr>
<td>20</td>
<td>Animal Control</td>
<td>53</td>
</tr>
<tr>
<td>21.1</td>
<td>Motion – Protection Of Senior Citizens</td>
<td>54</td>
</tr>
<tr>
<td>22</td>
<td>Close</td>
<td>55</td>
</tr>
</tbody>
</table>

* Denotes Attachment
The President welcomed Members and declared the Meeting open at 11.26am.

Apologies were received from

Ms Sandra Ayton Central Coast Council
Mr Greg Winton Circular Head/Waratah Wynyard Councils
Mayor Jock Campbell Clarence City Council
Mayor Doug Burt George Town Council
Mr Gerald Monson Latrobe/Kentish Councils
Mayor Charles Arnold King Island Council
Mr Mark Goode King Island Council
Mayor Kim Polley Northern Midlands Council
Mayor Charles Arnold King Island Council
Deputy Mayor Downie Northern Midlands Council
Mr David Metcalf Glamorgan Spring Bay Council

1 MINUTES *

Central Coast Council /Kingborough Council

That the Minutes of the meetings held on 6 April and 13 May 2011, as circulated, be confirmed.

Carried

The Minutes of the General Meetings held on 6 April and 13 May 2011, as circulated, are submitted for confirmation and are at Attachment to Item 1.

2 CONFIRMATION OF AGENDA & ORDER OF BUSINESS

Kentish Council/Launceston City Council

That the agenda and order of business be confirmed.

Carried

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

3 BUSINESS ARISING *

That the information be noted.

Noted

At Attachment to Item 3 is a schedule of business considered at the meetings held in April and May 2011 and the status thereof.
4 **Follow Up of Motions** *
Contact Officer: Katrena Stephenson

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

Follow up on outstanding motions
A matrix indicating progress to date on motions passed at General Meetings, which remained outstanding at the last General Meeting, is at **Attachment to Item 4.**

5 **Monthly Reports to Councils** *

That Members note the reports for March, April and May 2011.

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

6 **Forest Industry Rationalisation**
Contact Officer: Allan Garcia

That the Meeting note the conduct of a meeting to consider the impact of the current forestry debate on local communities and the actions taken subsequent to the meeting.

Background comment:
A forum was held for all interested councils at Campbell Town on 26 May, 2011 to develop a position and strategy to progress the concerns of councils in relation to the socioeconomic issues that will flow from the proposed rationalization of forestry activity in Tasmania.

The meeting was attended by approximately 20 participants from about 10 councils. A constructive session was held from which key points and arguments were drawn to allow the development of a document that could form the basis of discussions with Bill Kelty, the convenor of the Forestry Roundtable, and also as a submission to the Legislative Council Inquiry into the Proposed Transition out of Public Native Forests.

At the time of writing the documents were nearing finalization and arrangements were still being progressed to have a delegation meet with Bill Kelty.

Budget Impact
Does not apply.
7 Pre Election Workshops
Contact Officer: Allan Garcia

That the meeting note that Pre-Election Workshops were held around the state in June for intending candidates at the upcoming October elections.

Background comment:
A series of pre-election workshops were held around the state in the week commencing 6 June 2011. Attendance at all venues was a little disappointing given past numbers that have attended these sessions. However, those that participated were grateful for the information and advice provided.

The Local Government Division and the Tasmanian Electoral Commission joined with the Association in presenting material on becoming a councilor, including details of the timeframes for lodgement of candidacy and format, roles and responsibilities and things to consider as part of the election process.

The sessions were well received and it is hoped that the enthusiasm displayed translates to some success at the upcoming elections.

Budget Impact
Within current budget.

Current Policy
It is the practice of the Association to conduct information sessions for intending councillors.

8 Climate Change Update
Contact Officer: Melanie Brown

That Members note the following report.

Partnership Agreement
As indicated in the April Update, LGAT has been liaising with the Tasmanian Climate Change Office in an effort to address the key issues requiring modification before Local Government would be willing to enter into a Partnership Agreement with the State Government.

The Climate Change Partnership Committee (CCPC) has met on two occasions subsequent to the April Report and continues to work through the issues. The CCPC is looking to present a revised draft Partnership Agreement to the Premier’s Local Government Council in September 2011.

ACELG Climate Change Round Table
In May a representative from LGAT attended a climate change workshop in Sydney, along with Local Government representatives from across Australia, including from a number of Tasmanian Councils. The round table discussion centred around identifying policy gaps and research priorities for Local Government in dealing with climate change.
Sponsored by the Australian Centre of Excellence for Local Government (ACELG) and the National Climate Change Adaptation Research Facility (NCCARF), the roundtable aimed to:
- build common understanding in terms of current positions on adaptation and mitigation;
- identify and explore the gaps in support around policy and research, particularly in relation to smaller councils; and
- identify specific actions that could be taken by the ACELG and NCCARF networks and partners that would prove beneficial for Local Government.

The Roundtable agreed to adopt the following points as immediate priorities:
- Develop nationally consistent frameworks and methods for use by Local Government in contributing to a low carbon future.
- Provide a platform for sharing innovation and new ideas and creating collaboration between researchers, policy makers and practitioners.
- Review how Local Government research-focused resources can be used to meet needs identified at the Roundtable.

For the longer term, the Roundtable agreed to:
- Build further interest and commitment by council CEO’s and Mayors in taking a strong lead in integrating climate change into every day activities of councils.
- Facilitate the integration of climate change into leadership and management training and the provision of mentoring for council staff.
- Inform Federal and State Government policies in relation to Local Government and climate change and how the support offered can best provide long term benefit.

A number of ‘calls to action’ were identified for Local Government, including the need to:
- Take bold action in this decade for preventing further human-induced climate change and adapting to the impacts of climate change at the local community level.
- Seek partnerships beyond the Local Government sector, inclusive of the professions, that deliver planning, design, architecture/building and engineering solutions for a low carbon economy.
- Support regional approaches that provide opportunities for resource sharing, ‘up-scaling’ and other expertise that can enhance the capacities of rural, remote and small urban councils.
- Assess and promote methodologies and tools that integrate systemic improvements for accessing and using data for planning, decision-making and reporting purposes.
- Develop a new language around climate change actions that will inspire communities.

LGAT will continue to engage with counterparts in other states to ensure that any opportunities for joint discussion and action are explored to maximise the benefits for Tasmanian Local Government.

**Budget Impact**
Does not apply.

**Current Policy**
Does not apply.
That the Meeting note the following report.

**Background comment:**
The Local Government Financial and Asset Reform Project, a component of the Commonwealth’s Local Government Reform Fund, aims to develop and implement frameworks for long-term financial and asset management planning. The project is overseen by a Steering Committee including three representatives from councils.

Steering Committee meetings were convened in March and May with significant work also progressed out of session. Achievements during this reporting period include:
- A draft Local Government Asset Management Policy (in-kind contribution requirement of the Local Government Division)
- Completed Project Plan and Communications Strategy
- Project factsheet
- Project newsletter to council finance and asset management contacts

An expert Working Group was formed to develop a template for long term financial planning to be adopted by all Tasmanian councils. The first session of the Long Term Financial Planning Working Group held on 20 April agreed on a spreadsheet reporting template but is currently further developing a framework for reporting which will also include supporting information and a narrative summary.

Whilst the project is overseen by the Steering Committee it was decided to develop an Elected Member Reference Group to test the appropriateness of any material produced. This review is to be undertaken over email by a small group of interested elected members not necessarily with specific expertise in financial planning or asset management. The representatives are:
- Don Thwaites Mayor, Kentish Council
- Glenn Skeggs Councillor and Chair, Works and Infrastructure Committee, Tasman Council
- Ian Goninon Councillor, Northern Midlands Council
- Paul Chatterton Councillor and Chair Governance and Finance Committee, Kingborough Council
- Clayton Hawkins Councillor, Waratah-Wynyard Council

The next meeting of the Steering Committee is schedule for 17 June and will endorse the draft Long Term Financial Planning framework to be finalised in the second session of the Working Group to be convened on 15 June.

The Elected Member Reference group is currently considering one introductory face to face meeting in June.

**Budget Implications**
Councils and LGAT are required to contribute co funding of $58,000 cash ($2000 per council) and $137,000 in-kind (human resource, meeting spaces etc).

**Current Policy**
This is a priority project for the Association.
10 W A T E R  A N D  S E W E R A G E
Contact Officer: Allan Garcia

That the Meeting note the action taken on this matter.

Background comment:
Following the Special Meeting of the Association held at Riverside on 13 May 2011, correspondence was forwarded to the Premier detailing the motions passed at that meeting and calling upon the State Government to support those positions.

At the time of writing, there had been no feedback from the State Government or any public announcement on the issue. As was reported at the Special Meeting, it is anticipated that details of the State Government’s position on this matter will be announced as part of the State Budget which is due to be handed down on 16 June 2011.

11 C A R A V A N  P A R K  C O M P E T I T I V E  N E U T R A L I T Y
Contact Officer: Melanie Brown

That Members note the following report.

Background comment:
There have been a number of recent investigations conducted by the Office of the Tasmanian Economic Regulator which have delivered findings that some councils are not applying full cost attribution principles to their caravan park operations, thus affecting private operators carrying on a similar business within the same area.

A workshop was held in June for General Managers to discuss the issues surrounding competitive neutrality principles and their application to the operation of council-operated caravan parks.

Representatives from both the Local Government Division and the Office of the Tasmanian Economic Regulator (OTTER) provided attendees with a summary of each department’s role, as well as an overview of the legislation, policy and practices surrounding Competitive Neutrality Principles and Government Business Activities. The presentation provided by the representative from OTTER also gave insight into the Regulator’s complaints process and how it conducts its investigations.

Through consultation with councils it has been determined that the key practical issues from the Local Government perspective can be summarised as:

1. Ensuring that caravans/motor home vehicles are not parked in areas that are unsuitable for camping/ overnight stays
2. Ensuring that local economies have an opportunity to benefit from visitors to the area – encouraging spending within the locality.
3. Statutory obligations under the National Competition Policy and Principles of Competitive Neutrality (CNP).
These key issues were explored in greater depth at the workshop and a number of actions emanated from the day. The most important next steps will involve LGAT and the Local Government Division working together to produce an Issues Paper. This will involve researching current practice in other jurisdictions, along with seeking comment from Local Government and other key stakeholders including the Tourism Industry Council, the Departments of Treasury and Economic Development, other road owners and representative bodies from industry and user groups. Importantly, the Local Government Division and LGAT will explore options for a statewide policy and a uniform costing model to assist councils with their competitive neutrality obligations going forward.

It is envisaged that the Issues Paper will be developed by the beginning of September 2011 for circulation and comment from stakeholders.

Budget Implications
Does not apply.

Current Policy
Current LGAT Policy in relation to competitive neutrality is contained within the Policy Guidelines for Recreational Vehicles: Development and Management of Facilities. State Government policy is contained within the following documents:

- National Competition Policy: Applying the principles to Local Government in Tasmania, April 2004
- Significant Business Activities and Local Government in Tasmania, April 2004
- Full Cost Attribution Principles for Local Government Business Activities, June 1997
Motions For Which Notice Has Been Received

12 GOVERNANCE

12.1 Motion – Compulsory Local Government Elections

West Tamar Council/Launceston City Council

The LGAT adopt as policy that voting in Local Government Elections be made compulsory.

The decision on this motion to be forwarded to the Tasmanian State Government.

Lost

The motion was lost 22/31.

<table>
<thead>
<tr>
<th>Councils For</th>
<th>Card</th>
<th>Vote</th>
<th>Councils Against</th>
<th>Card</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>George Town Council</td>
<td>Red</td>
<td>1</td>
<td>Burnie City Council</td>
<td>White</td>
<td>2</td>
</tr>
<tr>
<td>Launceston City Council</td>
<td>Green</td>
<td>4</td>
<td>Circular Head Council</td>
<td>Red</td>
<td>1</td>
</tr>
<tr>
<td>West Tamar Council</td>
<td>Blue</td>
<td>3</td>
<td>Central Highlands Council</td>
<td>Red</td>
<td>1</td>
</tr>
<tr>
<td>Huon Valley Council</td>
<td>White</td>
<td>2</td>
<td>West Coast Council</td>
<td>Red</td>
<td>1</td>
</tr>
<tr>
<td>Hobart City Council</td>
<td>Green</td>
<td>4</td>
<td>Latrobe Council</td>
<td>White</td>
<td>2</td>
</tr>
<tr>
<td>Derwent Valley Council</td>
<td>White</td>
<td>2</td>
<td>Dorset Council</td>
<td>Red</td>
<td>1</td>
</tr>
<tr>
<td>Central Coast Council</td>
<td>Blue</td>
<td>3</td>
<td>Sorell Council</td>
<td>White</td>
<td>2</td>
</tr>
<tr>
<td>Kentish Council</td>
<td>Red</td>
<td>1</td>
<td>Clarence City Council</td>
<td>Green</td>
<td>4</td>
</tr>
<tr>
<td>Northern Midlands Council</td>
<td>White</td>
<td>2</td>
<td>Kingborough Council</td>
<td>Blue</td>
<td>3</td>
</tr>
<tr>
<td>Flinders Council</td>
<td>Red</td>
<td>1</td>
<td>Tasman Council</td>
<td>Red</td>
<td>1</td>
</tr>
<tr>
<td>Glamorgan Spring Bay Council</td>
<td>Red</td>
<td>1</td>
<td>Meander Valley Council</td>
<td>White</td>
<td>2</td>
</tr>
<tr>
<td>Break O’Day Council</td>
<td>Red</td>
<td>1</td>
<td>Devonport City Council</td>
<td>Blue</td>
<td>3</td>
</tr>
<tr>
<td>Brighton Council</td>
<td>White</td>
<td>2</td>
<td>Waratah Wynyard Council</td>
<td>White</td>
<td>2</td>
</tr>
<tr>
<td>Southern Midlands Council</td>
<td>Red</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total 22  Total 31

King Island Council were not present at the Meeting.

Background Comment
1. This matter has been under discussion for some considerable time. We now have a number of policy documents canvassing the issues.
2. The maximising of the vote at Local Government Elections is a goal we would all support.
3. Compulsory voting will achieve that goal.
4. Our voting system should be consistent with State and Federal Government processes. This is especially true as we move towards constitutional recognition.
5. The LGAT should be taking a lead on this issue.
LGAT Comment
This proposal has been considered on a number of occasions, particularly during the review of the *Local Government Act 1993* and was last considered as a motion (Lost 30 votes to 28 votes) in May 2010.

The following is the position that has been previously taken.

“The introduction of compulsory voting for Local Government elections is not supported for a number of reasons:
− The introduction of postal voting resulted in a significant increase in the number of people voting in Local Government elections. This is done on a voluntary basis because people want to vote and to be involved.
− The introduction of compulsory voting might marginally increase the number of people voting but it would also bring with it the responsibility to pursue those who do not vote and the consequent enforcement costs.
− Compulsory voting has the potential for increased informal voting as people are being forced to vote rather than exercising their democratic right by choice”.

At the Annual Local Government Conference in 2008, the then Premier, David Bartlett announced that his Government would be introducing compulsory voting for Local Government. A working group was formed, with LGAT represented, and a discussion paper released to councils for comment.

Although LGAT was represented on the Working Group, compulsory voting was not supported by LGAT on the basis of its present policy position. However, a recommendation by others on the Working Group was submitted to the Premier favouring compulsory voting.

The new Premier, Lara Giddings, has indicated she would like to revisit the issue of compulsory voting with councils. At the Premier’s Local Government Council meeting in April she indicated she has had the issue raised by a number of elected members. While she acknowledges the issue has not had majority support in the past she would like to keep debating the issue and building support. She stated that the politicization of Local Government was occurring regardless of the absence of compulsory voting, undermining one of Local Government key arguments. The Premier asserts that engagement on democracy through compulsory voting is a key element of a healthy democracy.

Key aspects to be resolved include:
− Postal or Ballot box?
− Relationship with other electoral reforms – eg terms of Mayors, all in –all out.
− The voting franchise ie, is voting limited to individuals in the same way as State and Federal elections or do businesses continue to have a vote.
− Do property owners in different municipalities have a vote per property or a single vote as per other elections.

Tasmanian Government Agency Comment – Department of Premier and Cabinet
The State Government supports in-principle the introduction of compulsory voting in Local Government elections, and is engaged in an ongoing conversation with the Local Government sector on the issue, including through the Premier’s Local Government Council.

However, the State Government also notes that in the past the majority of councils have been opposed to the introduction of compulsory voting, and that LGAT’s formal position remains one of opposition to compulsory voting. The State Government will view with interest any further discussions of Local Government on this issue.
12.2 Motion – Amendment to Local Government Act – Definition of Fire Risk

West Tamar Council/Kentish Council

That LGAT support Councils endeavour to reduce the threat of bush fire through an amendment to Division 6 of the Local Government Act 1993 regarding “nuisances” by inserting the definition of a “fire risk” under section 199 of The Act (changes defined by bold italics in attachment).

Carried

Background Comment
Nuisances and fire risks are not separately defined in the Local Government Act 1993 but are certainly quite different. A “nuisance” under the current definition may well be a loud party, a person burning off or, an illegal enterprise whilst an area of long dry grass susceptible to fire is regarded the same and is therefore treated under this act, as the same.

West Tamar Councils motion attempts to separate the two with appropriate regard to the devastating effect of an untended area which may present itself as a potential fire, or to an area that may exacerbate a fire due to its location or condition. Council is proposing this by the insertion of the definition of a “fire risk”.

This motion gives clear time lines for people personally informed of an abatement notice regarding a fire risk, which is 7 days, or for a property which needs a notice placed upon it, 14 days. But either way, if an objection to a magistrate is not made within 14 or 21 days respectively, the general manager may remove the hazard immediately, eliminating the potential for fire.

The new legislation will allay community concern and allow council to be proactive in preventing fire risks within strict legislative time lines which members of our community will be aware of and hopefully comply with. As we have had years of bush fire concern within our community and within our state, councils should seize upon this opportunity to ensure their communities are safe from bush fires threat.

Land owners rights have been protected by their ability to appeal to a magistrate but has allowed council to act expediently within 7 days, which is crucial in the fire season, to ensure fire risks are reduced.

Cost will still be incurred by the landowner.

At Attachment to Item 12.2 is a Draft Amendment for Reference.

LGAT Comment
The Association sought a review of the nuisance provisions with the previous Director of Local Government following support for a motion to seek such a review in 2009 and following fires in the Break O’Day municipality (Scamander) in 2010.

Break O’Day Council Council proposed consideration of a “fire abatement notice inspection fee” that members may also wish to consider, refer Attachments to Item 12.2.

While the Local Government Division have in the past indicated that they agree these provisions do not sufficiently deal with fire hazards, their legislative review priorities currently are the Code of Conduct Regulations and the Rating and Valuation provisions of the Act. There remain a number of outstanding issues in relation to the Act.
Tasmanian Government Agency Comment – Department of Premier and Cabinet
The *Local Government Act 1993* provides powers and flexibility for councils to manage the risks surrounding fire hazards. The legislation states that a council may issue a notice of abatement with a period within which action is to be taken. A council can choose to provide a ratepayer seven days to respond to a notice, or may provide longer dependent on the specific fire risk.

There are also certain circumstances under section 201 of the Act that a general manager may immediately take the necessary action to abate a nuisance.

12.3 Motion – Tasmanian Constitution

**Hobart City Council/Clarence City Council**

That the Local Government Association of Tasmania lobby the State Government to ensure that any future possible amendments to the Tasmanian Constitution, in respect to recognition of Local Government, be the subject of a referendum.

Carried

**Background Comment**
Currently, any amendments to the *Constitution Act 1934* only require a majority of parliamentarians to vote in favour of a Bill to enact any changes; there is no formal requirement to hold a referendum.

The Hobart City Council calls upon the LGAT to lobby the State Government to ensure that any future possible amendments to the Tasmanian Constitution, in respect to recognition of Local Government should be the subject of a referendum.

**LGAT Comment**
The issue of the Tasmanian Constitution has not previously been raised. There have been a number of supported motions in relation to recognition of Local Government in the Australian Constitution and the LGAT is working with ALGA and other Associations on a Constitutional Recognition Referendum Campaign.

**Tasmanian Government Agency Comment – Department Of Premier and Cabinet**
The State Government will liaise with the Local Government sector on any proposed change to the *Constitution Act 1934* related to the recognition of Local Government. Any proposal to conduct a referendum would need to consider the significant costs involved.
12.4 Motion – Charitable Land Confirmation

Huon Valley Council/Kingborough Council

That LGAT requests the State Government to review and amend section 87(1)(d) of the Local Government Act 1993 to:

− provide clarity in relation to application of the section to land owned or occupied exclusively for charitable purposes; and,
− specifically exclude Schools from the exemption under that section to bring the payment of general and separate rates for non-Government Schools into line with payment of general and separate rates by State Government Schools.

Carried

Background Comment

Section 87 of the Local Government Act 1993 (the Act) sets out the general provision for land that is considered to be rateable and land that is exempt from the payment of general or separate rates (Rates) as follows:

87. Exemption from rates

(1) All land is rateable except that the following are exempt from general and separate rates and any rate collected under section 88 or 97:

(a) land owned and occupied exclusively by the Commonwealth;

(b) land held or owned by the Crown that –

(i) is a national park, within the meaning of the Nature Conservation Act 2002; or

(ii) is a conservation area, within the meaning of the Nature Conservation Act 2002; or

(iii) is a nature recreation area, within the meaning of the Nature Conservation Act 2002; or

(iv) is a nature reserve, within the meaning of the Nature Conservation Act 2002; or

(v) is a regional reserve, within the meaning of the Nature Conservation Act 2002; or

(vi) is a State reserve, within the meaning of the Nature Conservation Act 2002; or

(vii) is a game reserve, within the meaning of the Nature Conservation Act 2002; or

(viii) is a forest reserve, within the meaning of the Forestry Act 1920; or

(ix) is a public reserve, within the meaning of the Crown Lands Act 1976; or

(x) is a public park used for recreational purposes and for which free public access is normally provided; or

(xi) is a road, within the meaning of the Roads and Jetties Act 1935; or

(xii) is a way, within the meaning of the Local Government (Highways) Act 1982; or

(xiii) is a marine facility, within the meaning of the Marine and Safety Authority Act 1997; or
(xiv) supports a running line and siding within the meaning of the Rail Safety Act 2009;
(c) land owned by the Hydro-Electric Corporation or land owned by a subsidiary, within the meaning of the Government Business Enterprises Act 1995, of the Hydro-Electric Corporation on which assets or operations relating to electricity infrastructure, within the meaning of the Hydro-Electric Corporation Act 1995, other than wind-power developments, are located;
(d) land or part of land owned and occupied exclusively for charitable purposes;
(da) Aboriginal land, within the meaning of the Aboriginal Lands Act 1995, which is used principally for Aboriginal cultural purposes;
(e) land or part of land owned and occupied exclusively by a council.

Relevantly section 87(1)(d) provides that land, or part of land, owned and occupied exclusively for charitable purposes is exempt from the payment of Rates.

An issue for consideration is the application of section 87(1)(d) of the Local Government Act 1993 (the Act) in respect of land exempt from payment of Rates.

Lack of Clarity of Application
Given the nature of the exemption in section 87(1)(d) it is not a matter that Council can be satisfied at first view.

All other exemptions provided under section 87(1), perhaps with the exception of (da) which has a requirement for use principally for Aboriginal cultural purposes, are based on ownership or statutory land classification.

This means that Council has the ability to determine the exempt status of the land simply by these factors.

This is not the case with section 87(1)(d) where there are a number of elements that need to be satisfied before an exemption applies and a process of consideration of the individual circumstances of every case must be made.

These elements include:
- The exemption can be to land or part of land (ie. Part of the land could be subject to general rates dependant on use)
- The land must be owned or occupied for charitable purposes – While this can generally be based on the generic activities of organisation, the fact that an organisation has charitable status for taxation purposes has no relevance. It is the purpose for which land is used which is relevant. The status of the organisation is simply one factor to be considered.
- The land must be exclusively used for charitable purposes.

In essence the following is relevant:
- The term “charitable purposes” is not defined and has not been the subject of any current judicial interpretation in Tasmania. Similar provisions have been considered in other States and while these have been given a broad interpretation it is unclear how this is applied in the context of section 87(1)(d) of the Act.
− Whether or not a use is within the meaning of a “charitable purpose” is determined on a case by case basis.
− The term “exclusively” is a significant factor and determined considering the following:
  - land can be exclusively used for a charitable purpose even if it is used for other purposes but those purposes are incidental in nature.
  - if other purposes or use is independent rather than incidental then the land cannot be said to be exclusively used for charitable purposes.
  - the fact that the other purpose or use is of a commercial character will not prevent the land being exclusively used for charitable purposes however it will be necessary that the charitable purpose derives some subsidiary and incidental benefit from the commercial activity.
− Whether or not a use is an “exclusive” use of the land is determined on a case by case basis taking into account the activities on the land and assessing those against the “charitable purposes” test.

The application of this section is not clear because it requires a detailed assessment of the circumstances relating to each property where an exemption may be claimed.

A variety of opinions can therefore be given as to whether property owned and used for charitable purposes which can ultimately only be settled by a Court.

**Application of the exemption to Schools**

A particular issue that has been raised is whether or not the exemption under section 87(1)(d) applies to non-government Schools.

Relevant to this consideration is that Rates are applied to State Government Schools following the *State and Local Government Financial Reform Act 2003* (the Reform Act). The Reform Act amended the Act to remove the previous exemption for Crown Land and for land used exclusively for public purposes.

It does however appear that the previous distinction under the Act before amended by the Reform Act was that, not only was a State government School exempt because it was Crown Land, it was also an activity for public purposes which is now no longer exempt.

There has been no suggestion or argument that a State government School is otherwise exempt as a charitable purpose however, at the same time, there is argument put that a non-Government School is exempt because it is used for a charitable purpose. If the basis of the argument for charitable purpose is on the advancement of learning it appears incongruous that uses that achieve the same purposes results in a different application in rates based upon ownership.

A non-Government School, whether run by a religious organisation, can in most circumstances be described as a scholastic business by way of payment of fees for the provision of a service. This is considered to be a relevant consideration as to a distinction from being able to be considered as exempt under section 87(1)(d).

A School can also have substantial demands on a Council for provision of infrastructure including substantial traffic works and the like which would not otherwise be developed in that location in the absence of a school. Any exemption from rates means that the whole community accepts the burden of this cost at the expense of other areas.

**Alternatives to the current section 87(1)(d)**

It is acknowledged that there is general benefit to the community in respect of exemption from the payment of Rates for use of land for charitable purposes.
The issues however are clarity and certainty as to what land an exemption may apply and ensuring equity of application to other circumstances such as Schools as an example above.

The approach taken by other states in respect to similar rating exemptions is varied which indicates the difficulty in applying absolute certainty.

A state comparison of relevant provisions is attached demonstrating the variation in approaches.

Victoria has a very general approach which appears to be in some way consistent with Tasmania’s provisions while Queensland allows a Council to declare which land it considers to be exempt as used for a charitable purpose or where this is otherwise provided under an Act or regulation.

**Recommendation**
It is considered that section 87(1)(d) of the Act should be generally reviewed to provide clarity or certainty of application, where possible, whether this is to specifically state the circumstances to which it applies, or another solution.

It is particularly considered that the section should be amended to be more specific in relation to excluding use of land for Schools to provide equity between State Government and non-Government Schools.

Nothing in any amendment proposed to the Act would preclude a Council from applying a rates remission under the Act but this will be a considered decision of Council.

**LGAT Comment**
This has been a vexed issue for councils over a long period of time. There is not a standard interpretation of this section of the Act and it is left to individual councils to interpret as they wish. The problem particularly arises with the different treatment by councils of the same organizations that have a statewide presence with operations across multiple municipalities. The likelihood is that in some municipalities an operation will be totally exempt, another partially exempt and yet another providing no relief at all.

The particular example of schools outlined in the background to the motion has been problematic for a number of councils. At the time of the review of the finances between State and Local Government there was general consensus by all parties that all schools should be treated the same way. If public schools were to be rated then so should private schools. The issue is in the purpose of the use of the land not necessarily the status of the organization providing the service. The issues raised by Huon Valley and the comparisons with circumstances existing in other jurisdictions are valid and LGAT supports the proposal for absolute clarity on this matter.

**Tasmanian Government Agency Comment – Department of Premier and Cabinet**
The current Tasmanian valuation and Local Government rating review is considering further amendments to the rating provisions of the *Local Government Act 1993*. However, the review is unlikely to make specific recommendations with regard to the exemption from rates for land or part of land owned and occupied exclusively for charitable purposes, as the policy considerations specific to this exemption are complex, and a variety of stakeholders will need to be consulted in relation to the motion. This matter may be considered by the Government as a future amendment to the Act.
13 PUBLIC POLICY - GENERAL

No Motions Received

14 ADMINISTRATION

14.1 Motion – LGAT General Meetings

Burnie City Council/Waratah Wynyard Council

That LGAT amend its current policy position of holding General Meetings to:

a) Two times per year alternating from Hobart (with AGM) and Launceston with any additional General Meeting to be held in the North-West, namely Burnie; and

b) Special General Meetings called at the request of the President or motion of GMC, with Special General Meetings to be held in Launceston.

Amendment Motion

Devonport City Council/Circular Head Council

That the words ‘namely Burnie’ be removed from the motion.

Carried

Burnie City Council/Waratah Wynyard Council

That LGAT amend its current policy position of holding General Meetings to:

a) Two times per year alternating from Hobart (with AGM) and Launceston with any additional General Meeting to be held in the North-West; and

b) Special General Meetings called at the request of the President or motion of GMC, with Special General Meetings to be held in Launceston.

The Amended Motion was Carried

The Motion was carried 29/21

Background Comment

In recent times the Council has found that the content of the General Meetings have been wanting for substance in comparison to a number of years ago. It would be helpful if agenda's of substance were brought forward to allow greater participation. However, the lack of substance has resulted in Council questioning whether the time and cost involved in attending are beneficial when limited decisions are being made. To this end it is felt that reducing the general meetings to two per year is warranted. Should the need arise for a third meeting, it is contended that the third meeting be in Burnie.
In relations to costs and inconvenience, it is suggested that these meeting be rotated around the regions. It is accepted that the AGM and General Meeting will generally be held in Hobart, however the March meeting and any additional meeting later in the year should be held in Burnie. It is suggested that any Special Meetings called should be held alternatively between Launceston and Hobart.

In summary a reduction in meetings will improve the substance of the Agenda and share the costs burden associated with Councils’ from outlying regions that attend.

**LGAT Comment**

The present Rules of the Association with regard to the conduct of General Meetings require that there be at least three General Meetings a year in addition to the Annual General Meeting. The practice has been to hold the meetings in a city or town in Tasmania as determined by the General Management Committee.

There was a long practice of holding all General Meetings in Launceston on the basis that the Annual Conference is held in Hobart. The conduct of the Annual Conference in Hobart is largely a logistical and economic decision and should not ideally represent an offset for all other meetings. It should count as one meeting and the location for the conduct of other General Meetings should be considered on general merit.

General Meetings have been held on the North West Coast in the past and there is no reason why they couldn’t in the future. As indicated above, this is presently a determination for the General Management Committee under the current Rules of the Association. In the event that this arrangement was to be fixed in accordance with the Rules it would be necessary to amend the Rules of the Association. However, if the will of the membership is in accord with the motion it is anticipated that the GMC would take this on board in the context of future arrangements.

With regard to Special meetings there is no prescription under the Rules as to where these meetings should physically be held. The most recent was held in Launceston but there has been occasion in the past to hold them in Hobart due to the availability of key parties required to address such meetings (eg Treasurer).

It is not clear as to why there is a need to amend the basis for calling a Special Meeting. Special Meetings can currently be called –

(i) by the President; or
(ii) by any 3 members of the General Management Committee acting together; or
(iii) by 3 or more of the Members in writing to the President stating the reasons for calling a Special General Meeting.

The Burnie proposal appears to limit the capacity of members being able to action a Special Meeting and would require a majority of GMC members.
15 FINANCE

15.1 Motion – National Emergency Funds

Hobart City Council/Northern Midlands Council

That the Local Government Association of Tasmania lobby the Federal Government for a National rolling emergency fund funded through contributions by Local Government.

Amendment Motion

Launceston City Council/Devonport City Council

That the words ‘Funded through contributions by Local Government’ be removed.

Carried

Hobart City Council/Northern Midlands Council

That the Local Government Association of Tasmania lobby the Federal Government for a National rolling emergency fund.

The Amended Motion was Carried

Background Comment

In the light of the recent natural disasters in Queensland, New South Wales, Victoria and the North of Tasmania, a National rolling emergency fund should be considered as a backstop for major natural disasters.

A permanent natural disaster fund, funded through contributions by Local Government, could reduce the need for one-off levies and provide State and Local Governments with the funds to rebuild communities.

LGAT Comment

When activated, payments are made for emergencies under category A, B and C of the joint State and Federal Government National Disaster Relief and Recovery Arrangements (NDRRA).

For instance, payments were recently made in Victoria, Western Australia, South Australia, Queensland and Tasmania for the floods that occurred in each of these states. Introduction of a secondary source of funding may be warranted in situations where funding under NDRRA is not considered adequate.
Tasmanian Government Agency Comment – Department of Premier and Cabinet
Through the Tasmanian Disaster Relief and Recovery Arrangements, the State Government provides a financial safety net for costs incurred by Local Government as a consequence of natural disasters. It is noted that these arrangements may need to be reviewed due to changes to the Natural Disaster Relief and Recovery Arrangements being imposed on the State by the Commonwealth Government.

Consideration of any proposal for a rolling emergency fund would need to be based on the details regarding contributions and distribution of funds to ensure that it provided a net benefit for the State.

15.2 Motion – Amendment to Payroll Tax Act 2008 *

Latrobe Council/Circular Head Council

That LGAT request the State Government to immediately and retrospectively amend the Payroll Tax Act 2008 to exempt Local Government from the employer grouping provisions therein.  

Carried

Background Comment
− Under section 71 of the Payroll Tax Act 2008, if two councils employ the same employee (e.g. two days at one council, three at the other) or one council hires an employee to another council, then the councils are (automatically) grouped for payroll tax purposes and the group only gets one tax free threshold. Councils then have to apply for the Commissioner of State Revenue to make a determination under section 79 that the Council be excluded from the group on the basis that the businesses of the Councils are carried on independently and are not connected. The Commissioner has issued Public Ruling PTA031 explaining the exclusion discretion and setting out the matters the Commissioner takes into account in exercising the discretion
− The Commissioner of State Revenue has recently refused to exercise this discretion to de-group two North West Councils. The Councils have objected to this decision under Section 80 Part 10 of the Taxation Administration Act 1997 however, the objection results in a re-assessment by the commissioner, not independent review. Whilst an Appeal against an unsuccessful objection can be lodged with the Supreme Court, recent interstate cases suggest that success would be difficult because the courts can only over-rule the Commissioner on an error of law, not on the basis of disagreeing with the weightings given to various factors in the exercise of the discretion.
− Given, the nature of resource sharing (the amount and nature of shared employees tends to change regularly) even if the Commissioner's discretion was granted, Council's would potentially need to apply for de-grouping after each change in circumstances that might change the extent to which the businesses of the Councils are carried on independently and are not connected.
− The current trend towards resource sharing by local government is very much being encouraged by the State Government (for example the Shared Services Grants Program) and an unfortunate (and unintended?) consequence of this resource sharing is the potential for the technical application of the grouping provisions of the Payroll Tax Act.
− The grouping provisions of the payroll tax act were intended to prevent businesses from re-structuring their affairs to avoid payroll tax. Clearly Councils engaging in resource sharing are not restructuring their affairs to avoid payroll tax.
− The strict application of the grouping provisions is a disincentive for Councils to resource share labour.
− The current system requiring repeated requests for the exercise of discretion by the commissioner is administratively costly and results in uncertainty (or time delays in achieving certainty) of the payroll tax cost of resource sharing decisions.
− A legislative amendment clearly exempting Local Government from the grouping provisions provides certainty to councils regarding the payroll tax implications of resource sharing arrangements and removes a significant disincentive to sharing employees between Councils.

At Attachment to Item 15.2 are copies of -
− Extract from Payroll Tax Act (Tas) 2008 – Section 71
− Extract from Payroll Tax Act (Tas) 2008 – Section 79
− Public Ruling PTA031

LGAT Comment
This matter has been discussed with the secretary of the Department of Treasury and Finance as well as the Director of Local Government. There is general acknowledgement that this process has an unintended consequence of capturing councils that are seeking to resource share and improve their financial sustainability. Issues of retrospectivity are always difficult in legislative terms although it could be conceded that if the spirit of the legislation was inappropriate, then some recompense may be valid.

Tasmanian Government Agency Comment – Department of Treasury and Finance
Significant State and Local Government financial reforms were introduced as from 1 July 2004 following the culmination of a lengthy process of research, negotiation and consultation between the two spheres of government. These reforms included the removal of exemptions to Local Government in relation to the payment of State Government taxes, including payroll tax, land tax, motor vehicle tax and duties. Exemptions to State Government agencies in relation to the payment of Local Government rates were also removed.

The reforms were implemented to improve financial transparency and enhance decision-making leading to efficiency gains and greater economic benefits, by ensuring that both levels of government take into account the cost of providing government services.

The reforms were based on a set of agreed principles which included financial transparency, revenue neutrality and non-discrimination, i.e. Local and State Government cannot treat the tax-paying entities of each other differently from non-government organisations.

In addition to implementing the legislation that introduced these reforms, State and Local Government entered into a statewide partnership agreement (the Statewide Partnership Agreement between Government of Tasmania and Tasmanian Councils on Financial Reform) committing each level of government to the key principles underpinning the reforms.

Under the Payroll Tax Act 2008, related businesses are grouped when calculating payroll tax for reasons of equity and to prevent tax avoidance strategies.
The grouping provisions are quite broad, for example, employers are considered to be members of a group, in the first instance, if an employee of one also performs duties for another or where there is an agreement between two employers for the employee of one to perform duties of the other.

The impact of grouping is that the wages of each group member are combined when calculating payroll tax and the tax-free threshold of $1.01 million is applied to the combined total rather than to individual payrolls.

These grouping provisions apply to all employers, including local councils. In the context of local councils who share employee resources this can either mean that small councils that were previously entirely exempt from paying payroll tax are now liable or, for larger councils, that they only receive a share of the tax-free threshold.

As for any employer, local councils need to take into consideration the consequential impacts of sharing resources, including the impact on their payroll tax liability.

Apart from decreasing efficiency and increasing inequities, providing Local Government with a specific exemption from the payroll tax grouping provisions would be directly contrary to the mutually agreed principle of non-discrimination described above and is not recommended.

### 15.3 Motion – Financial Reform Review

**Council – West Coast**

<table>
<thead>
<tr>
<th>West Coast Council/Southern Midlands Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>That the financial reform process adopted between the State Government and councils ten years ago be reviewed.</td>
</tr>
</tbody>
</table>

**Carried**

The Motion was carried 31/21.

**Background Comment**

The Council believes that it is time the balance of costs between the State Government and Councils is once again reviewed and that the work completed a decade ago should be repeated.

**LGAT Comment**

The review into taxes and charges took place a decade ago and involved the analysis of the relative fees, taxes and charges imposed by each of State and Local Government on each other. The process followed many years of lobbying by Local Government for State Government to pay rates. Some fundamental principles were agreed between the parties in commencing the review the most significant of which was that neither party should be significantly worse off – in essence the process should be revenue neutral.

The results from the review were that State Government agencies, GBE’s and State Owned Companies were required to pay rates; levies (with the exception of the Fire services Levy) were eliminated; Local Government would be charged payroll tax, land tax and stamp duty from which it had previously been exempt.
As indicated the fire services levy was ruled out of the process, rate concessions were agreed to be maintained, exemptions on both sides were given for parks and reserves and Hydro Tasmania was to continue its practice of paying rate equivalents via its tax equivalent regime to the State Government.

The result of these arrangements was that the financial position of Local Government was improved by some $2 million annually. Two councils that were found to be in a financially detrimental position as a result of the changed arrangements were provided with “break-even” relief by the State Government.

In light of spiraling land values and increased wage bills, it is highly possible that the payments made by Councils now exceed the funding received in return for rates, notwithstanding the rise in rate levels over the past decade. The pending forest industry restructure also gives rise to concerns about the loss of rating income from productive forestry if there is significant conversion to reserves.

**Tasmanian Government Agency Comment – Department of Treasury and Finance**

State and Local Government Financial Reform was implemented from 1 July 2004, to make more transparent the financial relations between the two levels of government. The objective was to enhance decision-making, as both levels of government assess the true cost of providing government services.

The reform provides for reciprocal taxation arrangements, whereby the State Government pays Local Government rates on its Crown land and Local Government pays State Government taxes. The only exemptions to this include:

- areas not valued or rated: national parks, forest reserves, conservation areas, public parks and recreation areas and roads, bridges, jetties and associated infrastructure (including railway lines);
- areas not rated but subject to a rates equivalent regime: Hydro Tasmania's Crown land occupations, which support assets or operations relating to electricity generation, other than wind-power developments; and
- areas not subject to land tax: parks and gardens, owned by Local Government.

In undertaking the reform, a set of principles including financial transparency, non-discrimination and revenue neutrality guided decision-making. Revenue neutrality was determined with respect to the 1999-00 financial year (being the base year) and meant that the reform would leave the budgetary positions of the two levels of government at no disadvantage.

Under the reform, as stated above, Hydro Tasmania was not subject to the standard rating approach as to do so would have placed it at significant disadvantage to its competitors, given its highly capital-intensive asset structure. Revenue neutrality would also be difficult to achieve at both the sector level and the individual council level. To ensure competitive neutrality, a rates equivalent regime has been established where Hydro Tasmania is treated consistently with its competitors (which is less than what it would pay under the standard rating approach).

It is understood that the West Coast Council believes that it has not benefitted from the reform to the extent that it had expected. A large amount of Hydro Tasmania’s capital is located in the West Coast municipality. The application of a rates equivalent regime, rather than the standard rating approach, for the reasons outlined above, may contribute to the view held by the West Coast Council.

Importantly, the reform was undertaken on a “no regrets” basis, with individual councils extensively consulted in developing the estimates of the impact of the reforms on councils. Moreover, councils were given every opportunity to identify shortcomings in either the method or the data used to prepare the estimates.
The reform culminated in the former Premier and President of LGAT signing the *State-wide Partnership Agreement – State and Local Government Financial Reform*, committing each level of government to the key principles underpinning the reform.

The State Government is confident that the reforms are still contemporary and work in practice, the motion is therefore not supported.

16 INFRASTRUCTURE AND SERVICES

16.1 Motion – National Broadband Network

<table>
<thead>
<tr>
<th>West Tamar Council/Central Highlands Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>The LGAT Conference calls on the National Broadband Network Company (NBN Co) to install all NBN Co cabling inside the existing underground conduits wherever these conduits exist.</td>
</tr>
<tr>
<td>The conference instructs the LGAT Executive and Secretariat to communicate this policy position to NBN Co, the relevant Australian Government Minister and to lobby for this policy.</td>
</tr>
</tbody>
</table>

Carried

**Background Comment**

1. Across Australia most telephone lines are already housed in underground communication conduits.
2. Our residents do not want any more cables being placed on our poles.
3. It is a rational decision to use an existing provision of infrastructure (conduits) that have already been paid for by the community.
4. The NBN is a long term infrastructure investment and placing of the cables underground is consistent with a high standard resource project.

**LGAT Comment**

This matter has been discussed with NBN Co.

Telstra Corp is the owner of the existing network pits, pipes and underground conduits and as such NBN Co has been seeking access to this infrastructure in order to lay out its optical fibre network. NBN Co has advised that to date negotiations with Telstra Corp have not been finalised however a proposed agreement has been drafted and will be put to the vote of Telstra shareholders. Telstra had originally scheduled a shareholder meeting for 1 July 2011, however this meeting has now been postponed until later in the year.

Any proposed agreement requires approval from the Australian Competition and Consumer Commission.

NBN Co has advised that if the negotiations with Telstra resolve to allow NBN Co to use the existing pipes and conduits, then there is a very real possibility that these will be utilised in the roll-out of the new fibre optic network. It must be noted however that there are some other issues which will need to be addressed, such as the existence of asbestos within pipe line and conduit materials and the age of the copper infrastructure currently in place.
Tasmanian Government Agency Comment – Department of Premier and Cabinet
NBN Co’s position is understood to be that NBN cabling will generally be installed in existing Telstra conduit where that exists and is fit for purpose, subject to the completion of an agreement between Telstra and NBN Co concerning Telstra’s participation in the NBN.

In areas where suitable underground conduit is not available and power pole infrastructure is in place, it is likely that NBN Co will seek to install the NBN Co cabling on the power pole infrastructure.

16.2 Motion – Roll Out Of Natural Gas

Hobart City Council /Clarence City Council

That the Local Government Association of Tasmania lobby the State Government to continue to fund the roll out of Natural Gas to Tasmanian residents.

Carried

Background Comment

The State Government announced in 2003 that tax payer funded gas pipes would be laid past more than 100 000 homes when the first Bass Strait pipe supplied Tasmania from the Gippsland gas fields.

Approximately 2,300 properties within Hobart’s municipality have been connected to the gas network as of October 2010. Approximately 15 properties per week connect to the gas network for cooking, heating and or hot water.

In October 2010, the State Government stated that there were no plans to expand the natural gas network – Tasmanians wanting cheap natural gas would need to lobby local councils to build new pipelines or connect existing ones to their homes. This is despite assurances that the State Government is committed to the rollout of natural gas as an alternative energy source for domestic, commercial and industrial users.

Consideration should also be given to laying gas pipelines in trenches alongside fibre optic cables which will connect homes to the National Broadband Network.

The Hobart City Council asks that the LGAT to lobby the State Government to continue to fund the roll out of Natural Gas to Tasmanian communities.

LGAT Comment

This matter was considered in some depth at the April meeting of the Metropolitan Councils Group where a presentation was provided by TasGas on the estimated costs of roll out and payback per household.

It was revealed by TasGas that speculative pipe laying was not cost effective unless connection and sign up was extremely likely. The proposition of laying gas pipelines beside fibre optic cables (NBN or otherwise) was considered a difficult proposition by TasGas and which relied on perfect synchronicity and again guaranteed take up.

The issue does arise however that the average home would benefit to the extent of $800 per annum through the use of natural gas as compared to other energy sources. When considering the cost of infrastructure provision (excluding connection and appliances) of approximately $1000 per household, the payback of just over a year provides a sound argument for social intervention. Increased demand would also likely allow for group purchasing of appliances or bulk deals via TasGas which could further reduce the burden of access to this energy source.
Tasmanian Government Agency Comment – Department of Infrastructure, Energy & Resources

In mid-2007 the Government announced that no further funding was available for roll-out beyond the original phase of the project. The original phase resulted in 43,000 houses being fronted by a natural gas supply. The take-up rate by customers is now over 20 per cent. This is seen as quite a satisfactory result driven largely by home renovation and the replacement of electric hot water systems.

The areas served by this project were determined by their proximity to a back-bone of high pressure pipes which were laid to provide gas to commercial and industrial customers. It was the economic value of these customers together with some State assistance which underwrote the domestic roll-out.

Any future extensions to the domestic network will need to be supported by commercially significant loads. In the past year there have been extensions laid to Cascade Brewery, Burnie General Hospital and the Cadbury plant at Claremont. These extensions have given domestic customers adjacent to the new pipelines the opportunity to connect. In some locations local residents have collectively lobbied Tas Gas Networks and have convinced them to provide reticulation along their streets. These customers were able to demonstrate that the local load they represented would make the connections viable.

Other opportunities for organic growth of the gas network into residential areas are where new subdivisions are near existing pipelines. As an example, the new Chaucer Road subdivision in Lenah Valley may represent such an opportunity. Elsewhere in northern Tasmania, developers have confirmed that the value gained by providing gas services is reflected in the sale prices they achieve for the lots.

The merits of co-locating gas pipes at the same time as fibre optics are installed have been considered by the gas and communications companies. It has been concluded that the differing engineering requirements and project management protocols of the two systems makes this expensive and impractical.
16.3 Motion – Water & Sewerage

Derwent Valley Council/Northern Midlands Council

That the Local Government Association of Tasmania writes to the Board of Southern Water requesting detailed information in regard to the following:

1. All information regard to the cost benefits analysis that has been undertaken in regard to the installation of Water Meters.
2. Provision of the total cost of the installation of the Water Meters and the associated cost to consumers broken down into municipal areas
3. All details in regard to the duplication of the services provided by Southern Water and Onstream.
4. Details of the cost benefits and any savings that have been received by the utilisation of Onstream for the provision of services
5. Details of any efficiencies that have been made due to the taking over of the Water and Sewerage Assets from Local Government to the new Water and Sewerage entity.
6. Details in regard to future water and Sewerage rate increased by municipal area for the next five years and reasons for the proposed increases.
7. Full disclosure of the costs associated with the Water Billing computer system and the associated costs including cost overruns to Budget allocation for its installation and details of the computer system being utilised for the provision of this service.

Background Comment
In recent months there have been many comments by Councillors in Southern Tasmania in regard to the establishment of Southern Water and Onstream. Much of this discussion has been about the transfer of assets for little or no return and the increased costs of these services to our Ratepayers. There has also been much debate in regard to the necessity for the installation of Water Meters and their associated costs. Also during these debates there has been comment about the necessity of the fourth corporation namely Onstream and its costs to the Water Corporations in regard to the billing of Water and Sewerage Rates.

The Derwent Valley Council feels that these matters need to be further discussed before the additional impost of water meters to our residents commences.

LGAT Comment
It is considered that the issues raised in this motion would be better addressed through the owner/corporation relationship as the Association has little standing with regard to the Regional Water and Sewerage Corporations with regard to access to information.

Although involved in the development and negotiation of the arrangements surrounding the reform of water and sewerage, the establishment of the corporations and the direct ownership relationship provides access to a range of information that is not available to third parties. Whether this is done via the owner representatives or direct to the corporations it is expected that this may be more successful than via the Association.

That said, the Association would be only too pleased to make any representation deemed appropriate by member councils.
Tasmanian Government Agency Comment – Department of Treasury and Finance

The legislation governing the provision of water and sewerage services in Tasmania requires two-part pricing for water services. Two-part pricing is commonly accepted in Australia as best practice and is consistent with the National Water Initiative Agreement, to which Tasmania is a signatory, to implement efficient consumption-based, user pays pricing for water and sewerage services.

Two-part pricing removes many of the inequities associated with pricing for water based on the assessed annual value of property and ensures that price signals are relayed to end-users allowing them to make choices in light of the price signal about their water usage which results in efficient water use.

In October 2009, the State Government commissioned a cost benefit study to assess the net benefits of voluntary and mandatory water metering that would support two-part pricing across the State.

The key finding of this study demonstrated that a mandatory meter rollout will produce the highest net benefit for Tasmania. The primary benefit is improved leakage management. This result was also confirmed to be robust to credible variations in the key assumptions underlying the study.

A subsequent cost benefit analysis was undertaken by Marchment Hill Consulting (MHC) on behalf of Southern Water. It found positive net benefits for universal installation of automated meter reading technology. The primary benefits stem from demand management, including leakage detection and repair, which allows capital investment to be delayed or avoided altogether creating a saving of millions of dollars. The findings of MHC were independently peer reviewed by SGS Economics & Planning (commissioned by Hobart City Council). The peer review noted that there was no systematic bias in the analysis undertaken by MHC and that overall the benefits of metering outweighed the costs. Both cost-benefit studies are publicly available.

As this motion does not relate directly to a State Government policy, Treasury does not have a position on the motion.
16.4 Motion – Water Corporations Act

Burnie City Council/Northern Midlands Council

That LGAT adopt as a policy position that it support changes to the Water Corporations Act to provide for:

a) That Owner Representatives Committee's include at least one nomination from each owner council;
b) That the Common Directorship requirement be removed from the Act;
c) That the Water Corporations role include economic development incentives and policies that allow the corporations to provide incentives for developers wanting to benefit regions covered by the corporations, in line with Shareholders Letter of Expectations;
d) Removal of prescribed role and functions of the Common Services Provider.

Amendment Motion

Southern Midlands Council/Hobart City Council

That the motion include -

Local Government as a matter of policy support the continuance of the three regional water corporations.

Further that the Select Committee be requested to release their recommendations regarding governance urgently.

Recognising that the House of Assembly Select Committee has deferred its final report until 30 April 2012, the LGAT lobby the State Government as a matter of urgency to implement the associations' policy position.

Carried

Burnie City Council/Northern Midlands Council

Local Government as a matter of policy support the continuance of the three regional water corporations.

That LGAT adopt as a policy position that it support changes to the Water Corporations Act to provide for:

a) That Owner Representatives Committee's include at least one nomination from each owner council;
b) That the Common Directorship requirement be removed from the Act;
c) That the Water Corporations role include economic development incentives and policies that allow the corporations to provide incentives for developers wanting to benefit regions covered by the corporations, in line with Shareholders Letter of Expectations;
d) Removal of prescribed role and functions of the Common Services Provider.

Further that the Select Committee be requested to release their recommendations regarding governance urgently.

Recognising that the House of Assembly Select Committee has deferred its final report until 30 April 2012, the LGAT lobby the State Government as a matter of urgency to implement the associations' policy position.

The Amended Motion Was Carried
Background Comment
The Water and Sewerage Reform has been a topical issue for Local Government and it is time for LGAT to make a policy stance on a few issues that are causing concern for the industry.

The current arrangement of only having three Owner Representatives is clearly not working with individual Councils feeling disfranchised from the discussions that occur between the Owner Representatives and the Corporations. It is suggested that each Council has their own representative on the Corporation.

The model of Common Directorship is not working effectively and should be abolished to allow the three Corporations to work be competitive with each other. There are clear conflicts of interest that impair good decision making for each corporation.

Traditionally Local Government has been able to provide developers with various incentives to invest in the region. This has included rates remissions and reductions in various fees and charges including developer contributions. It is suggested that the Water Corporations should be able for the benefit of the region and have the ability to work with Councils on joint incentive packages.

The prescribed roles and functions of the Common Service Provider should be abolished to allow the Corporations to work with Onstream on the areas where service delivery benefits are evident.

LGAT Comment
The proposals contained within the motion have largely been advanced by the Association in its evidence to the House of Assembly Select Committee looking into water and sewerage. The proposition of a changed governance arrangement to have all owners directly interfaced with the corporations was canvassed in the LGAT submission and extrapolated upon at the hearing. The removal of common directors and establishing the Board governance as three distinct entities was also canvassed along with the winding up of the Common Services Provider.

It is reasonable to highlight that while these matters were progressed through this process following several interactions and discussions with members but they have not been promulgated as LGAT policy through a General Meeting. It would be a useful confirmation particularly in the context of additional representation to the State Government on these matters. It is anticipated that the Select Committee will be sympathetic to these matters but it is important that an official position of Local Government is endorsed.

The matter of providing incentives for developers is not an issue that has been previously canvassed by the Association.

Tasmanian Government Agency Comment – Department of Treasury and Finance
Response Part (a)
Under the Water and Sewerage Corporations Act 2008, the members (owner councils) must appoint three Owners Representatives for each regional corporation. The key roles of the Owners’ Representatives are to:

(1) make and implement decisions on behalf of the owner councils of the corporations;
(2) liaise between the Board and owner councils of the respective corporation; and
(3) monitor the performance of the Board against the shareholders’ letter of expectations and Corporate Plan projections between Annual General Meetings.
The main responsibilities of Owners’ Representatives are:
- the appointment of persons to the Director Selection Committee;
- the appointment of regional Board directors;
- informing the Treasurer of any changes to a corporation's constitution; and
- informing the Treasurer of the issue, or amendment, of a shareholders’ letter of expectation or corporate plan.

These responsibilities are best discharged by a small group of representatives with an overarching view of what is in the long term interest of the corporation and relevant community as a whole. The appointment of Owner’s Representatives is determined by voting by the owner councils, so these councils do collectively determine the membership of each set of Owner’s Representatives.

Councils are responsible for the individuals chosen to fulfil this role and have the ability to adjust this over time as they see fit if the expectations of owners are not being met.

The House of Assembly has appointed a Select Committee to inquire into the water and sewerage corporations. Among other things, this Committee will inquire into and report on the governance structure of the corporations and the impact of the structure, operations and legislation on their effectiveness and efficiency. Any potential changes to the existing framework should be considered in the context of the findings of this Committee.

Response part (b)
Under the existing arrangements, each regional corporation is established with an independent Board and its members are appointed based on their skills and expertise. Each Board is led by a common Chair and comprises six board members, four of whom (including the Chair) are common to each Board with two directors specific to each corporation.

The common membership of the Boards was intended to ensure that each of the regional corporations considers the state-wide implications of their business decisions. This is designed to promote a consistent approach across regions and collaboration between the corporations, while ensuring that regional interests are not compromised. It was also designed to ensure that the intent of the reform is maintained.

In terms of the decision making of directors, the Boards report to and are answerable to their owners and are required to report against clearly specified performance expectations. Any concerns that owners have with a director or directors should be addressed through this mechanism.

It is conceivable that the current structure of the water and sewerage industry can be improved, in light of the experience of the first two years. Any changes are likely to be accompanied by changes to the governance arrangements. Again, it would be expected that the House of Assembly Select Committee will also consider this issue as part of its inquiry.

Response Part (c)
Prior to the creation of the three regional water and sewerage corporations, it was the common practice of many councils to offer fee and/or rate waivers as an incentive to attract development in their municipality. In addition, many councils did not recover developer charges.

These arrangements may have assisted individual councils to secure development within their municipalities, but have contributed to the under-recovery of revenue in the water and sewerage sector.

The purpose of developer charges is to promote efficient development of water and sewerage infrastructure by reflecting in developer charges the locational costs of network development. Location-based price signals promote regional development at lowest cost. Developer charges ensure that the costs of augmenting infrastructure, for the development to proceed, are recovered from the beneficiaries of the development.
The water and sewerage corporations are now required to base their developer charges policy on prescribed pricing principles which require developer charges to be cost reflective and transparent. This encourages developments to occur where they generate lower additional costs for the provision of water and sewerage services, rather than where the location is advantageous to an individual council.

It is not feasible for the for the water and sewerage corporations to have responsibility for promoting economic development within their region. This would lead to conflicts in pricing and investment planning and could potentially lead to disagreement between owner councils as to which developments should be supported. The corporations should be fully focused on improving water and sewerage services and meeting their statutory responsibilities under environmental and health legislation and not be distracted by economic development related functions. For this reason, the pricing principles in the Water and Sewerage Industry Act 2008 require cost reflective pricing for all regulated services.

Local councils continue to have the capacity to offer development incentives to attract development in their municipality.

**Response Part (d)**

Onstream, the common services corporation, is a subsidiary of the three regional corporations. Onstream was established to seek to secure the scale benefits of a single, state-wide entity in areas such as information technology services, payroll and human resources services and financial and accounting services.

The water and sewerage corporations are required, under the Water and Sewerage Corporations Act, to utilise Onstream, when:

(a) there are opportunities to secure economies of scale, such as in the areas listed above;

(b) Onstream may support the management of business risk; and

(c) Onstream can deliver consistency of service provision that would result in a regulatory, planning or consumer benefit.

Structuring the operating model in this way ensured that capturing statewide efficiencies is encouraged where possible through the mandated use of Onstream by the corporations for common functions.

Again, it is expected that this issue will also be considered by the House of Assembly Select Committee as part of its inquiry.
16.5 Motion – Water & Sewerage Corporations Operations

Waratah Wynyard Council/Northern Midlands Council

That the Local Government Association of Tasmania write to the Tasmanian Government, Premier and Treasurer, the Leader of the Opposition and the Leader of the Tasmanian Greens to request consideration of the impacts of the legislation governing the Water and Sewerage Corporations and their operations, and detailing in particular:

1. The problems with billing and cash flows and the fear and suspicion now abounding in the community about the operations of the Corporations.

2. The foreshadowing of large price increases beyond CPI.

3. The new developer charges which are threatening potential developments and subdivisions.

4. The cavalier attitude to community service obligations long supported by individual councils in providing services to sporting and community groups.

Lost

Background Comment

At the December 2010 Council meeting, the Council endorsed submissions made to the House of Assembly Select Committee appointed to inquire into and report upon the three (3) Tasmanian Water And Sewerage Corporations and the common services corporation Onstream.

The submission was prefaced on a fundamental position that given the ratepayers of Local Governments provided the assets transferred to the Corporations, the continued ownership of the assets of the Corporations should remain with those ratepayers, via their constituted Local Governments. It was expressed that any changes identified by the Select Committee and accepted by Parliament to alter this arrangement without any recompense would be considered unacceptable by the Council.

Commentary in relation to the governance structure of the corporations and Onstream included an observation that there should be local accountability and a better understanding of regional and local capital works priorities. Further observations were made in regard to the operating structure including extending the owner representative arrangements to include at least one representative from each constituted Local Government area for the three regional Corporations, combined with more frequent interaction between the Chairman and CEO with the owner representatives would assist in improving two way communications.

It was also acknowledged that the Corporations are required to impose headworks charges, however, the quantum and timing of the imposition were issues. A revised model for calculating the headworks charges is considered necessary to reflect the broader economic and social dividends that some major retail, regional and commercial developments would provide.

The Council also considered that the Shareholders Letter of Expectation must be reviewed with attention being given to extending the extent of community service obligations.

Noting the ambitious Capital Works program funded by borrowings, the Council questioned whether a review of the program should occur. It was also observed that given there is a significant variation in the rates and charges imposed in each municipal area, that the principle of user pays, with a simplistic structure that is readily comprehended should be pursued.
The Waratah-Wynyard Council is aware of the Interim Report by the House of Assembly Select Committee, delivered in late April 2011. While the Council does not support a Repeal of the legislation in its entirety, it considers those responsible for the legislation should entertain amendments to such, to address matters that continue to be raised in the public arena.

LGAT Comment
Many of the issues raised in the background comments relate to the owner/corporation governance relationship. Matters associated with the forward works program and the Shareholders letter of expectation are matters which should be addressed through that direct relationship rather than via the legislature.

With regard to matters of pricing, the Association along with the Corporations and many member councils, raised with the House of Assembly Select Committee a range of concerns about the impacts of the State Government's pricing intervention on the future pricing regime for water and sewerage and the bottom line of the corporations. This matter was specifically highlighted in the Interim Report of the Select Committee and proposed that the State Government, owner councils and the corporations meet to address these pricing impacts.

The initial pricing scenario for water and sewerage always foreshadowed pricing increases beyond CPI due to the historic shortfall in pricing and the requirement to fund new infrastructure.

Significant issues have arisen with regard to developer charges and, in particular, the timing of their incidence. While many councils in the past did not levy developer charges, it was well canvassed in the water and sewerage reform process as a necessary instrument in funding infrastructure upgrades as well as ensuring that charges for the benefit derived from new development from infrastructure which had already been provided was appropriated in an equitable way.

The matter of CSO's is one which hinges on the principle of all water use being paid for. While individual councils had a range of attitudes to water pricing for their own use and in relation to community groups, the reform process dictated a high level of transparency with regard to pricing.

Tasmanian Government Agency Comment – Department of Treasury and Finance
It was agreed at the outset of the water and sewerage reform that there were significant issues for Tasmania in the water and sewerage sector and that maintaining the status quo of 29 individual councils and the three bulk water authorities managing water and sewerage services was not viable. Services, infrastructure and the environmental impact had to be managed better for the benefit of the State as a whole. A critical part of this reform was to introduce three council-owned regional corporations to operate Tasmania’s water and sewerage services. The regional corporation model was the model approved by Local Government.

It was also known that revenues in the sector were well below sustainable levels, primarily driven by significant under-recovery in the sector, leading to underinvestment in both the maintenance of the existing capital stock and investment in new infrastructure. This led to significant health and environmental issues, which the independent Economic Regulator has repeatedly identified in the State of the Industry reports.

The Economic Regulator states, in its report on the financial effects of the Interim Price Order which was made available in March 2011, that if the corporations are going to achieve a sustainable financial position and achieve the reform objectives of improving compliance with regulatory obligations after the IPO period, prices will need to increase at a rate greater than the current 5 per cent cap. Although prices must increase to ensure that the sector is sustainable, section 15 of the Water and Sewerage Industry Act 2008 provides protection to customers from price shocks.
From 1 July 2012, the sector will be subject to independent price regulation by the Tasmanian Economic Regulator and the State Government will have no role in determining prices.

It is also acknowledged that the existing pricing arrangements, inherited from councils, are inequitable and inefficient and that price reform is needed to unwind these arrangements. Price reform, coupled with increased revenues, will allow the corporations to move towards meeting the health and environmental objectives of the reforms through efficient capital investment.

As part of price reform, the corporations are required to have a developer charges policy that is cost reflective and transparent. The purpose of developer charges is to promote efficient development of water and sewerage infrastructure by reflecting in developer charges the locational costs of network development.

Local councils continue to have the capacity to offer financial support to groups such as sporting and community groups to assist them meet their water and sewerage charges.

17 PLANNING AND DEVELOPMENT

17.1 Motion – Oil Prices

Hobart City Council/Derwent Valley Council

That the Local Government Association of Tasmania urge the State Government to commit to the delivery of the Department of Infrastructure, Energy and Resources (DIER) study into rising oil prices.

Carried

Background Comment

Most policy-makers have tended to regard resource depletion as a problem that would not emerge until decades into the future. The near term onset of peak oil presents the challenge of quickly developing and implementing the necessary mitigation plans.

The Minister for Sustainable Transport and Alternative Energy, Nick McKim announced, in February 2011, the commencement of a study which will consider the impacts of an oil price shock, or cumulative price increases on Tasmania and the Tasmanian economy.

The Study will investigate possible opportunities for Tasmania, as well as potential risks and will focus on protecting the community’s future growth and prosperity.

The Government allocated $250 000 to undertake the Study in the last State budget and is due to be finished by the second half of 2011.

The Hobart City Council calls upon the LGAT to urge the State Government to commit to the delivery of the DIER study on this important issue.
LGAT Comment
As a significant stakeholder, the Tasmanian Local Government sector has been included in this study’s consultation process. LGAT was contacted by DIER earlier this year to canvas councils to gauge their interest in being involved in a series of workshops that would focus on identifying the potential impacts of future rises in oil prices upon Tasmania. A representative from LGAT attended the workshops convened in May and June by the Department of Infrastructure Energy and Resources, which was attended by other key economic and industry stakeholders.

The first workshop, facilitated by Principal Consultant to the Study, Dr Rana Roy, included a presentation on the historic trajectory of oil prices and discussions on cross sectoral scenario modelling undertaken by the Centre of Policy Studies, Monash University. The second workshop focussed on discussing options for managing short, medium and long term economic, social and environmental impacts on Tasmania’s future prosperity arising from oil price “shocks” and/or steep increases to oil prices. The workshop included presentations by the project team on innovations and opportunities that may be appropriate for Tasmania. A number of proposals or “actions” were identified by consultants and the Project Team and pre-circulated to those who had attended the first workshops and these became the central discussion points for the second workshop, providing participants with an opportunity to critically assess options and determine their suitability for Tasmania in a collaborative process.

What became clear from the workshop process is that there are numerous challenges associated with actual and potential oil price rises and the Tasmanian economy as a whole requires strengthening to ensure it is capable of withstanding predicted future price trends.

It is understood that the project team intends to present its study findings to the Minister in the second half of 2011. The Study content will focus on mitigation strategies and will enable scenario planning.

LGAT will continue to monitor the Project Team’s work and will disseminate any findings to Councils once these have been received.

Tasmanian Government Agency Comment – Department of Infrastructure, Energy and Resources
The Tas Oil Price Vulnerability Study was announced last June by Minister McKim and is now well under way.

The Study looks at the impacts of oil price "shocks" and prolonged increases in the price of oil on the Tasmanian economy and community. Monash University has undertaken modelling to help us to better understand those impacts.

Importantly, the Study also focuses on how we can best manage any risks to our community and economy in the short, medium and long term.

The Study will draw on consultation with stakeholders through a program of Workshops and is due to be presented to the Minister in the second half of this year.

The Local Government Association is assisting the Department of Infrastructure Energy and Resources with stakeholder consultation by coordinating members who would like to attend Workshops, the first round of which were held in May 2011. The second round of workshops were held on 9 and 10 June 2011.

This is a significant Study that will assist the Tasmanian Government to plan for our community's ongoing well being into the future.
### 17.2 Motion – Forestry Industry

**Glamorgan Spring Bay Council/Dorset Council**

1. That LGAT strongly condemns any further lock up or reservation of Tasmania's State naturally regenerated forests and strongly opposes the proposal contained in the statement of forest principles - "To transition the commodity forest industry out of public native forests".

2. That LGAT requests the State and Federal Governments to re-affirm their commitment to the Regional Forest Agreement.

3. That LGAT writes to the State and Federal Governments confirming its support for the Tasmanian Forest Industry and highlighting the economic benefits it brings to the State.

*Carried*

**Background Comment**

Huon Valley Council at its meeting in December 2010, moved a motion supporting various components of the forestry industry. This motion was carried 7 votes to 2.

Glamorgan Spring Bay Council moved similar motions in February 2011 that were also carried. Glamorgan Spring Bay Council believes that it is now time that LGAT showed its support to the forestry industry and highlight to all levels of Government the importance of this industry to Tasmania by supporting the recommended motion.

It is estimated that there are 16 forest industry businesses in our Municipality alone compared to 19 in 2006 (CRC report on Tasmanian forestry).

Employment numbers ranged from 201 in 2006 to 143 in 2010 and the estimated industry worth is $30 million dollars in our Municipality.

**LGAT Comment**

A number of councils have expressed their concern at the impact of the forest industry downturn, particularly in smaller communities. In addition to the effect on economic development in regional areas there is the significant impost on councils to address the recovery issues as well as seeking to maintain the sustainability and ongoing delivery of services to smaller towns that have largely been hubs for forest activity.

**Tasmanian Government Agency Comment – Department of Infrastructure, Energy and Resources**

The Government has a clear policy in regard to its support of the Regional Forest Agreement and the need to renegotiate an extension to that agreement with the Australian Government prior to its expiry in 2017. The form of any new agreement and whether there will be any changes to the current reservation system and wood supply from public forests are dependent on the outcomes of the current process surrounding the Tasmanian Forests Statement of Principles that was presented to the Government by representatives of forest industry, unions and environment groups late last year. One of those principles is the further reservation of high conservation value native forest on public land.
The Tasmanian and Australian Governments asked Mr Bill Kelty to be a facilitator to work with the signatories to the Statement of Principles and other stakeholders to see if the Statement could be progressed into an agreement. Mr Kelty has recently provided both Governments with an interim report and will provide a final report by the end of June 2011. If successful, there is still a long way to go to reach an agreed position between the signatories but there remains a possibility that a once in a life time opportunity can be seized to end the conflict over Tasmania’s native forests that has divided our community and damaged our industry and markets. If this were to happen it is likely that further reservation of native forest would be a component, as well as a secure future for the forest industry, including those components of the industry reliant on native forests.

The Tasmanian Government understands the importance of the forest industry to the Tasmanian economy, in particular the importance to many regional communities. It is working with the Australian Government to ensure that robust current data are available to inform future decision making processes.

As the Premier made clear in her recent State of the State Parliamentary address, the Tasmanian Government has made a commitment to provide ongoing resource security to Tasmania’s family-owned sawmills. The Government is determined to do what it can to maintain employment despite the impacts arising from severely depressed market conditions for Tasmanian native forest pulpwood in Japan, and the decisions made by Gunns Limited to focus their business on a plantation based pulp mill.

17.3 Motion – Protection Of Agricultural Land

Northern Midlands Council/Brighton Council

That the LGAT work with the State Government to amend Principle nine of the State Policy for the Protection of Agricultural Land 2009 to enable Council planning schemes to prohibit or require discretionary permit for an agricultural use on land zoned for agricultural purposes where such land is also determined to be within a special area or overlay to address issues including, but not limited to, scenic protection, landslip, water catchment, heritage protection and flood or bushfire hazard.

Carried

Background Comment
The last round of amendments to the State Policy for the Protection of Agricultural Land 2009 (PAL) removed the ability of Council’s to require discretionary planning approval for agricultural use on land zoned for rural purposes.

Whilst in most cases this is not an issue of concern, two factors have been brought to notice that have the potential to lead to undesirable consequences.

Firstly, the definition of agricultural use within PAL specifically includes the handling, packing or storing of produce for dispatch to processors and controlled agriculture and plantation forestry.

Secondly, principle nine of PAL effectively prevents useful consideration of issues such as scenic protection, landslip, heritage, bushfire or flood and certainly removes the opportunity for residents in the area, who may be affected, to participate.

This latter point is clearly incompatible with the objectives of the Resource Management and Planning System of Tasmania. Specifically, objective 1(c): to encourage public involvement in resource management and planning.
In a number of planning schemes across the State, the use class Agriculture is classified as permitted without permit in the rural zones. However, many of these schemes also include overlays, schedules and codes to address issues of specific concern that are not strictly zone related.

An overriding tenet of these is that all development otherwise classed as permitted with or without permit shall become discretionary. The clear intention here is to ensure specific issues such as flooding, landslip, attenuation areas or heritage protection etc are appropriately addressed.

This intention is defeated by principle nine of PAL, which states:

*Planning Schemes must not prohibit or require a discretionary permit for an agricultural use on land zoned for rural purposes where that use depends on the soil as the growth medium, except as prescribed in Principles 10 an 11.*

**At Attachment to Item 17.3**
- Objectives of the Resource Management and Planning System of Tasmania
- State Policy on the Protection of Agricultural Land 2009

**LGAT Comment**
The Protection of Agricultural Land Policy 2009 is due for review again in 2014. The reviews of the legislation are five yearly. It is unlikely that an amendment would be favoured by the State Government given its significant aversion to State policies at this time.

The factors raised in the background to the motion suggest that there are matters which the PAL policy does not allow to be addressed adequately – scenic protection, landslip, heritage, etc. It is not clear that this is actually the case and it is doubtful that the policy should be read in such a way as to exclude these provisions.

**Tasmanian Government Agency Comment**
No response was received by the deadline for circulation of agenda items.
Northern Midlands Council/West Tamar Council

That, in order to address the loophole in LUPA relating to the lack of termination power, LGAT lobby the State Government to progress a legislative amendment to provide the power to void an application after a finite period of time.

Carried

Background Comment

The Land Use Planning and Approvals Act 1993 (the Act) provides for the preparation of planning schemes by councils and requires that councils observe and enforce the observance of such schemes. In doing so, the Act provides at sections 57 and 58 for the making of an application for permit and requires that the application be determined within forty two days, or such longer period as the parties may agree.

Section 54 of the Act provides that the planning authority may, within the first 21 days of receiving an application for planning approval, require the applicant to provide further information. If further information is required, the forty two day statutory processing period does not run while the request for information has not been answered to the satisfaction of the planning authority [s.54(2)].

Once the planning authority has asked for additional information, the application remains open indefinitely, waiting for the applicant to respond appropriately. Council’s solicitor has advised that there is no termination mechanism under LUPAA, and having made the request the clock remains stopped.

In many cases this may only lead to the inconvenience of files remaining open for an extended period. However, on occasions, it may not be determined that further information is required until after applications have been placed on public exhibition. This could be as a result of a response from a referral body, or a representation from a member of the public.

The Northern Midlands Council has experienced two recent cases where further information was requested following receipt of public representation and where the information was not received for some two years.

As there is no provision in the Act to re-exhibit the application, such a delay between exhibition of the application and its ultimate determination effectively disenfranchises the public. In the ensuing period, people will have moved into and out of the area and public expectations may well have changed.

Further, the Northern Midlands Council has planning applications that have been on stop-clock since 2006 awaiting further information, despite numerous requests – even the introduction of a file management fee - for the information to be supplied.

Council’s solicitor has advised that the lack of termination power is a loophole in LUPA. It would be the task of the Department of Justice to progress a legislative amendment to provide the power to void an application after a finite period of time.

LGAT Comment

This issue was raised by LGAT in 2009, with the Department of Justice, in relation to the minor review of LUPAA.

Tasmanian Government Agency Comment

No response was received by the deadline for circulation of agenda items.
17.5 Motion – Derelict & Dilapidated Buildings

**West Coast Council/Circular Head Council**

That LGAT again strongly request the State Government to pass amending legislation to give Councils clear and appropriate powers to enforce works to remedy the adverse effects of derelict or dilapidated buildings on the streetscape and nearby properties

*Carried*

**Background Comment**

Following on from two previous motions the Council is still requesting a response. This problem is not going away and has not been resolved. A possible solution was raised previously (copied below).

Photos and an example of a valuation are at **Attachment to Item 17.5**, note - the AAV of $800.

199 – Interpretations of Division 6 – Definitions of nuisance should be expanded to include buildings or structures that are uninhabitable due to the condition of appearance which could be determined by a low valuation (under a set value) by the Valuer Generals office and the reduction in services rates charged by Council (when a property can no longer be rated as a residence). Amendment to (e) unsightly article, rubbish, structure or derelict building. This will give Council’s more power to deal with abandoned homes and buildings.

For example, if a property including a house has an AAV of less than say $2,000 then the Council could order that within 12 months either the property has to be returned to vacant land or the residence improved above the threshold.

**LGAT Comment**

A similar motion was successfully carried in 2007. The matter was consequently raised through correspondence and meetings with the then Director of Local Government.

The inability of Councils to deal with derelict, dilapidated or unsightly buildings has been of concern for many years and raised with the State Government on a number of occasions.

At the time of the last review of the Local Government Act, the Steering Committee to the Review unanimously agreed with the recommendation of the working group that looked at this issue that the Act be amended as follows:

- **To include in section 199 a nuisance being a building or structure that is by reason of damage, or want of proper care or up keep, in the opinion of the Council unsightly or unsuitable to the neighbourhood; and**

- **To include in section 200 a right to object to an abatement notice to a magistrate within 5 days of the notice being served.**

However, the matter was not addressed in the first draft of the amending Bill and although LGAT expressed concern and disappointment about this, it was not dealt with in consequent versions of the Bill.

In 2007 the State Government comment was that

“this matter was given careful and extensive consideration during the last review of the Local Government Act. Division 6 of the Act already provides a process whereby a Council may pursue costs incurred in relation to an abatement notice, culminating in an ability to sell the land as if the unpaid costs were unpaid rates”.

"
Tasmanian Government Agency Comment – Department of Premier and Cabinet

The possible extension of council powers in relation to dilapidated buildings has been given careful consideration on a number of occasions, most recently in the review of the *Local Government Act 1993* that was completed in 2005.

At that time, an amendment to give councils power to demolish dilapidated buildings on the basis of unsightliness was considered to be inappropriate due to difficulties defining the subject matter and the absence of an appropriate legislative model in Australia.

It was also determined that the Act already contained very broad powers to enable Tasmanian councils to manage nuisance issues, including issues relating to buildings.

The current provisions do not allow councils to act to demolish buildings on the basis that they are unsightly, but do allow councils to act to abate the risk if a dilapidated building causes, or is likely to cause, danger or harm to the health, safety or welfare of the public; a risk to public health; or is, or is likely to be, a fire risk.

While it has previously being considered that the existing powers are adequate to manage any threat to public health or safety, the State Government understands that this is an area of concern for councils and will review the issue in more detail.

However, due to current projects being progressed by the Government including amendments to the rating provisions of the Act and the development of financial and asset management frameworks, a review of the matter is unlikely to occur before mid 2012.


17.6 Motion – Uninhabitable Structures

<table>
<thead>
<tr>
<th>West Coast Council/Circular Head Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>That LGAT seek improvements to rental housing in order to improve their healthiness and habitability through:</td>
</tr>
<tr>
<td>1) Advocating for changes to the Residential Tenancy Act to provide occupational health and safety grounds for termination of a lease by a tenant through an independent inspection mechanism.</td>
</tr>
<tr>
<td>2) Advocating for changes to relevant legislation to allow buildings and structures to be deemed uninhabitable.</td>
</tr>
<tr>
<td>Carried</td>
</tr>
</tbody>
</table>

Background Comment

This issue was raised because some tenants have been locked into leases that they cannot get out of while the house is causing health problems.

Rising damp and mould are major factors that landlords continually refuse to spend the required capital to repair.

The ability for a third party to undertake an assessment and to void the lease on health grounds is required.
LGAT Comment
While derelict or unsightly buildings have been raised in previous motions, the broader issue of habitability and safety has not previously been considered. Under Section 38 of the *Residential Tenancy Act* a tenant may serve a notice to terminate a tenancy agreement if:

(a) the owner has failed to carry out any repairs that do not arise from the fault of the tenant within 28 days after receiving notification under section 32(2);

(b) the owner has failed to comply with any provision of the residential tenancy agreement;

(c) if the residential tenancy agreement is not for a fixed period, the tenant wishes to terminate it.

(2) Any payment of rent after a notice of termination takes effect does not constitute of a new residential tenancy agreement.

(3) Any payment of arrears of rent after a notice of termination takes effect does not revoke the notice unless the payment was made and accepted on that basis.

The *Residential Tenancy Act* does not make specific reference to habitability or safety. The owner is required to maintain to the standard on the day the agreement was entered into.

Other relevant legislation may include the Public Health Act.

Tasmanian Government Agency Comment – Department of Premier and Cabinet
The Office of Consumer Affairs and Fair Trading is currently reviewing the *Residential Tenancy Act 1997*. The issues of introducing minimum standards of accommodation in rental premises and clarifying and improving maintenance and repair obligations have been raised in the review. Some stakeholders have raised specific concerns about the adequacy of existing provisions to deal with health and safety and habitability issues.

There is currently no specific provision in the Act allowing a tenant or an owner to terminate a residential tenancy agreement on the grounds that the property is uninhabitable or unsafe. A tenant can terminate the agreement where the owner has failed to comply with any provision of the agreement, however the agreement may not contain provisions about safety or habitability.

The Act does not contain minimum standards of accommodation and only requires that a property be maintained in the condition that it was in at the start of the tenancy.

The *Public Health Act 1997* provides for the issuing of closure orders and rectification notices where premises are so unhealthy that no person can safely occupy them. However, these provisions do not release a tenant from their obligations under a lease.

These issues will be considered in the review, which will report to the government later this year.
18 ENVIRONMENT

18.1 Motion - Weed Management

<table>
<thead>
<tr>
<th>Burnie City Council/Circular Head Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>That LGAT call upon the State Government to review the Weed Management Act to enable a Weed Officer to take immediate abatement action when a land owner fails to take action to remove weeds which are in seed.</td>
</tr>
<tr>
<td>Carried</td>
</tr>
</tbody>
</table>

Background Comment

The Weed Management Act 1999 (Act) provides for the control and eradication of declared weeds and promotes a strategic and sustainable approach to weed management.

There is to be a weed management plan for each declared weed. The plan will indicate whether the weed is to be eradicated or controlled and may contain specifications for how these outcomes are to be achieved.

The Secretary of the Department Primary Industry, Parks, Water and the Environment is the chief regulatory officer for the purposes of enforcing compliance with the provisions in the Act for control and eradication of weeds.

It is accepted that the Secretary may appoint “inspectors” to assist compliance and enforcement of weed management requirements. An “Inspector” may be employed by a Council. However, the inspector will be responsible to the Secretary. It is also acknowledged that an inspector may issue a “Requirement Notice” to the owner of land on which it has been established there is a declared weed (s13).

The requirement notice is to specify what is required in order to control or eradicate the weed in accordance with the weed management plan relevant for that weed.

A person must comply with a requirement notice, however the nature of the notice is such that there may be a considerable interval between issue and when the landowner is required to comply. In the meanwhile the weed continues to grow and develop.

Another complication is that a person may appeal a requirement notice with 7 days of it being issued and the matter will be heard by a court.

The practical effect of the appeal right is that the minimum period specified for compliance should not be less than 7 days.

In the event of an appeal the notice is without status until the court decides whether it was correctly issued.

In some instances the nature of the weed infestation is such that immediate action must be taken to achieve control or eradication and more particularly, to prevent or reduce the risk of its spread. The situation would occur where the weed is in flower and seeds are being dispersed.

If a person fails to comply with any measures specified in a requirement notice within the specified timeframe, the Weed Officer who served the notice may cause the measures described in the Notice to be taken.
The inspector may enter onto the land and do what is required under the notice to control the weed.

Any costs incurred in carrying out the specified measures are payable by the landowner named in the requirement notice and are recoverable as a debt in a court of competent jurisdiction.

There is a problem in this approach in that the works described in the Notice will be as required to address the situation at the time of issue. Delay in response may alter the appropriate weed management measure. If the Notice does not cover the required action at the time of direct intervention the Weed Officer may be prevented from abating the problem.

An inspector may issue an infringement notice where a landowner has failed to comply with a Requirement Notice. However, this does nothing to control or eradicate the weed.

Penalties for non-compliance with a Requirement Notice include a fine not exceeding 100 penalty points (currently = $13,000) plus 5 penalty units for each day of a continuing offence (ie $650 per day).

The DPIPWE seeks to employ a cooperative approach to weed management under which it seeks to negotiate an outcome with the landowner before issuing a “Requirement Notice”. This approach dilutes ability to act with urgency where the situation for control is critical.

The Council is aware there are situations where the nature of a weed infestation is such that the weed is already spreading at the time of the Weed Officer’s initial inspection. In such circumstances there is no capacity for delay if objectives of the Act are to be satisfied.

The Council seeks to ensure there is an ability to issue a Requirement Notice to direct immediate action within a lesser timeframe than exists if the period for appeal against a Requirement Notice is to be observed. This may require the landowner initiate the work at the time the Weed Officer is on the land.

The Weed Officer should not be restricted in ability to control the weed if an appeal is made. Again, time is of the essence.

The Council also seeks to ensure that the Weed Officer has authority to determine on the spot whether the landowner has an intention or capacity to take immediate action in accordance with the Requirement Notice at the time it is issued.

In the event the Weed Officer is of the opinion the landowner is unlikely or unable to satisfy the Requirement Notice, the Weed Officer must be able to proceed immediately to the action allowed under Section 14 and make arrangements to enter onto the land and undertake the works to be described in the Requirement Notice.

The Council is of the view that a compressed and integrated notice and enforcement authority is necessary to address the situation where spread of the weed is already occurring.

**LGAT Comment**

The power to take abatement action appears to already exist within the *Weed Management Act 1999*.

The Act provides opportunity for immediate removal of the weed, at the discretion of the Weeds Management Officer, dependent on the type of weed and its current status.

If a high priority weed is suspected and the landowner is non-compliant DPIPWE recommend council immediately contact Regional Weeds Management Officers and/or Weeds Management Officers at DPIPWE for advice.
Tasmanian Government Comment – Department of Primary Industries, Parks, Water and Environment

Compliance activities under the Weed Management Act 1999 are undertaken by authorised weed inspectors appointed under the Act, and includes 36 weed inspectors within Local Government. There are also a number of weed inspectors within DPIPWE, including the three regional weed management officers.

Section 13 gives powers to the authorised weed inspector to require a landowner to take measures to control or eradicate a weed. The manner in which this is implemented is determined by the Statutory Management Plan for the species in question. The statutory management plan determines for a particular municipality whether the weed should be managed for eradication (Zone A) or containment (Zone B). This is largely determined, but not solely, by the extent of that declared weed in the municipality. That is, there needs to be reasonable chance of eradicating a weed from a municipality for it to be Zone A. Blackberry for example is widespread in Burnie Municipality and is therefore a Zone B weed. Bridle creeper on the other hand has only localised infestations in Burnie Municipality and therefore Zone A for eradication.

When a declared weed matter arises, the weed inspector will visit the property and assess the situation. In most cases there is a verbal agreement on what the landowner will do, this is put in writing and the declared weed is dealt with. If the landowner fails to comply with this written request a requirement notice can be served. However, if the inspector has reason to believe the landowner will ignore the initial request, the inspector has the discretion to serve an immediate requirement notice.

The conditions that a weed inspector may include in a requirement notice are at the inspector’s discretion and reflect the circumstances at hand and are to be consistent with the statutory weed management plan for that weed. If the inspector believes the matter is of sufficient urgency, then the inspector has the discretion to determine the amount of time the landowner has to act on the notice. In normal circumstances the inspector will provide the landowner with a reasonable opportunity to control the weed. If the landowner refuses to comply, the weed inspector has a number of options available to them. Depending on the urgency or seriousness of the matter the inspector can serve an infringement notice (Section 13 of the Act) which would result in a penalty or the inspector can order works in default to be carried out (Section 14 of the Act). A works in default order has to be approved by the General Manager – Resource Management and Conservation and provided to the spray contractor. In theory this could take as little as a day to be approved. A landowner can appeal the requirement notice within seven days of it being issued. It is important to note that any removal of this right of appeal from the legislation does not remove the right of an individual to have a decision reviewed.

For the efficient and effective control of weeds, it is important that inspectors are contacting landowners at a time when the weed can be easily controlled, usually in its early growing phase and prior to flowering. If a plant is flowering or has set seed, then attempting to control the plant is unlikely to produce the desired outcomes. The conditions in the requirement notice can cover contingencies if the weed is likely to transition from flowering to seed set in the period that control is specified. There have been instances in recent times when serious weeds have been found and action to control them has occurred immediately. It is important to note that effective control rarely occurs following a one-off action and usually requires follow up by the landowner and weed inspector in the following years if eradication is to be achieved.

Controlling declared weeds often involves complex environmental and social issues and it is not always a simple matter of entering a property and carrying out control works. Issues of health and safety, nature of the infestation, land use and the landowners capacity to act all need to be considered.
19 PUBLIC HEALTH & NUISANCE

19.1 Motion – Banning Smoking In Alfresco Dining Areas

Hobart City Council/Kingborough Council

That the Local Government Association of Tasmania urge the State Government to commit to passing legislation banning smoking in all alfresco dining areas. Carried

Background Comment
Since August 2010, smoking has no longer been permitted in Hobart’s Wellington Court, Bus Mall and Elizabeth Street Mall. Launceston City Council also recently imposed their own ban on smoking in parts of the CBD. There is little doubt that the environmental amenity of Hobart’s high-use pedestrian areas, where a smoking ban has been imposed, has improved significantly in the short space of time since the bans were introduced.

The benefit to public health is the most compelling reason to implement smoke-free outdoor area policies, research also suggests that smoke-free environments contribute to the declining social acceptability of tobacco use. This is especially important in encouraging quitting among smokers, supporting people who are trying to quit and therefore preventing relapse and discouraging smoking uptake by the young.

The Hobart City Council commends the State Government’s recent announcement to introduce a package of reforms into the Parliament which includes a ban on smoking in all outdoor dining areas.

LGAT Comment
The State Government is currently undertaking a review of tobacco laws and released a discussion paper called ‘Building on our Strengths’ in August 2010. The paper outlined a number of proposals, including a ban on smoking in all outdoor dining areas.

The DHHS is currently drafting a bill to go to Parliament in March 2012, which will include the ban in all outdoor dining areas.

A similar motion was introduced in May 2010 and was narrowly lost. The motion was-

‘That LGAT request the State Government to introduce no smoking legislation for alfresco dining areas including consideration of entire designated city streets’.

Tasmanian Government Agency Comment
The Tasmanian Government supports the LGAT motion to ban smoking in all outdoor (alfresco) dining areas.

On 18 March 2011 the Tasmanian Government announced it would introduce legislation into Parliament to increase smoke-free areas and to restrict the sale and display of tobacco, as part of a range of tobacco reforms.

In particular, the Government intends to extend the current ban on smoking in outdoor dining areas from 50 per cent to 100 per cent of outdoor dining areas. This means that smoking will not be permitted when meals are consumed in that area.

The relevant legislation is currently being drafted and it is anticipated that a draft Bill will be introduced into Parliament by March 2012.
19.2 Motion – Health And Wellness Targets For Communities

Hobart City Council/Central Highlands Council

That the Local Government Association of Tasmania encourage all Councils to continue to include, in their strategic plan, health and wellness targets for their communities.

Carried

Background Comment

According to the Australian Bureau of Statistics for the period of 2007-2008, approximately 71.7 percent of Tasmanians aged 15 years and over reported sedentary or low exercise levels. In the population aged 65 years and over, the percentage of those who indicated that they were sedentary or had low exercise levels was greater at 77.7 percent. Of greater concern is that, for the same period, around 64.0 percent of Tasmanians aged 18 and over who were measured, were found to be overweight or obese as determined by the body mass index (BMI) measure.

The Hobart City Council’s Hobart 2025: A Strategic Framework is the community’s vision of what Hobart will look like in 2025. This document emphasises strong and healthy communities through participation in activities which create healthy lifestyles.

The Hobart City Council calls upon the LGAT to encourage Councils to include health and wellness targets in their Strategic Plan to help address the alarming statistics mentioned above.

Tasmanian Government Agency Comment

Local Government is an important partner in improving the health and wellbeing of the population. A healthy population provides many social and financial benefits to local communities.

The Tasmanian Government welcomes and encourages all Councils to consider health and wellbeing in their strategic plans. However, setting targets is difficult, firstly, as baseline data against which to measure progress at the LGA level is extremely limited, and secondly, because there are many factors outside the control of Local Government and the local area that have an impact on health and wellbeing.

Tasmania does not currently have robust monitoring and surveillance systems that can collect and analyse data at the LGA level. Most data available is at Whole-of-State level. Regional level health data is available from the Tasmanian Population Health Survey, conducted in 2009. This provides some larger LGA’s with representative data for lifestyle risk factors such as BMI (Body Mass Index, used to help determine obesity), smoking, nutrition, physical activity and alcohol consumption, as well as social capital, health screening and health service use.

LGA level data are available for hospitalisations, deaths and cancer incidence. These can be provided to Local Governments to assist in their planning activities. Kids Come First is a database that has data on children from birth to age 17 and allows analysis at a locality/suburb level. This is a whole-of-government initiative that has established a database of key indicators of the health, wellbeing, safety, development and learning outcomes of Tasmanian children.

A number of other initiatives are looking at ways to improve the quality of demographic information available to Tasmanian communities. The Departments of Education, Health and Human Services and Police are developing a Data Warehouses that centralises multiple reporting sources into a single location.
The ABS are currently in the consultation phase for MAP2- Measuring Australia’s Progress. MAP 2002 identified a number of headline indicators for health, social attachment, public safety - all things that contribute to health and wellbeing. They include such things as participation in sporting activities which may be the sort of data that LGA’s could collect so that they could benchmark their own progress against State and National participation rates.

Local Governments could also play an important role in encouraging data collection at the LGA level. These data can be collected from a variety of health and wellbeing service providers in their usual administrative data collection. Local Government bodies could work with these providers to encourage this information collection to occur in order to assist with local planning activities.

In 2011-2012 the Department of Health and Human Services will explore opportunities to coordinate multiple sources of information to develop a shared set of Health and Wellbeing Indicators for Tasmania, including community level indicators wherever possible. Liaison with Local Government in this process will be important to ensure that systems meet local need.

In March 2011 the Premier announced her intention to release a Wellbeing Strategy, in her “State of the State” address. This was followed by a speech in Parliament in April by the Minister for Health confirming her commitment to leading a Wellbeing Strategy. A key component of the Wellbeing Strategy will be the development of place-based approaches to improving health and wellbeing at a local level.

The Tasmanian Government is keen to support and work with Local Government to further this work.

20 ANIMAL CONTROL

No Motions Received
21 COMMUNITY & SOCIAL DEVELOPMENT

21.1 Motion – Protection Of Senior Citizens

West Tamar Council/Central Highlands Council

That LGAT requests the State Government to change laws to specifically prosecute those persons who commit crimes against our senior citizens so as to reduce the incidents of elder abuse in our community.

Carried

Background Comment

There have been papers written recently, and media coverage given, to the blight on our community which is elder abuse. Even the thought of, no less the reports of abuse of our senior citizens within our community is sickening and appalling.

The West Tamar Council supports the inclusion within Tasmanian Legislation under the section of aggravated assault (section 35 Police Offences Act) to purposely identify and protect those within our community over the age of 60. Current legislation in Tasmania does not separately include an age group but does include assault of persons that are of an “aggravated nature” (but no definition). Previous legislation (2009) did include persons under the age of 14 or females.

This Council proposes that legislation reflects community concern and support for our senior citizens by providing specific legislation to ensure that offenders are deterred from committing assaults against this group, but for those that have committed offences against our senior citizens are dealt with the full brunt of the law.

Legislation already exists in Queensland to include “serious assault” under section 340 of the Criminal Practice Rules 1999. This section refers to persons who have been unlawfully assaulted who were 60 years or more. The section allows for higher penalties and longer imprisonment of offenders.

There have been many papers written in support of this proposed amendment including the Queensland Elder Abuse Prevention Unit in 2010 and the Australian Human Rights Commission review to the United Nations Human Rights Council, also in 2010.

LGAT Comment

It should be noted there are many different types of abuse described under the general term ‘abuse of older people’ or ‘elder abuse’. There are two broad types of elder abuse, being abused and neglect.

The abuse of older people can, in turn, take several different forms. These are: psychological abuse, economic abuse, physical abuse and neglect.

From both Australian and overseas studies, it has generally been estimated that around 3 per cent of people aged 65 years and over have suffered some type of abuse.¹ The Department of Health and Human Services advises that there are no statistics collected however, on the prevalence or types of elder abuse in Tasmania.

Nevertheless, the fact that around 3 percent of Tasmanians over the age of 65 are likely to encounter abuse is a serious issue worthy of consideration by the State Government. There have been no previous motions on this issue.

¹ James, M. ‘Abuse and Neglect of Older People’. Family Matters, no.37 April 1994, pp.94-97.
The Tasmanian Government Comment – Department of Police and Emergency Management

The Tasmanian Government is concerned about older persons' safety and security in the community. As reported in the Tasmanian Plan for Positive Ageing 2006-2011 the Department of Police and Emergency Management continues to undertake a range of strategies to support the Tasmanian Together goal of 'confident, friendly and safe communities', and, in particular, for older persons.

One such strategy is where Tasmania Police is assisting to implement the whole-of-government Elder Abuse Prevention Strategy by participating in the state-wide Elder Abuse Advisory Committee. The Committee is chaired by the Department of Health and Human Services and meets on a monthly basis to implement the whole-of-government response to the abuse of the elderly in the State.

The Elder Abuse Prevention Strategy was approved by Government in January 2010 and an interagency group has formed to further develop the Strategy and promote awareness of elder abuse within the community. An Elder Abuse Data Collection Working Group has also formed to develop a data collection framework, to assess the elder abuse strategy. Tasmania Police victim data will be included.

− The Tasmanian Government, through Tasmania Police continues to prosecute those persons who commit crimes against persons within Tasmania, including senior citizens. Legislation already exists in Tasmania to prosecute offenders. These include:
  − Section 35 of the Police Offences Act 1935 which relates to assault with section 35(2) allowing for an aggravated nature and additional sentencing provisions
  − Section 80 (2) of the Sentencing Act 1997 which allows for the prosecutor to draw the courts attention to any aggravating circumstances or the presence or absence of any extenuating circumstances in relation to the offence.

This allows the prosecutor to put that an offence or crime was against an elder member of the community and that there is an aggravating or extenuating circumstance which requires additional penalty to that upon another member of the community.

− The penalties that may be imposed in the Magistrates Court under the Sentencing Act 1997 are:

13. Maximum prison term imposable by court of petty sessions for crime triable summarily

The maximum term of imprisonment that a court of petty sessions may impose on an offender convicted of a crime that is triable summarily is –

   (a)  12 months for a first offence; or
   (b)  5 years for a second or subsequent offence.

If a matter is taken to the Supreme Court then the penalty provision may be up to 21 years.

The Tasmanian Government does not support the Motion that the State Government should change laws to specifically prosecute those persons who commit crimes against our senior citizens so as to reduce the incidents of elder abuse in our community. The Government already has legislation in place to prosecute offenders. The Government has an Elder Abuse Strategy which is responding to the abuse of the elderly in the State.

22  CLOSE