



**Review of the  
*Local Government (General  
Regulations) 2005***

# **Submission**

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## **Introduction**

The Local Government Association of Tasmania (LGAT/The Association) is incorporated under the *Local Government Act 1993* and is the representative body for Local Government in Tasmania.

The objectives of the Association are:-

- To promote the efficient administration and operation of Local Government in the State of Tasmania;
- To watch over and protect the interests, rights and privileges of municipal Councils in the State of Tasmania;
- To foster and promote relationships between Local Government in the State of Tasmania with both the Government of Tasmania and the Government of the Commonwealth of Australia;
- To represent the interests of the members of the Association generally, and in such particular matters as may be referred to the Association by its members; and
- To provide such support services to the members of the Association as the Association may by resolution in meeting determine.

## **General Comments**

The Association appreciates the work of the Local Government Division in supporting a comprehensive consultation process with our Members. This submission has been developed in collaboration with member Councils. Where a Council has made a direct submission to this process, any omission of these specific Council comments in the LGAT submission should not be viewed as lack of support by the Association for that specific issue.

In general there is a high level of support for most of the amendments outlines. Comment is made in relation to individual amendments in the following table. Where there is no specific comment made, this means there was general acceptance.

Issue	Comment
<b>Part3 Tendering and Contracting</b>	
Threshold for Public Tenders (Regulation 23)	One council expressed reservation about the significant increase in the threshold in a time of economic stringency and increasing scrutiny of public expenditure but generally the move was supported. However councils should be encouraged to review and update policies and procedures underpinning the seeking of quotations, and amend their procedures to record, monitor, report and audit procurement between \$100,000 and \$250,000 to ensure no “relaxation” in procurement procedures and the principles of probity.
Publication of details of register of money (Regulation 34)	One council noted that while section 139A (4) of the Local Government Act 1993 (Tas) (‘the Act’) states “Any money received by a council from the sale of land that is not claimed by the owner of the land within 3 years of the sale vests in the council”, perhaps for ‘transparency and accountability purposes’ there should be some form of statement on an annual and cumulative basis of the total amount “vested”, split between that required to be published (i.e. above the to-be-prescribed \$250), and the balance (i.e. below \$250).
<b>Council Land Information Certificates (Section 337 Certificates)</b>	
Part 3 of Schedule 7 – Planning and Development (Q12-21)	Q17 relates to commencement of civil proceedings under s64 of the <i>Land Use Planning and Approvals Act (LUPAA)</i> but does not acknowledge that the recent

	<p>amendments to LUPAA in relation to enforcement will generally supersede s64 requirements. Therefore s17 should be amended to include any record of any notices or orders issued under Division 4A of the Act (excluding infringement notices) (refer to Sections 65b, 65c, 65f, 65g, 65h of LUPAA for examples). Q17 should take a similar form to Q41 which relates to the <i>Building Act</i>.</p> <p>Suggest addition of wording “or other relevant authority” in second paragraph of explanatory note after Council (Part 3).</p> <p>iii. A question arises from the wording in paragraph entitled “IMPORTANT” after question 14. In the last sentence the warning states “an application for this additional information is to be made separately from a section 337 certificate. Not aware of an application that can be made to Council to advise whether a permit has been made or granted in relation to adjoining land. Does this refer to other S337 certificates (for adjoining land) or should the wording be changed to “request” rather than application? Council can provide information on whether a permit has been made or granted for adjoining land but it is upon request rather than a formal application.</p> <p>After Question 18 under IMPORTANT: (suggest)</p> <p>If the specified land has historic cultural heritage significance and is listed on the Tasmania Heritage Register, any work or development must be approved by the Tasmanian Heritage Council under the Historical Cultural Heritage Act 1995. Approval may be in the form of a planning</p>
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	<p>permit unless a certificate of exemption or a notice of no interest has been issued by the Tasmanian Heritage Council. Enquiries should be directed to Heritage Tasmania.</p>
<p>PART 5 – RETICULATED STORMWATER AND DRAINAGE SERVICES</p>	<p>Question 27 Connection to stormwater system</p> <p>Suggest:</p> <p>(a) Delete the words “connection point” for clarity. A private stormwater system does not include the connection point by interpretation of the Act. Connection points are part of the public stormwater system<sup>1</sup>.</p> <p>The recipient of the question needs to know if a property has a private stormwater system connected to the public stormwater system. By excluding the words connection point this will allow the question to be answered in a way that reflects that council has a record that a property has a private stormwater system connected to the public stormwater system.</p> <p>Alternatively, if the words are left in they need to be moved to follow on after public stormwater system.</p> <p>(b) Clarification should be provided for the word acceptable. The specified land may be within an area marked as being serviced and within 30 metres from the public stormwater system, however if all or parts of the land are below the level a connection point can be provided to allow for a gravity connection; as is usual acceptable practice a</p>

<sup>1</sup> All the comments in the table, bar this one, were raised by only a single council. This one was raised by 2 councils.

	<p>person should be made aware there could be unacceptable conditions applied to the land in order to be drained. This becomes relevant to a purchaser that wants to develop both vacant and further develop partially developed property.</p> <p>A potential problem could be the work involved to determine if a connection is at or can be provided at a level to provide an acceptable form of drainage to the specified land.</p>
PART 6 - BUILDING & PLUMBING MATTERS	<p>Question 31 Plumbing Permit</p> <p>b) This enquiry as to the type of work could potentially be onerous or misleading. Asking what was the type of work – could it require a description of all components of plumbing work carried out or the development with which the plumbing was associated?</p> <p>d) What is the relevance of knowing the plumbing permit was issued or granted with conditions? This would be of benefit with a special plumbing permit as it is a living permit where maintenance may be required to be undertaken by an owner during its existence. The difference with a plumbing permit is that upon satisfactory completion of a plumbing permit with conditions a certificate of completion will be issued. That certificate cannot be issued unless the permit has been complied with. The work required in transcribing the conditions into the 337 Certificate would far outweigh any value it may have to the person requesting the certificate. This question should be removed.</p>

	<p>f) What is the relevance of knowing if an application or permit was suspended or cancelled and how does that relate to the Building Act or Regulations? The Building Act 2000 and Plumbing Regulations 2014 have provision for cancelling a Special plumbing Permit but not a Plumbing Permit. Consideration to removing f and g should be given for the reasons stated as there is no head of power.</p> <p>h) Relates to (e) as the certificate of completion will be issued upon satisfactory inspection or receipt of a certificate of compliance by the permit authority (Council). The questions e, h and i interrelate and consideration should be given to what is the information required. It would be expected questioning should conclude that a permit has been issued and that it has been completed. All the other information may not necessarily be helpful in ascertaining if plumbing work has been satisfactorily completed in accordance with the Act.</p> <p>In relation to Q31 (h) (page 100) one council noted they had been unable to find the application form mentioned under Section 113 and suggested deleting (h) and just have (i).</p> <p>Question - 33 Building Permit</p> <p>d) What is the relevance of knowing the permit was issued or granted with conditions? A Permit Authority may condition a building permit, however a Building Surveyor will issue a CLC (certificate of likely compliance) with conditions relevant to the building work ensuring compliance with the Building Code of Australia. If the 337 is only asking for the</p>
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	<p>Permit Authority conditions for compliance with the Building Act 2000 the relevance becomes arguable as to whether it is meaningful. If the information requested was forwarded it may not be relevant.</p> <p>Upon satisfactory completion of work associated with a building permit with conditions a certificate of completion will be issued. Therefore, what purpose of including the conditions of a building permit on a 337 certificate serve where work has been completed. A certificate of completion cannot be issued unless the permit has been complied with. The work required in transcribing the conditions into the 337 Certificate would far outweigh any value it may have to the person requesting the certificate. This question should be removed.</p> <p>e) Relates to (h) as the certificate of completion will be issued upon notification of the building surveyor to the permit authority and completion of plumbing work. The building surveyor will need to ensure conditions of the CLC are complied with. The roles of plumbing and building Permit Authority may be getting mixed by using the same questions when the conditions of a CLC are outside of the jurisdiction of Council. Are the correct questions being asked to gather relative information?</p> <p>Question 34</p> <p>(a) An application for occupancy is made to a building surveyor not a Council. A building Surveyor who issues an occupancy permit must under section 102 of the Building Act 2000 must notify the permit authority within the specified period (2 days) and provide it with a copy of the permit. Due to the</p>
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	<p>wording the question is not relevant to a Council - only the building surveyor - therefore an application may have been made but not to a Council. Consideration should be given to reflect that Council does not receive or grant an application for an occupancy permit under section 100 of the Building Act 2000.</p> <p>(b) This will not be relevant as it may have been answered no in many instances only due to the correct wording not being used.</p> <p>An issue with questions 31, 32 and 33 only enquires as to a singular application or permit and does not make provision for multiple applications made or multiple permits issued on the same property.</p> <p>Consideration should be given as to the timing of this review and drafting of the 337 certificate given the current review of the Tasmanian Building Regulatory Framework and how that could affect the response to questions and the requirement to amend the certificate with the introduction of new legislation.</p> <p>The current template Q40 relates to the issuing of any Building Certificates within the last 7 years but this doesn't appear to be mentioned at all in the new 337 draft. One council noted that they will still mention this in the Notes section if there isn't a specific question for it.</p>
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In relation to the 'new' issue of the Kingston Sheet Metal Water Tanks. LGAT does not support the inclusion of a question on the 337 certificate about this and also have some concerns around the addition of a warning (albeit this would be preferred to a question).

We note in particular that a warning of the nature suggested may be morally supportable from a public health perspective. However, if included on a 337 certificate it creates a precedent for other general warnings and advice. This departs from statutory purpose and should be avoided. A 337 certificate is a very particular document for the purpose of identifying a council's rights and interests over land. It is not a statement of possible knowledge or general warning.