Motions For Which Notice Has Been Received

10 ROADS AND INFRASTRUCTURE

10.1 Reinstatement of Heavy Vehicle Road Tax
Council – Circular Head

Decision Sought

That Member Councils of LGAT recommend that the State Government provides an immediate commitment to reinstatement of the equitable distribution of the total heavy motor vehicle road tax collected, to the percentage distribution at the time of inception of the scheme in 1996/1997.

Background Comment

The State Grants Commission Act 1976 also requires the Commission to recommend the distribution amongst councils of State motor taxes collected on the registration of heavy vehicles. This function of the Commission is separate from its responsibility to recommend the distribution of Australian Government FAGs. The distribution of the HVMTR is not governed by the Local Government (Financial Assistance) Act 1995, and the funding is not a component of the FAG pool.

Since 1996-97, the State Government has allocated $1.5 million per annum of heavy vehicle motor taxes for distribution to councils.

From the State Government published budget documents the total Motor tax in 1997-98 (no 1996-97 document online) was $39 million with an estimated $32.1 million being the heavy vehicle tax component (82% estimation based upon the number of licences issued and cost of licencing per vehicle class).

In 2018-19 this figure grew to $89.9 million total Motor tax with an estimated $73.9 million being the Heavy vehicle component (based on the above 82%).

Local Government may also be in position to lobby for a stronger proportion of the heavy vehicle tax than stated originally thought based upon a detailed read of the States 2016-17 Freight Survey report.

It is revealed (screenshot below) that the local government road network is providing carriage for 6% of all freight land movement which equates to 7.6% of all freight movement via road.

The 1997-98 distribution of Heavy vehicle tax (and original basis for lobbying) was 4.7%

If we recast the estimations in the original email using 7.6% as the total distribution to Local Government of the estimated total $73.9 million collected by the state we arrive at $5.6 million being distributed to Local Government. The CHC share via the SGC 18.64% distribution is then recalculated to be nominally $1,046,000 annually.

This recast estimate would be a nominal $767,000 increase to above the current $279,000 fixed per annum contribution and would involve a .09% change to the State Governments annual revenue of $5,874 million (still an immaterial change). This is equivalent to a 10.9 rate rise in the general rate.

Overview

In 2016-17, Tasmania's road and rail freight network carried 25.7 million tonnes, which travelled around 2.2 billion tonne-kilometres. The majority of the task moved on the road network – 88 per cent by mass and 78 per cent by tonne-kilometres, compared to 12 per cent by mass and 22 per cent by tonne-kilometres for rail[1].

Table 1 - Freight movements by road owner

Road ownership	Total length (km)	Tonne-kilometres travelled	per cent of total tonne-kilometres travelled
National Land Transport Network – Road	454	913 million	42%
State Roads[2]	3,700	612 million	28%
Local Government Roads[3]	14,470	131 million	6%
Roads under other ownership[4]	55,448[5]	42 million	2%
Total Road	***74,072***	***1.7 billion***	***78%***
Tasmanian Rail Network	411	473 million	22%

42 per cent of Tasmania's total freight task, in tonne-kilometres, is carried on the National Land Transport Network (National Network)[6], the majority by road (Table 1). While this Network comprises only a small proportion of Tasmania's total land freight network by length, it underpins the State's land freight network,

LGAT Comment

LGAT has received two similar motions dating back thirteen years:

2005

That Local Government lobby the State Government to increase the amount of 'heavy vehicle licence fees' that are distributed to Local Government.

2006

Heavy Vehicle Funding: That LGAT lobby the State Government to provide a greater share to Local Government in Tasmania of the heavy vehicle registration fees to enable Councils to develop a sustainable model for more adequate maintenance to their roads.

LGAT also made budget submissions in 2004, 2008 and 2010 seeking redress for the elimination of previous sources of Local Government road maintenance funding for heavy vehicles, the equitable distribution of road taxation to improve local road maintenance capability and for such measures to keep pace with the considerable increase in the freight task and growth in heavy vehicle usage and demands on local roads.

This issue has a long history and is part of a larger issue of Local Government funding. At the heart of it is a small and dwindling (in real terms) distribution of the heavy vehicle motor tax to Local Government, when demands on the roads are increasing. This declining Local Government revenue in the face of increasing demands is a familiar story, recognised by councils across the nation[6].

With roads, it is a particularly acute problem. Using the metric of "tonne kilometres" to assess roads and distribute funding to components gives a skewed sense of the complete road network. This metric tends to very favourably emphasise the role of the State and National road networks because of the distance travelled by a bulk of freight[7], but these roads are not complete networks because they service a very small proportion of properties and land uses. Instead, it is the local road network that completes the transport task, delivering goods and services door to door and servicing the overwhelming majority of economically productive land uses.

It can be argued that although the State road network may be superior in providing kilometres driven, volume and the big figures that look impressive on paper, the local road network is far more critical for delivering actual completed trips that are fundamental to economic productivity. Effort and resources therefore need to be focused on Local Government roads and capacity to ensure the best transport outcomes.

In addition, local roads are typically constructed and maintained to a more economical standard and so can be more susceptible to suffering the impacts of heavy vehicle traffic.

The Tasmanian Government response does not attempt to address the issue at the heart of this motion, which is equity in road maintenance capacity. It does not take a whole-of-network approach so does not acknowledge the critical role of Local Government roads in facilitating economic productivity by providing complete transport trips. It also does not attempt to demonstrate equitability in funding distribution, appropriate to the transport outcomes sought, which should be a smooth, safe and efficient journey, from door to door.

[6] See also: https://alga.asn.au/policy-centre/financial-sustainability/background-on-local-government-funding/

[7] See: https://www.stategrowth.tas.gov.au/infrastructure_tasmania/freight/data/tasmanian_freight_survey2

Tasmanian Government Agency Comment
The Tasmanian Government does not support the motion to increase its $1.5 million annual contribution to supplement local council road maintenance programs.

While the cost to local councils of maintaining roads will have grown over time, the $1.5 million annual payment is only a small part of road-related funding that Tasmanian local councils receive.
Many of these payments will contribute to maintenance of roads used by heavy vehicles, including:

- Roads to recovery funding;
- Black spot funding;
- Urban congestion funding; and
- State Government funding for specific roads and bridges projects.

Treasury has been unable to find evidence to support linking the grant to the quantum of State Government heavy vehicle motor tax revenue collections. The grant appears to have been primarily designed to compensate local councils for the abolition of local council heavy vehicle road tolls in 1996.

10.2 Compensation for No Indexation of Heavy Vehicle Road Tax Council – Circular Head

Decision Sought

Member Councils of LGAT recommend that the State Government make to all Local Councils a one off additional annual payment allocation of the heavy motor vehicle road tax distribution as compensation for 24 years of no indexation of the funding allocation.

Background Comment
From the State Government published budget documents the total Motor tax in 1997-98 (no 1996-97 document online) was $39 million with an estimated $32.1 million being the heavy vehicle tax component (82% estimation based upon the number of licences issued and cost of licencing per vehicle class).

In 2018-19 this figure grew to $89.9 million total Motor tax with an estimated $73.9 million being the Heavy vehicle component (based on the above 82%).

Just let that sink in for a moment: -

- The distribution of $1.5 million of the total heavy vehicle tax collected by State government to Local Government has remained fixed at $1.5 million without increase for 24 years.
- The total heavy vehicle tax collected by State Government has grown from an estimated $32.1 million to $73.9 million (a 230% increase to the state revenue with a 0% increase to the Local Government share).

From the same SGC publication referenced above CHC's share of the $1.5 million in 2017-18 was 18.64% of the total; $279,552. In 2017-18 the $1.5 million represents 2.08% of the total Heavy vehicle tax collected by State Government. If the 1997-98 comparative distribution was used (4.67% to Local Government) the total distribution to Local Government would rise from the fixed $1.5 million to $3.36 million across all Councils.

It should be noted that the total State Government revenue in 2017-18 was $5,874 million, so the suggested correction to 1997-98 distribution proportion would represent only a 0.03% reduction in revenue ($1.86 million reduction).

Despite the small margins involved for State Government, in all likelihood LGAT (if lobbying on Local Government's behalf) wouldn't achieve a full correction upfront but lobbying for increases to the fixing of the $1.5 million distribution given the 230% growth of the revenue since 1996-97 over a period of say 3 years (0.01% revenue reduction to State Government) would have a very material effect for the high road use repair costs for Councils.

For interest, the current SGC $1.5 million Heavy vehicle tax distribution is shown below for all 29 Councils.

Table 16: 2016-17 Heavy Vehicle Motor Tax Revenue Distribution by council

	Tonne-Kilometres (1)	Share of State Total	2016-17 Distribution $
Break O'Day	5 551 751	4.84%	72 642
Brighton	1 261 299	1.10%	16 504
Burnie	3 790 995	3.31%	49 603
Central Coast	5 219 775	4.55%	68 298
Central Highlands	1 989 652	1.74%	26 034
Circular Head	21 365 189	18.64%	279 552
Clarence	1 663 315	1.45%	21 764
Derwent Valley	5 633 386	4.91%	73 710
Devonport	4 339 139	3.79%	56 775
Dorset	11 387 792	9.93%	149 003
Flinders	728 258	0.00%	0
George Town	2 559 709	2.23%	33 493
Glamorgan Spring Bay	32 878	0.03%	430
Glenorchy	2 235 666	1.95%	29 253
Hobart	5 036 370	4.39%	65 898
Huon Valley	3 877 835	3.38%	50 739
Kentish	4 529 823	3.95%	59 270
King Island	1 357 427	0.00%	0
Kingborough	700 584	0.61%	9 167
Latrobe	1 165 783	1.02%	15 254
Launceston	11 974 969	10.45%	156 686
Meander Valley	4 956 200	4.32%	64 849
Northern Midlands	5 670 606	4.95%	74 197
Sorell	1 085 585	0.95%	14 204
Southern Midlands	898 102	0.78%	11 751
Tasman	724 531	0.63%	9 480
Waratah-Wynyard	4 569 630	3.99%	59 791
West Coast	140 024	0.12%	1 832
West Tamar	2 279 083	1.99%	29 821
Total	**116 725 356**	**100.00%**	**1 500 000**

(1) Source: Tonne-Kilometres from the 2014-15 TFS

LGAT Comment

Refer to comments above in relation to Motion 10.1 - Reinstatement of Heavy Vehicle Road Tax). Distribution of road funding, that is, the resourcing and capacity of road management should be distributed and allocated strategically according to the transport outcome sought.

The Tasmanian Government comment on this motion below gives no explanation for the absence of indexation and how it supports their road management goals for the Tasmanian road network, nor why, when motor tax revenue is increasing, Local Government distribution should be declining (in real terms).

Tasmanian State Government Agency Comment

The State Government does not support the preceding motion 4.1 to increase its $1.5 million annual contribution to supplement local council road maintenance programs, and therefore also does not support this motion.

11 SECTOR PROFILE AND REFORM

11.1 Amend Meeting Procedures
Council – Break O'Day

Decision Sought

That LGAT lobby the State Government requesting changes be made to Part 3, Sections 27 and 28 – Voting as well as the inclusion of reasons to be listed in Section 32 – Minutes of the Local Government (Meeting Procedures) Regulations 2015 with regard to elected members voting against an "Officer's Recommendation" or "Motion".

Background Comment

That if a Councillor votes against an "Officer's Recommendation" or "motion" it must be recorded in the minutes that particular Councillors reason for voting against the recommendation. This should be done for all decisions of Council not just when acting as a "Planning Authority".

The main reason for this amendment is to ensure complete transparency and accountability to the community. An elected member must be accountable to the community and the only way transparency can work is if the community knows why a Councillor has voted "no".

LGAT Comment

There has been one previous motion that is related to this matter, tabled at the July 2015 Meeting -

> *That all Councillors be encouraged to undertake training courses ie Planning, Legislation, Code of Conduct, Meeting Procedures etc.*

Members would be aware that the State Government has recently commenced a review of the *Local Government Act*. Please refer to the separate agenda item for a full update. If this motion is carried, then the current review offers the ideal opportunity for this motion to be progressed.

Tasmanian State Government Agency Comment

The Tasmanian Government is currently undertaking a comprehensive review of Tasmania's Local Government legislation (including supporting regulations). Proposed changes to enhance transparency in council decision making, including meeting procedures, are being actively considered as part of the review.

12 SECTOR CAPACITY

No Motions Received

13 FINANCIAL SUSTAINABILITY

No Motions Received

14 ENVIRONMENTAL MANAGEMENT

14.1 Climate Change
Council – Devonport City

Decision Sought

That the Local Government Association of Tasmania investigate opportunities for the sector to develop a position on climate change including acknowledging:

- **There is a climate emergency that requires action by all levels of the government;**
- **Human induced climate change is at the forefront of the climate emergency; and**
- **The State Government has a particular role in assisting local governments in dealing with the impacts of climate change.**

Background Comment

There is a view that climate change is impacting on the environment at a rapidly increasing rate. All levels of government need to be working closely together to address the issue.

A number of local governments around the world have passed motions which acknowledge that in their view, there is a climate emergency (refer https://climateemergencydeclaration.org/category/news/).

The Municipal Association of Victoria recently passed a motion as follows:

That the MAV recognise that:

a) *We are in a state of climate emergency that requires urgent action by all levels of government, including councils;*
b) *Human induced climate change stands in the first rank of threats to humans, civilisation and other species;*
c) *It is still possible to restore a safe climate and prevent most of the anticipated long-term climate impacts – but only if societies across the world adopt an emergency mode of action that can enable the restructuring of the physical economy at the necessary scale and speed.*
d) *The MAV has a role in assisting local governments in this regard.*

Council acknowledges that individual councils are actively pursuing their own responses to climate change however, the climate emergency is more than an individual council responsibility. It could reasonably be argued that there is a responsibility for all levels of government and the community to work together.

This motion seeks LGAT to develop a sector wide position on climate change which is supported by the State Government to ensure that it can demonstrate that Tasmania is serious about tackling the issue and are prepared to work together to identify and implement positive action.

LGAT Comment

LGAT has had one historical motion carried specifically relating to climate change:

> *November 2010 – Seeking strengthening of the State-wide Partnership Agreement on Climate Change*

The Climate Emergency Declaration and Mobilisation campaign is a growing movement who's stated goal is "…for governments to declare a climate emergency and mobilise society-wide resources at sufficient scale and speed to protect civilisation, the economy, people, species, and ecosystems."

It is an awareness campaign seeking action that gives special consideration to Local Governments and their role in addressing climate instability. Nineteen Australian Governments, including the ACT and eighteen councils, and 106 British Local Governments have declared a climate emergency[8].

[8] See: https://climateemergencydeclaration.org/climate-emergency-declarations-cover-15-million-citizens/

14.2 Climate Change
Council – Huon Valley

Decision Sought

That the LGAT call upon the Federal and Tasmanian State Governments and Parliaments urging them to:

a) Acknowledge the urgency created by climate change that requires immediate and collaborative action across all tiers of government;

b) Acknowledge that the world climate crisis is an issue of social and environmental injustice and, to a great extent, the burden of the frontline impacts of climate change fall on low income communities vulnerable groups and future generations; and

c) Facilitate emergency action to address the climate crisis, reduce greenhouse gas emissions and meet or exceed targets in the Paris Agreement.

Background Comment

There is concern from young people within Tasmania in relation to the impacts of climate change as is now occurring and for the future. These impacts are wide reaching including environmental, social and economic impacts.

The recent Intergovernmental Panel on Climate Change (IPCC) Special Report: Global Warming of 1.5°C, concluded that urgent action needs to be taken to prevent global temperatures exceeding 1.5°C.

Tasmania and particularly the Huon Valley is increasingly vulnerable to the impacts of climate change, particularly sea level rise, bushfires, floods and drought.

There is a strong feeling that climate change is not being addressed by Governments in a collaborative and effective manner.

The Federal and State Governments have the potential for the greatest influence on climate change related matters and yet they do not provide adequate resources and direction to addressing climate change impacts and often pass down responsibility to Local Government and local communities to find their own solution.

LGAT Comment

LGAT has had one historical motion carried specifically relating to climate change:

> *November 2010 – Seeking strengthening of the State-wide Partnership Agreement on Climate Change*

Tasmanian communities are increasingly feeling the effects of extreme weather events, resulting in severe bushfires in 2013, 2016 and 2019, severe flooding in 2016 and 2018 and, ongoing coastal erosion. Each instance cannot casually be corelated to altered climate but taken together they form a pattern in people's minds that match the climatic patterns predicted by a large body of global scientific investigation.

The number of positive initiatives undertaken by the Government is acknowledged (as detailed in the Tasmanian Government comment below) however, members should be aware that the 2019-20 State Budget Papers indicate an end to State Government funding for its Climate Action 21: Tasmania's Climate Change Action Plan 2017-2021 from the end of the 2021 financial year (only two years away) resulting in a significant reduction in forecast funding from that period onwards. This coincides with the end of the Action Plan however, funding has not been forecast or allocated for a replacement plan or what continuation past the point might look like.

Table 9.1: Key Deliverables Statement

	2019-20 Budget	2020-21 Forward Estimate	2021-22 Forward Estimate	2022-23 Forward Estimate
	$'000	$'000	$'000	$'000
Bushfire Recovery	1 560	....	....	....
Climate Action 21: Tasmania's Climate Change Action Plan 2017-2021	750	750	....	....

Tasmanian Government Agency Comment

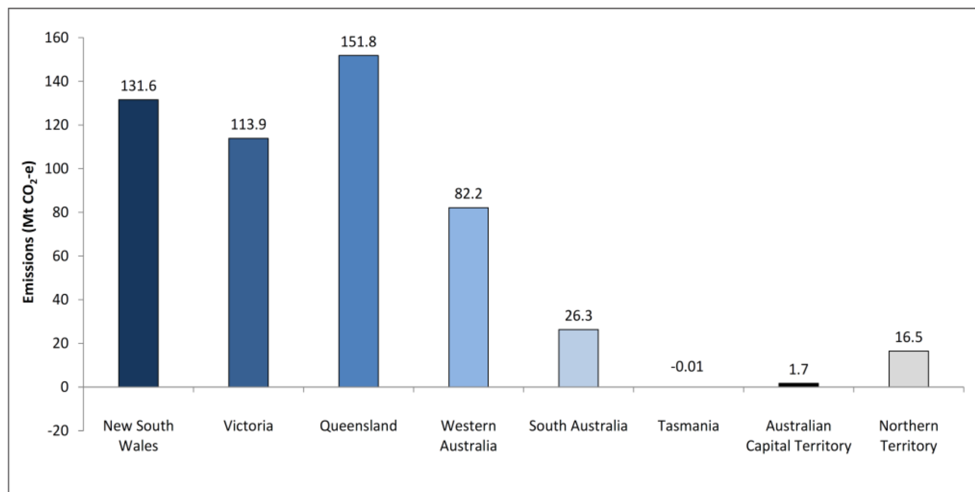
The *Climate Change (State Action) Act 2008* (the Act) sets the Tasmanian Government's legislative framework for action on climate change.

Following the most recent independent review of the Act, completed by Jacobs Australia in 2016, the Department of Premier and Cabinet's Tasmanian Climate Change Office is currently leading a project to amend the Act.

Amendments to the Act are scheduled to be tabled in Parliament this year. The proposed amendments include setting a new greenhouse gas emissions target for Tasmania in line with international agreements.

It is important to note that Tasmania's total contribution to national carbon emissions is the lowest of any state or territory and, according to the *State and Territory Greenhouse Gas Inventories 2016,* represented a net negative contribution of -0.01 metric tonnes of carbon dioxide equivalent emissions (see Figure 1, below).

Figure 1: State and Territory total emissions (including those from Land Use, Land Use Change and Forestry), Financial Year 2016, (Mt CO_2-e)



Note: The NSW inventory includes ACT emissions from the *stationary energy* sector.

Climate Action 21: Tasmania's Climate Change Action Plan 2017-2021 (Climate Action 21) sets the Tasmanian Government's policy framework for action on climate change through to 2021. It reflects the Government's commitment to addressing the critical issue of climate change and articulates how Tasmania will play its role in the global response to climate change.

Through the implementation of Climate Action 21, the Tasmanian Government has worked closely with councils on a number of key projects in relation to electric vehicles, risk management, and coastal issues.

Key initiatives being delivered by the Tasmanian Government to reduce the State's greenhouse gas emissions include:

- $850,000 for Power$mart Homes, a program aimed at helping low income households reduce their energy costs through support and education, energy efficiency audits and low cost upgrades;
- $150,000 for Power$mart Businesses, a program to provide assistance to businesses to improve energy efficiency;
- $450,000 to commence the rollout of a statewide electric vehicle charging network by offering grant funding to install both fast and destination electric vehicle charging stations; and
- The Smarter Fleets Program to work with councils, State Government departments, and heavy vehicle fleets for improved electric vehicle preparedness and fleet efficiency.

Additionally, the Tasmanian Government:

- Has committed to becoming 100 per cent self-sufficient in renewable energy generation by 2022 and has facilitated major windfarm developments to help achieve this;

- Will invest up to $30 million to take the first phase of Battery of the Nation to investment stage by 2022;
- With support from the Australian Government, will invest $56 million to the development of the second interconnector between Tasmania and the mainland;
- Has delivered the $40 million Tasmanian Energy Efficiency Loan Scheme to provide no-interest loans for households and small businesses to purchase energy efficient equipment and appliances;
- Continues to support vulnerable customers through Aurora Energy's 'Your Energy Support' and 'No Interest Loan Scheme' programs, which help customers manage their energy bills through tailored payment plans and access to energy efficient products;
- Delivered a Climate Change Health Roundtable (April 2019) with experts and policy makers to identify policies, programs and research in climate change and health, specific to the Tasmanian context;
- Is undertaking research to help the Tasmanian Government, Local Government, industry and communities build their capacity to prepare for and respond to coincident (also known as multi-hazard) extreme events;
- Is supporting local councils to understand and actively assess climate risks to ensure they make decisions in the best interests of their community; and
- Is working with coastal managers across Local and State Government to identify key issues in coastal hazards management for existing settlements and values.

The Tasmanian Government will continue to work collaboratively with councils, communities and all stakeholders to further reduce the State's greenhouse gas emissions, grow a climate-ready economy and build climate resilient communities across Tasmania.

14.3 Single Use Plastics/Waste Strategy
Council – Huon Valley

Decision Sought

That the Local Government Association of Tasmania lobbies the State Government to complete a state-wide Waste Strategy that includes Policy and Legislation that will phase out single use plastics across the State and support the establishment of regional composting facilities.

Background Comment

The issue of single use plastics is under active discussion within the Tasmanian community.

The Hobart City Council has recently announced a by-law proposing to ban single use plastics within the Hobart City. The By-law will not though apply to any other Council area.

There is substantial evidence that single use plastics and takeaway packaging is a major contributor to the litter stream in Tasmania.

There is considerable public momentum for the reduction in availability of plastic products to reduce environmental impact. Alternative and compostable packaging is readily available and it is considered important that the strategy considers and supports the development of regional composting facilities to ensure that maximum benefit can be achieved from use of alternative packaging.

This is not a matter simply confined to an individual Council but is a matter that should be considered by the State Government on a statewide strategy basis with some following action.

LGAT Comment
There have been a significant number of previous motions related to waste management and resource recovery at LGAT General Meetings. Starting with July 2004, seeking the State Government to develop a policy for the preferred disposal of green waste.

In July 2012 and again in November 2016 the sector confirmed its commitment to the introduction of a state-wide statutory waste levy.

In November 2017 the sector reaffirmed its commitment to improving waste management and raised concerns over the lack of a State Waste Strategy and action on plastics in particular.

In July 2018 the sector moved that LGAT lobby the State Government for the introduction of legislation to phase out the provision of petroleum-based single-use take-away food packaging, and also that LGAT lobby councils to adopt the use of reusable and compostable items for use in council sponsored events.

LGAT has been actively lobbying the State Government for the development of a State Waste Action Plan since July 2016, when the Government announced it would not be introducing a statutory waste levy. This has included the development of the LGAT Waste and Resource Management Strategy in 2017, which details a suite of initiatives which address key state-wide issues faced by Local Governments across Tasmania, for consideration by the Environment Protection Agency (EPA) in developing a new waste action plan. Since that time LGAT has advocated directly to Government and also via a number of media statements and opinion editorials for the urgent need for state-wide policy. At the most recent Premier's Local Government Council Meeting the failure of the State Government to produce a State Waste Action plan was discussed.

The LGAT Waste and Resource Management Strategy 2017 did not contain a recommendation to phase out single use plastics as at that time stakeholder feedback did not highlight it as a key issue. However, this issue emerged as a significant concern of the sectors (and the

community more broadly in 2018) and since that time LGAT has been advocating that the State Government introduction of legislation to phase out the provision of petroleum-based single-use take-away food packaging. It is further worth noting that the work LGAT is currently undertaking on the feasibility of state-wide waste arrangements indicates that single use plastics and packaging was highlighted as one of the four top waste priorities identified by stakeholders. Please see the separate agenda item for a full discussion.

The State Government response to this motion is typical of their response over the past 12 – 18 months on all aspects of LGATs advocacy related to waste and resource recovery. The long awaited for State Waste Action Plan will need to be a comprehensive road map with an implementation plan for addressing the many significant and unresolved waste issues at a state-wide level. Anything otherwise would fall well short of what the Tasmanian community requires.

Tasmanian Government Agency Comment
The Tasmanian Government acknowledges that there is a high level of interest from the community on reducing the impact of single-use plastics. The Tasmanian Government is currently working at the national level through the Meeting of Environment Ministers to develop an implementation plan for the recently endorsed *National Waste Policy*. The Policy includes consideration of how to reduce and eventually move away totally from the use of single-use plastics and has a key commitment from Ministers to having 100 per cent of Australian packaging being recyclable, compostable or reusable by 2025.

The Government has committed to releasing the Draft Tasmanian Waste Action Plan by the end of June 2019. The Waste Action Plan and the national policy will help to establish an environment that will result in a reduction in single-use plastics. It is important that potential impacts on business and the community are assessed and the Waste Action Plan will help to set a broader framework that tackles these kinds of waste and resource recovery issues.

14.4 Single Use Plastics
Council – Break O'Day

Decision Sought

Request that LGAT lobby the State Government to take leadership in developing a consistent state wide approach to banning the use of single use plastics in takeaway food packaging.

Decision Sought

Break O'Day Council completely agree with the initiative of the Hobart City Council to ban single use plastics but we think that having up to 29 Council By-Laws which could all be different or only having some Councils doing this would be confusing. A more logical way to go is for a state wide approach which sends a message from Tasmania on this issue.

The City of Hobart has integrated the banning of single-use plastics into their current by-laws. We believe there is community support for this to happen in the Break O'Day municipality and that this Council should support the Hobart Council in their motion to LGAT and commence our own lobbying of sector businesses and State Government.

We believe many of our community members are increasingly concerned about plastics entering the Tasmanian marine environment and the impacts of micro-plastics on both human health and the environment.

We believe that Break O'Day should tackle the distribution of single-use, petroleum based plastic packaging, like straws, cutlery, lids and containers, from takeaway food outlets, working with local businesses.

We also believe that Council should request LGAT to lobby the State Government to broaden the scope of its current plastic bag legislation to include non-compostable single-use takeaway food packaging.

A number of our local food outlets have already commenced on this pathway to reduce waste and have joined the Responsible Café movement (https://responsiblecafes.org) to eliminate disposable coffee cups. Disposable coffee cups are lined with plastic polyethylene, which is tightly bonded to the paper making the cups waterproof and therefore able to contain liquid. In St Marys there are three (3) cafes who are participating and in St Helens there are two (2) participating cafes.

LGAT Comment

Please refer to the comments provided on the Huon Valley Council Motion above.

Tasmanian Government Agency Comment

The Tasmanian Government acknowledges that there is a high level of interest from the community on reducing the impact of single-use plastics. The Tasmanian Government is currently working at the national level through the Meeting of Environment Ministers to develop an implementation plan for the recently endorsed *National Waste Policy*. The Policy includes consideration of how to reduce and eventually move away totally from the use of single-use plastics and has a key commitment from Ministers to having 100 per cent of Australian packaging being recyclable, compostable or reusable by 2025.

The Government has committed to releasing the Draft Tasmanian Waste Action Plan by the end of June 2019. The Waste Action Plan and the national policy will help to establish an environment that will result in a reduction in single-use plastics.

It is important that potential impacts on business and the community are assessed and the Waste Action Plan will help to set a broader framework that tackles these kinds of waste and resource recovery issues. It is the view of DPIPWE that the scope of the *Plastic Shopping Bags Ban Act 2013* could not be amended to address takeaway food packaging. New legislation would be required for any agreed statewide approach.

14.5 State Weed Management Council – Break O'Day

Decision Sought

That LGAT lobby the heads of the Tasmanian Government's Departments and GBEs with responsibilities for management of public lands or works on public lands to have new increased and sustained resourcing levels committed in government agency budgets to manage weeds on public land in coordination with the efforts of others in local areas.

Background Comment

Break O'Day Council is concerned that Tasmanian Government agencies responsible for weed management on public land and conducting public infrastructure and works are not allocating sufficient resources for their duty care to the community.

The Spanish heath, gorse, pampas grass and many other weeds causing our problems have no regard for whose land they spread over. It is the property owner/manager who is responsible for preventing the spread of weeds and their eradication under the state's Weed Management Act. Without coordinated strategic efforts by all land holders and managers and matching efforts, the weeds win.

Break O'Day Council is concerned that the resources being provided to public land managers locally are often not enough to match the coordinated efforts and progress by Councils, land owners and communities and is undermining their collective efforts.

Break O'Day Council recognises the area of public land government agencies are responsible for is extensive and fragmented, and the diverse range of public infrastructure and works in Tasmania they manage. Our experience is that government agencies generally do locally as much weed management as they can. Council also acknowledges the support of Biosecurity Tasmania and the government's Weed Action Fund and appointment of Mr Ian Sauer a State Weeds Advocate to chair the Fund and coordinate priorities for these new weed management resources.

However we are increasingly concerned that government agencies across Tasmania are failing to keep up with significant progress being made by Councils with farmers, community groups and residents, government agencies locally and Biosecurity Tasmania. And levels of weed management resources must be sustained over years, the key to success with weed management is follow-up.

The government's relatively short term Weed Action Fund is a welcome boost but it is not a substitute for the responsibilities government agencies share with other owners and managers of property in Tasmania to manage their weed problems. They should be engaged with local strategic weed management communities and allocate and apply appropriate levels of resources to support and not undermine coordinated local efforts.

If state agencies are not legally bound by legislated responsibilities, they are bound by their duty of care to the public whose land they use and manage, and as weed management role models.

LGAT Comment
LGAT has had number of motions in relation to weeds (2010, 2011, 2012, 2014 and 2017).

Key issues identified in relation to weeds have included the need for more resourcing to support weed management and greater collaboration to address strategic weed management It is noted that Parks and Wildlife and State Growth (roadside weeds) work collaboratively with councils and other agencies and this is essential to the strategic management of weeds which do not observe land tenure. This cooperation must extend to Crown Land, other agencies and GBEs .

Tasmanian Government Agency Comment
The Parks & Wildlife Service (PWS) works collaboratively with councils, regional and local Natural Resource Management groups, Wildcare Inc friends groups and non-government

organisations and the community to target and prioritise weeds that have impact on areas of high conservation values or habitats.

The Working Neighbours program also contributes through the PWS working together with adjoining neighbours (predominantly in and around the Tasmanian Wilderness World Heritage Area) to identify and collaboratively manage cross-boundary issues of mutual concern such as weeds.

In the Break O'Day and adjoining municipalities, the practical application of weed eradication and management is represented through the following programs:

- Sea Spurge (Euphorbia): twice a year sweep of the 140 km coastal strip between Cape Naturaliste and Chain of Lagoons, pulling individual plants and undertaking spray treatment of larger infestations.
- Spanish Heath: control on reserves at Mt William/wukalina National Park, Musselroe Bay and Ansons Bay, including targeted spraying to remove it from the last remaining stronghold of the critically endangered Davies' Waxflower at Mt Pearson State Reserve.
- Blackberry: removal from the area between Dianas Basin and Four Mile Creek, in conjunction with local community weed groups.
- Foxglove: removal from St Columba Falls and Poimena.
- Gorse: removal from Falmouth to Four Mile Creek.

The St Helens PWS field centre also partners with the Falmouth Foreshore Group, the Four Mile Creek Community Association, and the Wildcare Inc Friends of the Larapuna Coast (who undertake an annual three day weed and rubbish blitz on the Larapuna coast). Other areas where the PWS is active regarding weed control and eradication include Scotts Peak/Ryans Point helipad (biosecurity risk); Blackberry control - the Neck Game Reserve; continuous monitoring for infestations resulting from the 2013 Stormlea and Forcett wildfires; Serrated tussock - Sloping Island, Maria Island and numerous sites throughout the Northwest and the West Coast.

Crown land in Tasmania is managed by various Government Agencies and GBEs. Land managed under the *Crown Lands Act 1976* may be actively managed under either a Lease or Licence Agreement to a third party, or directly by the PWS.

The PWS routinely works with groups and individuals under Works Authorities to undertake weed management works on both Reserved and Crown land. The PWS also works with Local Government and other Government Agencies to coordinate and strategically collaborate on the most appropriate weed treatments/programs, including permit works approved by Biosecurity Tasmania.

The PWS is bound by the *Weed Management Act 1999* and adopts the statutory weed management plans for weed species declared under the Act.

14.6 Waste Management Storage & Collection
Council – West Tamar

Decision Sought

That Local Government Association of Tasmania lobby the Tasmanian Government for:

Reform of multiple dwelling standards in the Tasmanian Planning Scheme to require consideration of:

- **Waste management storage and collection impacts for multiple dwelling developments; and**
- **Allowing for alternative waste storage and collection means such as site skip bins.**

Background

The placement of bins on the road for collection is an issue within the community and for Councils in their role as a waste management provider for residents.

Recent unit developments in Legana highlight this issue, with the placement of significant numbers of refuse bins in a row on collection days. The following image provides an example of this problem.

More unit developments are underway in the same area, which will make the existing problem worse.

Some Councils have previously addressed this issue through planning scheme standards for unit developments, which regulate the unit developments on internal lots and allowed

consideration of the ability to have bins collected. Those provisions have been removed by the State as a result of the standardised State Housing provisions.

Councils can no longer consider this problem through their planning schemes.

The Tasmanian Planning Scheme allows consideration of the ability to store bins within the curtilage of a dwelling in the General and Inner Residential zones, it does not allow consideration of the ability to collect bins from a site or the adjoining roadway.

Government departments did consultation as part of the preparation and assessment of the standard State Housing provisions as used in current Planning Schemes and also the Tasmanian Planning Scheme. This issue was raised during the development and ongoing review of those provisions. The State determined that standards were not required to consider the ability of a site to allow collection of the bins under both the State Housing Provisions and Tasmanian Planning Scheme.

Despite repeated submissions from West Tamar Council, the State has not altered this position. This suggests that an alternative approach is required and that an industry based response from LGAT may be appropriate.

It is clear that the collection of waste, recycling and now FOGO bins has an impact on the immediate area of unit complexes. Recent development trends demonstrate unit complexes have continued to increase over the last years and are expected to continue. This suggests that impacts will continue to increase as more unit complexes are built.

Councils can deal with this matter through their waste management and road functions, which rely on a response after the problem exists. While it may be possible to identify this problem with the design of unit complexes, it is practically impossible to require a response through that process without standards in a planning scheme.

Planning scheme standards need to consider the ability to collect and empty bins as part of the design process. Standards in the current and pending planning schemes do not allow that to occur.

Triggers for assessment need to address:

- Internal lots;
- Large numbers of units;
- Collection of bins, rather than simply storage; and
- Use of alternative waste storage and collection means such as skip bins.

Given that the efforts of Council staff have not resulted in change to development standards, it is time to seek an industry based response on this matter through the LGAT.

LGAT Comment
There have been no previous motions on this matter.

The State Government comment has failed to note the Government's commitment to review the standards for residential development (Planning Directive 4.1) in the General Residential Zone. As part of this, the Government has committed to include the development of new provisions for medium density and gentle infill housing.

LGAT is currently supporting Meander Valley Council in their LPS Hearing related to the Natural Assets Code and utilising S.35G of LUPAA. It should be noted that while LUPAA does have this mechanism, it has not been used before, the process is not articulated and there is confusion regarding its application.

Tasmanian Government Agency Comment
The State Planning Provisions (SPPs) and the current PD4.1 provisions in the Interim Planning Schemes both provide controls and requirements for dealing with waste storage. The SPP is set out below.

Despite the motion indicating that previously there have been planning scheme standards for unit developments that allowed consideration of the ability to have bins collected, and the claim that these were removed by the planning directive process, there does not appear to be any record of such provisions in older schemes. Notwithstanding this, there is a process that allows councils to make submission to the Planning Commission as part of its Local Provisions Schedule process, to the effect that it considers the State Planning Provisions need to be amended (s.35G of the *Land Use Planning and Approvals Act 1993*).

It is recommended the issue is raised through the LPS process (in accordance with s.35G), preferably with some suggested standards that are derived from local council knowledge of the issue.

Tasmanian Planning Scheme – State Planning Provisions

8.4.8 Waste storage for multiple dwellings

Objective:	To provide for the storage of waste and recycling bins for multiple dwellings.
Acceptable Solutions	**Performance Criteria**
A1 A multiple dwelling must have a storage area, for waste and recycling bins, that is not less than 1.5m² per dwelling and is within one of the following locations: (a) an area for the exclusive use of each dwelling, excluding the area in front of the dwelling; or (b) a common storage area with an impervious surface that: (i) has a setback of not less than 4.5m from a frontage; (ii) is not less than 5.5m from any dwelling; and (iii) is screened from the frontage and any dwelling by a wall to a height not less than 1.2m above the finished surface level of the storage area.	**P1** A multiple dwelling must have storage for waste and recycling bins that is: (a) capable of storing the number of bins required for the site; (b) screened from the frontage and dwellings; and (c) if the storage area is a common storage area, separated from dwellings on the site to minimise impacts caused by odours and noise.

14.7 Feral Cats *
Council – Devonport City

Decision Sought

That LGAT calls on the State Government as matter of urgency to set up, resource, and authorise a program within the relevant State agency of a kind equivalent to the former Fox Eradication Taskforce with a specific purpose of taking and coordinating immediate and continuing long-term direct action to control and reduce the population of stray and feral cats in all parts of Tasmania.

Background Comment

The State Government introduced the Tasmanian Cat Management Plan 2017 as a framework on which to develop a more direct approach to improved cat management.

The Plan proposes a three pronged approach to reducing the population and impact of cats on the natural and human environment by –

(a) Increasing the responsibility and accountability on cat owners to control the breeding and movement of cats;
(b) Increasing the powers and responsibilities of Local Government to effectively manage cats and enforce compliance to the obligations on cat owners within their municipal areas; and
(c) Increasing programs to reduce the number of stray and feral cats with natural and human environments.

The Department of Primary Industry, Parks, Water and Environment website states -

> *"The Tasmanian Cat Management Plan represents the first comprehensive and collaborative approach to managing cats in Tasmania. The Plan recognises that cat management is a shared responsibility across all levels of government, business and the community and includes actions under seven objectives:*
>
> *Objective 1: Tasmanian pet cat owners manage their cats responsibly*
>
> *Objective 2: Increased community awareness, participation and commitment in cat management*
>
> *Objective 3: Best practice techniques are used to guide the planning, management and control of stray and feral cats*
>
> *Objective 4: Improved knowledge about feral, stray and domestic cats to better inform management*
>
> *Objective 5: Minimise impacts of cats in areas with important conservation values and agricultural assets*
>
> *Objective 6: Undertake legislative change to create an effective framework for managing cats and support other objectives*
>
> *Objective 7: The roles and responsibilities related to cat management are clearly defined and understood by the Tasmanian community.*
>
> *Implementation of the Plan will be guided by a shared understanding that there is a need to both: encourage responsible cat ownership, acknowledging the positive role that cats can play in our community; and to understand and mitigate the negative impacts that cats can have on the environment, agriculture, and on human health."*

The Departments website states in relation to control of stray and feral cats –

> *Under the Cat Management Act 2009 cats found in a prohibited, rural or remote area may be trapped, seized or humanely destroyed.*

Stray and feral cats pose a risk to Tasmania's wildlife, environment and agriculture. Cats may also act as a vector for diseases that affect wildlife, livestock and humans.

While responsible pet ownership is important to prevent the introduction of more cats into the environment, the existing feral population is believed to be self-sustaining and eradication is not feasible. A Cat Management Strategy is being developed in consultation with key industry, community and research partners to better understand and mitigate these impacts. DPIPWE is also supporting ongoing research into the impact of feral cats by the University of Tasmania.

The Cat Management Act 2009 allows for cat management actions within prohibited areas including Crown Land, private timber reserves, reserved land and land subject to a conservation covenant under the Nature Conservation Act 2002 and State Forests and Reserves. Cats found in these areas may be trapped, seized or humanely destroyed by managers of that land, or people working on their behalf.

The owner of private land, or people working on their behalf, may trap, seize or humanely destroy a cat found:

- *on rural land used for primary production relating to livestock, or*
- *on any land further than one km from any residence.*

Where a cat is trapped or otherwise seized, the cat should be transferred as soon as practicable to a cat management facility.

All cat management activities must be conducted in accordance with the Cat Management Act 2009 and the Animal Welfare Act 1993. Penalties apply for inhumane activities and other breaches of those Acts.

The Invasive Species Branch (ISB) was formed in July 2012 within the Department of Primary Industries, Parks, Water and Environment (DPIPWE) to:

- Facilitate research to increase knowledge of invasive species impacts;
- Provide technical support for the management of invasive species; and
- Develop community understanding of invasive species issues.

The ISB works with agencies such as Inland Fisheries, Wildlife Management Branch, and parks and wildlife Services, and utilises resources and expertise from a range of invasive animal and weed management programs to better coordinate the effort to protect Tasmania from the impacts of invasive species, including stray and feral cats.

The LGAT recently issued a policy update statement on cat management – a copy of which is at **Attachment to Item 14.7.**

The statement indicates the Local Government sector supports the initiative to develop a state-wide approach to cat management and is working with the State government and the Department of Primary Industry, Parks, Water and Environment (including by an active participant on the State Cat Management Advisory Committee, and on regional working groups established in support of the government's regional Cat Management Coordinator) to ensure Local Government can appropriately participate in delivering the objectives of the Tasmanian Cat Management Plan.

The sector has no argument with the scientific data identifying the scale and impact of cats generally on the health and viability of native fauna, human health and food production systems or, with the importance of developing and implementing measures to address the problem.

The Local Government sector is concerned to ensure the expectations on Local Government are realistic, and within the capacity of most councils. In this regard the sector favours an approach to engage with communities to enhance awareness and observation of the responsibilities on cat owners rather than an increase in regulation to punish owners who do not comply.

There is already a large and extensive feral cat population in Tasmania. The risks associated with an uncontrolled and potentially growing feral cat population are significant and need to be addressed without delay.

Objective 3 in the TCMP is specific to planning, management and control of stray and feral cats in a manner that will deliver effective, efficient and humane control and management techniques based on sound ethical, scientific and technical principals that will produce outcomes superior to those achieved by other means.

The approach indicates a planned and managed approach will deliver the best outcomes but does not detail how, when or where it will occur.

Local Government does not currently have the necessary powers or resources to effectively conduct and enforce programs that will address the cause for and control the impacts of feral cat populations.

It is unreasonable and unrealistic to expect Local Government will or can unilaterally reduce the feral cat population by regulation and intervention.

The State Government has previously demonstrated a capacity to take immediate and significant action to address potential threats to the biosecurity of Tasmania. Local Government accepts it is essential such action be taken to prevent the introduction of new species with a capacity to create harm.

There are many existing feral species within Tasmania, the presence of which is acknowledged as a serious threat to biodiversity and the health of natural and human systems. (Feral Animals of Tasmania -https://dpipwe.tas.gov.au/Documents/Feral-Deck_Feral-Animals-of-Tasmania.pdf

The risk of continuing and escalating damage by some species requires immediate action.

While it is important that Local Government has a role in preventing further increase in the stray and feral cat population, it is beyond the scope of Local Government to implement effective programs to control the size and range of the current feral cat.

There is no specific program for management of stray and feral cats with an equivalence in purpose and resource to the Fox Eradication Taskforce, notwithstanding the impact of stray and feral cats.

Stray and feral cats are known to exist and to cause significant damage in Tasmania. A concerted, directed and on-going effort by the State, combined with assistance from Commonwealth and Local Government and private land managers, and the community, has the ability to halt and turn back the destructive impact of stray and feral cats.

Planning will not of itself address the problem. It is necessary to take immediate action that will seek out and destroy stray and feral cat populations.

LGAT Comment

There have been a number of previous motions related to cats. These typically have related to compulsory de-sexing, micro chipping and education. However, in 2006 the following motion was raised:

> *That the LGAT initiate discussions with the State Government to address the issue of efficient and humane impoundment and disposal of feral and unwanted cats.*

Feral (wild) cats are dealt with through the proposed Biosecurity Act and *The Biosecurity Bill 2019* is currently at the First reading stage in State Parliament.

Eradication of feral cats includes removing cats from an identified area and ensuring that they do not re-establish. Eradication and targeted reduction are possible in areas of high conservation values where it is considered feasible and cost effective. There are examples of eradication from islands including Christmas Island, Tasman Island and Macquarie Island and exclusion fencing and baiting have been used effectively in areas of Western Australia to protect critically endangered species.

Current research indicates that eradication is not possible in a place like Tasmania for two reasons. The cost of state-wide eradication would be prohibitive and there are gaps in

scientific knowledge about how it could be achieved. For a detailed research report on the eradication, go to:

https://www.environment.gov.au/system/files/resources/91832626-98e3-420a-b145-3a3199912379/files/tap-review-feral-cats_0.pdf

To date, LGAT's advocacy has been about enabling, but not compelling, councils to take an active role in managing feral cats and protecting high conservation assets, without a focus on eradication. Advocacy has also focussed on the need for the State Government to adequately resource efforts in this space.

Tasmanian Government Agency Comment

The 'Tasmanian Cat Management Plan 2017-2022' (the Plan) proposes a regulatory framework where domestic and stray (unowned) cats in urban and peri-urban environments are dealt with under the *Cat Management Act 2009* (the Act) and feral (wild) cats through the proposed Biosecurity Act.

The Plan acknowledges that Tasmania has a self-sustaining feral cat population and state-wide eradication of feral cats is not feasible with current resources and techniques. The focus for feral cats is on 'asset protection' in areas containing important conservation values or priority assets.

The Plan aims to limit the number of cats entering the feral population through a range of community education and awareness programs and enforcement of effective cat management legislation.

Proposed amendments to the *Cat Management Act 2009*, to address management of domestic and stray cats, are being progressed and include compulsory microchipping and desexing of cats, limiting the number of cats allowed at a property without a permit, increased measures to protect private land from stray and feral cats (including trapping on private property, regardless of proximity to other residences) and improving arrangements for registered cat breeders.

To support implementation of the Plan, including legislative measures, the Tasmanian Government has provided $1.44 million over four years for three regional Cat Management Coordinators. The Coordinators are working with Local Government and the community to encourage better levels of responsible cat ownership through education and awareness and compliance with the Act.

Local Government has similar enforcement powers as State Government under the Act. Councils are also able to make by-laws, allowing them to tailor the legislative needs to suit local community expectations with regards to cat management and the circumstances that are relevant to the particular council.

15 PLANNING AND DEVELOPMENT

15.1 Certificate 337's
Council - West Tamar

Decision Sought

That the Local Government Association of Tasmania lobby the Tasmanian Government for:

1. Urgent review of the 337 certificate form under Schedule 5 of the *Local Government (General) Regulations 2015* to address the following omissions from current regulatory regimes that impact the subject lands:

a) Land Use Planning and Approvals Act 1993

Codes (such as landslip);
Specific Area Plans;
Local provisions;
Applications for a new planning scheme - including the Tasmanian Planning Scheme; or
Applications for amendments to local provisions under the Tasmanian Planning Scheme.

b) Building Act 2016

Submitted form 80's for low risk building work;
Whether any natural hazard considerations affect the lands;
Question 31 (a) add a new section (iii) asking about onsite waste waters systems approved prior to the Plumbing Regulations 1994
Questions 38-40 be revised to ask whether notifiable building work has been completed and then to provide details regardless of the answer; and

2. Revisions to the *Property Agents and Land Transactions Act 2016* to consider:

a) Requiring a 337 certificate prior to listing of a property and making it available as part of the sale process; and

b) Seeking full disclosure for properties as part of the listing process rather than the current process

Background

Landslip affects a significant number of properties across Tasmania. Recent experiences of some property owners has identified that the current 337 does not ask all questions *relevant* to the current regulatory processes for planning and building. In addition, the timing of the 337 has been raised as a potential issue.

Councils, in one of their many statutory roles, issues a statutory certificate under Section 337 of the *Local Government Act 1993* which provides advice to an applicant as part of a range of transactions that affect property. The questions within the 337 are set in the regulations to the

Act with very limited opportunity for input on other matters by Council staff. Questions within the 337 are based around 13 Acts that address functions of the Council operations.

Section 337 of the *Local Government Act 1993* provides the following:

337. Council land information certificate

(1) A person may apply in writing to the general manager for a certificate in respect of information relating to land specified and clearly identified in the application.

(2) The general manager, on receipt of an application made in accordance with subsection (1) , is to issue a certificate in the prescribed form with answers to prescribed questions that are attached to the certificate.

(3) A certificate under subsection (2) relates only to information that the council has on record as at the date of issue of the certificate.

(4) A prescribed fee is payable in respect of the issue of a certificate.

(5) The general manager, on request, may provide in or with the certificate any other information or document relating to the land that the general manager considers relevant.

(6) A council does not incur any liability in respect of any information provided in good faith from sources external to the council.

(7) A person, with the consent of the occupier or owner of specified land, may request in writing to the general manager that an inspection be carried out of that land to obtain supplementary information relevant to that land.

(8) If the general manager agrees to a request under subsection (5) or (7), the general manager may impose any reasonable charges and costs incurred.

(9) In this section –

***land** includes –*

(a) any buildings and other structures permanently fixed to land; and

(b) land covered with water; and

(c) water covering land; and

(d) any estate, interest, easement, privilege or right in or over land.

The prescribed form identified in section (2) is defined at Regulation 45(a) and Schedule 5 of the *Local Government (General) Regulations 2015*.

Planning processes are regulated through the *Land Use Planning and Approvals Act 1993*, which establishes a process for implementation of the new *Tasmanian Planning Scheme* and for consideration of landslide hazards in normal planning applications through overlays and codes. In addition to this, Specific Area Plans can apply to any land within the Scheme. Under the *Tasmanian Planning Scheme*, local provisions may also apply through a range of mechanisms.

Planning questions within the 337 require a range of answers on matters relating to the applicable planning scheme, zoning of land, planning permits and appeals on the land, enforcement actions and agreements.

Specifically, question 13 asks about zoning and planning scheme amendments to the subject or adjoining lands. Question 13 does not ask about:

- Codes that are identified as applying to the land (such as landslip);
- Specific Area Plans that apply to the land;
- Whether Council has applied for a new planning scheme – including the *Tasmanian Planning Scheme*;
- What local provisions apply ; or
- Whether Council has initiated an amendment to local provisions.

These omissions from the 337 are significant because:

- The first two points relate to current controls that apply under the Interim Planning Schemes and affect people's opportunity and requirements to develop land;
- The third point is significant as:
  - All Councils are expected to have lodged Local Provisions Schedules with the Tasmanian Planning Commission for assessment by the end of June 2019; and
  - The *Tasmanian Planning Scheme* relies on a different regulatory regime to the current interim schemes, including local provisions schedules;
- The final two points are significant because they represent important controls that vary the *Tasmanian Planning Scheme* that apply to land within every municipality in the State.

Question 20 on the 337 asks about landslip declarations and orders under the *Mineral Resources Development Act 1995* and includes a note suggesting contacting Council to see if they have any other information. This reflects previous State policy regarding declaration of landslip with A or B as has happened at Beauty Point and other locations around the State. Question 20 remains relevant to the information provided on a 337.

Current State policy for management of landslip and landslides is through Natural Hazards and Landslide Hazard Bands (low, medium, medium-active or high). These are addressed through planning scheme codes and natural hazards within the *Building Act 2016* (discussed in detail further). These mechanisms are not reflected on the 337 questions.

Question 31 on the 337 asks about onsite waste water systems on the land that were approved from 1994 to the current day. The form does not ask about any onsite waste water systems that were approved before that time, many of which remain operational today.

The *Building Act 2016* came into operation on 1 January 2017 and regulates building works based on risk, simplified as follows:

- Low risk work which Council is generally not notified of (including two sub-categories);
- Notifiable work, where council is notified at commencement that a building surveyor has assessed work and then again when the work is completed;
- Permit work, which requires permits and certificates from Council;

- New assessment regimes for plumbing work; and
- A regime to consider natural hazards (landslip, flooding, inundation, erosion) which becomes operational with the *Tasmanian Planning Scheme*.

Questions 34-48 relate to building processes but do not identify:

- Whether Council has any records of low risk work (Form 80’s);
- Whether the land is identified as subject to any natural hazards; or
- At questions 37 to 40, whether notifiable building work has been completed (the current questions ask about incomplete works but not about any work that may have been completed under that process).

These questions are significant and relevant to regulatory processes because:

- They do not allow full disclosure of all relevant records because the questions are not asked; and
- The omission on landslide and other natural hazards information does not allow for full information to be provided that reflects current State policies for managing natural hazards and identify known requirements for consideration of building proposals on the lands.

At present, the Local Government Division is undertaking a review of the *Local Government Act 1993*, which includes the 337 certificate. Discussions with officers of the Local Government, Building and Planning Divisions of State have suggested raising these reforms as part of that process. Current discussions suggest that process will take approximately two years, with additional time to implement findings.

The identified issues justify an urgent response ahead of the general review of Schedule 5 of the *Local Government (General) Regulations 2015* as they relate to existing regulatory controls and have potential for significant impacts to property owners.

LGAT Comment

There have been no previous motions on this matter.

LGAT raised council concerns with the 337 Certificates with the Director of Local Government in late 2018, at which time some initial investigative work was commenced by the Planning Policy Unit of the Department of Justice (limited to the *Land Use Planning and Approvals Act 1993* aspects). However, beyond some initial consultation with LGAT in December 2018, there has been no further engagement with LGAT.

The *Building Act 2016* components were recently raised with the Acting Director of Building Control in a meeting and it was indicated that he had no issues with he suggested changes and in fact was supportive.

Tasmanian Government Agency Comment
The Tasmanian Government recognises the need to amend the section 337 form under Schedule 5 of the *Local Government (General) Regulations 2015*, to address the issues that have arisen from the introduction of the Tasmanian Planning Scheme (e.g. the need to refer to Local Provisions Schedules and the like) and other specific issues that certain councils and LGAT have raised (e.g. around landslip).

Relevant government agencies have been working closely with LGAT to identify, develop and draft the necessary amendments and these will be finalised soon. The Government has agreed that amendments to schedule 5 of regulations should occur this year, in advance of the broader Local Government legislation review.

15.2 Increased Penalties for Unlawful Use and Development.
Council – Hobart City

Decision Sought

That LGAT lobby the State Government to amend *the Land Use Planning and Approvals Act 1993* to increase penalties and introduce alternative sentencing options for unlawful use and development consistent with the provisions in the *Environmental Planning and Assessment Act 1979* introduced by the NSW State Government in 2014/2015 by the *Environmental Planning and Assessment Amendment Act 2014*.

Background Comment
The maximum fine in the *Land Use Planning and Approvals Act 1993* of $81,500 for using land or undertaking development contrary to a planning scheme or in breach of a condition does not send a sufficiently clear message to the community that a planning scheme is a serious matter and that a fine for breaching a planning scheme is not simply another cost to be added to the expense associated with a development. Further, where a breach of the *Land Use Planning and Approvals Act 1993* has been proven, the court has extremely limited power to require steps to be taken or that certain conduct cease. Significantly, a court has no ability to require someone to cease carrying out a use or activity in breach of a planning scheme, or that a person be restrained from doing certain works.

The *Historic Cultural Heritage Act 1995* contains penalties 10 times the maximum penalty in the *Land Use Planning and Approvals Act 1993* for works carried out on a THC listed property without approval. In addition the court also has the power to order the offender to repair any damage caused by the unlawful development and/or prohibiting the offender from carrying out any works on the heritage listed place. There is no reason for the *Land Use Planning and Approvals Act 1993* to not contain penalties and sentencing options consistent with or greater than those in *Historic Cultural Heritage Act 1995*.

The penalties in NSW include:

Tier 1:
An offence committed intentionally and caused, or was likely to cause, significant harm to the environment or the death of, or serious injury to, a person. These offences may include carrying out development without approval or breaching conditions of approval.

The maximum penalties are $5 million for corporations, with a further $50,000 for each day the offence continues and, $1 million for individuals, with a further $10,000 for each day the offence continues.

Tier 2:
Offences such as carrying out development without approval, or breaching conditions of approval where the offences were committed unintentionally (i.e. without the aggravating factors of Tier 1 offences).

The maximum penalties are $2 million for corporations, with a further $20,000 for each day the offence continues and, $500,000 for individuals, with a further $5,000 for each day the offence continues.

Tier 3:
Lesser procedural and administrative related offences (for example, knowingly providing false or misleading information in an environmental monitoring or audit report).

The maximum penalties are $1 million for corporations, with a further $10,000 for each day the offence continues and $250,000 for individuals, with a further $2,500 for each day the offence continues.

Alternative sentencing options in NSW:
Include orders to:

- Reverse or rectify any unlawful development or activity related to the commission of the offence; and/or
- Requiring the offender to pay back any monetary benefits gained by committing the offence.

Other sentencing options could include:

- Precluding an offender from carrying out any use or development in relation to the land in respect of which offence relates for a period specified by the court;
- Requiring the offender to forfeiture the land in respect of which the offence relates.

LGAT Comment
In 2004 and 2008 there were motions raised that sought to have the *Land Use Planning and Approvals Act 1993* (LUPAA) amended to provide a cost effective mechanism for dealing with non-compliance with planning schemes and planning permit conditions, including a scale of penalties which are commensurate with the seriousness of a breach.

LGAT understands the Minister for Planning has requested that the Planning Policy Unit look at the offences and enforcement provisions within LUPAA, but only as they relate to the powers of the Magistrates Court versus the Resource Management and Planning Appeal Tribunal and not the scale of the penalties.

Tasmanian Government Agency Comment
This motion was not received in time to allow for Agency Comment.

16 PUBLIC POLICY GENERAL

16.1 Smoke Free Areas
Council – City of Hobart

Decision Sought

That the LGAT lobby the State Government to increase the smoking distance from doorways from 3 metres to 5 metres in support of local businesses

Background
It is acknowledged that health is affected by the inhalation of second hand smoke. Smoking in public presents a risk of exposure to non-smokers that they otherwise would not face, and is becoming more and more unacceptable in modern society.

Legislated smoke-free areas in Tasmania include within 3 metres of an entrance or exit to a building.

By increasing this distance to 5 metres we can provide an environment where the community can breathe clean air as well as enjoy public areas free of cigarette butt litter.

LGAT Comment
Local Government has a history of raising the matter of smoking in public places and making commitments to discouraging smoking, with four motions resolved at General Meetings between 2003 and 2011 and one in 2017. Smoking at major events and playground areas was raised in 2003 with a request that councils introduce similar polices to smoking in municipal buildings, major events, playgrounds and municipal controlled venues. A consistent approach to smoking policy and controls across Tasmania was considered in 2007. A 2010 motion that

LGAT request the State Government to introduce no smoking legislation for alfresco dining areas including consideration of entire designated public areas was lost but, in 2011 the motion that LGAT urge the State Government to commit to passing legislation banning smoking in all alfresco dining areas was carried.

In July 2017 a motion seeking *"LGAT lobby the State Government to amend the Public Health Act 1997 to declare that all school road crossings and surrounds, a smoke free area under 67B."* was passed. LGAT acted on the motion and provided feedback from the then Department of Health and Human Services (Department) through the Follow up of Motions in May 2018.

In essence, the Department indicated that councils can make their own declarations under provisions of the *Public Health Act 1997* and DHHS could assist with wording of a declaration. The response noted that the broader issues of declaring smoking illegal near public buildings including hospitals was under consideration.

Tasmanian Government Agency Comment

The Government encourages all local councils to create new smoke-free areas in the public streets and footpaths they occupy, particularly near schools and hospitals, using the existing provisions under section 67B of the *Public Health Act 1997* (the Act).

This proposal for a modest increase in the smoke-free distance from entrances and exits will still result in incomplete and potentially contested smoke-free areas in many densely occupied streets.

Rather than a piecemeal approach to increasing the extent of smoke-free areas in such locations, the preferred approach is for councils to ban smoking in defined council-occupied streets of city centres. This is a comprehensive approach that is easy to understand, hard to contest, and straightforward to enforce.

Councils already have the power to declare such areas smoke-free under the Act.

Launceston City and Central Coast Councils have recently declared extensive urban areas smoke-free. Hobart City Council has announced their intent to take a similar approach in their CBD and near the Royal Hobart Hospital.

For these reasons the Government does not support this motion, but continues to encourage councils to use existing powers to provide extensive smoke-free environments in vibrant and busy urban settings.

16.2 Gun Control Laws
Council – Kingborough

Decision Sought

That LGAT lobby the State Government to ensure any amendments to the *Tasmanian Firearms Act 1996* and associated regulations further align Tasmanian law with the National Firearms Agreement

Background Comment

Gun control laws have recently been discussed by Kingborough Council following the recent tragedy in New Zealand.

Our Council considered a Notice of Motion from Cr Richard Atkinson and resolved that Council:

1. Writes to the Prime Minister and the Tasmanian Premier affirming the Council's position for strong gun control laws;
2. Writes to the leaders of national and state political parties urging them to stand firm against efforts to weaken gun control laws and to reject any donations from the gun control lobby; and
3. Moves at the July 2019 Local Government Association General Meeting (LGAT) that LGAT lobby the State Government to ensure any amendments to the *Tasmanian Firearms Act 1996* and associated regulations further align Tasmanian law with the National Firearms Agreement.

Our Council seeks your support for its position that Australia's world-leading gun laws should be maintained.

LGAT Comment

There have been no previous motions on this matter.

Tasmanian Government Agency Comment

The Tasmanian Government has stated clearly over the past year that it will not do anything to undermine the National Firearms Agreement or to weaken gun laws in any way.

The Government understands that there are deeply held concerns about public safety, and in an area as important to Tasmanians as gun laws, public confidence in the laws is essential.

In August 2018, the Government clearly stated that it would not be progressing the previously announced firearms law proposals.

The Tasmanian Government continues to look forward to the findings and recommendations of the House of Assembly Committee into firearms laws, when the Committee is able to finish its work.

There may be practical improvements to be made to Firearms Laws recommended by the Committee. Should this be the case the Government will consider the recommendations.

17 CLOSE